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

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

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

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

WHEN: April 20 at 9:00 am

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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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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The President

Presidential Determination No. 94–17 of March 20, 1994

Provision of Assistance for Enforcement of Sanctions Against Serbia and Montenegro

Memorandum for the Secretary of State

Pursuant to the authority vested in me by section 614(a)(1) of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2364(a)(1) (the "Act"), I hereby determine that it is important to the security interests of the United States to furnish $6.923 million in funds made available under chapter 6 of part II of the Act for fiscal year 1994 to furnish assistance for sanctions enforcement against Serbia and Montenegro without regard to any provision of law within the scope of section 614(a)(1), including section 660 of the Act. I hereby authorize the furnishing of such assistance.

You are hereby authorized and directed to transmit this determination to the Congress and to arrange for its publication in the **Federal Register**.

William J. Clinton

THE WHITE HOUSE,
Washington, March 20, 1994.

[FR Doc. 94–7722
Filed 3–28–94; 2:38 pm]
Billing code 4710–10–M

Presidential Documents

Presidential Determination No. 94–18 of March 22, 1994

Eligibility of Albania, Bulgaria, Estonia, Latvia, Lithuania, and Romania To Be Furnished Defense Articles and Services Under the Foreign Assistance Act and the Arms Export Control Act

Memorandum for the Secretary of State

Pursuant to the authority vested in me by section 503(a) of the Foreign Assistance Act of 1961, as amended, and section 3(a)(1) of the Arms Export Control Act, I hereby find that the furnishing of defense articles and services to the Governments of Albania, Bulgaria, Estonia, Latvia, Lithuania, and Romania will strengthen the security of the United States and promote world peace.

You are authorized and directed to report this finding to the Congress and to publish it in the **Federal Register.**

William J. Clinton

THE WHITE HOUSE,
Washington, March 22, 1994.

[FR Doc. 94–7719
Filed 3–28–94; 2:37 pm]
Billing code 4710–10–M

Rules and Regulations

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

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

MERIT SYSTEMS PROTECTION BOARD

5 CFR Part 1200

Board Organization

AGENCY: Merit Systems Protection Board.

ACTION: Final rule.

SUMMARY: The Merit Systems Protection Board is amending its organizational and functional statements to reflect the realignment of its regional offices. This action is taken to show a recent realignment of the Board's regional offices in accordance with recommendations on consolidation of field offices in the National Performance Review (NPR) and the President's Executive Memorandum of September 11, 1993, "Streamlining the Bureaucracy."

EFFECTIVE DATE: February 1, 1994.

FOR FURTHER INFORMATION CONTACT: Thomas J. Lanphear, Director, Office of Regional Operations, 202–653–7980.

SUPPLEMENTARY INFORMATION: In accordance with the NPR recommendations on consolidation of field offices and the President's Executive Memorandum of September 11, 1993, "Streamlining the Bureaucracy," the Merit Systems Protection Board has realigned its regional office structure. The previous 11 regional offices have been reconfigured as 6 regional and 5 field offices.

The Board is publishing this rule as a final rule pursuant to 5 U.S.C. 1204(h).

List of Subjects in 5 CFR Part 1200

Organization and functions (Government agencies).

Accordingly, the Board amends 5 CFR part 1200 as follows:

PART 1200—[AMENDED]

1. The authority citation for part 1200, subpart B—Offices of the Board, continues to read as follows:

Authority: 5 U.S.C. 1204 (h) and (j).

2. Section 1200.10 is amended by removing the number 11 in paragraph (l). Section 1200.10 is also amended by revising paragraph (m) to read as follows:

§ 1200.10 Who assists the Board?

* * * * *

(m) *Regional and Field Offices.* The Board has 6 regional offices and 5 field offices located throughout the country (See appendix II to 5 CFR part 1201 for a list of regional and field offices). The regional and field offices enter initial appeals into their dockets and decide these cases as provided for in the Board's regulations.

Dated: March 24, 1993.

Robert E. Taylor,
Clerk of the Board.

[FR Doc. 94–7502 Filed 3–29–94; 8:45 am]

BILLING CODE 7400-01-M

5 CFR Part 1201

Practices and Procedures

AGENCY: Merit Systems Protection Board.

ACTION: Final rule.

SUMMARY: The Merit Systems Protection Board is amending part 1201 by revising appendix II and appendix III to reflect the realignment of its regional offices. This action is taken to show a recent realignment of the Board's regional offices in accordance with recommendations on consolidation of field offices in the National Performance Review (NPR) and the President's Executive Memorandum of September 11, 1993, "Streamlining the Bureaucracy."

EFFECTIVE DATE: February 1, 1994.

FOR FURTHER INFORMATION CONTACT: Thomas J. Lanphear, Director, Office of Regional Operations, 202–653–7980.

SUPPLEMENTARY INFORMATION: In accordance with the NPR recommendations on consolidation of field offices and the President's Executive Memorandum of September 11, 1993, "Streamlining the Bureaucracy," the Merit Systems Protection Board has realigned its regional office structure. The previous 11 regional offices have been reconfigured as 6 regional and 5 field offices. The Chicago regional office includes the St. Louis field office. The Dallas regional office includes the Denver field office. The Philadelphia regional office includes the Boston and New York field offices. The San Francisco regional office includes the Seattle field office. The Atlanta and Washington regional offices remain unchanged.

Appeals and related matters will continue to be filed with either the regional or field office having geographic jurisdiction.

The Board is publishing this rule as a final rule pursuant to 5 U.S.C. 1204(h).

List of Subjects in 5 CFR Part 1201

Administrative practice and procedure, Civil rights, Government employees.

Accordingly, the Board amends 5 CFR part 1201 as follows:

PART 1201—[AMENDED]

1. The authority citation for part 1201 continues to read as follows:

Authority: 5 U.S.C. 1204, and 7701 unless otherwise noted.

2. Appendix II to part 1201 is revised to read as follows:

Appendix II to Part 1201—Appropriate Regional or Field Office for Filing Appeals

All submissions shall be addressed to the Regional Director, if submitted to a regional office, or the Chief Administrative Judge, if submitted to a field office, Merit Systems Protection Board, at the addresses listed below, according to geographic region of the employing agency or as required by § 1201.4(d) of this part. Address of Appropriate Regional Office or Field Office and Area Served:

1. Atlanta Regional Office, 401 W. Peachtree Street NW., 10th Floor, Atlanta, Georgia 30308–3519, Facsimile No.: (404) 730–2767. (Alabama, Florida, Georgia, Mississippi, North Carolina, and South Carolina.)
2. Chicago Regional Office, 230 South Dearborn Street, 31st Floor, Chicago, Illinois 60604–1669, Facsimile No.: (312) 886–4231. (Illinois [all locations north of Springfield], Indiana, Michigan, Minnesota, Ohio, and Wisconsin.)
3. St. Louis Field Office, 911 Washington Avenue, suite 410, St. Louis, Missouri 63101–1203, Facsimile No.: (314) 425–4294. (Illinois [Springfield and all

locations south], Iowa, Kentucky, Missouri, and Tennessee.)

4. Dallas Regional Office, 1100 Commerce Street, room 6F20, Dallas, Texas 75242–9979, Facsimile No.: (214) 767–0102. (Arkansas, Louisiana, Oklahoma, and Texas.)
5. Denver Field Office, 730 Simms Street, suite 301, P.O. Box 25025, Denver, Colorado 80225–0025, Facsimile No.: (303) 231–5205. (Arizona, Colorado, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, South Dakota, Utah, and Wyoming.)
6. Philadelphia Regional Office, U.S. Customhouse, room 501, Second and Chestnut Streets, Philadelphia, Pennsylvania 19106–2987, Facsimile No.: (215) 597–3456. (Delaware, Pennsylvania, Virginia—except cities and counties served by Washington Regional Office, West Virginia, and the following counties in New Jersey: Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Middlesex, Monmouth, Ocean, and Salem.)
7. New York Field Office, 26 Federal Plaza, room 3137–A, New York, New York 10278–0022, Facsimile No.: (212) 264–1417. (New York, Puerto Rico, Virgin Islands, and the following counties in New Jersey: Bergen, Essex, Hudson, Hunterdon, Morris, Passaic, Somerset, Sussex, Union, and Warren.)
8. Boston Field Office, 99 Summer Street, suite 1810, Boston, Massachusetts 02110–1200, Facsimile No.: (617) 424–5708. (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.)
9. San Francisco Regional Office, 525 Market Street, room 2800, San Francisco, California 94105–2736, Facsimile No.: (415) 744–3194. (California.)
10. Seattle Field Office, 915 Second Avenue, suite 1840, Seattle, Washington 98174–1056, Facsimile No.: (206) 220–7982. (Alaska, Hawaii, Idaho, Oregon, Washington, and Pacific overseas areas.)
11. Washington Regional Office, 5203 Leesburg Pike, suite 1109, Falls Church, Virginia 22041–3473, Facsimile No.: (703) 756–7112. (Washington, DC, Maryland, all overseas areas not otherwise covered, and the following cities and counties in Virginia: Alexandria, Falls Church, Arlington, Fairfax City, Fairfax County, Loudoun, and Prince William.)

3. Appendix III to part 1201 is amended by revising the heading for each region to read as follows:

Appendix III to Part 1201—Approved Hearing Locations by Regional and Field Office

Atlanta Regional Office

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Boston Field Office

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Chicago Regional Office

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Dallas Regional Office

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Denver Field Office

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New York Field Office

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Philadelphia Regional Office

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San Francisco Regional Office

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Seattle Field Office

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St. Louis Field Office

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Washington Regional Office.

Dated: March 24, 1994.

Robert E. Taylor,

Clerk of the Board.

[FR Doc. 94–7503 Filed 3–29–94; 8:45 am]

BILLING CODE 7400–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM–94; Special Conditions No. 25–ANM–83]

Special Conditions: Modified Canadair Model CL–600–1A11, –2A12, and –2B16, Series Airplanes; Lightning and High Intensity Radiated Fields (HIRF)

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final special conditions with request for comments.

SUMMARY: These special conditions are issued for Canadair Model CL–600–1A11, –2A12, and –2B16 series airplanes modified by Service Corporation International, of Houston, Texas. The modification includes the installation of high-technology digital avionics systems or other electronic systems that perform critical or essential functions. The applicable type certification regulations do not contain adequate or appropriate safety standards for the protection of these systems from the effects of lighting and high intensity radiated fields (HIRF). These special conditions provide the additional safety standards that the Administrator considers necessary to ensure that the critical and essential functions that these systems perform perform are maintained when the airplane is exposed to lightning and HIRF.

DATES: The effective date of these special conditions is March 21, 1994. Comments must be received on or before May 13, 1994.

ADDRESSES: Comments on these special conditions may be mailed in triplicate to: Federal Aviation Administration, Transport Airplane Directorate (AMN–100), Attn: Docket No. NM–94, 1601 Lind Avenue SW., Renton, WA, 98055–4056; or delivered in triplicate to the Transport Airplane Directorate at the above address. Comments must be marked; Docket No. NM–94. Comments may be inspected weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: William Schroeder, FAA, Standardization Branch, ANM–113, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, WA 98055–4056; telephone (206) 227–2148.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA has determined that good cause exists for making these special conditions effective upon issuance; however, interested persons are invited to submit such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or special conditions number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. These special conditions may be changed in light of the comments received. All comments submitted will be available in the Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this request must submit with these comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. NM–94." The postcard will be date stamped, and returned to the commenter.

Background

On November 16, 1993, Service Corporation International, 7744 Airport Boulevard, Houston, Texas 77061, applied for a supplemental type certificate to modify Canadair Model CL–600–1A11 series airplanes. The proposed modification includes the installation of digital avionics, including an electronic flight instrument system (EFIS) and a Laseref Inertial Reference System (IRS), which are vulnerable to lightning and HIRF external to the airplane. Other similar modifications often installed when updating the digital avionics include attitude and heading reference systems (AHRS). Because these are typical

modernization modifications for retrofitting state-of-the-art avionics and electronics to older type certificates, it is expected that Service Corporation International will apply for installation of similar modifications on Canadair Model CL–600–1A11, –2A12, and 2B16 series airplanes in the near future. Therefore, Service Corporation International will need appropriate lightning and HIRF criteria available for application to those projects.

Canadair Model CL–600–1A11, 2A12, and –2B16 series airplanes are all listed on Type Certificate A21EA. The airplanes are pressurized, have a seating capacity of 6 to 12 passengers (depending on the specific model and airplane configuration), and are corporate transport type airplanes that have a maximum operating altitude of 51,000 feet. The airplanes are powered by two aft fuselage-mounted turbojet or turbofan engines, depending on the specific model and airplane and configuration.

Supplemental Type Certification Basis

Under the provisions of § 21.101 of the FAR, Service Corporation International, must show that the modified Canadair Model CL–600–1A11, –2A12, and –2B16 series airplanes continue to meet the applicable provisions of the regulations incorporated by reference in Type Certification No. A21EA, or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the "original type certification basis."

The regulations incorporated by reference in Type certification No. A21EA include the following: Part 25 of the FAR, dated February 1, 1965, including Amendments 25–1 through 25–37. In addition, the certification basis includes certain special conditions and exemptions that are not relevant to these special conditions. These specifications will form an additional part of the type certification basis when critical or essential digital avionics/electronic systems are being modified or installed by Service Corporation International.

If the Administrator finds that the applicable airworthiness regulations (i.e., part 25, as amended) do not contain adequate or appropriate safety standards for the Canadair Model CL–600–1A11, –2A12, and –2B16 series airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16 to establish a level of safety equivalent to that established in the regulations.

Special conditions, as appropriate, are issued in accordance with § 11.49 of the FAR after public notice, as required by §§ 11.28 and 11.29(b), and become part of the type certification basis in accordance with § 21.101(b)(2).

Discussion

The existing lightning protection airworthiness certification requirements are insufficient to provide an acceptable level of safety with new-technology avionics and electronic systems. There are two regulations that specifically pertain to lightning protection: One for the airframe in general (§ 25.581), and the other for fuel system protection (§ 25.954). There are, however, no regulations that deal specifically with protection of electrical and electronic systems from lightning. The loss of a critical function of these systems due to lightning would prevent continued safe flight and landing of the airplane. Although the loss of an essential function would not prevent continued safe flight and landing, it would significantly impact the safety level of the airplane.

There is also no specific regulation that addresses protection requirements for electrical and electronic systems for HIRF. Increased power levels from ground based radio transmitters and the growing use of sensitive electrical and electronic systems to command and control airplanes have made it necessary to provide adequate protection.

To ensure that a level of safety is achieved equivalent to that intended by the regulations incorporated by reference, special conditions are needed for the Canadair Model CL–600–1A11, –2A12, and –2B16 series airplanes that would require that new technology electrical and electronic systems, such as electronic flight instrument systems, and digital avionics systems be designed and installed to preclude component damage and interruption of function due to both the direct and indirect effects of lightning and HIRF.

Lightning

To provide a means of compliance with the lightning special conditions, clarification of the threat definition of lightning is needed. The following "threat definition," based on FAA Advisory Circular (AC) 20–136, Protection of Aircraft Electrical/Electronic Systems Against the Indirect Effects of Lightning, dated March 5, 1990, is proposed as a basis to use in demonstrating compliance with the lightning protection special condition, with the exception of the multiple burst environment which has been changed to agree with the latest recommendations from the Society of Automotive Engineers (SAE) AE4L Committee.

The lightning current waveforms (Components A, D, and H) defined below, along with the voltage waveforms in AC 20–53A, will provide a consistent and reasonable standard that is acceptable for use in evaluating the effects of lightning on the airplane. These waveforms depict threats that are external to the airplane. The effect of these threats on the airplane and its systems depends upon several factors, including installation configuration, materials, shielding, airplane geometry, etc. Therefore, tests (including tests on the completed airplane or an adequate simulation) and/or verified analyses need to be conducted in order to obtain the resultant internal threat to the installed systems. The electronic systems may then be evaluated with this internal threat in order to determine their susceptibility to upset and/or malfunction.

To evaluate the induced effects to these systems, three considerations are required:

1. *First Return Stroke:* (Severe Strike—Component A, or Restrike—Component D). This external threat needs to be evaluated to obtain the resultant internal threat and to verify that the level of the induced currents and voltages is sufficiently below the equipment "hardness" level.

2. *Multiple Stroke Flash:* (½ Component D). A lightning strike is often composed of a number of successive strokes, referred to as multiple strokes. Although multiple strokes are not necessarily a salient factor in a damage assessment, they can be the primary factor in a system upset analysis. Multiple strokes can induce a sequence of transients over an extended period of time. While a single event upset of input/output signals may not affect system performance, multiple signal upsets over an extended period of time (2 seconds) may affect the systems under consideration. Repetitive pulse testing and/or analysts need to be carried out in response to the multiple stroke environment to demonstrate that the system response meets the safety objective. This external multiple stroke environment consists of 24 pulses and is described as a single Component A followed by 23 randomly spaced restrikes of ½ magnitude of Component D (peak amplitude of 50,000 amps). The 23 restrikes are distributed over a period of up to 2 seconds according to the following constraints: (1) The minimum time between subsequent strokes is 10 ms, and (2) the maximum time between

subsequent strokes is 200 ms. An analysis or test needs to be accomplished in order to obtain the resultant internal threat environment for the system under evaluation.

3. *Multiple Burst:* (Component H). In-flight data-gathering projects have shown bursts of multiple, low amplitude, fast rates of rise, short duration pulses accompanying the airplane lightning strike process. While insufficient energy exists in these pulses to cause physical damage, it is possible that transients resulting from this environment may cause upset the some digital processing systems.

The representation of this interference environment is a repetition of low amplitude, high peak rate of rise, double exponential pulses which represent the multiple bursts of current pulses observed in these flight data gathering projects. This component is intended for an analytical (or test) assessment of function upset of the system. Again, it is necessary that this component be translated into an internal environmental threat in order to be used. This "Multiple Burst" consists of repetitive Component H waveforms in 3 sets of 20 pulses each. The minimum time between individual Component H pulses within a burst is 50 microseconds; the maximum is 1000 microseconds. The 3 bursts are distributed according to the following constraints: (1) the minimum period between bursts is 30ms, and (2) the maximum period between bursts is 300ms. The individual "Multiple Burst" Component H waveform is defined below.

The following current waveforms constitute the "Severe Strike" (Component A), "Restrike" (Component D), "Multiple Stroke" (½ Component D), and the "Multiple Burst" (Component H).

These components are defined by the following double exponential equation:

$i(t)=I_o\,(e^{-at}-e^{-bt})$

where:

t=time in seconds,

i=current in amperes, and

		Severe strike (component A)	Restrike (component D)	Multiple stroke (½ component D)	Multiple burst (component H)
I_o, amp	=	218,810	109,405	54,703	10,572
a, sec^{-1}	=	11,354	22,708	22,708	187,191
b, sec^{-1}	=	647,265	1,294,530	1,294,530	19,105,100
This equation produces the following characteristics:					
i_{peak}	=	200 KA	100 KA	50 KA	10 KA
and,					
$(di/dt)_{max}$(amp/sec)	=	1.4×10^{11} @t=0+sec	1.4×10^{11} @t=0+sec	0.7×10^{11} @t=0+sec	2.0×10^{11} @t=0+sec
(di/dt), (amp/sec)	=	1.0×10^{11} @t=.5μs	1.0×10^{11} @t=.25μs	0.5×10^{11} @t=.25μs	
Action Integral (amp^2 sec)	=	2.0×10^{6}	0.25×10^{6}	0.0625×10^{6}	

High-Intensity Radiated Fields (HIRF)

With the trend toward increased power levels from ground based transmitters, plus the advent of space and satellite communications, coupled with electronic command and control of the airplane, the immunity of critical digital avionics systems, such as the EFIS, to HIRF must be established.

It is not possible to precisely define the HIRF to which the airplane will be exposed in service. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling of electromagnetic energy to cockpit installed equipment through the cockpit window apertures is undefined. Based on surveys and analysis of existing HIRF emitters, an adequate level of protection exists when compliance with the HIRF protection special condition is shown with either paragraphs 1 or 2 below:

1. A minimum threat of 100 volts per meter peak electric field strength from 10 KHz to 18 GHz.

a. The threat must be applied to the system elements and their associated wiring harnesses without the benefit of airframe shielding.

b. Demonstration of this level of protection is established through system tests and analysis.

2. A threat external to the airframe of the following field strengths for the frequency ranges indicated.

Frequency	Peak (V/M)	Average (V/M)
10 KHz–100 KHz	50	50
100 KHz–500 KHz	60	60
500 KHz– 2 MHz	70	70
2 MHz– 30 MHz	200	200
30 MHz– 70 MHz	30	30
70 MHz–100 MHz	30	30
100 MHz–200 MHz	150	33
200 MHz–400 MHz	70	70
400 MHz–700 MHz	4,020	935
700 MHz– 1 GHz	1,700	170
1 GHz– 2 GHz	5,000	990
2 GHz– 4 GHz	6,680	840
4 GHz– 6 GHz	6,850	310
6 GHz– 8 GHz	3,600	670
8 GHz– 12 GHz	3,500	1270
12 GHz– 18 GHz	3,500	360
18 GHz– 40 GHz	2,100	750

The envelope given in paragraph 2 above is a revision to the envelope used in previously issued special conditions in other certification projects. It is based on new data and SAE AE4R subcommittee recommendations. This revised envelope includes data from Western Europe and the U.S. It will also be adopted by the European Joint Aviation Authorities.

Conclusion

This action affects only certain unusual or novel design features on the Canadair Model CL–600–1A11, –2A12, and –2B16 series airplanes. It is not a rule of general applicability and affects only the manufacturer who applied to the FAA for approval of these features on the Canadair Model CL–600–1A11, –2A12 and –2B16 series airplanes.

The substance of the special conditions for these airplanes has been subjected to the notice and comment procedure in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. For this reason, and because a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions immediately.

Therefore, these special conditions are being made effective upon issuance. The FAA is requesting comments to allow interested persons to submit views that may have not been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Federal Aviation Administration, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. app. 1344, 1348(c), 1352, 1345(a), 1355, 1421 through 1431, 1502, 1651(b)(2), 42 U.S.C. 1857f–10, 4321 et seq.; E.O. 11514; and 49 U.S.C. 49 U.S.C. 105(g).

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Canadair Model 600–1A11, –2A12, and –2B16 series airplanes modified by Service Corporation International of Houston, Texas.

1. Lightning Protection

a. Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to lightning.

b. Each electrical or electronic system that performs essential functions must be protected to ensure that the function can be recovered in a timely manner after the airplane has been exposed to lightning.

2. Protection From Unwanted Effects of High-Intensity Radiated Fields (HIRF)

Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to high-intensity radiated fields external to the airplane.

3. The Following Definitions Apply With Respect To These Special Conditions

Critical Functions

Functions whose failure would contribute to or cause a failure condition that would prevent the continued safe flight and landing of the airplane.

Essential Functions

Functions whose failure would contribute to or cause a failure condition that would significantly impact the safety of the airplane or the ability of the flightcrew to cope with adverse operating conditions.

Issued in Renton, Washington, on March 21, 1994.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service, ANM–100.

[FR Doc. 94–7456 FIled 3–29–94; 8:45 am]

BILING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 93–ANE–42; Amendment 39–8851; AD 94–06–03]

Airworthiness Directives; General Electric Company CF6 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to General Electric Company (GE) CF6–80C2 series turbofan engines, that requires an inspection for cracks in the stage 1 high pressure turbine (HPT) disk rim bolt holes, and replacement, if necessary, with serviceable parts. This amendment is prompted by a report of an uncontained stage 1 HPT disk failure which resulted in an aborted takeoff. The actions specified by this AD are intended to prevent an uncontained stage 1 HPT disk failure, which could result in an inflight engine shutdown, rejected takeoff, or damage to the aircraft.

DATES: Effective April 29, 1994.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 29, 1994.

ADDRESSES: The service information referenced in this AD may be obtained from General Electric Aircraft Engines, CF6 Distribution Clerk, room 132, 111 Merchant Street, Cincinnati, OH 45246. This information may be examined at the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Robert J. Ganley, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7138; fax (617) 238–7199.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to General Electric Company (GE) CF6–80C2 series turbofan engines was published in the **Federal Register** on September 24, 1993 (58 FR 49944). That action proposed to require an eddy current inspection for cracks in the stage 1 HPT disk rim bolt holes, and replacement, if necessary, with serviceable parts in accordance with GE CF6–80C2 Service Bulletin (SB) No. 72–614, Revision 1, dated September 8, 1992.

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

Two commenters support the rule as proposed.

The FAA has determined that the compliance end date of December 31, 1993, noted in compliance paragraph (a)(3) of the Notice of Proposed Rulemaking (NPRM) is inconsistent with the anticipated publication date of this amendment, and as such may place an undue burden on operators. The NPRM proposed a compliance period of 100 days to accomplish the required actions based on the anticipated publication date of the AD at the time the NPRM was published. Therefore, the compliance end date in compliance paragraph (a)(3) of this final rule has been revised to 130 days after date of publication in the **Federal Register.** This time period is comprised of the 30 day period after publication and prior to the effective date plus 100 days.

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

There are approximately 66 GE CF6–80C2 series turbofan engines of the affected design in the worldwide fleet. The FAA estimates that one engine of the affected design is installed on an aircraft of U.S. registry will be affected by this AD, that it will take approximately 232 work hours per engine to accomplish the required actions, and that the average labor rate is $55 per work hour. Required parts

will cost approximately $172,500 per engine. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $185,260.

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

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—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:

94-06-03 General Electric Company: Amendment 39-8851. Docket 93-ANE-42.

Applicability: General Electric Company (GE) CF6-80C2 series turbofan engines installed on but not limited to Airbus A300 and A310 series, Boeing 747 and 767 series, and McDonnell Douglas MD-11 series aircraft.

Compliance: Required as indicated, unless accomplished previously.

To prevent an uncontained stage 1 high pressure turbine (HPT) disk failure, which could result in an inflight engine shutdown, rejected takeoff, or damage to the aircraft, accomplish the following: (a) Eddy current inspect (ECI) for cracks stage 1 HPT disks, Part Numbers 9392M23G10, 9392M23G12, and 9392M23G21, with serial numbers listed in paragraph 1.A. of GE CF6-80C2 Service Bulletin (SB) No. 72-614, Revision 1, dated September 8, 1992, in accordance with the accomplishment instructions of GE CF6-80C2 SB No. 72-614, Revision 1, dated September 8, 1992, as follows: (1) For disks which have accumulated less than 3,000 cycles since new (CSN) on the effective date of this AD, ECI the rim bolt holes at the next engine shop visit after accumulating 3,000 CSN, or prior to accumulating 4,500 CSN, whichever occurs earlier.

(2) For disks which have accumulated 3,000 CSN or more, but less than 4,000 CSN on the effective date of this AD, ECI the rim bolt holes at the next engine shop visit, or prior to accumulating 4,500 CSN, whichever occurs earlier.

(3) For disks which have accumulated 4,000 CSN or more, but less than 9,500 CSN on the effective date of this AD, ECI the rim bolt holes at the next engine shop visit, or prior to August 8, 1994, whichever occurs earlier.

(4) For disks which have accumulated 9,500 CSN or more on the effective date of this AD, ECI the rim bolt holes at the next engine shop visit.

(b) Remove from service disks found cracked, and replace with serviceable parts. Inspect replacement disks in accordance with paragraph (a) of this AD, if applicable.

(c) Disks referenced in paragraph (a) of this AD that have been inspected in accordance with the procedures outlined in GE CF6-80C2 All Operators Wire 92-80C-16, dated April 22, 1992, or GE CF6-80C2 SB No. 72-614, dated July 2, 1992, prior to the effective date of this AD, and whose CSN at the time of inspection was 3,000 CSN, or more, meet the inspection requirements of paragraph (a) of this AD.

(d) For the purpose of this AD, an engine shop visit is defined as the induction of an engine into a shop for maintenance involving the separation of any major flange.

(e) An alternative method of compliance or adjustment of the initial 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 alternate 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 aircraft to a location where the requirements of this AD can be accomplished.

(g) The modification and inspection shall be done in accordance with the following service bulletin:

Document No.	Pages	Revision	Date
GE CF6-80C2 SB No. 72-614.	1	1	September 8, 1992.
	2-12	Original	July 2, 1992.
Total pages.	12		

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from General Electric Aircraft Engines, CF6 Distribution Clerk, room 132, 111 Merchant Street, Cincinnati, OH 45246. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

(h) This amendment becomes effective on April 29, 1994.

Issued in Burlington, Massachusetts, on March 7, 1994.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 94-5939 Filed 3-29-94; 8:45 am]

BILLING CODE 4910-13-P

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14 CFR Part 71

[Airspace Docket No. 93-AGL-22]

Change of Class E Airspace; Mosinee, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action changes Class E airspace at Mosinee, WI, to Class D airspace due to the commissioning of an air traffic control tower. Class D airspace designation requires communication capability with aircraft down to the runway surface, and weather reporting available by Automated Weather Observation Station (AWOS). The intended effect of this proposal is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions.

EFFECTIVE DATE: June 23, 1994.

FOR FURTHER INFORMATION CONTACT: Robert J. Woodford, Air Traffic Division, System Management Branch, AGL-530, Federal Aviation Administration, 2300

East Devon Avenue, Des Plaines, Illinois 60018, telephone (708) 294–7568.

SUPPLEMENTARY INFORMATION:

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) changes Class E2 airspace at Mosinee, WI, to Class D airspace due to the commissioning of an air traffic control tower. Class D airspace designation requires communication capability with aircraft down to the runway surface, and weather reporting available by Automated Weather Observation Station (AWOS). The intended effect of this proposal is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions. Aeronautical maps and charts will reflect the defined area, which will enable pilots to circumnavigate the area in order to comply with applicable visual flight rules requirements.

The coordinates for this airspace docket are based on North American Datum 83. Class D airspace designations are published in Paragraph 5000 of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298, July 6, 1993). Class E airspace designations are published in Paragraph 6002 of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298, July 6, 1993). The Class D airspace designation listed in this document will be published subsequently in the Order. The Class E airspace designation listed in this document will be subsequently removed.

Because the public needs to be made immediately aware of the change in the airspace designation, notice and public procedure under 5 U.S.C. 553(b) are impracticable.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Therefore, I find that good cause exists, pursuant to 5 U.S.C. 553(d), for making this amendment effective in less than 30 days in order to promote the safe and efficient handling of air traffic in the area.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a),1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A, Airspace Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

Paragraph 5000 Class D airspace

* * * * *

AGL WI D Mosinee, WI [New]

Mosinee, Central Wisconsin Airport, WI (lat. 44°46′42″ N., long. 89°39′59″ W.)

Within a 4.4-mile radius of Central Wisconsin Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport Facility/Directory.

Paragraph 6002 The Class E airspace areas listed below are designated as a surface area for an airport.

* * * * *

AGL WI E2 Mosinee WI [Removed]

Mosinee, Central Wisconsin Airport, WI (lat. 44°46′42″ N., long. 89°39′59″ W.)

Within a 4.4-mile radius of Central Wisconsin Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Des Plaines, Illinois on March 16, 1994.

John P. Cuprisin,

Manager, Air Traffic Division.

[FR Doc. 94–7452 Filed 3–29–94; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 171

[T.D. 94–29]

Penalty Guidelines Applicable to Transshipped Textiles and Textile Products

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

ACTION: Interim rule; solicitation of comments.

SUMMARY: This document amends the revised penalty guidelines pertaining to section 592 of the Tariff Act of 1930, as amended, to add, as an example of an aggravating factor in arriving at a final administrative penalty decision, violations involving the illegal importation and entry of transshipped textiles and textile products. This amendment will enhance the U.S. textile import program and other programs or laws administered or enforced by Customs which involve a determination of the country of origin of imported merchandise.

DATES: Interim rule effective on, and applicable to all textiles and textile products entered, or withdrawn from warehouse for consumption, on or after, April 1, 1994. Comments must be received on or before May 31, 1994.

ADDRESSES: Written comments (preferably in triplicate) may be addressed to the Regulations Branch, U.S. Customs Service, Franklin Court, 1301 Constitution Avenue, NW., Washington, DC 20229. Comments submitted may be inspected at the Regulations Branch, Office of Regulations and Rulings, Franklin Court, 1099 14th Street, NW., suite 4000, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Robert Pisani, Penalties Branch, Office of Regulations and Rulings (202–482–6950).

SUPPLEMENTARY INFORMATION:

Background

Customs is confronted with a continuing problem involving textiles and textile products which, after exportation from their country of origin, are transshipped through a second country, thereby facilitating a false or otherwise unlawful statement, act, or omission regarding the country of origin of the merchandise when ultimately imported and entered in the United States. Such statements, acts or omissions may impinge on a number of programs or laws administered or

enforced by Customs, including country of origin marking requirements, textile quota limitations and visa requirements under the U.S. textile import program, duty assessment and collection, and collection of trade statistics. The consequences of such unlawful statements, acts or omissions may include interference with the consumer's right to make an informed decision regarding a prospective purchase, undermining of bilateral and multilateral textile agreements to which the United States is a party and with resulting injury to domestic producers of textiles and textile products, loss of revenue, and inability to maintain proper trade statistics to support overall U.S. trade policy and analysis.

Under section 592 of the Tariff Act of 1930, as amended (19 U.S.C. 1592), a penalty may be assessed against any party who has committed fraud, gross negligence or negligence in connection with the unlawful entry of any merchandise in the United States, including textiles and textile products that have been transshipped in the circumstances described above. Provisions relating to filing of petitions, and action upon petitions, for relief from fines, penalties and forfeitures incurred under laws administered by Customs, including penalties under section 592, are set forth in part 171 of the Customs Regulations (19 CFR part 171). Appendix B to part 171 sets forth Revised Penalty Guidelines under section 592. Although appendix B is not intended to have regulatory effect, it represents the official Customs position regarding the standards that are generally applicable to the administrative review of petitions for remission or mitigation of penalties incurred under section 592. Appendix B includes, in section (G), certain factors that may be determined by Customs to be aggravating factors in arriving at a final administrative penalty decision. Appendix B is currently undergoing review within Customs with a view to publication of a proposed revision of those guidelines, with opportunity for public comment, in the near future.

Notwithstanding the upcoming revision of appendix B to part 171 and the intended solicitation of public comments thereon, Customs has determined that immediate action must be taken in a penalty mitigation context to address the textile and textile products transshipment problem described above. Customs notes that transshipments have resulted in material false statements, acts or omissions regarding the country of origin of the imported merchandise, including false designations of origin. Consequently, it is Customs position that transshipment must be susceptible to treatment as an aggravating factor in arriving at a final mitigated section 592 penalty decision under part 171 of the regulations. For these reasons, this document amends section (G) of appendix B to part 171 on an interim basis by adding a reference to "transshipment in the case of textiles and textile products affecting a country of origin determination" as an aggravating factor. Although this change is effective for merchandise entered, or withdrawn from warehouse for consumption, on or after April 1, 1994, Customs will consider any comments submitted either in response to this document or in response to the solicitation of public comments on the overall revision of appendix B referred to above.

Comments

Before adopting this interim amendment as a final rule, consideration will be given to any written comments (preferably in triplicate) timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Regulations Branch, Office of Regulations and Rulings, Franklin Court, 1099 14th Street, NW., suite 4000, Washington, DC.

Inapplicability of Notice and Delayed Effective Date Requirements

Because this amendment constitutes a general statement of policy, the public notice requirements of 5 U.S.C. 553(b)(A) do not apply and, for the same reason pursuant to 5 U.S.C. 553(d)(2), a delayed effective date is not required.

Executive Order 12866

This document does not meet the criteria for a "significant regulatory action" as specified in Executive Order 12866.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for an interim action, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

List of Subjects in 19 CFR Part 171

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

Amendment to 19 CFR Chapter I

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

PART 171—FINES, PENALTIES, AND FORFEITURES

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

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

* * * * *

2. Appendix B to part 171 is amended by revising section (G) to read as follows:

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

* * * * *

(G) Aggravating Factors

Certain factors may be determined to be aggravating factors in arriving at the final administrative penalty decision. Examples of aggravating factors include obstructing the investigation, withholding evidence, providing misleading information concerning the violation, transshipment in the case of textiles and textile products affecting a country of origin determination, and prior substantive violations of section 592 for which a final administrative finding of culpability has been made.

* * * * *

Samuel H. Banks,

Acting Commissioner of Customs.

Approved: March 18, 1994.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 94–7516 Filed 3–29–94; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

[Regulation No. 4]

RIN 0960–AD69

Federal Old-Age, Survivors, and Disability Insurance; Requirements for Entitlement to Widow(er)'s Benefits

AGENCY: Social Security Administration, HHS.

ACTION: Final rule.

SUMMARY: This final rule reflects technical changes which clarify entitlement requirements for widow's and widower's benefits. Specifically, it clarifies that entitlement or potential entitlement to mother's/father's benefits, on the record of a fully insured individual, in the month prior to the

month of marriage to an insured satisfies the alternative to the duration of marriage requirement for widow(er)'s benefits. By publishing these changes, we will ensure that the rules for widow(er)'s benefits are consistent with the related sections of the Social Security Act (the Act).

EFFECTIVE DATE: March 30, 1994.

FOR FURTHER INFORMATION CONTACT: Harry J. Short, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, (410) 965–6243.

SUPPLEMENTARY INFORMATION: To be considered the widow or widower of a deceased insured individual for purposes of entitlement to Social Security benefits, the surviving spouse must meet at least one of the alternatives set forth in sections 216 (c) and (g) of the Act. One of those alternatives, described in sections 216 (c)(6)(A) and (g)(6)(A) of the Act, is met if the surviving spouse, in the month before the month of marriage to the insured, was entitled to, or upon filing an application and attaining age 62 in that prior month would have been entitled to, wife's, husband's, widow(er)'s, or parent's benefits on the record of another insured individual. Sections 216 (c)(6)(A) and (g)(6)(A) of the Act do not specifically mention entitlement or potential entitlement to mother's or father's benefits. However, after excluding the age and application requirements as directed by sections 216 (c)(6)(A) and (g)(6)(A), the entitlement criteria for a mother or father on the record of a fully insured individual are the same as the entitlement criteria for a widow or widower. Therefore, the benefit categories of mother and father were included in 20 CFR 404.335(a)(4) of the regulations at the time Subpart D was recodified.

Entitlement to widow(er)'s benefits must be based on the record of a fully insured individual, whereas entitlement to father's or mother's benefits can be based on the record of either a currently insured or a fully insured individual. Therefore, for purposes of the alternative discussed above, only those surviving spouses who previously were entitled or potentially entitled to mother's or father's benefits based on the record of a "fully insured" individual would also satisfy the entitlement criteria for widow(er)'s benefits. Surviving spouses who previously were entitled or potentially entitled to mother's or father's benefits on the record of an individual who was only "currently insured" would not satisfy the alternative. To make § 404.335(a)(4) completely accurate and to ensure consistent application of the statute, this regulation should state that the alternative would be met only if the earlier insured, on whose record the mother's or father's benefits were paid or were potentially payable, was fully insured.

To clarify the rule in § 404.335(a)(4) so that the wording is consistent with the statute, we are adding parentheticals after the words "father's" and "mother's" which will state "based on the record of a fully insured individual."

Regulatory Procedures

Justification for Final Rule

The Department, even when not required by statute, as a matter of policy, generally follows the Administrative Procedure Act (APA) notice of proposed rulemaking and public comment procedures specified by 5 U.S.C. 553 in the development of its regulations. The APA provides exceptions to its notice and public comment procedures when an agency finds there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary, or contrary to the public interest. We have determined that, under 5 U.S.C. 553(b)(B), good cause exists for dispensing with the notice and public comment procedures because such procedures are unnecessary. This rule merely conforms a technical requirement in the regulation more closely to the statute and does not involve the setting of any discretionary policy.

Executive Order 12866

We have consulted with the Office of Management and Budget and determined that this rule is not significant and does not require review under Executive Order 12866.

Regulatory Flexibility Act

We certify that this regulation will not have a significant economic impact on a substantial number of small entities because this rule affects only individuals. Therefore, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

This regulation imposes no reporting/recordkeeping requirements necessitating clearance by the Office of Management and Budget.

(Catalog of Federal Domestic Assistance Program No. 93.802, Social Security-Disability Insurance; 93.803, Social Security-Retirement Insurance; 93.805, Social Security-Survivors Insurance)

List of Subjects in 20 CFR Part 404

Administrative practice and procedure, Death benefits, Disability benefits, Old-Age, Survivors and Disability Insurance, Reporting and recordkeeping requirements.

Dated: February 1, 1994.

Shirley Chater,

Commissioner of Social Security.

Approved: March 18, 1994.

Donna E. Shalala,

Secretary of Health and Human Services.

For the reasons set out in the preamble, part 404 of chapter III of title 20 of the Code of Federal Regulations is amended to read as follows:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950–)

1. The authority citation for subpart D of part 404 continues to read as follows:

Subpart D—Old-Age, Disability, Dependents' and Survivors' Insurance Benefits; Period of Disability

Authority: Secs. 202, 203(a) and (b), 205(a), 216, 223, 228(a) through (e), and 1102 of the Social Security Act; 42 U.S.C. 402, 403(a) and (b), 405(a), 416, 423, 428(a) through (e), and 1302.

2. Section 404.335 is amended by revising paragraph (a)(4) to read as follows:

§ 404.335 Who is entitled to widow's or widower's benefits.

* * * * *

(a) * * *

(4) In the month before you married the insured, you were entitled to or, if you had applied and had been old enough, could have been entitled to any of these benefits or payments: widow's, widower's, father's (based on the record of a fully insured individual), mother's (based on the record of a fully insured individual), wife's, husband's, parent's, or disabled child's benefits; or annuity payments under the Railroad Retirement Act for widows, widowers, parents, or children age 18 or older;

* * * * *

[FR Doc. 94–7515 Filed 3–29–94; 8:45 am]

BILLING CODE 4190–29–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 625

[FHWA Docket No. 93–14]

RIN 2125–AD23

Design Standards for Highways

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Correction to final rule.

SUMMARY: This document contains a correction to the authority statement in the interim final rule published on December 10, 1993 (58 FR 64895). The regulation related to design standards for highways, metric values for geometric design.

EFFECTIVE DATE: March 30, 1994.

FOR FURTHER INFORMATION CONTACT: Mr. Seppo I. Sillan, Office of Engineering (202) 366–0312, or Mr. Wilbert Baccus, Office of the Chief Counsel (202) 366–0780, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal legal holidays.

The FHWA hereby corrects the authority statement of 23 CFR part 625 which was published on Friday, December 10, 1993 in FR Doc. 93–29261 to read as follows:

Authority: 23 U.S.C. 109, 315, and 402; Sec. 1073 of Pub. L. 102–240, 105 Stat. 1914, 2012; 49 CFR 1.48 (b) and (n).

Issued on: March 24, 1994.

Theodore A. McConnell,

Chief Counsel.

[FR Doc. 94–7525 Filed 3–29–94; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

24 CFR Part 3500

[Docket No. R–94–1653; FR–3382–C–04]

RIN 2502–AG13

Amendments to Regulation X, the Real Estate Settlement Procedures Act Regulation (Subordinate Liens), Final Rule; Correction

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Final rule; correction.

SUMMARY: The Department is publishing corrections to the final rule on Amendments to Regulation X, the Real Estate Settlement Procedures Act Regulation (Subordinate Liens), published February 10, 1994 (59 FR 6505).

DATES: *Effective date:* August 9, 1994, except that the corrections and clarifications in § 3500.5(b) are effective upon publication.

FOR FURTHER INFORMATION CONTACT: Grant E. Mitchell, Senior Attorney for RESPA, Office of General Counsel, room 10252 (202) 708–1550, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500. The TDD number is (202) 708–4594. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Background

On February 10, 1994, the Department issued amendments to its regulations to implement sections 908 and 951 of the Housing and Community Development Act of 1992 (Pub. L. 102–550, approved October 28, 1992) (Act). That Act expanded the coverage of RESPA to include mortgages secured by subordinate liens, and restated the Department's authority over refinancing transactions. The Department's final rule of February 10, 1994 adopted certain definitions and disclosure requirements of the Truth in Lending Act (TILA) and its implementing regulation, Regulation Z, to minimize the burden on lenders and others in complying with different or conflicting definitions and disclosure requirements for transactions also covered by the TILA.

Need for Correction

As published, the preamble and the final rule contain material that may be misleading and is in need of correction or clarification.

For example, some readers have erroneously interpreted a provision in the preamble (at the end of the first column of 59 FR 6508) that was intended to clarify treatment of certain specific owner-occupied programs of the Federal Housing Administration (FHA) as modifying the entire business purpose exemption. With one exception, the business purpose exemption of Regulation X extends to all business purpose transactions exempted under Regulation Z, and persons may rely on Regulation Z in determining whether the exemption applies. The one exception is loans to individuals to acquire, refinance, improve, or maintain 1- to 4-family residential properties used, or to be used, for rental purposes; these transactions have been determined by the Department to be covered by RESPA. An individual who has voluntarily chosen to act as a sole proprietorship is not considered an individual under the exception to the business purpose exemption; however, a lender may not require sole proprietorship status as a condition for making the loan. The preamble has been amended by isolating the FHA-related language, and clarifying language is included in § 3500.5(b)(2) of the rule.

Questions have also been raised regarding the title of the HUD–1A form—Optional Form for Transactions without Sellers. It is called "optional," which is synonymous with "alternative" in this context, because the HUD–1 can be used for all transactions, using the borrower's side of the form where there is no seller, or the HUD–1A can be used for borrower-only transactions. As clarified in this correction, pursuant to § 3500.8, one or the other of these forms must be used, except for open-end lines of credit (home equity plans) under the Truth in Lending Act and Regulation Z, for which neither form is required.

On the HUD–1A, unlike the HUD–1, there is no reference to assumption fees, because no such fees are contemplated in refinance or subordinate lien transactions. By this document, however, the Department also clarifies that it has no objection if form or software companies leave line 807 blank on the HUD–1A and use line 808 for mortgage broker fees, so that the treatment of disclosure in the HUD–1 and HUD–1A is more parallel.

Correction of Publication

Accordingly, FR Doc. 94–3035, the final rule (FR–3382) on Amendments to Regulation X, the Real Estate Settlement Procedures Act Regulation (Subordinate Liens), published on February 10, 1994 (59 FR 6505), is corrected as follows:

1. On page 6508, in the first column, in the preamble, at the end of the first paragraph under Item 7, the following two sentences are added:

The exemptions requested in comments (a), (c), and (d) were effectively adopted as part of the business purpose exemption. Comment (b) was not adopted in its entirety, because the Department chose not to exempt loans to individuals (natural persons) to acquire, refinance, improve, or maintain 1- to 4-family residential rental properties.

2. On page 6508, in the second paragraph under Item 7 in the preamble, the first sentence is removed and the

following sentence is substituted in its place:

The Department decided generally to adopt the "business purpose" exemption of Regulation Z, but does not include in the business purpose exemption a loan to one or more natural persons to acquire, refinance, improve or maintain 1- to 4-family residential properties used or to be used for rental purposes. An individual choosing to act as a sole proprietorship is not an individual under this rule.

3. On page 6508, in the first column and continuing in the second column, in the third paragraph under Item 7 in the preamble, the last two sentences in the paragraph are removed and a new Item 7A is added in their place, to include the following heading and text:

7A. FHA-Related Transactions

Questions have arisen under the eligibility standards of certain FHA owner-occupancy programs where both an individual and a living trust (or a corporation, association, or partnership) are named on the note or deed. For purposes of the relevant FHA programs, this dual denomination on the note or deed continues to satisfy the owner-occupied program definitions. These transactions are covered by RESPA.

§ 3500.2 [Corrected]

4. On page 6511, in the third column, in the definition in § 3500.2 of "federally related mortgage loan", the last sentence in paragraph (2) is removed from paragraph (2) and is redesignated as a separate paragraph (3).

§ 3500.5 [Corrected]

5. On page 6512, in the third column, in § 3500.5, paragraph (b)(1)(ii) is corrected by removing the word "and" at the end of the paragraph and adding the word "or" in its place.

6. On page 6512, in the third column, and continuing on page 6513, in the first column, in § 3500.5, paragraph (b)(2) is clarified by removing the period before the last sentence and adding a comma in its place, and by removing the last sentence and by adding the following clause and two sentences in its place:

(b) * * *

(2) * * *

* * * and persons may rely on Regulation Z in determining whether the exemption applies. Notwithstanding the foregoing, the exemption in this section for business purpose loans does not include any loan to one or more persons acting in an individual capacity (natural persons) to acquire, refinance, improve, or maintain 1- to 4-family residential property used, or to be used, to rent to other persons. An individual who voluntarily chooses to act as a sole proprietorship is not considered to be acting in an individual capacity for purposes of this part.

* * * * *

§ 3500.7 [Corrected]

7. On page 6514, in the second column, in § 3500.7, paragraph (f) is corrected by removing the parentheses in the citation "12 CFR 226.5(b)", to read "12 CFR 226.5b".

§ 3500.8 [Corrected]

8. On page 6514, in the second column, in § 3500.8, the last sentence of paragraph (a) is removed and the following two sentences are added in its place:

(a) * * * Either the HUD–1 or the HUD–1A, as appropriate, shall be used for every RESPA-covered transaction, unless its use is specifically exempted, but the HUD–1 or HUD–1A may be modified as permitted under this part. The use of the HUD–1 or HUD–1A is exempted for open-end lines of credit (home-equity plans) covered by the Truth in Lending Act and Regulation Z.

* * * * *

§ 3500.9 [Corrected]

9. On page 6515, in the first column, in § 3500.9, paragraph (b) is corrected by removing the clause "paragraphs (a)(3), (6), and (11)" at the end of the section and adding in its place the clause "paragraphs (a)(3) and (6)".

Authority: 12 U.S.C. 2601 et seq.

Dated: March 24, 1994.

Nicolas P. Retsinas,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 94–7490 Filed 3–29–94; 8:45 am]

BILLING CODE 4210–27–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8533]

RIN 1545–AS58

Accuracy-Related Penalty; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to temporary regulations.

SUMMARY: This document contains a correction to temporary regulations relating to the accuracy-related penalty under chapter 1 of the Internal Revenue Code. This document was published in the **Federal Register** on Thursday, March 17, 1994 (59 FR 12547).

EFFECTIVE DATE: March 17, 1994.

FOR FURTHER INFORMATION CONTACT: David L. Meyer, (202) 622–6232 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations provide rules under section 6662 of the Internal Revenue Code.

Need for Correction

As published, TD 8533 contains an error which may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of the temporary regulations (TD 8533), which is the subject of FR Doc. 94–6236 is corrected as follows:

§ 1.6662–7T [Corrected]

On page 12548, column 3, § 1.6662–7T(a)(2), line 5, the language "provisions of these regulations relating" is corrected to read "provisions of this section relating".

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 94–7404 Filed 3–29–94; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF LABOR

Office of Labor-Management Standards

29 CFR Part 403

RIN 1294–AA07

Labor Organization Annual Financial Reports

AGENCY: Office of Labor-Management Standards, Office of the American Workplace, Labor.

ACTION: Final Rule; correction.

SUMMARY: This document contains a correction to the final rule which was published on Tuesday, December 21, 1993 (58 FR 67593). The rule relates to the annual financial reports required to be filed by labor organizations. The final rule inadvertently omitted a revised instruction for one of the reporting forms.

EFFECTIVE DATE: December 31, 1994.

FOR FURTHER INFORMATION CONTACT: Kay H. Oshel, Chief, Division of Interpretations and Standards, Office of Labor-Management Standards, Office of the American Workplace, U.S. Department of Labor, 200 Constitution Avenue, NW., room N–5605,

Washington, DC 20210, (202) 219–7373. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The final rule that is the subject of this correction made revisions to the annual financial reporting forms required to be filed by labor organizations pursuant to the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA). Section 201(b) of the LMRDA requires each covered labor organization to file annually with the Secretary of Labor a financial report, signed by its president and treasurer or corresponding principal officers, containing information in the detail necessary to disclose accurately its financial condition and operations for the preceding fiscal year.

The requirements of LMRDA section 201(b) apply to all labor organizations in the private sector. In addition, section 1209(b) of the Postal Reorganization Act (Pub. L. 91–375, 84 Stat. 737) makes the LMRDA applicable to labor organizations which represent employees of the U.S. Postal Service. Finally, the Department's regulations apply the LMRDA reporting requirements to Federal sector labor organizations subject to the Civil Service Reform Act of 1978 (Pub. L. 95–454, 92 Stat. 1192) and the Foreign Service Act of 1980 (Pub. L. 96–465, 94 Stat. 2140). 29 CFR 458.3.

Section 208 of the LMRDA authorizes the Secretary to issue, amend, and rescind rules prescribing the form and publication of the information and annual financial reports required by sections 201(a) and 201(b), and to provide simplified reports for labor organizations for whom the Secretary finds that by virtue of their size a detailed report would be unduly burdensome.

The Secretary of Labor has delegated authority under the LMRDA to the Assistant Secretary for the American Workplace. See Secretary's Order No. 2–93 (58 FR 42578, August 10, 1993).

Revisions to the reporting forms were proposed in the notice of proposed rulemaking published on Thursday, September 23, 1993 (58 FR 49671). One of the proposed revisions was to change the instructions for Form LM–2 (to be filed by labor organizations with $200,000 or more in total annual receipts) and Form LM–3 (to be filed by labor organizations with less than $200,000, but $10,000 or more, in total receipts) regarding the purchase and sale of investments to include a reduction for reinvestments of receipts from the sale of U.S. Treasury securities and other investments. The proposed change was identical for both Form LM–2 and Form LM–3. 58 FR 49680, 49681, 49722, 49724, 49793, and 49798.

After reviewing the comments submitted by the public, the Department decided to modify the proposed instructions slightly. However, the modification was only made to the Form LM–2 instructions (58 FR 67600, 67602) and inadvertently not made to the Form LM–3 instructions.

Accordingly, the final rule published on December 21, 1993 is corrected as follows:

1. On page 67603, in the 2nd column, after the 33rd line, insert the following text:

In Item 42, the first paragraph of the instructions is revised to read as follows:

Enter the net amount received by your organization for all investments (including U.S. Treasury securities) and fixed assets sold. Do not include amounts received from the sale or redemption of investments which were promptly reinvested (i.e., "rolled over") during the reporting period.

Signed in Washington, DC this 22nd day of March, 1994.

Martin Manley,

Assistant Secretary for the American Workplace.

[FR Doc. 94–7381 Filed 3–29–94; 8:45 am]

BILLING CODE 4510–86–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 950

Wyoming Permanent Regulatory Program

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

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is announcing the approval of a proposed amendment to the Wyoming permanent regulatory program (hereinafter, the "Wyoming program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment, submitted on December 15, 1992, and August 6, 1993, and as subsequently revised and clarified on December 20, 1993, pertains to the recodification of the State coal mining rules. The amendment revises the Wyoming program to be consistent with the corresponding Federal standards and to incorporate the additional flexibility afforded by the revised Federal rules.

EFFECTIVE DATE: March 30, 1994.

FOR FURTHER INFORMATION CONTACT: Guy V. Padgett, Telephone: (307) 261–5776.

SUPPLEMENTARY INFORMATION:

I. Background on the Wyoming Program

On November 26, 1980, the Secretary of the Interior conditionally approved the Wyoming program. General background information on the Wyoming program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Wyoming program can be found in the November 26, 1980, **Federal Register** (45 FR 78637). Subsequent actions concerning Wyoming's program and program amendments can be found at 30 CFR 950.11, 950.12, 950.15 and 950.16.

II. Submission of Amendment

By letters dated December 15, 1992, and August 6, 1993 (Administrative Record Nos. WY–20–01 and WY–20–03), Wyoming submitted a proposed amendment to its permanent program pursuant to SMCRA. The December 15, 1992, submission did not include a side-by-side comparison of the existing and proposed Wyoming rules. By letter dated December 23, 1992, OSM requested that Wyoming resubmit the proposed amendment in a side-by-side format to facilitate OSM's review. By letter dated August 6, 1993, Wyoming resubmitted the amendment in the requested format.

The proposed amendment would separate Wyoming's rules regulating coal mining from its rules regulating non-coal mining, thus creating two separate sets of rules.

The rules of the coal mining program, together with rules applicable only to non-coal mining, are currently codified as the Land Quality Division (LQD) Rules Chapters I through XXV (plus appendixes A and B). This proposed amendment recodifies the regulations of the coal mining program as LQD Rules Chapters I through XX (plus appendixes A and B).

The amendment package includes (1) reorganized coal rules; (2) citations index; (3) side by side comparison of the existing 1989 and proposed reorganized rules; and (4) a table summarizing each rule which has been filed with the Wyoming Secretary of State since the 1989 rules were printed, and showing whether each rule has been approved by OSM.

OSM published a notice in the August 23, 1993, **Federal Register** (58 FR 44480), announcing receipt of the proposed amendment and in the same notice, opened the public comment period and provided opportunity for a public hearing on its substantive adequacy. The public comment period

closed on September 22, 1993. A public hearing was not held because no one requested to testify.

During its review of the amendment, OSM identified issues in three areas: (1) Cross-reference errors; (2) remaining non-coal rules in the coal rules portion of the program; and (3) the improper deletion of approved coal program rules. OSM notified Wyoming of these issues by letter dated October 28, 1993, (Administrative Record No. WY–20–25). Wyoming responded, in a letter dated December 20, 1993, to all of the issues raised by OSM (Administrative Record No. WY–20–26).

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the amendment submitted by Wyoming on December 15, 1992, and August 6, 1993, and as subsequently revised and clarified on December 20, 1993.

1. Recodification of LQD Rules at Chapters I Through III; V Through X; XII; XIV Through XVII; XIX; XX; and Appendixes A and B

Wyoming has submitted the recodification of the LQD Rules at Chapters I through III; V through X; XII; XIV through XVII; XIX; XX; and Appendixes A and B; on its own initiative as part of a State effort to eliminate the confusion that was inherent in regulatory rules that applied to two separate and distinct programs, i.e. the regulation of coal and non-coal mining operations. The proposed recodification results from the direction given by the Governor's Regulatory Reform Task Force. The proposed reorganized rule package is intended to facilitate a better understanding of and increased compliance with Wyoming's statutes and rules, and with SMCRA.

Wyoming's submission is not intended to address the status of the State program regarding disapprovals, required amendments, and notifications pursuant to the Federal regulations at 30 CFR part 732. Thus OSM's review has been restricted to insuring that all coal mining related rules that constitute the approved State program have been included in the recodified coal rules. OSM has not conducted a substantive review of the proposed amendment in the above described areas. Therefore, approval of this amendment does not relieve Wyoming of its obligation to submit revisions to its program to correct deficiencies identified previously by OSM pursuant to the Federal regulations at 30 CFR part 732.

By letter dated October 28, 1993, OSM notified the State regarding the incorrect cross-references in various sections of the above described chapters (Administrative Record No. WY–20–25). Wyoming replied by letter dated December 20, 1993, proposing to revise its program to correct the incorrect cross-references (Administrative Record No. WY–20–26). The proposed corrections adequately address all the issues raided by OSM concerning these chapters.

Therefore, the Director finds that the proposed recodification of these chapters will not render the Wyoming approved program less effective than the corresponding Federal regulations and is approving this recodification.

2. Recodification of LQD Rules at Chapter IV

Wyoming proposes to repeal subsection (F), at existing LQD Rule Chapter IV, section 2.(k)(ii), that addresses interim mine stabilization. This subjection was included in a previous Wyoming program amendment at chapter IV, section 2.(l)(ii)(F) and was not approved by OSM on November 24, 1986 (51 FR 42209). The repeal of subsection (F) is appropriate based on OSM's non-approval of this subsection at 30 CFR 950.12(a)(9).

Additionally, OSM, in its letter of October 28, 1993, noted that recodified LQD Rule chapter IV, section 2.(b)(ix), which allows the retention of bluffs where such bluffs would enhance the postmining land use, incorrectly cross-references LQD Rule chapter IV, section 2.(s) rather than LQD Rule chapter IV, section 2.(r). Proposed LQD Rule chapter IV, section 2.(b)(ix) is simply a recodification of existing LQD Rule chapter IV, section 3.(a)(ix), which has never been approved by OSM (see 54 FR 52598). On December 20, 1993, Wyoming informed OSM that it was revising the proposed amendment to remove LQD Rule chapter IV, section 2.(b)(ix) from the State program. Based on Wyoming's proposal to simply remove the defective provision from its program, the correction of the cross-reference is not needed.

Therefore, based on these corrections, the Director finds that the recodification of chapter IV will not render the Wyoming approved program less effective than the corresponding Federal regulations and is approving this recodification.

3. Recodification of LQD Rules at Chapter XI

In its October 28, 1993, letter to the State, OSM noted that recodified LQD Rules at chapter XI, section 5.(a) incorrectly referenced LQD Rule chapter XI, section 3.(a)(ii). Wyoming was requested to correct this reference to LQD Rule chapter XI, section 4.(a)(ii).

In Wyoming's December 20, 1993, reply, the State agreed that section 3. and 4. were incorrectly reversed when the 1989 rules were promulgated, resulting in the incorrect reference to section 3. Wyoming further agreed to correct this incorrect reference in the next proposed rulemaking package it submits to OSM.

Based on Wyoming's response, the Director finds that the recodification of chapter XI will not render the Wyoming approved program less effective than the corresponding Federal regulations and is approving the proposed recodification with the understanding that the cross-reference, as discussed above, will be corrected in the next rulemaking package to be submitted by the State.

4. Recodification of LQD Rules at Chapter XIII

Proposed LQD Rules at chapter XIII, section 1.(a) provides that:

> [a]ny permit, except for surface coal mining permits, may be revised by identifying alterations to the mining or reclamation plan in the annual report or addendum thereto, or by obtaining prior approval from the Department.

In OSM's letter of October 28, 1993, the State was notified that this language applies only to non-coal mining operations and has not been approved as part of the Wyoming coal program. In its letter of December 20, 1993, Wyoming agreed to remove this language from the reorganized coal rules.

Therefore, Director finds that, with this deletion, the proposed recodification of chapter XIII will not render the Wyoming approved program less effective than the corresponding Federal regulations and is approving this recodification.

5. Recodification of LQD Rules at Chapter XVIII

Wyoming has proposed to leave superseded rule language at recodified LQD Rule chapter XVIII, section 3.(b)(iv), concerning surface water information requirements for in situ coal mining operations. The rule language that superseded this provision is now recodified at section 3.(b)(viii), and had been previously approved by OSM on October 29, 1992 (57 FR 48984). An error occurred in drafting the recodified rules resulting in Wyoming inadvertently proposing at recodified section 3.(b)(iv) the older version of the provision, in addition to section 3.(b)(viii).

In its letter of October 28, 1993, to Wyoming, OSM noted this discrepancy and requested that the copy of the old rule language at recodified LQD Rule chapter XVIII, section 3.(b)(iv) be removed from this recodified chapter. In its letter of December 20, 1993, Wyoming agreed to remove the language at recodified LQD Rule chapter XVIII, section 3.(b)(iv).

Additionally, in its letter of October 28, 1993, OSM noted to the State that, in recodifying the Wyoming program, it had omitted an approved portion of the State program at existing LQD Rules chapter XXI, section 3.(b)(viii) concerning geological informational requirements for in situ coal mining operations. OSM further noted that this deletion caused the State program to be less effective than the Federal regulation requirements at 30 CFR 785.22 that provide the general permit requirements for underground mining, including geology, at 30 CFR 784.22. OSM requested that Wyoming reinstate this deleted rule.

In its letter of December 20, 1993, Wyoming noted that it had inadvertently repealed this section and that it is proposed to be adopted in its entirety at the recodified LQD Rule chapter XVIII as subsection 3.(b)(iv).

Based on the above discussion, the Director finds the proposed recodification and corrections proposed by the State will not render the Wyoming approved program less effective than the corresponding Federal regulations and is approving this recodification of chapter XVIII.

IV. Summary and Disposition of Comments

Public Comments

The Director solicited public comment on the proposed amendment and provided opportunity for a public hearing. No comments were received, and the scheduled public hearing was not held because no one requested an opportunity to provide testimony.

Agency Comments

Pursuant to section 503(b) of SMCRA and implementing regulations at 30 CFR 732.17(h)(11)(i), comments were solicited from various Federal agencies with an actual or potential interest in the Wyoming program. A summary of the comments, and the Director's responses to them, appear below:

The U.S. Department of Agriculture—Soil Conservation Service, U.S. Department of the Interior (USDI)—Bureau of Mines, USDI—Bureau of Indian Affairs, U.S. Department of Labor—Mines Safety and Health Administration (MSHA)—Coal Mine Safety and Health District 9, USDI—Bureau of Land Management (BLM), USDI—Geological Survey, U.S. Department of Labor—MSHA—Arlington, U.S. Army Corps of Engineers-Washington, DC, responded with no substantive comment (Administrative Record Nos. WY–20–14, WY–20–15, WY–20–16, WY–20–18, WY–20–19, WY–20–20, WY–20–22, and WY–20–23).

State Historic Preservation Office (SHPO) and Advisory Council on Historic Preservation (ACHP) Comments

As required by 30 CFR 732.17(h)(4), OSM provided the proposed amendment to the SHPO and ACHP for comment. Comments were received from the SHPO that did not relate to the recodification of the coal rules but instead addressed rule changes regarding historic resources previously approved by OSM on October 29, 1992 (57 FR 48984) (Administrative Record Nos. WY–20–21 and WY–20–24).

While the Director appreciates the comments of the SHPO regarding historic resources at recodified LQD Rules chapter II, section b.(xxii)(A), the State has only proposed to recodify the coal rules, not substantively change them. Thus the Director has determined that the comments submitted are not relevant to this rulemaking action on recodification.

Environmental Protection Agency Concurrence

Under 30 CFR 732.17(h)(11)(ii), the Director is required to obtain the written concurrence of the Administrator of the Environmental Protection Agency (EPA) with respect to provisions of a State program amendment which relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*).

On December 16, 1993, the EPA replied that it had no comment on Wyoming's proposed amendment (Administrative Record No. WY–20–27).

V. Director's Decision

Based on the above findings, the Director approves Wyoming's proposed program amendment as submitted on December 15, 1992, and August 6, 1993, and as subsequently revised and clarified on December 20, 1993.

In addition the Director is removing a previous program disapproval at 30 CFR 950.12(a)(9) for the reasons discussed in Finding 2.

The Federal regulations at 30 CFR part 950 codifying decisions concerning the Wyoming program are being amended to implement this decision. The Director is approving these regulations with the provision that they will be fully promulgated in a form identical to that submitted to and reviewed by OSM. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undo delay. Consistency of State and Federal standards is required by SMCRA.

VI. Effect of Director's Decision

Section 503 of SMCRA provides that a State may not exercise jurisdiction under SMCRA unless the State program is approved by the Secretary of the Interior. Federal regulations at 30 CFR 732.17(a) require that any alteration of an approved State program must be submitted to OSM for review as a program amendment. The Federal regulations at 30 CFR 732.17(g) prohibit any unilateral changes to approved State programs. Thus, any changes to the State program are not enforceable by the State as part of the approved State program until approved by the Director. In the oversight of the Wyoming program, the Director will recognize only statutes, regulations, and other materials approved by the Director, together with any consistent implementing policies, directives and other materials, and will require the enforcement by Wyoming of only such provisions.

VII. Procedural Determinations

Compliance With Executive Order 12866.

This final rule is exempted from review by the Office of Management and Budget under Executive Order 12866 (Regulatory Planning and Review).

Compliance With Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsection (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments

submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the requirements of 30 CFR parts 730, 731, and 732 have been met.

Compliance With the National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Compliance With the Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Hence, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR 950

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 24, 1994.

Raymond L. Lowrie,

Assistant Director, Western Support Center.

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

PART 950—WYOMING

1. The authority citation for part 950 continues to read as follows:

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

§ 950.12 [Amended]

2. Section 950.12 is amended by removing and reserving paragraph (a)(9).

3. Section 950.15 is amended by adding paragraph (s) to read as follows:

§ 950.15 Approval of regulatory program amendments.

* * * * *

(s) The following provisions of the laws, rules and regulations of the Wyoming Department of Environmental Quality—Land Quality Division relating to coal exploration and coal mining and reclamation operations, as submitted on December 15, 1992, and August 6, 1993, and as subsequently revised and clarified on December 20, 1993, are approved effective March 30, 1994: Recodification of LQD Rules as chapters I through XX and appendixes A and B.

[FR Doc. 94–7498 Filed 3–29–94; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 205

RIN 1510–AA40

Rules and Procedures for Funds Transfers

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Interim rule.

SUMMARY: This rule amends the regulations implementing the Cash Management Improvement Act of 1990 (CMIA), as amended, which governs the transfer of funds between the Federal Government and the States under Federal assistance programs. It delays the date on which the State of New York must begin the second phase of CMIA implementation, thereby affording New York the same amount of time to complete the first phase that is allowed the other 55 States and territories. This rulemaking affects only New York.

DATES: This interim rule is effective March 30, 1994; comments must be received on or before April 14, 1994.

ADDRESSES: Send comments to the Financial Management Service (FMS), Director, Cash Management Policy and Planning Division, room 511, 401 14th Street, SW., Washington, DC 20227, Facsimile number (202) 874–6907.

FOR FURTHER INFORMATION CONTACT: Gary Grippo, (202) 874–6955.

SUPPLEMENTARY INFORMATION:

Background

The regulations at 31 CFR part 205 established a two-stage implementation of the Cash Management Improvement Act of 1990 (CMIA), as amended, which governs the transfer of funds between the Federal Government and the States under Federal assistance programs.

During the first phase of implementation, only the 20 largest Federal assistance programs were covered by CMIA. From the second year onward, the scope of CMIA expands to cover all "major Federal assistance programs," as defined by the Single Audit Act. This second phase of implementation is scheduled to take effect at the start of each State's 1995 fiscal year, so that States can introduce the new cash management requirements with a new fiscal year.

The State of New York, however, has a unique fiscal year that begins on April 1, which is 3 months prior to the start of the typical State fiscal year on July 1. Hence, New York would be subject to expanded CMIA requirements three months before the other States; it would have only 9 months for the first phase of implementation, whereas all other States and territories would have a year.

This rulemaking amends 31 CFR part 205 to allow New York a full year for the first stage of implementation. It modifies the implementation schedule so that no State begins the second phase prior to July 1, 1994. This rulemaking makes no other changes to 31 CFR part 205 and affects only New York.

Rulemaking Analyses

E.O. 12866

It has been determined that this regulation is not a significant regulatory action as defined in E.O. 12866. Therefore, a Regulatory Assessment is not required.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this rule, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

Notice and Comment

Public comment is solicited on this interim rule. The FMS will consider all comments made on the substance of this interim rule, and will determine the appropriateness of adopting it as a final rule.

In accordance with 5 U.S.C. 553(d)(1), a delayed effective date is not required for this rulemaking. The FMS has determined that this interim rule is a substantive regulation which relieves a restriction, specifically an exceptional

deadline that applies to New York. New York's April 1, 1994, deadline entails an urgency of conditions and an unavoidable limitation of time that would make this rule meaningless if the effective date were delayed. Furthermore, this interim rule places no burdens or requirements on any State or other entity, and there are no affected parties that need time to prepare to comply with or take other action with respect to this rule. For the convenience and necessity of New York, therefore, this interim rule is effective immediately and will continue to be effective until final rule action is taken.

The FMS for good cause finds that general notice of proposed rulemaking is not necessary for this regulatory action, in accordance with 5 U.S.C. 553(b)(B). The delay created by prior notice and public procedure would result in serious damage to important interests, specifically the public benefit corporations, public institutions of higher education, and public not-for-profit organizations of New York, as well as the integrity of CMIA implementation. Application of the rules in 31 CFR part 205 to these entities prior to July 1, 1994, would affect New York's ability to implement CMIA in the current and future years. Failure to make this regulatory amendment would result in potential financial harm to New York, and unnecessary costs to the Federal Government.

List of Subjects in 31 CFR Part 205

Electronic funds transfer, Grant administration, Grant programs, Intergovernmental relations.

Issuance

For the reasons set forth in the preamble, 31 CFR part 205 is amended by this interim rule as follows:

PART 205—[AMENDED]

1. The authority citation for 31 CFR part 205 continues to read as follows:

Authority: 5 U.S.C. 301; 31 U.S.C. 321, 3335, 6501, 6503.

2. Paragraph (b) of § 205.4 is revised to read as follows:

§ 205.4 Scope of subpart.

* * * * *

(b) *Threshold of materiality.* From the later of July 1, 1994, or the beginning of a State's 1995 fiscal year, and thereafter, this subpart applies, at a minimum, to all programs that meet the threshold for major Federal assistance programs in a State.

* * * * *

Dated: March 8, 1994.

Russell D. Morris,

Commissioner.

[FR Doc. 94–7399 Filed 3–29–94; 8:45 am]

BILLING CODE 4810–35–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD07–94–005]

Drawbridge Operation Regulations; St. Johns River, FL

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation.

SUMMARY: The Coast Guard is hereby providing notice that the Florida Department of Transportation (FDOT) has been granted permission to temporarily deviate from the regulations governing the operation of the Main Street (US 17), mile 24.7, and the Fuller Warren (I10/I95), mile 25.4, drawbridges over the St. Johns River, located in the City of Jacksonville from January 31, 1994, until April 29, 1994, for the purpose of evaluating the reasonableness of possible changes to the permanent regulations. This deviation allows the draws of both bridges to remain closed for longer periods during the morning and afternoon weekdays highway commuter periods. In addition, the Fuller Warren Bridge is allowed to open only once per hour from 9 a.m. to 4 p.m. on weekdays except federal holidays. The draws shall open at any time for vessels in an emergency involving life or property, and the Fuller Warren Bridge shall open at any time for tugs with tows during the 9 a.m. to 4 p.m. period of hourly opening restrictions. This 90 day test will determine whether the revised opening schedule will improve the flow of highway traffic without unreasonably impacting navigation.

EFFECTIVE DATES: The deviation is effective from Monday, January 31, 1994, through Friday, April 29, 1994.

FOR FURTHER INFORMATION CONTACT: Gary D. Pruitt, Project Manager, Bridge Section, Office of Aids to Navigation and Waterways Management Branch; Address: Commander (oan), Seventh Coast Guard District, 909 SE 1st Avenue, Miami, Florida 33131–3050; Telephone: (305) 536–4103.

SUPPLEMENTARY INFORMATION: The Coast Guard granted a temporary deviation to the operating regulations for these two drawbridges owned and operated by the Florida Department of Transportation (FDOT) which extends the morning and afternoon weekday closed periods and limits weekday openings to once per hour. Due to the strong currents and difficult maneuvering characteristic, tugs with tows are exempted from the hourly opening restrictions. Both drawbridges will continue to open on demand at all other times. This revised schedule is intended to provide relief to land transportation needs while the Coast Guard considers a permanent change to these regulations.

Notice

Notice is hereby given that:

1. The Coast Guard has granted the Florida Department of Transportation a temporary deviation from the operating regulations outline in Title 33, Code of Federal Regulations, § 117.325 governing the Main Street and the Fuller Warren Drawbridges, for the purpose of evaluating possible changes to the permanent regulations.

2. This deviation from normal operating regulations is for the purpose of evaluating a possible change to the current regulations and is authorized in accordance with the provisions of title 33, Code of Federal Regulations, § 117.43.

3. Under this temporary deviation, the Main Street and the Fuller Warren drawbridges shall open on signal except that, from 7 a.m. to 9 a.m. and from 4 p.m. to 6 p.m., Monday through Friday except federal holidays, the draws need not be opened for the passage of vessels. The draw of the Fuller Warren Bridge need open only on the hour between the hours of 9 a.m. and 4 p.m. on weekdays except federal holidays. Due to the strong currents and difficult maneuvering characteristic, tugs with tows are exempted from the midday hourly opening restrictions at the Fuller Warren Bridge. The draws of both bridges shall open at any time for vessels in an emergency involving life or property.

4. When the 90 day test is completed, the results will be compared to the existing regulations to determine which operating schedule best meets the needs of navigation, and helps reduce the vehicular traffic delays.

5. This period of deviation is effective from Monday, January 31, 1994, through Friday, April 29, 1994.

Dated: February 18, 1994.

W.P. Leahy,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 94–7536 Filed 3–29–94; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 117

[CGD08-93-023]

RIN 2115-AE47

Drawbridge Operation Regulations; Pass Manchac, LA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Illinois Central Railroad (ICRR), the Coast Guard is changing the regulation governing the operation of the bascule span bridge across Pass Manchac, mile 6.7, at Manchac, Louisiana, by permitting automated operation of the draw. This action should provide for the reasonable needs of navigation.

EFFECTIVE DATE: This regulation becomes effective on April 29, 1994.

FOR FURTHER INFORMATION CONTACT: Mr. John Wachter, Bridge Administration Branch, Eight Coast Guard District, telephone (504) 589-2965.

SUPPLEMENTARY INFORMATION: On December 20, 1993, the Coast Guard published a proposed rule (58 FR 66321) concerning this amendment. The Commander, Eighth Coast Guard District also published the proposal as a Public Notice dated January 13, 1994. Interested parties were given until February 14, 1994 to submit comments.

Drafting Information

The drafters of this regulation are Mr. John Wachter, project officer, and CDR D. Dickman, project attorney.

Discussion of Comments

One letter was received in response to Public Notice No. CGD8-01-94 issued on January 13, 1994. The National Marine Fisheries Service offered no objection to the proposed rule.

Federalism

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

Economic Assessment and Certification

This final rule is not considered a significant regulatory action under Executive Order 12866 and is not significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

The economic impact of this action is expected to be so minimal that a full regulatory evaluation is unnecessary. The basis for this conclusion is that after installation of the fully automated system there will be no inconvenience to vessels using the waterway. Since the economic impact of this action is expected to be minimal, the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small entities.

Environment

This rulemaking has been thoroughly reviewed by the Coast Guard and it has been determined to be categorically excluded from further environmental documentation in accordance with section 2.B.2.g.5 of Commandant Instruction M16475.1B. A Categorical Exclusion Determination statement has been prepared and placed in the rulemaking docket.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, part 117 of title 33, Code of Federal Regulations, is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g).

2. Part 117 is amended by adding a new § 117.484 to read as follows:

§ 117.484 Pass Manchac.

The draw of the Illinois Central Railroad automated bridge, mile 6.7, at Manchac, operates as follows:

(a) The draw is not constantly manned and the bridge will normally be maintained in the open position, providing 56 feet vertical clearance above mean high tide to the raised tip of the bascule span for one-half the channel, and unlimited vertical clearance for the other half.

(b) Railroad track circuits will detect an approaching train and initiate bridge closing warning broadcasts over marine radio and over the Public Address (PA) system six (6) minutes in advance of the train's arrival. Navigation channel warning lights will be lit, and photoelectric (infrared) boat detectors will monitor the waterway by closed circuit TV (CCTV) cameras.

(c) Activation of the warning broadcasts also activates a marine radio monitor in the Mays Yard (New Orleans switch yard). The yardmaster will continuously monitor marine radio broadcasts 24 hours a day on the normal and emergency marine radio channels, and throughout the warning period and at all times that the bridge is closed. The yardmaster will communicate with waterway users via the marine radio, if necessary.

(d) At the end of warning period, if no vessels have been detected by the boat detectors, and no interruptions have been performed by the yardmaster based on his monitoring of the marine radio and the CCTV, the bridge lowering sequence will automatically proceed.

(e) Upon passage of the train, the bridge will automatically open. Railroad track circuits will initiate the automatic bridge opening and closing sequences. (Estimated duration that the bridge will remain closed for passage of rail traffic is 10 to 12 minutes.) The bridge will also be manually operable from two locked trackside control locations (key releases) on the approach spans, one on each side of the movable span.

(f) The yardmaster will be provided with a remote EMERGENCY STOP button which, if pressed, will stop the bridge operation, interrupt the lowering sequence, and immediately return the bridge to the open position. The yardmaster will utilize this control feature in the event a vessel operator issues an urgent radio call to keep the waterway open for immediate passage of the vessel.

Dated: March 14, 1994.

J.C. Card,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 94-7538 Filed 3-29-94; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 117

[CGD08-93-024]

RIN 2115-AE47

Drawbridge Operation Regulations; Lower Grand River, LA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Iberville Parish School Board, the Coast Guard is changing the regulation governing the operation of the swing span bridge on LA 77 across the Lower Grand River (Intracoastal Waterway, Morgan City to Port Allen, Alternate Route), mile 47.0 at Grosse Tete, Iberville Parish, Louisiana. The new regulation allows the draw to remain closed to navigation from 6 a.m. to 7:30 a.m. and from 2:30 p.m. to 4 p.m. on weekdays only, except holidays, and only during the months when local schools are in session. The primary purpose of the revised regulation is to provide school bus

traffic undelayed use of the bridge to serve a new school location during the school year. Presently, the draw opens on signal at all times, except that the draw remains closed for passage of school buses from 6 a.m. to 7:30 a.m. and from 3 p.m. to 4:30 p.m. on weekdays only, except holidays, and only during the months when local schools are in session.

EFFECTIVE DATE: This regulation becomes effective on April 29, 1994.

FOR FURTHER INFORMATION CONTACT: Mr. John Wachter, Bridge Administration Branch, Eighth Coast Guard District, telephone (504) 589–2965.

SUPPLEMENTARY INFORMATION: On December 20, 1993, the Coast Guard published a proposed rule (58 FR 66323) concerning this amendment. The Commander, Eighth Coast Guard District, also published the proposal as a Public Notice dated January 24, 1994. Interested parties were given until February 24, 1994, to submit comments.

Drafting Information

The drafters of this regulation are Mr. John Wachter, project officer, and CDR D. Dickman, project attorney.

Discussion of Comments

Two letters were received in response to Public Notice No. CGD8–02–94, issued on January 24, 1994. The National Marine Fisheries Service and the Federal Emergency Management Agency offered no objection to the proposed regulation.

Federalism

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

Economic Assessment and Certification

This final rule is not considered a significant regulatory action under Executive Order 12866 and is not significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

The economic impact of this action has been found to be so minimal that a full regulatory evaluation is unnecessary. The basis for this conclusion is that, during the regulated periods, there will be very little inconvenience to vessels using the waterway. In addition, mariners requiring the bridge openings are repeat users of the waterway and scheduling their arrivals to avoid the regulated periods should involve little or no additional expense to them. Since the economic impact of this action is expected to be minimal, the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small entities.

Environment

This final rulemaking has been thoroughly reviewed by the Coast Guard and it has been determined to be categorically excluded from further environmental documentation in accordance with section 2.B.2.g.5 of Commandant Instruction M16475.1B. A Categorical Exclusion Determination statement has been prepared and placed in the rulemaking docket.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, part 117 of title 33, Code of Federal Regulations, is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g).

2. In § 117.478 paragraph (b) is revised to read as follows:

§ 117.478 Lower Grand River.

* * * * *

(b) The draw of the LA 77 bridge, mile 47.0 (Alternate Route) at Grosse Tete, shall open on signal; except that, from about August 15 to about June 5 (the school year), the draw need not be opened from 6 a.m. to 7:30 a.m. and from 2:30 p.m. to 4 p.m., Monday through Friday except holidays. The draw shall open on signal at any time for an emergency aboard a vessel.

* * * * *

Dated: March 17, 1994.

J.C. Card,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 94–7551 Filed 3–29–94; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 117

[CGD08–93–028]

RIN 2115–AE47

Drawbridge Operation Regulations; Des Allemands Bayou, LA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Southern Pacific Transportation Company (SPTC), the Coast Guard is changing the regulation governing the operation of the SPTC swing span railroad bridge across Des Allemands Bayou, mile 14.0, at Des Allemands, St. Charles Parish, Louisiana, by requiring at least four hours advance notice for an opening of the draw on weekends, and from 3 p.m. to 7 a.m. Monday through Friday. Presently, the draw opens on signal at all times.

This action will provide relief to the bridge owner and will still provide for the reasonable needs of navigation.

EFFECTIVE DATE: This regulation becomes effective on April 29, 1994.

FOR FURTHER INFORMATION CONTACT: Mr. John Wachter, Bridge Administration Branch, Eighth Coast Guard District, telephone (504) 589–2965.

SUPPLEMENTARY INFORMATION: On December 20, 1993, the Coast Guard published a proposed rule (58 FR 66323) concerning this amendment. The Commander, Eighth Coast Guard District also published the proposal as a Public Notice dated January 24, 1994. Interested parties were given until February 24, 1994, to submit comments.

Drafting Information

The drafters of this regulation are Mr. John Wachter, project officer, and CDR D. Dickman, project attorney.

Discussion of Comments

Six letters were received in response to Public Notice No. CGD08–94–003. The Federal Emergency Management Agency (FEMA), the National Marine Fisheries Service and the Louisiana Department of Wildlife and Fisheries offered no objection to the proposed special operating regulation.

One commenter suggested that the applicant be granted the same special operating regulation currently in effect for the adjacent State Route 631 bridge. For safety reasons, the bridge owner wished to have a bridgetender present at the bridge from 7 a.m. to 3 p.m. weekdays only. The Coast Guard agrees with the bridge owner's reasoning.

Two commenters submitted letters regarding the question of safety of train operations. One contained a petition signed by 175 persons that expressed concerns regarding the safety of allowing trains to use the bridge at times that it would be unmanned. The current operating requirements indicate that the bridge is manned from 5 a.m. to 9 p.m. This final rule allows the bridge to be manned from 7 a.m. to 3 p.m. It is the

Coast Guard's position that these new operating rules will provide for the reasonable needs of navigation. This is the extent of the Coast Guard's authority in issuing drawbridge operating requirements. Issues related to the safety of train operations are the responsibility of the Federal Railroad Administration. For this reason, these considerations are not included in the criteria authorized to be used by the Coast Guard in determining whether specific drawbridge operating requirements should be implemented. These concerns have been forwarded to the Federal Railroad Administration for appropriate consideration and action.

Based on the comments submitted and the Coast Guard response to these comments, the Coast Guard is publishing the requirements as proposed.

Federalism

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

Economic Assessment and Certification

This final rule is not considered a significant regulatory action under Executive Order 12866 and is not significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11034: February 26, 1979).

The economic impact of this action is expected to be so minimal that a full regulatory evaluation is unnecessary. The basis for this conclusion is that during the regulated period there will be very little inconvenience to vessels using the waterway. In addition, mariners requiring the bridge openings are repeat users of the waterway and giving the bridge owner advance notice should involve little or no additional expense to them. Since the economic impact of this regulation is expected to be minimal, the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small entities.

Environment

This final rulemaking has been thoroughly reviewed by the Coast Guard and it has been determined to be categorically excluded from further environmental documentation in accordance with section 2.B.2.g.5 of Commandant Instruction M16475.1B. A Categorical Exclusion Determination statement has been prepared and placed in the rulemaking docket.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, part 117 of title 33, Code of Federal Regulations, is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g).

2. Section 117.439 is revised to read as follows:

§ 117.439 Des Allemands Bayou.

(a) The draw of the S631 bridge, mile 13.9 at Des Allemands, shall open on signal if at least four hours notice is given.

(b) The draw of the Southern Pacific Railroad bridge, mile 14.0, shall open on signal Monday through Friday from 7 a.m to 3 p.m. At all other times the draw shall open on signal if at least 4 hours notice is given.

Dated: March 16, 1994.

J.C. Card,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 94–7537 Filed 3–29–94; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300314A; FRL–4761–9]

RIN 2070–AB78

Anthropod Pheromones; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is establishing an exemption from the requirement of a tolerance for residues of arthropod pheromones resulting from the use of these substances in retrievably sized polymeric matrix dispensers with an annual application limitation of 150 grams active ingredient per acre (gm AI/acre) for pest control in or on all raw agricultural commodities (RAC). EPA is establishing this regulation on its own initiative.

EFFECTIVE DATE: This regulation becomes effective March 30, 1994.

ADDRESSES: Written objections and hearing requests, identified by the document control number, [OPP-300314A], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Fees accompanying objections shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251.

FOR FURTHER INFORMATION CONTACT: By mail: Phil Hutton, Product Manager (PM) 18, Registration Division (7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 213, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-7690.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 8, 1993 (58 FR 64538), EPA issued a proposed rule to amend 40 CFR part 180 by establishing an exemption from the requirement of a tolerance for all arthropod pheromones used in solid matrix dispensers at rates less than or equal to 150 grams active ingredient (AI)/acre/year. A pheromone is defined by EPA as a compound produced by an arthropod that modifies the behavior of other individuals of the same species (40 CFR 152.25(b)(1)). Solid matrix dispensers as defined in the proposal include, but are not limited to, the following: Rubber septa dispensers, trilaminate sheets, tapes, tags, wafers, macrocapillary devices which are placed by hand in the field and are of such size and construction that they are readily recognized. Formulations not inlcuded in this exemption are as follows: Liquid flowables, microcapsules, microcapillary straws; granular powder, flakes, or confetti formulations which are sprayed or broadcast over the crop area; and cigaret filters or unprotected ropes which generally contain the active ingredient on the outer surface of the unit. In the proposal, EPA set forth its reasons for determining that a tolerance for these

pheromone products is not necessary to protect public health.

EPA is choosing to change the term "solid matrix dispnesers" to "retrievably sized polymeric matrix dispensers" for consistency with 40 CFR 180.1122, which exempts from the requirement of a tolerance the inert materials of these dispensers (58 FR 64493). The Agency does not believe this change will change the intent or scope of the original definition of a dispenser. EPA intendes the term "retrievably sized polymeric matrix dispensers " to include such dispensers as the following: Rubber septa dispensers; trilaminate sheeps; tapes; tags, microcapillary devices such as long tubes or fibers; twist ties; and protected ropes. Each of these dispensers is placed by hand in the field and is of such size and contstruction that it is readily recognized and retrievable. Dispensers with similar characteristics would also come within this term. In the preamble to the proposal, EPA included "wafers" in the list of dispensers which would qualify under this exemption. EPA now believes use of this example is ambiguous because wafers could be of a size that could or could not be retrieved. To emphasize that this exemption only applies to retrievable dispensers, EPA has intentionally omitted wafers from the examples given above of qualifying dispensers.

Three comments were received in response to the proposed rule. All the responses were generally favorable to the generic tolerance proposal, with two of the comments finding the proposal too restrictive. These comments suggested the Agency should further broaden the scope and the exemption to allow the tolerance exemption to extend beyond polymeric, retrievably sized dispenser formulations to include broadcast applications.

The Agency dose not have a toxicology data base for arthropod pheromones that addresses the potential risk of repeated, direct dietary exposure to the active ingredient possible with formulations such as sprayables which can be incorporated into food. The Agency believes that restricting the exemption to retrievably sized dispensers will severely limit the possibility of direct dietary exposure to the active ingredient and that such a limitation is necessary to protect the public health. Producers of new pheromone formulations not exempted by this proposal, including smaller-sized granules, may request a tolerance exemption. Producers of previously registered pheromone products wishing to utilize formulations other than those mentioned in this rule may petition for an amendment to the existing tolerance exemption for a registered active ingredient, if they can demonstrate that the new formulation does not increase the likely dietary exposure.

One of the commenters believed that the proposed rule was too restrictive for lepidopteran pheromones. On the other hand, the same commenter believed that the proposed rule was too lenient for other types of pheromones. This commenter questioned how the Agency could exempt all arthropod pheromones from a requirement for a tolerance when several groups of arthropods are known to produce pheromone compounds that are chemicals structurally so diverse as to be of unknown toxicity. The Agency agrees that the scope of the tolerance exemption is broad and does exempt arthropod pheromones for which there is not an extensive data base including pheromones with chemical structures unrelated to the majority of pheromone active ingredients registered to date. Nevertheless, the Agency believes the restrictions in the proposed rule along with aspects of pheromone biology mitigate concerns about the wider scope of this tolerance exemption.

First, the proposal incorporates features that would limit the direct dietary exposure to the arthropod pheromones used as pesticides by requiring the formulation to be restricted to larger dispensers. This formulation restriction will limit exposure to an active ingredient resulting from the small amount that volatilizes from the dispenser and subsequently may deposit on food crops. Due to its size, the dispenser itself, with or without any remaining active ingredient, is not likely to become incorporated into food. Second, the Agency believes that an annual rate limitation of 150 grams AI/acre and a restriction to retrievably sized dispensers are likely to limit the dietary exposure to what is no greater than that found naturally in food as a result of heavy infestations of the pest arthropods. An arthropod species becomes a pest only if its populations reach levels that impede economic returns. The Agency believes there already has been dietary exposure to the arthropod pheromones deposited after volatilization from natural heavy pest infestations that could be shown to control such pest species. The dietary exposure to these natural pheromones that results from registered pheromones and those used in traps to date has not adversely affected public health. No commenters found the annual 150 grams AI/acre limit objectionable.

One commenter noted that it appeared that the Agency was basing its tolerance exemption on wildlife exposure risks. The primary reason for exempting arthropod phermones in these formulations is based on human health considerations. The public health is protected from unnecessary direct exposure to pheromone active ingredients in food if these compunds are released from larger retrievable dispensers. In addition, although not directly relevant to this tolerance exemption, the Agency believes that wildlife risks would be minimal with use of these dispensers.

A commenter claimed that the Agency was demonstrating a bias against products developed from certain food crops such as grains and row crops by the proposed tolerance exemption. EPA disagrees. Larger dispenser formulations can be adapted to row crops by incorporating pheromones dispensers into stakes or other supports. The Agency believes that other pheromone formulations such as sprayables and microencapsulated products should be developed when the crop use demands these parameters and does not intend to burden producers of these products unnecessarily. However, the fate and subsequent dietary exposure of these smaller dispensers, some perhaps still charged with the pheromone active ingredient, must be addressed during a request for a tolerance exemption.

The same commenter requested that the Agency change the language of the exmeption to indicate that many other organisms besides arthropods produce pheromones but provided no information to support expanding the exemption to other types of pheromones. Without more information, EPA is unwilling to expand the exemption in this manner at this time.

Based on the information considered, the Agency concludes that tolerances for these pheromone products are not necessary to protect the public health. Therefore, the tolerance exemptions are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections and/or request a hearing with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by

40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

Under Executive Order 12866 (58 FR 51735, Oct. 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. Under section 3(f), the order defines a "significant regulatory action" as an action that is likely to result in a rule: (1) Having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities (also referred to as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs or the rights and obligations or recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of the Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 21, 1994.

Susan H. Wayland,

Acting Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. By adding new § 180.1124 to subpart D, to read as follows:

§ 180.1124 Arthropod pheromones; exemption from the requirement of a tolerance.

Arthropod pheromones, as described in § 152.25(b) of this chapter, when used in retrievably sized polymeric matrix dispensers are exempt from the requirement of a tolerance in or on all raw agricultural commodities when applied to growing crops only at a rate not to exceed 150 grams active ingredient/acre/year in accordance with good agricultural practices.

[FR Doc. 94-7368 Filed 3-29-94; 8:45 am]

BILLING CODE 6560-50-F

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40 CFR Part 180

[PP 9F3798/R2047; FRL-4762-6]

RIN No. 2070-AB78

Pesticide Tolerance for Lactofen (1-(Carboethoxy)Ethyl-5-(2-Chloro-4-(Trifluoromethyl)Phenoxy)-2-Nitrobenzoate)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule extends a time-limited tolerance for residues of the herbicide lactofen (1-(carboethoxy)ethyl-5-(2-chloro-4-(trifluoromethyl)phenoxy)-2-nitrobenzoate) and its metabolites containing the diphenyl ether linkage on the raw agricultural commodity (RAC) cottonseed at 0.05 part per million (ppm) to December 31, 1995. This regulation was requested by Valent U.S.A. Corp. and continues the maximum permissible level for residues of the herbicide in or on this RAC.

EFFECTIVE DATE: This time-limited regulation becomes effective on March 30, 1994.

ADDRESSES: Written objections and requests for a hearing, identified by the document control number, [PP 9F3798/R2047], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Fees accompanying objections shall be labeled "Tolerance Petition Feeds" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251.

FOR FURTHER INFORMATION CONTACT: By mail: Joanne I. Miller, Product Manager (PM 23), Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 255, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-305-7830.

SUPPLEMENTARY INFORMATION: EPA issued a time-limited tolerance in the **Federal Register** of June 14, 1990 (55 FR 24084), under section 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)) for residues of the herbicide lactofen 1-(carboethoxy)ethyl-5-(2-chloro-4-(trifluoromethyl)phenoxy)-2-nitrobenzoate) and its associated metabolites containing the diphenyl ether linkage on the raw agricultural commodity (RAC) cottonseed at 0.05 part per million (ppm). This tolerance was requested by Valent U.S.A. Corp. (formerly Chevron Chemical Co.), 1333 N. California Blvd., P.O. Box 8025, Walnut Creek, CA 94596-8025, and establishes the maximum permissible level for residues of the herbicide in or on this RAC.

This tolerance was issued as a time-limited tolerance because EPA required additional information on a cottonseed processing study and required animal metabolism studies. EPA's review of the processing study resulted in a preliminary determination that concentration does not occur in processed food, but additional information on the study was required to confirm that determination. Information was submitted, and the determination was confirmed. The

animal metabolism studies were required to determine the likelihood of secondary residues in meat, fat, milk, poultry, and eggs. The animal metabolism studies were received at the Agency in September 1992 and placed into review. The Agency completed an evaluation of the animal metabolism studies in March 1993 and concluded that the nature of the residue in animals was tentatively adequately understood. For the purposes of this tolerance with an expiration date, the Agency determined that finite residues in animal commodities would be minimal from the use of lactofen on cotton, based on results of metabolism studies. However, for the proposed permanent tolerance, additional information was required. This included the following: (1) Further characterization of metabolites from animal metabolism studies; (2) Independent Method Evaluation and EPA Method Validation of the proposed analytical methodology if tolerances on animal commodities are required; (3) a ruminant feeding study; (4) An Independent Method Validation and EPA Method Validation of revised analytical methodology for cottonseed; and (5) revised product labeling. Information was submitted in September 1993 and, with the exception of the revised Section B which has undergone preliminary evaluation, are pending review by the Agency. Since Agency review has not been completed, it is inappropriate to establish a permanent tolerance at this time. Nevertheless, the Agency believes that the existing data support an extension of the time-limited tolerance to December 31, 1995. The data considered in support of the time-limited tolerance can be identified in the June 14, 1990 (55 FR 24084) **Federal Register.**

There are no pending regulatory actions against the registration of this pesticide. The pesticide is useful for the purpose for which this tolerance is sought. Adequate analytical methodology (gas chromatography) is available for enforcement purposes. Prior to its publication in the Pesticide Analytical Manual, Vol. II, the enforcement methodology is being made available in the interim to anyone who is interested in pesticide residue enforcement when requested from: By mail, Calvin Furlow, Public Response and Program Resource Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Crystal Mall #2, Rm. 1128, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-5805.

Based on the information cited above, the Agency has determined the tolerance established by amending 40 CFR part 180 would protect the public health. Therefore, the tolerance is continued as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections and/or request a hearing with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

Under Executive Order 12866 (58 FR 51735, Oct. 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. Under section 3(f), the order defines a "significant regulatory action" as an action that is likely to result in a rule: (1) Having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities (also referred to as "eonomically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of the Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 21, 1994.

Susan H. Wayland,

Acting Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In § 180.432, by revising paragraph (b), to read as follows:

§ 180.432 Lacotfen; tolerances for residues.

* * * * *

(b) A time-limited tolerance, set to expire December 31, 1993, is extended for 2 years and will now expire December 31, 1995, for residues of the herbicide lactofen, 1-(carboethoxy)ethyl-5-(2-chloro-4-(trifluoromethyl)phenoxy)-2-nitrobenzoate) and its metabolites containing the diphenyl ether linkage in or on the following raw agricultural commodity:

Commodity	Parts per million
Cottonseed	0.05

[FR Doc. 94–7369 Filed 3–29–94; 8:45 am]

BILLING CODE 6560–50–F

OFFICE OF PERSONNEL MANAGEMENT

48 CFR Parts 1601, 1602, 1609, 1615, 1632, 1642, 1646, 1652

RIN 3206–AE67

Federal Employees Health Benefits Acquisition Regulation; Miscellaneous Changes

AGENCY: Office of Personnel Management.

ACTION: Final rulemaking.

SUMMARY: The Office of Personnel Management (OPM) is issuing final regulations that amend certain provisions of the Federal Employees Health Benefits Acquisition Regulation (FEHBAR). The changes will more precisely reflect the needs of OPM in contracting for health benefits under the Federal Employees Health Benefits Program (FEHBP) and in the general administration of the FEHBP contracts.

EFFECTIVE DATE: March 30, 1994.

FOR FURTHER INFORMATION CONTACT: Mary Ann Mercer, (202) 606–0191.

SUPPLEMENTARY INFORMATION: On June 29, 1993, OPM published proposed regulations in the **Federal Register** (58 FR 34769) that would amend certain community rating and experience rating provisions of the FEHBAR. We received 36 comments, 28 from FEHBP community rated carriers, two from FEHBP experience rated carriers, two from organizations representing FEHBP health maintenance organizations (HMOs) and similar managed care systems, two from law firms representing a number of community rated FEHBP carriers, one from a law firm representing an association of Federal health organizations, and one from a Federal agency. We appreciate the observations and suggestions offered and have taken them into consideration in these regulations.

The majority of the comments were favorable toward OPM's efforts to more effectively administer the FEHBP. Many of the commenters expressed concerns, however, about the changes with respect to Similarly Sized Subscriber Groups (SSSGs) and the quality assurance program requirements proposed by OPM. A number of them offered suggestions as to how OPM might further clarify the regulations to mitigate these concerns.

The comments and recommendations received reflect the difficulty OPM has experienced in specifying explicit standards in regulation in these two areas. The conflicting comments and suggestions from the carriers have prompted us to reconsider our decision to establish explicit standards by regulation. Instead, OPM has decided to replace the standards with guiding principles and will provide carriers with specific criteria for SSSGs in the annual rate letters. In addition, OPM intends to furnish specific quality assurance standards prior to its FEHBP contract negotiations for the following contract year. This approach will foster competitiveness and commercial practices in the FEHBP by reflecting the latest developments in the insurance industry and will thereby allow OPM to utilize the most recent market mechanisms in the FEHBP.

This approach conforms to the principles of the Administration's National Performance Review (NPR) as well. A key element of the NPR is the simplification of government procurement regulations and processes, a shifting from rigid rules to guiding principles, and replacement of agency rules with policy directives and instructions, where appropriate. An important advantage to this approach is that OPM will no longer find its regulatory policies in these areas lagging behind insurance industry trends because both OPM and the carriers will have the flexibility to adjust quickly to current market conditions.

Pursuant to section 553(d)(3) of title 5 of the United States Code, OPM is issuing these regulations with an immediate effective date. The regulations are being made effective immediately so that they may be in place before the rate letters for the 1995 FEHBP contract year are mailed to the carriers.

The following will address the comments received and will clarify OPM's intent with respect to those portions of the regulations changed as well as those retained.

In the past, we have noted a general misunderstanding relating to OPM's objective in using SSSGs to verify the Federal group's rate. OPM's objective is to ensure that the Federal group's rate is equivalent to the SSSGs' rates, thereby reflecting any market advantages given to the SSSGs.

In the **SUPPLEMENTARY INFORMATION** section of the proposed regulations, OPM asserted that it may examine any aspect of a carrier's rating procedure to ensure that the carrier gives the Federal group an equitable rate. This statement troubled a number of commenters who expressed concern that, even where the carrier charges the Federal group a rate that is equivalent to that charged the SSSGs, it is OPM's practice to look beyond the SSSGs to determine whether the Federal group is entitled to any rate adjustment. They contend that OPM's regulations do not provide for any rate adjustment for the Federal group based on rates charged a group that is not an SSSG. One commenter interpreted the statement to mean that OPM will limit rates to the lowest amounts charged by an HMO to its largest groups.

We would like to clarify that OPM's detailed examination of a carrier's rating process is not an alternative procedure to identify SSSGs. OPM will examine the rating methodology of the SSSGs to ensure that it is consistent with that used for the Federal group. For example, if the carrier uses traditional community rating (TCR) or community rating by class (CRC) for the Federal group and the SSSGs, OPM will verify that the carrier based on the self-and-family rates for all three groups on the same underlying capitation rate and derived them by the same general procedure. If the carrier uses adjusted community rating (ACR) for all three groups, OPM will verify that the carrier derived the self-and-family rates for all three groups by the same general methodology.

We have revised the definition of SSSGs. The SSSGs are the two groups closest in size to the Federal group that meet the criteria specified in OPM's rate instructions. All groups are potentially SSSGs except those which the carrier rates by retrospective experience rating.

OPM does, however, reserve the right to examine the rate development of non-SSSG groups. We want to emphasize that the sole purpose of such analysis is to make certain that the Federal group's rates are equivalent to the SSSGs' rates. For example, if an SSSG had a special benefit (e.g., dental benefit) not included in the Federal group benefit package, OPM would compare what the carrier charged the SSSG with what it charged other groups for this benefit. The purpose would be to verify that the SSSG received no discount. Carriers need not be concerned that an OPM review of a commercial group makes it a potential SSSG.

One carrier wanted to know if health insurance purchasing cooperatives (HIPC) under state health care reform packages are excluded from consideration as SSSGs. OPM will consider all group not retrospectively experience rated as potential SSSGs. Assuming, then, that the group is not retrospectively experience rated, the size of the group in relation to the Federal group will be used to determine SSSGs. Since a HIPC negotiates rates on behalf of a group, if this group satisfies the size requirement, we would consider it to be an SSSG.

One carrier suggested that OPM should change the definition of the

SSSGs from one based on subscriber enrollment to one based on member enrollment. Basing the SSSGs on member enrollment is not practicable for the FEHBP because OPM does not have data on family members. The only reliable data available to OPM is the subscriber headcount. Consequently, OPM bases the SSSGs on subscriber enrollment.

One law firm stated that the carriers' evaluations should be presumed correct in reconciling benefit differences unless inconsistent application of such values can be demonstrated. The firm, as well as another organization representing HMOs, is concerned that the actuaries and auditors will determine the value of the same benefits differently. OPM understands the concern. Nevertheless, OPM would be acting irresponsibly if it presumed the carriers' evaluations are correct. The fact that the Office of Actuaries accepts a rate proposal does not guarantee that no errors in the overall rates or in a particular aspect of the proposal will be uncovered in audit. This is precisely why the annual rate instructions to the carriers specifically state that the rate proposals are subject to audit.

Ten community rated carriers and one law firm voiced concern about the requirement that the SSSGs be determined from enrollment data from the current contract year rather than data from the year preceding the contract year. They are concerned that the SSSGs may change as a result of enrollment changes between the date rate proposals are submitted and the date they are reconciled; that the HMO's target SSSGs may renew after the reconciliation date; or that they may not renew at all. They fear that the HMO may find itself out of compliance with the proposed SSSG requirements. They believe that reconciliations should look only at renewal dates already passed as of the time of reconciliation.

OPM explained in its 1993 rate instructions that, beginning with the 1993 rate year, the enrollment for SSSGs would correspond to the rate year. For example, for the 1993 rate year, the 1993 enrollment for SSSGs would be used. Therefore, carriers need not be concerned that "target" SSSGs may renew after the reconciliation date or that they may not renew at all. There are no longer any "target" SSSGs because, beginning with the 1993 rate year, carriers do not determine the SSSGs at the time of the proposal. A carrier now determines the SSSGs at the time it submits the reconciliation to OPM. It is at that time (usually around March of the rate year under consideration) that the carrier will compare the enrollment of its other groups to that of the Federal group.

We agree with the comment that reconciliations should look only at renewal dates that are already passed at the time of the reconciliation. OPM will address this question in the 1994 reconciliation instructions.

Seven community rated carriers believe OPM should retain the benefits similarity requirement. OPM has dropped the benefits similarity requirement because many carriers have found the phrase "substantially the same benefit package" vague. Future rate instructions will further define groups excluded from SSSG consideration. For example, we plan to exclude Medicaid groups, Medicare groups, and groups which have only a stand-alone benefit (e.g., dental benefits).

In the Supplementary Information section to the proposed regulations, OPM referred to the definition of SSSG and stated that the regulations authorize the use of Government groups as SSSGs, provided that such groups are community rated. We stated that some carriers have considered the provision optional and are excluding State and local government groups even though they meet the SSG requirements and are community rated. Four carriers and one law firm believe that HMOs should have an option, not a mandate, to include state or local government groups as SSSGs since state procurement laws often dictate multiple year rate guarantees and the HMO Act does not require them to be community rated. Another carrier commented that the regulations concerning governmental groups are already permissive, not mandatory, as evidenced by OPM's use of the word "may" in the current 1602.170–11(c). In fact, the term "may" was intended as authority for OPM to approve the use of Government groups as SSSGs if they are community rated and was not directed at the carriers. It was OPM's lack of clarity that caused the misunderstanding on the part of the carriers. OPM deleted this provision in the proposed and final regulations, because it is OPM's intention that government groups should not be treated differently from other groups provided for under 1602.170–11(a). Note that under the revised language of 1602.170–11, all groups except those rated by retrospective experience rating are potential SSSGs.

Several carriers raised questions specific to the proposed regulations that may not be relevant to future guidance issued by the Actuary. Consequently, we will not respond to them at this time. If carriers have specific questions when they receive the rate letter, then they should write or call OPM's Office of Actuaries for clarification.

One commenter wanted to know whether a carrier could community rate its SSSGs and use some other rating practices for some or all of its other groups. It also wanted clarification whether, if OPM determines the rates on the two SSSGs are comparable, the carriers could use different rating methods or different rates with its other groups, including a discount. If the rating method for an SSSG differs from that used for the Federal group, OPM would review the SSSG rate to ensure that the rating method had been properly applied and that no discounts had been given to the group. As long as the Federal group rates are equivalent to the SSSG rates, OPM is not concerned with the plan's rating methods for its other groups.

Two carriers noted that the Federal HMO regulations issued by HHS permit discounts (up to 5%) for groups which give the HMO special administrative or marketing advantages and asked whether OPM would recognize such discounts, or whether the discounts constitute defective community rating. We recognize the legitimacy of banding for administrative or marketing advantages. Any adjustments for these reasons should be disclosed to OPM and provided to the Federal group, if applicable.

A number of carriers were confused by OPM's statement in the Supplementary Information section of the proposed regulations that a carrier must give the Federal group the lowest discount given to any SSSG. The confusion stemmed from 1615.802(b)(3), which states that a downward price adjustment will be made if OPM determines that the rate for one or both of the SSSGs is lower than that which would be obtained by basing the rate on the plan's community rate and further provides that such adjustments will be based on the lowest rate given to the SSSG. This language was never intended to require the lowest rate. Rather, it was meant to require the lowest rate derived using SSSG methodology applied to the Federal group. We have revised the language of the regulations to clarify our intent.

One carrier believes that OPM is no longer allowing experience rating of HMOs. In fact, the reverse is true. Our regulations have moved away from a strict interpretation of community rating over the years. OPM is not eliminating experience rating by HMOs. On the contrary, we allow prospective experience rating for community rated plans in the form of Adjusted

Community Rating. We also allow non-community rated HMOs to use retrospective experience rating if they satisfy certain reporting requirements.

Nine respondents commented that the effective date of the regulations should be prospective. They argue that a retroactive effective date potentially places contractors in violation of their Certificates of Accurate Pricing for the 1993 contract year. OPM agrees that the effective date should be prospective. These regulations will be in effect beginning with the 1994 rate reconciliation.

In the proposed regulation, OPM adapted the FAR debarment certification at 52.209–5 to fit the FEHBP. In this certification, the carrier affirms that, among other things, neither it nor any of its "principles" is presently debarred, suspended, or declared ineligible for the award of contracts by any Federal agency. One plan and one association of HMOs wanted to know the equivalent of a "principal" (referred to in the certification) in a managed care company. The term "principal" is defined in the certification as "officers; directors; owners; partners; and persons having primary management or supervisory responsibilities within a business entity. * * *" We will not cite specific positions in managed care or other facilities equivalent to these positions because each organization's structure and responsibilities are unique.

One respondent wanted to know if reliance solely on OPM's Inspector General-provided information on debarred providers would satisfy the ordinary course of business dealings standard in paragraph (e) of the proposed certification. Carriers cannot rely solely on debarred provider lists. Such lists include only health care providers, not non-provider contractors, such as printing companies.

The proposed regulations added 52.209–6, "Protecting the Government's Interest When Subcontracting With Contractors Debarred, Suspended, or Proposed for Debarment," as a mandatory clause for all FEHBP carriers. This clause applies to all of the carrier's subcontractors. Carriers should note that the definition of subcontractor at 1602.170–12 excludes providers of direct medical services or supplies pursuant to the carrier's health benefits plan. To obtain information on whether or not a subcontractor is debarred, the carrier should refer to FAR 9.404(d).

Under the proposed rules and pursuant to paragraph (d) of the certification at FAR 52.209–5, the contractor is not required to set up a system of records to determine whether each principal in the organization is debarred or suspended. The fact that a system of records is not required for debarred contractors and their principals under the FAR, however, does not necessarily mean that no system of records is needed to track debarred health care providers under 5 CFR 970. The two debarment procedures fall under different statutory provisions and the issue under the latter is the payment of these individuals rather than the notification of the debarment or suspension status of the carrier's principals. Nevertheless, OPM expects that neither the debarment procedures under the FAR nor those under 5 CFR 970 will require carriers to establish an additional system of records. Carriers should be able to set up debarment procedures for contractors, subcontractors, and providers within their existing systems.

The proposed regulations prescribed novation and change of name agreements for FEHBP carriers (1642.12). Four commenters believe that OPM's provision authorizing it to terminate the contract if the carrier fails to submit the properly completed and signed novation agreement in a timely manner is unduly harsh.

Transfer of Government contracts is prohibited by law (41 U.S.C. 15). However, the Government may recognize a third party as the successor in interest to a Government contract when it is in the Government's best interest. When it is not in the Government's best interest to do so, the original contractor remains under contractual obligation to the Government, and the contract may be terminated for default should the original contractor not perform. These provisions are set out in FAR 43.1204 (a) and (b) and are applicable to all Government contractors. Thus, in FEHBAR subpart 1642.12, OPM is proposing no harsher standard for FEHBP carriers than is expected of other Government contractors. OPM simply intends to apply the procedures required under the FAR. Thus, in order to protect the interests of all FEHBP enrollees and to comply with the statute and regulations prohibiting transfer of a Government contract, OPM must obtain the novation agreement in a timely manner.

One of the commenters noted that OPM already has authority to discipline carriers for repeated failure to comply with OPM instructions and directives at 1609.701(c)(4), and those provisions have a range of remedies in proportion to the seriousness of the action, only the most stringent of which is termination of the contract. Because Government contracts cannot be transferred, a carrier's failure to submit a novation agreement is not on the same level as an OPM instruction or directive. There is no less stringent remedy than contract termination for failure to submit a Novation Agreement.

Three carriers and one law firm requested that OPM define the timeliness parameters in the novation and change of name agreements. One carrier asked that OPM address transfer of payments to the new company or under the new name. It believes that OPM's change in the direction of premiums should follow more closely upon the carrier's submission of the agreement to OPM.

Consistent with past OPM practice, we consider timely to be 30 calendar days. What is considered timely could vary, however, depending on the circumstances in a particular situation. OPM will attempt to accelerate the review process. Nevertheless, some delay may be unavoidable. Submission of paperwork does not necessarily mean automatic acceptance of a novation or change of name agreement, because the agreement must be reviewed by OPM's counsel for legal sufficiency, in accordance with FAR 42.1203(d).

Nine carriers believe that the proposed FEHBP-specific quality assurance policies and procedures [Part 1646] would unnecessarily burden carriers if the plan is already subject to Federal or State quality assurance requirements. A number of the carriers recommended that OPM accept the National Committee for Quality Assurance (NCQA) Health Plan Employer Data and Information Set (HEDIS) standardized performance reports as an acceptable means of meeting the FEHBP contractual responsibility. OPM agrees with the carries in principle and has taken a number of steps in this director. We have withdrawn the proposed clause at 1646.246–70 relating to quality assurance/performance standards. Thus, the audit inspection clause currently at 1652.246–70 will remain in effect. We have amended Part 1646 to provide that OPM will issue specific performance standards for the FEHBP contracts. Finally, we will inform the carriers which standards apply prior to annual contract negotiations.

In the future, OPM will issue FEHBP-specific standards which we will benchmark against the best performance standards in the insurance industry, consistent with the NPR. All performance standards will be evaluated against the same benchmark with the same results. We will consider a variety of standards, including those suggested

to us in the written comments to the proposed regulations.

Pursuant to section 553(d) of title 5 of the U.S. Code, I find that good cause exists for making these regulations effective immediately upon publication so that they may be used during the 1995 FEHBP contract negotiations.

E.O. 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with E.O. 12866.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they primarily affect administrative procedures used by OPM and the FEHBP carriers.

List of Subjects in 48 CFR Parts 1601, 1602, 1609, 1615, 1632, 1642, 1646, and 1652

Administrative practice and procedure, Government employees. Health facilities, Health insurance, Health professions, Hostages, Reporting and recordkeeping requirements, Retirement.

Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

Accordingly, OPM is amending chapter 16 of Title 48, Code of Federal Regulations, as follows:

CHAPTER 16—OFFICE OF PERSONNEL MANAGEMENT FEDERAL EMPLOYEES HEALTH BENEFITS ACQUISITION REGULATION

PART 1601—FEDERAL ACQUISITION REGULATIONS SYSTEM

1. The authority citations for 48 CFR parts 1601, 1602, 1609, 1615, 1632, 1646, and 1652 continue to read as follows:

Authority: 5 U.S.C. 8913; 40 U.S.C. 486(c); 48 CFR 1.301.

2. In section 1601.102, the existing paragraph is designated as paragraph (a) and a new paragraph (b) is added to read as follows:

§ 1601.102 Authority.

* * * * *

(b) The FEHBAR does not replace or incorporate regulations found at 5 CFR part 890, which provides the substantive policy guidance for administration of the FEHBP under 5 U.S.C. Chapter 89. The following is the order of precedence in interpreting a contract provision under the FEHBP:

(1) 5 U.S.C. Chapter 89;

(2) 5 CFR part 890;

(3) 48 CFR Chapters 1 and 16;

(4) The FEHBP contract.

PART 1602—DEFINITION OF WORDS AND TERMS

3. Section 1602.170–11, is revised to read as follows:

§ 1602.170–11 Similarly sized subscriber groups.

Similarly sized subscriber groups (SSSGs) are a comprehensive medical plan's two employer groups that:

(a) As of the date specified by OPM in the rate instructions, have a subscriber enrollment closest to the FEHBP subscriber enrollment; and,

(b) Use any rating method other than retrospective experience rating; and,

(c) Meet the criteria specified in the rate instructions issued by OPM.

PART 1609—CONTRACTOR QUALIFICATIONS

4. In part 1609, subpart 1609.4 is added; section 1609.701 in subpart 1609.70 is redesignated as 1609.7001, and paragraphs (a)(7), (b)(7), and (b)(8) are added to read as follows:

Subpart 1609.4—Debarment, Suspension, and Ineligibility

1609.470 Notification of Debarment, Suspension, and Ineligibility.

(FAR) 48 CFR, part 9, subpart 9.4 is supplemented as set out in the certification required in 1609.471 by converting the FAR "offeror's" certification at (FAR) 48 CFR 52.209–5 into a carrier's certification. This change reflects the FEHBP's statutory exemption from competitive bidding (5 U.S.C. 8902), which obviates the issuance of solicitations.

1609.471 Contractor certification.

All FEHBP carriers and applicant carriers are required to submit the following certification. Applicant carriers must submit the certification prior to OPM's determination on the application for approval to participate in the FEHBP. Current carriers must submit the certification once, along with their benefit and rate proposals for the 1995 contract year.

Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters

The Carrier certifies, to the best of its knowledge and belief, that—

(a) The Carrier and/or any of its Principals—

(1) Are ( ) are not ( ) presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;

(2) Have ( ) have not ( ), within a 3-year period preceding this certification, been convicted of or had a civil judgment rendered against them for: Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; and

(3) Are ( ) are not ( ) presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in subdivision (a)(2) of this clause.

(4) The Carrier has ( ) has not ( ), within a 3-year period preceding this certification, had one or more contracts terminated for default by any Federal agency.

(b) *Principals*, for the purposes of this certification, means officers; directors; owners; partners; and persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

This certification concerns a matter within the jurisdiction of an agency of the United States and the making of a false, fictitious, or fraudulent certification may render the Carrier subject to prosecution under section 1001, title 18, United States Code.

(c) The Carrier shall provide immediate written notice to the Contracting Officer if, at any time, the Carrier learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

(d) A Carrier's certification that any of the actions mentioned in the certification exists will not necessarily result in termination of the contract. However, the certification, or the Carrier's failure to provide such additional information as requested by the Contracting Officer, will be considered in connection with a determination of the Carrier's responsibility under subpart 1609.70, Minimum Standards for Health Benefits Carriers.

(e) Nothing contained in the certification shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this section. The knowledge and information of the Carrier is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

(f) The certification in this section is a material representation of fact upon which reliance is placed by the Contracting Officer. If it is later determined that the Carrier knowingly rendered an erroneous certification, in addition to other remedies available to the Government, the Contracting Officer may terminate the contract for default.

Carrier Name: _____

_____

Name of Chief Executive Officer

Date signed: _____

(End of Certificate)

1609.7001 Minimum standards for health benefits carriers.

(a) * * *

(7) It must timely submit to OPM a properly completed and signed novation or change-of-name agreement in accordance with subpart 1642.12 of this chapter.

(b) * * *

(7) Application of performance standards for assuring contract quality as required by 1646.270(d).

(8) Establishment and maintenance of a system of internal control that provides reasonable assurance that:

(i) The provision and payments of benefits and other expenses are in compliance with legal, regulatory, and contractual guidelines;

(ii) FEHB funds, property, and other assets are safeguarded against waste, loss, unauthorized use, or misappropriation; and,

(iii) Data are accurately and fairly disclosed in all reports required by OPM.

* * * * *

5. In section 1615.802, paragraph (a) is redesignated as paragraph (a)(1) and revised, paragraph (b)(3) is revised, a new paragraph (b)(4) is added, paragraph (c) is redesignated as paragraph (a)(2) and republished, and section 1615.804–70 is revised to read as follows:

Subpart 1615.8—Price Negotiation

1615.802 Policy.

* * * * *

(a)(1) Cost analysis shall be used for contracts where premiums and subscription income are determined on the basis of experience rating.

(2) The application of FAR 15.802(b)(2) should not be construed to prohibit the consideration of preceding year surpluses or deficits in carrier-held reserves in the rate adjustments for subsequent year renewals of contracts based on cost analysis.

(b) * * *

(3) Contracts will be subject to a downward price adjustment if OPM determines that the Federal group was charged more than it would have been charged using a methodology consistent with that used for the SSSGs. Such adjustments will be based on the lowest rates determined for the Federal group using the methodology (including discounts) for the two SSSGs.

(4) FEHBP community rated carriers shall comply with SSSG criteria provided annually by OPM in the rate instructions for the applicable contract period.

1615.804–70 Certificate of accurate pricing for community rated plans.

The contracting officer shall require a carrier that rates using a community rate as defined by FEHBAR 1602.170–2 to execute the Certificate of Accurate Pricing for Community Rated Plans contained in this section unless the carrier has been exempted from filing certified cost or pricing data pursuant to 1615.802(b)(1). The carrier shall submit the Certificate to OPM at the time it submits its rate reconciliation.

Certificate of Accurate Pricing for Community Rated Plans

This is to certify that, to the best of my knowledge and belief: (1) the cost or pricing data submitted (or, if not submitted, maintained and identified by the carrier as supporting documentation) to the Contracting Officer or the Contracting Officer's representative or designee in support of the _____* FEHBP rates were developed in accordance with the requirements of 48 CFR Chapter 16 and the FEHBP contract, and are accurate, complete, and current as of the date this certificate is executed; and (2) The FEHBP rates were developed in a manner consistent with the methodology used to rate the plan's similarly sized subscriber groups and approved by OPM.

Firm: _____

Name: _____

Title: _____

Signature: _____

Date of Execution: _____

(End of Certificate)

PART 1632—CONTRACT FINANCING

6. In Subpart 1632.6, section 1632.617 is revised to read as follows:

1632.617 Contract clause.

The clause at (FAR) 48 CFR 52.232–17 will be modified in all FEHBP contracts to exclude the words "net of any applicable tax credit under the Internal Revenue Code (26 U.S.C. 1481)."

Subchapter G—Contract Management

7. Add a heading for Subchapter G immediately after part 1633 to read as follows:

Subchapter G—Contract Management

8. In Subchapter G, Part 1642 is added to read as follows:

PART 1642—CONTRACT ADMINISTRATION

Subpart 1642.12—Novation and Change-of-Name Agreements

Sec.
1642.1201 Definitions.
1642.1204 Agreement to recognize a successor in interest (novation agreement).
1642.1205 Agreement to recognize carrier's change of name.

Subpart 1642–70—Management Agreement (In Lieu of Novation Agreement)

1642.7001 Management agreement.

Authority: 5 U.S.C. 8913; 40 U.S.C. 486(c); 48 CFR 1.301.

Subpart 1642.12—Novation and Change-of-Name Agreements

1642.1201 Definitions.

The definitions at (FAR) 48 CFR 42.1201 shall have the same meaning for this subpart.

1642.1204 Agreement to recognize a successor in interest (novation agreement).

(a) (FAR) 48 CFR 42.1204 shall be implemented as provided in this section. The contracting officer shall insert the following agreement in all FEHBP contracts for use when the contractor's assets or the entire portion of the assets pertinent to the performance of the contract, as determined by the Government, are transferred.

Novation Agreement

The *(insert corporate name)* (Transferor), a corporation duly organized and existing under the laws of *(insert State)* with its principal office in *(insert city, state)*; the *(insert corporate name)* (Transferee), (if appropriate add "formerly known as the _____ Corporation") a corporation duly organized and existing under the laws of *(insert State)* with its principal office in *(insert city)*; and the UNITED STATES OF AMERICA (Government) enter into this Agreement effective *(insert date transfer of assets became effective under applicable State law)*.

(a) THE PARTIES AGREE TO THE FOLLOWING FACTS:

(1) The Government, represented by various Contracting Officers of the Office of Personnel Management (OPM), has entered into Contract Number _____ with the Transferor. The term *contracts*, as used in this Agreement, means the contract cited in this paragraph and all other contracts and purchase orders, including any and all amendments and modifications made between the Government and the Transferor before the effective date of this Agreement (whether or not performance and payment have been completed and releases executed if the Government or the Transferor has any remaining rights, duties, or obligations under these contracts and purchase orders).

(2) As of ____ 19__ (insert date transfer of assets became effective under applicable State law), the Transferor has transferred to the Transferee all the assets of the Transferor, or the entire portion of the Transferor's assets pertinent to performing the contract, as determined by OPM, by virtue of a(an) *(insert term describing the legal transaction*

*Insert the year for which the rates apply. Normally, this will be the year for which the rates are being reconciled.

involved) between the Transferor and the Transferee.

(3) The Transferee has acquired all the assets of the Transferor, or the entire portion of the Transferor's assets pertinent to performing the contract, as determined by OPM, by virtue of the transfer in paragraph (a)(1).

(4) The Transferee has assumed all obligations and liabilities of the Transferor pertinent to performing the contract, as determined by OPM, by virtue of the transfer in paragraph (a)(1).

(5) The Transferee is in a position to fully perform all obligations that may exist under the contract.

(6) It is consistent with the Government's interest to recognize the Transferee as the successor party to the contract.

(7) Evidence of the transfer in paragraph (a)(1) has been filed with the Government.

(8) [If applicable:] A certificate dated ____, 19__, signed by the Secretary of State of (*insert State*), to the effect that the corporate name of (*insert old corporate name*) was changed to (*insert new corporate name*) on ____, 19__, has been filed with the Government.

(b) IN CONSIDERATION OF THESE FACTS, THE PARTIES AGREE THAT BY THIS AGREEMENT—

(1) The Transferor confirms the transfer to the Transferee, and waives any claims and rights against the Government or the Federal Employees Health Benefits Fund that it now has or may have in the future in connection with the contract.

(2) The Transferee agrees to be bound by and to perform the contract in accordance with the conditions contained in the contract. The Transferee also assumes all obligations and liabilities of, and all claims against, the Transferor pertinent to the contract, as determined by OPM, as if the Transferee were the original party to the contract.

(3) The Transferee ratifies all previous actions taken by the Transferor with respect to the contract, with the same force and effect as if the action had been taken by the Transferee.

(4) The Government recognizes the Transferee as the Transferor's successor in interest in and to the contract. The Transferee by this Agreement becomes entitled to all rights, titles, and interests of the Transferor in and to the contract as if the Transferee were the original party to the contract. Following the effective date of this Agreement, the terms *Carrier* and *Contractor* as used in the contract, shall refer to the Transferee.

(5) Except as expressly provided in this Agreement, nothing in it shall be construed as a waiver of any rights of the Government against the Transferor.

(6) All payments and reimbursements previously made by the Government to the Transferor, and all other previous actions taken by the Government under the contract, shall be considered to have discharged those parts of the Government's obligations under the contract. All payments and reimbursements made by the Government after the date of this Agreement in the name of or to the Transferor shall have the same force and effect as if made to the Transferee, and shall constitute a complete discharge of the Government's obligations under the contract, to the extent of the amounts paid or reimbursed.

(7) The Transferor and the Transferee agree that the Government is not obligated to pay or reimburse either of them for, or otherwise give effect to, any costs, taxes, or other expenses, or any related increases, directly or indirectly arising out of or resulting from the transfer of this Agreement, other than those that the Government in the absence of this transfer or Agreement would have been obligated to pay or reimburse under the terms of the contract.

(8) The Transferor guarantees payment of all liabilities and the performance of all obligations that the Transferee (i) assumes under this Agreement or (ii) may undertake in the future should this contract be modified under its terms and conditions. The Transferor waives notice of, and consents to, any such future modifications.

(9) The contract shall remain in full force and effect, except as modified by this Agreement. Each party has executed this Agreement effective (*insert the date transfer of assets became effective under applicable State law*).

UNITED STATES OF AMERICA,
By _____ Date_____
Title _____
(Enter Transferor's name)
By _____ Date_____
Title _____
(Corporate Seal)
(Enter Transferee's name)
By _____
Title _____
(Corporate Seal)

Certificate

I, _____, certify that I am the Secretary of (*insert name of Transferor*); that _____, who signed this Agreement for this corporation, was then _____ of this corporation; and that this Agreement was duly signed for and on behalf of this corporation by authority of its governing body and within the scope of its corporate powers.

Witness my hand and the seal of this corporation this _____ day of _____, 19____.

By _____
(Corporate Seal)

Certificate

I, _____, certify that I am the Secretary of (insert name of Transferee); that _____, who signed this Agreement for this corporation, was then _____ of this corporation; and that this Agreement was duly signed for and on behalf of this corporation by authority of its governing body and within the scope of its corporate powers.

Witness my hand and the seal of this corporation this _____ day of _____ 19__.

By _____
(Corporate Seal)
(End of Agreement)

(b) Failure to submit the properly completed and signed Novation Agreement in a timely manner shall be cause for termination of the contract by OPM in accordance with FEHBAR 1652.249–70.

(c) The Contracting Officer shall terminate the contract if it is determined not to be in the Government's interest to recognize a successor in interest to the contract. The effective date will be decided by the Contracting Officer after considering the best interests of FEHBP enrollees.

1642.1205 Agreement to recognize carrier's change of name.

(a) (FAR) 42.1205 shall be implemented as provided in this section. The Contracting Officer shall insert the following Agreement in all FEHBP contracts for use when the carrier changes its name and the Government's and contractor's rights and obligations remain unaffected.

Change-of-Name Agreement

The (insert new Carrier name), a corporation duly organized and existing under the laws of (insert State), and the UNITED STATES OF AMERICA (Government), enter into this Agreement effective (insert date when the change of name became effective under applicable State law).

(a) THE PARTIES AGREE TO THE FOLLOWING FACTS:

(1) The Government, represented by various Contracting Officers of the Office of Personnel Management (OPM), has entered into Contract Number _____ with the (insert old Carrier name). The term *contracts* as used in this Agreement means the contract cited in this paragraph and all other contracts and purchase orders and all modifications thereto made by the Government and the Contractor before the effective date of this Agreement (whether or not performance and payment have been completed and releases executed if the OPM or the Carrier has any remaining rights, duties, or obligations under these contracts and purchase orders).

(2) The (insert old Carrier name), by an amendment to its certificate of incorporation, dated ____, 19__, has changed its corporate name to (insert new Carrier name).

(3) This amendment accomplishes a change of corporate name only and all rights and obligations of the Government and the Carrier under the contract are unaffected by this change.

(4) Documentary evidence of this change of corporate name has been filed with the Government.

(b) IN CONSIDERATION OF THESE FACTS, THE PARTIES AGREE THAT:

(1) The contract is amended by substituting the name " (insert new Carrier name)" for the name "(insert old Carrier name)" wherever it appears in the contract; and

(2) Each party has executed this Agreement effective the day and year stated in paragraph (a)(2).

UNITED STATES OF AMERICA,
_____ Date _____ _____
Title _____
(Enter new Carrier name)
By _____ Date _____

Title _____
(Corporate Seal)

Certificate

I, _____, certify that I am the Secretary of (insert new Carrier name); that _____, who signed this Agreement for this corporation, was then (insert position held) of this corporation; and that this Agreement was duly signed for and on behalf of this corporation by authority of its governing body and within the scope of its corporate powers.

Witness my hand and the seal of this corporation this ____ day of ____ 19__.

By _____
(Corporate Seal)

(End of Agreement)

(b) Failure to submit the properly completed and signed Change-of-Name Agreement in a timely manner may be cause for termination of the contract by OPM in accordance with FEHBAR 1652.249–70.

Subpart 1642–70—Management Agreement (in Lieu of Novation Agreement)

1642.7001 Management agreement.

When it is in the best interest of FEHBP enrollees to continue a contract for an interim period after the carrier discontinues its operations and has entered into a Purchase and Sale Agreement (or other descriptive term), but before a successor in interest has been recognized by OPM, the carrier may submit for OPM approval a Management Agreement that enables it to continue a contract through an agreement with a third party to administer the day-to-day performance of the contract. Examples of situations in which a Management Agreement may be accepted by OPM are:

(a) When a transfer of assets does not meet the criteria for a novation;

(b) While a request for a novation is pending;

(c) While awaiting a decision on a request for a novation;

(d) As an interim measure, when the timing of a transfer of assets or the timing of a carrier's withdrawal make administration of the contract inconvenient;

(e) When it is not in the interests of the Government to either recognize a successor in interest or to immediately terminate the existing FEHBP contract.

PART 1646—QUALITY ASSURANCE

9. In part 1646, subpart 1646.2 and the title for subpart 1646.3 are added to read as follows:

Subpart 1646.2—Contract Quality Requirements

Sec.
1646.270 General.

Subpart 1646.3—Contract Clauses

1646.301 Contractor inspection requirements.

Authority: 5 U.S.C. 8913; 40 U.S.C. 486(c); 48 CFR 1.301.

Subpart 1646.2—Contract Quality Requirements

1646.270 General.

(a) This section prescribes general policies and procedures to ensure that services acquired under the FEHBP contract conform to the contract's quality requirements.

(b) OPM shall periodically evaluate the contractor's system of internal controls under the quality assurance program required by the contract and will acknowledge in writing whether or not the system is consistent with the requirements set forth in the contract. After the initial review, subsequent reviews may be limited to changes in the contractor's internal control guidelines. However, a limited review does not diminish the contractor's obligation to apply the full internal control system.

(c) OPM will issue specific performance standards for the FEHBP contracts and will inform carriers of the applicable performance standards prior to negotiations for the contract year. OPM will benchmark its standards against standards generally accepted in the insurance industry. The contracting officer may authorize nationally recognized standards to be used to fulfill this requirement.

(d) FEHBP carriers shall comply with the performance standards issued under paragraph (c) of this section.

Subpart 1646.3—Contract Clauses

1646.301 Contractor inspection requirements.

* * * * *

PART 1652—CONTRACT CLAUSES

10. In section 1652.000, FAR clauses 52.230–3, 52.230–4, 52.230–5 and clause dates are removed and the following FAR clauses are added in numerical sequence as follows:

1652.000 Applicable clauses.

Section and Clause Title

* * * * *

52.203–7 Anti-Kickback Procedures.
52.203–9 Requirement for Certificate of Procurement Integrity—Modification.
52.203–12 Limitation on Payments to Influence Certain Federal Transactions.
52.209–6 Protecting the Government's Interest When Subcontracting With Contractors Debarred, Suspended, or Proposed for Debarment.

* * * * *

52.223–6 Drug-Free Workplace.

* * * * *

52.230–2 Cost Accounting Standards.
52.230–3 Disclosure and Consistency of Cost Accounting Practices.
52.230–5 Administration of Cost Accounting Standards.

* * * * *

52.242–13 Bankruptcy.

* * * * *

52.249–2 Termination for Convenience of the Government (Fixed-Price).
52.249–8 Default (Fixed-Price Supply and Service).

* * * * *

12. In subpart 1652.3, section 1652.370, the full entries in the FEHBP clause matrix for FAR clauses 52.230–3, 52.230–4 and 52.230–5 are removed and the following FAR clause references are added in numerical sequence to read as follows:

Subpart 1652.3—FEHBP Clause Matrix

1652.370 Use of the Matrix.

* * * * *

FEHBP CLAUSE MATRIX

* * * * *

Clause No.	Text reference	Title	Use status	Use with contracts based on	
				Cost analysis	Price analysis
*	*	*	*	*	*
FAR 52.203–9	FAR 3.104–10(b)	Requirement for Certificate of Procurement Integrity—Modification.	M	T	T
FAR 52.203–12	FAR 3.808	Limitation on Payments to Influence Certain Federal Transactions.	M	T	T

Clause No.	Text reference	Title	Use status	Use with contracts based on	
				Cost analysis	Price analysis
*	*	*	*		*
FAR 52.209–6	FAR 9.409(b)	Protecting the Government's Interest When Subcontracting With Contractors Debarred, Suspended, or Proposed for Debarment.	M	T	T
*	*	*	*		*
FAR 52.215–27	FAR 15.804–8(e)	Termination of Defined Benefit Pension Plans	M	T	T
*	*	*	*		*
FAR 52.215–39	FAR 15.804–8(f)	Reversion or Adjustment of Plans for Postretirement Benefits Other Than Pensions (PRB).	M	T	T
*	*	*	*		*
FAR 52.222–1	FAR 22.103–5(a)	Notice to the Government of Labor Disputes	M	T	T
*	*	*	*		*
FAR 52.230–2	FAR 30.201–4(a)(1)	Cost Accounting Standards	A	T	T
FAR 52.230–3	FAR 30.201–4(b)(1)	Disclosure and Consistency of Cost Accounting Practices.	A	T	T
FAR 52.230–5	FAR 30.201–4(d)(1)	Administration of Cost Accounting Standards	A	T	T
*	*	*	*		*
FAR 52.242–13	FAR 42.903	Bankruptcy	M	T	T
*	*	*	*		*
FAR 52.249–2	FAR 49.502(b)(1)(i)	Termination for Convenience of the Government (Fixed-Price).	M	T	T
FAR 52.249–8	FAR 49.504(a)(1)	Default (Fixed-Price Supply and Service)	M	T	T

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Proposed Rules

Federal Register
Vol. 59, No. 61
Wednesday, March 30, 1994

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

Farmers Home Administration

7 CFR Part 1980

RIN 0575–AB70

Removal of the Prohibition Against Charging Interest on Interest on FmHA Guaranteed Loans

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: Farmers Home Administration (FmHA) proposes to amend its guaranteed farmer programs loan making and servicing regulations to remove the restriction against lenders charging interest on interest when restructuring loans. The intended effect is to eliminate barriers which prevent lenders from restructuring loans of delinquent guaranteed borrowers.

DATES: Written comments must be submitted on or before April 14, 1994.

ADDRESSES: Submit written comments, in duplicate, to the Office of the Chief, Regulations Analysis and Control Branch, Farmers Home Administration, USDA, room 6348, South Agriculture Building, 14th Street and Independence Avenue SW., Washington, DC 20250–0700. All written comments made pursuant to this notice will be available for public inspection during regular working hours at the above address.

FOR FURTHER INFORMATION CONTACT: Steven K. Ford, Senior Loan Officer, Farmer Programs Loan Making Division, Farmers Home Administration, USDA, South Agriculture Building, room 5424, 14th and Independence Avenue, SW., Washington, DC. 20250–0700, Telephone (202) 690–0451.

SUPPLEMENTARY INFORMATION:

Classification

We are issuing this proposed rule in conformance with Executive Order 12866, and the Office of Management and Budget (OMB) has determined that it is a "significant regulatory action." Based on information compiled by the Department, OMB has determined that this proposed rule: (1) Would alter the budgetary impact of entitlements, grants, user fees, or loan programs or rights and obligations of recipients thereof; and (2) is a significant public policy issue as related to the direction of the guaranteed loan program.

Intergovernmental Consultation

1. For the reasons set forth in the final rule related to notice 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983) and FmHA Instruction 1940–J, "Intergovernmental Review of Farmers Home Administration Programs and Activities" (December 23, 1983), Farm Ownership Loans, Farm Operating Loans, and Emergency Loans are excluded from the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

2. The Soil and Water Loan Program is subject to the provisions of Executive Order 12372 and FmHA Instruction 1940–J.

Programs Affected

These changes affect the following FmHA programs as listed in the Catalog of Federal Domestic Assistance:

10.406—Farm Operating Loans.
10.407—Farm Ownership Loans.
10.416—Soil and Water Loans.

Environmental Impact Statement

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

Civil Justice Reform

This document has been reviewed in accordance with Executive Order (E.O.) 12778. It is the determination of FmHA that this action does not unduly burden the Federal Court System in that it meets all applicable standards provided in section 2 of the Executive Order.

Paperwork Reduction Act

The information collection requirements contained in these regulations have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. chapter 35 and have been assigned OMB control number 0575–0024 in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507). This proposed rule does not revise or impose any new information collection requirement from those approved by OMB.

Discussion of Proposed Rule

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment not withstanding the exemption of 5 U.S.C. 553 with respect to such rules. FmHA is publishing this proposed rule with a 15-day comment period. This proposed rule relieves the restriction prohibiting lenders from charging interest on interest when restructuring guaranteed Farmer Programs loans. Due to the flooding in the Midwest and the drought in the Southeast, several farmers have experienced substantial reduction in income and will be unable to make their annual payments on Guaranteed loans. By permitting lenders to capitalize interest when restructuring these loans, the loans will be more profitable and lenders will be less resistant to rescheduling or reamortizing these loans. This will allow the farmers to continue their operation and avoid liquidation. Therefore, the Agency has concluded that the need to provide immediate assistance to farmers who have suffered severe production and physical losses as a result of natural disasters also justifies the shortened comment period under 5 U.S.C. 553 (d).

Lenders participating in the Guaranteed Loan Program have been reluctant to restructure the loans of delinquent guaranteed borrowers because of restrictive regulatory requirements. FmHA requires lenders to set aside the accrued interest portion of loans that are being restructured. Interest is only accrued on the outstanding principal.

The restriction prohibiting lenders from charging interest on interest was originally included in the regulations to make the Guaranteed Program consistent with the Direct loan program. In the past, FmHA could not capitalize interest that was not more than 90 days past due. Due to the passage of the Food, Agriculture, Conservation and

Trade Act of 1990 (Pub. L. 101–624), this is no longer a restriction for Direct loans. The restriction, therefore, is unique to the Guaranteed program and should be removed.

This practice also is contrary to standard industry practice. Lenders normally capitalize the outstanding interest portion of the loan and reschedule or reamortize the payments based on the new principal amount. FmHA's restriction on capitalizing interest necessitates a unique treatment for guaranteed loans with additional bookkeeping efforts. It also reduces the lender's return on the guaranteed loans.

FmHA proposes to remove the restriction prohibiting lenders from capitalizing interest on guaranteed loans when restructuring. By removing this restriction, lenders will no longer be required to maintain a separate accounting system for the accrued interest when a delinquent loan is restructured. This separate system is administratively expensive for lenders to maintain; therefore, lenders have been reluctant to restructure loans.

By removing this restriction, FmHA will pay an additional amount in loss claims in cases where the lender has restructured the loan and capitalized the interest. FmHA estimates that the increase in loss payments should be limited to 1 percent of the current loss payment level.

Lenders will also be able to use their standard notes without modification. Some lenders customarily charge borrowers interest on delinquent interest as a late payment fee. FmHA requires this clause to be removed by modifying the note or attaching an allonge. The proposed change will permit lenders to charge late payment fees that are customary for their non-guaranteed loans; however, it will not change 7 CFR part 1980, subpart A, Section 1980.22 which prohibits these charges from being covered by the guarantee. Any other capitalization of interest when restructuring will be permitted, and will be covered by the guarantee, providing the interest and other charges do not exceed those charged to the lenders' non-guaranteed farm customers.

This change will only apply to Farmer Program Guaranteed loans, since it is intended to respond to farmers' reduction in income and agricultural lenders reluctance to restructure guaranteed loans without capitalizing interest. Similar hardships have not been identified in the Housing or Business and Industry programs.

This revision will also reduce the difference in the profitability of guaranteed loans compared with the lenders' non-guaranteed loans. Lenders will be more willing to restructure the loans of delinquent guaranteed borrowers instead of liquidating the security. While some borrowers will pay more after their loans are restructured, many more borrowers will be able to continue farming with restructured loans.

The revision will apply to new loans made as well as existing guaranteed loans. Forms FmHA 449–34, "Loan Note Guarantee," FmHA 1980–27, "Contract of Guarantee (Line of Credit)," and FmHA 1980–38, "Agreement for Participation in Farmer Programs Guaranteed Loan Programs of the United States Government," executed for previous loans, contain prohibitions against charging interest on interest. Since removing this restriction will be to the lenders' benefit, FmHA proposes to permit lenders to capitalize interest when restructuring guaranteed loans. Thus, when FmHA concurs with the restructuring plan, the County Supervisor will provide the lender with an attachment to these forms modifying the restriction in cases of restructuring within statutory loan limits, and setting any new principal and guaranteed amounts. These forms will be amended accordingly for new guaranteed loans, but an attachment will be needed at restructuring to identify any new principal and guaranteed amounts which exceed the amounts listed on the guaranteed loan documents.

The Agency also proposes to eliminate the requirement that principal payments be made which are at least equal to the amount of the depreciation of the security. It is unrealistic to expect that a farmer in need of restructuring could make such a principal payment. For example, if a loan with a $100,000 outstanding balance, and $400,000 of security is restructured, the borrower currently must reduce the principal by $40,000 (assuming the security depreciates at 10 percent per year). This requirement has proven to be a hindrance to necessary loan restructuring.

The principal reduction requirement was originally adopted along with the requirement that Guaranteed loans be fully secured to be restructured. In 1989, FmHA removed the requirement that loans be secured to receive restructuring. There may be situations where the loan will not be fully secured; however, the risk to the agency is minimized by other requirements for restructuring, such as demonstrating a feasible plan, and restricting the number of years over which a loan may be rescheduled/reamortized.

List of Subjects in 7 CFR Part 1980

Agriculture, Loan programs—Agriculture, Loan Programs—Business and Industry—Rural development assistance, Loan programs—Housing and Community development.

Therefore, chapter XVIII, title 7, Code of Federal Regulations is proposed to be amended as follows:

PART 1980—GENERAL

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

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

Subpart A—General

2. Section 1980.11 is revised to read as follows:

§ 1980.11 Full faith and credit.

The Loan Note Guarantee and Contract of Guarantee constitute obligations supported by the full faith and credit of the United States and are incontestable except for fraud or misrepresentation of which the lender or holder has actual knowledge at the time it becomes such lender or holder or which lender or holder participates in or condones. A note which provides for the payment of interest on interest shall not be guaranteed. Any Loan Note Guarantee, Contract of Guarantee or Assignment Guarantee Agreement attached to or relating to a note which provides for payment of interest on interest is void. Except in the case of Farmer Program loans, a note which provides for the capitalization of interest as a result of restructuring the loan and not exceeding statutory loan limits or as a customary late payment fee may be guaranteed, and any Loan Note Guarantee, Contract of Guarantee or Assignment Guarantee Agreement attached to or relating to such note is not void. The guarantee and right to require purchase will be directly enforceable by holder notwithstanding any fraud or misrepresentation by the lender or any unenforceability of the Loan Note Guarantee by the lender. The Loan Note Guarantee or Contract of Guarantee will be unenforceable by the lender to the extent any loss is occasioned by violation of usury laws, negligent servicing or failure to obtain the required security regardless of the time at which FmHA acquires knowledge of the foregoing. Any losses occasioned will be unenforceable by the lender to the extent that loan funds are used for purposes other than those specifically approved by FmHA in its Form FmHA 1980–15. Negligent servicing is defined as the failure to

perform those services which a reasonably prudent lender would perform in servicing its own portfolio of loans that are not guaranteed. The term includes not only the concept of a failure to act but also not acting in a timely manner or acting in a manner contrary to the manner in which a reasonably prudent lender would act up to the time of loan maturity or until a final loss is paid. The Loan Note Guarantee or Assignment Guarantee Agreement in the hands of a holder shall not cover interest accruing 90 days after the holder has demanded repurchase by the lender, nor shall the Loan Note Guarantee or Assignment Guarantee Agreement in the hands of a holder cover interest accruing 90 days after the lender or FmHA has requested the holder to surrender the evidence of debt for repurchase.

3. Section 1980.20 (a) introductory text is revised to read as follows:

§ 1980.20 Loan guarantee limits.

(a) Lenders and applicants will propose the percentage of guarantee. Lenders and applicants will be advised in writing on Form FmHA 449–14 by FmHA of any percentage of guarantee less than proposed by the lender and applicant, and the reasons therefore. (See § 1980.80 of this subpart regarding appeals.) The maximum percentage of guarantee (as opposed to the maximum loss covered by the guarantee) on a Business and Industrial loan is defined in § 1980.420 of subpart E of this part. The maximum percentage of guarantee for DARBE guaranteed loans in excess of $2,000,000 will be calculated so that the guaranteed portion of the principal amount of the loan cannot exceed $2,000,000. The maximum percentage of guarantee for all other loans covered by this section will be 90 percent. Also, except in regards to D&D and DARBE guaranteed loans (see subpart E of this part) or as modified for Farmer Programs guaranteed loans (see subpart B of this part), the maximum loss covered by Form FmHA 449–34 or Form FmHA 1980–27 can never exceed the lesser of:

* * * * *

4. Section 1980.83 (b) is amended by adding two new entries at the end of the table to read as follows:

§ 1980.83 FmHA Forms.

* * * * *

(b) * * *

FmHA

Form No.	Title of form	Purpose and code [1]
1980–84.	Modification of New Contract Relating to Farmer Programs Guaranteed Loan/Line of Credit.	Used to permit capitalization of interest. (2)
1980–85.	Modification of Existing Contract Relating to Farmer Programs Guaranteed Loan/Line of Credit.	Used to permit capitalization of interest. (2)

[1] Code: * * * (2) FmHA and lender use, * * *

5. Appendix A to Subpart A is revised to read as follows:

Appendix A to Subpart A

USDA–FmHA
Form FmHA 449–34
(Rev. 4–94)
Type of Loan: _____

Loan Note Guarantee

*Applicable 7 C.F.R. Part 1980 Subpart

Borrower

Lender

Lender's Address

State

County

Date of Note

FmHA Loan Identification Number

Lender's IRS ID Tax Number

Principal Amount of Loan

The guaranteed portion of the loan is $_____ which is_____ (_____%) percent of a loan principal. The principal amount of loan is evidenced by _____ note(s) includes bonds as appropriate) described below. The guaranteed portion of each note is indicated below. This instrument is attached to note _____ in the face amount of $_____ and is number _____ of _____.

Lender's identifying No.	Face amount	Percent of total face amount	Amount guaranteed
	$	%	$
Total	$_____	100%	$_____

In consideration of the making of the subject loan by the above named Lender, the United States of America, acting through the Farmers Home Administration of the United States Department of Agriculture (herein called "FmHA"), pursuant to the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et. seq.), the Emergency Livestock Credit Act of 1974 (7 U.S.C. note preceding 1961 P.L. 93–357 as amended), the Emergency Agriculture, Credit Adjustment Act of 1978 (7 U.S.C. note preceding 1961 P.L. 93–357 as amended), the Emergency Agriculture, Credit Adjustment Act of 1978 (7 U.S.C. note preceding 1921, P.L. 95–334, or Title V of the Housing Act of 1949 (42 U.S.C. 1471 et. seq.) does hereby agree that in accordance with and subject to the conditions and requirements herein, it will pay to:

A. Any Holder 100 percent of any loss sustained by such Holder on the guaranteed portion and on interest due (including any loan subsidy) on such portion and any capitalized interest on such portion resulting from the restructuring of a Guaranteed Farmer Programs loan and not exceeding statutory loan limits.

B. The Lender the lesser of 1. or 2. below:

1. Any loss sustained by such Lender on the guaranteed portion including:

a. Principal and interest indebtedness as evidenced by said note(s) or by assumption agreement(s), and

b. Any loan subsidy due and owing, and

c. Principal and interest indebtedness on secured protective advances for protection and preservation of collateral made with FmHA's authorization, including but not limited to, advances for taxes, annual assessments, any ground rents, and hazard or flood insurance premiums affecting the collateral, or

d. and, Capitalized interest on such portion resulting from the restructuring of a Guaranteed Farmer Programs loan and not exceeding statutory loan limits, or

2. The guaranteed principal advanced to or assumed by the Borrower under said note(s) or assumption agreement(s) and any interest due (including any loan subsidy) thereon and

any capitalized interest resulting from the restructuring of a Guaranteed Farmer Programs loan and not exceeding statutory loan limits.

If FmHA conducts the liquidation of the loan, loss occasioned to a Lender by accruing interest (including any loan subsidy) after the date FmHA accepts responsibility for liquidation will not be covered by this Loan Note Guarantee. If Lender conducts the liquidation of the loan accruing interest (including any loan subsidy) shall be covered by this Loan Note Guarantee to date of final settlement when the Lender conducts the liquidation expeditiously in accordance with the liquidation plan approved by FmHA.

Definition of Holder

The Holder is the person or organization other than the Lender who holds all or part of the guaranteed portion of the loan with no servicing responsibilities. Holders are prohibited from obtaining any part(s) of the Guaranteed portion of the loan with proceeds from any obligation, the interest on which is excludable from income, under Section 103 of the Internal Revenue Code of 1954, as amended (IRC). When the Lender assigns a part(s) of the guaranteed loan to an assignee, the assignee becomes a Holder only when Form FmHA 449–36, "Assignment Guarantee Agreement," is used.

Definition of Lender

The Lender is the person or organization making and servicing the loan which is guaranteed under the provisions of the applicable Subpart 7 CFR of Part 1980. The Lender is also the party requesting a loan guarantee.

Conditions of Guarantee

1. Loan Servicing

Lender will be responsible for servicing the entire loan, and Lender will remain mortgagee and/or secured party of record not withstanding the fact that another party may hold a portion of the loan. When multiple notes are used to evidence a loan, Lender will structure repayments as provided in the loan agreement. In the case of Farm Ownership, Soil and Water, or Operating Loans, the Lender agrees that if liquidation of the account becomes imminent, the Lender will consider the Borrower for an Interest Rate Buydown under Exhibit C of Subpart B of 7 CFR, Part 1980, and request a determination of the Borrower's eligibility by FmHA. The Lender may not initiate foreclose action on the loan until 60 days after a determination has been made with respect to the eligibility of the Borrower to participate in the Interest Rate Buydown Program.

2. Priorities

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

3. Full Faith and Credit

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

4. Rights and Liabilities

The guarantee and right to require purchase will be directly enforceable by Holder notwithstanding any fraud or misrepresentation by Lender or any unenforceability of this Loan Note Guarantee by Lender. Nothing contained herein will constitute any waiver by FmHA of any rights it possesses against the Lender. Lender will be liable for and will promptly pay to FmFA any payment made by FmHA to Holder which if such Lender had held the guaranteed portion of the loan, FmHA would not be required to make.

5. Payments

Lender will receive all payments of principal, or interest, and any loan subsidy on account of the entire loan and will promptly remit to Holder(s) its pro rata share thereof determined according to its respective interest in the loan, less only Lender's servicing fee.

6. Protective Advances

Protective advances made by Lender pursuant to the regulations will be guaranteed against a percentage of loss to the same extent as provided in this Loan Note Guarantee notwithstanding the guaranteed portion of the loan that is held by another.

7. Repurchase by Lender

The Lender has the option to repurchase the unpaid guaranteed portion of the loan from the Holder(s) within 30 days of written demand by the Holder(s) when: (a) the borrower is in default not less than 60 days on principal or interest due on the loan or (b) the Lender has failed to remit to the Holder(s) its pro rate share of any payment made by the borrower or any loan subsidy within 30 days of its receipt thereof. The repurchase by the Lender will be for an amount equal to the unpaid guaranteed portion of principal and accured interest (including any loan subsidy) less the Lender's servicing fee. The Loan Note Guarantee will not cover the note interest to the Holder on the guaranteed loan(s) accruing after 90 days from the date of the demand letter to the Lender requesting the repurchase. Holder(s) will concurrently send a copy of demand of FmHA. The Lender will accept an assignment without recourse from the Holder(s) upon repurchase. The Lender is encouraged to repurchase the loan to facilitate the accounting for funds, resolve the problem, and to permit the borrower to cure the default, where reasonable. The Lender will notify the Holder(s) and FmHA of its decision.

8. FmHA Purchase

If Lender does not repurchase as provided by paragraph 7 hereof, FmHA will purchase from Holder the unpaid principal balance of the guaranteed portion together with accrued interest (including any loan subsidy) to date of repurchase less Lender's servicing fee, within thirty (30) days after written demand to FmHA from Holder. The Loan Note Guarantee will not cover the note interest to the Holder on the guaranteed loan(s) accruing after 90 days from the date of the original demand letter of the Holder to the Lender requesting the repurchase. Such demand will include a copy of the written demand made upon the Lender. The Holder(s) or its duly authorized agent will also include evidence of its right to require payment from FmHA. Such evidence will consist of either the original of the Loan Note Guarantee properly endorsed to FmHA or the original of the Assignment Guarantee Agreement properly assigned to FmHA without recourse including all rights, title, and interest in the loan. FmHA will be subrogated to all rights of Holder(s). The Holder(s) will include in its demand the amount due including unpaid principal, unpaid interest (including any loan subsidy) to date of demand and interest (including any loan subsidy) subsequently accruing from date of demand to proposed payment date. Unless otherwise agreed to by FmHA, such proposed payment will not be later than 30 days from the date of demand.

The FmHA will promptly notify the Lender of its receipt of the Holder(s)'s demand for payment. The Lender will promptly provide the FmHA with the information necessary for FmHA determination of the appropriate amount due the Holder(s). Any discrepancy between the amount claimed by the Holder(s) and the information submitted by the Lender must be resolved before payment will be approved. FmHA will notify both parties who must resolve the conflict before payment by FmHA will be approved. Such conflict will suspend the running of the 30 day payment requirement. Upon receipt of the appropriate information, FmHA will review the demand and submit it to the State Director for verification. After reviewing the demand the State Director will transmit the request to the FmHA Finance Office for issuance of the appropriate check. Upon

issuance, the Finance Office will notify the office servicing the borrower and State Director and remit the check(s) to the Holder(s).

9. Lender's Obligation

Lender consents to the purchase by FmHA and agrees to furnish on request by FmHA a current statement certified by an appropriate authorized officer of the Lender of the unpaid principal and interest then owed by Borrowers on the loan and the amount including any loan subsidy then owed to any Holder(s). Lender agrees that any purchase by FmHA does not change, alter or modify any of the Lender's obligations to FmHA arising from said loan or guarantee nor does it waive any of FmHA's rights against Lender, and that FmHA will have the right to set-off against Lender all rights inuring to FmHA as the Holder of this instrument against FmHA's obligation to Lender under the Loan Note Guarantee.

10. Repurchase by Lender for Servicing

If, in the opinion of the Lender, repurchase of the guaranteed portion of the loan is necessary to adequately service the loan, the Holder will sell the portion of the loan to the Lender for an amount equal to the unpaid principal and interest (including any loan subsidy) on such portion less Lender's servicing fee. The Loan Note Guarantee will not cover the note interest to the Holder on the guaranteed loans accruing after 90 days from the date of the demand letter of the Lender or FmHA to the Holder(s) requesting the Holder(s) to tender their guaranteed portion(s).

a. The Lender will not repurchase from the Holder(s) for arbitrage purposes or other purposes to further its own financial gain.

b. Any repurchase will only be made after the Lender obtains FmHA written approval.

c. If the Lender does not repurchase the portion from the Holder(s), FmHA at its option may purchase such guaranteed portions for servicing purposes.

11. Custody of Unguaranteed Portion

The Lender may retain, or sell the unguaranteed portion of the loan only through participation. Participation, as used in this instrument, means the sale of an interest in the loan wherein the Lender retains the note, collateral securing the note, and all responsibility for loan servicing and liquidation.

12. When Guarantee Terminates

This Loan Note Guarantee will terminate automatically (a) Upon full payment of the guaranteed loan; or (b) upon full payment of any loss obligation hereunder; or (c) upon written notice from the Lender to FmHA that the guarantee will terminate 30 days after the date of notice, provided the Lender holds all of the guaranteed portion and the Loan Note Guarantee(s) are returned to be cancelled by FmHA.

13. Settlement

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

14. Loan Subsidy

*In addition to the interest rate of the note attached hereto, FmHA will pay a loan subsidy of _____ percent per year. Payments will be made annually.

15. Interest Capitalization

In the case of Farmer Programs loans, the Lender/Holder(s) may capitalize interest only when the note is restructured. When delinquent interest is so treated as principal, the new principal amount may exceed the principal amount of the loan listed herein, but may not exceed statutory loan limits. The new principal amount and new guaranteed portion will be identified at restructuring in an addendum to this Loan Note Guarantee. Such capitalized interest will be covered by this Loan Note Guarantee. References to "principal and interest" and "principal advanced" herein, therefore, shall include any capitalized interest on the guaranteed portion of the loan resulting from the restructuring of a Guaranteed Farmer Programs loan and not exceeding statutory loan limits. The capitalization of interest via a late payment fee also is permissible if customary for the lender's non-guaranteed loans. The late fees, however, will not be covered by the guarantee.

16. Notices

All notices will be initiated through the FmHA _____ for _____ (State) with mailing address at the day of this instrument:

_____

_____

**If not applicable delete paragraph prior to execution of this instrument.*

UNITED STATES OF AMERICA
Farmers Home Administration

By: _____
Title: _____

(Date)

Assumption Agreement by _____ dated _____, 19 _____
Assumption Agreement by _____ dated _____, 19 _____

6. Appendix C to subpart A is revised to read as follows:

Position 5

Appendix C to Subpart A

USDA-FmHA
Form Approved
OMB NO. 0575–0024
Form FmHA 449–36
(Rev. 4–94)

Assignment Guarantee Agreement

Type of Loan: _____
Applicable 7 CFR Part 1980 Subpart _____
FmHA Loan Identification Number _____

_____

of _____
(Lender) has made a loan to _____
in the principal amount of $_____ as evidenced by a note(s) dated _____. The United States of America, acting through Farmers Home Administration (FmHA) entered into a Loan Note Guarantee (Form FmHA 449–34) with the Lender applicable to such loan to guarantee the loan not to exceed _____ % of the amount of the principal advanced and any interest (including any loan subsidy) due thereon and any capitalized interest, resulting from the restructuring of a Guaranteed Farmer Programs loan and not exceeding statutory loan limits, as provided therein.

_____

(Holder) desires to purchase from Lender _____ % of the guaranteed portion of such loan. Copies of Borrower's note(s) and the Loan Note Guarantee are attached hereto as a part hereof.

Now, Therefore, the parties agree:

1. The principal amount of the loan now outstanding is $_____. Lender hereby assigns to Holder _____ % of the guaranteed portion of the loan representing $_____ of such loan now outstanding in accordance with all of the terms and conditions hereinafter set forth. The Lender and FmHA certify to the Holder that the Lender has paid and FmHA has received the Guarantee Fee in exchange for the issuance of the Loan Note Guarantee.

2. Loan Servicing. The Lender will be responsible for servicing the entire loan and will remain mortgagee and/or secured party of record. The entire loan will be secured by the same security with equal lien priority for the guaranteed and unguaranteed portions of the loan. The Lender will receive all payments on account of principal of, or interest (including any loan subsidy and any capitalized interest, resulting from the restructuring of a Guaranteed Farmer Programs loan and not exceeding statutory loan limits) on, the entire loan and shall promptly remit to the Holder its pro rata share thereof determined according to their respective interests in the loan, less only the Lender's servicing fee.

3. Servicing Fee. Holder agrees that Lender will retain a servicing fee of _____ percent per annum of the unpaid balance of the guaranteed portion of the loan assigned hereunder.

4. Purchase by Holder. The guaranteed portion purchased by the Holder will always be a portion of the loan which is guaranteed. The Holder will hereby succeed to all rights of the Lender under the Loan Note Guarantee to the extent of the assigned portion of the loan. The Lender, however, will remain bound by all obligations under the Loan Note Guarantee and the program regulations found in the applicable Subpart of 7 C.F.R. Part 1980 now in effect and future FmHA program regulations not inconsistent with the provisions hereof.

5. Full Faith and Credit. The Loan Note Guarantee constitutes an obligation supported by the full faith and credit of the United States and is incontestable except for fraud or misrepresentation of which the Holder has actual knowledge at the time of this assignment, or which it participates in or condones. A note which provides for the payment of interest shall not be guaranteed. Any Assignment Guarantee Agreement attached to or relating to a note which provides for capitalization of interest is void. Except in the case of Farmer Programs loans, a note which provides for the payment of interest as a result of restructuring the loan and not exceeding statutory loan

limits, or as a customary late payment fee may be guaranteed, and any Assignment Guarantee Agreement attached to or related to such note is not void.

6. Rights and Liabilities. The guarantee and right to require purchase will be directly enforceable by Holder not withstanding any fraud or misrepresentations by Lender or any unenforceability of the Loan Note Guarantee by Lender. Nothing contained herein shall constitute any waiver by FmHA of any rights it possesses against the Lender, and the Lender agrees that Lender will be liable and will promply reimburse FmHA for any payment made by FmHA to Holder which, if such Lender had held the guaranteed portion of the loan, FmHA would not be required to make. The Holder(s) upon written notice to the Lender may resell the unpaid balance of the guaranteed portion of the loan assigned hereunder. An endorsement may be added to the Form FmHA 449–36 to effectuate the transfer.

7. Repurchase by the Lender (Defaults). The Lender has the option to repurchase the unpaid guaranteed portion of the loan from the Holder(s) within 30 days of written demand by the Holder(s) when: (a) the borrower is in default not less than 60 days on principal or interest due on the loan or (b) the Lender has failed to remit to the Holder(s) its pro rata share of any payment made by the borrower or any loan subsidy within 30 days of its receipt thereof. The repurchase by the Lender will be for an amount equal to the unpaid guaranteed portion of principal and accrued interest (including any loan subsidy), less the Lender's servicing fee. The loan note guarantee will not cover the note interest to the Holder on the guaranteed loan(s) accruing after 90 days from the date of the demand letter to the lender requesting the repurchase. Holder(s) will concurrently send a copy of demand to FmHA. The Lender will accept an assignment without recourse from the Holder(s) upon repurchase. The Lender is encouraged to repurchase the loan to facilitate the accounting for funds, resolve the problem, and to permit the borrower to cure the default, where reasonable. The Lender will notify the Holder(s) and FmHA of its decision.

8. Purchase by FmHA. If Lender does not repurchase as provided by paragraph 7, FmHA will purchase from Holder the unpaid principal balance of the guaranteed portion together with accrued interest (including any loan subsidy) to date of repurchase, less Lender's servicing fee, within 30 days after written demand to FmHA from the Holder. The Loan Note Guarantee will not cover the note interest to the Holder on the guaranteed loans accruing after 90 days from the date of the original demand letter of the holder to the lender requesting the repurchase. Such demand will include a copy of the written demand made upon the Lender. The Holder(s) or its duly authorized agent will also include evidence of its right to require payment from FmHA. Such evidence will consist of either the original of the Loan Note Guarantee properly endorsed to FmHA or the original of the Assignment Guarantee Agreement properly assigned to FmHA without recourse including all rights, title, and interest in the loan. FmHA will be subrogated to all rights of Holder(s). The Holder will include in its demand the amount due including unpaid principal, unpaid interest (including any loan subsidy) to date of demand and interest (including any loan subsidy) subsequently accruing from date of demand to proposed payment date. Unless otherwise agreed to by FmHA, such proposed payment will not be later than 30 days from the date of demand.

The FmHA will promptly notify the Lender of its receipt of the Holder(s)'s demand for payment. The Lender will promptly provide the FmHA with the information necessary for FmHA's determination of the appropriate amount due the Holder(s). Any discrepancy between the amount claimed by the Holder(s) and the information submitted by the Lender must be resolved before payment will be approved. FmHA will notify both parties who must resolve the conflict before payment will be approved. Such a conflict will suspend the running of the 30 day payment requirement. Upon receipt of the appropriate information, FmHA will review the demand and submit it to the State Director for verification. After reviewing the demand the State Director will transmit the request to the FmHA Finance Office for issuance of the appropriate check. Upon issuance, the Finance Office will notify the office servicing the borrower and the State Director and remit the check(s) to the Holder(s).

9. Lender's Obligations. Lender consents to the purchase by FmHA and agrees to furnish on request by FmHA a current statement certified by an appropriate authorized officer of the Lender of the unpaid principal and interest then owed by Borrowers on the loan and the amount then owed to any Holder(s). Lender agrees that any purchase by FmHA does not change, alter or modify any of the Lender's obligations to FmHA arising from said loan or guarantee nor does it waive any of FmHA's right against Lender, and that FmHA shall have the right to set-off against Lender all rights inuring to FmHA as the Holder of this instrument against FmHA's obligation to Lender under the Loan Note Guarantee.

10. Repurchase by Lender for Servicing. If, in the opinion of the Lender, repurchase of the assigned portion of the loan is necessary to adequately service the loan, the Holder will sell the assigned portion of the loan to the Lender for an amount equal to the unpaid principal and interest (including any loan subsidy) on such portion less Lender's servicing fee. The loan note guarantee will not cover the note interest to the Holder on the guaranteed loans accruing after 90 days from the date of the demand letter of the lender or FmHA to the Holder(s) requesting the Holder(s) to tender their guaranteed portion(s).

a. The Lender will not repurchase from the Holder(s) for arbitrage purpose or other purposes to further its own financial gain.

b. Any repurchase will only be made after the Lender obtains FmHA written approval.

c. If the Lender does not repurchase the portion from the Holder(s), FmHA at its option may purchase such guaranteed portions for servicing purposes.

11. Foreclosure. The parties owning the guaranteed portions and unguaranteed portion of the loan will join in institute foreclosure action, or in lieu of foreclosure, take a deed of conveyance to such parties.

12. Reassignment. Holder upon written notice to Lender and FmHA may reassign the unpaid guaranteed portion of the loan sold hereunder. Upon such notification, the assignee will succeed to all rights and obligations of the Holder hereunder.

13. Interest Capitalization. In the case of Farmer Programs loans, the Lender may capitalize interest only when the note is restructured. When delinquent interest is so treated as principal, the new principal amount may exceed the line of credit listed herein, but may not exceed statutory loan limits. The new principal amount and new guaranteed portion will be identified at restructuring in an addendum to this agreement. Such capitalized interest will be covered by this Assignment Guarantee Agreement. References to principal and interest herein, therefore, shall include any capitalized interest on the guaranteed portion of the loan resulting from the restructuring of a Farmer Programs loan and not exceeding statutory loan limits. The capitalization of interest via a late payment fee also is permissible if customary for the lender's non-guaranteed loans. The late fees, however, will not be covered by the guarantee.

14. Notices. All notices and actions will be initiated through the FmHA _____ for _____ (state) with mailing address at the date of this assignment: _____

Dated this _____ day _____, 19 _____.

Attest:
(Seal)

Attest:
(Seal)

Address: _____

Lender:
Address:
By _____
Title _____

Holder:
Address:
By _____
Title _____

UNITED STATES OF AMERICA
Farmers Home Administration
By _____
Title _____

7. Appendix D to Subpart A is revised to read as follows:

Appendix D to Subpart A

USDA-FmHA
Form FmHA 1980–27
(Rev. 4–94)

Contract of Guarantee

(Line of Credit)

Lender
Lender's IRS Tax No.
Lender's Address
Borrower's Name and Address
Cont/Alt 4

Type of Loan
☐ OL ☐☐☐ EL ☐ or ☐ ☐ EE
Cont/Alt 4
Case No.
State
County
Date of Line of Credit Agreement/Note
Line of Credit Ceiling $

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

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

1. Any loss sustained.by such Lender on the guaranteed portion including:

a. Principal and interest indebtedness as evidenced by said line of credit agreement(s) (and note(s), if any exist) or by assumption agreement(s), and any capitalized interest on such portion resulting from the restructuring of an Operating loan and not exceeding statutory loan limits, and

b. Principal and interest indebtedness on secured protective advances for protection and preservation of collateral made with FmHA's authorization, including but not limited to, advances for delinquent taxes, annual assessments, and ground rents, and hazard or flood insurance premiums affecting the collateral; or

2. The guaranteed principal advances to or assumed by the Borrower under said line of credit agreement(s) (and note(s), if any exist) or assumption agreement(s), and any interest due thereon, including any capitalized interest on such portion resulting from the restructuring of an Operating loan and not exceeding statutory loan limits. If an Operating Loan Line of Credit is involved, advances under that line of credit must be made within three years (five for Certified Lenders) from the date of this Contract. Advances made after that date will not be covered by this Contract. If FmHA conducts the liquidation of the line of credit, loss occasioned to a Lender by accruing interest after the date FmHA accepts responsibility for liquidation will not be covered by this Contract of Guarantee. If Lender conducts the liquidation of the line of credit, accruing interest shall be covered by this Contract of Guarantee to date of final settlement when the Lender conducts the liquidation expeditiously in accordance with the liquidation plan approved by FmHA.

Conditions of Guarantee

1. Line of Credit Servicing

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

2. Priorities

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

3. Full Faith and Credit

The Contract of Guarantee constitutes an obligation supported by the full faith and credit of the United States and is incontestable except for fraud or misrepresentation of which Lender has actual knowledge at the time it became such Lender or which Lender participates in or condones. If the line of credit agreement or note to which this Contract of Guarantee is attached provides for the payment of interest on interest, this Contract of Guarantee is void. However, in the case of Farmer Programs loans, the capitalization of interest when restructuring loans and through the charging of customary late fees will not void this Contract of Guarantee.

In addition, the Contract of Guarantee will be unenforceable by the Lender to the extent any loss is occasioned by the violation of usury laws negligent servicing, or failure to obtain the required security regardless of the time at which FmHA acquires knowledge of the foregoing. Any losses occasioned will be enforceable to the extent that loan funds are used for purposes other than those specifically approved by FmHA in its Conditional Commitment for Guarantee. Negligent servicing is defined as the failure to perform those services which a reasonably prudent lender would perform in servicing its own portfolio of loans that are not guaranteed. The term includes not only the concept of a failure to act but also not acting in a timely manner or acting in a manner contrary to the manner in which a reasonably prudent lender would act up to the time of loan maturity or until a final loss is paid.

4. Protective Advances

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

5. Custody of Unguaranteed Portion

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

6. When Guarantee Terminates

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

7. Settlement

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

8. Interest Capitalization

In the case of Operating loans, the Lender may capitalize interest only when the note is restructured. When delinquent interest is so treated as principal, the new principal amount may exceed the line of credit listed herein, but may not exceed statutory loan limits. The new principal amount and new guaranteed portion will be identified at restructuring in an addendum to this Contract of Guarantee. Such capitalized interest will be covered by this Contract of Guarantee. References to principal and interest herein, therefore, shall include any capitalized interest on the guaranteed portion of the loan resulting from the restructuring of an Operating loan and not exceeding statutory loan limits. The capitalization of interest via a late payment fee also is permissible if customary for the lender's non-guaranteed loans. The late fees, however, will not be covered by the guarantee.

9. Notices

All notices and actions will be initiated through the FmHA County Supervisor for _____ (County) _____ (State) with mailing address at the date of this instrument:

_____

_____

UNITED STATES OF AMERICA
Farmers Home Administration

By: _____

Title: _____

(Date)

Assumption Agreement by _____ dated _____, 19 _____

Assumption Agreement by _____ dated _____, 19 _____

8. Appendix E to subpart A is revised to read as follows:

Appendix E to Subpart A

Form Approved OMB No. 0575–0079
USDA-FmHA
Form FmHA 1980–38
(Rev. 4–94)

Agreement for Participation in Farmer Programs Guaranteed Loan Programs of the United States Government

The purpose of this Agreement is to establish the Lender as an approved participant in the Farmer Programs Guaranteed Loan Programs of the Farmers Home Administration (FmHA), U.S. Department of Agriculture. This Agreement provides the terms and conditions for originating and servicing such loans, including lines of credit.

Participating Lender ("Lender"): _____
Tax Identification Number: _____
Business Address: _____
Telephone Number: _____

Complete the appropriate section indicating participation/non-participation in the Certified Lender Program.

Participating in the Certified Lender Program ("CLP")

Offices Affected by Agreement All ☐ As listed below ☐

_____
_____
_____
_____

States Affected by Agreement

_____
_____
_____
_____

Not participating in the Certified Lender Program

Offices Affected by Agreement All ☐ As listed below ☐

_____
_____
_____
_____

States Affected by Agreement

_____
_____
_____
_____

Read this Agreement in its entirety and sign in the space on the last page. Your signature indicates consent with this Agreement.

Public reporting burden for this collection of information is estimated to average 1 hour 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 this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, AG Box 7630, Washington, DC 20250; and to the Office of Management and Budget, Paperwork Reduction Project, (OMB No. 0575–0079), Washington, DC 20503. Please DO NOT RETURN this form to either of these addresses. Forward to FmHA only.

Part I—General Requirements

A. Duties and Responsibilities of FmHA ("Agency")

1. *Payment on Claims.* FmHA agrees to make payment on its claims in accordance with the terms of the guarantee and Agency regulations in 7 CFR 1980, Subparts A and B. The maximum loss payment may not exceed the amount determined in the guarantee, including the percentage of principal and any accrued interest. The guarantee is supported by the full faith and credit of the United States and is incontestable except under the circumstances of fraud or misrepresentation of which the Lender has actual knowledge at the execution of the guarantee or which the Lender participates in or condones. (See 7 CFR 1980.107.)

2. *Personnel Available for Consultation.* FmHA shall make personnel available for consultation on interpretations of Agency regulations and guidelines. The Lender may consult with Agency personnel regarding unusual underwriting, loan closing, and loan liquidation questions.

B. General Requirements for the Lender

1. *Eligibility to Participate.* The Lender must meet the requirements set forth in 7 CFR 1980.13 and be approved by FmHA to be a participant in the Farmer Programs Guaranteed Loan Programs.

2. *Knowledge of Program Requirements.* The Lender is required to obtain and keep itself informed of all program regulations and guidelines, including all amendments and revisions. The Lender must establish and maintain adequate and written internal policies for loan origination and servicing to meet these requirements. These policies will be subject to review upon the request by FmHA.

3. *Notification.* The Lender shall immediately notify FmHA in writing if the Lender:

- Becomes insolvent;
- Has filed for any type of bankruptcy protection, has been forced into involuntary bankruptcy, or has requested an assignment for the benefit of creditors;
- Has taken any action to cease operations, or to discontinue servicing or liquidating any or all of its portfolio guaranteed by FmHA;
- Has changed its name, location, address, tax identification number, or corporate structure;
- Has been debarred, suspended, or sanctioned in connection with its participation in any Federal guaranteed program; or
- Has been debarred, suspended, or sanctioned by any Federal or State licensing or certification authority.

4. *Employee Qualifications.* The Lender shall maintain a staff that is well trained and experienced in origination and loan servicing functions, as necessary, to ensure the capability of performing all the acts within its authority.

5. *Conflict of Interest.* The Lender certifies that its officers or directors, principal stockholders (except stockholders in a Farm Credit Bank or other Farm Credit System (FCS) institutions with direct lending authority that have normal stock/share requirements for participating), or other principal owners do not have, or will not have, a substantial financial interest in, or business dealings with, any guaranteed loan borrower. The Lender also certifies that neither any borrower nor its officers or directors, stockholders, or other owners have a substantial financial interest in the Lender. If the borrower is a member of the Board of Directors of a Farm Credit Bank or other FCS institution with direct lending authority, the Lender certifies that an FCS institution on the next highest level will independently process the loan request and will act as the Lender's agent in servicing the account.

6. *Facilities.* The Lender shall operate its facilities and branch offices in a prudent and businesslike manner.

7. *Reporting Requirements.* The Lender recognizes that FmHA, as guarantor, has a vital interest in ensuring that all acts performed by the Lender regarding the subject loans are performed in compliance with this Agreement and Agency regulations. Information on the status of guaranteed loans is necessary for this purpose, as well as to satisfy budget and accounting reporting required by the Department of the Treasury and the Office of Management and Budget. The Lender agrees to provide FmHA with all the data required under Agency regulations and any additional information necessary for FmHA to monitor the health of its guaranteed loan portfolio, and to satisfy external reporting requirements.

The Lender also agrees to provide to FmHA, as requested by the Agency or as required by regulation, copies of audited financial statements, reports on internal controls, copies of compliance audits, and such other information that may be required for FmHA to properly monitor the Lender's performance.

C. Underwriting Requirements

1. *Responsibility.* The Lender is responsible for originating, servicing, and collecting all guaranteed Farmer Programs loans in accordance with Agency regulations.

2. *Origination Process*

a. *General Eligibility.* The Lender shall make a preliminary determination whether loan applicants meet the general eligibility requirements of the Farmer Programs Guaranteed Loan Programs. FmHA will make the final determination.

b. *Delinquency of Federal Debt.* The Lender shall determine whether the loan applicant is delinquent on any Federal debt. The Lender shall use credit reports and any other credit history to make this determination. If the loan applicant is delinquent on a federal debt, processing of the application may only continue in accordance with Agency regulations.

c. *Appraisals of Collateral.* The Lender shall ensure that the value of any collateral property or property to be purchased is determined by a qualified appraiser, including a State licensed or certified appraiser when required by law or regulation.

d. *Change in Borrower's Condition.* Before FmHA issues a loan guarantee, the Lender will certify that there has been no adverse change(s) in the borrower's condition, financial or otherwise, during the time period from issuance of a Conditional Commitment to issuance of the guarantee of the loan. This certification by the Lender must address all adverse changes and be supported by financial statements of the borrower and its guarantors which are not more than 90 days old at the time of certification. For use in this provision alone, the term "Borrower" includes any member, joint operator, partner or stockholder. (See 7 CFR 1980.117.)

e. *Limitation on Guarantee.* Any note requiring the payment of interest on interest will only be guaranteed if such payment is the result of restructuring the note and the new principal amount does not exceed statutory loan limits. Default charges or late charges of any kind, and/or interest accrued on interest charges other than that resulting from restructuring the loan and within statutory loan limits, will not be covered by the guarantee.

3. *Loan Closing*

a. *Lender's Fee.* The Lender will submit the required guarantee fee with the Guaranteed Loan Closing Report.

b. *Lender's Use of Funds.* The Lender agrees funds for the particular loan or line of credit will be used only for the purposes authorized in 7 CFR 1980, Subparts A and B as set forth in Form FmHA 1980–15.

c. *Loan Closing.* All loans guaranteed by the Agency shall be closed by attorneys, escrow companies, escrow departments of lending institutions, or other person(s) or entities skilled and experienced in conducting loan closings. The Lender shall:

• Ensure that documents, including the mortgage and any security agreements, chattel mortgages or equivalent documents relating to it have been properly signed, are valid and contain terms enforceable by the Lender;

• Ensure that all security with appropriate lien priorities is obtained in accordance with Form FmHA 1980–15, and Agency regulations;

• Ensure that all closing documents required to be recorded are recorded accurately, in the appropriate offices, and in a timely and accurate manner;

• Ensure that security interests are perfected in collateral according to applicable regulatory requirements and procedures;

• Ensure that all required hazard insurance is obtained in accordance with Agency regulations;

• Collect all fees and costs due and payable by the borrower in the course of the loan transaction and disburse payment directly to the parties for services rendered; and

• Ensure that all loan proceeds are used as authorized.

The entire loan will be secured equally with the same security and the same lien priority for both the guaranteed and unguaranteed portions of the loan, under the assurance that the unguaranteed portion of the loan will not be paid first nor given any preference or priority over the guaranteed portion of the loan

4. *Lender's Sale or Assignment of Guaranteed Loan.*

The Lender may retain all of any guaranteed loan. The Lender is not permitted to sell or participate any amount of the guaranteed or unguaranteed portion(s) of loan(s) to the applicant or borrower or members of their immediate families, their officers, directors, stockholders, other owners, or any parent, subsidiary, or affiliate. The Lender may market all or part of the guaranteed portion of the loan or after loan closing only if the loan is not in default as set forth in the terms of the note. A line of credit may only be marketed by participation. Refer to 7 CFR 1980.119 for further guidelines.

D. Servicing Requirements

1. *Responsibilities.* The Lender will service the entire loan as mortgagee and/or secured party of record in a reasonable and prudent manner, notwithstanding the fact that another (Holder) may hold a portion of the loan. The Lender will obtain compliance with the covenants and provisions in the note, security instruments, and any other agreements, and notify FmHA and the borrower of any violations. Specific responsibilities are described in 7 CFR 1980.130.

2. *Negligent Servicing.* The guarantee cannot be enforced by the Lender to the extent a loss results from a violation of usury laws or negligent servicing regardless of when FmHA discovers such violation or negligence. Negligent servicing is defined as the failure to perform services which a reasonably prudent lender would perform in servicing its own portfolio of loans that are not guaranteed. The term includes both a failure to act and also not acting in a timely manner in include actions taken up to the time of loan maturity or until a final loss is paid. (See 7 CFR 1980.11.)

3. *Payments.* Payments from the borrower shall be processed upon receipt according to 7 CFR 1980.119, and may include escrow premiums for hazard insurance and real estate taxes. The Lender shall promptly disburse to any Holder(s) their pro rata share thereof which has been determined according to their respective interests in the loan, less only the Lender's servicing fee.

4. *Collateral*

a. *Insurance.* The Lender shall ensure that adequate insurance is maintained in accordance with Agency regulations, including the maintenance of hazard insurance containing a loss payable clause in favor of the Lender as the mortgagee or secured party.

b. *Escrow Accounts.* The Lender may establish separate escrow accounts. All escrow accounts must meet applicable Federal and State laws and regulations, and must be fully insured by the FDIC.

c. *Inspection.* The Lender shall inspect the collateral as often as necessary to properly service the loan and ensure the collateral is being properly maintained.

d. *Taxes.* The Lender shall ensure that taxes, assessments, or ground rents against or affecting collateral are paid.

5. *Delinquent Accounts*

a. The Lender will notify FmHA using Form FmHA 1980–44, "Guaranteed Loan Borrower Default Status," when a borrower is 30 days past due on a payment or if the borrower has not provided the required financial statements to the Lender or is otherwise in default. The Lender will continue to submit Form FmHA 1980–44 every 60 days until the default is resolved, and will notify the Agency when the default is resolved. A meeting will be arranged by the Lender with the borrower and FmHA to resolve the problem. Actions taken by the Lender, with written concurrence of FmHA, may include but are not limited to, any curative actions contained in Subpart B or 7 CFR Part 1980 or liquidation.

b. The loan may be reamortized, rescheduled, or written down only with the agreement of any Holder(s) of the guaranteed portion of the loan, and only with FmHA's written agreement.

c. The Lender will negotiate in good faith to resolve any problem in order to allow the borrower to cure a default, where reasonable. The Lender agrees that if liquidation of the account becomes imminent, the Lender will consider the borrower for Interest Assistance under Exhibit D of Subpart B of 7 CFR Part 1980, and request a determination of the borrower's eligibility by FmHA. The Lender may not initiate foreclosure action on the loan until 60 days after eligibility of the borrower to participate in the Interest Assistance Program has been established.

d. Debt Writedown. (Refer to 7 CFR Part 1980. Subpart B, 1980.125.) The maximum amount of loss payment associated with a loan/line of credit agreement which has been written down will not exceed the percent of the guarantee multiplied by the difference between the outstanding principal and interest balance of the loan (including any capitalized interest resulting from the restructuring of the loan and not exceeding statutory loan limits) before the writedown and the outstanding balance of the loan after the writedown. The Lender will use Form FmHA 449–30, "Loan Note Guarantee Report of Loss," to request an estimated loss payment to receive its pro rata share of any loss sustained. Interest will be paid to the date of the check on all debt writedown claims.

e. The Lender must participate in any farm credit mediation program of any State in accordance with the rules of that system and 7 CFR Part 1980, Subpart B, 1980.126.

f. When the borrower has not made payment of principal or interest due on the loan for 60 days or more or the Lender has failed to give the Holder(s) its pro rata share of any payment made by the borrower within 30 days of receipt of the payment, the Holder may request the lender to repurchase the unpaid guaranteed portion of the guaranteed loan. If the Lender chooses not to repurchase, FmHA will purchase the unpaid principal balance. Upon FmHA's repurchase, the lender will liquidate the account or reimburse FmHA the amount of the repurchase within 180 days of FmHA's repurchase. See 7 CFR 1980.119 for further guidance on repurchasing loans from Holder(s).

6. *Default/Liquidation*

a. *Protective Advances.* Protective advances must constitute a debt of the

borrower to the Lender and be secured by the security instrument(s). FmHA written authorization is required on all protective advances in excess of $3,000 made by a CLP Lender. For non-CLP Lenders, the amount is $500. Refer to 7 CFR 1980.136.

b. *Additional Loan or Advances.* Except as provided for in each Borrower's loan agreement, the Lender will not make additional expenditures or new loans without first obtaining the written approval of FmHA even though such expenditures or loans will not be guaranteed.

c. *Future Recovery.* After a loan has been liquidated and a final loss has been paid by FmHA, any future funds which may be recovered by the Lender, will be pro-rated between FmHA and the Lender. FmHA will be paid the amount recovered in proportion to the percentage it guaranteed for the loan.

d. *Transfer and Assumption Cases.* Refer to 7 CFR 1980.123. If a loss occurs upon the completion of a transfer and assumption for less than the full amount of the debt and transferor debtor (including Guarantors) is released from personal liability, the Lender, if it holds the guaranteed portion, may file an estimated Report of Loss on Form FmHA 449–30, "Loan Note Guarantee Report of Loss," to recover its pro rata share of the actual loss at that time. In completing Form FmHA 449–30, the amount of the debt assumed will be entered as Net Collateral (Recovery). Approved protective advances and accrued interest thereon made during the arrangement of transfer and assumption, if not assumed by the transferee, will be entered in the appropriate space on Form FmHA 449–30.

e. *Bankruptcy.* The Lender is responsible for protecting the guaranteed loan debt and all collateral securing the loan in bankruptcy proceedings. Loss payments on bankruptcy cases will be processed according to the terms described in 7 CFR 1980.144.

f. *Liquidation.* If the Lender concludes that liquidation of a guaranteed loan account is necessary due to default or third party actions which the borrower cannot or will not cure or eliminate within a reasonable period of time, a meeting will be arranged by the Lender with FmHA. All liquidations must receive prior concurrence by the appropriate FmHA official. Refer to 7 CFR 1980.146 for specific guidance on the procedures for liquidation.

7. *Servicer*

If the lender contracts for servicing of guaranteed Farmer Programs loans, the lender is not relieved of responsibility for proper servicing of the loans.

E. Agency Reviews of Lender's Operations

FmHA shall have the right to conduct reviews, including on-site reviews, of the Lender's operations and the operations of any agent of the Lender, for the purpose of verifying compliance with this Agreement and Agency regulations and guidelines. These reviews may include, but are not limited to: audits of case files; interviews with owners, managers, and staff; audits of collateral; and inspections of the Lender's and/or its agents underwriting, servicing, and liquidation guidelines. The Lender and/or its agents shall provide access to all pertinent information to allow the Agency, or any party authorized by the Agency, to conduct such reviews.

F. Conformance to Standards

1. *Standards.* The Lender shall conform to the standards outlined in this Agreement and Agency regulations for participation in Farmer Programs Guaranteed Loan Programs. CLP Lenders must maintain compliance with the criteria set forth in 7 CFR 1980.190. The Agency shall determine Lender adherence to the standards based on:

- Adequacy in meeting requirements for origination, servicing, and liquidation of loans and lines of credit, including protection of collateral;
- Satisfaction of the reporting requirements of the Agency;
- Success in operating in a sound and prudent businesslike manner;
- Portfolio performance compared to overall performance of the Farmer Program Guaranteed Loan Programs; and
- Results of on-site reviews of the underwriting and/or servicing performed by the Lender.

2. *Determination of Non-Conformance.* The Agency shall carefully consider the circumstances and available facts in determining whether there is a pattern of Lender non-conformance with applicable standards. FmHA shall determine the propriety of any decision made by the Lender based on the facts available at the time the specific action was taken. It is understood by the Agency and intended by this Agreement that the Lender has the authority to exercise reasonable judgment in performing acts within its authority. However, FmHA reserves the right to question any act performed or conclusion drawn that is inconsistent with this Agreement or Agency regulations.

3. *Agency Action.* If the Lender is determined to be in non-conformance with any Federal law, State law, Agency regulation or guideline, or the terms of this Agreement, FmHA reserves the right to take action in accordance with its laws and regulations.

4. *Lender Right of Appeal.* FMHA shall provide the Lender an opportunity to appeal, in accordance with Agency regulations at 7 CFR Part 1980, Subpart A, adverse actions taken by the Agency.

Part II—List of Agency Regulations and Guidelines and Designation of Lender Authority To Perform Certain Acts

A. List of Agency Regulations

The following is a list of FmHA regulations which, along with any future amendments consistent with this Agreement, contain the information necessary for the Lender to be in compliance with Agency requirements.

1. 7 CFR 1980 Subpart A—General
2. 7 CFR 1980 Subpart B—Farmer Program Loans

B. Authority To Perform Certain Acts

Lenders participating in the CLP may be granted special authority to certify compliance with certain statutory or regulatory requirements. 7 CFR 1980.190 describes authorities and responsibilities for CLP Lenders.

Part III—Duration and Modification

A. Duration and Termination

1. *Duration of Agreement.* For CLP Lenders, this Agreement is valid for five years unless terminated by the Lender or FmHA as described below or revoked according to 7 CFR 1980.190. For non-CLP Lenders, this Agreement will be valid indefinitely unless terminated by the Lender or FmHA as described below.

2. *Modification of Agreement.* This Agreement may be modified or extended only in writing and by consent of all parties.

3. *Termination of FmHA.* This Agreement may be terminated by FmHA in accordance with Agency regulations.

4. *Termination by the Lender.* This Agreement may be terminated by the Lender by providing 30 days written notice to FmHA.

5. *Effect of Termination on Responsibilities and Liabilities.* Responsibilities or liabilities that existed before the termination of the Agreement with regard to outstanding guarantees will continue to exist after termination unless the Agency expressly releases the Lender from such responsibilities or liabilities in writing. The Lender shall remain obligated to service and liquidate the guaranteed loans remaining in the portfolio unless and until FmHA or the Lender transfers the loans. These requirements concerning loan management by the Lender and rights of the Agency under this Agreement shall remain in effect whether the Agreement is terminated by the Lender or FmHA.

B. Entire Agreement

This Agreement, Parts I through IV inclusive, and any regulations or guidelines incorporated by reference, shall constitute the entire Agreement. There are no other agreements, written or oral, regarding the terms in this Agreement which are or shall be binding on the parties.

Part IV—Endorsement

The undersigned certifies that they have read and understand the requirements of this Agreement, and in 7 CFR Part 1980, Subparts A and B, and agree to the participation requirements and other provisions of this Agreement.

Notice. Requests for Guarantee and any notices or actions are expected to be initiated through the following FmHA County Offices:

_____

_____

_____

_____

_____

Lender: Complete this block of Section IV.

XXI. Lender

_____

(Name)

_____

(IRS I.D. Tax No.)

By:

_____

(Signature)

_____

(Name Typed or Printed)
Title
Date
Attest

This block of Section IV will be completed by FmHA.
The effective date of this Agreement is
The expiration date of this Agreement is

UNITED STATES OF AMERICA
Farmers Home Administration
By:

(Signature)
Title

(Name Typed or Printed)
Date

Subpart B—Farmer Program Loans

9. Section 1980.124 is amended by removing paragraph (d)(1); by redesignating paragraphs (d)(2) and (d)(3) as paragraphs (d)(1) and (d)(2), respectively; and by revising paragraphs (a)(7), (b)(6) and (e) to read as follows:

§ 1980.124 Consolidation, rescheduling, reamortizing and deferral.

(a) * * *

(7) The lender may capitalize the outstanding interest when restructuring the loan. If Forms FmHA 449–34, 449–35, 449–36, 1980–27, or 1980–38 previously executed for the guaranteed loan/line of credit prohibit the capitalization of interest, the County Supervisor will provide the lender with Form FmHA 1980–85. By executing this form, FmHA waives the restriction only for capitalization of interest resulting from restructuring a Farmer Programs loan and not exceeding statutory loan limits. The form will set out the new principal loan amount (treating delinquent interest as principal) and the guaranteed portion of the loan amount. If these forms do not prohibit the capitalization of interest, the new principal loan and the guaranteed portion, if greater than the original amounts of the forms, will be identified in an addendum, Form FmHA 1980–84. The appropriate modification form will be issued under this paragraph after the appropriate official concurs with the restructuring. Subsequent servicing of the guaranteed loans will take into account the new principal and guaranteed amounts. Capitalized interest authorized under this paragraph will be treated as part of the principal and interest indebtedness in calculating the maximum loss amount under § 1980.20 of subpart A of this part.

* * * * *

(b) * * *

(6) There is no limit on the number of times a consolidation or rescheduling action may take place.

* * * * *

(e) *Principal limit.* As a result of the capitalization of interest with restructuring, the rescheduled/reamortized note or line of credit agreement which exists after a consolidation occurs may increase the amount of principal which the borrower would have been required to pay if the rescheduling, reamortization, or consolidation had not been made. However, in no case will such principal amount ever exceed the statutory loan limits set out in this subpart.

Dated: March 9, 1994.

Bob J. Nash,

Under Secretary for Small Community and Rural Development.

[FR Doc. 94–7545 Filed 3–29–94; 8:45 am]

BILLING CODE 3410–07–U

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 103, 208, 236, 242, and 274a

[INS No. 1651–93; AG Order No. 1862–94]

RIN 1115–AD64

Rules and Procedures for Adjudication of Applications for Asylum or Withholding of Deportation and for Employment Authorization

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule.

SUMMARY: This rule would amend existing regulations to streamline the adjudication of asylum applications submitted to Asylum Officers within the Immigration and Naturalization Service (INS). The rule would allow the INS to grant asylum to deserving applicants more promptly and to resolve expeditiously the great number of meritless and abusive applications being filed each year. Under the rule, Asylum Officers would no longer prepare detailed denials in cases where they do not grant asylum to applicants who have no legal immigration status, but instead would automatically issue mandatory referrals of these applications to Immigration Judges for completion of the adjudication as part of exclusion or deportation proceedings. In addition, the rule makes interviews discretionary, authorizing the Asylum Officers to refer claims immediately to Immigration Judges. The rule also would restrict employment authorization to applicants for asylum or withholding of deportation whose claims have been pending for more than 150 days, a period which would not run until the alien has filed a complete application and would not include delays sought or caused by the applicant. This rule also would conform existing regulations to the current practice of receiving applications for asylum and withholding of deportation at the four INS Service Centers. To provide necessary funding for the asylum adjudications process, the rule would provide for imposition of a filing fee for asylum applications and for employment authorization applications based on a pending asylum application.

DATES: Written comments must be submitted on or before May 31, 1994.

ADDRESSES: Please submit written comments, in triplicate, to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, room 5307, 425 I Street NW., Washington, DC 20536. To ensure proper handling please reference INS No. 1651–93 on your correspondence.

FOR FURTHER INFORMATION CONTACT: Christine Davidson, Senior Policy Analyst, Asylum Division, Immigration and Naturalization Service, 425 I Street NW., ULLICO 3rd Floor, Washington, DC 20536, (202) 633–4389, or Gerald S. Hurwitz, Counsel to the Director, Executive Office for Immigration Review, 2400 Skyline Tower, 5107 Leesburg Pike, Falls Church, VA 22041, (703) 305–0470.

SUPPLEMENTARY INFORMATION:

Background

The Refugee Act of 1980, Public Law 96–212, amended the Immigration and Nationality Act ("Act") by adding a new section 208 to require the Attorney General to establish a procedure for any alien who is physically present in the United States or at a land border or port of entry, regardless of such alien's status, to apply for asylum. 8 U.S.C. 1158. Under 8 CFR part 208, effective October 1, 1990, applications for asylum or withholding of deportation filed by aliens who are not subject to exclusion or deportation proceedings, as well as the applications of alien crewmen, stowaways, and aliens temporarily excluded under section 235(c) of the Act, 8 U.S.C. 1225(c), are adjudicated in the first instance by a corps of professional Asylum Officers in the Office of Refugees, Asylum, and Parole. 8 CFR 208.1, 208.2, 208.4, and 253.1(f). An Asylum Officer conducts a nonadversarial interview with an applicant to elicit all relevant and useful information bearing on the applicant's eligibility for asylum, and has authority to receive other evidence bearing on the claim. 8 CFR 208.9. When an Asylum Officer intends to deny an application

in reliance upon any materials identified in 8 CFR 208.12, that material must be identified, and unless the material is classified, the applicant must be provided with an opportunity to inspect, explain, and rebut the material. The Asylum Officer must decide whether to grant or deny the application after review of the properly submitted rebuttal. If the Officer denies the application, he or she must prepare and serve upon the applicant an opinion stating why the application was denied. A decision to grant asylum also requires a written decision. 8 CFR 208.14 and 208.17.

If an Asylum Officer denies an application for asylum or withholding of deportation, the applicant may renew that application before an Immigration Judge after the applicant has been served a Notice to Alien Detained for Hearing by an Immigration Judge (Form I–122) under 8 CFR 235.6, or after the applicant has been served with an Order to Show Cause under 8 CFR 242.1. Immigration Judges have exclusive jurisdiction over these applications once the charging document has been filed with the Office of the Immigration Judge. 8 CFR 208.2(b). The Immigration Judge shall decide such claims de novo. 8 CFR 208.2(b). If denied, the alien, by filing a Notice of Appeal (Form EOIR–26), may obtain review of his or her claim by the Board of Immigration Appeals. The alien may pursue further appeals in the Federal courts.

An applicant for asylum also is eligible to apply for employment authorization. 8 CFR 208.7(a) and 274a.12(c)(8). Such applications, submitted on Forms I–765, often accompany asylum applications. The INS must adjudicate an employment authorization application within 90 days of receipt, 8 CFR 274a.13(d), and must grant employment authorization if the asylum application is not frivolous. "Frivolous," as defined in 8 CFR 208.7(a), means "manifestly unfounded or abusive."

The existing system for adjudicating asylum claims cannot keep pace with incoming applications and does not permit the expeditious removal from the United States of those persons who claims fail. While part of this difficulty is attributable to limited resources, the problem also stems in large part from the effort to meet procedural requirements imposed by current regulations. On October 1, 1990, the INS had a backlog of approximately 90,000 asylum claims. Since that date, approximately 250,000 cases have been added to that backlog. Asylum applications are received at a current rate approaching 150,000 per year. A significant and growing percentage of current receipts are claims that appear on their face to be nonmeritorious or abusive. As currently constituted, INS regulations mandate the interview of all applicants, adjudication of requests for work authorization, written decisions by an Asylum Officer justifying all denials, de novo review of denials by an Immigration Judge, at the availability of administrative and judicial review if the Immigration Judge also denies the claim. Taken together, these requirements unduly lengthen and complicate the adjudication process without appreciable benefit to deserving asylum applicants. Indeed, most asylum applicants wait a year or more to receive even initial decisions on their cases.

Summary of the Proposed Rule

The proposed rule will streamline the asylum adjudications process by making several principal reforms.

First, the role and functions of Asylum Officers will change to allow the Officers to address a greater volume of applications and to concentrate their efforts on approving meritorious claims. Officers will no longer deny applications from aliens who are excludable or deportable. Under this proposed rule, Officers will either grant the application or refer the application to the Immigration Judge after serving upon the applicant a charging document (Form I–122 or Order to Show Cause) to initiate exclusion or deportation proceedings. The Asylum Officer will no longer prepare and send a Notice of Intent to Deny in those cases that the Officer does not intend to grant. Instead, the Asylum Officer will issue an automatic mandatory referral letter and, with supervisory approval, a charging document. Supervisory Asylum Officers already have the authority to issue such charging documents under 8 CFR 235.6(a) and 242.1(a)(21). In addition, Asylum Officers no longer will be required to conduct personal interviews, but will have discretion to conduct such an interview in any case they deem appropriate.

Asylum Officers will continue to grant or deny applications in the small number of cases involving aliens who have a current legal immigration status not derived from their asylum application. In this circumstance no charging document will be issued if the Officer denies the claim. The applicant instead will receive a denial letter from the Asylum Officer.

Second, in cases referred to an Immigration Judge, the Asylum Officer shall refer and forward to the Office of the Immigration Judge the asylum application originally received by the Asylum Officer. This application shall form part of the record of proceedings. This reform is intended to encourage the filing of complete and responsive applications in the first instance and to discourage applicants from filing claims before Immigration Judges that differ from the claims they filed before Asylum Officers.

Third, an asylum applicant will not be eligible to apply for employment authorization based on his or her asylum application until 150 days after the date on which the asylum application is fled. These reforms are important for several reasons. They will encourage the INS and the Office of the Immigration Judge to adjudicate claims promptly within the 150-day period, since, by doing so, they would avoid the necessity of separately adjudicating the work authorization applications. These reforms also will authorize the INS to deny employment authorization to those whose underlying asylum applications have been denied. These reforms should reduce the incidence of asylum applications filed primarily to obtain employment authorization.

Applicants with pending asylum claims will wait longer than required at present to receive employment authorization. The Department selected 150 days as the period beyond which it would not be appropriate to deny work authorization to a person whose claim has not been adjudicated. Ideally, however, few applicants would ever reach the 150-day point. Rather, the Department would aim to complete the process in less time, serving to decide most cases within 120 days. Those whose claims are not adjudicated by the Asylum Officer and the Immigration Judge within the 150-day period will, subject to certain conditions, be eligible to apply for and to receive work authorization. The INS will adjudicate these applications for work authorization within 30 days of receipt, regardless of the merits of the underlying asylum claim. Those whose claims are denied by the Immigration Judge within the 150-day period shall not be eligible to apply for work authorization. In addition, those whose claims are denied by the Immigration Judge within the 30-day period, but prior to the issuance of employment authorization, will not receive employment authorization. Applicants granted asylum will continue to be authorized immediately to be employed.

The proposed rule also would eliminate the provisions of 8 CFR 274a.12(c)(13), which permit the issuance of employment authorization to any non-detained alien against whom exclusion or deportation proceedings

have been instituted. The INS believes that the other paragraphs within 8 CFR 274a.12(c) provide an adequate basis for the issuance of employment authorization to virtually all deserving persons in exclusion or deportation proceedings who are not detained.

The proposed rule also would institute a fee for filing asylum applications. Under 31 U.S.C. 9701, federal agencies may, subject to policies prescribed by the President, assess user fees for services and things of value that they provide. The statute authorizing this practice indicated that it was the sense of the Congress that "each service or thing of value provided by an agency" should be "self-sustaining to the extent possible." 31 U.S.C. 9701(a). Until now, the INS has sought to provide asylum status determinations without charge to the asylum applicant. Asylum applicants have paid a fee only when filing an application for renewed work authorization. The INS has avoided charging asylum application fees by adding a surcharge to the fees for filing applications for immigration benefits other than asylum. Monies collected through this surcharge have, in part, funded the asylum program, as permitted by section 286(m) of the Act, 8 U.S.C. 1356(m). The INS has determined, however, that even the funds collected through the surcharge have failed to cover the costs of administering the asylum program. For this reason, it has become necessary to propose a filing fee for persons filing an application for asylum or withholding of deportation (Form I–589, "Request for Asylum in the United States"). Asylum applicants also would pay a fee to file initial applications for employment authorization (Form I–765, "Application for Employment Authorization").

The estimated cost associated with adjudicating each asylum application, taking into account the salaries and benefits of asylum officers and clerical staff, supervisory, management and administrative activities, data processing, and legal services, is $615. As it would impose a hardship on asylum applicants were they required to pay the entire cost of the service rendered them, part of this cost is recovered through the surcharge mentioned above. The INS has calculated that the portion not currently recovered through the surcharge could be recovered if the proposed fee for asylum applications were set at $130. Asylum applicants applying for initial work authorization would pay an additional fee of $60, the fee currently set forth at 8 CFR 103.7(b). Both fees would be subject to the waiver available under 8 CFR 103.7(c) to applicants who cannot pay the prescribed fee.

Beyond these principal reforms, the proposed rule will eliminate the requirement that asylum adjudicators await the receipt of advisory opinions from the Department of State. Instead, the State Department will provide detailed country conditions information accessible by electronic data base. In addition, both the INS and Immigration Judges may request specific information from the State Department concerning country conditions or individual cases and the State Department also may provide, at this discretion, information available to it concerning individual cases. However, the proposed rule would eliminate the requirement that Asylum Officers and Immigration Judges wait for the receipt of State Department comments before adjudicating authorizations for asylum.

In addition, the proposed rule would authorize Asylum Officers and Immigration Judges to deny otherwise approvable claims on the ground that the applicant can be deported or returned to a country on which the alien would not face harm or persecution and would have access to a full and fair procedure for determining his or her asylum claim in accordance with a bilateral or multilateral arrangement with the United States. This authority will be helpful in coordinating United States asylum policy with that of other nations.

The proposed rule also would curtail the authority of Asylum Officers to grant or deny withholding of deportation under section 243(h) of the Act, 8 U.S.C. 1253(h). Under current regulations, if an Asylum Officer denies an alien's application for asylum, he shall also decide whether the alien is entitled to withholding of deportation. 8 CFR 208.16(a). Under the proposed rule, however, Asylum Officers will no longer deny asylum in the cases of aliens who are to be placed in exclusion or deportation proceedings, and thus will have no reason to reach the issue of withholding of deportation. Accordingly, it is appropriate to limit jurisdiction over withholding of deportation to Immigration Judges. The only cases in which Asylum Officers could adjudicate such claims would be those involving crewmen stowaways, or aliens temporarily excluded under section 235(c) of the Act, 8 U.S.C. 1225(c).

Finally, the proposed rule would amend 8 CFR 242.17(e) to specify that information contained in an asylum application may be used as a basis for an Order to Show Cause against the applicant under 8 CFR 242.1. This change ensures that the INS may use the asylum application to refer expeditiously to Immigration Judges the cases of otherwise deportable applicants whose claims are not granted by Asylum Officers.

Several sections amended by this proposed rule were the subject of a prior proposed rule designed to implement the intent of Congress to eliminate asylum benefits for aliens convicted of aggravated felonies and to classify aggravated felonies as "particularly serious crimes" under section 243(h) of the Act, 8 U.S.C. 1253(h). See 58 FR 38312–38314 (July 16, 1993). In order to simplify the rulemaking process, the substance of the provisions set forth in the prior proposed rule have been incorporated into the present proposed rule, and the prior proposed rule is withdrawn. The provisions of the prior proposed rule have not been adopted verbatim, but have been adapted to reflect the overall changes made by this proposed rule. However, the substantive effects of the aggravated felony provisions in this proposed rule are identical to those set forth in the prior proposed rule.

The comments to the prior proposed rule recommended that conviction for an aggravated felony not automatically constitute a "particularly serious crime," and that asylum applicants convicted of an aggravated felony be given an opportunity to demonstrate that they are not a danger to the community. The INS believes that this proposal is contrary to the Congress's intent in enacting section 515 of the Immigration Act of 1990, 8 U.S.C. 1158(d). The Department invites comments on these provisions, including comments from those who responded to the prior proposed rule.

This proposed rule also makes several conforming and technical amendments. The rule deletes all references to the Asylum Policy and Review Unit, an entity within the Department of Justice that no longer exists. The rule also clarifies the responsibilities of the asylum applicant to provide a competent interpreter at an interview with an Asylum Officer.

Proposed Amendments

8 CFR 103.7(b)(1) would be amended to provide that a fee of $130.00 be charged for the filing of a Form I–589, Application for Asylum or Withholding of Deportation.

8 CFR 208.1(a) would be amended to specify that these regulations will apply to all adjudications of asylum applications, whether by an Asylum Officer or by an Immigration Judge, on or after the effective date of the

regulations; and to specify that the provisions relating to a person convicted of an aggravated felony, as defined in section 101(a)(43) of the Act, 8 U.S.C. 1101(a)(43), shall apply to asylum applications filed on or after November 29, 1990. 8 CFR 208.1 also would be amended to make a number of technical amendments.

8 CFR 208.2(a) would be amended to specify that asylum applications received by an Asylum Officer are either to be adjudicated by the Officer or referred to an Immigration Judge in accordance with amended 8 CFR 208.14. 8 CFR 208.2(b) would be amended to specify that in cases where the adjudication of an application has been referred by an Asylum Officer to an Immigration Judge in accordance with 8 CFR 208.14, the original application shall be forwarded to the Immigration Judge. This paragraph also would be amended to specify that Asylum Officers do not have jurisdiction to grant or deny withholding of deportation, except, pursuant to 8 CFR 253.1(f), in cases of crewmen, stowaways, and aliens temporarily excluded under section 235(c) of the Act, 8 U.S.C. 1225(c).

8 CFR 208.3(a) would be amended by eliminating the requirement that a Form G–325A (Biographical Information) be filed. This reflects the fact that the Form I–589 is to be revised to include complete biographical information. Also, the form and any supporting material is to be filed in triplicate, rather than quadruplicate. 8 CFR 208.3 also would be amended by adding new paragraphs (c) and (d). Proposed paragraph (c) states that the instructions on the asylum application shall inform the applicant that information provided on the application may be used in the institution of, or as evidence in, exclusion or deportation proceedings; that mailing to the address provided on the application shall constitute adequate service of all notices or other documents, including charging documents; that preparers assisting applicants in completing their asylum applications must be identified clearly; that the signatures on the application are made under penalty of perjury and may form the basis for denial if the applicant later expresses ignorance of the contents of the application; that failure to respond to all of the questions may form the basis for denial; and that knowing placement of false information may subject the applicant or preparer to civil penalties under section 274C of the Act, 8 U.S.C. 1324c. Proposed paragraph (d) requires that the application be signed under penalty of perjury by the applicant and by any person other than an immediate relative who prepared or assisted the applicant in preparing the application.

8 CFR 208.4(a) would be amended to provide that, except for applications that are to be filed with the District Director or the Office of the Immigration Judge under 8 CFR 208.4 (b) and (c), respectively, applications shall be filed by mail with the Service Center servicing the Asylum Office with jurisdiction over the place of the applicant's residence. The amended paragraph also would specify that addresses of the Service Centers shall be made available through the local INS Information Unit. This amendment will conform the regulations to current INS practice and will not have an adverse impact on any applicant for asylum or withholding of deportation. Incorrectly addressed applications shall continue to be forwarded to the appropriate Service Center.

8 CFR 208.4(a) also would be amended to provide that in the case of an applicant convicted of an aggravated felony, the Asylum Office shall not forward a copy of the application to the Department of State. This amendment is adopted from the prior proposed rule on aliens convicted of aggravated felonies. See 58 FR 38312 (July 16, 1993).

8 CFR 208.4 also would be amended by adding a new paragraph (d) requiring asylum applicants to include with their Form I–589 the fee set forth in 8 CFR 103.7(b)(1).

8 CFR 208.7 would be amended to state that, unless he or she has been convicted of an aggravated felony, an applicant for asylum shall be eligible to submit an application for employment authorization (I–765) under 8 CFR 274a.12(c)(8). Such an application may be submitted no earlier than 150 days after the date on which the applicant's application for asylum was filed in accordance with amended 8 CFR 208.4. An applicant whose I–589 application has been denied by an Immigration Judge during this 150-day period shall not be eligible to apply for employment authorization as an asylum applicant even if he or she is appealing the denial. Furthermore, an applicant who is in legal immigration status and whose I–589 application is denied by an Asylum Officer within the 150-day period shall not be eligible for work authorization under 8 CFR 274a.12(c)(8). An initial application for employment authorization shall be adjudicated by the INS, after the expiration of the 150-day period, within 30 days of receipt. An applicant whose I–589 application is denied by an Immigration Judge or by an Asylum Officer after the filing of the I–765, but prior to adjudication of the I–765 within the 30-day period, shall be denied employment authorization under 8 CFR 274a.12(c)(8). For purposes of computing the 150-day and 30-day periods, these periods shall be extended by the equivalent of any delay requested or caused by the applicant. The periods also shall be extended by the equivalent of the time between the issuance of a request for evidence under 8 CFR 103.2(b)(8) and the receipt of the applicant's response to such request.

In addition, 8 CFR 208.7 would establish that an applicant who has been convicted of an aggravated felony shall not be granted employment authorization. If an applicant has previously received employment authorization and his or her application for asylum or withholding of deportation is denied because the applicant has been convicted of an aggravated felony, the employment authorization shall terminate automatically, as of the date of the denial. This amendment is adopted from the prior proposed rule on aliens convicted of aggravated felonies. See 58 FR 38312, 38313 (July 16, 1993).

8 CFR 208.7(d) would be amended to require that, in order for employment authorization to be renewed before its expiration, applications for renewal must be received by the INS at least ninety days before the employment authorization expires.

8 CFR 208.9 would be amended in several respects. These amendments include provisions adopted from the prior proposed rule on aliens convicted of aggravated felonies. See 58 FR 38312–38314 (July 16, 1993).

First, paragraph (a) would be amended to provide that an Asylum Officer has discretion to conduct an interview in those cases such Officer deems appropriate.

Second, 8 CFR 208.9 (b) and (c) would be amended to require the asylum applicant to provide full identifying information at the time of any interview and to authorize the Asylum Officer to further register or verify that identity, including through the use of electronic means. The Asylum Officer also would be permitted to verify the identity of the interpreter.

Third, 8 CFR 208.9(d) would be amended to require that, at the conclusion of the interview, the applicant be notified that he or she must appear in person to acknowledge receipt of the written decision of the Asylum Officer.

Fourth, a new paragraph (g) would be added to 8 CFR 208.9, specifying that an applicant who is unable to proceed with his or her interview in English must supply a competent interpreter, at no

expense to the INS. The proposed paragraph (g) would prohibit the applicant's attorney or a witness testifying on the applicant's behalf from serving as the interpreter.

8 CFR 208.11 would be amended to change the role of the Department of State from one of routinely providing comments on individual cases to one of providing primarily generic, non-case-specific, current country conditions information. The rule would eliminate the mandatory period during which Asylum Officers and Immigration Judges must await receipt of State Department comments in individual cases, but would permit the State Department to comment on individual cases at its discretion.

8 CFR 208.12(a) would be amended to eliminate the provisions requiring an Asylum Officer to provide the applicant with an opportunity to inspect, explain, or rebut the material(s) relied upon to find that the applicant's claim has not been approved. The Asylum Officer will continue to rely upon materials provided by the Department of State, the District Director, or other credible sources in making a decision to grant asylum, to refer the case to an Immigration Judge, or to deny asylum for applicants having another lawful immigration status. The applicant will have the opportunity to review such materials to the extent they are relied upon in the course of proceedings before an Immigration Judge.

8 CFR 208.14 would be amended by inserting a new paragraph (b) to limit the authority of an Asylum Officer to deny applications for asylum or withholding of deportation to those cases involving aliens who do not appear to be excludable or deportable under sections 212 or 242 of the Act (8 U.S.C. 1182 or 1252), respectively. Officers would continue to have the authority to grant applications from any applicant, provided, as a present, that the applicant is not in exclusion or deportation proceedings. If the Officer does not grant the application, and the applicant is subject to exclusion or deportation proceedings, the Officer shall refer the application to an Immigration Judge for adjudication in connection with those proceedings. In addition, a new paragraph (d)(4) would specify that conviction of an aggravated felony is a mandatory ground for denial. This amendment is adopted from the prior proposed rule or aliens convicted of aggravated felonies. See 58 FR 38312, 38313 (July 16, 1993).

8 CFR 208.14 also would be amended by adding a new paragraph (e) to set forth a ground for discretionary denial. Asylum applications could be denied in the discretion of the Attorney General when the applicant can and will be deported or returned to a country in which the alien would not face persecution or harm and would have access to a full and fair procedure for determining his or her refugee status in accordance with a bilateral or multilateral arrangement with the United States governing such matters. Nothing in this provision would limit the discretion of the Attorney General to permit consideration of the application in instances where there is good reason for the applicant to remain in the United States.

8 CFR 208.16 would be amended to restrict the adjudication by Asylum Officers of claims for withholding of deportation to cases involving crewmen, stowaways, and aliens temporarily excluded under section 235(c) of the Act, 8 U.S.C. 1225(c), which cases come under the jurisdiction of the Asylum Officer pursuant to 8 CFR 253.1(f). This section also would be amended to specify that an alien convicted of an aggravated felony is ineligible to receive withholding of deportation. This amendment is adopted from the prior proposed rule on aliens convicted of aggravated felonies. See 58 FR 38312, 38313 (July 16, 1993).

8 CFR 208.17 would be amended to provide for service of a referral under 8 CFR 208.14(b) to the applicant, the District Director, and the Office of Refugees, Asylum, and Parole.

8 CFR 208.18(b) would be amended to provide that in a case referred to an Immigration Judge under amended 8 CFR 208.14(b), the Asylum Officer, pursuant to the authority set forth in 8 CFR 235.6(a) and 242.1(a), shall issue either an Order to Show Cause to place the applicant in deportation proceedings or a Notice to Applicant for Admission Detained for Hearing Before Immigration Judge to place the applicant in exclusion proceedings.

8 CFR 208.20 would be amended to clarify that a person eligible for work authorization as a result of being granted asylum shall receive documentation establishing such authorization expeditiously, upon application to the Service.

8 CFR 208.21 would be amended to specify that an asylee's spouse or child accompanying or following to join the asylee may not be granted asylum if the spouse or child has been convicted of an aggravated felony. This amendment is adopted from the prior proposed rule on aliens convicted of aggravated felonies. See 58 FR 38312, 38314 (July 16, 1993).

8 CFR 208.24 would be amended to clarify that the procedure stated therein for revocation of a grant of asylum shall be followed when asylum was granted by a District Director. This section also would be amended to eliminate paragraph (f), regarding the authority of the Deputy Attorney General, assisted by the Asylum Policy and Review Unit, to review decisions to revoke asylum or withholding or withholding of deportation. This change reflects the fact that the Asylum Policy and Review Unit no longer exists.

8 CFR 236.3 and 8 CFR 242.17 would be amended to eliminate the requirement that exclusion and deportation hearings be deferred until the receipt of comments from the Department of State.

8 CFR 242.17(e) would be amended to provide that the INS may use information contained in an asylum application submitted to an Asylum Officer in accordance with 8 CFR 208.2 to form the basis for issuance of an Order to Show Cause under 8 CFR 242.1

8 CFR 274a.12(c)(8) would be amended to conform the criteria for eligibility for employment authorization to those set forth in amended 8 CFR 208.7(a). The text of 8 CFR 274a.12(c)(13) would be removed and the paragraph reserved.

8 CFR 274a.13(a) would be amended to clarify that applicants for employment authorization under 8 CFR 274a.12(a) are authorized to be employed in the United States by virtue of their immigration status, and that approval of applications for employment authorization filed under 8 CFR 274a.12(c), except for those filed under 8 CFR 274a.12(c)(8), is within the discretion of the District Director. Applications filed under 8 CFR 274a.12(c) will be adjudicated at the Service Center or at such other INS office as the Commissioner shall designate. This paragraph also would be amended to require that an application for employment authorization or for renewal of employment authorization based on a pending asylum application be filed with a fee, or with an application for waiver of such fee, and that such applications be filed either with the Service Center or with such other INS office as the Commissioner may designate.

In accordance with 5 U.S.C. 605(b), the Attorney General certifies that this rule will not have a significant adverse economic impact on a substantial number of small entities, based upon the following factors. This rule principally affects the adjudication of individual claims for asylum and withholding of deportation and thus would have no significant economic impact on small businesses, organizations, or state or local

governmental agencies. The amendments to regulations concerning the issuance and renewal of employment authorization documents could have a small and indirect impact upon business entities by withholding employment authorization in certain cases.

The Department of Justice considers this rule to be a "significant regulatory action" under section 3(f) of Executive Order 12866, and accordingly has submitted this rule to the Office of Management and Budget for review.

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

The Attorney General has reviewed this rule in light of section 2(c) of Executive Order 12778 and finds that the rule meets the applicable standards provided in section 2(b) of the order.

The information collection requirements contained in this rule have been submitted to the Office of Management and Budget under the provisions of the Paperwork Reduction Act. Clearance numbers for these collections are contained in 8 CFR 299.5, Display of Control Numbers.

List of Subjects

8 CFR Part 103

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of information, Privacy, Reporting and recordkeeping requirements, Surety bonds.

8 CFR Part 208

Administrative practice and procedure, Aliens, Immigration, Reporting and recordkeeping requirements.

8 CFR Part 236

Administrative practice and procedure, Aliens, Immigration.

8 CFR Part 242

Administrative practice and procedure, Aliens.

8 CFR Part 274a

Administrative practice and procedure, Aliens, Employment, Penalties, Reporting and recordkeeping requirements.

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

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

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

Authority: 5 U.S.C. 552, 552a; 8 U.S.C. 1101, 1103, 1201, 1252 note, 1252b, 1304, 1356; 31 U.S.C. 9701; E.O. 12356; 47 FR 14874, 15557, 3 CFR, 1982 Comp., p. 166; 8 CFR part 2.

2. Section 103.7, paragraph (b)(1) is amended by adding in proper numerical sequence Form I–589 to the forms to read as follows:

§ 103.7 Fees.

* * * * *

(b) (1) * * *

(1) * * *

* * * * *

Form I–589. For filing application for asylum or withholding of deportation—$130 per application.

* * * * *

PART 208—PROCEDURES FOR ASYLUM AND WITHHOLDING OF DEPORTATION

3. The authority citation for part 208 is revised to read as follows:

Authority: 8 U.S.C. 1103, 1158, 1226, 1252, 1282; 31 U.S.C. 9701; 8 CFR part 2.

4. Section 208.1 is amended by:

a. Revising the first sentence in paragraph (a);

b. Removing in paragraph (a), in the second and fourth sentences, the phrase "Other 1, 1990" and adding in its place "(Insert date final rule is published in the **Federal Register**)";

c. Adding at the end of paragraph (a) a new sentence;

d. Revising the second sentence in paragraph (b); and

e. Removing in paragraph (c) the phase "assist the Deputy Attorney General and the Director of the Asylum Policy and Review Unit, in coordination" and adding in its place the word "coordinate", to read as follows:

§ 208.1 General.

(a) This part shall apply to all adjudications of applications for asylum or withholding of deportation, whether by an Asylum Officer or an Immigration Judge, that occur on or after (Insert date final rule is published in the **Federal Register** and all adjudications or referrals by an Asylum Officer in accordance with § 208.14. * * * The provisions of this part relating to a person convicted of an aggravated felony, a defined in section 101(a)(43) of the Act (8 U.S.C. 1101(a)(43)), shall apply to applications for asylum or withholding of deportation that are filed on or after November 29, 1990.

(b) * * * These shall include a corps of professional Asylum Officers who are to receive special training in international human rights law, conditions in countries of origin, and other relevant national and international refugee laws. * * *

* * * * *

5. Section 208.2 is amended by:

a. Revising the second sentence in paragraph (a); and

b. Revising the second and third sentences in paragraph (b), to read as follows:

§ 208.2 Jurisdiction.

(a) * * * All such applications shall be either adjudicated or referred by Asylum Officers under this part in accordance with § 208.14, provided that with the exception of cases involving crewman, stowaways, or aliens temporarily excluded under section 235(c) of the Act, 8 U.S.C. 1225(c), which are within the jurisdiction of an Asylum Officer pursuant to 8 CFR 253.1(f), an Asylum Officer shall not decide whether an alien is entitled to withholding of deportation under section 243(h) of the Act, 8 U.S.C. 1253(h).

(b) * * * The Immigration Judge shall make a determination on such claims. In cases where the adjudication of an application has been referred in accordance with § 208.14, that application shall be forwarded with the charging document to the Office of the Immigration Judge by the Office of Refugees, Asylum, and Parole.

6. Section 208.3 is amended by:

a. Removing from the first sentence in paragraph (a) the word "quadruplicate" and adding in its place "triplicate";

b. Revising the third and fourth sentences in paragraph (a); and

c. Adding new paragraphs (c) and (d), to read as follows:

§ 208.3 Form of application.

(a) * * * An application shall be accompanied by one completed Form FD–258 (Fingerprint Card) for every individual included on the application who is fourteen years of age or older. Additional supporting material may also accompany the application and, if so, must be provided in triplicate. Forms I–589 and FD–258 shall be available from the INS and the Offices of Immigration Judges. * * *

* * * * *

(c) The application (Form I–589) shall be filed under the following conditions and shall have the following consequences, as shall be noted in the instructions on the application:

(1) Information provided in completing the application may be used as a basis for the institution of, or as evidence in, exclusion proceedings in accordance with part 236 of this chapter or deportation proceedings in accordance with part 242 of this chapter;

(2) Information provided in the application may be used to satisfy the burden of proof of the INS in establishing the applicant's deportability under part 242 of this chapter;

(3) Mailing to the address provided on the application shall constitute adequate service of all notices or other documents, including an Order to Show Cause (Form I–221) or a Notice to Applicant for Admission Detained for Hearing Before Immigration Judge (Form I–122);

(4) The signatures on the application of the applicant and anyone who assists the applicant are made subject to penalty of perjury and, if the applicant later claims ignorance of the contents of the application, may provide the basis for denial of the claim;

(5) An application that is incomplete or lacks a response to each of the enumerated questions may be referred to an Immigration Judge for adjudication or may be denied by the Asylum Officer; and

(6) Knowing placement of false information on the application may subject the person placing that information on the application to criminal penalties under title 18 of the United States Code and to civil penalties under section 274C of the Act (8 U.S.C. 1324c). An application for asylum or withholding of deportation that does not include a response to each of the questions contained in the Form I–589, that is unsigned, that is unaccompanied by the required materials specified in paragraph (a) of this section, or that is unaccompanied by the required fee or an application for fee waiver, in incomplete.

(d) The applicant must sign the application under penalty of perjury. If a person other than an immediate relative of the applicant has prepared or assisted the applicant in preparing the application, that person also must sign the application under penalty of prejury and provide his or her full mailing address.

7. Section 208.4 is amended by revising paragraph (a) and adding a new paragraph (d) to read as follows:

§ 208.4 Filing the application.

* * * * *

(a) *With the Service Center by mail.* Except as provided in paragraphs (b) and (c) of this section, applications for asylum or withholding of deportation shall be filed directly by mail with the Service Center servicing the Asylum Office with jurisdiction over the place of the applicant's residence or, in the case of an alien without a United States residence, the applicant's current lodging or the land border port of entry from which the alien seeks admission to the United States. The addresses of the Service Centers shall be made available through the local INS Information Unit. Upon receipt of the application, except in the case of an alien who has been convicted of an aggravated felony, the Service Center shall forward a copy of the application to the Department of State.

* * * * *

(d) The applicant shall include the appropriate fee as prescribed in 8 CFR 103.7(b)(1), or application for waiver of such fee as provided in 8 CFR 103.7(c)(1), when submitting the application.

8. Section 208.5 is amended by removing from paragraph (b) "235" and adding in its place "236".

9. Section 208.7 is amended by:

a. Revising the section heading;

b. Revising paragraph (a);

c. Revising the introductory text of paragraph (b);

d. Adding a new paragraph (b)(3); and

e. In paragraph (d), removing the word "sixty" and adding in its place "ninety", to read as follows:

§ 208.7 Employment authorization.

(a)(1) An applicant for asylum who has not been convicted of an aggravated felony shall be eligible pursuant to §§ 274a.12(c)(8) and 274a.13(a) of this chapter to submit an application for employment authorization (Form I–765). The application for employment authorization shall be submitted, with fee or application for waiver of such fee, no earlier than 150 days after the date on which the application for asylum has been filed in accordance with § 208.4 of this part. If an application for waiver of the fee is denied, the INS shall not issue a document evidencing employment authorization until the fee is paid. An applicant whose application for asylum has been denied by an Immigration Judge or by an Asylum Officer within the 150-day period shall not be eligible to apply for employment authorization. After the expiration of the 150-day period, the INS shall have 30 days from the date of filing of an initial application for employment authorization to grant or deny that application. If the INS fails to adjudicate the application within that period, the alien shall be eligible for interim employment authorization under this chapter. If an application for asylum is denied by an Immigration Judge or an Asylum Officer within the 30-day period, but prior to a decision on the application for employment authorization, the application for employment authorization shall be denied.

(2) An applicant who has been convicted of an aggravated felony shall not be granted employment authorization. In cases where an applicant has previously received employment authorization and his or her application for asylum or withholding of deportation is denied because the applicant has been convicted of an aggravated felony, the employment authorization shall terminate as of the date of the denial.

(3) For purposes of this paragraph, the limitations on the time periods within which the alien may not apply for employment authorization and within which the INS must respond to any such application shall be construed as running only after the alien has filed a complete asylum application in accordance with § 208.3. Such time limits shall be extended by the equivalent of any delay requested or caused by the applicant. Such time limits also shall be extended by the equivalent of the time between issuance of a request for evidence under 8 CFR 103.2(b)(8) and the receipt of the applicant's response to such request.

(4) An applicant who inexcusably fails to appear for a scheduled interview before an Asylum Officer or hearing before an Immigration Judge shall not be granted employment authorization.

(b) Subject to the restrictions in paragraph (b)(3) of this section, employment authorization shall be renewable, in increments to be determined by the Commissioner, for the continuous period of time necessary for the Asylum Officer or Immigration Judge to decide the asylum application and, if necessary, for final adjudication of any administrative or judicial review.

* * * * *

(3) If an application for asylum filed on or after November 29, 1990 is denied pursuant to § 208.14(c)(4) or § 208.16(c)(2)(ii) because the applicant has been convicted of an aggravated felony, any employment authorization previously issued under § 208.7(a) shall automatically terminate as of the date of the denial.

* * * * *

10. Section 208.9 is amended by:
a. Revising paragraph (a);
b. Revising paragraph (b);
c. Revising paragraph (c);
d. Adding a new sentence at the end of paragraph (d);
e. Revising paragraph (e); and
f. Adding a new paragraph (g), to read as follows:

§ 208.9 Interview and procedure.

(a) Interviews on asylum applications are discretionary. For each application for asylum or withholding of deportation within the jurisdiction of the Office of Refugees, Asylum, and Parole, an interview may be conducted by an Asylum Officer, either at the time of the application or at a later date to be determined by the Officer. Applications within the jurisdiction of an Immigration Judge are to be adjudicated under the rules of procedure established by the Executive Office for Immigration Review in parts 3, 236, and 242 of this chapter.

(b) The Asylum Officer shall conduct the interview in a nonadversarial manner and, at the request of the applicant, separate and apart from the general public. The purpose of the interview shall be to elicit all relevant and useful information bearing on the applicant's eligibility for the form of relief sought. At the time of the interview, the applicant must provide complete information regarding his or her identity, including name, date and place of birth, and nationality, and may be required to register this identity electronically or through any other means designated by the Attorney General. The applicant may have counsel or a representative present and may submit affidavits of witnesses.

(c) The Asylum Officer shall have authority to administer oaths, verify the identity of the applicant (including through the use of electronic means), verify the identity of any interpreter, present and receive evidence, and question the applicant and any witnesses.

(d) * * * Upon completion of the interview, the applicant also shall be informed that he or she must appear in person to receive and to acknowledge receipt of the decision of the Asylum Officer, and any other accompanying material, at a time and place designated by the Asylum Officer.

(e) The Asylum Officer shall consider evidence submitted by the applicant together with his or her asylum application, as well as any evidence submitted by the applicant before or at the interview if an interview is conducted. As a matter of discretion, the Asylum Officer may grant the applicant a brief extension of time following an interview during which the applicant may submit additional evidence. Any such extension shall extend by equivalent time the periods specified by § 208.7 for the filing and adjudication of employment authorization applications.

* * * * *

(g) An applicant unable to proceed with the interview in English must provide, at no expense to the INS, a competent interpreter fluent in both English and the applicant's native language. The interpreter must be at least 18 years of age. Neither the applicant's attorney of record nor a witness testifying on the applicant's behalf may serve as the applicant's interpreter. Unexcused failure to meet this requirement may be considered an unexcused failure to appear for the interview for purposes of § 208.10.

11. Section 208.11 is amended by:
a. Revising the section heading;
b. Removing paragraph (b);
c. Redesignating paragraphs (a) and (c) as paragraphs (b) and (d), respectively;
d. Adding a new paragraph (a);
e. Revising newly redesignated paragraph (b); and
f. Adding a new paragraph (c), to read as follows:

§ 208.11 Comments from the Department of State.

(a) At its option, the Department of State may provide detailed country conditions information addressing the specific conditions relevant to eligibility for refugee status according to the grounds specified in section 101(a)(42) of the Act, 8 U.S.C. 1101(a)(42). Any such information relied upon by an Immigration Judge in deciding a claim for asylum or withholding of deportation shall be made part of the record and the parties shall be provided an opportunity to review and respond to such information prior to the issuance of a decision.

(b) At its option, the Department of State also may comment on an application it receives pursuant to § 208.4(a), § 236.3, or § 242.17 of this chapter by providing:

(1) An assessment of the accuracy of the applicant's assertions about conditions in his or her country of nationality or habitual residence and his or her own experiences;

(2) Information about whether persons who are similarly situated to the applicant are persecuted in his or her country of nationality or habitual residence and the frequency of such persecution;

(3) Such other information as it deems relevant to deciding whether to grant or to deny the application.

(c) Asylum Officers and Immigration Judges may request specific comments from the Department of State regarding individual cases or types of claims under consideration, or such other information as they deem appropriate. Any such comments shall be made part of the record and the parties shall be provided an opportunity to review and respond to such comments prior to the issuance of a decision.

* * * * *

§ 208.12 [Amended]

12. In § 208.12, paragraph (a) is amended by removing from the first sentence the term, "the Asylum Policy and Review Unit," and by removing the second sentence in its entirety.

§ 208.13 [Amended]

13. In § 208.13, paragraph (b)(1)(ii) is amended by removing from the last sentence the citation "§ 208.14(c)" and adding in it place "§ 208.14(d)".

14. Section 208.14 is amended by:
a. Revising the section heading;
b. Removing in paragraph (a) the words "or Asylum Officer";
c. Removing in paragraph (a) the phrase "paragraph (c)" and adding in its place the phrase "paragraph (d)";
e. Redesignating paragraph (b) and (c) as paragraphs (c) and (d) respectively;
f. Adding a new paragraph (b);
g. Removing in redesignated paragraph (d)(2) the word "or" at the end of the paragraph;
h. Removing in redesignated paragraph (d)(3) the "." at the end of the paragraph and adding in its place "; or";
i. Adding a new paragraph (d)(4); and
j. Adding a new paragraph (e), to read as follows:

§ 208.14 Approval, denial, or referral of application.

* * * * *

(b) An Asylum Officer may grant or deny asylum in the exercise of discretion to an applicant who qualifies as a refugee under section 101(a)(42) of the Act (8 U.S.C. 1101(a)(42)) unless otherwise prohibited by paragraph (d) of this section, except that an Asylum Officer shall not deny asylum in the case of an alien who shall appear to be deportable under section 241 of the Act (8 U.S.C. 1251) or excludable under section 212 of the Act (8 U.S.C. 1182), other than a crewman, stowaway, or alien temporarily excluded under section 235(c) of the Act (8 U.S.C. 1225(c)). In such cases, the Asylum Officer shall either grant asylum or refer the application to an Immigration Judge

for adjudication in deportation or exclusion proceedings commenced in accordance with part 236 or part 242 of this chapter, respectively. The Asylum Officer shall notify the applicant of a referral under this section. Adjudication of an asylum application filed by a crewman, stowaway, or alien temporarily excluded under section 235(c) of the Act (8 U.S.C. 1225(c)) shall be conducted under the procedures set forth in § 253.1(f) of this chapter.

* * * * *

(d) * * *

(4) The alien has been convicted of an aggravated felony, as defined in section 101(a)(43) of the Act, 8 U.S.C. 1101(a)(43).

(e) *Discretionary denials.* An application from an alien who is otherwise eligible for asylum may be denied in the discretion of the Attorney General if the alien can and will be deported or returned to a country in which the alien would not face harm or persecution and would have access to a full and fair procedure for determining his or her asylum claim in accordance with a bilateral or multilateral arrangement with the United States governing such matter.

15. Section 208.16 is amended by revising paragraph (a) and paragraph (c)(2)(ii) to read as follows:

§ 208.16 Entitlement to withholding of deportation.

(a) *Consideration of application for withholding of deportation.* With the exception of cases that are within the jurisdiction of an Asylum Officer pursuant to 8 CFR 253.1(f), an Asylum Officer shall not decide whether an alien is entitled to withholding of deportation under section 243(h) of the Act, 8 U.S.C. 1253(h). If the application for asylum is granted, no decision on withholding of deportation will be made unless and until the grant of asylum is later revoked or terminated and deportation proceedings at which a new request for withholding of deportation is made are commenced. In such proceedings, an Immigration Judge may adjudicate both a renewed asylum claim and a request for withholding of deportation simultaneously whether or not asylum is granted.

* * * * *

(c) * * *

(2) * * *

(ii) The alien, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of the United States. An alien who has been convicted of an aggravated felony shall be considered to have committed a particularly serious crime and to constitute a danger to the community of the United States.

* * * * *

16. Section 208.17 is revised to read as follows:

§ 208.17 Decision.

The decision of an Asylum Officer to grant or to deny asylum or withholding of deportation, or to refer an application in accordance with § 208.14(b) shall be communicated in writing to the applicant, the Assistant Commissioner, Refugees, Asylum, and Parole, and the District Director having jurisdiction over the place of the applicant's residence or over the port of entry from which the applicant sought admission to the United States. A letter communicating denial of the application shall state why asylum or withholding of deportation was denied. The letter also shall contain an assessment of the applicant's credibility, unless the application was denied pursuant to § 208.14(c)(4) or § 208.16(c)(2)(ii). Pursuant to § 208.9(d), an applicant may be required to appear in person to receive and to acknowledge receipt of the decision.

17. Section 208.18 is amended by:

a. Removing from the second sentence in paragraph (a) the phrase ", assisted by the Asylum Policy and Review Unit,";

b. Removing from the third sentence in paragraph (a) the phrase ", or to the Asylum Policy and Review Unit,"; and

c. Revising paragraph (b), to read as follows:

§ 208.18 Review of decisions and appeal.

* * * * *

(b) Except as provided in § 253.1(f) of this chapter, there shall be no appeal from a decision of an Asylum Officer. In a case referred to an Immigration Judge in accordance with § 208.14(b), the Supervisory Asylum Officer, pursuant to the authority set forth in §§ 235.6(a) and § 242.1(a) of this chapter, shall issue respectively a Notice to Applicant for Admission Detained for Hearing Before Immigration Judge (Form I–122) or an Order to Show Cause (Form I–221).

* * * * *

18. Section 208.20 is revised to read as follows:

§ 208.20 Approval and employment authorization.

When an alien's application for asylum is granted, he or she is granted asylum status for an indefinite period. All approved asylees and their eligible derivative family members are authorized to be employed in the United States pursuant to § 274a.12(a)(5) of this chapter and must, if intending to be employed, apply to the INS for a document evidencing such authorization. The INS shall issue such document within 30 days of the receipt of the application therefor.

19. Section 208.21 is amended by:

a. Revising the introductory text of paragraph (a);

b. Removing at the end of paragraph (a)(2) the word "or";

c. Removing at the end of paragraph (a)(3) the "." and adding in its place "; or";

d. Adding a new paragraph (a)(4), to read as follows:

§ 208.21 Admission of asylee's spouse and children.

(a) *Eligibility.* A spouse, as defined in section 101(a)(35) of the Act, or child, as defined in section 101(b)(1) (A), (B), (C), (D), (E) or (F) of the Act, also may be granted asylum if accompanying or following to join the principal alien who was granted asylum, unless it is determined that: * * *

* * * * *

(4) The spouse or child has been convicted of an aggravated felony, as defined in section 101(a)(43) of the Act, 8 U.S.C. 1101(a)(43).

* * * * *

20. Section 208.24 is amended by:

a. Revising the heading and introductory text of paragraph (a);

b. Removing in paragraph (a)(3), the citation "208.14(c)" and adding in its place the citation "208.14(d)";

c. Removing paragraph (f); and

d. Redesignating paragraph (g) as paragraph (f), to read as follows:

§ 208.24 Revocation of asylum or withholding of deportation.

(a) *Revocation of asylum by the Assistant Commissioner, Office of Refugees, Asylum, and Parole.* Upon motion by the Assistant Commissioner and following a hearing before an Asylum Officer, the grant to an alien of asylum made under the jurisdiction of an Asylum Officer or a District Director may be revoked if, by a preponderance of the evidence, the INS establishes that: * * *

* * * * *

PART 236—EXCLUSION OF ALIENS

21. The authority citation for part 236 continues to read as follows:

Authority: 8 U.S.C. 1103, 1182, 1224, 1225, 1226, 1362.

22. Section 236.3 is amended by:

a. Revising the introductory text of paragraph (a);

b. Removing from the first sentence in paragraph (b) the citation "§ 208.4(b)" and adding in its place the citation "§ 208.4(c)"; and

c. Revising the second sentence in paragraph (b), to read as follows:

§ 236.3 Applications for asylum or withholding of deportation.

(a) If an alien expresses fear of persecution or harm upon return to his or her country of origin or to a country to which the alien may be deported after exclusion from the United States pursuant to part 237 of this chapter, and the alien has not previously filed an application for asylum or withholding of deportation that has been referred to the Immigration Judge by an Asylum Officer in accordance with § 208.14(b) of this chapter, the Immigration Judge shall: * * *

(b) * * * Upon receipt of an application that has not been referred by an Asylum Officer, the Office of the Immigration Judge shall forward a copy to the Department of State pursuant to § 208.11 of this chapter and shall calendar the case for a hearing. * * *

* * * * *

PART 242—PROCEEDINGS TO DETERMINE DEPORTABILITY OF ALIENS IN THE UNITED STATES: APPREHENSION, CUSTODY, HEARING, AND APPEAL

23. The authority citation for part 242 continues to read as follows:

Authority: 8 U.S.C. 1103, 1182, 1186a, 1251, 1252, 1252 note, 1252b, 1254, 1362; 8 CFR part 2.

24. Section 242.17 is amended by:

a. Revising the introductory text of paragraph (c)(2);

b. Removing from the first sentence in paragraph (c)(3) the citation "§ 208.4(b)" and adding in its place the citation "§ 208.4(c)";

c. Revising the second sentence in paragraph (c)(3); and

d. Adding in paragraph (e) a new sentence immediately after the first sentence, to read as follows:

§ 242.17 Ancillary matters, applications.

* * * * *

(c) * * *

(2) If the alien expresses fear of persecution or harm upon return to any of the countries to which the alien might be deported pursuant to paragraph (c)(1) of this section, and the alien has not previously filed an application for asylum or withholding of deportation that has been referred to the Immigration Judge by an Asylum Officer in accordance with 8 CFR 208.14(b), the Immigration Judge shall: * * *

(3) * * * Upon receipt of an application that has not been referred by an Asylum Officer, the Office of the Immigration Judge shall forward a copy to the Department of State pursuant to § 208.11 of this chapter and shall calendar the case for a hearing. * * *

* * * * *

(e) * * * However, nothing in this section shall prohibit the INS from using information supplied in an application for asylum or withholding of deportation submitted to an Asylum Officer pursuant to 8 CFR 208.2 as the basis for issuance of an Order to Show Cause under 8 CFR 242.1. * * *

PART 274a—CONTROL OF EMPLOYMENT OF ALIENS

25. The authority citation for part 274a continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1324a; 8 CFR part 2.

26. Section 274a.12 is amended by:

a. Revising paragraph (c)(8);

b. Revising the first sentence in paragraph (c)(10); and

c. Removing and reserving paragraph (c)(13), to read as follows:

§ 274a.12 Classes of aliens authorized to accept employment.

* * * * *

(c) * * *

(8) An alien who has filed a complete application for asylum or withholding of deportation pursuant to part 208 of this chapter, whose application has not been decided, and who is eligible to apply for employment authorization under § 208.7 of this chapter because the 150-day period set forth in that section has expired. Employment authorization may be granted according to the provisions of § 208.7 in increments to be determined by the Commissioner and shall expire on a specified date.

* * * * *

(10) An alien who has filed an application for suspension of deportation pursuant to part 244 of this chapter, if the alien establishes an economic need to work. * * *

* * * * *

(13) [Reserved].

* * * * *

27. Section 274a.13 is amended by revising paragraph (a) and the first sentence of paragraph (d), to read as follows:

§ 274a.13 Application for employment authorization.

(a) *General.* Aliens authorized to be employed under § 274a.12(a) (3)–(8) and (10)–(13) must file an application for employment authorization (Form I–765) in order to obtain documentation evidencing this fact.

(1) Aliens who may apply for employment authorization under § 274a.12(c), except for those who may apply under § 274a.12(c)(8), shall file a Form I–765 with the district director having jurisdiction over the applicant's residence, or the district director having jurisdiction over the port of entry at which the alien applies, or with such other INS office as the Commissioner may designate. The approval of applications filed under § 274a.12(c), except for § 274a.12(c)(8), shall be within the discretion of the district director. Where economic necessity has been identified as a factor, the alien must provide information regarding his or her assets, income, and expenses in accordance with instructions on Form I–765.

(2) An initial application for employment authorization (Form I–765) filed under § 274a.12(c)(8) shall be filed, with fee or with application for waiver of such fee, in accordance with the instructions on or attached to Form I–765, with the appropriate Service Center or with such other INS office as the Commissioner may designate. The applicant also must submit a copy of the underlying application for asylum or withholding of deportation, together with evidence that the application has been field in accordance with part 208 of this chapter. An application for an initial employment authorization filed in relation to a pending claim for asylum shall be adjudicated in accordance with § 208.7 of this chapter. An application for renewal of employment authorization submitted in relation to a pending claim for asylum, as provided for in § 208.7 of this chapter, shall be filed, with fee or with application for waiver of such fee, in accordance with the instructions on or attached to Form I–765, with the appropriate Service Center or with such other INS office as the Commissioner may designate.

* * * * *

(d) *Interim employment authorization.* The district director shall adjudicate the application within 90 days from the date of receipt of the application by the INS; provided, however, that in cases where the alien is temporarily barred from seeking employment authorization because of a pending asylum application or exclusion or deportation proceedings, the district director shall adjudicate the employment authorization within 30 days of receipt. * * *

Dated: March 24, 1994.

Janet Reno,

Attorney General.

[FR Doc. 94–7500 Filed 3–29–94; 8:45 am]

BILLING CODE 4410–10–M

UNITED STATES ENRICHMENT CORPORATION

10 CFR Part 1102

Freedom of Information Act Regulations

AGENCY: United States Enrichment Corporation.

ACTION: Proposed rule.

SUMMARY: The United States Enrichment Corporation (Corporation), a Government corporation establish by the Energy Policy Act of 1992, is issuing these proposed implementing regulations pursuant to the Freedom of Information Act (FOIA). The implementing regulations would establish procedures for the disclosure of information by the Corporation under FOIA. The objective of these implementing regulations is to facilitate the exercise of rights conferred on the public by FOIA and to ensure that the Corporation's determinations regarding disclosure of information is in compliance with FOIA. In conjunction with these implementing regulations, the Corporation is soliciting comments from interest parties that it will review and, where appropriate, reflect in the final rule.

DATES: Comments must be submitted on or before April 29, 1994.

ADDRESSES: Comments may be mail to the Office of General Counsel, United States Enrichment Corporation, 2 Democracy Center, 6903 Rockledge Drive, Bethesda, Maryland 20817.

FOR FURTHER INFORMATION CONTACT: Robert J. Moore, General Counsel, (301) 564–3200.

SUPPLEMENTARY INFORMATION:

Background

The United States Enrichment Corporation (Corporation), an agency and instrumentality of the United States, was established by the Energy Policy Act of 1992 (P.L. 102–486; 42 U.S.C. 2297 *et seq.*), as a wholly owned Government corporation. On July 1, 1993, the Corporation assumed responsibility for the majority of the uranium enrichment enterprise activities formerly conducted by the U.S. Department of Energy. Since that date, the Corporation has been the exclusive marketing agent for the U.S. Government for entering into contracts for providing enriched uranium and uranium enrichment and related services. In connection with its legitimate activities, the Corporation possesses records that may fall within the scope of the Freedom of Information Act (FOIA), 5 U.S.C. 552. Consequently, the Corporation is promulgating these implementing regulations pursuant to 5 U.S.C. 552(a)(4)(A) to ensure compliance with the provisions of FOIA.

In general, FOIA provides for public access to records in the possession of the Corporation, while preserving the Corporation's ability to protect certain specifically exempted material from disclosure. Specifically, FOIA requests the Corporation to publish certain information in the **Federal Register**, including a description of the organization of the Corporation and substantive rules of general applicability, and make other information available for public inspection and copying, including statements of policy and interpretations adopted by the Corporation which are not published in the **Federal Register**. FOIA also requires the Corporation to make records available in response to a request which (i) reasonably describes such records; and (ii) is made in accordance with these implementing regulations, which state the time, place, fees and procedures to be followed. The Corporation, however, will not treat records that have been prepared by a contractor, and are available to the Corporation pursuant to the terms of a contract between the Corporation and the contractor, but which have not been delivered to the Corporation, as "records" available in response to a request made in accordance with these implementing regulations. Finally, FOIA exempts specific categories of matters from disclosure pursuant to a request for information made under these implementing regulations. For example 5 U.S.C. 552(b)(3) exempts those matters which are "specifically exempted from disclosure by statue * * * provided that such statute" meets certain criteria. Recognizing the unique status of the Corporation as a government agency with the statutory mission to "operate as a business enterprise on a profitable and efficient basis," Congress specifically provided the Corporation with authority to "protect trade secrets and commercial or financial information to the same extent as a privately owned corporation," 42 U.S.C. 2297b–13(a). The Corporation interprets 42 U.S.C. 2297b–13(a) as being a statute covered by section (b)(3) of FOIA and anticipates that a significant amount of the Corporation's records will fall under this exemption.

Proposed Rule

As a whole, these implementing regulations provide the means necessary for the public to exercise fully the rights provided under FOIA. Section 1102.3 establishes the Corporation's policy regarding the disclosure of Corporation records pursuant to FOIA. Section 1102.4 establishes the availability of materials to the public as required by 5 U.S.C. 552(a)(2) and (5). Section 1102.5 establishes procedures by which the public can request access to Corporation records which are not covered by 5 U.S.C. 552(a)(1) or (2) and time requirements regarding the Corporation's response to such requests. Section 1102.6 establishes nine categories of matters which are exempt from all publication and disclosure requirements of FOIA, provides for the disclosure of any reasonably segregable portion of an exempted record subsequent to deletion of exempted portions of the record, and establishes guidance for the Corporation in relation to providing a requesting party with information regarding exempt material. Section1102.7 establishes procedures for responding to a request for disclosure of records made pursuant to these implementing regulations. Section 1102.8 establishes procedures for denying a request for disclosure of records made pursuant to these implementing regulations. Section 1102.9 establishes procedures for the appeal of a denial of a request for disclosure of records made pursuant to these implementing regulations. Section 1102.10 establishes the schedule of fees applicable to the processing of requests under these implementing regulations and also establishes procedures and guidance for determining when such fees should be waived or reduced. Section 1102.11 establishes procedures to notify submitters of information containing confidential commercial information, as defined by Executive order 12600, with notice of a request for such information submitted pursuant to these implementing regulations.

Paperwork Reduction Act

The Corporation certifies that these implementing regulations do not require additional reporting under the criteria of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

Executive Order 12291

These implementing regulations are not a "major rule" within the meaning

of E.O. 12291 because they: (1) Do not have an annual effect on the economy of $100 million or more; (2) do not result in a major increase in the cost of financial institution operations or governmental supervision; and (3) do not have a significant adverse effect on competition (foreign or domestic), employment, investment productivity or innovation within the meaning of E.O. 12291. Accordingly, a regulatory impact analysis is not required.

Regulatory Flexibility Act

Pursuant to Section 605(b), the Corporation certifies that these implementing regulations, and any final regulations that may be adopted following comment on these implementing regulations, are not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq. These regulations implement FOIA, which is concerned with disclosure of records in the possession of an agency of the Federal Government. Accordingly, a regulatory flexibility analysis is not required.

List of Subjects in 10 CFR Part 1102

Administrative practice and procedures, Records.

Issued in Washington, DC, March 25, 1994.

William H. Timbers, Jr.,

President and Chief Executive Officer.

For the reasons set out in the preamble, 10 CFR chapter 11 is proposed to be added as follows:

Chapter XI United States Enrichment Corporation

PART 1102—PROCEDURES FOR DISCLOSURE OF INFORMATION UNDER THE FREEDOM OF INFORMATION ACT

Sec.

1102.1 Purpose.
1102.2 Definitions.
1102.3 Policy.
1102.4 Public Reading Room.
1102.5 Availability of records on request.
1102.6 Exemptions.
1102.7 Officials authorized to grant or deny requests for records.
1102.8 Denials.
1102.9 Appeals of denials.
1102.10 Fees.
1102.11 Notice to submitters of certain information.

Authority: 5 U.S.C. 552.

§ 1102. Purpose.

This part prescribes the procedures by which records of the United States Enrichment Corporation may be made available pursuant to section 1314 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2297b–13, and the Freedom of Information Act, 5 U.S.C. 552.

§ 1102.2 Definitions.

As used in this part—

Commercial use request means request from or on behalf of one who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made. In determining whether a request for records properly belongs in this category, the Corporation will look to the use to which a requester will put the documents requested. When the Corporation has reasonable cause to doubt the use to which a requester will put the records sought, or where the use is not clear from the request itself, it will seek additional clarification before assigning the request to a specific category. If still in doubt, the Corporation will make the determination based on the factual circumstances surrounding the request, including the identity of the requester.

Corporation means the United States Enrichment Corporation.

Duplication means the process of making a copy of a document necessary to respond to a FOIA request. Such copies can take the form of paper copy, microform, audio-visual materials, or machine readable documentation (*e.g.*, magnetic tape or disk), among others.

Educational institution means a preschool, a public or private elementary or secondary school, an institution of graduate higher education, an institution of undergraduate higher education, an institution of professional education, or an institution of vocational education, which operates a program or programs of scholarly research.

FOIA means the Freedom of Information Act, 5 U.S.C. 552.

Freedom of Information Officer means the person designated to administer the FOIA at the Corporation's headquarters.

General Counsel means the General Counsel of the Corporation or any Corporation attorney designated by the General Counsel as having responsibility for counseling the Corporation on FOIA requests.

Headquarters means the Corporation's offices at 2 Democracy Center, 6903 Rockledge Drive, Bethesda, Maryland 20817.

Non-commercial scientific institution means an institution that is not operated on a "commercial" basis and which is operated solely for the purpose of conducting scientific research, the results of which are not intended to promote any particular product or industry.

Records means books, papers, maps, photographs, or other documentary materials, regardless of physical form or characteristics, made or received by the Corporation in connection with the transaction of the Corporation's business and preserved by the Corporation as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Corporation or because of the informational value of data in them. The term does not include *inter alia*, books, magazines, or other materials acquired solely for library purposes and available through any officially designated library of the Corporation, or records that have been prepared by a contractor, and are available to the Corporation pursuant to the terms of a contract between the Corporation and the contractor (*e.g.*, the contract for the operation and maintenance of the Corporation's leased gaseous diffusion plants), but which have not been delivered to the Corporation.

Representative of the news media means any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term "news" means information that is about current events or that would be of current interest to the public. Examples of news media entities include television or radio stations broadcasting to the public at large and publishers of periodicals (but only in those instances when they can qualify as disseminators of "news") who make their products available for purchase or subscription by the general public. These examples are not intended to be all-inclusive. Moreover, as traditional methods of news delivery evolve (e.g., electronic dissemination of newspapers through telecommunications services), such alternative media would be included in this category. In the case of "freelance" journalists, they will be regarded as working for a news organization if they can demonstrate a solid basis for expecting publication through that organization, even though not actually employed by it.

Review means the process of examining documents located in response to a commercial use request to determine whether any portion of any document located is permitted to be withheld. It also includes processing any documents for disclosure, e.g., doing all that is necessary to excise them and otherwise prepare them for release. Review does not include time spent resolving general legal or policy issues regarding the application of exemptions.

Search means all the time spent looking for material that is responsive to a request, including page-by-page or line-by-line identification of material within documents. The search should be conducted in the most efficient and least expensive manner. Searches may be done manually or by computer using existing programming.

Working days means all days except Saturdays, Sundays, and legal public holidays.

§ 1102.3 Policy.

The Corporation will make records concerning its operations, activities, and business available to the public upon request. Records will be withheld from the public only in accordance with the FOIA and this part. Records that may be exempt from disclosure may be made available as a matter of discretion when disclosure is not prohibited by law, and it does not appear adverse to legitimate interests of the public, the Corporation, or any person. The Corporation will attempt to provide assistance to requesting parties, including information about how a request may be submitted. The Corporation will act on requests for records in a timely manner.

§ 1102.4 Public Reading Room.

(a) The Corporation will maintain in a public reading room at its headquarters, the materials which are required by 5 U.S.C. 552(a) (2) and (5) to be made available for public inspection and copying, unless it is determined that such records should be withheld and are exempt from mandatory disclosure under the FOIA and § 1102.6 of this part.

(b) The public reading room will maintain and make available for public inspection and copying current indices of the materials which are required to be indexed by 5 U.S.C. 552(a)(2) or other applicable statutes. Because publication of such indices is unnecessary and impracticable and because current versions thereof will be available for inspection at the Corporation's public reading room, it is determined and so ordered that the Corporation will not publish the indices in the **Federal Register**.

(c) Certain records maintained in the public reading room or otherwise made available pursuant to this part may be "edited" by the deletion of identifying details concerning individuals, to prevent a clearly unwarranted invasion of personal privacy. In such cases, the record shall have attached to it a full explanation of the deletion.

§ 1102.5 Availability of records on request.

(a) In addition to the records made available through the public reading room, the Corporation will make records available to any person in accordance with paragraphs (b) and (c) of this section, unless it is determined that such records are exempt from mandatory disclosure under the FOIA and § 1102.6 of this part and that such records should be withheld by the Corporation.

(b) *Requests.* (1) A request will be acceptable if it identifies a record with sufficient particularity to enable officials of the Corporation to locate the record with a reasonable amount of effort. Requests seeking records within a reasonably specific category will be deemed to conform to the statutory requirement of a request which "reasonably describes" such records if professional employees of the Corporation who are familiar with the subject area of the request would be able, with a reasonable amount of effort, to determine which particular records are encompassed within the scope of the request, and to search for, locate, and collect the records without unduly burdening or materially interfering with operations because of the staff time consumed or the resulting disruption of files. If it is determined that a request does not reasonably describe the records sought as specified in this paragraph, the response denying the request on that ground shall specify the reasons why the request failed to meet the requirements of this paragraph and shall extend to the requester an opportunity to confer with Corporation personnel in order to attempt to reformulate the request in a manner that will meet the needs of the requester and the requirements of this paragraph.

(2) To facilitate the location of records by the Corporation, a requester should try to provide the following kinds of information, if known: (i) The specific event or action to which the records refers; (ii) the unit or program of the Corporation which may be responsible for or may have produced the record; (iii) the date of the record or the date or period to which it refers or relates; (iv) the type of record such as an application, a grant, a contract, or a report; (v) personnel of the Corporation who may have prepared or have knowledge of the record; and (vi) citations to newspapers or publications which have referred to the record.

(3) The Corporation is not required to create a record or to seek to acquire a record from its contractors in order to satisfy a request.

(4) All requests for records under this section shall be made in writing, with the envelope and the letter clearly marked: "Freedom of Information Request." All such requests shall be addressed to the Freedom of Information Officer, 2 Democracy Center, 6903 Rockledge Drive, Bethesda, MD 20817. Any request not marked and addressed as specified in this paragraph will be so marked by Corporation personnel as soon as it is properly identified, and forwarded immediately to the Freedom of Information Officer. A request improperly addressed will not be deemed to have been received for purposes of the time period set forth in paragraph (c) of this section until forwarding to the appropriate office has been effected. On receipt of an improperly addressed request, the Freedom of Information Officer shall notify the requester of the date on which the time period commenced to run.

(5) A person desiring to secure copies of records by mail should write to the Freedom of Information Officer, 2 Democracy Center, 6903 Rockledge Drive, Bethesda, Maryland 20817. The request must identify the records of which copies are sought in accordance with the requirements of this section, and the number of copies desired. Fees may be required to be paid in advance in accordance with § 1102.10. The requester will be advised of the estimated fee, if any, as promptly as possible. If a waiver or reduction of fees is requested, the grounds for such request should be included in the letter.

(c) The Freedom of Information Officer, upon receipt of a request for any records made in accordance with this section, shall make an initial determination of whether to comply with or deny such request and dispatch such determination to the requester within 10 working days after receipt of such request, except for unusual circumstances in which case the time limit may be extended for not more than 10 working days by written notice to the requester setting forth the reasons for such extension and the date on which a determination is expected to be dispatched. In determining whether to issue a notice of extension of time for a response to a request beyond the 10-day period, Corporation officials shall consult with the Office of the General Counsel. As used herein, "unusual circumstances" are limited to the following, but only to the extent reasonably necessary to the proper processing of the particular request:

(1) The need to search for and collect the requested records from the Corporation's field offices;

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records

which are demanded in a single request; or

(3) The need for consultation, which shall be conducted with all practicable speed, including consultation with another agency having a substantial interest in the determination of the request or among components of the Corporation having substantial subject matter interest therein.

(d) If no determination has been dispatched at the end of the 10-day period, or the last extension thereof, the requester may deem the request denied, and exercise a right of appeal in accordance with § 1102.9. When no determination can be dispatched within the applicable time limit, the Freedom of Information Officer shall nevertheless continue to process the request. On expiration of the time limit, the Freedom of Information Officer shall inform the requester of the reason for the delay, of the date on which a determination may be expected to be dispatched, and of the right to treat the delay as a denial and to appeal to the Corporation's Chief Executive Officer ("CEO") in accordance with § 1102.9. The Freedom of Information Officer may ask the requester to forego appeal until a determination is made.

(e) After it has been determined to comply with a request, the Corporation will act with diligence in providing a substantive response to the requester.

§ 1102.6 Exemptions.

(a) 5 U.S.C. 552 exempts from all of its publication and disclosure requirements matters falling within nine categories, which are described in paragraph (b) of that section.

(b) Specifically, the exemptions of 5 U.S.C. 552(b) will be applied to matters that are:

(1) (i) Specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (ii) are in fact properly classified pursuant to such Executive order:

(2) Related solely to the internal personnel rules and practices of an agency:

(3) Specifically exempted from disclosure by statute (other than 5 U.S.C. 552b), provided that such statute (i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld, including sections 148 and 1314 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2168, 2297b–13), the latter of which authorizes the Corporation to "protect trade secrets and commercial or financial information to the same extent as a privately owned corporation";

(4) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the Corporation;

(6) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) Investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records could reasonably be expected to (i) interfere with enforcement proceedings, (ii) deprive a person of a right to a fair trial or an impartial adjudication, (iii) constitute an unwarranted invasion of personal privacy, (iv) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (v) disclose investigative techniques and procedures or guidelines for law enforcement investigations or prosecutions if such disclosure would risk circumvention of the law, or (vi) endanger the life or physical safety of law enforcement personnel;

(8) Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(9) Geological and geophysical information and data, including maps, concerning wells.

(c) In the event that one or more of the above exemptions applies, any reasonably segregable portion of a record shall be provided to the requester after deletion of the portions that are exempt. In appropriate circumstances, subject to the discretion of Corporation officials, it may be possible to provide a requester with:

(1) A summary of information in the exempt portion of a record; or

(2) An oral description of the exempt portion of a record.

(d) In determining whether any of the foregoing techniques, cited in paragraphs (c)(1) and (c)(2), should be employed or whether an exemption should be waived in accordance with paragraph (e) of this section, Corporation officials shall consult with the Office of General Counsel. No requester shall have a right to insist that any or all of the foregoing techniques should be employed in order to satisfy a request.

(e) Records that may be exempted from disclosure pursuant to paragraph (b) of this section may be made available as a matter of discretion when disclosure is not prohibited by law, if it does not appear adverse to legitimate interests of the Corporation, the public, or any person.

§ 1102.7 Officials authorized to grant or deny requests for records.

The General Counsel shall furnish necessary advice to Corporation officials and staff as to their obligations under this part and shall take such other actions as may be necessary or appropriate to assure a consistent and equitable application of the provisions of this part by and within the Corporation. The Freedom of Information Officer, with concurrence from the appropriate program officials of the Corporation, is authorized to grant or deny requests under this part. The Freedom of Information Officer shall consult with the General Counsel before denying requests under this part, or before granting requests for waiver or modified application of an exemption or for categories of records which the General Counsel determines may present special or unusual problems.

§ 1102.8 Denials.

(a) A denial of a written request for a record that complies with the requirements of § 1102.5 shall be in writing and shall include the following:

(1) A reference to the applicable exemption or exemptions in § 1102.6(b) upon which the denial is based;

(2) An explanation of how the exemption applies to the requested records;

(3) A statement explanation whether there is any segregable nonexempt material of the record after deleting the exempt portions;

(4) The name and title of the person or persons responsible for denying the request; and

(5) An explanation of the right to appeal the denial and of the procedures for submitting an appeal, including the address of the official to whom appeals should be submitted

(b) Whenever the Corporation makes a record available subject to the deletion of a portion of the record, such action shall be deemed a denial of a record for purposes of paragraph (a) of this section.

§ 1102.9 Appeals of denials.

(a) Any person whose written request has been denied is entitled to appeal the

denial within thirty calendar days of issuance thereof by writing the CEO of the Corporation at its headquarters. The envelope and letter should be clearly marked: "Freedom of Information Appeal." An appeal need not be in any particular form, but should adequately identify the denial, if possible, by describing the requested record, identifying the official who issued the denial, and providing the date on which the denial was issued.

(b) No personal appearance, oral argument, or hearing will ordinarily be permitted on appeal of a denial. Upon request and a showing of special circumstances, however, this limitation may be waived and an informal conference may be arranged with the Corporation CEO, or the CEO's designated representative, for this purpose.

(c) The appeal decision of the CEO, or the CEO's designated representative, shall be in writing and, in the event the denial is in whole or in part upheld, shall contain an explanation responsive to the arguments advanced by the requester, the matters described in § 1102.8(a) (1) through (4), and the provisions for judicial review of such decision under section 552(a)(4) of the FOIA. The appeal decision shall be dispatched to the requester within twenty working days after receipt of the appeal, unless an additional period is justified pursuant to § 1102.5(c). The appeal decision shall constitute the final action of the Corporation. All such decisions shall be treated as final opinions under 5 U.S.C. 552(a)(2).

§ 1102.10 Fees.

(a) Records provided routinely in the normal course of doing business will be provided at no charge.

(b) Fees shall be limited to reasonable standard charges for document search, duplication, and review, when records are for a commercial use request;

(c) Fees shall be limited to reasonable standard charges for duplication when records are not sought through a commercial use request and the request is made by an educational institution or non-commercial scientific institution, whose purpose is scholarly or scientific research, or a representative of the news media; and

(d) For any request not described in paragraph (b) or (c) of this section, fees shall be limited to reasonable standard charges for search, review and duplication.

(e) The schedule of charges for services regarding the production or disclosure of the Corporation's records is as follows:

(1) Whenever feasible, for manual searches and reviews: The basic rate(s) of pay of the employee(s) making the search and review plus 16 percent of the rate(s) to cover benefits.

(2) Computer time: Because of the diversity in the types and configurations of computers which may be required in responding to requests for records maintained in whole or part in computerized form, it is not feasible to establish a uniform schedule of fees for search and printout of such records. The charge for personnel time shall be the basic rate(s) of pay of the employee(s) involved plus 16 percent of the rate(s) to cover benefits. The charge for the computer time involved and for any special supplies or materials used shall not exceed the direct cost to the Corporation.

(3) Duplication of records: A per-page charge for paper copy reproduction of documents. At present, the charge is $0.10 per page.

(4) Duplication of microform: Actual charges as incurred.

(5) Certification of true copies: $1.00 each.

(6) Packing and mailing records: Actual charges as incurred.

(7) Special delivery or express mail: Actual charges as incurred.

(f) A record shall be furnished without any charge or at a charge reduced below the fees established under paragraph (e) of this section if disclosure of the record is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

(1) In order to determine whether disclosure of the record "is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government," the Corporation will consider the following four criteria:

(i) The subject of the request: Whether the subject of the requested records concerns "the operations or activities of the government";

(ii) The informative value of the record to be disclosed: Whether the disclosure is "likely to contribute" to an understanding of government operations or activities;

(iii) The contribution to an understanding of the subject by the general public likely to result from disclosure: Whether disclosure of the requested record will contribute to "public understanding"; and

(iv) The significance of the contribution to public understanding: Whether the disclosure is likely to contribute "significantly" to public understanding of government operations or activities.

(2) In order to determine whether disclosure of a record "is not primarily in the commercial interest of the requester," the Corporation will consider the following two factors:

(i) The existence and magnitude of a commercial interest: Whether the requester has a commercial interest that would be furthered by the requested disclosure; and, if so,

(ii) The primary interest in disclosure: Whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is "primarily in the commercial interest of the requester."

(3) A denial of a request for a waiver or reduction of fees will be subject to appeal in the same manner as appeals from denial of a request for information under § 1102.9.

(g) No fee will be charged under this section—

(1) If the costs of routine collection and processing of the fee are likely to equal or exceed the amount of the fee; or

(2) For any request described in paragraph (b), (c), or (d) of this section for the first two hours of search time and for the first one hundred pages of duplication.

(h) No requester will be required to make an advance payment of any fee unless the requester has previously failed to pay fees in a timely fashion or the Corporation has determined that the fee will exceed $250.

(1) In the event that a requester has previously failed to pay a required fee (within 30 days of the date of billing), an advance deposit of the full amount of the anticipated fee together with the fee then due plus interest accrued may be required. The request will not be deemed to have been received by the Corporation until such payment is made.

(2) In the event that the Corporation determines that an estimated fee will exceed $250, the requester shall be notified of the amount of the anticipated fee or such portion thereof as can readily be estimated. Such notification shall be transmitted as soon as possible, but in any event within five working days of such determination, giving the best estimate then available. The notification shall offer the requester the opportunity to confer with appropriate representatives of the Corporation for the purpose of reformulating the request so as to meet the requester's needs at a reduced cost. The request will not be deemed to have been received by the

corporation until an advance payment of the entire fee is made.

(i) Interest will be charged to those requesters who fail to pay the fees charged. Interest will be assessed on the amount billed, starting on the 31st calender day following the day on which the billing was set. The rate charged will be as prescribed in 31 U.S.C. 3717.

(j) If the Corporation reasonably believes that a requester or group of requesters is attempting to break a request into a series of requests for the purpose of evading the assessment of fees, the Corporation shall aggregate such requests and charge accordingly.

(k) The Corporation reserves the right to limit the number of copies that will be provided of any record to a requester or to require that special arrangements for duplication be made in the case of bound volumes or other records representing unusual problems of handling or duplication.

§ 1102.11 Notice to submitters of certain information.

(a) Upon receipt of a request for information that either, (1) the Freedom of Information Officer determines may be exempt from disclosure under paragraph (b)(4) of § 1102.6 as privileged or confidential trade secrets or commercial or financial information submitted to the Corporation by a third party or entity (other than federal government agencies); or (2) is subject to an understanding or confidentiality between the Corporation and the submitter thereof, the Freedom of Information Officer shall provide the submitter of such information with notice of the request.

(b) The Corporation shall afford a submitter of information covered by paragraph (a) of this section a period, generally not in excess of 10 working days, within which to provide the Freedom of Information Officer a detailed statement of objections to the disclosure of such information by the Corporation. The submitter's response (if any) shall include all bases, factual or legal, for the withholding of the requested information pursuant to paragraph (b)(4) of § 1102.6. If the Freedom of Information Officer does not receive a timely response from the submitter, the Freedom of Information Officer shall proceed with the determination of whether or not to release such information.

(c) Whenever the Corporation decides to release any part of the information covered by paragraph (a) of this section over the objection of the submitter, the Corporation shall forward to the submitter a written statement providing a brief explanation why the Corporation did not agree with the submitter's objections; a description of the information to be released; and the expected date of the release.

(d) If a requester or submitter brings suit against the Corporation seeking to compel or restrict the release of information covered by paragraph (a) of this section, the Corporation shall promptly notify the other party.

(e) The notice requirement of this section shall not apply if:

(1) The information has been published or otherwise made available to the public;

(2) Disclosure of the information is required by law (other than 5 U.S.C. 522);

(3) The submitter has received notice of a previous FOIA request which encompassed the information requested in the later request, and the Corporation intends to withhold information in the same manner as in the previous FOIA request; or

(4) Upon submitting the information or within a reasonable period thereafter, (i) the submitter reviewed its information in anticipation of future requests pursuant to the FOIA, (ii) the submitter provided the Corporation a statement of its objections to disclosure consistent with that described in paragraph (b) of this section, and (iii) the Corporation intends to release information consistent with the submitter's objections.

[FR Doc. 94-7544 Filed 3-29-94; 8:45 am]
BILLING CODE 8270-01-M

FEDERAL ELECTION COMMISSION

11 CFR Part 102

[Notice 1994-4]

Rulemaking Petition: Center for Responsive Politics; Notice of Availability

AGENCY: Federal Election Commission.

ACTION: Rulemaking petition: Notice of availability.

SUMMARY: On March 1, 1994, the Commission received a Petition for Rulemaking from the Center for Responsive Politics. The petition requests the Commission to repeal its rules that permit the use of privately financed compliance funds in presidential campaigns. The petition is available for public inspection in the Commission's Public Records Office.

DATES: Statements in support of or in opposition to the petition must be filed on or before April 29, 1994.

ADDRESSES: Comments must be in writing and addressed to: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street, NW., Washington, DC 20463.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street, NW., Washington, DC 20463, (202) 219-3690 or (800) 424-9530.

SUPPLEMENTARY INFORMATION:

Rulemaking Petition: Notice of Availability

The Petitioner has requested that the Commission "repeal its rules providing for the use of privately financed Compliance Funds in Presidential campaigns." Specifically, the Petitioner seeks repeal of 11 CFR 100.8(b)(15)(last two sentences), 106.2(b)(2)(iii)(last sentence), 9002.11(b)(5), 9003.3(a), and 9035.1(c)(1). The petition argues that use of these funds permits presidential candidates to evade the contribution and expenditure limitations imposed by the Presidential Election Campaign Fund Act at 26 U.S.C. 9003(b) and 9035(a).

Copies of the Petition for Rulemaking are available for public inspection at the Commission's Public Records Office, 999 E Street, NW., Washington, DC 20463, Monday through Friday between the hours of 9 a.m. and 5 p.m. Statements in support of or in opposition to the Petition for Rulemaking must be submitted in writing by April 29, 1994.

Consideration of the merits of the petition will be deferred until the close of the public comment period.

Dated: March 25, 1994.

Trevor Potter,

Chairman.

[FR Doc. 94-7509 Filed 3-29-94; 8:45 am]
BILLING CODE 6715-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Chapter I

[Summary Notice No. PR-94-7]

Petition for Rulemaking; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for rulemaking received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions

for rulemaking (14 CFR part 11), this notice contains a summary of certain petitions requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials or withdrawals of certain petitions previously received. The purposes of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received May 31, 1994.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket No. _____ 800 Independence Avenue, SW., Washington, DC 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-200), room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-3132.

FOR FURTHER INFORMATION CONTACT: Mr. Frederick M. Haynes, Office of Rulemaking (ARM-1), Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-3939.

This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC on March 24, 1994.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Rulemaking

Docket No.: 26995
Petitioner: Mr. John A. Cohen
Regulation Affected: 14 CFR 135.1
Description of Rulechange Sought: To require nonstop sightseeing flights and helicopter flights conducted in a 25-statute-mile radius of the airport to meet the requirements of part 135.
Petitioner's Reasons for the Request: The petitioner feels that there is an alarming abuse of sightseeing flights and private helicopter flights conducted within a 25-statute-mile radius of airports.

[FR Doc. 94-7450 Filed 3-29-94; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 93-CE-03-AD]

Airworthiness Directives: Fairchild Aircraft SA26, SA226, and SA227 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to revise AD 93-19-06, which currently requires repetitively inspecting acrylic cabin and cockpit windows for cracks on certain Fairchild Aircraft SA26, SA226, and SA227 series airplanes, and, if cracks are found that exceed certain limits, replacing that window. The proposed action would more fully define the crack limits and establish clearer repetitive inspection intervals under those crack limits for the affected airplanes. The actions specified by the proposed AD are intended to prevent acrylic cockpit or cabin window failures, which could result in airframe damage and decompression injuries.

DATES: Comments must be received on or before June 10, 1994.

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-03-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 (210) 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, 2601 Meacham Boulevard, Fort Worth, Texas 76137-0150; telephone (817) 222-5150; facsimile (817) 222-5959.

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-03-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-03-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

AD 93-19-06, Amendment 39-8705 (58 FR 51771, October 5, 1993), currently requires repetitively inspecting acrylic cabin and cockpit windows for cracks on certain Fairchild Aircraft SA26, SA226, and SA227 series airplanes, and, if cracks are found that exceed certain limits, replacing that window. The actions are accomplished in accordance with the following service bulletins (SB), as applicable:

Fairchild SB 226-56-001, Issued: February 2, 1983; Revised: November 26, 1991.
Fairchild SB 227-56-001, Issued: February 2, 1983; Revised: November 26, 1991.
Fairchild SB 226-56-002, Issued: March 3, 1983; Revised: May 29, 1992.
Fairchild SB 227-56-002, Issued: January 5, 1984; Revised: May 29, 1992, and April 1, 1993.
Fairchild SB 226-56-003, Issued: September 13, 1984; Revised: November 2, 1989.
Fairchild SB 227-56-003, Issued: September 13, 1984; Revised: November 2, 1989.
Fairchild SB 26-56-10-038, Issued: October 8, 1984; Revised: February 7, 1991.
Fairchild SB 26-56-20-042, Issued: November 28, 1988; Revised: February 7, 1991.

Since issuance of that AD and after examining the circumstances and reviewing all available information related to the action referenced above, the FAA has determined that (1) the

crack limits specified in AD 93–19–06 should coincide with the applicable service information to more fully establish either replacement or repetitive inspection interval requirements; and (2) AD action should be taken to continue to prevent acrylic cockpit or cabin window failures, which could result in airframe damage and decompression injuries.

Since an unsafe condition has been identified that is likely to exist or develop in other Fairchild Aircraft SA26, SA226, and SA227 series airplanes of the same type design, the proposed AD would revise AD 93–19–06 to more fully define the crack limits and establish clearer repetitive inspection intervals under those crack limits for the affected airplanes. The proposed action would continue to be accomplished in accordance with the previously referenced service information.

The compliance time for the proposed AD is presented in both hours time-in-service (TIS) and calendar time. The referenced acrylic cabin and cockpit windows are affected by those conditions present while the airplane is in flight and while the airplane is on the ground. In addition, the utilization rates of the affected airplanes vary among operators. For example, operators in unscheduled service utilize their airplanes an average of approximately 300 to 400 hours TIS annually, while those in commuter service (scheduled) utilize their airplanes an average of approximately 2,000 hours TIS annually. Based on this wide utilization rate variance and the fact that these windows are affected when the airplane is in flight and on the ground, the FAA has determined that the affected acrylic cabin and cockpit windows should be repetitively inspected every 1,000 hours TIS, or every 12 calendar months, whichever occurs first.

The FAA estimates that 633 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 3 workhours per airplane to accomplish the proposed action, 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 $104,445. AD 93–19–06 currently requires the same inspections as the proposed AD for all of the affected airplanes. Therefore, the cost impact of the proposed AD on U.S. operators of all affected airplanes is the same as AD 93–19–06.

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 "significant regulatory action" under Executive Order 12866; (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 removing AD 93–19–06, Amendment 39–8705 (58 FR 51771, October 5, 1993), and by adding the following new airworthiness directive to read as follows:

Fairchild Aircraft: Docket No. 93–CE–03–AD. Revises AD 93–19–06, Amendment 39–8705.

Applicability: Models SA26–T, SA26–AT, SA226–T, SA226–T(B), SA226–AT, SA226–TC, SA227–AT, SA227–AC, and SA227–TT airplanes (all serial numbers for all models), certificated in any category.

Note 1: The applicability of this AD takes precedence over that specified in the service information.

Compliance: Required initially within the next 50 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished within the last 1,000 hours TIS or 12 calendar months (compliance with AD 89–06–02 or AD 93–19–06), and thereafter as indicated in the body of this AD.

To prevent acrylic cockpit or cabin window failures, which could result in airframe damage and decompression injuries, accomplish the following:

Note 2: 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 all acrylic cabin side windows and all acrylic cockpit windows for cracks in accordance with the following service bulletins (SB), as applicable:

(1) For acrylic cabin side windows:

Model	Service bulletin
SA26–T	26–56–20–042, Issued: November 28, 1988, Revised: November 26, 1991.
SA26–AT	26–56–20–042, Issued: November 28, 1988, Revised: November 26, 1991.
SA226–T	226–56–001, Issued: February 2, 1983, Revised: February 7, 1991.
SA226–T(B)	226–56–001, Issued: February 2, 1983, Revised: February 7, 1991.
SA226–AT	226–56–002, Issued: March 3, 1983, Revised: May 29, 1992.
SA226–TC	226–56–002, Issued: March 3, 1983, Revised: May 29, 1992.
SA227–AT	227–56–002, Issued: January 5, 1984, Revised: May 29, 1992, and April 1, 1993.
SA227–AC	227–56–002, Issued January 5, 1984, Revised: May 29, 1992, and April 1, 1993.
SA227–TT	227–56–001, Issued February 2, 1983, Revised: November 26, 1991.

(2) For acrylic cockpit windows:

Model	Service Bulletin
SA26–T	26–56–10–038, Issued: October 8, 1984, Revised: February 7, 1991.
SA26–AT	26–56–10–038, Issued: October 8, 1984, Revised: February 7, 1991.
SA226–T	226–56–003, Issued: September 13, 1984, Revised: November 2, 1989.
SA226–T(B)	226–56–003, Issued: September 13, 1984, Revised: November 2, 1989.
SA226–AT	226–56–003, Issued: September 13, 1984, Revised: November 2, 1989.
SA226–TC	226–56–003, Issued: September 13, 1984, Revised: November 2, 1989.
SA227–AT	227–56–003, Issued: September 13, 1984, Revised: November 2, 1989.

Model	Service Bulletin
SA227–AC	227–56–003, Issued: September 13, 1984, Revised: November 2, 1989.
SA227–TT	227–56–003, Issued: September 13, 1984, Revised: November 2, 1989.

(b) If cracks are found that meet or exceed 4.3 inches in combined length, prior to further flight, replace the window with a new or serviceable window, and reinspect thereafter at intervals not to exceed 1,000 hours TIS or 12 calendar months, whichever occurs first.

(c) If cracks are found that are less than 4.3 inches in combined length but that meet or exceed .30 inch as specified in the Crack Limits section of the service information referenced in paragraphs (a)(1) and (a)(2) of this AD, prior to further flight, accomplish one of the following:

(1) Replace the window with a new or serviceable window and reinspect thereafter at intervals not to exceed 1,000 hours TIS or 12 calendar months, whichever occurs first; or

(2) Fabricate a placard with the following words in letters at least 0.10-inch in height and install this placard within the pilot's clear view close to the pressurization controls: "AIRPLANE MUST BE OPERATED UNPRESSURIZED", and accomplish both of the following:

(i) Insert a copy of this AD into the Limitations Section of the FAA-approved Airplane Flight Manual (AFM); and

(ii) Within the next 25 hours TIS or 30 calendar days, whichever occurs first, reinspect the cracked window for crack progression in accordance with the inspections specified in paragraph (a) of this AD, as applicable, and accomplish either paragraph (b), (c) or (d) of this AD, as applicable.

(d) If cracks are found that are less than .30 inches as specified in the Crack Limits section of the applicable service information referenced in paragraphs (a)(1) and (a)(2) of this AD, within the next 25 hours TIS or 30 calendar days, whichever occurs first, reinspect the cracked window for crack progression in accordance with the applicable service information specified in paragraphs (a)(1) and (a)(2) of this AD, and accomplish either paragraph (b), (c), or (d) of this AD, as applicable.

Note 3: The repetitive inspections required by this AD are also referenced in the FAA-approved Fairchild Airframe Airworthiness Limitations Manual, ST–UN–M001.

(e) Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(f) 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, 2601 Meacham Boulevard, Fort Worth, Texas 76137. 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 4: 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.

(g) This amendment revises AD 93–19–06, Amendment 39–8705.

Issued in Kansas City, Missouri, on March 24, 1994.

Bobby W. Sexton,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94–7496 Filed 3–29–94; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 91–CE–12–AD]

Airworthiness Directives: Fairchild Aircraft Models SA227–AC and SA227–AT Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to supersede Airworthiness Directive (AD) 83–12–01, which currently requires repetitively inspecting the lower wing skin panel for cracks on certain Fairchild Models SA227–AC and SA227–AT airplanes, and installing wing skin reinforcement doublers if any wing skin crack is found. The Federal Aviation Administration's policy on aging commuter-class aircraft is to eliminate or, in certain instances, reduce the number of certain repetitive short-interval inspections when improved parts or modifications are available. The proposed action would require installing wing skin reinforcement doublers or wing skin stringer ties as terminating action for the repetitive inspections that are currently required by AD 83–12–01. The actions specified in the proposed AD are intended to prevent fatigue failure of the lower wing skin panels, which could result in loss of control of the airplane.

DATES: Comments must be received on or before June 10, 1994.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 91–CE–12–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 (210) 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, 2601 Meacham Boulevard, Fort Worth, Texas 76137–0150; telephone (817) 222–5150; facsimile (817) 222–5959.

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. 91–CE–12AD." 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. 91–CE–12–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The FAA has determined that reliance on critical repetitive inspections on aging commuter-class airplanes carries an unnecessary safety risk when a design change exists that could eliminate or, in certain instances, reduce the number of those critical

inspections. In determining what inspections are critical, the FAA considers (1) the safety consequences of the airplane if the known problem is not detected by the inspection; (2) the reliability of the inspection such as the probability of not detecting the known problem; (3) whether the inspection area is difficult to access; and (4) the possibility of damage to an adjacent structure as a result of the problem.

These factors have led the FAA to establish an aging commuter-class aircraft policy that requires incorporating a known design change when it could replace a critical repetitive inspection. With this policy in mind, the FAA recently conducted a review of existing ADs that apply to Fairchild SA227 series airplanes. Assisting the FAA in this review were (1) Fairchild Aircraft; (2) the Regional Airlines Association (RAA); and (3) several operators of the affected airplanes.

From this review, the FAA has identified AD 83–12–01, Amendment 39–4693, as one that should be superseded with a new AD that would require a modification that could eliminate the need for short-interval and critical repetitive inspections. AD 83–12–01 currently requires repetitively inspecting the lower wing skin panel for cracks on certain Fairchild Models SA227–AC and SA227–AT airplanes, and installing wing skin reinforcement doublers if any wing skin crack is found.

Fairchild has issued Service Bulletin (SB) No. 227–57–002, Issued: June 6, 1983, Revised: January 23, 1984, which specifies procedures for accomplishing the following on Models SA227–AC and SA227–AT airplanes: dye penetrant inspections of the wing skin panel, and installation of wing skin reinforcement doublers and wing skin stringer ties.

Based on its aging commuter-class aircraft policy and after reviewing all available information, the FAA has determined that AD action should be taken to eliminate the repetitive short-interval inspections required by AD 83–12–01, and to prevent fatigue failure of the lower wing skin panels, which could result in loss of control of the airplane.

Since an unsafe condition has been identified that is likely to exist or develop in other Fairchild Models SA227–AC and SA227–AT airplanes of the same type design, the proposed AD would supersede AD 83–12–01 with a new AD that would (1) retain the requirement of repetitively inspecting the lower wing skin panel, and installing wing skin reinforcement doublers if any wing skin crack is found; and (2) require either installing wing skin reinforcement doublers or wing skin stringer ties as terminating action for the repetitive inspections. The proposed actions would be accomplished in accordance with Fairchild SB No. 227–57–002, Issued: June 6, 1983, Revised: January 23, 1984.

The FAA estimates that 125 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 9 workhours per airplane to accomplish the proposed action if reinforcement doublers were installed (1 workhour/inspection and 8 workhours/modification) or 25 workhours per airplane to accomplish the proposed action if wing skin stringer ties were installed (1 workhour/inspection and 24 workhours/modification), and that the average labor rate is approximately $55 an hour. Parts cost approximately $56 per airplane for the wing skin reinforcement doublers and $179 per airplane for the wing skin stringer ties. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be either $68,875 for those airplane operators incorporating the reinforcement doubler modification or $194,250 for those airplane operators utilizing the wing skin stringer ties modification. This cost figure is based on the assumption that no affected airplane owner/operator has accomplished one of the proposed inspection-terminating modifications. The figure does not include repetitive inspection costs. The FAA has no way of determining how many repetitive inspections each owner/operator may incur.

The intent of the FAA's aging commuter airplane program is to ensure safe operation of commuter-class airplanes that are in commercial service without adversely impacting private operators. Of the approximately 125 airplanes in the U.S. registry that would be affected by the proposed AD, approximately 76 are operated in scheduled passenger service. A significant number of the remaining 49 airplanes are operated in other forms of air transportation such as air cargo and air taxi.

The proposed AD allows 500 hours time-in-service (TIS) before mandatory accomplishment of the design modification. The average utilization of the fleet for those airplanes in commercial commuter service is approximately 25 to 50 hours TIS per week. Based on these figures, operators of commuter-class airplanes involved in commercial operation would have to accomplish the proposed modification within 2 to 5 calendar months after the proposed AD would become effective. For private owners, who typically operate between 100 to 200 hours TIS per year, this would allow 2 to 5 calendar years before the proposed modification would be mandatory.

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 "significant regulatory action" under Executive Order 12866; (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 removing AD 83–12–01, Amendment 39–4693, and adding the following new AD to read as follows:

Fairchild Aircraft: Docket No. 91–CE–12–AD. Supersedes AD 83–12–01, Amendment 39–4693.

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

Model	Serial No.
SA227–AC	415, 416, and 420 through 554.
SA227–AT	423 through 554.

Compliance: Required as indicated, unless already accomplished.

To prevent fatigue failure of the lower wing skin panels, which could result in loss of control of the airplane, accomplish the following:

(a) Within the next 50 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished (compliance with AD 83–12–01), dye penetrant inspect the lower wing skin panel in the area of Fuselage Station (FS) 187.0 in accordance with paragraph IIA of the ACCOMPLISHMENT INSTRUCTIONS section of Fairchild Service Bulletin (SB) 227–57–002, Issued: June 6, 1983, Revised: January 23, 1984.

(1) If cracks are found, prior to further flight, install reinforcement doublers, part number 27K31013–001 LH and 27K31013–002 RH, in accordance with paragraph IIB of the ACCOMPLISHMENT INSTRUCTIONS section of Fairchild SB 227–57–002, Issued: June 6, 1983, Revised: January 23, 1984.

(2) If no cracks are found, reinspect thereafter at intervals not to exceed 50 hours TIS until the modification specified in paragraph (b) of this AD is accomplished.

(b) Within the next 500 hours TIS after the effective date of this AD, unless already accomplished as specified in either paragraph (a)(1) of this AD, accomplish one of the following:

(1) Install reinforcement doublers, part number 27K31013–001 LH and 27K31013–002 RH, in accordance with paragraph IIB of the ACCOMPLISHMENT INSTRUCTIONS section of Fairchild SB 227–57–002, Issued: June 6, 1983, Revised: January 23, 1984; or

(2) Install stringer ties, P/N 27–13869, in accordance with paragraph IIC of the ACCOMPLISHMENT INSTRUCTIONS section of Fairchild SB 227–57–002, Issued: June 6, 1983, Revised: January 23, 1984.

(c) Incorporating the modification specified in paragraphs (a)(1) and (b)(1) or (b)(2) of this AD terminates the repetitive inspection requirement of this AD.

(d) Special flight permits may be issued in accordance with 14 CFR 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 (ACO), 2601 Meacham Boulevard, Fort Worth, Texas 76137–0150. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Fort Worth ACO.

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

(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.

(g) This amendment supersedes AD 83–12–01, Amendment 39–4693.

Issued in Kansas City, Missouri, on March 24, 1994.

Bobby W. Sexton,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94–7497 Filed 3–29–94; 8:45 am]

BILLING CODE 4903–13–U

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14 CFR Part 39

[Docket No. 94–NM–21–AD]

Airworthiness Directives; Fokker Model F28 Mark 0100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Fokker Model F28 Mark 0100 series airplanes. This proposal would require removal of the actuator from the fuel-ballast transfer valve, and installation of a locking device on the fuel-ballast transfer valve. This proposal is prompted by a report that the fuel-ballast transfer valve on certain airplanes must be modified to ensure the valve is closed at all times. If the transfer valve is open during flight, the fuel supply to the engines may be reduced during cross-feed operation to the extent that fuel starvation could occur. The actions specified by the proposed AD are intended to prevent engine flameout.

DATES: Comments must be received by May 23, 1994.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 94–NM–21–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 Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Tim Dulin, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2141; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 94–NM–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, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 94–NM–21–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Rijksluchtvaartdienst (RLD), which is the airworthiness authority for the Netherlands, recently notified the FAA that an unsafe condition may exist on certain Fokker Model F28 Mark 0100 series airplanes. The RLD advises that, with the introduction of integral center wing fuel tanks, provisions for a fuel-ballast transfer system were incorporated. This fuel-ballast transfer system allows the center of gravity to be moved forward by transferring fuel from the main tanks into the center wing tank for maintenance purposes. Installation

of the fuel-ballast transfer system is optional.

For airplanes that are not equipped with the optional fuel-ballast transfer system, the transfer valve must be modified to ensure that the valve is closed at all times. If the transfer valve is open during flight, the fuel supply to the engines may be reduced during cross-feed operation to the extent that fuel starvation could occur. This condition, if not corrected, could result in engine flameout.

Fokker has issued Service Bulletin SBF100–28–029, Revision 1, dated November 30, 1993, that describes procedures for removal of the actuator from the fuel-ballast transfer valve, and installation of a locking device on the fuel-ballast transfer valve. Accomplishment of this installation will eliminate the possibility of a fuel-ballast transfer valve inadvertently remaining open. The RLD classified this service bulletin as mandatory and issued Netherlands Airworthiness Directive BLA No. 93–160 (A), dated December 15, 1993, in order to assure the continued airworthiness of these airplanes in the Netherlands.

This airplane model is manufactured in the Netherlands 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 RLD has kept the FAA informed of the situation described above. The FAA has examined the findings of the RLD, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require removal of the actuator from the fuel-ballast transfer valve, and installation of a locking device on the fuel-ballast transfer valve. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The FAA estimates that 5 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 0.5 work hour per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Required parts would cost approximately $250 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $1,387.50, or $277.50 per airplane.

The total cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

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 "significant regulatory action" under Executive Order 12866; (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:

Fokker: Docket 94–NM–21–AD.

Applicability: Model F28 Mark 0100 series airplanes, serial numbers 11443, 11446 through 11449 inclusive, and 11456; certificated in any category.

Compliance: Required as indicated, unless accomplished previously. To prevent reduced fuel flow to the engines during crossfeed operations and the possibility of engine flameout, accomplish the following:

(a) Within 30 days after the effective date of this AD, remove the actuator from the fuel-ballast transfer valve, part number 7933141J, and install a locking device on the fuel-ballast transfer valve, in accordance with Fokker Service Bulletin SBF 100–28–029, Revision 1, dated November 30, 1993.

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

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

(c) Special flight permits may be issued in accordance with Federal Aviation Regulations (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 March 24, 1994.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94–7492 Filed 3–29–94; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 93–NM–221–AD]

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

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–10–10, –15, –30, and –40 series airplanes and KC–10A (military) airplanes. This proposal would require inspections to detect fatigue-related cracking in certain areas of the horizontal stabilizer; and repair of cracked parts. This proposal would also require installation of terminating modifications, which, when accomplished, would eliminate the repetitive inspections. This proposal is prompted by reports of fatigue-related

cracks found on the horizontal stabilizer. The actions specified by the proposed AD are intended to prevent loss of the load carrying and fail safe capability of the horizontal stabilizer, damage to the adjacent structure, and subsequent reduced structural integrity of the airplane.

DATES: Comments must be received by May 23, 1994.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 93-NM-221-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 McDonnell Douglas Corporation, P.O. Box 1771, Long Beach, CA 90801-1771, Attention: Business Unit Manager, Technical Administrative Support, Dept. L51, M.C. 2-98. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office (ACO), 3229 East Spring Street, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Wahib Mina, Aerospace Engineer, Airframe Branch, ANM-121L, FAA, Transport Airplane Directorate, Los Angeles ACO, 3229 East Spring Street, Long Beach, California 90806-2425; telephone (310) 988-5324; 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 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-221-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-221-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

The manufacturer reports that fatigue-related cracks have been found on the horizontal stabilizer on several McDonnell Douglas Model DC-10-10, -15, -30, and -40 series airplanes and KC-10A (military) airplanes. One operator reported two instances of fatigue-related cracks on the forward spar upper cap near the closing rib on the horizontal stabilizer on airplanes that had accumulated approximately 22,643 landings. Two operators reported three cases of fatigue-related cracks in the forward upper skin panel in the outboard section of the horizontal stabilizer on airplanes that had accumulated between 17,339 and 19,627 total landings. This skin panel is located immediately aft of (and attaches to) the forward spar upper cap on the horizontal stabilizer. Investigation by the manufacturer has revealed that these cracks are the result of fatigue-related stress. Fatigue-related cracks in the outboard section of the horizontal stabilizer, if not detected and corrected in a timely manner, could result in loss of the load carrying and fail safe capability of the forward spar upper caps and the forward upper skin panels, damage to the adjacent structure, and subsequent reduced structural integrity of the airplane.

The FAA has reviewed and approved McDonnell Douglas DC-10 Service Bulletin 55-24, dated October 25, 1993, that describes procedures for repetitive eddy current inspections to detect fatigue-related cracking in the forward spar upper cap of the horizontal stabilizer. The service bulletin also describes procedures for accomplishment of a preventative modification for the forward spar upper cap. The preventative modification entails rework of the fastener holes of the forward spar upper cap. Incorporation of this preventative modification would eliminate the need for repetitive inspections of the forward spar upper cap. Accomplishment of this preventative modification will restore the structural integrity of the forward spar upper cap.

The FAA has also reviewed and approved McDonnell Douglas DC-10 Service Bulletin 55-25, dated October 25, 1993, that describes procedures for performing repetitive eddy current inspections to detect fatigue-related cracking in the forward upper skin panel of the horizontal stabilizer. The service bulletin also describes procedures for accomplishment of a preventative modification for the forward upper skin panel. The preventative modification entails rework of the fastener holes of the forward upper skin panel. Incorporation of this preventative modification would eliminate the need for repetitive inspections of the forward upper skin panel. Accomplishment of this preventative modification will restore the structural integrity of the forward upper skin panel.

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 repetitive eddy current inspections to detect fatigue-related cracking on the forward spar upper caps and the forward upper skin panels in the outboard section of the horizontal stabilizer. The proposed AD would also require that cracked parts be repaired in accordance with a method approved by the FAA. This proposal would also require accomplishment of preventative modifications, which, when accomplished, would terminate the repetitive inspections of the forward spar upper caps and the forward upper skin panels. The inspections and modifications would be required to be accomplished in accordance with the service bulletins described previously.

There are approximately 427 Model DC-10-10, -15, -30, and -40 series airplanes and KC-10A (military) airplanes of the affected design in the worldwide fleet. The FAA estimates that 241 airplanes of U.S. registry would be affected by this proposed AD.

The accomplishment of the proposed inspection would take approximately 3 work hours per airplane, at an average labor charge of $55 per work hour. Based on these figures, the total cost impact of the proposed inspection actions on U.S. operators is estimated to be $39,765, or $165 per airplane, per inspection cycle.

The accomplishment of the proposed modification of the forward spar upper cap would take approximately 248 work hours per airplane. Likewise, the accomplishment of the proposed modification of the forward upper skin panel would take approximately 248 work hours per airplane. The average labor rate is $55 per work hour. Required parts would cost approximately $10,600 per airplane. Based on these figures, the total cost impact of the proposed modification actions AD on U.S. operators is estimated to be $9,129,080, or $37,880 per airplane.

The FAA recognizes that the proposed modifications would require a large number of work hours to accomplish. However, the 5-year compliance time specified in paragraph (d) of this proposed AD should allow ample time for the modifications to be accomplished coincidentally with scheduled major airplane inspection and maintenance activities, thereby minimizing the costs associated with special airplane scheduling.

The total cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

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 "significant regulatory action" under Executive Order 12866; (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:

McDonnell Douglas: Docket 93–NM–221–AD.

Applicability: Model DC–10–10, –15, –30, and –40 series airplanes and KC–10A (military) airplanes; as listed in McDonnell Douglas DC–10 Service Bulletins 55–24 and 55–25, both dated October 25, 1993; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced structural integrity of the airplane, accomplish the following:

(a) For Model DC–10–10 and –15 series airplanes: Prior to the accumulation of 18,000 total landings, or within 90 days after the effective date of this AD, whichever occurs later, unless previously accomplished within the last 4,500 landings, perform an eddy current inspection to detect fatigue-related cracking of the forward spar upper caps on the horizontal stabilizer, in accordance with McDonnell Douglas Service Bulletin 55–24, dated October 25, 1993.

(1) If any crack is detected, prior to further flight, repair the crack in accordance with a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. After repair, repeat the inspection thereafter at intervals not to exceed 4,500 landings in accordance with the service bulletin.

(2) If no crack is detected, repeat the inspection thereafter at intervals not to exceed 4,500 landings in accordance with the service bulletin.

(b) For Model DC–10–10 and –15 series airplanes: Prior to the accumulation of 10,000 total landings, or within 120 days after the effective date of this AD, whichever occurs later, unless previously accomplished within the last 4,500 landings, perform an eddy current inspection to detect fatigue-related cracking of the forward upper skin panel of the horizontal stabilizer, in accordance with McDonnell Douglas Service Bulletin 55–25, dated October 25, 1993.

(1) If any crack is detected, prior to further flight, repair the crack in accordance with a method approved by the Manager, Los Angeles ACO, FAA, Transport Airplane Directorate. After repair, repeat the inspection thereafter at intervals not to exceed 4,500 landings in accordance with the service bulletin.

(2) If no crack is detected, repeat the inspection thereafter at intervals not to exceed 4,500 landings in accordance with the service bulletin.

(c) For Model DC–10–30 and –40 series airplanes: Prior to the accumulation of 17,500 total landings, or within 120 days after the effective date of this AD, whichever occurs later, unless previously accomplished within the last 4,500 landings, perform an eddy current inspection to detect fatigue-related cracking of the forward upper skin panel of the horizontal stabilizer, in accordance with McDonnell Douglas Service Bulletin 55–25, dated October 25, 1993.

(1) If any crack is detected, prior to further flight, repair the crack in accordance with a method approved by the Manager, Los Angeles ACO, FAA, Transport Airplane Directorate. After repair, repeat the inspection thereafter at intervals not to exceed 4,500 landings in accordance with the service bulletin.

(2) If no crack is detected, repeat the inspection thereafter at intervals not to exceed 4,500 landings in accordance with the service bulletin.

(d) For all airplanes: Within 5 years after the effective date of this AD, install the preventative modifications for the forward spar upper cap on the horizontal stabilizer, in accordance with McDonnell Douglas Service Bulletin 55–24, dated October 25, 1993; and for the forward upper skin panel on the horizontal stabilizer, in accordance with McDonnell Douglas Service Bulletin 55–25, dated October 25, 1993. Accomplishment of these preventative modifications in accordance with these service bulletins constitutes terminating action for the repetitive inspections 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, Los Angeles 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, Los Angeles ACO.

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

(f) Special flight permits may be issued in accordance with Federal Aviation Regulations (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 March 24, 1994.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94–7493 Filed 3–29–94; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 71

[Airspace Docket No. 94–AWP–3]

Proposed Modification of Class D Airspace, Oxnard, CA, et al.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend Class D airspace at Oxnard, CA, Camarillo, CA and NAWS Point Mugu, CA. This proposal would improve coordination between each facility and enhance the safety of military aircraft entering the overhead pattern at NAWS Point Mugu.

DATES: Comments must be received on or before May 15, 1994.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, System Management Branch, AWP–530, Docket No. 94–AWP–3, Air Traffic Division, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009.

The official docket may be examined in the Office of the Assistant Chief Counsel, Western-Pacific Region, Federal Aviation Administration, room 6007, 15000 Aviation Boulevard, Lawndale, California. An informal docket may also be examined during normal business hours at the Office of the Manager, System Management Branch, Air Traffic Division at the above address.

FOR FURTHER INFORMATION CONTACT: Scott Speer, Airspace Specialist, System Management Branch, AWP–530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 297–1658.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interest parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 94–AWP–3." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the System Management Branch, Air Traffic Division, 15000 Aviation Boulevard, Lawndale, California, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, System Management Branch, AWP–530, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to modify the Class D airspace for NAWS Point Mugu, Oxnard Airport, and Camarillo Airport. This would raise the NAWS Point Mugu ceiling to 3,000 feet MSL and lower the Oxnard and Camarillo ceilings to 2,000 feet MSL. Before the reclassification of airspace, the three facilities mitigated conflicting boundaries and site specific needs in letters of agreement. The proposed Class D airspace modifications would provide adequate airspace for the three facilities' air traffic control operations and eliminate unnecessary coordination among the facilities. Concurrently, the higher Class D ceiling would enhance the safety of high performance aircraft which operate out of Point Mugu. Raising the vertical limit of the NAWS Point Mugu Class D airspace to 3,000 feet MSL would provide airspace for jet arrivals to NAWS Point Mugu. The coordinates for this airspace are based on North American Datum 83. Class D airspace is published in paragraph 5000 of FAA Order 7400.9A, dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 as of September 16, 1993 (58 FR 36298 July 6, 1993). The Class D airspace listed in the document would be published subsequently in the Order. The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposed to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A, Airspace Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

Paragraph 5000 General

* * * * *

AWP CA D Oxnard, CA [Revised]

Oxnard, CA

(lat. 34°12′03″N., long. 119°12′23″W.)

That airspace extending upward from the surface to and including 2,000 feet MSL within a 4.3–mile radius of the Oxnard Airport, excluding that portion east and southeast of lat. 34°15′35″ N, long. 119°09′47″ W; direct lat. 34°10°22° N., long.

119°09'27" W.; direct lat. 34°07'35" N., long. 119°12'22" W. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airman. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

AWP CA D Camarillo, CA [Revised]

Camarillo, CA
(lat. 34°12'50" N., long. 119°05'36" W.)

That airspace extending upward from the surface to and including 2,000 feet MSL within a 4.3 radius of the Camarillo Airport, excluding that portion south and west of lat. 34°09'14" N., long. 119°02'38" W.; direct lat. 34°10'35" N., long. 119°03°54" W.; direct lat. 34°10'22" N., long. 119°09'27" W.; direct lat. 34°15'35" N, long. 119°09'47" W. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airman. The effective date and time will thereafter be continuously published in the Airport/Facility Director.

* * * * *

AWP CA D NAWS Point Mugu, CA [Revised]

NAWS Point Mugu, CA
(lat. 34°07'13" N., long. 119°07'12" W.)

That airspace extending upward from the surface to and including 3,000 feet MSL within a 4.3 radius of NAWS Point Mugu, excluding that portion south and west of lat. 34°09'14" N., long. 119°02'38" W.; direct lat. 34°10'35" N., long. 119°03'54" W.; direct lat. 34°10'22" N., long. 119°09'27" W.; direct lat. 34°07'35" N., long. 119°12'22" W. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airman. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Los Angeles, California, on March 14, 1994.

Richard R. Lien,

Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 94-7453 Filed 3-29-94; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 94-AWP-4]

Proposed Establishment of Class E Airspace; South Lake Tahoe, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Class E airspace at South Lake Tahoe, CA. A Localizer Type Directional Aid (LDA)/Distance Measuring Equipment standard instrument approach procedure (SIAP) has been developed for the South Lake Tahoe Municipal Airport. Controlled airspace extending upward from the surface is needed for aircraft executing the approach. The intended effect of this proposal is to provide adequate Class E airspace for instrument flight rules (IFR) operations at Lake Tahoe Municipal Airport.

DATES: Comments must be received on or before May 15, 1994.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, System Management Branch, AWP-530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, Docket No. 94-AWP-4, 15000 Aviation Boulevard, Lawndale, California 90261. The official docket may be examined in the Office of the Assistant Chief Counsel for the Western-Pacific Region at the same address. An informal docket may also be examined during normal business hours in the Office of the Manager, System Management Branch, Air Traffic Division, at the address shown above.

FOR FURTHER INFORMATION CONTACT: Scott Speer, Airspace Specialist, System Management Branch, AWP-530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 297-0697.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with the comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 94-AWP-4." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the System Management Branch, Air Traffic Division, at 15000 Aviation Boulevard, Lawndale, California 90261, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, System Management Branch, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A, which describes the application procedures.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace at South Lake Tahoe, CA. This proposal would provide adequate Class E airspace for IFR operators executing the LDA/DME-1/2 approachs at South Lake Tahoe, CA. The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas designated as transition areas for airports are published in Paragraph 6005 of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The class E airspace designation listed in this document would be published subsequently in this Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 10034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A, Airspace Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

Paragraph 6004 Class E airspace areas designated as an extension to a Class D surface area.

* * * * *

AWP CA E4 South Lake Tahoe, CA [New]

Lake Tahoe Airport, CA
(lat. 38°53′38″N, long. 119°59′43″W)

That airspace extending upward from the surface within 1.8 miles each side of the South Lake Tahoe LDA/DME south course extending from the 4.3-mile radius of South Lake Tahoe Airport to 9.8-miles north of the airport. This Class E airspace is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Los Angeles, California, on March 15, 1994.

Richard R. Lien,

Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 94–7454 Filed 3–29–94; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 94–AWP–5]

Proposed Modification of Class E Airspace, Ukiah Municipal Airport; Ukiah, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend Class E airspace at Ukiah Municipal Airport, Ukiah, CA, by establishing a class E surface area for the airport.

DATES: Comments must be received on or before May 11, 1994.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, System Management Branch, AWP–530, Docket No. 94–AWP–5, Air Traffic Division, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009.

The official docket may be examined in the Office of the Assistant Chief Counsel, Western-Pacific Region, Federal Aviation Administration, Room 6007, 15000 Aviation Boulevard, Lawndale, California. An informal docket may also be examined during normal business hours at the Office of the Manager, System Management Branch, Air Traffic Division at the above address.

FOR FURTHER INFORMATION CONTACT: Scott Speer, Airspace Specialist, System Management Branch, AWP–530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261; telephone (310) 297–0697.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 94–AWP–5." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the System Management Branch, Air Traffic Division, 15000 Aviation Boulevard, Lawndale, California, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, System Management Branch, AWP–530, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NRPM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish a Class E surface area for an airport. The FAA is proposing to change the Class E airspace for Ukiah Municipal Airport, which has a 700 foot transition, to include an airport surface area. An Automated Weather Observing System (AWOS–3) has been installed at Ukiah Municipal Airport meeting the criterion for an airport surface area. The coordinates for this airspace are based on North American Datum 83. Class E airspace designated as a surface area for an airport is published in paragraph 6002 of FAA Order 7400.9A, dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 as of September 16, 1993 (58 FR 36298; July 6, 1993). The Class E airspace listed in the document would be published subsequently in the Order. The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial

number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A, Airspace Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AWP CA E5 Ukiah, CA [Revised]

Ukiah Municipal Airport, CA
(lat. 39°07'34"N, long. 123°12'03"W)
Fortuna VORTAC (lat. 40°40'17"N, long. 124°14'04"W)
Mendocino VORTAC (lat. 39°03'12"N, long. 123°16'27"W)
Red Bluff VORTAC (lat. 40°05'56"N, long. 122°14'11"W)

That airspace extending upward from 1,200 feet above the surface within a 17.4-mile radius the Mendocino VORTAC, excluding that airspace east of the western edge of V–25 and that airspace bounded by a line from lat. 39°32'00"N, long. 123°33'14"W; to lat. 39°32'00"N, long. 123°11'34"W; to lat. 39°21'37"N, long. 123°04'54"W; to lat. 39°19'07"N, long. 123°07'22"W, thence counterclockwise via the 17.4-mile radius of the Mendocino VORTAC to lat. 39°19'04"N, long, 123°25'40"W; to lat. 39°32'00"N, long. 123°33'14"W. That airspace extending upward from 7,500 feet MSL south of the Red Bluff VORTAC between the 20.9- and 39.1-mile arcs of the Red Bluff VORTAC bounded on the northwest by the northwest edge of V–199 and on the southeast by the southeast edge of V–25. That airspace extending upward from 8,500 feet MSL south of the Red Bluff VORTAC bounded on the northeast by a 39.1-mile arc of the Red Bluff VORTAC, on the southeast by the southeast edge of V–25, on the south and southwest by the north edge of V–200 and a 17.4-mile arc of the Mendocino VORTAC, and on the northwest by the northwest edge of V–199. That airspace extending upward from 9,500 feet MSL bounded on the southeast by the northwest edge of V–199 to lat. 39°21'37"N, long. 123°04'54"W; to lat. 39°32'00"N, long. 123°11'34"W; to lat. 39°32'00"N, long. 123°33'14"W, and on the west by the east edge of V–27, and on the north by a line 7.8 miles south of and parallel to the Red Bluff VORTAC 291° and Fortuna VORTAC 110° radii. That airspace extending upward from 5,300 feet MSL bounded on the east by the southwest edge of V–27 and on the west by the west/ southwest edge of V–494.

* * * * *

Paragraph 6002 Class E airspace designated as a surface area for an airport.

* * * * *

AWP CA E2 Ukiah, CA [New]

Ukiah Municipal Airport, CA
(lat. 39°07'34"N. long. 123°12'03"W)
Fortuna VORTAC (lat. 40°40'17"N, long. 124°14'04"W)
Mendocino VORTAC (lat. 39°03'12"N, long. 123°16'27"W)
Red Bluff VORTAC (lat. 40°05'56"N. long. 122°14'11"W)

Within a 4.3-mile radius of the Ukiah Municipal Airport and within 1.8 miles each side of the 348° bearing from the Ukiah Municipal Airport extending from the 4.3-mile radius to 16.2 miles north of the airport and that airspace within 1.8 miles each side of the 007° bearing from the Ukiah Municipal Airport extending from the 4.3-mile radius to 8.6 miles north of the airport and that airspace within 1.8 miles west and 2.5 miles east of the 154° bearing from the Ukiah Municipal Airport extending from the 4.3-mile radius to 11.3 miles south of the airport.

* * * * *

Issued in Los Angeles, CA, on March 15, 1994.

Richard R. Lien,

Manager, Air Traffic Division Manager, Western-Pacific Region.

[FR Doc. 94–7455 Filed 3–29–94; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR PART 12

RIN 1515–AB43

Importer Certification Regarding Country of Origin of Textiles and Textile Products

AGENCY: Customs Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to amend the Customs Regulations to require that an importer of textiles or textile products submit to Customs a certification stating that he has used reasonable care to ascertain the true country of origin of the imported merchandise and to verify the accuracy of the declaration prepared by the manufacturer, producer or exporter and filed by the importer with the entry. This proposed change is intended to enhance the enforcement of quota limits and visa and other requirements under the U.S. textile import program.

DATES: Comments must be received on or before May 31, 1994.

ADDRESSES: Written comments (preferably in triplicate) may be addressed to the Regulations Branch, U.S. Customs Service, Franklin Court, 1301 Constitution Avenue, NW., Washington, DC 20229. Comments submitted may be inspected at the Regulations Branch, Office of Regulations and Rulings, Franklin Court, 1099 14th Street, NW., suite 4000, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dick Crichton, Office of Trade Operations (202–927–0162).

SUPPLEMENTARY INFORMATION:

Background

Customs continues to encounter significant compliance and enforcement problems with regard to the importation and entry of textiles and textile products that are subject to the provisions of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854). Identification of the true country of origin of imported textiles and textile products is necessary to ensure compliance with quota restrictions and visa requirements or other requirements (for example, country of origin marking) under the U.S. textile import program and other laws or programs administered by Customs.

Merchandise that is the product of a country to which restraint levels (quotas) or textile visa requirements apply may be entered, or attempted to be entered, with a false declaration of country of origin. The false claim that the merchandise is the product of a country other than the actual country of production may result in the entered merchandise not being subjected to any quota level or being subjected to a more lenient quota or visa requirement. The entry of textiles and textile products into the commerce of the United States under such circumstances violates the bilateral and multilateral textile agreements to which the United States is a party and causes significant injury to domestic producers of textiles and textile products, thereby compromising orderly international trade in textiles and textile products which is the purpose behind the U.S. textile import program.

Section 12.130 of the Customs Regulations (19 CFR 12.130) was promulgated to set forth rules for

determining, and providing documentary evidence of, the country of origin of imported textiles and textile products. Paragraph (f) of that section concerns documentary evidence of origin and provides (1) that all importations of textiles and textile products subject to section 204 of the Agricultural Act of 1956 shall be accompanied by the declaration(s) set forth in paragraph (f)(1) (single country declaration, for merchandise whose origin is attributable to only one country) or (f)(2) (multiple country declaration, for merchandise whose origin is attributable to more than one country) and (2) that all importations of textiles and textile products not subject to section 204 shall be accompanied by the declaration set forth in paragraph (f)(3) (negative declaration, with reference to the applicability of section 204). Paragraph (f) further provides that the required declaration(s) shall be filed with the entry and may be prepared by the manufacturer, producer, exporter or importer of the merchandise.

It is recognized that, under the terms of § 12.130(f), there may be instances in which the importer is not the party who prepares a declaration required to be submitted under that section. However, Customs does not believe that in such instances the importer should be totally absolved from responsibility regarding the accuracy of the declaration, particularly in view of the fact that under § 12.130(f) it is the responsibility of the importer to file the declaration with Customs as a condition of entry of the textiles or textile products. In other words, because it is the importer and not the manufacturer, producer or exporter who has both the greatest commercial interest in the import transaction and the ultimate legal responsibility as regards the propriety of the import transaction as a whole, including the correctness of the documentation submitted to Customs in connection therewith, the importer should not be allowed to submit a declaration to Customs on blind faith as to its accuracy, and without running the risk of incurring a penalty for doing so, merely for the reason that the declaration was prepared by another party. To conclude otherwise would result in an impermissible loophole in the administration and enforcement of the U.S. textile import program. On the other hand, Customs also recognizes that where a § 12.130(f) declaration is prepared by a manufacturer, producer or exporter, the importer may not always be privy to the facts necessary to verify with absolute certainty either the true country of origin of the imported merchandise or the specific information set forth on the declaration. In such circumstances it would be unreasonable to hold the importer to an absolute verification standard.

Customs believes that the Customs Regulations should clearly reflect the principles outlined in the preceding paragraph, striking an appropriate balance between the basic legal responsibility and liability of the importer and what the importer can reasonably be expected to accomplish in carrying out that responsibility. Customs further believes that the "informed compliance" principle underlying certain Customs Modernization provisions of the North American Free Trade Agreement Implementation Act (Title VI of Pub. L. 103–182, 107 Stat. 2057, 2170), coupled with the "reasonable care" standard in discharging an importer's responsibilities under 19 U.S.C. 1484 as amended by section 637 of that Act, provide appropriate guidance for striking such a balance. In House Report No. 103–361, the Committee on Ways and Means discussed the principles of "informed compliance" and "reasonable care" in part as follows (at pages 120–121):

> In the view of the Committee, for "informed compliance" to work, it is essential that the importing community and the Customs Service share responsibility in seeing that, at a minimum, "reasonable care" is used in discharging those activities for which the importer has responsibility. These include, but are not limited to: furnishing of information sufficient to permit Customs to fix the final classification and appraisal of merchandise; taking measures that will lead to and assure the preparation of accurate documentation and providing sufficient pricing and financial information to permit proper valuation of merchandise.
>
> * * * * *
>
> To the extent that an importer fails to use reasonable care in classifying and valuing the merchandise and presenting other entry data, the Customs Service may impose a penalty under the appropriate culpability level of 19 U.S.C. 1592. * * *

Accordingly, based on the above, Customs in this document is proposing to amend § 12.130(f) by the addition of a new paragraph (f)(4) to provide for the submission by the importer of a statement certifying that the importer has used reasonable care to ascertain the true country of origin of the imported textiles or textile products and to verify the accuracy of each declaration required to be submitted under paragraphs (f)(1)-(3). The certification would only be required when a declaration was prepared by a party other than the importer and could be either included on, or attached to, the declaration to which it relates.

Comments

Before adopting the proposed amendment as a final rule, consideration will be given to any written comments (preferably in triplicate) timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Regulations Branch, Office of Regulations and Rulings, Franklin Court, 1099 14th Street, NW., Suite 4000, Washington, DC.

Executive Order 12866

This document does not meet the criteria for a "significant regulatory action" as specified in Executive Order 12866.

Regulatory Flexibility Act

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that, if adopted, the proposed amendment will not have a significant economic impact on a substantial number of small entities. The amendment involves only a short certification as a necessary adjunct to the existing legal responsibility of importers regarding the submission of correct documentation to Customs. Accordingly, the proposed amendments are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

List of Subjects in 19 CFR Part 12

Customs duties and inspection, Entry procedures, Imports, Textiles and textile products.

Proposed Amendment to the Regulations

For the reasons set forth above, it is proposed to amend part 12, Customs Regulations (19 CFR part 12), as set forth below.

PART 12—SPECIAL CLASSES OF MERCHANDISE

1. The authority citation for part 12 continues to read in part as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1202 (General Note 17,) Harmonized Tariff Schedule of the United States (HTSUS)), 1624;

* * * * *

2. Section 12.130 is amended by adding paragraph (f)(4) to read as follows:

§ 12.130 Textiles and textile products country of origin.

* * * * *

(f) * * *

(4) Importer certification. If any declaration required under paragraph (f) of this section was prepared by the manufacturer, producer or exporter of the textiles or textile products and not by the importer thereof, the importer shall include on, or as an attachment to, each such declaration the following statement:

I certify that I have used reasonable care to ascertain the true country of origin of the articles covered by the (above) (attached) declaration and that I have used reasonable care in verifying the accuracy of the other information set forth on that declaration.

Date _____
Name _____
Signature _____
Title _____
Company _____
Address _____

Approved: March 21, 1994.

Samuel H. Banks,

Acting Commissioner of Customs.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 94–7518 Filed 3–29–94; 8:45 am]

BILLING CODE 4820–02–P

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19 CFR PART 141

RIN 1515–AB39

Establishment of Conditional Release Period for Textiles and Textile Products

AGENCY: Customs Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to amend the Customs Regulations to establish a conditional release period of 180 days on all entries of textiles and textile products. This proposed amendment will permit Customs to issue notices of redelivery to importers of textiles or textile products up to 30 days after the end of the conditional release period if investigation or information reveals that the merchandise was imported in violation of visa or quota restrictions or other requirements of law. Failure to comply with a notice of redelivery will render the importer liable for liquidated damages under the terms of the basic importation bond.

DATES: Comments must be received on or before May 31, 1994.

ADDRESSES: Written comments (preferably in triplicate) may be addressed to the Regulations Branch, U.S. Customs Service, Franklin Court, 1301 Constitution Avenue, NW., Washington, DC 20229. Comments submitted may be inspected at the Regulations Branch, Office of Regulations and Rulings, Franklin Court, 1099 14th Street, NW., suite 4000, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jeremy Baskin, Penalties Branch, Office of Regulations and Rulings (202–482–6950).

SUPPLEMENTARY INFORMATION:

Background

Customs has encountered a significant enforcement problem with regard to textiles and textile products that are subject to the provisions of section 204, Agricultural Act of 1956, as amended (7 U.S.C. 1854), and that are imported into the United States in violation of quota restrictions or without the appropriate visa from the country of origin. This problem involves merchandise that is the product of a country to which stringent quotas or visa requirements apply and that is transshipped through a second country having less rigorous quota and visa standards. Such transshipment operations are often performed in order to facilitate the making of a false claim, upon importation into the United States, that the merchandise is a product of the country through which it was transshipped and therefore subject to the more lenient quota and visa entry standards applicable to products of that country. Discovery of these violations often occurs only after a significant investigative effort that has been concluded well after the time of entry and release of the offending merchandise into the commerce of the United States.

While the penalty provisions of section 592 of the Tariff Act of 1930, as amended (19 U.S.C. 1592), are in principle available for assessment against any party who has committed fraud, gross negligence or negligence in connection with the entry of such transshipped merchandise, it is not always possible to establish the requisite culpability. The fact that section 592 penalties may not be successfully assessed in each case involving transshipped merchandise does not alter the fact that the entry of such merchandise into the commerce of the United States in violation of visa and quota requirements causes significant harm to domestic industry.

When penalty liability cannot be readily assessed or quantified, claims for liquidated damages may be available to compensate for the harm done. Under condition (d) of the Basic Importation and Entry Bond, set forth in § 113.62(d) of the Customs Regulations (19 CFR 113.62(d)), the importer agrees to redeliver timely, on demand by Customs, any merchandise which has been conditionally released from Customs custody if it fails to comply with the laws or regulations governing admission into the United States. Under the last sentence of that regulatory provision, any demand for redelivery must be made no later than 30 days after the date that the merchandise was released or 30 days after the end of the conditional release period (whichever is later). In C.S.D. 86–21, Customs noted that the end of the conditional release period refers to a set time limitation established by regulation, e.g., the 180-day period established with regard to Federal motor vehicle safety standards in § 12.80(e)(2) of the Customs Regulations (19 CFR 12.80(e)(2)).

Textiles and textile products which exceed quota limits or do not conform to visa requirements clearly are not entitled to admission into the United States. However, inasmuch as no specific, different conditional release period is provided for by regulation with regard to such merchandise, under § 113.62(d) Customs may issue a Notice of Redelivery only within 30 days after release of the merchandise. In view of the lengthy time required to detect violations relating to transshipment, Customs often is unable to issue a timely Notice of Redelivery and thus is foreclosed from assessing liquidated damages for failure to redeliver the merchandise to Customs custody.

In order to address the problems discussed above, Customs proposes in this document to amend § 141.113 of the Customs Regulations (19 CFR 141.113) by adding a new paragraph (b) to provide for a specific conditional release period of 180 days from the date of release for all textiles and textile products subject to section 204 of the Agricultural Act of 1956. Under § 113.62(d), Customs would then have up to 30 days from the end of the conditional release period to issue a Notice of Redelivery. Failure to redeliver merchandise within the time period specified in the Notice of Redelivery (generally 30 days from the date of the notice) will result in the assessment of a claim for liquidated damages under the Basic Importation and Entry Bond as provided in § 113.62(k) of the regulations. In addition, as a consequence of the addition of this new paragraph (b) to § 141.113, this document also proposes to redesignate present paragraphs (b)–(g) as (c)–(h) and to add within present paragraph (b) (redesignated as (c)) a cross-reference to new paragraph (b) to

accompany the existing cross-reference to paragraph (a).

Comments

Before adopting the proposed amendments as a final rule, consideration will be given to any written comments (preferably in triplicate) timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Regulations Branch, Office of Regulations and Rulings, Franklin Court, 1099 14th Street, NW., suite 4000, Washington, DC.

Executive Order 12866

This document does not meet the criteria for a "significant regulatory action" as specified in Executive Order 12866.

Regulatory Flexibility Act

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that, if adopted, the proposed amendments will not have a significant economic impact on a substantial number of small entities. Establishment of a conditional release period for textiles and textile products, which is necessary for law enforcement purposes, will affect only the relatively small percentage of importers who import such merchandise contrary to law. Accordingly, the proposed amendments are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

List of Subjects in 19 CFR Part 141

Bonds, Customs duties and inspection, Entry procedures, Imports, Release of merchandise.

Proposed Amendments to the Regulations

Accordingly, for the reasons set forth above, it is proposed to amend part 141, Customs Regulations (19 CFR part 141), as set forth below.

Part 141—Entry of Merchandise

1. The authority citation for part 141 continues to read in part as follows:

Authority: 19 U.S.C. 66, 1448, 1484, 1624.

* * * * *

Section 141.113 also issued under 19 U.S.C. 1499, 1623.

2. Section 141.113 is amended by redesignating paragraphs (b) through (g) as (c) through (h), by adding the words "or (b)" after the words "paragraph (a)" in newly designated paragraph (c), and by adding a new paragraph (b) to read as follows:

§ 141.113 Recall of merchandise released from Customs custody.

* * * * *

(b) *Textiles and textile products.* For purposes of determining the admissibility of textiles and textile products subject to the provisions of § 12.130 of this chapter, the release from Customs custody of any such textile or textile product shall be deemed conditional during the 180-day period following the date of release. If the district director finds during the conditional release period that a textile or textile product is not entitled to admission into the commerce of the United States based on quota restrictions or the absence of a correct visa or for any other reason, he shall promptly demand its return to Customs custody.

* * * * *

Approved: March 18, 1994.

Samuel H. Banks,

Acting Commissioner of Customs.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 94–7517 Filed 3–29–94; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

24 CFR Part 204

[Docket No. R–94–1717; FR–3418–P–01]

RIN 2502–AG00

Termination of FHA Single Family Coinsurance Program

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: This rule proposes to terminate the authority of the FHA Commissioner, currently set out in existing regulations, to insure mortgage loans made for the financing of single family homes on a coinsurance basis. The purpose of the proposed rule is to terminate a program that has been found by the Department, after extensive analysis, to be one whose usefulness and utilization by lenders is outweighed by the demands it makes on limited departmental resources.

DATES: Comments due date: May 31, 1994.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule to the Rules Docket Clerk, Office of General Counsel, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Comments should refer to the above docket number and title. Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 pm. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: Morris Carter, Director, Single Family Development Division, room 9272, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (voice) (202) 708–2700; (TDD) (202) 708–4594. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: FHA Coinsurance was first authorized under the Housing and Urban Development Act of 1974 which added a new section 244 to the National Housing Act. In February of 1976, the Department implemented a program of coinsurance for the financing of single family homes—24 CFR part 204.

The intent of this new coinsurance program was to improve the quality of mortgage originations and servicing, to streamline HUD insurance processing, and to improve the quality and timeliness of service to the mortgage applicants. This was to be achieved through the sharing of risk between HUD and the mortgagees and through the delegation of a significant portion of processing to mortgage originators, including the complete processing of appraisal and mortgage credit applications, and the disposition of property in the event of default and foreclosure.

The two main incentives for participation in the program were to be a lender's ability to choose its own appraisers and to share the premium income with the Department depending on the performance of the lender's book of business for coinsured loans.

Despite these incentives, the Department has endorsed very few coinsured single family mortgages. The combined volume for fiscal years 1990, 1991, and 1992 was 5,680 loans nationwide, with the bulk coming from one lender, Crown Mortgage, doing business in Illinois. The remainder of coinsured loans were originated by four lenders located in New York or Texas.

Contributing to this lack of lender interest in the program has been the advent of Direct Endorsement which has blunted many of the benefits attributable to the coinsurance program, especially the delegation of processing to the lenders. While the sharing of premium income is a substantial benefit, most lenders, due to their financial situation, are in no position to share even a 10 percent risk exposure. (A lender is not permitted to obtain reinsurance of its potential or actual loss.) Also, few, if any lenders, wish to be burdened with the task of disposing of foreclosed property.

A Secretarial task force on financial management has recommended that this coinsurance program be terminated giving the following reasons:

1. The demands the program makes on the Department's resources outweigh its usefulness and utilization by lenders. From a programmatic standpoint, it does not make sense to devote scarce staff resources to a program as rarely used as coinsurance. Mortgage Insurance and Accounting (MIAS) Staff spend about one half a staff year running this program. Coinsurance requires MIAS to maintain a separate computer system to track coinsurance reserves and administer claim payments. Reserve payouts must be calculated and processed each year as well. Furthermore, the Chicago Office, which handles most of the coinsurance program's volume, estimates that in FY 1991, one-half a staff year was used to run the program. At least this much staff time was consumed by the program for the remainder of the country.

2. One of the incentives for program participation, the lender's ability to choose its own appraisers, will be nullified when this feature is applied in the future to the Direct Endorsement program, through the Department's implementation of section 202(e)(3) of the National Housing Act.

3. Participating lenders tend to "cherry pick" loans for coinsurance processing, with the riskier loans assigned to the Direct Endorsement program. All participating coinsurance lenders are also participating in the Direct Endorsement program.

4. Elimination of this program will not result in a reduction of avenues of mortgage credit for first time and low- and -moderate income homebuyers.

Other Matters

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Undersigned certifies that this proposed rule does not have a significant economic impact on a substantial number of small entities. Experience under the coinsurance programs affected by this proposed rule has not demonstrated any substantial impact on small entities.

Semiannual Agenda

This proposed rule was listed as item 1506 in the Department's Semiannual Regulatory Agenda published on October 25, 1993 (58 FR 56402, 56423) under Executive Order 12291 and the Regulatory Flexibility Act.

Environment

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the office of the Rules Docket Clerk at the above address.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this proposed rule will not have substantial direct effects on states or their political subdivisions, or the relationship between the federal government and the states, or on the distribution of power and responsibilities among the various levels of government. As a result, the proposed rule is not subject to review under the Order. The proposed rule will not affect the basic availability of FHA insured single family mortgage financing assistance—merely the methods under which such financing can be secured. No programmatic or policy changes would result from this rule's promulgation which affect existing relationships between the federal government and state and local governments.

Executive Order 12606, The Family

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this proposed rule does not have potential for significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the order. The proposed rule is limited to terminating a specific means for delivery of FHA insurance which has proved to be unworkable and a drain on the FHA staff resources. Other single family programs of HUD, specifically the direct endorsement program, will be improved upon and reemphasized in conjunction with this proposed rule.

(The Catalog of Federal Domestic Assistance program number is 14.117.)

List of Subjects in 24 CFR Part 204

Mortgage insurance.

Accordingly, 24 CFR part 204 would be revised to read as follows:

PART 204—COINSURANCE

AUTHORITY: 12 U.S.C. 1715b and 1715z-9; 42 U.S.C. 3535(d).

§ 204.1 Termination of program.

Effective [Insert date 90 days from effective date of final rule] the authority to coinsure mortgages under this part is terminated, except that the department will honor legally binding and validly issued borrower approvals issued by lenders before [Insert Date 90 days after date of publication of the final rule in the Federal Register]. This part 204, as it existed as of April 1, 1994, will continue to govern the rights and obligations of coinsured lenders, mortgagors, and the Department of Housing and Urban Development with respect to loans coinsured under this part.

Dated: March 16, 1994.

Nicolas P. Retsinas,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 94-7476 Filed 3-29-94; 8:45 am]

BILLING CODE 4210-27-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[IA-78-93]

RIN 1545-AS58

Accuracy-Related Penalty; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to notice of proposed rulemaking.

SUMMARY: This document contains a correction to proposed regulations relating to the accuracy-related penalty regulations under chapter 1 of the Internal Revenue Code. The notice of proposed rulemaking was published in the **Federal Register** on Thursday, March 17, 1994 (59 FR 12563).

DATES: Written comments, requests to speak and outlines of oral comments to be presented at the public hearing scheduled for July 12, 1994, beginning

at 10 a.m., must be received by June 21, 1994.

FOR FURTHER INFORMATION CONTACT: David L. Meyer, (202) 622–6232 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The proposed regulations provide rules under section 6662 of the Internal Revenue Code.

Need for Correction

As published, the proposed regulations contain errors which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the proposed regulations (IA–78–93), which is the subject of FR Doc. 94–6237 is corrected as follows:

1. The heading "RIN 1545–AS58" is corrected to read "RIN 1545–AS62".

2. The caption **ACTION** is corrected to read **ACTION:** Notice of proposed rulemaking and notice of public hearing."

3. The caption **DATES** is corrected to read **DATES:** Written comments, requests to speak and outlines of oral comments to be presented at the public hearing scheduled for July 12, 1994, beginning at 10 a.m., must be received by June 21, 1994.

4. The caption **FOR FURTHER INFORMATION CONTACT** is corrected to read **FOR FURTHER INFORMATION CONTACT:** Concerning the regulations, David L. Meyer, 202–622–6232; concerning submissions and the hearing, Michael Slaughter, 202–622–7180 (not toll-free numbers).

5. Under the caption **SUPPLEMENTARY INFORMATION**, the first sentence of the second paragraph under the descriptive heading "Comments and Public Hearing", is corrected to read "A public hearing is scheduled to be held on July 12, 1994, at 10 a.m., in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC."

§ 1.6662–2 [Corrected]

6. On page 12565, column 3, § 1.6662–2(d)(2), line 5, the language "1.6662–4 reflecting the changes made to" is corrected to read "1.6662–4 as revised to reflect the changes made to".

7. On page 12565, column 3, § 1.6662–2(d)(2), line 8, the language "1993 apply to returns the due date for" is corrected to read "1993 and of § 1.6662–5 apply to returns the due date for".

8. On page 12565, column 3, § 1.6662–2(d)(2), last line, the language "before March 14, 1994." is corrected to read "before March 14, 1994, but the provisions of §§ 1.6662–1 through 1.6662–3 as codified in 26 CFR part 1 revised April 1, 1993, relating to those penalties will apply to such returns.".

§ 1.6662–7 [Corrected]

9. On page 12566, column 2, § 1.6662–7(a)(2), line 5, the language "provisions of these regulations relating" is corrected to read "provisions of this section relating".

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 94–7403 Filed 3–29–94; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 916

Kansas Permanent Regulatory Program

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

ACTION: Proposed rule; reopening and extension of public comment period on proposed amendment.

SUMMARY: OSM is reopening the public comment period and announcing the receipt of revisions to a previously submitted amendment to the Kansas permanent regulatory program (hereinafter, the "Kansas program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The revised amendment proposes further changes to provisions of the Kansas regulations pertaining to administrative hearing procedures, permit revisions, and revegetation success for underground mining. The amendment is intended to revise the State program to be consistent with the corresponding Federal standards, clarify ambiguities, and improve operational efficiency.

This document sets forth the times and locations that the Kansas program and proposed amendment to that program are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment.

DATES: Written comments must be received by 4 p.m., c.s.t., April 14, 1994.

ADDRESSES: Written comments should be mailed or hand delivered to Jerry R. Ennis at the address listed below.

Copies of the Kansas program the proposed amendment, and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendments by contacting OSM's Kansas City Field Office:

Jerry R. Ennis, Director, Kansas City Field Office, Office of Surface Mining Reclamation and Enforcement, 934 Wyandotte, room 500, Kansas City, MO 64105, Telephone: (816) 374–6405.

Kansas Department of Health and Environment, Bureau of Environmental Remediation, Surface Mining Section, 1501 S. Joplin, P.O. Box 1418, Pittsburg, KS 66762, lephone: (316) 231–8615.

FOR FURTHER INFORMATION CONTACT: Jerry R. Ennis, telephone: (816) 374–6405.

SUPPLEMENTARY INFORMATION:

I. Background on the Kansas Program

On January 21, 1981, the Secretary of Interior conditionally approved the Kansas program. General background information on the Kansas program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Kansas program can be found in the January 21, 1981, **Federal Register** (46 FR 5892). Subsequent actions concerning Kansas' program and program amendment can be found at 30 CFR 916.12, 916.15, and 916.16.

II. Discussion of Proposed Amendment

By letter dated September 14, 1993, (Administrative Record No. KS–567) Kansas submitted a proposed amendment to its program pursuant to SMCRA. Kansas submitted the proposed amendment with the intent of satisfying the required program amendments at 30 CFR 916.16 (a), (b), and (c) and at the States own initiative to improve its program.

OSM announced receipt of the proposed amendment in the September 27, 1993, **Federal Register** (58 FR 50302) and, in the same notice, opened the public comment period and provided opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period ended on October 27, 1993. The public hearing scheduled for October 22, 1993, was not held because no one requested an opportunity to testify.

By letter dated January 26, 1994 (Administrative Record No. KS–540), OSM provided Kansas with its concerns about the September 14, 1993, amendment submission. In response to

OSM's letter, Kansas submitted a revised amendment by letters dated March 9, 1994 (Administrative Record No. KS–575), and March 10, 1994 (Administrative Record No. KS–576). This new amendment submission contains further revisions to Articles 4, 5, 6, 9, and 15 of the Kansas Administrative Regulations (K.A.R.). The amendment proposes several changes to the format and nonsubstantive wording changes to clarify the regulations. The substantive changes proposed by Kansas are discussed briefly below:

(1) Intervention

K.A.R. 47–4–14a(c)(7): Kansas proposes that said petition shall set out the interest of the petitioner and why his/her interest is or may be affected.

(2) Public Hearings

K.A.R. 47–4–14a(d)(6)(E)(iii): Kansas proposes that notice under this subsection may include all types of information provided in section (d)(6)(A) through (D) or may consist of a brief statement indicating the subject matter, parties, time, place where the hearing will be held, locations where the general public may meet for hearings which are conducted electronically, and nature of the hearing, manner in which copies of the notice to the parties may be inspected and copied, and the name and telephone number of the presiding officer.

(3) Civil Penalties

K.A.R. 47–5–5a(a)(10): Kansas proposes to adopt by reference 30 CFR 846.5 concerning definitions for individual civil penalties and § 846.18(c) concerning delinquent payment with minor modifications to make the language State specific.

(4) Inspection and Enforcement, Substitution of Terms

K.A.R. 47–15–1a(b)(21): Kansas proposes that 30 CFR 843.15(e) has been replaced with the requirement that an informal public hearing shall be conducted in accordance with K.A.R. 47–4–14a.

(5) Underground Mining Revegetation, Standards of Success

K.A.R. 47–9–1(d)(39): Kansas proposes to add at its adoption by reference of 30 CFR 817.116(a) subsection (a)(3) that data being used for bond release will be submitted to the surface mining section annually. This includes data for the last augmented seeding which will start the extended liability period. The following instructions for submissions shall be followed: (i) The planting reports, including soil tests and tabulated results, shall be submitted by March 31 of the year following the year in which they were performed; (ii) the production and ground cover data shall be submitted within 30 days of the date they were sampled, must include species identification, may include Raw field data; and (iii) all data must be clearly identified as to the bond release management area that it represents.

III. Public Comment Procedures

OSM is reopening the comment period on the proposed Kansas program amendment to provide the public an opportunity to reconsider the adequacy of the amendment in light of the additional materials submitted. In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Kansas program.

Written Comments

Written comments should be specific, pertain only to the issue proposed in this rulemaking, and include explanations in support of the commentor's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Kansas City Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

IV. Procedural Determinations

1. Executive Order 12866

This proposed rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

2. Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 12550) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

3. National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

4. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

5. Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 916

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 16, 1994.

Raymond L. Lowrie,

Assistant Director, Western Support Center.

[FR Doc. 94–7507 Filed 3–29–94; 8:45 am]

BILLING CODE 4310–05–M

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30 CFR Part 935

Ohio Regulatory Program Amendment

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

ACTION: Proposed rule; reopening and extension of public comment period.

SUMMARY: OSM is reopening the public comment period for proposed Program Amendment Number 62 Revised (PA 62R) to the Ohio permanent regulatory program (hereinafter referred to as the Ohio program) under the Surface Mining Control and Reclamation Act of 1977. The amendment was initiated by Ohio and is intended to make the Ohio program as effective as the corresponding Federal regulations. The amendment concerns the removal of siltation structures prior to two years after the last augmented seeding upon a demonstration that alternative measures are the best technology currently available for sediment control.

This document sets forth the times and locations that the Ohio program and proposed amendment to that program will be available for public inspection, the dates and times of the reopened comment period during which interested persons may submit written comments on the proposed amendment, and the procedures that will be followed regarding the public hearing, if one is requested.

DATES: Written comments must be received on or before 4 p.m. on April 14, 1994. If requested, a public hearing on the proposed amendment will be held at 1 p.m. on April 11, 1994. Requests to present oral testimony at the hearing must be received on or before 4 p.m. on April 6, 1994. Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT.**

ADDRESSES: Written comments and requests to testify at the hearing should be mailed or hand delivered to Richard J. Seibel, Director, Columbus Field Office, at the address listed below. Copies of the Ohio program, the proposed amendment, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive, free of charge, one copy of the proposed amendment by contacting OSM's Columbus Field Office.

Office of Surface Mining Reclamation and Enforcement, Columbus Field Office, 4480 Refugee Road, suite 201, Columbus, Ohio 43232, Telephone: (614) 866–0578.

Ohio Department of Natural Resources, Division of Reclamation, 1855 Fountain Square Court, Building H–3, Columbus, Ohio 43224, Telephone: (614) 265–6675.

FOR FURTHER INFORMATION CONTACT: Richard J. Seibel, Director, Columbus Field Office, Telephone: (614) 866–0578.

SUPPLEMENTARY INFORMATION:

I. Background

On August 16, 1982, the Secretary of the Interior conditionally approved the Ohio program. Background information on the Ohio program, including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval, can be found in the August 10, 1982, **Federal Register** (47 FR 34688). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 935.11, 935.12, 935.15, and 935.16.

II. Discussion of the Proposed Amendment

By letter dated March 4, 1993 (Administrative Record No. OH–1841), the Ohio Department of Natural Resources, Division of Reclamation (Ohio) submitted proposed Program Amendment Number 62 (PA 62). In this amendment, Ohio proposed to revise three rules in the Ohio Administrative Code (OAC) to authorize the removal of siltation structures prior to two years after the last augmented seeding upon a demonstration that alternative measures are the best technology currently available for sediment control. Ohio proposed that this demonstration must be specific and be contained in or amended into the permit, and will be reviewed on a case-by-case basis by the Chief of the Ohio Department of Natural Resources, Division of Reclamation (the Chief). As part of and in support of PA 62, Ohio also submitted Administrative Record information discussing Ohio's intended implementation of this proposal.

OSM announced its receipt of proposed PA 62 in the **Federal Register** (58 FR 17372) on April 2, 1993. The public comment period ended on May 3, 1993. The public hearing scheduled for April 27, 1993, was not held because no one requested an opportunity to testify.

By letter dated September 20, 1993, (Administrative Record No. OH–1931), OSM provided its comments to Ohio on the March, 4, 1993, submission of PA 62. OSM found that, in order for OSM to approve PA 62, Ohio must demonstrate that vegetation established earlier than the end of the first two years will control sediment no less effectively than a siltation structure. Further, Ohio must supply the policy or review criteria by which the State will review proposals from permittees that certain erosion-control methods other than siltation structures are the best technology currently available.

By letter dated October 20, 1993 (Administrative Record No. OH–1943), Ohio provided its initial response to OSM's September 20, 1993, comments on PA 62. Ohio requested additional time to develop the required information and requested technical assistance from OSM in developing that information. Ohio and OSM staff met on February 11, 1994, (Administrative Record No. OH–1988) to discuss the available information on pond removal and erosion control.

By letter dated March 1, 1994 (Administrative Record No. OH–1994), Ohio resubmitted Program Amendment Number 62 Revised (PA 62R) which is intended to resolve the two requirements in OSM's September 20, 1993, letter. Ohio submitted additional documents in support of PA 62R by letter dated March 10, 1994 (Administrative Record No. OH–1994). In total, PA 62R consists of new proposed revisions to two Ohio rules, revisions to an existing Ohio Policy/Procedure Directive, and five technical study articles intended to correlate vegetative ground cover with runoff and soil loss. Each of these three parts of PA 62R is discussed briefly below:

A. Rule Revisions

(1) *OAC 1501:13–4–05 paragraph (E)(1)(g) and 13–4–14 paragraph (E)(1)(f):* Ohio is further revising these two paragraphs to provide that the plan in each permit application for protection of the hydrologic balance shall describe the measures to be taken to prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow, or runoff outside the permit area. The Chief may determine that vegetation is the best technology currently available for this prevention upon a demonstration by the permittee that vegetation is established and that drainage from the area meets effluent limitations and does not contribute suspended solids to streamflow. If the applicant proposes to make such a demonstration after vegetation is established and to remove siltation structures sooner than two years after the last augmented seeding of a drainage area, the applicant shall state such intentions in the timetable and plans for removal of sediment control structures required by paragraphs (H)(1)(b)(iv) or (H)(1)(c)(iv) of OAC 1501:13–4–05 or OAC 1501:13–4–14.

(2) *OAC 1501:13–4–05 and 13–4–14 paragraph (H)(1)(b)(iv):* Ohio is further revising these two paragraphs to provide that the detailed design plans for impoundment structures that meet or exceed size or other criteria of MSHA shall describe the timetable and plans to remove each structure, if appropriate. The applicant must include a statement of intent if the applicant proposes to demonstrate that vegetation is the best technology currently available and proposes to remove siltation structures sooner than two years after the last augmented seeding of the drainage area.

(3) *OAC 1501:13–4–05 and 13–4–14 paragraph (H)(1)(c)(iv):* Ohio is further revising these two paragraphs to insert the same proposed language as quoted above for paragraph (H)(1)(b)(iv) in order that the language also apply to the detailed design plans for impoundment structures that do not meet the size or other criteria of MSHA.

B. Revisions to Ohio Policy/Procedure Directive

As part of and in support of PA 62R, Ohio is proposing to revise its existing Inspection and Enforcement Policy/ Procedure Directive Number 93–4 entitled "Removal of Siltation Structures and Termination of NPDES Monitoring." The proposed revisions to the Policy/Procedure Directive concern the content of revised OAC 1501:13–9–04 paragraph (G)(2)(e), the requirements for timing of augmented seeding, the methods to be used to evaluate success of ground cover, and the use of the form for requesting removal of siltation structures.

C. Supporting Study Articles

As part of and in support of PA 62R, Ohio has also submitted five technical study articles intended to correlate vegetative ground cover with runoff and soil loss:

(1) Hofmann, L., R.E. Ries, and J.E. Gilley. "Relationship of Runoff and Soil Loss to Ground Cover of Native and Reclaimed Grazing Land." Agronomy Journal, Vol. 75, July–August 1983, P. 599–602.

(2) Hofmann, L. and R.E. Ries. "Relationship of soil and plant characteristics to erosion and runoff on pasture and range." Journal of Soil and Water Conservation, Vol 46, Number 2, March–April 1991, p. 143–147.

(3) Ries, R.E. and L. Hofmann. "Relationship of Ground Cover of Short and Midgrass Communities to Soil Loss." North Dakota Farm Research, Vol. 44, Number 2, September–October 1986, p. 29–31.

(4) USDA, Agricultural Research Service and The Ohio State University, Ohio Agricultural Research and Development Center. "Final Report: Research on the Hydrology and Water Quality of Watersheds Subjected to Surface Mining." USDI, Bureau of Mines Contract Report Nos. J0166054 and J0166055, January 1984, 35 p.

(5) USDA, Agricultural Research Service and The Ohio State University, Ohio Agricultural Research and Development Center. "Postmining Results in Muskingum County, Ohio: Research on the Hydrology and Water Quality of Watersheds Subjected to Surface Mining." USDI, Bureau of Mines Contract Report Nos. J0166054 and J0166055, April 1983, 196 p.

III. Public Comment Procedures

OSM is reopening the comment period on the proposed Ohio program amendment to provide the public an opportunity to reconsider the adequacy of the proposed amendment in light of the additional materials submitted. In accordance with the provisions of 30 CFR 732.17(h), OSM is now seeking comment on whether the amendment proposed by Ohio satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Ohio program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Columbus Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m. on April 6, 1994. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to testify at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and who wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment have been heard.

Public Meeting

If only one person requests an opportunity to comment at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings shall be open to the public and, if possible, notices of the meetings will be posted in advance at the locations listed under **ADDRESSES.** A written summary of each public meeting will be made a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12866

This proposed/final rule is exempted from review by the Office of Management and Budget under Executive Order 12866.

Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15 and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act, 42 U.S.C. 4332(2)(C).

Paperwork Reduction Act

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

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 935

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 23, 1994.

Robert J. Biggi,

Acting Assistant Director, Eastern Support Center.

[FR. Doc. 94–7499 Filed 3–29–94; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–94–001]

RIN 2115–AA97

Safety Zone; Heritage of Pride Fireworks Display, Hudson River, NY and NJ

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary safety zone in the Hudson River for the Heritage of Pride Fireworks program. The event, sponsored by Heritage of Pride Incorporated, will take place from 9:30 p.m. until 11:30 p.m. on Saturday, June 25, and Sunday, June 26, 1994. This safety zone is needed to protect the boating public from the hazards associated with fireworks exploding in the area.

DATES: Comments must be received on or before May 31, 1994.

ADDRESSES: Comments should be mailed to Captain of the Port, New York, Bldg. 108, Governors Island, New York 10004–5096, or may be delivered to the Waterways Management Branch, Bldg. 108, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Any person wishing to visit the office must contact the Waterways Management Branch at (212) 668–7933 to obtain advance clearance due to the fact that Governors Island is a military installation with limited access.

FOR FURTHER INFORMATION CONTACT: LT. R. Trabocchi, Project Manager, Captain of the Port, New York (212) 668–7933.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD01–94–001) and the specific section of the proposal to which their comments apply, and give reasons for each comment. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments. The Coast Guard plans no public hearing; however, a public hearing may be requested by writing to the Project Manager at the address under "ADDRESSES". If it is determined that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Drafting Information

The drafters of this notice are LT. R. Trabocchi, Project Manager, Captain of the Port, New York, and CDR J. Astley, Project Attorney, First Coast Guard District, Legal Office.

Background and Purpose

On December 27, 1993, Heritage of Pride Incorporated submitted a request to hold a fireworks program in the Hudson River, in the vicinity of Pier 45, Manhattan, New York. This proposed safety zone is needed to protect boaters from the hazards associated with the fireworks exploding in the area.

Discussion of Proposed Amendments

The Coast Guard proposes to establish a temporary safety zone that will include all waters within a 300 yard radius from the center of two fireworks barges anchored together 200 yards north of Pier 45, Manhattan, at a point approximately 1000 feet off the Manhattan shoreline in the Hudson River. This proposed safety zone will be in effect from 9:30 p.m. until 11:30 p.m. on June 25, and June 26, 1994. This proposed safety zone is needed to protect the boating public from the hazards that accompany a fireworks program. No vessel will be permitted to enter or move within this area unless authorized by the Coast Guard Captain of the Port, New York.

Regulatory Evaluation

This proposal is not considered a significant regulatory action under Executive Order 12866 and is not significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Though there is a regular flow of traffic through this area, there is not likely to be a significant impact on business, recreational, or commercial traffic for several reasons. Due to the limited duration of the event, the late hour of the event, the extensive advisories that will be made to the affected maritime community, and that traffic can safely transit to the west of this safety zone the Coast Guard expects the economic impact of this regulation to be so minimal that a Regulatory Evaluation is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard must consider whether this proposal 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).

For reasons given in the Regulatory Evaluation, the Coast Guard expects the impact of this regulation to be minimal. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This proposal contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501).

Federalism

The Coast Guard has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this proposal does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impact of these regulations and concluded that under section 2.B.2.c. of Commandant Instruction M16475.1B, it is an action under the Coast Guard's statutory authority to promote maritime safety and protect the environment, and this is categorically excluded from further environmental documentation. A Categorical Exclusion Determination will be included in the docket.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Proposed Regulations

For reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. A temporary § 165.T01–001 will be added to read as follows:

§ 165.T01–001 Heritage of Pride Fireworks, Hudson River, New York and New Jersey.

(a) *Location.* The safety zone will include all waters within a 300 yard radius from the center of two fireworks barges anchored together 200 yards north of Pier 45, Manhattan, at a point approximately 1000 feet off the Manhattan shoreline in the Hudson River.

(b) *Effective period.* This section will be effective from 9:30 p.m. until 11:30 p.m. on June 25, and June 26, 1994.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply to this safety zone.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed. Coast Guard Auxiliary members may be present to inform vessel operators of this regulation and other applicable laws.

Dated: March 2, 1994.

T.H. Gilmour,

Captain, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 94–7550 Filed 3–29–94; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[CGD01–94–002]

RIN 2115–AA97

Safety Zone; Parade of Ships, Fleet Week '94, Port of NY and NJ

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary safety zone on June 2, 1994, to protect the boating public from the possible hazards to navigation associated with a parade of naval vessels transiting the Upper and Lower New York Bays, and Hudson River in close proximity to each other. If adopted, a moving safety zone will be established 500 yards fore and aft, and 200 yards on either side of the designated column of vessels in the parade as it transits from the Verrazano Narrows Bridge to Pier 86, Manhattan, in the Hudson River. As the vessels then proceed to their berths, the moving safety zone will expand to encompass all waters within a 200 yard radius of each vessel until it is safely moored. The regulation would be in effect from 7:30 a.m. until 3 p.m. on Thursday, June 2, 1994, unless terminated sooner by the Coast Guard Captain of the Port, New York.

DATES: Comments must be received on or before May 31, 1994.

ADDRESSES: Comments should be mailed to Captain of the Port, New York, Bldg. 108, Governors Island, New York 10004–5096, or may be delivered to the Waterways Management Branch, Bldg. 108, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Any person wishing to visit the office must contact the Waterways Management Branch at (212) 668–7933 to obtain advance clearance, due to the fact that Governors Island is a military installation with limited access.

FOR FURTHER INFORMATION CONTACT: LT. R. Trabocchi, Project Manager, Captain of the Port, New York, (212) 668–7933.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD01–94–002) and the specific section of the proposal to which their comments apply, and give reasons for each comment. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments. The Coast Guard plans no public hearing, however, persons may request a public hearing by writing to the Project Manager at the address under "**ADDRESSES**". If it is determined that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Drafting Information

The drafters of this notice are LT R. Trabocchi, Project Manager, Captain of the Port, New York and CDR J. Astley, Project Attorney, First Coast Guard District, Legal Office.

Background and Purpose

On November 16, 1993, the Intrepid Sea Air Space Museum submitted a request to hold a parade of U.S. Coast Guard and U.S. and foreign naval ships through the Port of New York and New Jersey on June 2, 1994. On January 18, 1994, the Coast Guard held a meeting with the sponsor to confirm the specifics of this marine event. The proposed regulation would establish a moving safety zone within all waters 500 yards foreward of the lead parade vessel, 500 yards aft of the last parade vessel, and 200 yards either side of the designated column as it transits northward from the Verrazano Narrows Bridge to Pier 86, Manhattan, in the Hudson River. Following the transit to Pier 86, the vessels will proceed to their berths. The proposed regulation also provides for a moving safety zone in all waters within a 200 yard radius around each vessel from the time the vessel breaks off from the parade until it is safely moored. No vessel will be permitted to enter or move within these safety zones unless authorized by the Captain of the Port, New York.

This regulation is required to protect the maritime public from possible hazards to navigation associated with a

parade of naval vessels transiting the waters of New York Harbor in close proximity. These vessels will be transiting with limited maneuverability and therefore require a clear traffic lane in order to safely navigate to their destination.

Discussion of Proposed Amendments

The Coast Guard proposes to establish a moving safety zone within all waters 500 yards foreward of the lead parade vessel, 500 years aft of the last parade vessel, and 200 yards either side of the designated column as it transits northward from the Verrazano Narrows Bridge to Pier 86, Manhattan, in the Hudson River. The proposed regulation also provides for a moving safety zone in all waters within a 200 yard radius around each vessel from the time the vessel breaks off from the parade until it is safely moored. If adopted, these safety zones will be in effect from 7:30 a.m. until 3 p.m. on June 2, 1994, unless terminated sooner by the Coast Guard Captain of the Port, New York. The closure of these portions of the waterways is needed to protect the boating public from the possible hazards to navigation associated with a parade of naval vessels transiting the waters of New York Harbor in close proximity. No vessel will be permitted to enter or move within these safety zones unless authorized by the Coast Guard Captain of the Port, New York. As the parade clears a particular area vessel operators will be able to transit those waters.

Regulatory Evaluation

This proposal is not considered a significant regulatory action under Executive Order 12866 and is not significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Though there is a regular flow of traffic through this area, there is not likely to be a significant impact on recreational or commercial traffic for several reasons. Due to the moving nature of the safety zone, no single location will be affected for a prolonged period of time which in turn should not significantly delay commercial traffic. Additionally, recreational traffic can transit the river on either side of the safety zone or use the East River, Kill Van Kull, or Arthur Kill as an alternate route. Similar safety zones have been established for the last few annual Fleet Week parades of ships with minimal or no disruption to vessel traffic or other interests in the port. For all of the above reasons, as well as the fact that extensive advisories will be made to the affected maritime community so that they may adjust their plans accordingly, the Coast Guard expects the economic impact of this proposal to be so minimal that a Regulatory Evaluation is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard must consider whether this proposal 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).

For reasons given in the Regulatory Evaluation, the Coast Guard expects the impact of this regulation to be minimal. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This proposal contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501).

Federalism

The Coast Guard has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this proposal does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impact of these regulations and concluded that under section 2.B.2.c. of Commandant Instruction M16475.1B, it is an action under the Coast Guard's statutory authority to promote maritime safety and protect the environment, and thus is categorically excluded from further environmental documentation. A Categorical Exclusion Determination will be included in the docket.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Proposed Regulations

For reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. A temporary § 165.T01–002 is added to read as follow:

§ 165.T01–002 Parade of Ships, Fleet Week '94, Port of New York and New Jersey.

(a) *Location.* This moving safety zone includes all waters within 500 yards forward of the lead parade vessel, 500 yards aft of the last parade vessel, and 200 yards either side of the designated column as it transits northward from the Verrazano Narrows Bridge to Pier 86, Manhattan, in the Hudson River and then 200 yards around each vessel until safely moored.

(b) *Effective period.* This section is effective from 7:30 a.m. until 3 p.m. on June 2, 1994, unless terminated sooner by the Captain of the Port, New York.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply to this safety zone.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed. Coast Guard Auxiliary members may be present to inform vessel operators of this regulation and other applicable laws.

Dated: March 2, 1994.

T.H. Gilmour,

Captain, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 94–7535 Filed 3–29–94; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[CGD01–94–008]

RIN 2115–AA97

Safety Zone; Parade of Ships, Convoy '94, Port of NY and NJ

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary safety zone, on May 2, 1994, and May 5, 1994, to protect the boating public from the possible hazards to navigation associated with a parade of vessels transiting the Upper and Lower New

York Bays, and Hudson River in close proximity to each other. If adopted, a moving safety zone will be established 500 yards fore and aft, and 200 yards on either side of the designated column of vessels in the parade route as it enters the Port of New York and New Jersey via the Upper and Lower New York Bays and the Hudson River between Ambrose and the Passenger Ship Terminal, Pier 88 South, Manhattan; and again as the parade departs the Port of New York and New Jersey via the Hudson River and the Upper and Lower New York Bays between the Battery and Ambrose. As the vessels proceed to and leave from their berths, the moving safety zone will be expanded to encompass all waters within a 200 yard radius of each vessel. This regulation will be in effect from 9 a.m. until 3 p.m. on Monday, May 2, 1994, and again from 9 a.m. until 3 p.m. on May 5, 1994, unless terminated sooner by the Coast Guard Captain of the Port, New York.

DATES: Comments must be received on or before May 31, 1994.

ADDRESSES: Comments should be mailed to Captain of the Port, New York, Bldg. 108, Governors Island, New York 10004–5096, or may be delivered to the Waterways Management Branch, Bldg. 108, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Any person wishing to visit the office must contact the Waterways Management Branch at (212) 668–7933 to obtain advance clearance due to the fact that Governors Island is a military installation with limited access.

FOR FURTHER INFORMATION CONTACT: Lt. R. Trabocchi, Project Manager, Captain of the Port, New York, (212) 668–7933.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD01–94–008) and the specific section of the proposal to which their comments apply, and give reasons for each comment. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments. The Coast Guard plans no public hearing, however, persons may request a public hearing by writing to the Project Manager at the address under "**ADDRESSES.**" If it is determined that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Drafting Information

The drafters of this notice are LT R. Trabocchi, Project Manager, Captain of the Port, New York, and CDR J. Astley, Project Attorney, First Coast Guard District, Legal Office.

Background and Purpose

On January 13, 1994, the Coast Guard attended a meeting held by the sponsor to discuss the times and dates for this marine event.

This regulation is required to protect the maritime public from possible hazards to navigation associated with a parade of vessels transiting the waters of New York Harbor in close proximity. These vessels will be transiting with limited maneuverability and therefore require a clear traffic lane in order to safely navigate to their parade destination and then to their berth.

Discussion of Proposed Amendments

The Coast Guard proposes to establish a moving safety zone within all waters 500 yards forward of the lead parade vessel, 500 yards aft of the last parade vessel, and 200 yards either side of the designated column as it enters the Port of New York and New Jersey via the Upper and Lower New York Bays and the Hudson River between Ambrose and the Passenger Ship Terminal, Pier 88 South, Manhattan; and again as the parade departs the Port of New York and New Jersey via the Hudson River and the Upper and Lower New York Bays between the Battery and Ambrose. As each vessel proceeds to and leaves from its berth, the moving safety zone will be expanded to encompass all waters within a 200 yard radius of each vessel. If adopted, this safety zone will be in effect from 9 a.m. until 3 p.m. on May 2, 1994, and again from 9 a.m. until 3 p.m. on May 5, 1994, unless terminated sooner by the Coast Guard Captain of the Port, New York. This closure is needed to protect the boating public from the possible hazards to navigation associated with a parade of vessels transiting the waters of New York Harbor in close proximity. No vessel will be permitted to enter or move within this safety zone unless authorized by the Coast Guard Captain of the Port, New York.

Regulatory Evaluation

This proposal is not considered a significant regulatory action under Executive Order 12866 and is not significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034 February 26, 1979). Though there is a regular flow of traffic through this area, there is not likely to be a significant impact on recreational or commercial traffic for several reasons. Due to the moving nature of the safety zone, no single location will be affected for a prolonged period of time which in turn should not significantly delay commercial traffic. Additionally, recreational traffic can transit the river on either side of the safety zone or use the East River, Kill Van Kull, or Arthur Kill as an alternate route. Similar safety zones have been established for the last few annual Fleet Week parades of ships with minimal or no disruption to vessel traffic or other interests in the port. For all of the above reasons, as well as the fact that extensive advisories will be made to the affected maritime community so that they may adjust their plans accordingly, the Coast Guard expects the economic impact of this proposal to be so minimal that a Regulatory Evaluation is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal 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).

For reasons given in the Regulatory Evaluation, the Coast Guard expects the impact of this regulation to be minimal. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This proposal contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501).

Federalism

The Coast Guard has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this proposal does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impact of these regulations and concluded that under section 2.B.2.c. of Commandant Instruction M16475.1B, it is an action under the Coast Guard's statutory authority to promote maritime safety and protect the environment, and thus is categorically excluded from further environmental documentation. A Categorical Exclusion Determination will be included in the docket.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Proposed Regulations

For reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. A temporary § 165.T01–008 is added to read as follows:

§ 165.T01–008 Parade of Ships, Convoy '94, Port of New York and New Jersey.

(a) *Location.* A moving safety zone is established including all waters within 500 yards forward of the lead parade vessel, 500 yards aft of the last parade vessel, and 200 yards either side of the designated column as it transits the waters of the Port of New York and New Jersey via the Upper and Lower New York Bays and the Hudson River between Ambrose and the Passenger Ship Terminal, Pier 88 South, Manhattan. The zone also encompasses all waters within a 200 yard radius of each vessel as it proceeds to and leaves from its berth.

(b) *Effective period.* This section is effective from 9 a.m. until 3 p.m. on May 2, 1994, and again from 9 a.m. until 3 p.m. on May 5, 1994, unless terminated sooner by the Captain of the Port, New York.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply to this safety zone.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed. Coast Guard Auxiliary members may be present to inform vessel operators of this regulation and other applicable laws.

Dated: March 2, 1994.

T.H. Gilmour,

Captain, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 94–7540 Filed 3–29–94; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[COTP Baltimore 94–002]

Safety Zone Regulation: Potomac River Swim, Potomac River, MD

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard Marine Safety Office Baltimore is considering a proposal to establish a safety zone for the purpose of the "Potomac River Swim" event to be held in the Potomac River, Maryland. The event will consist of participants and support vessels crossing the Potomac River from the Hull Neck area of Virginia to Point Lookout, Maryland. This safety zone is necessary to control small craft and commercial vessel traffic and to provide for the safety of life and property on U.S. navigable waters during this event. Entry into this zone is prohibited unless authorized by the Captain of the Port.

DATES: Comments must be received on or before April 29, 1994.

ADDRESSES: Comments should be mailed to U.S. Coast Guard Marine Safety Office Baltimore, Customs House, 40 South Gay Street, Baltimore, Maryland 21202–4022. The comments and other materials referenced in this notice will be available for inspection and copying to the above address in room 343. Normal office hours are between 7:30 a.m. and 4 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Chief Warrant Officer Timothy P. Ryan, 401–962–2651.

SUPPLEMENTARY INFORMATION: Request for comments: In order to provide an opportunity for notice and comment and still issue a final rule in time for the event, the comment period for this rule is 30 days instead of the normal 60 days. Interested persons are invited to participate in this rulemaking by submitting written views, data and arguments. Persons submitting comments should include their names and addresses, identify this notice (COTP Baltimore 94–002) and the specific section of the proposal to which their comments apply, as well as give reasons for each comment. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. The proposed regulation may be changed in light of comments received. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The drafters of this regulation are Chief Warrant Officer Timothy P. Ryan, project officer for the Captain of the Port, Baltimore, Maryland and Lieutenant Monica Lombardi, project attorney Fifth Coast Guard District Legal Staff.

Background and Purpose

On October 4, 1993, an application was received by U.S. Coast Guard Group Baltimore from Potomac River Swim, Inc., requesting a safety zone for the "Potomac River Swim" event held in the Potomac River, Maryland, on May 21, 1994. In the event of bad weather, the alternate event date will be May 22, 1994 and will encompass the same time frame. As part of their application, Potomac River Swim Inc. requested the Coast Guard provide control of spectator and commercial traffic during the swimming event.

Discussion of Proposed Regulation

The "Potomac River Swim" event consists of a maximum of twelve swimmers departing from the Hull Neck area of Virginia, located on the southern shore of Potomac River, and crossing the river north, to Point Lookout, Maryland. This safety zone will consist of all waters 100 yards on either side of a line drawn from the Hull Neck area of Virginia, located at latitude 37°57′ North, longitude 076°21′ West, thence across to Point Lookout, Maryland, located at latitude 38°′02.3′ North, longitude 76°19.3 minutes West. This regulation is necessary to ensure the safety of participants, spectator craft and to provide for the safety of life and property on U.S. navigable waters during the event. Since the main channel will not be closed for an extended period, commercial traffic should not be severely disrupted.

This regulation is issued under 33 U.S.C. 1231 as set out in the authority citation for all of part 165.

Economic Assessment and Certification

This proposed regulation is not a significant regulatory action under Executive Order 12806 and is not significant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be minimal, therefore a full regulatory evaluation is unnecessary.

The Coast Guard also considered the impact of this regulation on small entities and concluded that such impact is expected to be minimal. Therefore the Coast Guard certifies under 5 U.S.C. 605(b), that this regulation will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend subpart F of part 165, title 33, Code of Federal Regulations as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. A temporary § 165.T51–003 is added to read as follows:

§ 165.T51–003 Safety Zone: Potomac River Swim, Potomac River, Maryland.

(a) Location. The following safety zone consists of all waters 100 yards either side of a line connecting these points:

37° 57.0′ N, 076° 21.0′ W, thence to 38° 02.3′ N, 076° 19.3′ W.

(b) Definitions. The designated representative of the Captain of the Port is any Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port, Baltimore, Maryland to act on his behalf. The following officers have or will be designated by the Captain of the Port: the Coast Guard Patrol Commander, the senior boarding officer on each vessel enforcing the safety zone, and the Duty Officer at the Marine Safety Office Baltimore, Maryland.

(c) General information. The Captain of the Port and the Duty Officer at the Marine Safety Office, Baltimore, Maryland can be contacted at telephone number (410) 962–5105. The Coast Guard Patrol Commander and the senior boarding officer on each vessel enforcing the safety zone can be contacted on VHF–FM channels 16 and 13.

(d) Local regulation. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(1) The operator of any vessel in the immediate vicinity of this safety zone shall:

(i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard Ensign.

(ii) Proceed as directed by any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard Ensign.

(e) Effective dates. This regulation is effective from 8:45 a.m. May 21, 1994, to 3 p.m. May 21, 1994, with an alternate date of May 22, 1994 encompassing the same area description and time frame, unless sooner terminated by the Captain of the Port, Baltimore, Maryland.

Dated: January 6, 1994.

C.S. Cope,

Captain, U.S. Coast Guard, Captain of the Port, Baltimore, Maryland.

[FR Doc. 94–7534 Filed 3–29–94; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300330; FRL–4765–1]

RIN 2070–AC18

Methyl Vinyl Ether-Maleic Acid Copolymer and Methyl Vinyl Ether-Maleic Acid Copolymer Calcium Sodium Salt; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that an exemption from the requirement of a tolerance be established for residues of methyl vinyl ether-maleic acid copolymer (CAS Reg. No. 25153-40-6) and methyl vinyl ether-maleic acid copolymer calcium sodium salt (CAS Reg. No. 62386-95-2) when used as inert ingredients (dispersant and seed-coating adhesive, respectively) in pesticide formulations applied to growing crops, raw agricultural commodities after harvest, or animals. This proposed regulation was requested by International Specialty Products.

DATES: Comments, identified by the document control number [OPP-300330], must be received on or before April 29, 1994.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operation Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver comments to: Rm. 1132, Crystal Mall Bldg. #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

Information submitted as a comment concerning this document may be claimed confidential by marking any part of all that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice. The public docked is available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Tina E. Levine, Registration Support Branch, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 2800 Crystal Drive, North Tower, 6th Floor, Arlington, VA 22202, (703)-308-8393.

SUPPLEMENTARY INFORMATION: International Specialty Products, 1361 Alps Rd., Wayne, NJ 07470, submitted pesticide petitions (PPs) 3E4260 and 3E4261 to EPA requesting that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act (FFDCA) (21 U.S.C. 346a(e)), propose to amend 40 CFR 180.1001(c) and (e) by establishing an exemption from the requirement of a tolerance for residues of methyl vinyl ether-maleic acid copolymer (CAS Reg. No. 25153-40-6) (PP 3E4260) and methyl vinyl ether-maleic acid copolymer calcium sodium salt (CAS Reg. No. 62386-95-2) (PP 3E4261) when used as inert ingredients (dispersant and seed-coating adhesive, respectively) in pesticide formulations applied to growing crops, to raw agricultural commodities after harvest, or to animals.

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125, and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellents in aerosol dispensers; microencapsulating agents; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

The data submitted in the petitions and other relevant material have been evaluated. As part of the EPA policy statement on inert ingredients published in the **Federal Register** of April 22, 1987 (52 FR 13305), the Agency set forth a list of studies which would generally be used to evaluate the risks posed by the presence of an inert ingredient in a pesticide formulation. However, where it can be determined without that data that the inert ingredient will present minimal or no risk, the Agency generally does not require some or all of the listed studies to rule on the proposed tolerance or exemption from the requirement of a tolerance for an inert ingredient. The Agency has decided that the data normally required to support the proposed tolerance exemption for methyl vinyl ether-maleic acid copolymer and methyl vinyl ether-maleic acid copolymer calcium sodium salt will not need to be submitted. The rationale for this decision is described below.

In the case of certain chemical substances that are defined as "polymers," the Agency has established a set of criteria which identify categories of polymers that present low risk. These criteria (described in 40 CFR 723.250) identify polymers that are relatively unreactive and stable compared to other chemical substances as well as polymers that typically are not readily absorbed. These properties generally limit a polymer's ability to cause adverse effects. In addition, these criteria exclude polymers about which little is known. The Agency believes that polymers meeting the criteria noted above will present minimal or no risk. Methyl vinyl ether-maleic acid copolymer and methyl vinyl ether-maleic acid copolymer calcium sodium salt conform to the definition of polymers given in 40 CFR 723.250(b)(11) and meet the following criteria that are used to identify low-risk polymers:

1. The minimum number-average molecular weight of methyl vinyl ether-maleic acid copolymer is greater than 75,000. The minimum number-average molecular weight of methyl vinyl ether-maleic acid copolymer calcium sodium salt is greater than 900,000. Substances with molecular weights greater than 400 generally are not absorbed through the intact skin, and substances with molecular weights greater than 1,000 generally are not absorbed through the intact gastrointestinal (GI) tract. Chemicals not absorbed through the skin or GI tract generally are incapable of eliciting a toxic response.

2. Methyl vinyl ether-maleic acid copolymer and methyl vinyl ether-maleic acid copolymer calcium sodium salt are not cationic polymers, nor are they reasonably anticipated to become cationic polymers in a natural aquatic environment.

3. Methyl vinyl ether-maleic acid copolymer and methyl vinyl ether-maleic acid copolymer calcium sodium salt do not contain less than 32.0 percent by weight of the atomic element carbon.

4. Methyl vinyl ether-maleic acid copolymer and methyl vinyl ether-maleic acid copolymer calcium sodium salt contain as integral parts of their composition the atomic elements carbon, hydrogen, nitrogen, and oxygen.

5. Methyl vinyl ether-maleic acid copolymer and methyl vinyl ether-maleic acid copolymer calcium sodium salt do not contain as integral parts of their composition, except as impurities, any elements other than those listed in 40 CFR 723.250(d)(3)(ii).

6. Methyl vinyl ether-maleic acid copolymer and methyl vinyl ether-maleic acid copolymer calcium sodium salt are not biopolymers, synthetic equivalents of biopolymers, or derivatives or modifications of biopolymers that are substantially intact.

7. Methyl vinyl ether-maleic acid copolymer and methyl vinyl ether-maleic acid copolymer calcium sodium salt are not manufactured from reactants containing, other than impurities, halogen atoms or cyano groups.

8. Methyl vinyl ether-maleic acid copolymer and methyl vinyl ether-maleic acid copolymer calcium sodium salt do not contain reactive functional groups that are intended or reasonably anticipated to undergo further reaction.

9. Methyl vinyl ether-maleic acid copolymer and methyl vinyl ether-maleic acid copolymer calcium sodium salt are not designed, nor are they reasonably anticipated, to substantially degrade, decompose, or depolymerize.

Based on the information above and review of its use, EPA has found that, when used in accordance with good agricultural practice, these ingredients are useful and a tolerance is not necessary to protect the public health. Therefore, EPA proposes that the exemptions from the requirement of a tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, that contains any of the ingredients listed herein may request within 30 days after the publication of this document in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the FFDCA. Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number [OPP-300330]. All written comments filed in response to this petition will be available in the Public Response and Program Resources Branch, at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 2 of Executive Order 12866.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have an economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Recording and recordkeeping requirements.

Dated: March 18, 1994.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. Section 180.1001(c) and (e) tables are amended by adding and alphabetically inserting the inert ingredient, to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredients	Limits	Uses
* * *	*	* * *
Methyl vinyl ether-maleic acid copolymer (CAS Reg. No. 25153-40-6), minimum number average molecular weight 75,000..	.....	Dispersant.
* * *	*	* * *

(e) * * *

Inert ingredients	Limits	Uses
* * *	*	* * *
Methyl vinyl ether-maleic acid copolymer calcium sodium salt (CAS Reg. No. 62386-95-2), minimum number average molecular weight 900,000..	.....	Seed-coating adhesive.
* * *	*	* * *

[FR Doc. 94–7371 Filed 3–29–94; 8:45 am]

BILLING CODE 6560–50–F

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40 CFR Part 180

[OPP–300329; FRL–4764–9]

RIN 2070–AC18

12-Hydroxystearic Acid-Polyethylene Glycol Copolymer and Methyl Methacrylate-Methacrylic Acid-Monomethoxypolyethylene Glycol Methacrylate Copolymer; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that an exemption from the requirement of a tolerance be established for residues of 12-hydroxystearic acid-polyethylene glycol copolymer and methyl methacrylate-methacrylic acid-monomethoxypolyethylene glycol methacrylate copolymer (CAS Reg. No. 70142-34-6) when used as inert ingredients (surfactants) in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest. This proposed regulation was requested by ICI Americas, Inc.

DATES: Comments, identified by the document control number [OPP-300329], must be received on or before April 29, 1994.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver comments to: Rm. No. 1132, Crystal Mall Bldg. #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

Information submitted as a comment concerning this document may be claimed confidential by marking any part of all that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice. The public docked is available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Tina E. Levine, Registration Support Branch, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 2800 Crystal Drive, North Tower, 6th Fl., Arlington, VA 22202, (703)-308-8393.

SUPPLEMENTARY INFORMATION: ICI Americas, Inc., Safety Health Environmental Affairs Group, Wilmington, DE 19897, submitted pesticide petitions (PPs) 3E4199 and 3E4202 to EPA requesting that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346(e), propose to amend 40 CFR 180.1001(c) by establishing an exemption from the requirement of a tolerance for residues of 12-hydroxystearic acid-polyethylene glycol copolymer (PP 3E4199) and methyl methacrylate-methacrylic acid-monomethoxypolyethylene glycol methacrylate copolymer (PP 3E4202) when used as inert ingredients (surfactants) in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest.

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125, and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as

carrageenan and modified cellulous; wetting, spreading, and dispersing agents; propellents in aerosol dispensers; microencapsulating agents; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

The data submitted in the petition and other relevant material have been evaluated. As part of the EPA policy statement on inert ingredients published in the **Federal Register** of April 22, 1987 (52 FR 13305), the Agency set forth a list of studies which would generally be used to evaluate the risks posed by the presence of an inert ingredient in a pesticide formulation. Where it can be determined that the inert ingredient will present minimal or no risk, the Agency does not need some or all of the listed studies to rule on the proposed tolerance or exemption for an inert ingredient.

The Agency has decided that the data normally required to support the proposed tolerance exemption for 12-hydroxystearic acid-polyethylene glycol copolymer and methyl methacrylate-methacrylic acid monomethoxypolyethylene glycol methacrylate copolymer will not need to be submitted. The rationale for this decision is described below.

In the case of certain chemical substances that are defined as "polymers," the Agency has established a set of criteria which identify categories of polymers that present low risk. These criteria (described in 40 CFR 723.250) identify polymers that are relatively unreactive and stable compared to other chemical substances as well as polymers that typically are not readily absorbed. These properties generally limit a polymer's ability to cause adverse effects. In addition, these criteria exclude polymers about which little is known. The Agency believes that polymers meeting the criteria noted above will present minimal or no risk. The polymers 12-hydroxystearic acid-polyethylene glycol copolymer and methyl methacrylate-methacrylic acid-monomethoxypolyethylene glycol methacrylate copolymer conform to the definition of polymers given in 40 CFR 723.250(b)(11) and meet the following criteria that are used to identify low-risk polymers:

1. The minimum number-average molecular weight of 12-hydroxystearic acid-polyethylene glycol copolymer is greater than 5,000 and of methyl methacrylate-methacrylic acid-monomethoxypolyethylene glycol methacrylate copolymer is greater than 18,000. Substances with molecular weights greater than 400 generally are not absorbed through the intact skin, and substances with molecular weights greater than 1,000 generally are not absorbed through the intact gastrointestinal (GI) tract. Chemicals not absorbed through skin or GI tract generally are incapable of eliciting a toxic response.

2. The polymers 12-hydroxystearic acid-polyethylene glycol copolymer and methyl methacrylate-methacrylic acid-monomethoxypolyethylene glycol methacrylate copolymer are not cationic polymers, nor are they reasonably anticipated to become cationic polymers in a natural aquatic environment.

3. The polymers 12-hydroxystearic acid-polyethylene glycol copolymer and methyl methacrylate-methacrylic acid-monomethoxypolyethylene glycol methacrylate copolymer do not contain less than 32.0 percent by weight of the atomic element carbon.

4. The polymers 12-hydroxystearic acid-polyethylene glycol copolymer and methyl methacrylate-methacrylic acid-monomethoxypolyethylene glycol methacrylate copolymer contain as integral parts of their composition the atomic elements carbon, hydrogen, nitrogen, and oxygen.

5. The polymers 12-hydroxystearic acid-polyethylene glycol copolymer and methyl methacrylate-methacrylic acid-monomethoxypolyethylene glycol methacrylate copolymer do not contain as integral parts of their composition, except as impurities, any elements other than those listed in 40 CFR 723.250 (d)(3)(ii).

6. The polymers 12-hydroxystearic acid-polyethylene glycol copolymer and methyl methacrylate-methacrylic acid-monomethoxypolyethylene glycol methacrylate copolymer are not biopolymers, synthetic equivalents of biopolymers, or derivatives or modifications of biopolymers that are substantially intact.

7. The polymers 12-hydroxystearic acid-polyethylene glycol copolymer and methyl methacrylate-methacrylic acid-monomethoxypolyethylene glycol methacrylate copolymer are not manufactured from reactants containing, other than impurities, halogen atoms or cyano groups.

8. The polymers 12-hydroxystearic acid-polyethylene glycol copolymer and methyl methacrylate-methacrylic acid-monomethoxypolyethylene glycol methacrylate copolymer do not contain reactive functional groups that are intended or reasonably anticipated to undergo further reaction.

9. The polymers 12-hydroxystearic acid-polyethylene glycol copolymer and methyl methacrylate-methacrylic acid-monomethoxypolyethylene glycol methacrylate copolymer are not designed, nor are they reasonably anticipated, to substantially degrade, decompose, or depolymerize.

Based on the information above and review of its use, EPA has found that, when used in accordance with good agricultural practice, these ingredients are useful and tolerances are not necessary to protect the public health. Therefore, EPA proposes that the exemption from the requirement of a tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, that contains any of the ingredients listed herein, may request within 30 days after the publication of this document in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number [OPP-300329]. All written comments filed in response to this petition will be available inthe Public Response and Program Resources Branch, at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 2 of Executive Order 12866.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have an economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Recording and recordkeeping requirements.

Dated: March 18, 1994.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. Section 180.1001(c) is amended in the table therein by adding and alphabetically inserting the inert ingredients, to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredients	Limits	Uses
* * *	*	* * *
12-Hydroxystearic acid-polyethylene glycol copolymer, minimum number-average molecular weight 5,000.	.....	Surfactant.
* * *	*	* * *
Methyl methacrylate-methacrylic acid-monomethoxypolyethylene glycol methacrylate copolymer (CAS Reg. No. 70142-34-6), minimum number average molecular weight 18,000.	.....	Surfactant.
* * *	*	* * *

* * * * *

[FR Doc. 94–7364 Filed 3–29–94; 8:45 am]

BILLING CODE 6560–50–F

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40 CFR Part 180

[PP 3F4232/P580; FRL 4763–7]

RIN 2070–AC18

Pesticide Tolerances for Acetochlor

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This document proposes the establishment of tolerances for the combined residues of the herbicide acetochlor (2-chloro-2'-methyl-6-ethyl-*N*-ethoxymethyl acetanilide) and its metabolites containing the ethyl methyl aniline (EMA) moiety and the hydroxyethyl methyl aniline (HEMA) moiety, to be analyzed as acetochlor, and expressed as acetochlor equivalents, in or on the raw agricultural commodities (RACs) wheat grain at 0.02 part per million (ppm) and sorghum grain at 0.02 ppm. This proposed rule was requested by the Acetochlor Registration Partnership and would establish the maximum level for residues of the herbicide in or on the raw agricultural commodities.

DATES: Comments, identified by the document control number (PP 3F4232/P580), must be recieved on or before April 29, 1994.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington DC 20460. In person, bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed pubicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail, Robert J. Taylor, Product Manager (PM) 25, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 241, CM #2, 1921 Jefferson Davis Hwy., Arlington VA 22202, (703)-305-6800.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 21, 1993 (58 FR 54354), the Agency issued a filing notice for pesticide petition (PP) 3F4232. That notice and subsequent amendments are discussed in the final rule adding 40 CFR 180.470 (bracketed heading PP 3F2966, 1F4011, and 3F4232/R2046) published in the **Federal Register** of March 23, 1994. In brief, PP 4F3242 was a revised request by the Acetochlor Registration Partnership to establish tolerances under section 408 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a, for the herbicide acetochlor (2-chloro-2'-methyl-6-ethyl-*N*-ethoxymethylacetanilide, hereinafter referred to as acetochlor) on various raw agricultural commodities. Many of the requested tolerances had been the subject of earlier petitions, and notice of filing requests to establish those tolerances was published in the **Federal Register** (see cites noted in the final rule document adding 40 CFR 180.170 appearing in the **Federal Register** of March 23, 1994). PP 3F4232, however, contained requests for tolerances for acetochlor on two commodities, wheat grain and sorghum grain, which had not been the subject of previous petitions and thus notice in the **Federal Register** of these tolerance requests had also not been provided. This proposal provides notice of those requests.

The data submitted in support of these tolerances and other relevant material have been evaluated. The toxicological data and other information considered in support of PP 3F4232 is discussed in the final rule referring to PP 3F2966, 1F4011, 3F4232/R2046 appearing in the **Federal Register** of March 23, 1994.

Based on the above information considered by the Agency, the requested tolerances would protect the public health. Therefore, it is proposed that the tolerances be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the the Fedral Insecticde, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this document in the

Federal Register that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408 (e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number [PP 3F4232/P580]. All written comments filed in response to this petition will be available in the Public Response and Program Resources Branch, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12866. Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Adminstrator has determined that regulations establishing new tolerances or food additive regulations or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certificiation statement of this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticidies and pests, Reporting and recordkeeping requirements.

Dated: March 11, 1994.

Douglas D. Campt,

Director, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 to be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In § 180.470, by amending the table therein by adding and alphabetically inserting the raw agricultural commodities wheat grain and sorghum grain to read as follows.

§ 180.470 Acetochlor; tolerances for residues.

* * * * *

Commodity	Parts per million
* * * * *	
Sorghum grain	0.02
* * * * *	
Wheat grain	0.02

[FR Doc. 94-7094 Filed 3-29-94; 8:45 am]

BILLING CODE 6560-50-F

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40 CFR Part 180

[OPP-300331; FRL-4766-2]

RIN NO. 2070-AC18

Vinyl Alcohol-Vinyl Acetate-Monomethyl Maleate, Sodium Salt-Maleic Acid, Disodium Salt-γ-Butyrolactone Acetic Acid, Sodium Salt Copolymer; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that an exemption from the requirement of a tolerance be established for vinyl alcohol-vinyl acetate-monomethyl maleate, sodium salt-maleic acid, disodium salt-γ- butyrolactone acetic acid, sodium salt copolymer when used as an inert ingredient (carrier) in pesticide formulations applied to growing crops only. This proposed regulation was requested by Mitsui Plastics, Inc.

DATES: Comments, identified by the document control number [OPP-300331], must be received on or before April 29, 1994.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver to: Rm. 1132, Crystal Mall Bldg. #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice. The public docket is available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Tina Levine, Registration Support Branch, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 2800 Crystal Drive, North Tower, 6th Fl., Arlington, VA 22202, (703)-308-8393.

SUPPLEMENTARY INFORMATION: Mitsui Plastics, Inc., 11 Martine Ave., White Plains, NY 10606, submitted pesticide petition (PP) 3E4253 to EPA requesting that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act (FFDCA) (21 U.S.C. 346a(e)), propose to amend 40 CFR 180.1001(d) by establishing an exemption from the requirement of a tolerance for residues of vinyl alcohol-vinyl acetate-monomethyl maleate, sodium salt-maleic acid, disodium salt-γ-butyrolactone acetic acid, sodium salt copolymer when used as an inert ingredient (carrier) in pesticide formulations applied to growing crops only.

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125, and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellents in aerosol dispensers; microencapsulating agents; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active. The data submitted in the petition and other relevant material have been evaluated.

As part of the EPA policy statement on inert ingredients published in the **Federal Register** of April 22, 1987 (52 FR 13305), the Agency set forth a list of studies which would generally be used to evaluate the risks posed by the presence of an inert ingredient in a pesticide formulation. However, where it can be determined without that data that the inert ingredient will present minimal or no risk, the Agency generally does not require some or all of the listed studies to rule on the proposed tolerance or exemption from the requirement of a tolerance for an inert ingredient. The Agency has decided that any data, in addition to that described below, for vinyl alcohol-vinyl acetate-monomethyl maleate,

sodium salt-maleic acid, disodium salt-γ-butyrolactone acetic acid, sodium salt copolymer will not need to be submitted. The rationale for this decision is described below.

In the case of certain chemical substances that are defined as "polymers," the Agency has established a set of criteria which identify categories of polymers that present low risk. These criteria (described in 40 CFR 723.250) identify polymers that are relatively unreactive and stable compared to other chemical substances as well as polymers that typically are not readily absorbed. These properties generally limit a polymer's ability to cause adverse effects. In addition, these criteria exclude polymers about which little is known. The Agency believes that polymers meeting the criteria noted above will present minimal or no risk. Vinyl alcohol-vinyl acetate-monomethyl maleate, sodium salt-maleic acid, disodium salt-γ-butyrolactone acetic acid, sodium salt copolymer conforms to the definition of a polymer given in 40 CFR 723.250(b)(11) and meets the following criteria that are used to identify low risk polymers:

1. The minimum number-average molecular weight of the vinyl alcohol-vinyl acetate-monomethyl maleate, sodium salt-maleicacid, disodium salt-γ-butyrolactone acetic acid, sodium salt copolymer is greater than 20,000. Substances with molecular weights greater than 400 generally are not absorbed through the intact skin, and substances with molecular weights greater than 1,000 generally are not absorbed through the intact gastrointestinal (GI) tract. Chemicals not absorbed through the skin or GI tract generally are incapable of eliciting a toxic response.

2. Vinyl alcohol-vinyl acetate-monomethyl maleate, sodium salt-maleic acid, disodium salt-γ-butyrolactone acetic acid, sodium salt copolymer is not a cationic polymer nor is it reasonably anticipated to become a cationic polymer in a natural aquatic environment.

3. Vinyl alcohol-vinyl acetate-monomethyl maleate, sodium salt-maleic acid, disodium salt-γ-butyrolactone acetic acid, sodium salt copolymer does not contain less than 32.0 percent by weight of the atomic element carbon.

4. Vinyl alcohol-vinyl acetate-monomethyl maleate, sodium salt-maleic acid, disodium salt-γ-butyrolactone acetic acid, sodium salt copolymer contains as an integral part of its composition the atomic elements carbon, hydrogen, nitrogen, and oxygen.

5. Vinyl alcohol-vinyl acetate-monomethyl maleate, sodium salt-maleic acid, disodium salt-γ-butyrolactone acetic acid, sodium salt copolymer does not contain as an integral part of its composition, except as impurities, any elements other than those listed in 40 CFR 723.250(d)(3)(ii).

6. Vinyl alcohol-vinyl acetate-monomethyl maleate, sodium salt-maleic acid, disodium salt-γ-butyrolactone acetic acid, sodium salt copolymer is not a biopolymer, a synthetic equivalent of a biopolymer, or a derivative or a modification of a biopolymer that is substantially intact.

7. Vinyl alcohol-vinyl acetate-monomethyl maleate, sodium salt-maleic acid, disodium salt-γ-butyrolactone acetic acid, sodium salt copolymer is not manufactured from reactants containing, other than impurities, halogen atoms or cyano groups.

8. Vinyl alcohol-vinyl acetate-monomethyl maleate, sodium salt-maleic acid, disodium salt-γ-butyrolactone acetic acid, sodium salt copolymer does not contain a reactive functional group that is intended, or reasonably expected, to undergo further reaction.

9. Vinyl alcohol-vinyl acetate-monomethyl maleate, sodium salt-maleic acid, disodium salt-γ-butyrolactone acetic acid, sodium salt copolymer is not designed, nor is it reasonably anticipated, to substantially degrade, decompose, or depolymerize.

Based on the information above and review of its use, EPA has found that, when used in accordance with good agricultural practice, this ingredient is useful and a tolerance is not necessary to protect the public health. Therefore, EPA proposes that the exemption from the requirement of a tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, that contains any of the ingredients listed herein, may request within 30 days after the publication of this document in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the FFDCA. Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number [OPP-300331]. All written comments filed in response to this petition will be available in the Public Response and Program Resources Branch, at the address given above, from 8 a.m. to 4 p.m. Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 2 of Executive Order 12866. Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have an economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Recording and recordkeeping requirements.

Dated: March 18, 1994.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. Section 180.1001(d) is amended in the table therein by adding and alphabetically inserting the inert ingredient, to read as follows:

§ 180.1001 Exemptions from the requirements of a tolerance.

* * * * *

(d) * * *

Inert ingredients	Limits	Uses
* * *	* *	* *
Vinyl alcohol-vinyl acetate-monomethyl maleate, sodium salt-maleic acid, disodium salt-γ-butyrolactone acetic acid, sodium salt copolymer, minimum number-average molecular weight 20,000.	.....	Carrier.
* * *	* *	* *

* * * * *

[FR Doc. 94-7365 Filed 3-29-94; 8:45 am]

BILLING CODE 6560-50-F

40 CFR Part 271

[FRL-4853-5]

Washington: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking on application of the State of Washington for program revision and public comment period.

SUMMARY: The State of Washington has applied for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The Environmental Protection Agency (EPA) has reviewed the State of Washington's application and has made a decision, subject to public review and comment, that the State of Washington's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Thus, EPA intends to approve the State of Washington's hazardous waste program revisions. The State of Washington's application for program revision is available for public review and comment.

DATES: All comments on the State of Washington's program revision application must be received by the close of business on April 29, 1994. If significant interest is expressed, EPA will conduct a public hearing. The decision on whether or not to hold a public hearing will be based on receipt of written comments and requests for public hearing. Persons wishing to request a public hearing should submit the request in writing before April 21, 1994 to: Patricia Springer, U.S. EPA Region 10, HW-107, 1200 Sixth Avenue, Seattle, Washington 98101. If EPA decides to conduct a public hearing it will be held on April 28, 1994. Contact Domenic Calabro at 1-800-424-4EPA, ext. 6640 to determine whether or not EPA has decided to hold a public hearing, and for the time and location of the hearing.

ADDRESSES: Copies of Washington's program revision application are available at the following addresses for inspection and copying: Washington Department of Ecology, Library, Room 3S-06, 300 Desmond Drive, Lacey, Washington 98503, Phone (206) 407-6150 during the hours of 8 a.m.-5 p.m.; and U.S. EPA Region 10, Library, 1200 Sixth Avenue, 10th Floor, Seattle, Washington 98101, Phone (206) 553-1289 during the hours of 9 a.m.-4 p.m. Written comments should be sent to Patricia Springer at the address below.

FOR FURTHER INFORMATION CONTACT: Patricia Springer, U.S. EPA, M/S: HW-107, 1200 Sixth Avenue, Seattle, Washington 98101, Phone (206) 553-2858.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under section 3006(b) of the Resource Conservation and Recovery Act ("RCRA" or "the Act"), 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. In addition, as an interim measure, the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98-616, November 8, 1984, hereinafter "HSWA") allows States to revise their programs to become substantially equivalent instead of equivalent to RCRA requirements promulgated under HSWA authority. States exercising the latter option receive "interim authorization" for the HSWA requirements under section 3006(g) of RCRA, 42 U.S.C. 6926(g), and later apply for final authorization for the HSWA requirements.

Revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in 40 CFR parts 260-266, 268, 124 and 270.

B. State of Washington

The State of Washington initially received final authorization on January 31, 1986. The State of Washington received authorization for revisions to its program on November 23, 1987 (52 FR 35556, 9/22/87) and on October 16, 1990 (55 FR 33695, 8/17/90). On January 12, 1994, the State of Washington submitted a program revision application for additional program approvals. Today, the State of Washington is seeking approval of its program revision for corrective action in accordance with 40 CFR 271.21(b)(4). The State of Washington is requesting approval to pursue corrective action obligations through an existing cleanup authority by issuing orders for corrective action which will be incorporated into permits issued pursuant to the authorized State program permitting provisions. Attachments 1, 2, 5, 6, 8-17 and Appendices 1-4 of the State's application are provided for information only.

Ordinarily, States await promulgation of Federal regulations prior to submitting their applications. However, there is no impediment under the RCRA statutory provisions which would bar a State from seeking authorization of a program in advance of Federally promulgated regulations provided the State bases its program on existing Federal statutory language. An existing Federal counterpart is a critical nexus in the authorization program.

EPA has promulgated corrective action regulations for permitted hazardous waste treatment, storage and disposal facilities in 40 CFR 264.100 and 264.101. Corrective Action for Solid Waste Management Units, 40 CFR 264.101, mandates that owners or operators of facilities seeking a permit must institute corrective action at the facility, that corrective action will be specified in the permit, and that owners or operators of facilities seeking a permit must implement corrective action beyond the facility boundary

where necessary to protect human health and the environment.

Washington's corrective action program goes slightly beyond the EPA-promulgated regulations by relying on the statutory provisions of sections 3004 (u) and (v) of RCRA, 42 U.S.C. 6924 (u) and (v), in which facilities seeking a permit are required to undertake corrective action for all releases of hazardous waste or constituents from any solid waste management unit and to undertake such corrective actions beyond the property boundary where necessary. Washington will exercise its existing Superfund-like cleanup order authority (the Model Toxics Control Act) through the State's authorized RCRA program by linking the cleanup order authority with the State's authorized RCRA program permitting requirements to fulfill the mandates of sections 3004 (u) and (v) of RCRA, 42 U.S.C. 6924 (u) and (v).

The statutory language of section 3004(u) of RCRA limits the program to corrective action at solid waste management units. Although no statutory or regulatory definition of "solid waste management unit" has been promulgated, EPA's proposed corrective action rule, published in the **Federal Register** on July 27, 1990 (55 FR 30798), contains EPA's most current interpretation of key terms in the section 3004(u) of RCRA. This will be the controlling interpretation against which Washington's regulatory definition of solid waste management unit will be measured until EPA codifies a statutory or regulatory definition.

The statutory language of section 3004(u) of RCRA also limits the program to "facilities seeking a permit." Such facilities include those hazardous waste management facilities which are required to obtain permits to operate and to those subject to post-closure permits. EPA has interpreted this language to mean that corrective action must be specified in operating or post-closure permits issued to such facilities.

Washington's corrective action program would allow corrective action to be specified through the terms of a State-issued order which is incorporated by reference into operating or post-closure permits issued to facilities. The State could: (1) Issue the order in advance of the permit; (2) modify the permit to incorporate the order; or (3) simultaneously issue the order and the permit with the order incorporated into the permit. Under the Washington program, a State order would only be considered to be part of an authorized RCRA program when the order is incorporated into an existing RCRA permit.

Corrective action orders will be issued to facilities subject to the Washington State Dangerous Waste Regulations, codified in the Washington Administrative Code (WAC) in Chapter 173–303, but these orders will rely in part on the State of Washington's Model Toxics Control Act (MTCA) statutory and regulatory provisions and will require current owners and operators of solid waste management units to conduct corrective action at those units in accordance with the Dangerous Waste Regulations. In Washington, the statutory authority for both the Dangerous Waste Regulations, Chapter 173–303 WAC, and for the MTCA is found in the Revised Code of Washington (RCW), Chapter 70.105D. RCW 70.105D.030(1)(d) is the statutory provision authorizing MTCA and allowing the State of Washington Department of Ecology to continue to revise and modify its Dangerous Waste Regulations. RCW 70.105D.050(1) explicitly grants the Department of Ecology the authority to issue orders under the MTCA program to conduct remedial action.

EPA is not delegating section 3008(h) RCRA authority (42 U.S.C. 6928(h)). No Federal enforcement authorities are delegated when EPA authorizes state programs under section 3006 of RCRA. Any orders issued to a facility under MTCA will not be considered to be part of the EPA-authorized corrective action program unless and until they are incorporated into a RCRA permit. Terms of the orders which go beyond the scope of the authorized Dangerous Waste regulations will be considered broader in scope, and thus not Federally enforceable.

Some portions of Washington's revised program are broader in scope than the Federal program, and thus are not Federally enforceable. Due to Washington's statutory mandate to address all releases of hazardous substances, Washington has developed corrective action requirements which are, in part, broader in scope than the Federal corrective action requirements in RCRA section 3004(u), in that Dangerous Waste management facilities in Washington will be required to conduct corrective action for all releases of dangerous waste and dangerous constituents at or from the facility, regardless of the source of the release.

Some portions of Washington's revised program are more stringent than the Federal program. The requirement to implement corrective action for releases which have migrated beyond the facility boundary is more stringent than the Federal requirement, in that it is not limited by the "best efforts" language in the Federal requirement.

Washington will be authorized for the following provisions:

Federal requirement	State authority
RCRA Corrective Action Program	
Corrective action:	
Applicability: SWMU, 40 CFR 264.90(a)	WAC 173–303–645(1)(a)(ii).
SWMU, 40 CFR 264.101(a)	WAC 173–303–646.
Specified in permit, 40 CFR 264.101(b)	WAC 173–303–646(2)(c).
Permits by rule:	
UIC permits issued after 11//8/84, 40 CFR 270.60(b)(3)	WAC 173–303–802(3).
NPDES permits issued after 11/8/84, 40 CFR 270.60(c)(3)	WAC 173–303–802(4)(c)(viii).
Permit application:	
Contents of part B 40 CFR 270.14(c)	WAC 173–303–806(4)(a)(xx).
40 CFR 270.14(c)(7)	WAC 173–303–806(4)(a)(xx)(G).
40 CFR 270.14(c)(8)(v)	WAC 173–303–806(4)(a)(xx)(H)(iii).
40 CFR 270.14(d)	WAC 173–303–806(4)(a)(xxiii).
Corrective action beyond the facility boundary:	
40 CFR 264.100(e)	WAC 173–303–645(11)(e).
40 CFR 264.101(c)	WAC 173–303–646(2)(b).
Corrective Action Management Units (CAMU)	
Definitions:	
Facility to include all contiguous property, 40 CFR 260.10	WAC 173–303–040.

Federal requirement	State authority
CAMU, 40 CFR 260.10, 264.101, 270.2	WAC 173–303–040.
Landfill and miscellaneous unit to include CAMU, 40 CFR 264.10	WAC 173–303–040.
Remediation wastes to include all solid and hazardous waste and all media and debris, 40 CFR 264.10.	WAC 173–303–040.
Land disposal facility, 40 CFR 264.3	WAC 173–303–040.
Interim Status standards apply in lieu of 40 CFR 264 standards, 40 CFR 264.3	WAC 173–303–400(2)(a).
Corrective action for SWMU will be specified in permit including schedules of compliance, 40 CFR 264.101.	WAC 173–303–646(2)(a) and (c).
Designation requirements for CAMU:	
Designated for implementing remedies, 40 CFR 264.552	WAC 173–303–646(2) and (4)(a).
Designation of regulated unit as CAMU, 40 CFR 264.552	WAC 173–303–646(6).
Designation will facilitate implementation, 40 CFR 264.552	WAC 173–303–646(5)(a).
O/O provides sufficient information, 40 CFR 264.552	WAC 173–303–646(5)(e).
Rationale documented and made available to public, 40 CFR 264.552	WAC 173–303–646(5)(f).
Permit modification requirements must be followed to incorporate CAMU into permit, 40 CFR 264.552	WAC 173–303–646(5)(g); WAC 173–303–830.
Requirements for temporary units (TU):	
Standards may be replaced by alternative requirements, 40 CFR 264.553	WAC 173–303–646(7)(a) and (b).
Factors for establishing standards, 40 CFR 264.553(c)	WAC 173–303–646(7)(c).
Length of time TU may operate, 40 CFR 264.553(e)	WAC 173–303–646(7)(d) and (e).
Incorporation of TU in permit, 40 CFR 264.553	WAC 173–303–830.
Rationale documented and made available to the public, 40 CFR 264.553	WAC 173–303–646(7)(g).
RCRA Corrective Action Using Existing State Cleanup Authority	
Corrective action at SWMUs for all releases, 40 CFR 264.101	RCW 70.105.130(1), (2)(a–b), (2)(c)(ii–iii) and (2)(e); RCW 70.105D.030(1)(a,b,d,f); WAC 173–303–400(3)(a)(i), –646(2)(a–b), –802(3–4).
Enforcement authorities, 40 CFR 271.16	RCW 70.105.080,.085, .095(1–2), .097, .120; RCW 70.105D.030(2)(c), .050(1),(4),(5)(a).
Permitting requirements, 40 CFR 270.30, 270.32, 271.14 and 271.16	RCW 70.105.130(2)(a), (b), and (c)(ii–iii); RCW 70.105D.030(1)(a); WAC 173–303–646(2)(a–c), –646(3)(a–c), –400(3)(a)(i), –806(4)(a)(xxi)(A) and (B).
Permitting requirements, schedules of compliance and assurances of financial responsibility, 40 CFR 270.33 and 271.14.	RCW 70.105.130(2)(a); RCW 70.105D.030(1)(a–b), (2)(c); WAC 173–303–646(2)(c) and (3)(c), –802(3) and (4).
Corrective action beyond the facility boundary, 40 CFR 264.101	RCW 70.105.130(2)(c)(iii); RCW 70.105D.030(1)(a) and (b); WAC 173–303–646(2)(b) and (3)(a).
Definition of facility, 40 CFR 260.10 and 264.101	RCW 70.105.101(11); RCW 70.105D.020(3); WAC 173–303–040.
Implement and complete corrective action, 40 CFR 264.101	RCW 70.105.130(2)(b), (c)(ii–iii) and (e); RCW 70.105D.030(1)(a), (b), and (f); WAC 173–303–646(2)(a) and (b).
Financial responsibility for completing corrective action, 40 CFR 264.101 and 271.14	RCW 70.105.130(1) and (2)(c)(iii); RCW 70.105D.030(1)(d); WAC 173–303–646(2)(a–c).
Public participation, 40 CFR 270.42 and 271.16(d).	RCW 70.105.130(2)(a); RCW 70.105D.030(2)(a); WAC 173–303–830.

EPA has reviewed the State of Washington's application and has made a decision, subject to public review and comment, that the State of Washington's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Consequently, EPA intends to grant the State of Washington final authorization for the additional program modifications. The public may submit written comments on EPA's decision up until April 29, 1994. Copies of the State of Washington's application for program revision are available for inspection and copying at the locations indicated in the **ADDRESSES** section of this notice.

If significant interest is expressed, EPA will conduct a public hearing. The decision on whether or not to hold a public hearing will be based on receipt of written comments and requests for public hearing. Persons wishing to request a public hearing should submit the request in writing before April 21, 1994 to: Patricia Springer, USEPA Region 10, HW–107, 1200 Sixth Avenue, Seattle, Washington 98101. If EPA decides to conduct a public hearing it will be held on April 28, 1994. Contact Domenic Calabro at 1–800–424–4EPA, ext. 6640 to determine whether or not EPA has decided to hold a public hearing, and for the time and location of the hearing.

In the event a hearing is not held, all written comments will be considered in reaching a final decision on this proposed action. EPA will provide a written response to all comments.

Approval of the State of Washington's program revision shall become effective when the Regional Administrator's final approval is published in the **Federal Register**. If adverse comment pertaining to the State of Washington's program revision discussed in this notice is received, EPA will publish either (1) a notice of disapproval or (2) a final rulemaking approving the modifications, which would include appropriate comment response.

Status of Federal Permits

Upon the effective date of authorization, the State of Washington will begin to administer and enforce corrective action requirements. EPA actions which fall under the federal omnibus authority of section 3005(c)(3) of RCRA, 42 U.S.C. 6925(c)(3), and/or which are federal enforcement authorities, including actions issued pursuant to sections 3008(h), 3013, or 7003 of RCRA, 42 U.S.C. 6928(h), 6934 or 6973, will continue to be administered by EPA. In addition, HSWA amendments for which the State has not been authorized will continue to be administered and enforced by EPA.

For permits which contain provisions for automatic transfer of the permit from EPA authority to State authority, corrective action permit requirements contained in either an EPA-issued or joint EPA/State-issued permit shall be adopted and be fully enforceable as State permit requirements upon the effective date of final State authorization for corrective action, in accordance with the terms of the permit. Automatic transfer of authority upon the effective date of final State authorization for corrective action for these permits shall occur regardless of whether the permit has been reissued as a State-issued permit or the EPA-issued permit has been terminated.

For those permits which do not contain provisions for automatic transfer of permit authority following the effective date of final State authorization for corrective action, the EPA-issued permit will expire as to those provisions for which the State is authorized to administer and enforce upon the effective date of the issuance, or reissuance after modification, of the State permit. HSWA provisions for which the State is not authorized will continue in effect under EPA jurisdiction.

Indian Lands

Washington is not seeking authorization to operate on Indian lands.

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of Section 6 of Executive Order 12866.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 4 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of the State of Washington's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 272

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority

This notice is issued under the authority of Sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: March 14, 1994.

Chuck Clarke,

Regional Administrator.

[FR Doc. 94–7373 Filed 3–29–94; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

Denials of Petitions for Rulemaking; Federal Motor Vehicle Safety Standard No. 108

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Denials of petitions for rulemaking.

SUMMARY: This notice denies petitions for rulemaking to amend Standard No. 108 to permit center high-mounted stop lamps installed on truck camper caps to flash with the hazard warning lamps for a limited period of time. The reason for the denial is that there is no need to allow special wiring provisions because trucks subject to the standard are being manufactured with circuitry that accommodates supplementary CHMSLs that operate in accordance with existing requirements.

FOR FURTHER INFORMATION CONTACT: Patrick Boyd, Office of Vehicle Safety Standards, NHTSA (202–366–6345).

SUPPLEMENTARY INFORMATION: On April 19, 1991, Federal Motor Vehicle Safety Standard No. 108, Lamps, Reflective Devices and Associated Equipment, was amended to require each truck with a GVWR of 10,000 pounds or less and an overall width of less than 80 inches, that is manufactured on and after September 1, 1993, to be equipped with a center high-mounted stop lamp (56 FR 16015). In issuing the amendment, NHTSA pointed out that a noncompliance with Standard No. 108 would be created by installation of any truck camper which obscured the CHMSL, but that the noncompliance could be cured if an auxiliary CHMSL were provided by the camper manufacturer (p. 16018).

Several manufacturers of slide-in campers and caps petitioned NHTSA for an amendment of Standard No. 108 to address a different noncompliance which they believe would be created by the installation of their product. These petitioners are American Paneltronics, Inc., Leer Inc., National Vehicle Conversion Association, Inc. (NVCA), and Russell Products, Inc. The truck cap industry has been offering auxiliary CHMSLs on some models of caps for several years even though the requirements have applied only to passengers cars. Since the trucks at that time lacked a CHMSL circuit, two of the petitioners, Russell and Paneltronics, developed devices known as logic circuits (or boxes) to power the auxiliary CHMSLs using the trucks' conventional combined stop/turn signal circuits. The logic circuit causes the CHMSL to light when the truck stop lamps light, and it prevents the truck turn signals from activating the CHMSL. However, the logic circuits are unable to prevent the flashing of CHMSLs with the activation of a truck's hazard warning system.

Standard No. 108 requires that stop lamps be steady burning when they are activated, and to be activated only on application of the service brakes. Thus, auxiliary cap CHMSLs which flash with the hazard warning system cannot

legally substitute for the original equipment CHMSL which the cap obscures. Russell, Paneltronics, and Leer petitioned for rulemaking that would excuse them from providing a complying auxiliary CHMSL until September 1, 1995. NVCA asked for a 1-year delay. The petitioners contend that additional time is needed to educate installers to use the truck CHMSL circuit, to develop improved logic circuits, and to urge truck manufacturers to supply more convenient connectors for cap CHMSLs.

The first argument that the petitioners raise in support of their request is that of precedent. Standard No. 108 permitted passenger care CHMSLs to flash from August 1, 1984, to September 1, 1986. It is true that optional CHMSLs (those provided between August 1, 1984, and September 1, 1985) and the initial mandatory ones (between September 1, 1985, and September 1, 1986) were permitted to flash. The agency allowed this because it wanted to introduce the CHMSL at the earliest practicable moment, and concluded that any detriment to safety that might be presented by a flashing CHMSL was more than compensated for by the benefits to be derived by a lamp mounted high on the vertical centerline of a passenger car. Virtually no passenger cars had stop lamp circuity independent of the hazard warning signal system at that time, and the installation of a fundamentally redesigned wiring system could have delayed the introduction of CHMSLs.

The cap industry is not facing a similar situation. Every vehicle for which a cap CHMSL will be required is already being manufactured with an independent CHMSL circuit. Thus, the cap CHMSL may be connected directly to the truck CHMSL circuit without the need for a logic circuit. For this reason, NHTSA does not consider the initial regulatory treatment of the passenger CHMSL as an apt precedent for their situation.

The petitioners also cite an assumed lack of capability of dealer/installers as a reason for retaining the now-unnecessary logic boxes. NVCA claims that "sophisticated wiring harnesses, routed under the vehicle into the engine compartment, to connect the CHMSL to the service brake wiring only, are beyond the experience of most cap dealers." In a similar vein, Leer stated that its dealers "may lack the technical ability to correctly wire a CHMSL without the potential of damaging the OEM wiring harness & or otherwise void the truck manufacturer's original warranty".

NVCA submitted a copy of Ford Technical Bulletin Q–28 concerning adding or relocating CHMSLs on 1994 F-Series and Ranger pickups as an example of training material that it believes will eventually aid installers. The Bulletin shows that the 1994 F-Series trucks have a dedicated connector in the engine compartment for a supplementary CHMSL. Ford's connection method is the obvious universal method which does not depend on auxiliary connectors. Using it will require only routing a wire under the vehicle. This method of connection does not require more electrical and mechanical skill than the use of a logic circuit. This is not beyond the capabilities and skills of dealers who were previously installing logic circuits.

Further, it appears that the use of logic boxes might in and of itself void the vehicle warranty. The Ford Bulletin contains warnings against splicing into the rear lamp stop circuit to feed the CHMSL circuit and the use of quick-splice type connections. Installing the product of at least one petitioner could violate these warnings.

Leer's final argument is that, to the best of its knowledge, domestic truck manufacturers have no short term plans to provide a "pigtail" connector for the attachment of a truck CHMSL, and that the industry could use the period until September 1, 1995, to urge truck manufacturers to provide a rear pigtail. Paneltronics joins it in this argument.

The Ford Bulletin submitted by NVCA indicates that the 1994 Ford F-Series does have a dedicated supplementary CHMSL pigtail, although it is located under the hood rather than at the end of the truck. As most truck manufacturers are expected to offer a CHMSL located on the outside rear of the cab, the most convenient CHMSL "pigtail" may be the OEM CHMSL bulb socket.

In summary, simply connecting the supplementary cap CHMSL to the truck CHMSL circuit enables it to operate in compliance with Standard No. 108. The complexity of the complying connection is no greater than the use of the logic box connection advocated by the petitioners.

This completes NHTSA's technical review of the petitions. It has been determined that there is no reasonable possibility that the amendment requested in the petition will be effected at the conclusion of a rulemaking proceeding, and the petitions are denied.

Authority: 15 U.S.C. 1410a; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: March 24, 1994.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 94–7406 Filed 3–29–94, 8:45 am]

BILLING CODE 4910–59–M

Notices

Federal Register
Vol. 59, No. 61
Wednesday, March 30, 1994

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Douglas Timber Harvest Analysis; Stiking Area Tongass National Forest Petersburg, AK; Environmental Impact Statement Cancellation Notice

The Department of Agriculture, Forest Service, is postponing its proposal to harvest timber from the Douglas Study Area on southern Kupreanof Island, Tongass National Forest until further notice.

The Notice of Intent, published in the **Federal Register** of Wednesday, December 9, 1992 is hereby rescinded (57 FR 58179–01). Another Notice of Intent will be published when the proposal is again considered.

For further information contact: Cynthia Sever; IDT Leader, Petersburg Ranger District, Box 1328, Petersburg, AK 99833, telephone 907–772–3871.

Dated: March 15, 1994.

Abigail R. Kimbell,

Forest Supervisor.

[FR Doc. 94–7465 Filed 3–29–94; 8:45 am]

BILLING CODE 3410–11–M

Packers and Stockyards Administration

Posting of Stockyards

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

	Facility No., name, and location of stockyard	Date of posting
NM–121	North Plains Calf Auction, Clovis, New Mexico.	February 10, 1994.
NM–122	Pecos Valley Dairy Sales, Inc., Dexter, New Mexico.	February 09, 1994.
UT–118	Ogden Livestock Auction, Inc., Farr West, Utah.	January 27, 1994.
WI–141	Tim Nolan Arena, Marion, Wisconsin.	February 03, 1994.

Done at Washington, DC this 23rd day of March 1994.

Tommy G. Morris,

Acting Director Livestock Marketing Division, Packers and Stockyards Administration.

[FR Doc. 94–7524 Filed 3–29–94; 8:45 am]

BILLING CODE 3410–KD–P

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Americans With Disabilities Act Research Priorities for Fiscal Years 1995 and 1996

AGENCY: Architectural and Transportation Barriers Compliance Board.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) announces its FY 1994 research plan and requests comments and recommendations on research projects for FY 1995 and 1996.

DATES: Comments should be received by May 31, 1994. Comments received after this date will be considered to the extent practicable.

ADDRESSES: Comments should be sent to the Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., suite 1000, Washington, DC 20004–1111. This document is available in accessible formats (cassette tape, braille, large print, or computer disc) upon request. Copies may be obtained from the Access Board by calling (202) 272–5434 (voice) or (202) 272–5449 (TTY).

FOR FURTHER INFORMATION CONTACT: Dave Yanchulis, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., suite 1000, Washington, DC 20004–1111. Telephone (202) 272–5434 extension 27 (Voice) or (202) 272–5449 (TTY).

SUPPLEMENTARY INFORMATION: The Architectural and Transportation Barriers Compliance Board (Access Board) is an independent Federal agency responsible for developing minimum guidelines and providing technical assistance on accessibility. Although originally established to develop and enforce accessibility guidelines for facilities designed, constructed, or altered with certain Federal funds, the Access Board's responsibilities were significantly expanded with passage of the Americans with Disabilities Act (ADA) of 1990. The ADA prohibits discrimination on the basis of disability in both the public and private sector and affords persons with disabilities civil rights protections. Under this law, the Access Board is responsible for issuing minimum accessibility guidelines for places of public accommodation and commercial facilities in the private sector, State and local government facilities in the public sector, and transportation facilities and vehicles. In the summer of 1991, the Access Board published the ADA Accessibility Guidelines (ADAAG) for Buildings and Facilities and the ADA Accessibility Guidelines for Transportation Vehicles. See 36 CFR parts 1191 and 1192. The Access Board is currently finalizing revisions to ADAAG for its extended application to State and local government facilities.

The Access Board has conducted research into various aspects of accessibility pertaining to architecture and design, communication, and transportation in order to meet its responsibilities for developing minimum design guidelines and providing technical assistance. Since enactment of the ADA, this research has focused on the ADA accessibility guidelines. The Access Board has undertaken projects to develop technical assistance and training materials on these guidelines and conducted research related to the development and implementation of the guidelines. Projects completed or currently underway include research on automated doors, access to assembly areas, access to communication in

transit facilities for persons with hearing or visual impairments, communication for persons who are hard of hearing in restaurants, assessment of the need for detectable warnings, and evaluation of the specifications for ramps. The Access Board remains committed to research that ensures the ADA accessibility guidelines are consistent with technological advances, revisions to model codes and standards, and the needs of persons with disabilities and that provides the basis for the development of future guidelines.

FY 1994 Research Plan

This year's program includes the following research and technical assistance projects:

ADAAG Manual

Through the training and technical assistance it provides, the Access Board is aware of a strong continuing need for guidance on ADAAG. This project will develop a comprehensive manual that clarifies and interprets ADAAG for use by general and technical audiences. Recommendations on a subscription service for updates to the manual will also be developed as part of this project so that users of the manual can be systematically apprised of future revisions and additions to ADAAG. This project replaces a previously scheduled study on public information for persons with cognitive disabilities. Originally, the Access Board had decided to conduct research on symbols, signage, and information that effectively conveys wayfinding information to individuals with cognitive disabilities. The Transportation Research Board (TRB) is currently undertaking a research project on this subject. Consequently, the Access Board has deferred research in this area pending the completion of the TRB study and will serve on its advisory panel.

Design Requirements for Persons Using Powered Mobility Aids

Some of the provisions in ADAAG, such as those for clear floor space, maneuvering clearances, and reach ranges, are based on anthropometric data derived from studies involving persons using manual wheelchairs. In view of the increasing popularity and variety of powered mobility aids, this project will investigate design specifications appropriate for persons using powered wheelchairs, scooters, and other motorized mobility aids.

Detectable Warnings

A project to study the need for detectable warnings on curb ramps and at hazardous vehicular areas was awarded in FY 1993 and is currently underway. Based on the results of this study, which are due this summer, additional research on the appropriate specifications for such warnings may be undertaken as an optional task with FY 1994 research funds.

This notice does not solicit contract applications for these projects. Requests for proposals for these projects (except the study on detectable warnings) will be published in the Commerce Business Daily this spring.

FY 1995 and 1996 Research Priorities

The Access Board intends to continue to focus on issues and subjects related to the ADA accessibility guidelines in the conduct of FY 1995 and 1996 research projects. This includes projects to study issues and areas that are scheduled for future rulemaking; provide information necessary in keeping the guidelines up to date; examine issues of compliance with certain requirements; and develop technical assistance materials that facilitate compliance with the guidelines. Consistent with these objectives, and in recognition of likely budgetary constraints, the Access Board has adopted the following priorities for the consideration of FY 1995 and 1996 research projects:

First Priority

Research on areas that are scheduled for future rulemaking. The Access Board anticipates issuing guidelines on recreation areas, children's environments (a subject of research that has been completed), and for ferries, excursion boats, and other forms of water transportation. In addition, the Access Board is to undertake a process for reviewing ADAAG in its entirety and for reconciling substantive differences between the technical requirements of ADAAG and other national codes and standards such as the American National Standards Institute (ANSI) A117.1–1992 standard, a national consensus standard used by many States as an access code.

Second Priority

Research on existing provisions in the guidelines that lack specificity, such as "performance" standards which may specify a result without detailing acceptable alternatives for compliance. Research on these provisions can examine and assess various methods for compliance, including the study of new and emerging technologies offering additional solutions.

Third Priority

Re-evaluation of existing specifications that are based on research that is no longer representative of today's population of persons with disabilities.

The Access Board seeks comment on this prioritization as the basis for its FY 1995 and 1996 research agenda. Comments on other aspects of accessibility research policy are also welcome.

With respect to specific research subjects, the Access Board is considering projects on the following areas for FY 1995 and 1996. These are not listed in any order of priority:

Access to Water Transportation

Identification and analysis of design solutions for providing access to boats, ferries, and other water vessels that take into account recognized constraints.

Swimming Pool Accessibility

Review and analysis of methods and products for providing access into swimming pools in order to develop recommendations on requirements for such access.

Emergency Communication Equipment

Identification and analysis of alternatives for providing emergency communication equipment in elevators and areas of rescue assistance that is accessible to persons with hearing impairments and persons with visual impairments as required by ADAAG.

In addition, the Access Board anticipates using its FY 1995 and 1996 research budgets to fund additional projects related to the ADAAG manual such as the development and distribution of future updates.

The Access Board seeks comment on these projects as priorities for FY 1995 or 1996 and requests recommendations for other subjects of research related to the ADA accessibility guidelines that should be taken into consideration. These guidelines primarily contain new construction design criteria for buildings, facilities and transit vehicles and do not cover non-fixed elements or operational and maintenance issues. Commenters are encouraged to take into consideration the priorities the Access Board has adopted and to explain the need for each recommended project or research subject.

In addition, the Access Board is interested in information on research activities being planned or sponsored by other public and private organizations. Of particular interest is accessibility research related to design and architecture, products and elements such as lifts, transportation,

communication, and the population of persons with disabilities, including demographic studies and anthropometric data.

Dated: March 23, 1994.

Judith E. Heumann

Chairman, The U.S. Architectural and Transportation Barriers Compliance Board.

[FR Doc. 94-7446 Filed 3-29-94; 8:45 am]

BILLING CODE 8150-01-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-823]

Final Determination of Sales at Less Than Fair Value: Nitromethane From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Commerce.

EFFECTIVE DATE: March 30, 1994.

FOR FURTHER INFORMATION CONTACT: Ellen Grebasch or Erik Warga, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-3773 or (202) 482-0922.

FINAL DETERMINATION: The Department of Commerce ("the Department") determines that nitromethane from the People's Republic of China ("PRC") is being, or is likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 735 of the Tariff Act of 1930, as amended ("the Act"). The estimated margin is shown in the "Suspension of Liquidation" section of this notice.

Case History

Since making our preliminary determination on November 1, 1993 (58 FR 59237, November 8, 1993), the following events have occurred.

On November 8, 1993, respondent exporters Shanghai Native Produce Import/Export Corporation, Sinochem Jiangsu Suzhou Import/Export Corporation, and Sinochem Liaoning, along with their associated manufacturers, requested that we postpone making our final determination by 60 days pursuant to 19 CFR 353.20(b)(1). We published a notice postponing the final determination on November 29, 1993 (58 FR 62644).

Various additional information from the five participating companies was filed on December 17 and December 28, 1993, as well as on January 6, 1994.

From January 10-29, 1994, we conducted verification of the questionnaire responses of the following companies: exporters Shanghai Native Produce ("SNP") and Sinochem Jiangsu Suzhou ("SJS"); and manufacturers Wujin Hongda Chemical Factory, Kunshan Synthetic Chemical Factory, and Suzhou Wu Xian No. 2 Perfume Factory. We also visited the facilities of another exporter, Shanghai Chemicals Import/Export Corporation, because we determined that that company might have shared ownership with one of the two exporters that were being verified.

Petitioner and respondents filed case briefs on February 24, 1994, and rebuttal briefs on March 2, 1994. On March 3, 1994, we held a public hearing in which petitioners and respondents participated.

Scope of Investigation

The product covered by this investigation is nitromethane, a chemical compound with the formula CH_3NO_2. Nitromethane is a nitroparaffin in which the nitro group is attached to the single carbon atom of that number of the alkane family known as methane. Nitroparaffins are any of a homologous series of compounds whose generic formula is $C_nH_{2n+1}NO_2$, the nitro groups being attached to a carbon atom through the nitrogen.

Nitromethane has numerous industrial uses, including as a solvent in polymers for coatings, as a component of special fuels for internal combustion engines, as a stabilizer for chlorinated hydrocarbons, and as an extraction solvent. Nitromethane is a raw material used in the synthesis of other useful chemicals including chloropicrin, a primary soil nematocide; tris (hydroxymethyl)-aminomethane, a pharmaceutical and diagnostic buffer; and bronopol, a preservative for nonwoven moist towelettes.

Nitromethane is currently classifiable under subheading 2904.20.50.00 of the Harmonized Tariff Schedule of the United States ("HTSUS"). This subheading, a basket provision, is defined to include sulfonated, nitrated, or nitrosated derivatives of hydrocarbons, whether or not halogenated. Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Period of Investigation

The period of investigation ("POI") is December 1, 1992, through May 31, 1993.

Best Information Available

The PRC's Ministry of Foreign Trade and Economic Cooperation ("MOFTEC") identified four exporters who sold the subject merchandise to the United States during the POI: Sinochem Hebei, Sinochem Liaoning, SJS, and SNP. Sinochem Hebei submitted no information. Sinochem Liaoning provided substantially incomplete information in response to the Department's requests. Verification revealed that the other two exporters, SJS and SNP, failed to provide adequate information on foreign market value (See Comment 1 in the "Interested Party Comments" section of this determination, below). Thus, all exporters have failed to provide adequate responses to our questionnaire. Accordingly, the Department has used the best information available ("BIA"), in accordance with section 776(c) of the Act and 19 CFR 353.37, to calculate the margins for all exporters from the PRC.

In determining what to use as BIA, the Department follows a two-tiered methodology, whereby the Department normally assigns lower margins to those respondents who cooperated in an investigation and margins based on more adverse assumptions for those respondents who did not cooperate in an investigation. See Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, and Certain Cut-to-Length Carbon Steel Plate From Belgium (58 FR 37083, July 9, 1993). In this case, however, we do not need to determine whether SJS and SNP were cooperative since there is no choice as to which margin should be used. Accordingly, we are using as BIA 233.70 percent, which is the sole margin calculated in the petition.

Separate Rates

Because all four exporters either provided insufficient responses or failed to respond altogether, and because the same BIA margin applies to all four exporters, we do not need to consider whether to accept the claims for separate rates made by the participating exporters.

Fair Value Comparisons

To determine whether sales of nitromethane from the PRC to the United States were made at less than fair value, we compared, using BIA, the United States price to the foreign market value, as provided in the petition. See our notice of initiation of this proceeding (58 FR 33617, June 8, 1993)

for a complete description of the methodology used.

Verification

As provided in section 776(b) of the Act, we attempted to verify all information submitted by respondents for use in our final determination. We used standard verification procedures, including examination of relevant accounting records and original source documents provided by respondents.

Interested Party Comment

The petitioner contends that the respondents by their obfuscation and substantial response inaccuracies have impeded the investigation so thoroughly that the Department should use BIA for the final determination. Petitioner listed, among others, the following reasons as justification for their position:

- Respondents' tardy disclosure of the use of, and outright refusal to identify, two raw materials, which petitioner notes could be a significant part of the cost of production; and
- The general inaccuracy and unreliability of the information reported, such as raw material usage; and energy usage.

Respondents contend that their questionnaire responses contained sufficient information to permit margin calculations. Respondents make the following essential arguments regarding their responses:

- The names of the unreported ingredients, although regarded by respondents as trade secrets and thus not mentioned in responses to the questionnaire, were nevertheless informally disclosed at verification both orally and by allowing verifiers to review company documents and observe the manufacturing process; and
- The companies' responses were verified in their most significant respects, discrepancies discovered at verification were not serious, and the Department does not have to verify every reported fact in order to make an overall assessment that submitted information is suitable for margin calculations. At most, certain errors warrant "non-punitive BIA".

DOC Position

The responses of the manufacturers that supplied SJS and SNP with nitromethane were largely inaccurate and unverifiable to the point of being totally unusable. Accordingly, because their supplying manufacturers' responses were incomplete, both exporters must be deemed to have failed verification and be assigned margins based on BIA.

The most egregious deficiency is that all factories supplying the nitromethane exporters failed to report certain materials (i.e., two additives for each manufacturer) used in the manufacturing process.

In our July 26, 1993, questionnaire, we specifically required respondents to furnish the identity and amount of every material used in the production of nitromethane. See Section D (III–A) of our questionnaire. Our regulations set out the time frame within which questionnaire responses must be submitted. See 19 CFR 353.31. However, at no time did any of the respondents identify the two additives used in the production process (despite being permitted to file information in response to the questionnaire as late as five months after the questionnaire's issue).

Further, the companies did not, as they contend, disclose the information at verification. Although Department verifiers traced the existence of these additives through various records, they deliberately did not attempt to translate into English the names because the respondents insisted that the ingredients were trade secrets and could not be divulged to the verifiers. The Department's role is not to surreptitiously collect information that a respondent has characterized as a trade secret and has refused to reveal. The fact, revealed for the first time in respondents' case brief, that one of the three manufacturers inadvertently included the Chinese characters for the names of the additives in a verification exhibit (which, despite the requirement set forth under 19 CFR 353.31(f), was untranslated) does not alter the overall fact that respondents refused to reveal, much less permit verification of, the additives' identities.

Respondents' explanation for their refusal to divulge this information was that the additives were highly confidential and could not be revealed even to the Department. The Department's procedures for handling business proprietary information, which can include not disclosing certain very sensitive information under administrative protective order ("APO") (see 19 CFR 353.32), were explained in the cover letter to our questionnaire and were repeatedly reiterated at verification. Nevertheless, each responding manufacturer chose not to reveal the identity of the additives.

Although Department practice generally accepts minor corrections to questionnaire responses during verification, the revelation of unidentified materials is not a "minor correction." In fact, it must be considered significant new information. That the relative amounts used per ton of nitromethane are small does not make the failure to report the identity and use of the additives in the production process a "minor correction." See Tapered Roller Bearings from Japan (Administrative Review) (56 FR 65228, December 16, 1991); Gray Portland Cement from Mexico (Administrative Review) (56 FR 12156, March 22, 1991).

By refusing to identify these materials, respondents allow us no means of determining their value in a surrogate economy. As petitioners point out, these additives could be quite valuable and add substantially to the overall production costs. Only in knowing the precise identity and quantity can we judge the materials' importance, and thereby the gravity of their omission. Relatively small per-batch amounts cannot be considered a criterion for evaluating the gravity of failing to report these materials.

In addition to the respondents' failure to report certain materials used in the production process, two other significant deficiencies exist. First, Wu Xian failed to report the fact it purchased crude nitromethane from another PRC factory for use in its production of refined nitromethane. Essentially, another significant ingredient in the production process was unreported by Wu Xian. Second, SNP failed to report information regarding an additional supplying manufacturer even though our questionnaire specifically asked that factors data be provided by all manufacturers that produced for merchandise sold to the United States during the POI. This omission leaves us with no factor information for some of SNP's POI sales.

We agree with the respondents that the Department does not have to verify every reported fact. However, decisions regarding what is to be verified are the Department's and not a respondent's. At no time were the respondents relieved of their obligation to report in their questionnaire response, and allow verification of, the additives' identities and the other factors.

In light of the numerous significant deficiencies in the responses, there is no acceptable alternative to disregarding the respondents' responses. Additionally, the failure of both Sinochem Hebei and Sinochem Liaoning to respond adequately to our questionnaire renders incontrovertible the need to base our final determinations for those two companies on BIA. Thus, the margin for all four exporters can only be based on BIA. Therefore, we are using the only margin provided in the petition, 233.7 percent.

Because our final determination is based on BIA, we do not need to address interested party comments pertaining to

issues other than the basis for our final determination.

Critical Circumstances

The petitioner alleges that critical circumstances exist with respect to imports of the subject merchandise from the PRC. Section 735(a)(3) of the Act provides that the Department will determine that critical circumstances exist if we determine that there is a reasonable basis to believe or suspect that:

(A)(i) There is a history of dumping in the United States or elsewhere of the merchandise which is the subject of the investigation, or

(ii) The person by whom, or for whose account, the merchandise was imported knew, or should have known, that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value, and

(B) There have been massive imports of the merchandise which is the subject of the investigation over a relatively short period.

We normally consider margins of 15 percent or more sufficient to impute knowledge of dumping under section 735(a)(3)(A)(ii) for exporter's sales price sales, and margins of 25 percent or more for purchase price sales. (See, e.g., Final Determination of Sales at Less Than Fair Value; Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from Italy, 52 FR 24198, June 29, 1987). Since the final margin for nitromethane from the PRC is above 25 percent, we determine in accordance with section 735(a)(3)(A)(ii) of the Act that there is knowledge that dumping existed for nitromethane from the PRC. Since we determined that importers knew, or should have known, that imports of nitromethane from the PRC were being sold at LTFV prices, we do not need to consider whether there is a history of dumping.

Under 19 CFR 353.16(f)(1), we normally consider the following factors in determining whether imports have been massive over a short period of time:

(1) The volume and value of the imports;

(2) Seasonal trends (if we find that they are applicable); and

(3) The share of domestic consumption accounted for by imports.

Because the overall integrity of the response was unreliable (see March 23, 1994, Concurrence Memorandum for detailed discussion), we have relied upon BIA for determining whether there have been massive imports of nitromethane from the PRC. As BIA we are making the adverse assumption that imports were massive over a relatively short period of time in accordance with section 735(a)(3)(B) of the Act. Additionally, we note that the unreliable company-specific information, if used, would also lead to a finding of massive imports.

Accordingly, based on our analysis, we determine that critical circumstances exist for imports of nitromethane from the PRC.

Suspension of Liquidation

In accordance with sections 773(d)(1) and 733(e)(2) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of nitromethane from the PRC that are entered, or withdrawn from warehouse, for consumption on or after August 10, 1993 (i.e., 90 days prior to the date of publication of our preliminary determination in the **Federal Register**). The Customs Service shall require a cash deposit or posting of a bond equal to 233.70 percent *ad valorem* on all entries of certain nitromethane from the PRC. This suspension of liquidation will remain in effect until further notice.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission ("ITC") of our determination. The ITC will now determine, within 45 days, whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury, does not exist, the proceeding will be terminated and all securities posted will be refunded or cancelled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notice to Interested Parties

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility, pursuant to 19 CFR 353.34(d), concerning the return or destruction of proprietary information disclosed under APO. Failure to comply is a violation of the APO.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)) and 19 CFR 353.20(a)(4).

Dated: March 23, 1994.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 94-7564 Filed 3-29-94; 8:45 am]

BILLING CODE 3510-DS-M

Export Trade Certificate of Review

ACTION: Notice of application to amend certificate.

SUMMARY: The office of Export Trading Company Affairs ("OETCA"), International Trade Administration, Department of Commerce, has received an application for an Export Trade Certificate of Review. This notice summarizes the conduct for which certification is sought and requests comments relevant to whether the Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: Friedrich R. Crupe, Acting Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private, treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether a Certificate should be issued. An original and five (5) copies should be submitted no later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, room 1800H, Washington, DC. 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). Comments should refer to this application as "Export Trade Certificate of Review, application number 94-00003."

Summary of the Application

Applicant: James W. Smith (doing business as Premier International), 2525 E. 12th Street, Emmett, Idaho 83617.

Contact: James W. Smith (d/b/a Premier International) Telephone: (208) 365–3211.

Application No.: 94–00003.

Date Deemed Submitted: March 21, 1994.

Members (in addition to applicant): None.

James W. Smith (d/b/a Premier International) seeks a certificate to cover the following specific Export Trade, Export Markets, and Export Trade Activities and Methods of Operations:

Export Trade

1. Products

All products.

2. Services

All services.

3. Export Trade Facilitation Services (As They Relate to the Export of Products and Services)

All export trade facilitation services including, but not limited to, consulting; foreign market research; marketing and trade promotion; financing; insurance; licensing; services related to compliance with customs documentation and procedures; transportation and shipping; warehousing and other services to facilitate the transfer of ownership and/or distribution; and communication and processing of export orders.

Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

Export Trade Activities and Methods of Operation:

1. As an Export Intermediary, James W. Smith (d/b/a Premier International) may:

a. Provide and/or arrange for the provision of Export Trade Facilitation Services;

b. Engage in promotional and marketing activities as they relate to exporting Products and/or Services to the Export Markets;

c. Enter into exclusive sales agreements with Suppliers regarding sales of Products and/or Services in the Export Markets; such agreements may prohibit Suppliers from exporting independently of James W. Smith (d/b/a Premier International);

d. Enter into exclusive sales and/or territorial agreements with distributors in the Export Markets;

e. Establish the price of Products and/or Services for sale in the Export Markets;

f. Allocate export orders among his Suppliers; and

g. Enter into contracts for shipping Products and/or Services in the Export Markets.

2. James W. Smith (d/b/a Premier International) and individual Suppliers may regularly exchange information on a one-on-one basis regarding inventories and near-term production schedules for the purpose of determining the availability of supplies for export and coordinating exports with distributors.

Definitions

1. "Export Intermediary" means a person who acts as a distributor, sales representative, sales or marketing agent, or broker, or who performs similar functions, including providing or arranging for the provision of Export Trade Facilitation Services.

2. "Supplier" means a person who produces, provides, or sells a Product and/or Service.

Dated: March 24, 1994.

Friedrich R. Crupe,

Acting Director, Office of Export Trading, Company Affairs.

[FR Doc. 94–7565 Filed 3–29–94; 8:45 am]

BILLING CODE 3510–DR–P

Minority Business Development Agency

Business Development Center Applications: Anaheim, CA

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Cancellation of notice.

SUMMARY: This notice cancels the advertisement as it appeared in the December 6, 1993, issue for the Minority Business Development Agency (MBDA) announcement that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate an MBDC in the Anaheim, California Geographic Service Area.

CLOSING DATE: The closing date for submitting an application was January 20, 1994.

ADDRESSES: San Francisco Regional Office, Minority Business Development Agency, U.S. Department of Commerce, 221 Main Street, suite 1280, San Francisco, California 94105, 415/744–3001.

FOR FURTHER INFORMATION CONTACT: Melda Cabrera, Regional Director, San Francisco Regional Office at 415/744–3001.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information can be obtained by contacting the San Francisco Regional Office.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

Dated: March 24, 1994.

Melda Cabrera,

Regional Director, San Francisco Regional Office.

[FR Doc. 94–7511 Filed 3–29–94; 8:45 am]

BILLING CODE 3510–21–M

[Project I.D. No. 06–10–94001–01]

Business Development Center Applications: Shreveport MBDC

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Cancellation.

SUMMARY: The above solicitation was previously published in the **Federal Register** Wednesday, January 26, 1994, (59 FR 3665). This solicitation has been cancelled.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

Dated: March 24, 1994.

Bobby Jefferson,

Acting Regional Director, Dallas, Regional Office.

[FR Doc. 94–7495 Filed 3–29–94; 8:45 am]

BILLING CODE 3510–21–M

[I.D. No. 06–10–94001–01]

Business Development Center Applications: Shreveport MBDC

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: In accordance with Executive Order 11625, the Minority Business Development Agency (MBDA) is soliciting competitive applications under its Minority Business Development Center (MBDC) program. The total cost of performance for the first budget period (12 months) from August 1, 1994 to July 31, 1995 is estimated at $169,125. The application must include a minimum cost-share of 15% of the total project cost through non-Federal contributions. Cost-sharing contributions may be in the form of cash contributions, client fees, in-kind contributions or combinations thereof.

The MBDC will operate in the Shreveport, Louisiana geographic service area.

The funding instrument for this project will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and educational institutions.

The MBDC program provides business development services to the minority business community to help establish and maintain viable minority businesses. To this end, MBDA funds organizations to identify and coordinate public and private sector resources on behalf of minority individuals and firms; offer a full range of management and technical assistance to minority entrepreneurs; and to serve as a conduit of information and assistance regarding minority business.

Applications will be evaluated on the following criteria: The experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (50 points); the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodologies) to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to any one evaluation criteria category to be considered programmatically acceptable and responsive. Those applications determined to be acceptable and responsive will then be evaluated by the Director of MBDA. Final award selections shall be based on the number of points received, the demonstrated responsibility of the applicant, and the determination of those most likely to further the purpose of the MBDA program. Negative audit findings and recommendations and unsatisfactory performance under prior Federal awards may result in an application not being considered for award. The applicant with the highest point score will not necessarily receive the award.

MBDCs shall be required to contribute at least 15% of the total project costs through non-Federal contributions. To assist in this effort, the MBDCs may charge client fees for management and technical assistance (M&TA) rendered. Based on a standard rate of $50 per hour, the MBDC will charge client fees at 20% of the total cost for firms with gross sales of $500,000 or less, and 35% of the total cost for firms with gross sales of over $500,000.

Quarterly reviews culminating in year-to-date evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the total discretion of MBDA based on such factors as the MBDC's performance, the availability of funds and Agency priorities.

DATES: The closing date for applications is April 30, 1994. Applications must be postmarked on or before April 30, 1994.

ADDRESSES: Dallas Regional Office, 1100 Commerce St., room 7B23, Dallas, Texas 75242, (214) 767–8001.

FOR FURTHER INFORMATION CONTACT: Bobby Jefferson, Acting Regional Director, Dallas Regional Office, telephone (214) 767–8001.

A pre-bid conference will be held on April 13, 1994, in the Earl Cabell Federal Building, room 7B23, 1100 Commerce Street, Dallas, Texas at 10 a.m.

SUPPLEMENTARY INFORMATION: Anticipated processing time of this award is 120 days. Executive order 12372, "Intergovernmental Review of Federal Programs," is not applicable to this program. The collection of information requirements for this project have been approved by the Office of Management and Budget (OMB) and assigned OMB control number 0640–0006. Questions concerning the preceding information can be answered by the contact person indicated above, and copies of application kits and applicable regulations can be obtained at the above address.

Pre-Award Costs—Applicants are hereby notified that if they incur any costs prior to an award being made, they do solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal assurance that an applicant may have received, there is no obligation on obligation on the part of the Department of Commerce to cover pre-award costs. Awards under this program shall be subject to all Federal laws, and Federal and Departmental regulations, policies, and procedures applicable to Federal financial assistance awards.

Outstanding Account Receivable—No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either the delinquent account is paid in full, repayment schedule is established and at least one payment is received, or other arrangements satisfactory to the Department of Commerce are made.

Name Check Policy—All non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing criminal charges such as fraud, theft, perjury or other matters which significantly reflect on the applicant's management honesty or financial integrity.

Award Termination—The Departmental Grants Office may terminate any grant/cooperative agreement in whole or in part at any time before the date of completion whenever it is determined that the award recipient has failed to comply with the conditions of the grant/cooperative agreement. Examples of some of the conditions which can cause termination are failure to meet cost-sharing requirements; unsatisfactory performance of the MBDC work requirements; and reporting inaccurate or inflated claims of client assistance. Such inaccurate or inflated claims may be deemed illegal and punishable by law.

False Statements—A false statement on an application for Federal financial assistance is grounds for denial or termination of funds, and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

Primary Applicant Certifications—All primary applicants must submit a completed Form CD–511, "Certification Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying."

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

Drug Free Workplace—Grantees (as defined at 15 CFR part 26, section 605) are subject to 15 CFR part 26, Subpart F, "Governmentwide Requirements for Drug-Free Workplace (Grants)" and the related section.

Anti-Lobbying—Persons (as defined at 15 CFR part 28, section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," and the lobbying section of the certification from prescribed above applies to applications/bids for grants, cooperative agreements, and contacts for more than $100,000.

Anti-Lobbying Disclosures—Any applicant that has paid or will pay for lobbying using any funds must submit

an SF–LLL, "Disclosure of Lobbying Activities," as required under 15 CFR part 28, appendix B.

Lower Tier Certifications—Recipients shall require applications/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying" and disclosure form, SF–LLL, "Disclosure of Lobbying Activities." Form CD–512 is intended for the use of recipients and should not be transmitted to DOC. SF–LLL submitted by any tier recipient or subrecipient should be submitted to DOC in accordance with the instructions contained in the award document.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

Dated: March 24, 1994.

Bobby Jefferson,

Acting Regional Director, Dallas Regional Office.

[FR Doc. 94–7494 Filed 3–29–94; 8:45 am]

BILLING CODE 3510–21–M

National Institute of Standards and Technology

Government Owned Inventions Available for Licensing

AGENCY: National Institute of Standards and Technology Commerce.

ACTION: Notice of government owned Inventions available for licensing.

SUMMARY: The inventions listed below are owned by the U.S. Government, as represented by the Department of Commerce, and are available for licensing in accordance with 35 U.S.C. 207 and 37 CFR part 404 to achieve expeditious commercialization of results of federally funded research and development.

FOR FURTHER INFORMATION CONTACT: Technical and licensing information on these inventions may be obtained by writing to: Nancy Hale, National Institute of Standards and Technology, Office of Technology Commercialization, Physics Building, room B–256, Gaithersburg, MD 20899; Fax 301–869–2751. Any request for information should include the NIST Docket No. and Title for the relevant invention as indicated below.

SUPPLEMENTARY INFORMATION: The inventions available for licensing are:

NIST Docket No. 89–042

Title: Method and Apparatus for Laser Control

Description: The disclosure is directed to a method and apparatus for precisely controlling the frequency of a laser, and for precise control of distance. In a disclosed embodiment, a laser beam is split, modulated to obtain a frequency differential, and coupled to an interferometer which is designed to produce two processed beams having intensities that vary at the same ac frequency, but at a phase difference that is indicative of the laser frequency. The processed beams are converted to ac electrical signals which are coupled to phase control circuitry. The phase control circuitry determines and phase between the electrical signals and produces a control signal for controlling the laser frequency. Phase offset increments are introduced in the phase detection process, these phase offset increments resulting in controlled changes in the laser frequency. The laser frequency can be computed and read out as a function of the phase offset increments. In another embodiment, the control signal is used to accurately control a distance.

NIST Docket No. 90–017

Title: Apparatus and Methods for Implementing Error Correction in Rail Time for Machine Tools with Encoder-Type Position Feedback

Description: This invention describes several ways to improve machine tool control error correction technology. It specifically addresses fixed geometric or thermally induced errors in systems employing encoder-type position feedback signals. The invention provides realtime, portable error correction techniques that can be used with any endoder-type position feedback devices, with minimal software or hardware changes.

NIST Docket No. 91–023

Title: Photovoltaic Solar Water Heating System

Description: This NIST invention provides a system for heating water using electrical power generated by a photovoltaic array. The efficiency of the system is optimized by matching the power output characteristics of the photovoltaic array to the heater load.

NIST Docket No. 93–019

Title: Laser Controlled Nanolithography

Description: New NIST technology shows promise for creating three-dimensional nanostructures. Using light to "steer" chromium atoms, the technique can make rows of atoms 65 nanometers (nm) wide with 213 nm spacing. The ultimate limit is expected to be structures with widths as small as 5 to 10 nm.

NIST Docket No. 94–001

Title: An Improved Apparatus for Precisely Measuring Accelerating Voltages Applied to X-Ray Sources

Description: This invention is an improvement of an earlier invention, Method and Apparatus for Precisely Measuring Voltage Applied to x-Ray Sources (U.S. Patent Application Serial No. 08/021,232). The new invention allows the accurate measurement of the accelerating voltage applied to an x-ray tube. Variation in accelerating voltage affects the amount of radiation penetrating the radiated object and thus the contrast of the resulting radiographic image. In certain diagnostic applications, e.g. mammography and coronary angiography, radiographic contrast is critical to making an accurate diagnosis. The invention allows precise measurement of the accelerating voltage and thus accurate calibration of x-ray equipment to ensure proper contrast in the resulting images.

Dated: March 23, 1994.

Samuel Kramer,

Associate Director.

[FR Doc. 94–7393 Filed 3–29–94; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to the Office of Management and Budget (OMB) for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C., chapter 35).

Title and OMB Control Number: Navy Advertising Effectiveness Study (NAES); OMB Control Number 0703–0032.

Type of Request: Expedited Processing—Approval date requested: 30 days following publication in the **Federal Register.**

Number of Respondents: 2,000.

Responses Per Respondent: 1.

Annual Responses: 2,000.

Average Burden Per Response: 30 minutes.

Annual Burden Hours: 1,000.

Needs and Uses: The Navy Advertising Effectiveness Study

measures advertising effectiveness and provides data for strategies to be used in advertising. The affected public includes non-prior service males, 16–21 years of age, within the United States. This information is used to determine management decisions on objectives and strategies of advertising, media selection, and the evaluation of the advertising and recruiting process.

Affected Public: Individuals or households.

Frequency: Semiannually.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Office for DoD, room 3235, New Executive Office Building, Washington, DC 20503

DOD Clearance Officer: Mr. William P. Pearce. Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, suite 1204, Arlington, VA 22202–4302.

Dated: March 24, 1994.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 94–7407 Filed 3–29–94; 8:45 am]

BILLING CODE 5000–04–M

Office of the Secretary

Defense Science Board Task Force on Depot Maintenance Management

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on Depot Maintenance Management will meet in closed session on April 26–27 and May 24–25, 1994 at the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will assess the overall performance and management of depot-level activities of the Department of Defense.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law No. 92–463, as amended (5 U.S.C. App. II, (1988)), it has been determined that these DSB Task Force meetings, concern matters listed in 5 U.S.C. 552b(c) (1) (1988), and that accordingly these meetings will be closed to the public.

Dated: March 24, 1994.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 94–7408 Filed 3–29–94; 8:45 am]

BILLING CODE 5000–04–M

Defense Science Board Task Force on Cruise Missile Defense

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on Cruise Missile Defense will meet in closed session on April 21–22, 1994 at the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will focus on the land attack Cruise Missile threat, and should be comprehensive enough to address operational issues, (offensive as well as defensive), organizational matters, connections to other programs and investment strategy as well as technical issues.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App. II, (1988)), it has been determined that this DSB Task Force meeting, concerns matters listed in 5 U.S.C. 552b(c) (1) (1988), and that accordingly this meeting will be closed to the public.

Dated: March 24, 1994.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 94–7409 Filed 3–29–94; 8:45 am]

BILLING CODE 5000–04–M

Department of the Army

ARMS Initiative; Public/Private Task Force (PPTF)

AGENCY: Armament Retooling and Manufacturing Support (ARMS) Public/Private Task Force (PPTF).

ACTION: Notice of meeting.

SUMMARY: Pursuant to Public Law 92–463, notice is hereby given of the next meeting of the Armament Retooling and Manufacturing Support (ARMS) Public/Private Task Force (PPTF). The PPTF is chartered to develop new and innovative methods to maintain the government-owned, contractor-operated ammunition industrial base and retain critical skills for a national industrial emergency. Purpose of this meeting is to evaluate and offer recommendations regarding the ARMS Initiative Implementation Plan (AIIP); additional ARMS Initiative Incentives; regulatory waivers, deviations, or changes; and ARMS Initiative legislative supplements or changes. A tour of the Mississippi Army Ammunition Plant will be included as part of this meeting. This session is open to the public.

DATES OF MEETING: April 26–28, 1994.

PLACE OF MEETING: Diamond Head Days Inn, 103 Live Oak Drive, Diamond Head, MS 39525.

TIME OF MEETING: 8 a.m.–5 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. R. B. Auger, ARMS Task Force, HQ Army Materiel Command, 5001 Eisenhower Avenue, Alexandria, Virginia 22333; phone (703) 274–9838.

SUPPLEMENTARY INFORMATION: Reservations should be made directly with the Days Inn, telephone (601) 255–1300. Please be sure to mention that you will be attending the ARMS meeting to get in the block of rooms set aside for this meeting. Request you contact Donna Ponce in the ARMS Team Office at Rock Island Arsenal; telephone (309) 782–3058/4040, if you will be attending the meeting, so that our roster of attendees is accurate. This number may also be used if other assistance regarding the ARMS meeting is required.

Gregory D. Showalter,

Alternate Army Federal Register Liaison Officer.

[FR Doc. 94–7416 Filed 3–29–94; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF ENERGY

Floodplain Statement of Findings for the Proposed Resource Conservation and Recovery Act Facility Investigation of the Waste Area Grouping 13 Study Areas at the Paducah Gaseous Diffusion Plant, Paducah, KY

AGENCY: Department of Energy (DOE).

ACTION: Floodplain statement of findings.

SUMMARY: This is a Floodplain Statement of Findings for the proposed Resource Conservation and Recovery Act (RCRA) Facility Investigation (RFI) of the Waste Area Grouping (WAG) 13 Study Areas at the Paducah Gaseous Diffusion Plant (PGDP), prepared in accordance with 10 CFR part 1022. DOE proposes to install monitoring wells, obtain soil borings, and conduct environmental sampling of ground

water, surface water, soils, sediment, sludge, and fish located in a floodplain on the PGDP site in McCracken County, Kentucky. DOE prepared a Floodplain Assessment describing the effects, alternatives, and measures designed to avoid or minimize potential harm to or within the affected floodplain. DOE will endeavor to allow 15 days of public review after publication of the statement of findings before implementing the proposed action.

FOR FURTHER INFORMATION CONTACT: Information on the proposed action, including maps of potentially disturbed floodplain areas, is available from: Mr. Robert C. Sleeman, Director, Environmental Restoration Division, Oak Ridge Operations Office, U.S. Department of Energy, P.O. Box 2001, Oak Ridge, Tennessee 37831–8541, (615) 576–0715.

Further information on general DOE Floodplain 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 leave a message at (800) 472–2756.

SUPPLEMENTARY INFORMATION: This is a Floodplain Statement of Findings for the proposed RFI activities at WAG 13 at the PGDP, prepared in accordance with 10 CFR part 1022. A Notice of Floodplain/Wetlands Involvement was published in the **Federal Register** [58 FR 51812 (October 5, 1993)] and a floodplain assessment was completed; no wetlands are involved in the proposed action. DOE is proposing to conduct environmental sampling of surface water, ground water, sediment, soil and fish to define the nature and extent of contamination in the WAG 13 areas.

This investigation would involve the installation of boreholes, monitoring wells, and gravel access roads and/or gravel drilling pads within the 100- and 500-year floodplain of Big Bayou Creek. The WAG 13 areas that need to be characterized to fulfill requirements under the PGDP RCRA Part B Permit are located within the 100- and/or 500-year floodplains. The Floodplain Assessment for the WAG 13 RFI indicates that the proposed action would have no adverse impact on either floodplain. Two alternatives were considered—the no action alternative and an alternative that included performing the activities outside of the floodplain. These alternatives would not provide the necessary characterization information and, therefore, are unacceptable alternatives. The proposed action has been designed to avoid or minimize impacts to the floodplain and no significant adverse impacts to the floodplain are expected to occur. The proposed action does conform to applicable State floodplain standards. DOE will endeavor to allow 15 days of public review after publication of the statement of findings prior to implementing the proposed action.

Issued in Washington, DC, on March 21, 1994.

James J. Fiore,

Director, Office of Eastern Area Programs, Office of Environmental Restoration.

[FR Doc. 94–7559 Filed 3–29–94; 8:45 am]

BILLING CODE 6450–01–P–M

Pittsburgh Energy Technology Center; Notice of Noncompetitive Financial Assistance Award

AGENCY: Department of Energy, Pittsburgh Energy Technology Center.

ACTION: Determination of Noncompetitive Financial Assistance (Cooperative Agreement) Award with Air Products and Chemicals, Inc. (APCI).

SUMMARY: The U.S. Department of Energy (DOE), Pittsburgh Energy Technology Center (PETC) announces that pursuant to 10 CFR 600.7(b)(2)(i) criteria (A) and (D), it intends to award a Cooperative Agreement to Air Products and Chemicals, Inc. for a five-year effort entitled "Alternative Fuels and Chemicals from Synthesis Gas."

ADDRESSES: U.S. Department of Energy, Pittsburgh Energy Technology Center, Acquisition and Assistance Division, P.O. Box 10940, MS 921–118, Pittsburgh, PA 15236–0940.

FOR FURTHER INFORMATION CONTACT: John N. Augustine, Contract Specialist, 412/892–4524.

SUPPLEMENTARY INFORMATION:

Cooperative Agreement Number

DE–FC22–94PC93052

Title of Research Effort

"Alternative Fuels and Chemicals from Synthesis Gas"

Awardee

Air Products and Chemicals, Inc.

Term of Assistance Effort

Sixty (60) months

Cost of Assistance Effort

The total estimated value is $32,000,000.

The DOE share of Funding for this effort is $25,500,000.

Objective

This noncompetitive financial assistance action is a logical continuation of the research presently being funded by DOE and APCI. This Cooperative Agreement provides financial assistance in the development of technologies for the production of a variety of alternative fuels (i.e., hydrocarbons and oxygenate fuels), octane enhancers, chemicals, and chemical intermediates from synthesis gas, and the collection and evaluation of relevant scaleup and economic data. This effort will focus on: (1) Conducting runs at a proof-of-concept (POC) level to test and confirm the technologies that are selected based on technical feasibility, economic potential, and industrial participation; (2) performing selective research for catalyst and process development; and (3) establishing a comprehensive technology development program that includes process evaluation, economic studies, and system integration.

Dale A. Siciliano,

Chief, Contracts Group I.

[FR Doc. 94–7560 Filed 3–29–94; 8:45 am]

BILLING CODE 6450–01–M

Grant and Cooperative Agreement Award to Tulane University

[6450–01]

AGENCY: Department of Energy (DOE), Richland Operations Office.

ACTION: Notice of intent to make a noncompetitive financial assistance award to Tulane University in New Orleans, LA, in partnership with Xavier University, also of New Orleans, LA.

SUMMARY: The Department of Energy Richland Operations office announces that pursuant to 10 CFR 600.7(b)(2), it plans to negotiate and award noncompetitive grant DE–FG06–94RL12880 to Tulane University which, with Xavier University, will develop an education and training program to complement DOE's Hazardous Materials Management and Emergency Response (HAMMER) program. Specifically, the recipients are expected to initiate a comprehensive program which will provide the basis for development, testing and evaluation of curricula for training persons, particularly minorities, to work with hazardous materials, especially at U.S. Government facilities. It will also elucidate national standards for centers that provide such training.

Further, the recipients plan to develop, pilot-test, and disseminate model education courses/curricula that produce workers and professionals

needed by the United States to carry out a cost-effective environmental restoration and waste management initiative that will protect the health and safety of existing and future environmental restoration and waste management work forces.

The project is expected to last for up to five years, with FY94 funding estimated at up to four million dollars.

SUPPLEMENTARY INFORMATION: The cleanup of hazardous and radioactive wastes in the United States presents a technical challenge and a responsibility to protect the health and safety of the public as well as of workers. This award is expected to lead to the development of programs that will directly enhance health and safety of these individuals. Tulane and Xavier Universities have developed a level of combined environmental research and minority science education capability on which they will build to develop education strategies that can be nationally disseminated in order to enhance productivity and safety in the handling of hazardous materials and to encourage future workers to enter science and engineering fields that will address work force needs. The grant will be awarded under criteria 10 CFR 600.7(b)(2)(i)(H) in justifying noncompetitive financial assistance. The DOE Assistant Secretary for Environmental Restoration and Waste Management, with the concurrence of the Director of Procurement and Assistance Management, has determined that the award to Tulane/Xavier is in the public interest. Statutory authorities for this award are the Energy Reorganization Act (Pub. L. 93–438, title I, section 103(11), and the National Defense Authorization Act for 1994 (Pub L. 103–160, section 31–42).

FOR FURTHER INFORMATION CONTACT: Marji W. Parker, Grants Specialist, USDOE Richland Operations Office, Procurement Division A7–80, P.O. Box 550 Richland, WA 99352, Telephone (509) 376–2029.

Dated: March 16, 1994.

Robert D. Larson,

Director, Procurement Division, Richland Operations Office.

[FR Doc. 94–7561 Filed 3–29–94; 8:45 am]

BILLING CODE 6450–01–M

Financial Assistance Award to the Yakima Indian Nation

AGENCY: Department of Energy (DOE), Richland Operations Office.

ACTION: Notice of intent to renew a noncompetitive financial assistance award.

SUMMARY: The DOE Richland Field Office, Office of Environmental Assurance, Permits and Policy, in accordance with 10 CFR 600.7(b)(2), gives notice of its plan to renew a noncompetitive assistance award to the Yakima Indian Nation (YIN). Under the terms of the award, the YIN will continue to conduct activities related to the protection of YIN treaty rights which may be impacted by activities associated with DOE's environmental restoration activities at the Hanford Site. This award implements elements of the DOE Five Year Plan recognizing DOE's commitment to the participation of affected Indian tribes in the review and implementation of planned cleanup and waste management activities. Tribal participation in these activities is expected to continue for several years. The award will be renewed for a four year period, with FY94 funding expected to be approximately $900,000. Funding for the following years is anticipated to be approximately $1,000,000 per year, subject to negotiation between DOE and the YIN.

DOE has determined that renewal on a noncompetitive basis is appropriate because the recipient is a unit of government and the activities to be supported are related to the performance of governmental functions within the jurisdiction of that unit of government, thereby precluding DOE provision of support to another entity. Since the award is related to agreements and treaties already made between the United States Government and the YIN, it would clearly be inappropriate for DOE to consider funding any other entity to be responsible for carrying out these activities.

FOR FURTHER INFORMATION CONTACT: Marji W. Parker, U.S. Department of Energy Richland Field Office, Procurement Division, P.O. Box 550, Richland, WA 99352. Telephone: (509) 376–2029.

Dated: March 15, 1994.

Robert D. Larson,

Director, Procurement Division, Richland Operations Office.

[FR Doc. 94–7562 Filed 3–29–94; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. ER93–816–000 et al.]

New York State Electric & Gas Corp., et al.; Electric Rate and Corporate Regulation Filings

March 18, 1994.

Take notice that the following filings have been made with the Commission:

1. New York State Electric &) Gas Corp.

[Docket No. ER93–816–000]

Take notice that on March 14, 1994, New York State Electric & Gas Corporation (NYSEG) tendered for filing an amendment to its July 28, 1993, filing in this docket. The amendment consists of additional information concerning the July 28, 1993, filing of an agreement for NYSEG's transmission of emergency or maintenance power, Niagara Mohawk Power Corporation's (Niagara Mohawk) payment for the exclusive use of a certain portion of NYSEG's transmission facilities as well as Niagara Mohawk's payment of contributions in aid of construction (CIAC) for the replacement of one of NYSEG's transformers. NYSEG has requested waiver of notice requirements so that the Rate Schedule can be made effective as of December 11, 1973. NYSEG states that a copy of the amendment has been served by mail upon Niagara Mohawk and upon the Public Service Commission of the State of New York.

Comment date: April 1, 1994, in accordance with Standard Paragraph E at the end of this notice.

2. Idaho Power Co.

[Docket No. ER93–965–000]

Take notice that on March 14, 1994, Idaho Power Company (IPC) tendered for filing an amendment to its filing of the Service Agreement with El Paso Electric Company under Idaho Power Company's FERC Electric Tariff Volume 1, Second Revised.

Comment date: April 1, 1994, in accordance with Standard Paragraph E at the end of this notice.

3. Southern Electric Generating Co.

[Docket No. ER94–193–000]

Take notice that on March 10, 1994, Southern Electric Generating Company tendered for filing an amendment to its November 30, 1993, filing in this docket.

Comment date: March 31, 1994, in accordance with Standard Paragraph E at the end of this notice.

4. Interstate Power Co.

[Docket No. ER94-653-000]

Take notice that on February 22, 1994, Interstate Power Company tendered for filing an amendment in the above-referenced docket.

Comment date: March 31, 1994, in accordance with Standard Paragraph E at the end of this notice.

5. Midwest Power Systems Inc.

[Docket No. ER94-666-000]

Take notice that on March 14, 1994, Midwest Power Systems Inc. (MPSI) tendered for filing an Amendment No. 1 to its original filing in this docket. The original filing included a new Exhibit H identifying one additional point of interconnection to the General Facilities Agreement (Agreement) between Central Iowa Power Cooperative (CIPCO) and Iowa Power (IPR) n/k/a MPSI.

MPSI' Amendment further requests an effective date for this filing of August 12, 1983, coincident with the date of the original Letter of Agreement between CIPCO and MPSI.

MPSI states that copies of this filing were served on CIPCO and the Iowa Utilities Board.

Comment date: April 1, 1994, in accordance with Standard Paragraph E at the end of this notice.

6. Iowa-Illinois Gas & Electric Co.

[Docket No. ER94-911-000]

Take notice that on March 7, 1994, Iowa-Illinois Gas & Electric Company tendered for filing supplemental information regarding its January 18, 1994, filing in this docket.

Comment date: March 31, 1994, in accordance with Standard Paragraph E at the end of this notice.

7. Eastern Power Distribution, Inc.

[Docket No. ER94-964-000]

Take notice that Eastern Power Distribution, Inc. (EPD) on March 1, 1994, filed a supplement to and amendment of its Application for Blanket Authorization, Certain Waivers, and Order Approving Rate Schedule, filed February 8, 1994 in the captioned docket.

EPD states that neither EPD nor any affiliate of EPD has an ownership interest in any existing "qualifying facility" (QF) under the Public Utility Regulatory Policy Act. Any cogeneration facility currently in development by affiliates of EPD is not presently generating electric power.

Comment date: March 31, 1994, in accordance with Standard Paragraph E at the end of this notice.

8. Arizona Public Service Co.

[Docket No. ER94-1030-000]

Take notice that on March 10, 1994, Arizona Public Service Company (APS) tendered for filing revised Exhibit II to the Wholesale Power Agreement (Agreement) between APS and Agulia Irrigation District (Agulia) (APS-FERC) Rate Schedule No. 141).

Current rate levels are unaffected, revenue levels are unchanged from those currently on file with the Commission, and no other significant changes in service to this or any other customer results from the revision proposed herein. No new or modifications to existing facilities are required as a result of this revision.

Any copy of this filing has been served on Agulia and the Arizona Corporation Commission.

Comment date: April 1, 1994, in accordance with Standard Paragraph E at the end of this notice.

9. San Diego Gas & Electric Co.

[Docket No. ER94-1031-000]

Take notice that on March 14, 1994, San Diego Gas & Electric Company (SDG&E) tendered for filing a Notice of Termination of the Power Purchase Agreement between Salt River Agricultural Improvement and Power District and SDG&E designated as FERC Rate Schedule No. 50.

Comment date: April 1, 1994, in accordance with Standard Paragraph E at the end of this notice.

10. San Diego Gas & Electric Co.

[Docket No. ER94-1032-000]

Take notice that March 14, 1994, San Diego Gas & Electric Company (SDG&E) tendered for filing notices of termination of FERC Rate Schedules Nos. 15, 16, 24, 30, 32, 34, 37, 38, 44 and 47.

Comment date: April 1, 1994, in accordance with Standard Paragraph E at the end of this notice.

11. Niagara Mohawk Power Corp.

[Docket No. ER94-1034-000]

Take notice that on March 14, 1994, Niagara Mohawk Power Corporation (Niagara Mohawk) tendered for filing a cancellation of its Rate Schedule No. 113 as amended, which is an agreement dated June 17, 1981 between Niagara Mohawk and Consolidated Edison Company of New York, Inc. (Con Ed). Therein, Niagara Mohawk agreed to provide certain transmission services on behalf of Con Ed for diversity power and energy between Con Ed and the New York State Power Authority. The diversity power is in turn exchanged with Hydro Quebec.

Niagara Mohawk states that copies of its report were served on the New York State Public Service Commission and Con Ed.

Comment date: April 1, 1994, in accordance with Standard Paragraph E at the end of this notice.

12. Niagara Mohawk Power Corp.

[Docket No. ER94-1035-000]

Take notice that on March 14, 1994, Niagara Mohawk Power Corporation (Niagara Mohawk) tendered for filing a cancellation of its Rate Schedule No. 181 which is an agreement dated January 8, 1993 between Niagara Mohawk and Northeast Utilities Service Company (NU). Therein, Niagara Mohawk agreed to provide certain transmission services on behalf of NU to Rochester Gas & Electric Corporation beginning March 12, 1993.

Niagara Mohawk states that copies of its report were served on the New York State Public Service Commission and NU.

Comment date: April 1, 1994, in accordance with Standard Paragraph E at the end of this notice.

13. Public Service Company of Oklahoma and Southwestern Electric Power Co.

[Docket No. ER94-1036-000]

Take notice that on March 14, 1994, Public Service Company of Oklahoma and Southwestern Electric Power Company (collectively, Companies) tendered for filing an executed coordination transmission service agreement between Companies and Oklahoma Municipal Power Authority (OMPA); a revised index of purchasers to whom Companies provide service under their Coordination Transmission Service Tariff; and a letter agreement regarding the allocation of revenues received under the OMPA agreement.

A copy of this filing has been sent to OMPA and the Oklahoma Corporation Commission.

Comment date: April 1, 1994, in accordance with Standard Paragraph E at the end of this notice.

14. Genesee Power Station Limited Partnership

[Docket No. ER94-1037-000]

Take notice that on March 14, 1994, Genesee Power Station Limited Partnership (Genesee) tendered for filing, pursuant to 18 CFR 35.13, Amendments No. 1 and 2 to its Electric Rate Schedule FERC No. 1 applicable to the sale of energy and capacity to Consumers Power Company (Consumers). Amendments No. 1 and 2 deal primarily with various performance

deadlines, connection facilities and financial commitments of Genesee. They do not increase the rates to be charged under the Rate Schedule. The changes reflect developments since the original filing of the Rate Schedule.

Copies of the filing were served upon Consumers and the Michigan Public Service Commission.

Comment date: April 1, 1994, in accordance with Standard Paragraph E at the end of this notice.

15. Wisconsin Electric Power Co.

[Docket No. ER94-1038-000]

Take notice that on March 14, 1994, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing a transmission service agreement between itself and Northern States Power Company.

Wisconsin Electric respectfully requests an effective date of February 11, 1994, the date the Agreement was executed, in order to take advantage of power supply economies available in the bulk power market. Wisconsin Electric is authorized to state that NSP joins in the requested effective date.

Copies of the filing have been served on NSP, the Michigan Public Service Commission, and the Public Service Commission of Wisconsin.

Comment date: April 1, 1994, in accordance with Standard Paragraph E at the end of this notice.

16. Gulf States Utilities Co.

[Docket No. ER94-1039-000]

Take notice that on March 14, 1994, Gulf States Utilities Company (Gulf States), tendered for filing rate schedule changes regarding the assignment by Sam Rayburn G&T Electric Cooperative, Inc. (SRG&T), and Tex-La Electric Cooperative of Texas, Inc. (Tex-La) of their agreements with Gulf States to East Texas Electric Cooperative, Inc. (ETEC). In addition, Gulf States tendered for filing certain amendments to the agreements with SRG&T concerning the assignment clause in the Gulf States-SRG&T agreements.

Gulf States requests an effective date of the later of April 1, 1994, or the first day of the month following the acceptance for filing of ETEC's wholesale agreements with SRG&T and Tex-La in Docket No. ER94-891-000, or the first day of the month following REA approval of the assignments. To the extent necessary, Gulf States requests a waiver of the notice requirements of the Federal Power Act and the Commission's regulations to allow the effective date.

A copy of the filing was served upon ETEC, SRG&T, and Tex-La.

Comment date: April 1, 1994, in accordance with Standard Paragraph E at the end of this notice.

17. Florida Power Corp.

[Docket No. ER94-1040-000]

Take notice that on March 14, 1994, Florida Power Corporation (Florida Power) tendered for filing revisions to the capacity charges, reservation fees and energy adders for various interchange services provided by Florida Power pursuant to interchange contracts as follows:

Rate Schedule and Customer

80—Tampa Electric Company
81—Florida Power & Light Company
82—City of Homestead
86—Orlando Utilities Commission
88—Gainesville Regional Utility
91—Jacksonville Electric Authority
92—City of Lakeland
94—Kissimmee Utility Authority
95—City of St. Cloud
100—Fort Pierce Utilities Authority
101—City of Lake Worth
102—Florida Power & Light Company
103—City of Starke
104—City of New Smyrna Beach
105—Florida Municipal Power Agency
108—City of Key West
119—Reedy Creek Improvement District
122—City of Tallahassee
128—Seminole Electric Cooperative, Inc.
134—City of New Smyrna Beach
139—Oglethorpe Power Corp.
141—City of Vero Beach
142—Big Rivers Electric Corporation

The interchange services which are affected by these revisions are (1) Service Schedule (A) Emergency, (2) Service Schedule B—Short Term Firm, (3) Service Schedule D—Firm, (4) Service Schedule F—Assured Capacity and Energy, (5) Service Schedule G—Backup Service, (6) Service Schedule H—Reserve Service, (7) Service Schedule RE—Replacement Energy, and (8) Contract For Assured Capacity And Energy With Florida Power & Light Company.

Florida Power also has tendered for filing a notice of termination of interchange service to the City of Vero Beach under Rate Schedule FERC No. 93. Florida Power states that it provides interchange service to Vero Beach under Rate Schedule FERC No. 141.

Florida Power also has requested that the Commission modify the limitations on service to Oglethorpe Power Corporation and the City of Vero Beach under Service Schedule D of Rate Schedule FERC Nos. 139 and 141, respectively, to permit the Company to engage in transactions without first filing them with the Commission.

Florida Power requests that the amended revised capacity charges, reservation, fees and energy adder; the notice of termination; and the modification of Rate Schedules 139 and 141 be made effective on May 1, 1994 and remain effective through April 30, 1995. Florida Power requests waiver of the Commission's sixty-day notice requirement. If waiver is denied, Florida Power requests that the filing be made effective June 1, 1994.

Comment date: April 1, 1994, in accordance with Standard Paragraph E at the end of this notice.

18. Public Service Company of New Mexico

[Docket No. ER94-1041-000]

Take notice that on March 15, 1994, Public Service Company of New Mexico (PNM) submitted for filing the Operational Agreements to the Inland Power Pool Agreement previously submitted for filing by Public Service of Colorado and accepted for filing by the Commission in Docket No. ER94-505-000.

To the extent required, PNM requests waivers of the Commission's notice requirements so that the Operational Agreements may be effective as of their respective dates.

Copies of the filing have been served upon Public Service Company of Colorado and the New Mexico Public Utility Commission.

Comment date: April 1, 1994, in accordance with Standard Paragraph E at the end of this notice.

19. Public Service Company of Colorado

[Docket No. ER94-1042-000]

Take notice that on March 15, 1994, Public Service Company of Colorado, tendered for filing an operation and maintenance agreement with Yampa Valley Electric Association, Inc. Under the terms of this agreement Public Service Company of Colorado would recover a pro rata share of operation and maintenance expenses related to certain jointly owned facilities. In addition, Public Service Company of Colorado would assess nominal losses for certain deliveries of power and energy over the specific facilities owned by Yampa Valley.

Public Service requests an effective date of November 29, 1993, for the proposed amendment, and as such requests waiver of the Commission's prior notice requirements.

Copies of the filing were served upon Yampa Valley Electric Association, Inc. and state jurisdictional regulators which include the Public Utilities Commission of the State of Colorado and the State of Colorado Office of Consumer Counsel.

Comment date: April 1, 1994, in accordance with Standard Paragraph E at the end of this notice.

20. Virginia Electric and Power Co.

[Docket No. ER94–1043–000]

Take notice that on March 15, 1994, Virginia Electric and Power Company (Virginia Power or the Company), tendered for filing Rate Schedule No. TFC–1, Clover Transmission Facilities Charges, which is a Facilities Charge rate schedule applicable to Old Dominion Electric Cooperative (Old Dominion). Rate Schedule TFC–1 sets forth the rates, terms and conditions under which Old Dominion will compensate Virginia Power for the cost of transmission facilities required to interconnect the Clover Power Station to the Virginia Power electric system.

Copies of the filing were served upon Old Dominion and its counsel, the Virginia State Corporation Commission, and the North Carolina Utilities Commission.

Comment date: April 1, 1994, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–7485 Filed 3–29–94; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. QF84–256–003]

Oxbow Geothermal Corp., Application for Commission Recertification of Qualifying Status of a Small Power Production Facility

March 24, 1994

On February 24, 1994, Oxbow Geothermal Corporation (Oxbow) 1601 forum Place, West Palm Beach, Florida 33401, submitted for filing an application for recertification of a facility as a qualifying small power production facility pursuant to § 292.207(b) of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

According to the applicant, the geothermal facility is located in the Dixie Valley, Churchill County, Nevada. Previously, Oxbow was recertified as a consolidation of three facilities in Docket Nos. QF84–256–001, QF84–462–002, and QF84–463–002 36 FERC ¶62,152 (1986). The instant request for recertification reflects the proposed lease of a portion of Oxbow's qualifying facility (QF) 214 mile long interconnection transmission line to another QF.

Any person desiring to be heard or objecting to the granting of qualifying status should file a motion to intervene or protest with the Federal energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rule of Practice and Procedure. All such motions or protests must be filed within 30 days after the date of publication of this notice in the **Federal Register** and must be served on the applicant. 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–7485 Filed 3–29–94;8:45am]

BILLING CODE 6717–01–P

[Docket No. ER94–944–000, et al.]

Portland General Electric Co. et al.; Electric Rate and Corporate Regulation Filings

March 23, 1993.

Take notice that the following filings have been made with the Commission:

1. Portland General Electric Co.

[Docket No. ER94–944–000]

Take notice that on March 21, 1994, Portland General Electric Company (PGE) tendered for filing a request for deferral of Commission action for sixty (60) days in the above Docket, to allow time for the Commission to issue an order in Docket No. ER93–133–000, which in part regards the tariff for which cancellation has been requested in Docket No. ER94–944–000.

Comment date: April 6, 1994, in accordance with Standard Paragraph E at the end of this notice.

2. Kansas City Power & Light Co.

[Docket No. ER94–1045–000]

Take notice that on March 15, 1994, Kansas City Power & Light Company (KCP&L) filed an open access transmission service tariff providing firm and non-firm transmission service. KCP&L states that it will accept requests for service under the transmission tariff immediately. KCP&L also has filed a Generation Sales Service Tariff, which would permit market-based power sales. KCP&L has requested that the Commission authorize sales at market-based rates of: (a) Up to 50 MW of KCP&L system firm capacity and associated energy; (b) all available non-firm energy from KCP&L-owned generation; and (c) up to 700 MW of firm capacity and associated energy from a new generating unit, Iatan II, to be developed at the Iatan I site by a business venture consisting of one or more KCP&L subsidiaries and one or more Black & Veatch subsidiaries.

Comment date: April 6, 1994, in accordance with Standard Paragraph E at the end of this notice.

3. Puget Sound Power & Light Co.

[Docket No. ER94–1053–000]

Take notice that on March 16, 1994, Puget Sound Power & Light Company (Puget) tendered for filing an Ownership Agreement among Puget, PacifiCorp and Portland General Electric Company dated as of February 14, 1994 (the Agreement). The Agreement provides for the construction and ownership by the parties to the Agreement, as tenants in common, of a substation and other transmission facilities in connection with the development of a wind project at the Columbia Hills in Klickitat County, Washington. The Agreement also provides for the offer, by such parties, of use of such facilities to the owners of an additional wind project, if any, developed on property near or adjacent to the initial wind project.

Copies of the filing were served upon PacifiCorp and Portland General Electric Company.

Comment date: April 6, 1994, in accordance with Standard Paragraph E at the end of this notice.

4. Carolina Power & Light Co.

[Docket No. ER94–1054–000]

Take notice that on March 16, 1994, Carolina Power & Light Company (CP&L) filed, pursuant to section 205 of

the Federal Power Act and Part 35 of the Commission's Regulations, a Power Supply and Coordination Agreement Between Carolina Power & Light Company and the Public Works Commission of the City of Fayetteville (PSCA) applicable to wholesale electric service provided by CP&L to the Public Works Commission of the City of Fayetteville (PWC). CP&L states that the PSCA revises the rates, terms and conditions under which CP&L will provide service to PWC. Upon the effective date, CP&L states that PWC no longer will take service under existing Resale Service Schedule RS88–3B.

Comment date: April 6, 1994, in accordance with Standard Paragraph E at the end of this notice.

5. PSI Energy, Inc.

[Docket No. ER94–1055–000]

Take notice that on March 17, 1994, PSI Energy, Inc. (PSI), tendered for filing the First Supplemental Agreement, dated March 1, 1994, to the Transmission Agreement for Unit Power and Energy (1984 Agreement), dated August 31, 1984, between PSI and Virginia Electric and Power Company. Such 1984 Agreement has been designated as PSI's Rate Schedule FERC No. 240.

The First Supplemental Agreement adds a new Article IX "Alternate Delivery Point Transmission Service" to the 1984 Agreement.

The parties have requested an effective date of March 15, 1994.

Copies of the filing were served on Virginia Electric and Power Company, the Virginia State Corporation Commission and the Indiana Utility Regulatory Commission.

Comment date: April 6, 1994, in accordance with Standard Paragraph E at the end of this notice.

6. New England Power Co.

[Docket No. ER94–1056–000]

Take notice that on March 17, 1994, New England Power Company (NEP) submitted for filing a contract with its affiliate, Massachusetts Electric Company (MECO). The contract, is executed pursuant to Schedule III-C of NEP's FERC Electric Tariff, Original Volume No. 1. It provides for the sale from NEP to MECO of electricity on an interruptible basis for resale by MECO to one of its retail customers.

Comment date: April 6, 1994, in accordance with Standard Paragraph E at the end of this notice.

7. Kansas Gas and Electric Co.

[Docket No. ER94–1058–000]

Take notice that on March 18, 1994, Kansas Gas and Electric Company (KG&E), tendered for filng a change in its Federal Power Commission Electric Service Tariff No. 93. KG&E states that the change is to reflect the amount of transmission capacity requirements required by Western Resources, Inc. under Service Schedule M to FPC Rate Schedule No. 93 for the period June 1, 1994 through May 31, 1995.

Copies of this filing were served upon Western Resources, Inc. and the Kansas Corporation Commission.

Comment date: April 6, 1994, in accordance with Standard Paragraph E at the end of this notice.

8. Northern States Power Co. (Minnesota)

[Docket No. ER94–1059–000]

Take notice that on March 18, 1994, Northern States Power Company (Minnesota) tenders its Filing of Supplement No. 10 to the Transmission Service Agreement Between East River Electric Power Cooperative, Inc. and Northern States Power Company (Minnesota) dated December 1, 1993, with an effective date of February 1, 1994.

This supplement amends the Transmission Service Agreement Between East River Electric Power Cooperative, Inc. and NSP-M to recognize one additional point of delivery for Honner Substation near Redwood Falls, Minnesota. NSP requests that the Commission accept this Filing effective as of February 1, 1994, the date upon which service was to commence.

NSP requests waiver of the Commission's notice requirements under Part 35 so the Agreement may be effective as of the date requested. NSP also requests waiver of any other applicable filing requirements under the Commission's Rules and Regulations as may be necessary to accept the Agreement for filing on the date requested.

Comment date: April 6, 1994, in accordance with Standard Paragraph E at the end of this notice.

9. Florida Power Corp.

[Docket No. ER94–1060–000]

Take notice that on March 18, 1994, Florida Power Corporation tendered for filing a contribution-in-aid of construction to be made by the City of Leesburg, Florida, to cover the cost to Florida Power of reconfiguring of metering equipment and of relay protective schemes required to serve Leesburg at the Leesburg East Substation, where Leesburg receives delivery of power and energy wheeled to it over Florida Power's transmission system. Florida Power's metering equipment and relay protective schemes used in providing transmission service to Leesburg must be reconfigured to accommodate a transformer which Leesburg will install on Florida Power's side of the substation. Florida Power needs to begin work promptly and plans to do so upon making this filing. If waiver of the 60-day notice requirement is required, Florida Power requests such a waiver.

Comment date: April 6, 1994, in accordance with Standard Paragraph E at the end of this notice.

10. Rainbow Energy Marketing Corp.

[Docket No. ER94–1061–000]

Take notice that on March 18, 1994, Rainbow Energy Marketing Corporation (Rainbow), tendered for filing pursuant to Rule 205, 18 CFR 385.205, a petition for waivers and blanket approvals under various regulations of the Commission and for an order accepting its FERC Electric Rate Schedule No. 1.

Rainbow intends to engage in electric power and energy transactions as a marketer and a broker. In transactions where Rainbow sells electric energy it proposes to make such sales on rates, terms, and conditions to be mutually agreed to with the purchasing party. Rainbow is not in the business of generating, transmitting, or distributing electric power.

Comment date: April 6, 1994, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–7477, Filed 3–29–94; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. EG94–37–000, et al.]

SEI Holdings VII, Inc., et al.; Electric Rate and Corporate Regulation Filings

March 22, 1994.

Take notice that the following filings have been made with the Commission:

1. SEI Holdings VII, Inc.

[Docket No. EG94–37–000]

On March 17, 1994, SEI Holdings VII, Inc. (the "Applicant") filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator ("EWG") status pursuant to part 365 of the Commission's regulations.

The Applicant is a wholly-owned subsidiary of The Southern Company. The Applicant intends to engage in project development activities associated with the direct or indirect acquisition of ownership interests in one or more eligible facilities and/or EWGs located in Australia, which Applicant expects to include a 300 MW facility located in western Australia. These development activities will be limited to activities associated with the acquisition of ownership interests in facilities or entities that meet the criteria for eligible facilities and/or EWGs set out in section 32 of the Public Utility Holding Company Act of 1935.

Comment date: April 11, 1994, in accordance with Standard Paragraph E at the end of this notice.

2. Meshelfco No. 162 Pty Ltd.

[Docket No. EG94–38–000]

On March 17, 1994, Meshelfco No 162 Pty Ltd. (the "Applicant") filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator ("EWG") status pursuant to part 365 of the Commission's regulations.

The Applicant is a wholly-owned subsidiary of SEI Holdings VII, Inc., which is in turn a wholly-owned subsidiary of The Southern Company. The Applicant intends to engage in project development activities associated with the direct or indirect acquisition of ownership interests in one or more eligible facilities and/or EWGs located in Australia, which Applicant expects to include a 300 MW facility located in western Australia. These development activities will be limited to activities associated with the acquisition of ownership interests in facilities or entities that meet the criteria for eligible facilities and/or EWGs set out in section 32 of the Public Utility Holding Company Act of 1935.

Comment date: April 11, 1994, in accordance with Standard Paragraph E at the end of this notice.

3. Delmarva Power & Light Co. and Atlantic City Electric Co.

[Docket No. ER94–1021–000]

Take notice that on March 8, 1994, Delmarva Power & Light Company (DPL) on behalf of itself and Atlantic City Electric Company (ACE) tendered for filing as an initial rate under section 205 of the Federal Power Act and part 35 of the regulations issued thereunder, an Agreement between DPL and ACE dated March 1, 1994.

DPL states that the Agreement sets forth the terms and conditions for the sale of import capability which each party expects to have available for sale from time to time and the purchase of power which will be economically advantageous to the other party. The rate for these services are negotiated but will not exceed $5.50 per MWh. In order to optimize the economic advantages to both DPL and ACE, DPL requests that the Commission waive its customary notice period and allow this Agreement to become effective on May 2, 1994.

DPL states that a copy of this filing has been sent to ACE and will be furnished to the New Jersey Board of Regulatory Commissioners, Delaware Public Service Commission, the Maryland Public Service Commission, and the Virginia State Corporation Commission.

Comment date: April 4, 1994, in accordance with Standard Paragraph E at the end of this notice.

4. Entergy Services, Inc.

[Docket No. ER94–1044–000]

Take notice that on March 15, 1994, Entergy Services, Inc. (Entergy Services), as agent for Arkansas Power & Light Company, Gulf State Utilities Company, Louisiana Power & Light Company, Mississippi Power & Light Company, and New Orleans Public Service Inc. (collectively the "Entergy Operating Companies") tendered for filing (1) revisions to the Firm Transmission Rate formula contained in the Entergy Operating Companies Transmission Service Tariff (Tariff), and (2) redetermined rates for Firm Transmission Service, maximum rates for Nonfirm Transmission Service, and a revised Transmission Revenue Allocation Matrix under the Tariff based on 1993 data. Entergy Services requests that the revisions to the Tariff, the redetermined rates, and the revised revenue allocation matrix be made effective on April 1, 1994. Entergy also states that under the terms of the Tariff, the FERC Staff, Customers, and the Entergy Operating Companies shall each have ninety days to review the redetermined Firm Rate.

Comment date: April 4, 1994, in accordance with Standard Paragraph E at the end of this notice.

5. Northern States Power Co. (Minnesota)

[Docket No. ER94–1046–000]

Take notice that on March 15, 1994, Northern States Power Company (Minnesota) (NSP) tendered for filing the Connection Nol 52 between NSP and Cooperative Power Association to connect to NSP's Scott County—Savage 115 kV transmission line which is a portion of the Integrated Transmission System owned by NSP. The service is for a new substation called Eagle Creek for Minnesota Valley Electric Cooperative, a member of CPA.

NSP requests that the Commission accept for filing this agreement effective as the date of execution, March 3, 1994.

Comment date: April 4, 1994, in accordance with Standard Paragraph E at the end of this notice.

6. Wisconsin Public Service Corp.

[Docket No. ER94–1047–000]

Take notice that on March 15, 1994, Wisconsin Public Service Corporation (WPS) tendered for filing an executed Supplement to the Service Agreement between WPS and Manitowoc Public Utilities (MPU). The supplement provides for firm and non-firm transmission service under the T–1 Transmission Tariff Original Volume No. 4.

WPS requests that the Commission allow the supplement to become effective on June 1, 1994, the date on which MPU requested that service begin.

Comment date: April 4, 1994, in accordance with Standard Paragraph E at the end of this notice.

7. Oklahoma Gas and Electric Co.

[Docket No. ER94–1048–000]

Take notice that on March 16, 1994, Oklahoma Gas and Electric Company (OG&E) tendered for filing a revised Electric Service Agreement for its wholesale municipal customer, Gear Oklahoma, which is served under OG&E's WM–1 Firm Power Rate Schedule which is part of OG&E's FERC Electric Tariff 1st Revised Volume No. 1.

Copies of this filing have been sent to the customer, the Oklahoma Corporation Commission, and the Arkansas Public Service Commission.

Comment date: April 4, 1994, in accordance with Standard Paragraph E at the end of this notice.

8. Wisconsin Power and Light Co.

[Docket No. ER94-1050-000]

Take notice that on March 9, 1994, Wisconsin Power and Light Company (WPL) tendered for filing revised interconnection agreements between Madison Gas and Electric Company and WPL. WPL states that these new agreements supersede the previous agreements between the parties (Docket No. ER93-138-000). The purpose of the filings between Madison Gas and Electric and WPL are to revise interconnection agreements.

WPL requests that an effective date concurrent with the contract effective date be assigned. WPL states that copies of the agreement and the filing have been provided to Madison Gas and Electric Company and the Wisconsin Public Service Commission.

Comment date: April 4, 1994, in accordance with Standard Paragraph E at the end of this notice.

9. IES Utilities Inc.

[Docket No. ES94-20-001]

Take notice that on March 17, 1994, IES Utilities Inc., (IES) filed an amendment to its March 4, 1994, application under § 204 of the Federal Power Act seeking authorization to issue not more than $250 million of long-term notes or collateral trust bonds, over a two-year period, beginning April 15, 1994. By its amendment, IES requests exemption from the Commission's negotiated placement regulations.

Comment date: April 4, 1994, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94-7480 Filed 3-29-94; 8:45 am]

BILLING CODE 6717-01-P

[Project No. 2232-295 North Carolina]

Duke Power Co.; Notice of Availability of Environmental Assessment

March 24, 1994.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application to grant an easement on Lookout Shoals Lake to the City of Statesville, North Carolina, for a water intake facility. This facility would supplement the City's existing water source. The Commission has prepared a environmental assessment (EA) of the project. The EA contains staff's analysis of the environmental impacts of the proposal and concludes that approval would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, room 3308 at the Commission's offices at 941 North Capitol Street, NE., Washington, DC 20426.

Comments should be filed within 20 days from the date of this notice and should be addressed to Lois D. Cashell, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. The comments should reference Project No. 2117-001. Additional time may be granted upon written request. For further information, please contact John K. Hannula, Project Manager, at (202) 219-1040.

Lois D. Cashell,

Secretary.

[FR Doc. 94-7487 Filed 3-29-94; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2354-018]

Intent To Prepare an Environmental Impact Statement; Georgia Power Co.

March 24, 1994.

The Federal Energy Regulatory Commission (FERC) has received an application for relicensing of the existing North Georgia Hydroelectric Project (project). The project is located on the Tallulah, Tugalo, and Chattooga Rivers in Northeast Georgia and Northwest South Carolina. The project consists of six hydroelectric developments and is within the Savannah River Basin.

The FERC staff has determined that licensing this project could constitute a major federal action significantly affecting the quality of the human environment. Therefore, the staff intends to prepare an Environmental Impact Statement (EIS) on the hydroelectric project in accordance with the National Environmental Policy Act.

The staff's EIS will objectively consider both site-specific and cumulative environmental impacts of the project and reasonable alternatives, and will include economic and engineering analyses.

A draft EIS will be issued and circulated for review by all interested parties. All comments filed on the draft EIS will be analyzed by the staff and considered in the final EIS. The staff's conclusions and recommendations will then be presented for the consideration of the Commission in reaching its final licensing decision.

This notice informs all interested individuals, organizations, and agencies with environmental expertise and concerns, that: (1) The Commission staff has decided to prepare an EIS; (2) the scoping conducted for the Environmental Assessment—scoping meetings held February 3, 1994, at Gainesville College, Gainesville, Georgia, and comments filed with the Commission by March 3, 1994—still apply; and (3) additional comments that may result from the change from an Environmental Assessment to an EIS may be filed with the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, within 30 days from the date of this notice.

All written correspondence should clearly show the following caption on the first page:

Intervenors—those on the Commission's service list for this proceeding (parties)—are reminded of the Commission's Rules of Practice and Procedure, requiring parties filing documents with the Commission, to serve a copy of the document on each person whose name appears on the official service list.[1] Further, if a party or interceder files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must

[1] The official service list can be obtained by calling the Office of the Secretary, Dockets Branch, at (202) 208-2020.

also serve a copy of the document on that resource agency.

Any questions regarding this notice may be directed to Joe Davis, Environmental Coordinator, at (202) 219-2865.

Lois D. Cashell,

Secretary.

[FR Doc. 94-7488 Filed 3-29-94; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 10895 Indiana]

Michiana Hydro-Electric Power Corp. Availability of Final Environmental Assessment

March 24, 1994.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for minor license for the proposed Mishawaka Project located on the St. Joseph River in the City of Mishawaka, St. Joseph County, Indiana, and has prepared in Final Environmental Assessment (FEA) for the proposed project. In the FEA, the Commission's staff has analyzed the potential environmental impacts of the proposed project and has concluded that approval of the proposed project, with appropriate mitigative measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the FEA are available for review in the Public Reference Branch, room 3308, of the Commission's offices at 941 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 94-7486 Filed 3-29-94; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP94-268-000, et al.]

High Island Offshore System, et al.; Natural Gas Certificate Filings

March 18, 1994.

Take notice that the following filings have been made with the Commission:

1. High Island Offshore System

[Docket No. CP94-268-000]

Take notice that on March 7, 1994, High Island Offshore System (HIOS), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP94-268-000 an application pursuant to section 7(b) of the Natural Gas Act (NGA), as amended, and the Rules and Regulations of the Federal Energy Regulatory Commission (Commission), for authorization to abandon transportation service currently being rendered for ANR Pipeline Company (ANR), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

HIOS proposes to terminate 100 Mcf per day in firm transportation service which it renders for ANR according to HIOS' Rate Schedule T-18. HIOS notes that service for ANR was certificated in Docket No. CP75-104 by order issued March 29, 1982, 18 FERC ¶ 61,274 (1982). HIOS states that according to an October 28, 1993 letter agreement between HIOS and ANR, HIOS has agreed to permit ANR to buyout the remaining term of their transportation contract and cancel the contract effective November 1, 1993, prior to June 29, 2002, the end of the primary term of the contract.

Comment date: April 8, 1994, in accordance with Standard Paragraph F at the end of this notice.

2. Western Gas Interstate Co.

[Docket No. CP94-283-000]

Take notice that on March 14, 1994, Western Gas Interstate Company (Western), 504 Lavaca Street, suite 800, Austin, Texas 78701, filed in Docket No. CP94-283-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon an exchange agreement and gas sales agreement with Williams Natural Gas Company (WNG), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Western states that WNG and Western are parties to a Gas Sales Agreement and a Gas Exchange Agreement, both effective May 15, 1981. Western further states that the Gas Sales Agreement provides that Western will purchase the volumes of gas purchased by WNG from wells located in Texas County, Oklahoma and which WNG delivers to Western at a point of interconnection between the facilities of WNG and Western in Section 3, Township 1 North, Range 12 ECM, Texas County, Oklahoma.

Western says that the Gas Exchange Agreement provides that Western shall deliver to WNG volumes it purchases from the Fanning No. 1 well, subject to Western's ability to deliver and WNG's ability to receive, at the North Guymon delivery point and the Western Guymon delivery point, all located in Texas County, Oklahoma. It is stated that WNG shall deliver volumes to Western at the West Guymon delivery point (intermittently at Western's request) and at the Adams delivery point, also located in Texas County, Oklahoma.

Western states that the exchange agreement terminated on May 15, 1991, pursuant to the terms of the agreement, and that Western requested termination of the sales agreement, pursuant to the terms of the agreement, effective May 15, 1993.

No facilities are proposed to be abandoned herein.

Comment date: April 8, 1994, in accordance with Standard Paragraph F at the end of this notice.

3. El Paso Natural Gas Co.

[Docket No. CP94-285-000]

Take notice that on March 14, 1994, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP94-285-000 an application pursuant to section 7(c) of the Natural Gas Act for authorization to operate approximately 54.63 miles of pipeline in La Paz and Yuma Counties, Arizona, at increased pressures, all as more fully set forth in the application on file with the Commission and open to public inspection.

Specifically, El Paso proposes to operate 54.63 miles of its Yuma Line from 809 p.s.i.g. to 1136 p.s.i.g., the Maximum Allowable Operating Pressure (MOAP). El Paso states that operating the Yuma Line at the higher pressure would provide additional capacity of approximately 50 Mmcf per day under summer conditions and of approximately 54 Mmcf per day under winter conditions. El Paso further states that the increased operating pressure would allow it to meet existing gas requirements as well as provide for the growth opportunities in the markets served.

Comment date: April 8, 1994, in accordance with Standard Paragraph F at the end of this notice.

4. Western Gas Interstate Co.

[Docket No. CP94-288-000]

Take notice that on March 16, 1994, Western Gas Interstate Company (Western), 504 Lavaca Street, Suite 800, Austin, Texas 78701, filed in Docket No. CP94-288-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon a transportation and exchange agreement with Panhandle Eastern Pipe Line Company (Panhandle), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Western states that it proposes to abandon service under Western's Rate Schedule X-1. Western

further states that pursuant to the agreement, Panhandle receives from Western in Beaver County, Oklahoma, up to 5,000 Mcf of natural gas per day. Panhandle purchases at least one-half of such volumes and delivers the remainder of the gas to Western at interconnections located in Cimarron and Texas Counties, Oklahoma, it is stated. Western says that the transportation and exchange services are no longer required by Western. Western asserts that proper notices were given for the termination of the services under this rate schedule.

Comment date: April 8, 1994, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or to make any protest with reference to said application should on or before the comment date, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to 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.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and/or permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 94-7478 Filed 3-29-94; 8:45 am]

BILLING CODE 6717-01-P

[Docket No. CP94-287-000, et al.]

Northern Natural Gas Company, et al.; Natural Gas Certificate Filings

March 22, 1994.

Take notice that the following filings have been made with the Commission:

1. Northern Natural Gas Co.

[Docket No. CP94-287-000]

Take notice that on March 14, 1994, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124-1000, filed in Docket No. CP94-287-000 an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act for permission and approval to abandon certain compression facilities and for a certificate of public convenience and necessity authorizing Northern to construct and operate incremental pipeline facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northern states that it seeks to implement a modernization program on its system. To implement the modernization program, Northern requests authority to (1) construct and operate 11.15 miles of 30-inch pipeline extending Northern's E-line from Valve No. 6 in Lancaster County, Nebraska to the Palmyra Compressor Station in Otoe County, Nebraska and (2) abandon 58 mainline compressor units located at five separate compressor station locations, which would reduce existing horsepower at the five stations by a total of 89,500 horsepower (hp). Northern asserts that, collectively, the requested authorizations will have no impact on Northern's certificated capacity.

Northern states that it has determined that 58 compressor units on its mainline can be abandoned without adversely affecting its service obligation. It is indicated that all of the units proposed for abandonment were installed between the early 1930's and 1955. Northern explains that these units confront it with high relative fuel and maintenance costs and difficulty in obtaining replacement parts as compared to newer and more efficient units at these stations. Northern affirms that after completion of the modernization project, the compressor stations will still be able to provide the necessary compression to meet Northern's firm obligations, but that the service will be provided in a more efficient and cost effective manner with higher utilization of compressor units and the lowest possible operation and maintenance expense.

Northern states that while mainline capacity will be essentially the same after modernization is completed (as compared to existing capacity), it is not possible to add pipeline facilities and abandon compression facilities and realize precisely equivalent capacity. Northern stresses that the ultimate effect is that no appreciable change in overall system deliverability to markets will occur. Northern asserts that it will achieve increased system flexibility by operating more efficiently at higher pressures on the mainline with more efficient compressor units, thus achieving more peaking capability and relieving "bottlenecks".

Specifically, Northern proposes to abandon compressor units.

(1) Beaver Station—Beaver County, Oklahoma

- Five 1,400 hp units and one 1,600 hp unit
- Remaining Horsepower: 42,000 hp

(2) Bushton Station—Rice County, Kansas

- Ten 1,400 hp units and one 1,600 hp unit
- Remaining Horsepower: 57,100 hp

(3) Clifton Station—Clay County, Kansas

- Five 1,100 hp units and eleven 1,600 hp units
- Remaining Horsepower: 24,200 hp

(4) Beatrice Station—Gage County, Nebraska

- Eight 1,600 hp units
- Remaining Horsepower: 32,500 hp

(5) Palmyra Station—Otoe County, Nebraska

- Seven 1,400 hp units and Ten 1,600 hp units
- Remaining Horsepower: 25,100 hp

Northern estimates that the total cost of the project will be approximately $10,684,510, of which $9,575,000 is attributable to the constructing new pipeline. The remaining costs are associated with removal the compressor units. Northern states that it will finance the project with internally generated funds. Northern requests certificate authorization by July 1994 so that it can complete the modernization project by October 1, 1994.

Comment date: April 12, 1994, in accordance with Standard Paragraph F at the end of this notice.

2. Tennessee Gas Pipeline Co.

[Docket No. CP94-93-000]

Take notice that on March 17, 1994, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed a request in Docket No. CP94-93-000, pursuant to § 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization under its blanket certificate issued in Docket No. CP82-13-000 to establish a new delivery point for deliveries of natural gas to Entex, a Division of Arkla, Inc. (Entex), all as more fully described in the prior notice request which is on file with the Commission and available for public inspection.

Tennessee states that it has entered into a transportation agreement with Entex for the transportation of natural gas on an interruptible basis under Tennessee's Rate Schedule IT. In order to effectuate the delivery of 250 Dekatherms of natural gas per day to Entex, Tennessee proposes to install and operate a two-inch tap assembly on its existing facilities in Lawrence County, Mississippi. Tennessee states that it would operate and inspect the installation of the interconnecting piping and measurement facilities that Entex would own, install and maintain. Tennessee further states that the estimated cost of these facilities is $6,244, which is 100 percent reimbursable to Tennessee.

Comment date: May 6, 1994, in accordance with Standard Paragraph G at the end of this notice.

3. Colorado Interstate Gas Company and Williston Basin Interstate Pipeline Company

[Docket No. CP94-94-000]

Take notice that on March 17, 1994 Colorado Interstate Gas Company (CIG) Post Office Box 1087, Colorado Springs, Colorado 80944, and Williston Basin Interstate Pipeline Company (Williston) 200 North Third Street, suite 300, Bismarck, North Dakota 58501, collectively referred to as Applicants, filed a joint application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon, an exchange of natural gas supplies within the Madden Field Area of Wyoming, all as more fully set forth in the application on file with the Commission and open to public inspection.

The Applicants state that they propose to abandon a reciprocal exchange service which they perform in the Madden Field Area of Fremont and Natrona Counties, Wyoming. It is stated that the service is performed under a Gas Exchange Agreement dated October 27, 1978, as amended. Under the Exchange Agreement, CIG delivered natural gas to Williston and Williston delivered natural gas to CIG from various sources of supply.

It is further stated that both CIG and Williston provide open access transportation service and operate under Order No. 636. Therefore, the Applicants have agreed to terminate the exchange service.

No facilities are proposed to be abandoned herein.

Comment date: April 12, 1994, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or to make any protest with reference to said application should on or before the comment date, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to 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.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and/or permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

G. 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. 94-7479 Filed 3-29-94; 8:45 am]

BILLING CODE 6717-01-P

[Docket No. CP91-2067-001, et al.]

Questar Pipeline Company, et al.; Natural Gas Certificate Filings

March 23, 1994.

Take notice that the following filings have been made with the Commission:

1. Questar Pipeline Co.

[Docket No. CP91-2067-001]

Take notice that on March 18, 1994, Questar Pipeline Company (Questar), 79 South State Street, Salt Lake City, Utah 84111, submitted an amendment to its abbreviated application filed May 16, 1991, in Docket No. CP91-2067-000. Questar states that it submitted its amendment principally to seek authorization to construct and operate a CO_2 Removal Plant, which will be installed as part of its proposed jurisdictional Piceance Creek Compressor Station. The CO_2 Removal Plant was originally proposed to be installed as a nonjurisdictional CO_2 extraction facility.

Questar states that it has submitted amended Exhibits K, L, and N to the original May 16, 1991, application to inform the Commission of changes to the original proposal. It is further stated that the estimated cost of the Piceance Creek Compressor Station facilities, including the CO_2 Removal Plant, has been revised upward from $14.6 to $20.9 million.

Comment date: April 13, 1994, in accordance with Standard Paragraph F at the end of this notice.

2. Mississippi River Transmission Corp.

[Docket No. CP94-296-000]

Take notice that on March 18, 1994, Mississippi River Transmission

Corporation (MRT), 9900 Clayton Road, St. Louis, Missouri 63124, filed in Docket No. CP94–296–000 a request pursuant to §§ 157.205 and 157.216 of the Regulations under the Natural Gas Act (18 CFR 157.205 and 157.216) for authorization to abandon two measuring and regulating stations, and associated equipment and service to Laclede Gas Company (Laclede) and NL Industries' Titanium Pigment Division, formerly National Lead Company (NL Industries), pursuant to MRT's blanket authorization issued in Docket No. CP82–489–000, all as more fully set forth in the request on file with the Commission and open to public inspection.

MRT states that Laclede is currently a firm and interruptible transportation customer of MRT. In the past, MRT provided sales service to Laclede through a delivery point at MRT's Catalan Street Measuring and Regulating Station in St. Louis County, Missouri. These facilities are stated to be located in U.S. Survey 904, Township 44 North, Range 7 East, St. Louis County, Missouri. MRT was authorized to construct and operate these facilities and provide sales service to Laclede in Docket No. G–291. It is further stated that no customer other than Laclede is or has been serviced by these facilities.

MRT also states that since Laclede no longer requires a delivery point at Catalan Street and has already removed all of its equipment from that location, MRT seeks authority to remove its Catalan Street Station and the associated equipment and service to Laclede.

MRT further states that NL Industries was an industrial customer which was directly served by MRT. In the past, MRT provided both firm and interruptible sales service to NL Industries' Titanium Pigment plant through a delivery point at MRT's National Lead Measuring and Regulating Station located in St. Louis County, Missouri. This facility is located approximately twenty feet from the Catalan Street Station in U.S. Survey 904, Township 44 North, Range 7 East, St. Louis County, Missouri. MRT was authorized to construct and operate these facilities and provide sales service to NL Industries in Docket No. G–291. No customer other than NL Industries is or has been served by these facilities.

Since NL Industries has ceased operations at its Titanium Pigment Plant, MRT states that it seeks authority to remove the National Lead Station and the associated equipment and service to NL Industries.

Comment date: May 9, 1994, in accordance with Standard Paragraph G at the end of this notice.

3. CNG Transmission Corp.

[Docket No. CP94–297–000]

Take notice that on March 21, 1994, CNG Transmission Corporation (CNG), 445 West Main Street, Clarksburg, West Virginia 26301, filed an application pursuant to section 7(b) of the Natural Gas Act for an order permitting and approving the abandonment of facilities in place, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

CNG proposes to retire in place 79.7 miles of 12-inch pipeline, known as Line 10, located in Clarion, Jefferson, Elk, McKean and Potter Counties, Pennsylvania. CNG states that it desires to retire Line 10 because of its age and condition. It is indicated that Line 10 was originally constructed and placed in 1936 by an affiliate of CNG, Peoples Natural Gas Company.

CNG also states that the abandonment of Line 10 would have no affect on CNG's existing services because the markets served by the facility have declined and CNG's existing, parallel pipeline, Line 20, has sufficient capacity to maintain existing services to the markets served by this part of CNG's system. It is also indicated that approval of the proposed abandonment would enable CNG to retire a deteriorated pipeline, thereby protecting the integrity and enhancing the safe operation of CNG's system. CNG also states that abandonment of Line 10 would benefit the public convenience and necessity by lowering long-term costs on CNG's system.

Comment date: April 4, 1994, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or to make any protest with reference to said application should on or before the comment date, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to 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.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and/or permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

G. 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. 94–7481 Filed 3–29–94; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. RP91–68–022]

Penn-York Energy Corp.; Refunds

March 24, 1994.

Take notice that on March 18, 1994, Penn-York Energy Corporation (Penn-York) tendered for filing pursuant to subsection 17.1(c) of the General Terms and Conditions of its FERC Gas Tariff, Third Revised Volume No. 1, a report of refunds received from National Fuel Gas Supply Corporation under the SRC adjustment clause.

Penn-York further states that it made the refund on March 15, 1994, and that copies of this refund report were served

upon the company's jurisdictional customers and the state regulatory 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 (18 CFR 385.211). All such protest should be filed on or before March 31, 1994. 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. 94–7483 Filed 3–29–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–180–000]

Southern Natural Gas Co.; Petition for Waiver

March 24, 1994.

Take notice that on March 16, 1994, Southern Natural Gas Company (Southern) petitions the Commission for a waiver of the 12-month period in § 2.65(a)(4) with respect to the application of that section in determining the appropriate rate treatment for certain pipeline facilities constructed and operated by Southern.

Southern requested that the Commission grant a six-month extension of the 12-month time period in § 2.65(a)(4) and provide that the application of that section to the rate treatment of the costs of its Mississippi Canyon Gas Supply Line be based on the load factor achieved by the end of an 18-month period. The construction and operation of the subject facilities were authorized by the Commission by order dated May 15, 1991, in Southern's Docket No. CP90–2155.

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 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before March 31, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–7484 Filed 3–29–94; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

Office of Research and Development

[FRL–4855–3]

Ambient Air Monitoring Reference and Equivalent Methods; Receipt of Application for a Reference Method Determination

Notice is hereby given that on February 16, 1994, the Environmental Protection Agency received an application from Rupprecht and Patashick Co., Inc., 25 Corporate Circle, Albany, New York 12203, to determine if their Partisol ™ Model 2000 Air Sampler for measuring ambient concentrations of PM_{10}, should be designated by the Administrator of the EPA as a reference method under 40 CFR part 53. If, after appropriate technical study, the Administrator determines that this method should be so designated, notice thereof will be given in a subsequent issue of the **Federal Register**.

Carl R. Gerber,

Acting Assistant Administrator for Research and Development.

[FR Doc. 94–7548 Filed 3–29–94; 8:45 am]

BILLING CODE 6560–50–M

[PF–596; FRL–4769–8]

Ciba-Geigy Corp.; Filing of Pesticide Petition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the filing of pesticide petition (PP) 8F3654 to establish certain tolerances for the fungicide 1-([2-(2,4-dichlorophenyl)-4-propyl-1,3-dioxolan-2-yl]methyl)-1*H*-1,2,4-triazole and its metabolites in or on certain agricultural commodities.

DATES: Comments, identified by the document control number [PF-596], must be received on or before April 29, 1994.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1128, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Information submitted and any comment(s) concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment(s) that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. Information on the proposed test and any written comments will be available for public inspection in Rm. 1128 at the Virginia address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Sidney Jackson, Acting Product Manager (PM) 21, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, (703)-305-6900.

SUPPLEMENTARY INFORMATION: This notice announces that EPA has received PP 8F3654 from Ciba-Geigy Corp., Agricultural Division, P.O. Box 18300, Greensboro, NC 27419, proposing that 40 CFR 180.434 be amended to establish a regulation to permit residues of the fungicide 1-([2-(2,4-dichlorophenyl)-4-propyl-1,3-dioxolan-2-yl]methyl)-1*H*-1,2,4-triazole and its metabolites determined as 2,4-dichlorobenzoic acid and expressed as parent compound in or on peanuts at 0.2 part per million (ppm), peanut hay at 20 ppm, and peanut hulls at 1 ppm. The proposed analytical method for determining residues is capillary gas chromatography. This notice of filing was previously published in the **Federal Register** of October 12, 1988 (53 FR 39783). Since 6 years have passed and EPA is now preparing to take action on the petition, it is republished. (PM 21).

List of Subjects

Environmental protection, Agricultural commodities, Pesticides and pests.

Authority: 21 U.S.C. 346a and 348.

Dated: March 18, 1994.

Stephen L. Johnson,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 94–7366 Filed 3–29–94; 8:45 am]

BILLING CODE 6560–50–F

[PF-595; FRL-4769-1]

E.I. Du Pont de Nemours & Co., Inc., et al.; Filings of Pesticide Petitions and a Corrected Petition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing to establish regulations for residues of certain pesticide chemicals in or on certain agricultural commodities, and it announces a correction to a previously issued petition.

DATES: Comments, identified by the document control number [PF-595], must be received on or before April 29, 1994.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1128, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Information submitted and any comment(s) concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment(s) that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. Information on the proposed test and any written comments will be available for public inspection in Rm. 1128 at the Virginia address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Registration Division (7505C), Attn.: Product Manager (PM) named in the petition, Environmental Protection Agency, Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460. In person, contact the PM named in each petition at the following office location/telephone number:

Product Manager	Office location/telephone number	Address
Dennis H. Edwards, Jr., (PM-19).	Rm. 202, CM #2, 703-305-6386.	1921 Jefferson Davis Hwy., Arlington, VA.
Cynthia Giles-Parker (PM-22).	Rm. 229, CM #2, 703-305-5540.	Do.
Joanne Miller (PM-23).	Rm. 237, CM #2, 703-305-6800.	Do.

SUPPLEMENTARY INFORMATION: EPA has received initial filings of pesticide petitions (PPs) as follows proposing the establishment of regulations regarding residues of certain pesticide chemicals in or on various agricultural commodities. EPA is also correcting a previously issued petition.

Initial Filings

1. *PP 4F4314.* D-I-1-4, Inc., 15401 Cartwright Rd., Boise, ID 83703, has submitted the petition to EPA proposing to amend 40 CFR part 180 to establish an exemption from the requirement of a tolerance for the plant growth regulator 1,4-dimethylnaphthalene for use on potatoes (post-harvest). (PM-22)

2. *PP 4F4322.* E.I. du Pont de Nemours & Co., Inc., Agricultural Products, Barley Mill Plaza, P.O. Box 80038, Wilmington, DE 19880-0038, has submitted the petition to EPA proposing to amend 40 CFR 180.451 to establish tolerances for residues of the herbicide tribenuron methyl (methyl 2-[[[[N-(4-methoxy-6-methyl-1,3,5-triazin-2-yl)methylamino] carbonyl] amino] sulfonyl] benzoate) in or on grass seed; grass, seed straw; and grass, seed cleanings (screenings) at 0.04 part per million (ppm). The proposed method for determining residues is gas chromatography with mass spectral detector. (PM- 23)

3. *PP 6F3417.* Rhone-Poulenc Ag Co., P.O. Box 12014, 2 T.W. Alexander Drive, Research Triangle Park, NC 27709, has submitted the petition to EPA proposing to amend 40 CFR 180.407(c) to establish permanent tolerances for residues of the insecticide thiodicarb (dimethyl N,N'-[thiobis[[(methylimino) carbonyl]oxy]] bis[ethanimidothioate]) and its metabolite methomyl (S-methyl N-[(methylcarbamoyl)oxy] thioacetimidate) in or on broccoli, cabbage, and cauliflower at 7 parts per million. (PM-19)

4. *PP 7F3516.* Rhone-Poulenc Ag Co., P.O. Box 12014, 2 T.W. Alexander Drive, Research Triangle Park, NC 27709, has submitted the petition to EPA proposing to amend 40 CFR 180.407(b) to establish a permanent tolerance for residues of the insecticide thiodicarb (dimethyl N,N'-[thiobis[[(methylimino) carbonyl]oxy]] bis[ethanimidothioate]) and its metabolite methomyl (S-methyl N-[(methylcarbamoyl)oxy] thioacetimidate) in or on leafy vegetables at 35 parts per million. (PM-19)

Corrected Filing

The notice of the amended filing of PP 2F4107 appearing at page 1017 in the **Federal Register** of January 7, 1994, is corrected to read as follows:

PP 2F4107. In the **Federal Register** of June 10, 1992 (57 FR 24644), EPA issued notice of the petition submitted by the Ciba-Geigy Corp., P.O. Box 18300, Greensboro, NC 27419-8300, proposing to amend 40 CFR part 180 by establishing a regulation to permit residues of difenoconazole, 1-(2-[4-chlorophenoxy]-2-chlorophenyl]-4-methyl-1,3-dioxolan-2-yl-methyl)-1H-1,2,4-triazole, in or on wheat forage at 0.1 ppm, wheat straw at 0.1 ppm, barley forage at 0.1 ppm, and barley straw at 0.1 ppm. Ciba-Geigy has submitted an amendment to the petition, proposing to establish additional tolerances as follows: cattle, fat, meat, and meat byproducts (mbyp) at 0.05 ppm; eggs at 0.05 ppm; milk at 0.01 ppm; goats, fat, meat, and mbyp at 0.05 ppm, hogs, fat, meat, and mbyp at 0.05 ppm; horses, fat, meat, and mbyp at 0.05 ppm; poultry, fat, meat, and mbyp at 0.05 ppm; sheep, fat, meat, and mbyp at 0.05 ppm; barley grain at 0.1 ppm; and wheat grain at 0.1 ppm. The proposed analytical method for determining residues is gas chromatography with nitrogen phosphorous detection. (PM-22)

List of Subjects

Environmental protection, Agricultural commodities, Pesticides and pests.

Authority: 21 U.S.C. 346a and 348.

Dated:March 18, 1994.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 94-7372 Filed 3-29-94; 8:45 am]

BILLING CODE 6560-50-F

[OPP-180927; FRL 4767-2]

Receipt of Application for Emergency Exemption To Use Fomesafen; Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a specific exemption request from the New York State Department of Environmental Conservation (hereafter referred to as the "Applicant") for use of the pesticide fomesafen (EPA Reg. No. 10182-83) to control broadleaf weeds on up to 27,950 acres of dry and snap beans in New York. In accordance with 40 CFR 166.24, EPA is soliciting public comment before making the decision whether or not to grant the exemption.

DATES: Comments must be received on or before April 14, 1994.

ADDRESSES: Three copies of written comments, bearing the identification notation "OPP-180927," should be submitted by mail to: Public Response and Human Resource Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. In person, bring comments to: Rm. 1128, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information." Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain Confidential Business Information must be provided by the submitter for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed pursuant to this notice will be available for public inspection in Rm. 1128, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Lawrence Fried, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. Office location and telephone number: 6th Floor, Crystal Station I, 2800 Jefferson Davis Highway, Arlington, VA 22202, (703) 308-8328.

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at her discretion, exempt a State agency from any registration provision of FIFRA if she determines that emergency conditions exist which require such exemption.

The Applicant has requested the Administrator to issue a specific exemption for the use of the herbicide, fomesafen, available as Reflex 2LC (EPA Reg. No. 10182-83) from Zeneca Ag Products, a subsidiary of ICI Americas Corp., to control broadleaf weeds that cause serious bean crop yield reductions. Information in accordance with 40 CFR part 166 was submitted as part of this request.

According to the Applicant, infestations of broadleaf weeds have caused serious yield reductions in dry and snap bean fields in New York State. Cultural practices and the use of registered alternative herbicides have proven ineffective in controlling a variety of broadleaf weed species. Bean crop yields have significantly declined and the incidence of weed contamination in the final product has increased steadily since the loss of the herbicide Premerge (dinoseb) in 1987.

Under the proposed exemption a maximum of one application could be applied, at a rate of 1.0 to 1.25 pints of Reflex 2LC per acre (0.25 to 0.313 lb. active ingredient per acre). A maximum of 4,374 gallons of product or 8,748 pounds of active ingredient could be applied in 1994. Applications would be made between June 1, 1994 and August 31, 1994.

This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 require that the Agency publish notice of receipt in the **Federal Register** and solicit public comment on an application for a specific exemption if an emergency exemption has been requested or granted for that use in any 3 previous years, and a complete application for registration of that use has not been submitted to the Agency [40 CFR 166.24 (a)(6)]. Exemptions for the use of fomesafen on snap and dry beans have been requested and granted for the past 3 years, and an application for registration of this use has not been submitted to the Agency.

Accordingly, interested persons may submit written views on this subject to the Field Operations Division at the address above. The Agency will review and consider all comments received during the comment period in determining whether to issue the emergency exemption requested by the New York State Department of Environmental Conservation.

List of Subjects

Environmental protection, Pesticides and pests, Crisis exemptions.

Dated: March 15, 1994.

Stephen L. Johnson,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 94-6952 Filed 3-29-94; 8:45 am]

BILLING CODE 6560-50-F

[OPP-60051; FRL-4768-3]

Intent To Suspend Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of issuance of notices of intent to suspend.

SUMMARY: This notice, pursuant to section 6 (f)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 et seq., announces that EPA has issued Notice(s) of Intent to Suspend pursuant to section 3(c)(2)(B) of FIFRA. The notice(s) were issued following issuance of Data Call-In Notice(s) by the Agency and the failure of registrant(s) subject to the Data Call-In Notice(s) to take appropriate steps to secure the data required to be submitted to the Agency. This notice includes the text of a Notice of Intent to Suspend, absent specific chemical, product, or factual information. Table A of this notice further identifies the registrant(s) to whom the Notice(s) of Intent to Suspend were issued, the date each Notice of Intent to Suspend was issued, the active ingredient(s) involved, and the EPA registration number(s) and name(s) of the registered product(s) which are affected by the Notice(s) of Intent to Suspend. Moreover, Table B of this notice identifies the basis upon which the Notice(s) of Intent to Suspend were issued. Finally, matters pertaining to the timing of requests for hearing are specified in the Notice(s) of Intent to Suspend and are governed by the deadlines specified in section 3(c)(2)(B). As required by section 6(f)(2), the Notice(s) of Intent to Suspend were sent by certified mail, return receipt requested, to each affected registrant at its address of record.

FOR FURTHER INFORMATION CONTACT: Dawn Banks-Waller, Office of Compliance Monitoring (7204), Laboratory Data Integrity Assurance Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, (703) 308-8251.

SUPPLEMENTARY INFORMATION:

I. Text of a Notice of Intent To Suspend

The text of a Notice of Intent to Suspend, absent specific chemical, product, or factual information, follows:

United States Environmental Protection Agency

Office of Prevention, Pesticides and Toxic Substances

Washington, DC 20460

Certified Mail

Return Receipt Requested

SUBJECT: Suspension of Registration of Pesticide Product(s) Containing _____ for Failure to Comply with the 3(c)(2)(B) Data Call-In Notice for _____ Dated _____.

Dear Sir/Madam:

This letter gives you notice that the pesticide product registration(s) listed in Attachment I will be suspended 30 days from your receipt of this letter unless you take steps within that time to prevent this Notice from automatically becoming a final and effective order of suspension. The Agency's authority for suspending the registration(s) of your product(s) is section 3(c)(2)(B) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Upon becoming a final and effective order of suspension, any violation of the order will be an unlawful act under section 12(a)(2)(J) of FIFRA.

You are receiving this Notice of Intent to Suspend because you have failed to comply with the terms of the 3(c)(2)(B) Data Call-In Notice. The specific basis for issuance of this Notice is stated in the Explanatory Appendix (Attachment III) to this Notice. Affected product(s) and the requirement(s) which you failed to satisfy are listed and described in the following three attachments:

Attachment I Suspension Report - Product List

Attachment II Suspension Report - Requirement List

Attachment III Suspension Report - Explanatory Appendix

The suspension of the registration of each product listed in Attachment I will become final unless at least one of the following actions is completed.

1. You may avoid suspension under this Notice if you or another person adversely affected by this Notice properly request a hearing within 30 days of your receipt of this Notice. If you request a hearing, it will be conducted in accordance with the requirements of section 6(d) of FIFRA and the Agency's procedural regulations in 40 CFR part 164.

Section 3(c)(2)(B), however, provides that the only allowable issues which may be addressed at the hearing are whether you have failed to take the actions which are the bases of this Notice and whether the Agency's decision regarding the disposition of existing stocks is consistent with FIFRA. Therefore, no substantive allegation or legal argument concerning other issues, including but not limited to the Agency's original decision to require the submission of data or other information, the need for or utility of any of the required data or other information or deadlines imposed, and the risks and benefits associated with continued registration of the affected product, may be considered in the proceeding. The Administrative Law Judge shall by order dismiss any objections which have no bearing on the allowable issues which may be considered in the proceeding.

Section 3(c)(2)(B)(iv) of FIFRA provides that any hearing must be held and a determination issued within 75 days after receipt of a hearing request. This 75–day period may not be extended unless all parties in the proceeding stipulate to such an extension. If a hearing is properly requested, the Agency will issue a final order at the conclusion of the hearing governing the suspension of your product(s).

A request for a hearing pursuant to this Notice must (1) include specific objections which pertain to the allowable issues which may be heard at the hearing, (2) identify the registration(s) for which a hearing is requested, and (3) set forth all necessary supporting facts pertaining to any of the objections which you have identified in your request for a hearing. If a hearing is requested by any person other than the registrant, that person must also state specifically why he asserts that he would be adversely affected by the suspension action described in this Notice. Three copies of the request must be submitted to: Hearing Clerk, A–110, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, and an additional copy should be sent to the signatory listed below. The request must be *received* by the Hearing Clerk by the 30th day from your receipt of this Notice in order to be legally effective. The 30–day time limit is established by FIFRA and cannot be extended for any reason. Failure to meet the 30–day time limit will result in automatic suspension of your registration(s) by operation of law and, under such circumstances, the suspension of the registration for your affected product(s) will be final and effective at the close of business 30 days after your receipt of this Notice and will not be subject to further administrative review.

The Agency's Rules of Practice at 40 CFR 164.7 forbid anyone who may take part in deciding this case, at any stage of the proceeding, from discussing the merits of the proceeding *ex parte* with any party or with any person who has been connected with the preparation or presentation of the proceeding as an advocate or in any investigative or expert capacity, or with any of their representatives. Accordingly, the following EPA offices, and the staffs thereof, are designated as judicial staff to perform the judicial function of EPA in any administrative hearings on this Notice of Intent to Suspend: The Office of the Administrative Law Judges, the Office of the Judicial Officer, the Administrator, the Deputy Administrator, and the members of the staff in the immediate offices of the Administrator and Deputy Administrator. None of the persons designated as the judicial staff shall have any *ex parte* communication with trial staff or any other interested person not employed by EPA on the merits of any of the issues involved in this proceeding, without fully complying with the applicable regulations.

2. You may also avoid suspension if, within 30 days of your receipt of this Notice, the Agency determines that you have taken appropriate steps to comply with the section 3(c)(2)(B) Data Call-In Notice. In order to avoid suspension under this option, you must satisfactorily comply with Attachment II, Requirement List, for each product by submitting all required supporting data/information described in Attachment II and in the Explanatory Appendix (Attachment III) to the following address (preferably by certified mail):

Office of Compliance Monitoring (7204), Laboratory Data Integrity Assurance Division, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

For you to avoid automatic suspension under this Notice, the Agency must also determine within the applicable 30–day period that you have satisfied the requirement(s) that are the bases of this Notice and so notify you in writing. You should submit the necessary data/information as quickly as possible for there to be any chance the Agency will be able to make the necessary determination in time to avoid suspension of your product(s).

The suspension of the registration(s) of your company's product(s) pursuant to this Notice will be rescinded when the Agency determines you have complied fully with the requirements

which were the bases of this Notice. Such compliance may only be achieved by submission of the data/information described in the attachments to the signatory below.

Your product will remain suspended, however, until the Agency determines you are in compliance with the requirements which are the bases of this Notice and so informs you in writing.

After the suspension becomes final and effective, the registrant subject to this Notice, including all supplemental registrants of product(s) listed in Attachment I, may not legally distribute, sell, use, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person, the product(s) listed in Attachment I.

Persons other than the registrant subject to this Notice, as defined in the preceding sentence, may continue to distribute, sell, use, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person, the product(s) listed in Attachment I.

Nothing in this Notice authorizes any person to distribute, sell, use, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person, the product(s) listed in Attachment I in any manner which would have been unlawful prior to the suspension.

If the registration(s) of your product(s) listed in Attachment I are currently suspended as a result of failure to comply with another section 3(c)(2)(B) Data Call-In Notice or Section 4 Data Requirement Notice, this Notice, when it becomes a final and effective order of suspension, will be in addition to any existing suspension, i.e., all requirements which are the bases of the suspension must be satisfied before the registration will be reinstated.

You are reminded that it is your responsibility as the basic registrant to notify all supplementary registered distributors of your basic registered product that this suspension action also applies to their supplementary registered product(s) and that you may be held liable for violations committed by your distributors.

If you have any questions about the requirements and procedures set forth in this suspension notice or in the subject 3(c)(2)(B) Data Call-In Notice, please contact Dawn Banks-Waller at (703) 308–8251.

Sincerely yours,

Director, Office of Compliance Monitoring

Attachments:

Attachment I - Product List

Attachment II - Requirement List

Attachment III - Explanatory Appendix

II. Registrant(s) Receiving and Affected by Notice(s) of Intent To Suspend; Date of Issuance; Active Ingredient and Product(s) Affected

A letter of notification has been sent for the following product(s):

TABLE A.—PRODUCT LIST

Registrant Affected	EPA Registration Number	Active Ingredient	Name of Product	Date Issued
Makhteshim Chemical Works Ltd.	01167800018	Folpet	Folpan Folpet Technical	2/4/94
Makhteshim-Agan of North America Inc.	06622200007	Folpet	Farmrite Phaltan 50-W	2/4/94
O.M. Scott & Sons Company	00053800066	Benomyl	Scotts Proturf 28-0-7 Fertilizer Plus Fungicide	3/8/94
	00053800132	Benomyl	Scotts Proturf Dsb Fungicide	3/8/94

III. Basis for Issuance of Notice of Intent; Requirement List

The following registrant(s) failed to submit the following required data or information:

TABLE B.—REQUIREMENT LIST

Active Ingredient	Registrant Affected	Requirement Name	Guideline Reference Number	Original Due–Date
Benomyl	O.M. Scott & Sons Company	90-Day Response		11/18/92
Folpet	Makhteshim Chemical Works Ltd	Nature of Residue - Plants	171-4(a)	11/24/93
		Residue Analytical Method - Plants	171-4(c)	11/24/93
		Storage Stability		11/24/93
		Crop Field Trials	171-4(k)	11/24/93
	Makhteshim-Agan Of North America Inc	Nature of Residue - Plants	171-4(a)	11/24/93
		Residue Analytical Method - Plants	171-4(c)	11/24/93
		Storage Stability	171-4(e)	11/24/93
		Crop Field Trials	171-4(k)	11/24/93

IV. Attachment III Suspension Report—Explanatory Appendix

A discussion of the basis for the Notice of Intent to Suspend follows:

A. Benomyl

On June 16, 1992, EPA issued a Data Call-In Notice (DCI) under authority of FIFRA section 3(c)(2)(B) which required registrants of products containing benomyl used as an active ingredient to develop and submit data. These data were determined to be necessary to maintain the continued registration of affected products. Failure to comply with the requirements of a Data Call-In Notice is a basis for suspension under section 3(c)(2)(B) of FIFRA.

The Benomyl Data Call-In Notice dated June 16, 1992, required each affected registrant to submit materials relating to the election of the options to address each of the data requirements. That submission was required to be received by the Agency within 90 days of the registrant's receipt of the Notice. Because the Agency has not received a

response from you as a benomyl registrant to undertake the required testing or any other appropriate response, the Agency is initiating through this Notice of Intent to Suspend the actions which FIFRA requires it to take under these circumstances.

B. Folpet

On June 25, 1987, EPA issued a Registration Standard which included a Data Call-In Notice (DCI) under authority of FIFRA section (3)(c)(2)(B) which required registrants of products containing folpet used as an active ingredient to develop and submit data. These data were determined to be necessary to maintain the continued registration of affected products. Failure to comply with the data requirements of a Registration Standard is a basis for suspension under section (3)(c)(2)(B) of FIFRA.

In a letter dated August 18, 1992, EPA notified the registrant of the Agency's determination that the submitted data pertaining to plant metabolism, analytical methods, storage stability and the magnitude of folpet residues in or on avocado fruit were inadequate and must be repeated. The letter imposed protocol and study due dates. The protocol was required to be submitted within 45 days and the studies were required to be submitted within 15 months of receipt of the August 18 letter.

In a September 21, 1992 letter, the registrant requested a time extension on the basis that the studies could not be done within the 15 month time- frame unless the nature of residue for folpet on avocados was defined to be folpet and phthalimide. On November 16, 1992, the Agency responded that the 15 months that it provided for the registrant to complete the studies was an adequate amount of time since the analytical methods for folpet and phthalimide have been available for many years. In the November 16 letter, the Agency also stated that the crop field trial samples should be retained for further analysis should new metabolites of concern other than folpet and phthalimide be identified. Therefore, the letter denied the extension request and maintained the November 24, 1993 due date.

The Agency was not notified during the 15 months provided to generate these studies (other than the initial time extension request in September 1992) that the data would not be submitted on time. To date, the registrant has failed to satisfy these data requirements in a timely or adequate manner. Because you have failed to satisfy the residue chemistry requirements for avocados listed in Attachment II, the Agency is issuing this Notice of Intent to Suspend.

V. Conclusions

EPA has issued Notice(s) of Intent to Suspend on the dates indicated. Any further information regarding the Notice(s) may be obtained from the contact person noted above.

Dated: March 22, 1994.

Connie S. Musgrove,

Acting Director, Office of Compliance Monitoring.

[FR Doc. 94–7552 Filed 3–29–94; 8:45 am]

BILLING CODE 6560–50–F

[OPP–66191; FRL 4765–5]

Notice of Receipt of Requests To Voluntarily Cancel Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of requests by registrants to voluntarily cancel certain pesticide registrations.

DATES: Unless a request is withdrawn by June 28, 1994, orders will be issued cancelling all of these registrations.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (7502C), Environmental Protection Agency, 401 M Street SW, Washington, DC 20460. Office location for commercial courier delivery and telephone number: Room 216, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 305–5761.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, provides that a pesticide registrant may, at any time, request that any of its pesticide registrations be cancelled. The Act further provides that EPA must publish a notice of receipt of any such request in the **Federal Register** before acting on the request.

II. Intent to Cancel

This notice announces receipt by the Agency of requests to cancel some 24 pesticide products registered under section 3 or 24(c) of FIFRA. These registrations are listed in sequence by registration number (or company number and 24(c) number) in the following Table 1.

TABLE 1.—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration No.	Product Name	Chemical Name
000230–00059	CDB Blend 1 Oz. Tablets	Trichloro-*s*-triazinetrione
000230–00078	Olin 40% CDB Clearon	Sodium dichloroisocyanurate dihydrate
000279–01431	Methyl Parathion 5.0 Miscible	*O,O*-Dimethyl *O-p*-nitrophenyl phosphorothioate
000279–02669	Methyl Parathion 25 WP	*O,O*-Dimethyl *O-p*-nitrophenyl phosphorothioate
001258–00893	Olin Technical Trichloroisocyanurate	Trichloro-*s*-triazinetrione
001258–01105	CDB Clearon Tablets - 1	Sodium dichloroisocyanurate dihydrate
001258–01106	CDB Clearon Tablets - 2	Sodium dichloroisocyanurate dihydrate
001258–01107	CDB Clearon Tablets - 3	Sodium dichloroisocyanurate dihydrate
001258–01137	CDB - 63 (2 Gram) Tablets	Sodium dichloroisocyanurate dihydrate
001258–01138	CDB - 63 (5 Gram) Tablets	Sodium dichloroisocyanurate dihydrate
001258–01139	CDB - 63 (10 Gram) Tablets	Sodium dichloroisocyanurate dihydrate
001258–01176	CDB Clearon Teeny Tiny Tablets	Sodium dichloroisocyanurate dihydrate
004170–00044	RA/25	*O,O*-Diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate

TABLE 1.—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration No.	Product Name	Chemical Name
		(Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20%
		Pyrethrins
004170–00050	WB-366 Residual Insecticide Spray	*O,O*-Diethyl *O*-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate
		(Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20%
		Pyrethrins
004170–00060	WB/365 General Purpose Insecticide	(Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20%
		Pyrethrins
006199–00004	PDIC (Potassium Dichloro Iso Cyanurate) Granular 59% Av	Potassium dichloro-*s*-triazinetrione
007501–00093	Gustafson Captan Methoxychlor 75–5 Seed Protectant	Methoxychlor (2,2-bis(*p*-methoxyphenyl)-1,1,1-trichloroethane)
		cis-*N*-Trichloromethylthio-4-cyclohexene-1,2-dicarboximide
009157–00006	Pool Chlorinating Concentrated Tablets	Trichloro-*s*-triazinetrione
009157–00017	Sun Spot-Out	Trichloro-*s*-triazinetrione
009157–00031	Sun Granular Stabilized Spa Chlorinating Concentrate	Sodium dichloroisocyanurate dihydrate
009779–00211	Diazinon 4SP	*O,O*-Diethyl *O*-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate
010182–00013	Granular P.D.I.C. (Potassium Dichloroisocyanurate)	Potassium dichloro-*s*-triazinetrione
014775–00018	Diazinon AG 50 Insecticide	*O,O*-Diethyl *O*-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate
034704–00713	Webfoot Moss Killer and Lawn Food 6–0–0	Ferrous sulfate heptahydrate

Unless a request is withdrawn by the registrant within 90 days of publication of this notice, orders will be issued cancelling all of these registrations. Users of these pesticides or anyone else desiring the retention of a registration should contact the applicable registrant directly during this 90–day period. The following Table 2, includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA Company Number.

TABLE 2. — REGISTRANTS REQUESTING VOLUNTARY CANCELLATION

EPA Company No.	Company Name and Address
000230	Olin Corp., CDB Products, 120 Long Ridge Rd., Stamford, CT 06904.
000279	FMC Corp., ACG Speciality Products, 1735 Market Street, Philadelphia, PA 19103.
001258	Olin Corp., Box 586, Cheshire, CT 06410.
004170	Betco Corp., Box 3127, Toledo, OH 43607.
006199	Zeneca Inc., 1800 Concord Pike, Wilmington, DE 19897.
007501	Gustafson, Inc., Box 660065, Dallas, TX 75266.
009157	Olin Corp., Box 586, Cheshire, CT 06410.
009779	Riverside/Terra Corp., 600 Fourth St., Sioux City, IA 51101.
010182	Zeneca Inc., 1800 Concord Pike, Wilmington, DE 19897.
014775	Asgrow Florida Co., 4144 Hwy 39 N, Plant City, FL 33565.
034704	Platte Chemical Co., Inc., c/o Willaim M. Mahlburg, Box 667, Greeley, CO 80632.

III. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for cancellation must submit such withdrawal in writing to James A. Hollins, at the address given above, postmarked before June 28, 1994. This written withdrawal of the request for cancellation will apply only to the applicable 6(f)(1) request listed in this notice. If the product(s) have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling. The withdrawal request must also include a commitment to pay any reregistration fees due, and to fulfill any applicable unsatisfied data requirements.

IV. Provisions for Disposition of Existing Stocks

The effective date of cancellation will be the date of the cancellation order. The orders effecting these requested

cancellations will generally permit a registrant to sell or distribute existing stocks for 1 year after the date the cancellation request was received. This policy is in accordance with the Agency's statement of policy as prescribed in **Federal Register** No. 123, Vol. 56, dated June 26, 1991. Exceptions to this general rule will be made if a product poses a risk concern, or is in noncompliance with reregistration requirements, or is subject to a data call-in. In all cases, product-specific disposition dates will be given in the cancellation orders.

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the cancellation action. Unless the provisions of an earlier order apply, existing stocks already in the hands of dealers or users can be distributed, sold or used legally until they are exhausted, provided that such further sale and use comply with the EPA-approved label and labeling of the affected product(s). Exceptions to these general rules will be made in specific cases when more stringent restrictions on sale, distribution, or use of the products or their ingredients have already been imposed, as in Special Review actions, or where the Agency has identified significant potential risk concerns associated with a particular chemical.

List of Subjects

Environmental protection, Pesticides and pests, Product registrations.

Dated: March 17, 1994.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 94–7370 Filed 3–29–94; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL DEPOSIT INSURANCE CORPORATION

Alternative Dispute Resolution

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Policy statement.

SUMMARY: The FDIC has adopted a Statement of Policy to further its commitment to the use of Alternative Dispute Resolution for resolving appropriate disputes in a timely and cost efficient manner and to comply with the spirit of the Administrative Dispute Resolution Act, Public Law 101–648.

EFFECTIVE DATE: March 30, 1994.

FOR FURTHER INFORMATION CONTACT: Charlotte M. Kaplow, Counsel (202–736–0248), Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION: The Board of Directors of the FDIC has adopted a Statement of Policy on Alternative Dispute Resolution. The text of the Policy Statement follows:

Statement of Policy on Alternative Dispute Resolution

The Federal Deposit Insurance Corporation (FDIC) has been and continues to be committed to the use of Alternative Dispute Resolution (ADR) for resolving appropriate disputes in a more timely, less costly manner than litigation or administrative adjudication. The FDIC hereby adopts this policy to reiterate its commitment to ADR, to express its full support for ADR and to set forth a framework for the continuing and expanding use of ADR. The Corporation views ADR not as an end in itself, but rather, as an additional tool to accomplish its business efficiently, economically and productively. To that end, the FDIC believes that its ADR policy should be dynamic and continually developing.

The FDIC fully supports the cost-effective use of ADR, including negotiation, mediation, early neutral evaluation, neutral expert fact-finding, mini-trials and other hybrid forms of ADR in appropriate instances; it does not favor the use of binding arbitration other than as set forth in the Administrative Dispute Resolution Act of 1990. The purpose of this policy is to use ADR in appropriate instances to resolve disputes at the earliest stage possible, by the fastest and least expensive method possible and at the lowest possible organizational level consistent with applicable delegations of authority.

The Deputy General Counsel (Liquidation) serves as the Dispute Resolution Specialist for the Corporation. In addition, an ADR Task Force, composed of the Dispute Resolution Specialist (or his/her designee) and representatives from each Division and Office, is hereby created. The purpose of the ADR Task Force is to assess, design, implement, evaluate and coordinate ADR efforts across the Corporation; to develop strategies for educating employees (at all levels) and disputants about ADR options; and to promote procedures for the systematic use of ADR at the FDIC. The Dispute Resolution Specialist, working with the Task Force, shall report to the Board of Directors on an annual basis regarding the Corporation's ADR efforts, implementation of this policy, and any revisions or actions necessary.

It is the responsibility of all FDIC employees to implement this policy and to practice and promote cost-effective dispute resolution in FDIC programs and other areas of Corporation operation. All management and employees of the FDIC are hereby directed to take the necessary steps to implement this policy and to cooperate to the fullest extent with the ADR Task Force and the Dispute Resolution Specialist (and his/her designee) to promote effective and appropriate use of ADR at the Corporation in furtherance of this policy.

The FDIC welcomes and encourages input on the use of ADR and comment on current and potential uses of ADR from both within and outside the Corporation.

By order of the Board of Directors.

Dated at Washington, DC, this 22nd day of March, 1994.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Acting Executive Secretary.

[FR Doc. 94–7466 Filed 3–29–94; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 800 North Capitol Street, NW., 9th floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in section 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 232–011217–002.

Title: Space Charter Agreement Between P&O Containers Limited, Nedlloyd Lijnen, B.V., Sea-Land Service, Inc, and Compania Trasatlantica Espanola, S.A. d/b/a 11171/CTE Space Charter Agreement.

Parties:

P&O Containers Limited,
Nedlloyd Lijnen, B.V.,
Sea-Land Service, Inc.,

Compania Trasatlantica Espanola, S.A.

Synopsis: The proposed amendment revises the Agreement to provide for the termination of certain CTE ocean common carrier services and specifies that CTE will not operate as an ocean common carrier in the trade through December 31, 1997. It also makes other non-substantive changes.

By Order of the Federal Maritime Commission.

Dated: March 25, 1994.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 94-7570 Filed 3-29-94 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

[Docket No. 7100-0128]

Bank Holding Company Reporting Requirements

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final Board approval of changes to bank holding company reporting requirements.

SUMMARY: Notice is hereby given of final approval by the Board of Governors of the Federal Reserve System (the Board) under delegated authority from the Office of Management and Budget (OMB), as per 5 CFR 1320.9 (OMB Regulations on Controlling Paperwork Burdens on the Public), to the extension, with revision, of the Consolidated Financial Statements for Bank Holding Companies (FR Y-9C; OMB No. 7100-0128), the Parent Company Only Financial Statements for Large Bank Holding Companies (FR Y-9LP; OMB No. 7100-0128), and the Parent Company Only Financial Statements for Small Bank Holding Companies (FR Y-9SP; OMB No. 7100-0128) through December 1996. The Federal Reserve has also given final approval to the extension, without revision, of the Supplement to the Consolidated Financial Statements for Bank Holding Companies (FR Y-9CS; OMB No. 7100-0128). The reporting changes, summarized below, will be implemented for the March 31, 1994 reporting date.[1]

PUBLIC COMMENTS: On December 10, 1993, the Federal Reserve granted initial approval of this proposal. Notice of the proposed action was initially published in the **Federal Register** on December 17, 1993. Notice of an extension of the initial comment period, which ended January 3, 1994, and a request for public comment on additional changes to the reporting requirements necessitated by the proposed Call Report revisions was published in the **Federal Register** on February 10, 1994. The comment period expired on March 9, 1994. The Federal Reserve received three comment letters regarding the proposed changes to the bank holding company reports. All of the comment letters related to issues that have been addressed in the instructions to the reporting forms. In addition, one issue raised in one of the comment letters was retracted after certain clarifications were provided to the party who issued the comment.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Mary M. McLaughlin—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202-452-3829); OMB Desk Officer—Gary Waxman, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, room 3208, Washington, DC 20503 (202-395-7340).

SUPPLEMENTARY INFORMATION:

General Information

Under the Bank Holding Company Act of 1956, as amended, the Board is responsible for the supervision and regulation of all bank holding companies. The Y series of reports historically have been, and continue to be, the primary source of financial information on bank holding companies and their nonbanking activities between on-site inspections. Financial information, as well as ratios developed from the Y series reports, are used to detect emerging financial problems, to review performance for pre-inspection analyses, to evaluate bank holding company mergers and acquisitions, and to analyze a holding company's overall financial condition and performance as part of the Federal Reserve System's overall analytical effort.

The Board has given final approval, effective with the March 31, 1994 reporting date, of the revisions described in the "Report Form Revisions" section below on the FR Y-9C, FR Y-9LP, and FR Y-9SP. These include the appropriate reporting changes to the FR Y-9 reports that are necessitated by revisions to the March 1994 Consolidated Reports of Condition and Income (Call Report).

In addition, the Board has given final approval to revise the reporting panel to reduce the reporting burden on small bank holding companies. The revision to the reporting panel is discussed in the "Reporting Panel Revision" section below.

Description of Affected Reports

1. *Report Title:* Consolidated Financial Statements for Bank Holding Companies.

Agency Form Number: FR Y-9C.
OMB Docket Number: 7100-0128.
Frequency: Quarterly.
Reporters: Bank Holding Companies.
Annual Reporting Hours: 147,511.
Estimated Average Hours Per Response: Range from 5 to 1,250 hours.
Number of Respondents: 1,418.
Small businesses are affected.

The information collection is mandatory (12 U.S.C. 1844(b) and (c)) and part of the information is given confidential treatment. Confidential treatment is not routinely given to the data in these reports. However, confidential treatment for the remaining information, in whole or in part, can be requested in accordance with the instructions to the form.

The FR Y-9C consolidated financial statements are currently filed by top-tier bank holding companies with total consolidated assets of $150 million or more and by any bank holding company with more than one subsidiary bank. In addition, the FR Y-9C must be filed by lower-tier bank holding companies that have total consolidated assets of $1 billion or more.

The following bank holding companies are exempt from filing the FR Y-9C, unless the Board specifically requires an exempt company to file the report: Bank holding companies that are subsidiaries of another bank holding company and have total consolidated assets of less than $1 billion; bank holding companies that have been granted a hardship exemption by the Board under section 4(d) of the Bank Holding Company Act; and foreign banking organizations as defined by section 211.21 of Regulation K.

The report includes a balance sheet, income statement, and statement of changes in equity capital with supporting schedules providing information on securities, loans, risk-based capital, deposits, interest sensitivity, average balances, off-balance sheet activities, past due loans, and loan charge-offs and recoveries.

2. *Report Title:* Parent Company Only Financial Statements for Large Bank Holding Companies.

Agency Form Number: FR Y-9LP.
OMB Docket Number: 7100-0128.
Frequency: Quarterly.
Reporters: Bank Holding Companies.
Annual Reporting Hours: 28,722.
Estimated Average Hours Per Response: Range from 2.0 to 13.5 hours.

[1] The reporting change to the FR Y-9SP is effective with the June 1994 reporting date.

Number of Respondents: 1,751.
Small businesses are affected.

The information collection is mandatory (12 U.S.C. 1844(b) and (c)). Confidential treatment is not routinely given to the information in these reports. However, confidential treatment for the report information, in whole or in part, can be requested in accordance with the instructions to the form.

The FR Y–9LP financial statements are to be filed on a parent company only basis by any bank holding company filing an FR Y–9C, or by the parent company of any bank holding company that is a majority-owned subsidiary of a FR Y–9C respondent. The following bank holding companies are exempt from filing the FR Y–9LP, unless the Board specifically requires an exempt company to file the report: bank holding companies that have been granted a hardship exemption by the Board under section 4(d) of the Bank Holding Company Act; and foreign banking organizations as defined by section 211.21 of Regulation K.

3. *Report Title: Parent Company Only Financial Statements for Small Bank Holding Companies.*
Agency Form Number: FR Y–9SP.
OMB Docket Number: 7100–0128.
Frequency: Semiannual.
Reporters: Bank Holding Companies.
Annual Reporting Hours: 33,600.
Estimated Average Hours Per Response: Range from 1.5 to 6.0 hours.
Number of Respondents: 4,480.
Small businesses are affected.

The information collection is mandatory (12 U.S.C. 1844(b) and (c)). Confidential treatment is not routinely given to the data in these reports. However, confidential treatment for the report information, in whole or in part, can be requested in accordance with the instructions to the form.

The FR Y–9SP is a parent company only financial statement filed by one bank holding company with total consolidated assets of less than $150 million. This report, an abbreviated version of the more extensive FR Y–9LP, is designed to obtain basic balance sheet and income information for the parent company, information on intangible assets, information on intercompany transactions, and data for capital adequacy evaluation.

Report Form Revisions

FR Y–9C

The Federal Reserve has approved the following revisions to the FR Y–9C:

Schedule HC, Consolidated Balance Sheet

(1) Revise item 2, "Securities," by splitting it into two separate items: "Available-for-sale securities" and "Held-to-maturity securities" in accordance with FASB Statement No. 115.

(2) Add an item, "Trading liabilities."

(3) Add an item, "Net unrealized holding gains (losses) on available-for-sale securities."

Schedule HC–A, Securities

(1) Revise schedule into a four-column format to collect the amortized cost and fair value of available-for-sale and held-to-maturity securities.

(2) Delete memoranda item 2, "Market value of securities."

(3) Delete memoranda item 5, "Debt securities held for sale."

(4) Add an item, "Amortized cost of held-to-maturity securities sold or transferred to available-for-sale or trading securities during the calendar year-to-date."

(5) Add memoranda items for bank holding companies with total consolidated assets of $1 billion or more to collect additional detail on certain debt securities, mortgage-backed securities and equity securities.

Schedule HC–G, Memoranda

(1) Add an item to collect the amount of "Deferred tax assets in excess of proposed regulatory capital limits."

(2) Add items, "Revaluation gains (losses) on interest rate, foreign exchange rate, and other commodity and equity contracts." These items would only be reported by bank holding companies with total consolidated assets of $1 billion or more, or with $2 billion or more in par/notional amounts of interest rate, foreign exchange rate and other commodity and equity contracts.

(3) Add an item, "Liability for short positions." This item would only be reported by bank holding companies with total consolidated assets of $1 billion or more, or with $2 billion or more in par/notional amounts of interest rate, foreign exchange rate and other commodity and equity contracts.

Schedule HC–H, Past Due and Nonaccrual Loans

(1) Add an item to collect past due information on interest rate, foreign exchange rate, and commodity and other equity contracts. This item would only be reported by bank holding companies with total consolidated assets of $1 billion or more, or with $2 billion or more in par/notional amounts of interest rate, foreign exchange rate and other commodity and equity contracts.

Notes to the Balance Sheet

(1) Require bank holding companies to disclose in a footnote the amount of net unrealized losses on marketable equity securities (net of tax effect). Under FASB Statement No. 115, the amount of net unrealized losses on marketable equity securities is included in the new equity item,"net unrealized holding gains (losses) on available-for-sale securities." Separate disclosure of the net unrealized losses on marketable equity securities is necessary to calculate risk-based capital until final guidelines are determined regarding FASB Statement No. 115.

Schedule HI, Income Statement

(1) Revise item 6, "Gains (losses) on securities not held in trading accounts," by splitting it into two separate items: "Realized gains (losses) on held-to-maturity securities" and the "Realized gains (losses) on available-for-sale securities."

(2) Add a free-form memorandum item, which would require bank holding companies to disclose the three largest service fees and commissions (other than service charges on deposit accounts) that exceed 10 percent of "Other service charges, commissions, and fees," Schedule HI, line item 5.b(2).

(3) Revise Memorandum item 5, "Nonrecurring transactions," to: (a) Replace the reporting of gains and losses on the sales of assets (other than real estate owned) with gains and losses on the sales of loans; (b) eliminate the requirement of reporting "other nonrecurring transactions" that are 25% or more of noninterest income or noninterest expense (and the applicable income tax effect); (c) report gains and losses on other real estate owned; and (d) report the three largest noninterest income items and the three largest noninterest expense items that exceed 10% of line item 5.e, "Other noninterest income" and line item 7.c, "Other noninterest expense," respectively.

Schedule HI–A, Changes in Equity

(1) Add an item, "Change in net unrealized holding gains (losses) on available-for-sale securities."

FR Y–9LP

The Federal Reserve has approved the following revisions to the FR Y–9LP:

Schedule PC, Parent Company Only Balance Sheet

(1) Revise instructions regarding securities for the adoption of FASB Statement No. 115.

(2) Add an item to equity capital, "Net unrealized holding gains (losses) on available-for-sale securities."

Schedule PC–B, Memoranda

(1) Revise item 11, "Market value of securities included in Schedule PC, item 2," by splitting it into two separate items: "Fair value of available-for-sale securities" and "Amortized cost of held-to-maturity securities" in accordance with FASB Statement No. 115.

(2) Add an item to collect "Bank holding company (parent company only) borrowings not held by commercial bank(s) or by insiders (including directors) and their interests."

Schedule PI–A, Cash Flow Statement

(1) Add an item to part III, Cash Flows From Financing Activities, "Payment to repurchase common stock."

FR Y–9SP

The Federal Reserve has approved the following revisions to the FR Y–9SP:

Balance Sheet

(1) Revise instructions regarding securities for the adoption of FASB Statement No. 115.

(2) Add the following breakout of "Equity capital":

(a) "Common stock (including related surplus)"

(b) "Preferred stock (including related surplus)"

(c) "Retained earnings (net of Treasury stock)"

(3) Add an item to equity capital, "Net unrealized holding gains (losses) on available-for-sale securities."

(4) Add a memoranda item, "Total consolidated assets of the bank holding company." (This item would only be completed by multibank holding companies, with total consolidated assets of less than $150 million, without any debt outstanding to the general public and not engaged in a nonbank activity either directly or indirectly involving financial leverage and not engaged in credit extending activities).

(5) Revise memoranda item 6, "Market value of securities," by splitting it into two items: "Fair value of available-for-sale securities" and "Amortized cost of held-to-maturity securities" in accordance with FASB Statement No. 115.

(6) Add memoranda items, "Other assets" and "Other liabilities" that exceed 25 percent of balance sheet item 7, "Other assets," and item 13, "Other liabilities" respectively.

Income Statement

(1) Delete the memorandum item, "tax payments received by the bank holding company from the bank subsidiary that was retained by the bank holding company in excess of the amount paid to the IRS."

Notes to the Financial Statements

(1) Add a "Notes to the Financial Statement" section similar to that on the FR Y–9C and FR Y–9LP.

Proposed Reporting Panel Revision

The Federal Reserve has given final approval to revise the reporting panels on the FR Y–9C, FR Y–9LP, and FR Y–9SP to reduce reporting burden for small bank holding companies. Multibank holding companies with less than $150 million in total consolidated assets, without any debt outstanding to the general public[2] and not engaged in a nonbank activity (either directly or indirectly) involving financial leverage[3] and not engaged in credit extending activities would no longer be required to file the quarterly FR Y–9C and FR Y–9LP, but would file the FR Y–9SP semiannually.

Legal Status

The Legal Division has determined that (12 U.S.C. 1844 (b) and (c)) authorizes the Board to require this report.

Overall, the Board does not consider the data in these reports to be confidential. However, a bank holding company may request confidential treatment pursuant to section (b)(4) and (b)(6) of the Freedom of Information Act (5 U.S.C. 552 (b)(4) and (b)(6)). Confidentiality is also granted pursuant to section (b)(8) of the Freedom of Information Act (5 U.S.C. 552(b)(8)). Section (b)(4) provides exemption for "trade secrets and commercial or financial information obtained from a person and privileged or confidential." Section (b)(6) provides exemption for "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." Section (b)(8) exempts matters that are "contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions."

The Legal Division has also determined that on the FR Y–9C, Schedule HC–H, Column A, requiring information on "assets past due 30 through 89 days and still accruing" and memoranda item 2 are confidential pursuant to section (b)(8) of the Freedom of Information Act (5 U.S.C. 552(b)(8)).

Regulatory Flexibility Act Analysis

The Board certifies that the above bank holding company reporting requirements are not expected to have a significant economic impact on small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The reporting requirements for the small companies require significantly fewer items of data to be submitted than the amount of information required of large bank holding companies.

The information that is collected on the reports is essential for the detection of emerging financial problems, the assessment of a holding company's financial condition and capital adequacy, the performance of pre-inspection reviews, and the evaluation of expansion activities through mergers and acquisitions. The imposition of the reporting requirements is essential for the Board's supervision of bank holding companies under the Bank Holding Company Act.

Board of Governors of the Federal Reserve System, March 24, 1994.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 94–7467 Filed 3–29–94; 8:45 am]

BILLING CODE 6210–01–P

[2] Debt outstanding to the general public is defined as debt held by parties other than financial institutions, officers, directors, and controlling shareholders of the banking organization or their related interests.

[3] Financial leverage is the use of debt to supplement the equity in a company's capital structure.

First Commonwealth Financial Corporation; Notice of Application to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the

proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 19, 1994.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. First Commonwealth Financial Corporation, Indiana, Pennsylvania, to engage *de novo* in making and servicing loans pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, March 24, 1994.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 94–7473 Filed 3–29–94; 8:45 am]

BILLING CODE 6210–01–F

Terry P. Gilmore; Change in Bank Control Notice

Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for the notice or to the offices of the Board of Governors. Comments must be received not later than April 19, 1994.

A. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Terry P. Gilmore, San Marcos, Texas, to acquire 19.69 percent, for a total of 39.39 percent, of the voting shares of S.B.T. Bancshares, Inc., San Marcos, Texas, and thereby indirectly acquire State Bank and Trust Company, San Marcos, Texas.

Board of Governors of the Federal Reserve System, March 24, 1994.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 94–7474 Filed 3–29–94; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 94N–0106]

Akorn, Inc., et al.; Withdrawal of Approval of 18 Abbreviated Antibiotic Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of 18 abbreviated antibiotic applications (AADA's). The holders of the AADA's notified the agency in writing that the drug products were no longer marketed and requested that the approval of the applications be withdrawn.

EFFECTIVE DATE: April 29, 1994.

FOR FURTHER INFORMATION CONTACT: Lola E. Batson, Center for Drug Evaluation and Research (HFD–360), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1038.

SUPPLEMENTARY INFORMATION: The holders of the AADA's listed in the table in this document have informed FDA that these drug products are no longer marketed and have requested that FDA withdraw approval of the applications. The applicants have also, by their request, waived their opportunity for a hearing.

AADA No.	Drug	Applicant
60-198	Sterile Penicillin G Procaine Suspension, U.S.P.	Akorn, Inc., P.O. Box 1220, Decatur, IL 62525.
60-209	Ampicillin for Oral Suspension, U.S.P.	Wyeth-Ayerst Laboratories, P.O. Box 8299, Philadelphia, PA 19101-8299.
60-362	Pencillin G Potassium for Injection, U.S.P.	Apothecon, P.O. Box 4500, Princeton, NJ 08543-4500.
60-363	Penicillin G Sodium for Injection, U.S.P.	Do.
60-520	Neomycin Sulfate Tablets, U.S.P.	The Upjohn Co., 7000 Portage Rd., Kalamazoo, MI 49001-0199.
61-048	Neomycin and Polymyxin B Sulfates and Bacitracin Ophthalmic Ointment, U.S.P	Do.
61-140	Novobiocin Calcium, U.S.P., (bulk)	Do.
61-238	Bacitracin (nonsterile bulk)	Apothekernes Laboratorium, A.S.,c/o A. L. Laboratories, Inc., One Executive Dr., P.O. Box 1399, Ft. Lee, NJ 07024.
61-443	Tetracycline Hydrochloride Capsules	Solvay Pharmaceuticals, 901 Sawyer Rd., Marietta, GA 30062
62-139	Sterile Minocycline Hydrochloride, U.S.P., 100 milligrams (mg)/vial	Lederle Laboratories, 401 North Middletown Rd., Pearl River, NY 10965-1299.
62-322	Erythromycin Stearate Tablets, U.S.P.	Warner-Chilcott Laboratories, 201 Tabor Rd., Morris Plains, NJ 07950.
62-437	Chloramphenicol Ophthalmic Solution, U.S.P., 0.5%	Pharmafair, Inc., 110 Kennedy Dr., Hauppauge, NY 11788.
62-439	Chloramphenicol Ophthalmic Ointment, U.S.P., 1%	Do.
62-453	Bacitracin Ophthalmic Ointment, U.S.P.	Do.
62-546	Erythromycin Capsules, U.S.P., 250 mg	Parke-Davis, 2800 Plymouth Rd., Ann Arbor, MI 48105.
62-562	Amikacin Sulfate Injection, U.S.P.	Apothecon.
62-564	Kanamycin Sulfate Injection, U.S.P.	Do.
62-978	Cloxacillin Sodium Oral Solution, U.S.P., 125 mg/5 milliliters	Novopharm Ltd., c/o Therese M. Ast, 176 East 17th St., New York, NY 10021.

Therefore, under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) and under authority delegated to the Director, Center for Drug Evaluation and Research (21 CFR 5.82), approval of the AADA's listed above, and all amendments and supplements thereto, is hereby withdrawn, effective April 29, 1994.

Dated: March 15, 1994.

Murray M. Lumpkin,

Acting Director, Center for Drug Evaluation and Research.

[FR Doc. 94-7501 Filed 3-29-94; 8:45 am]

BILLING CODE 4160-01-F

Health Care Financing Administration

Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB) for Clearance

AGENCY: Health Care Financing Administration, HHS.

The Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to OMB the following proposals for the collection of information in compliance with the Paperwork Reduction Act (Pub. L. 96-511).

1. *Type of Request:* Reinstatement; *Title of Information Collection:* Home Health Agency (HHA) Medicare and Medicaid Survey Report forms for Home Health Agency Conditions of Participation; *Form Nos.:* HCFA-1515, HCFA-1572; *Use:* In order to participate in the Medicare program as an HHA provider, the HHA must meet Federal standards. These forms are used to record information about patients' health and provider compliance with requirement and report information to the Federal Government; *Frequency:* Annually; *Respondents:* State or local governments, Federal agencies or employees; *Estimated Number of Responses:* 103,500; *Average Hours Per Response:* 1.0; *Total Estimated Burden Hours:* 103,500.

2. *Type of Request:* Revision; *Title of Information Collection:* Conditions of Participation for Rural Health Clinics; *Form No.:* HCFA-R-38; *Use:* This collection of information is needed to determine the rural health clinic's compliance with health and safety provisions. The respondents are rural health clinics; *Frequency:* Annually; *Respondents:* Businesses or other for profit and nonprofit institutions; *Estimated Number of Responses:* 1,201 (existing facilities), 310 (new facilities); *Average Hours Per Response:* 2 hours (existing facilities), 10 hours (new facilities); *Total Estimated Burden Hours:* 5,602.

3. *Type of Request:* Reinstatement; *Title of Information Collection:* Reevaluation of Assets; *Form No.:* HCFA-R-130; *Use:* The Social Security Act requires State Medicaid agencies to provide satisfactory assurances that the methods and standards used for determining payment rates for hospitals and long-term care facilities will not result in payment rates being increased solely as a result of a change in ownership by more than the statutory limit. The State Medicaid agency is required to provide this assurance whenever it submits a State plan amendment revising its methods and standards for setting payment rates; *Frequency:* Quarterly; *Respondents: State or local governments; Estimated Number of Responses:* 204; *Average Hours Per Response:* .25; *Total Estimated Burden Hours:* 51.

4. *Type of Request:* Reinstatement; *Title of Information Collection: Statistical Report on Medical Care: Eligibles, Recipients, Payments, and Services; Form No.:* HCFA-2082; *Use:* The data reported on the HCFA-2082 are the basis of actuarial forecasts for Medicaid services utilization and costs; of analyses and cost savings estimates required for legislative initiatives relating to Medicaid and for responding to requests for information from HCFA components, the Department, the press, and the Congress; *Frequency:* Quarterly; *Respondents:* State or local governments; *Estimated Number of Responses:* 216; *Average Hours Per Response:* 101.41; *Total Estimated Burden Hours:* 21,905.

Additional Information or Comments: Call the Reports Clearance Office on (410) 966-5536 for copies of the clearance request packages. Written comments and recommendations for the proposed information collections should be sent within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt New

Executive Office Building, room 3001, Washington, DC 20503.

Dated: March 22, 1994.

John A. Streb,

Director, Management Planning and Analysis Staff, Office of Budget and Administration, Health Care Financing Administration.

[FR Doc. 94-7413 Filed 3-29-94; 8:45 am]

BILLING CODE 4120-03-P

Health Resources and Services Administration

[RIN-0905-ZA11; PN 2191]

Program Announcement for Cooperative Agreements for the Model State-Supported Area Health Education Centers Program

The Health Resources and Services Administration (HRSA) announces that applications for fiscal year (FY) 1994 Cooperative Agreements for the Model State-Supported Area Health Education Centers (AHEC) Program are being accepted under the authority of section 746(a)(3) of the Public Health service (PHS) Act, title VII, as amended by the Health Professions Education Extension Agreements of 1992, Public Law 102-408, dated October 13, 1992.

Purpose and Eligibility

Section 746(a)(3) authorizes Federal assistance to any school of medicine or osteopathic medicine that is operating an area health education centers program and that is not receiving financial assistance under section 746(a)(1) (previously section 781(a)(1)) of title VII of the PHS Act. In general, an area health education centers program shall be a cooperative program of one or more medical (M.D. and D.O.) school(s) and one or more nonprofit private regional area health education centers.

The statutory authority for the Model State-Supported AHEC Program contains explicit language regarding activities and agreements between the medical and osteopathic schools which develop AHEC programs and the free-standing, community-based area health education centers which provide training sites and resources for the activities. To accomplish these specific tasks, a system of subcontracts is developed between the health professions schools and the independent centers in the communities.

Funding

Approximately $3.2 million will be available for this program for FY 1994. It is anticipated that 16 competing awards averaging $200,000 will be made. This funding will be for a one-year project period.

To receive support, programs must meet the requirements of section 746(a)(3) and program regulations as set forth in 42 CFR part 57, subpart MM.

Matching Funds Requirement: Non-Federal Contributions in Cash

With respect to the costs of operating the area health education center program of the school, the school will make available (directly or through donations from public or private entities) non-Federal contributions in cash toward such costs in an amount that is not less than 50 percent of such costs. These funds must be for the express use of the AHEC Program and Centers, and not funds designated for other categorical or specific purposes. Amounts provided by the Federal Government may not be included in determining the amount of non-Federal contributions in cash.

Section 746(a)(3)(D) states that schools must maintain expenditures of non-Federal amounts at a level that is not less than the level of such expenditures for the fiscal year preceding the first fiscal year for which the school receives an award.

Previous Funding Experience

Previous funding experience information is provided to assist potential applicants to make better informed decisions regarding submission of an application for this program. In fiscal year 1993, HRSA reviewed 14 applications for Cooperative Agreements for the Model State-Supported Area Health Education Centers Program. Of those applications 85.7 percent were approved and 14.3 percent were disapproved. Twelve projects or 85.7 percent of the applications received, were funded.

Programmatic Agreements of Model State-Supported AHEC Programs

Certain programmatic agreements are required for the operation of a model State-supported AHEC program. In operating this program, the school must agree to:

a. Coordinate the activities of the program with the activities of any office of rural health established by the State or States in which the program is operating;

b. Conduct health professions education and training activities consistent with national and State priorities in the area served by the program in coordination with the National Health Service Corps, entities receiving funds under section 329 or 330, and public health departments; and

c. Cooperate with any entities that are in operation in the area served by the program and that receive Federal or State funds to carry out activities regarding the recruitment and retention of health care providers.

National Health Objectives for the Year 2000

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity for setting priority areas. Cooperative Agreements for Area Health Education Centers programs, including the Model State-Supported AHEC program, is related to the priority area of Educational and Community-Based Programs. Potential applicants may obtain a copy of Healthy People 2000 (Full Report; Stock No. 017-001-00474-0) or Healthy People 2000 (Summary Report; Stock No. 017-001-00473-1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402-9325 (Telephone 202-783-3238).

Education and Service Linkage

As part of its long-range planning, HRSA will be targeting its efforts to strengthening linkages between Area Health Education Centers programs and programs which provide comprehensive community-based services to the underserved.

Review Criteria

The review of applications will take into consideration the following criteria:

1. The degree to which the proposed project adequately provides for the program requirements set forth in section 746(a)(3) and program regulations as cited above.

2. The capability of the applicant to carry out the proposed project; and

3. The extent of the need of the area to be served by the proposed model State-supported area health education center program.

Degree of Federal Involvement in the Planning, Development and Operation of Model State-Supported Area Health Education Centers Program

Personnel of the Bureau of Health Professions have substantial programmatic involvement with the planning, developing, and administering of the AHEC projects by:

1. Reviewing and approving plans, upon which continuation of the cooperative agreement is contingent, to permit appropriate direction and redirection of activities.

2. Reviewing and approving all contracts and agreements among recipient medical or osteopathic schools, other health professions schools and community-based centers.

3. Participating with project staff in the development of funding projections.

4. Developing with project staff individual project data collection systems and procedures.

5. Participating with project staff in the design of project evaluation protocols and methodologies.

Other Considerations

Applicants in States where more than one eligible entity exists are encouraged to collaborate in the submission of a single application, which reflects a consortium of Statewide programs to coordinate community-based health professions training activities.

The principal objective of this new legislation is to encourage State coordination and support for AHEC activities. The most effective approach for obtaining support from State legislatures is to present a unified plan showing how all the programs are working together to provide the needed services in the State. Competitive applications from one State tend to be devisive rather than unifying in reaching common goals.

Criteria for Allocation of Available Funds

The following criteria for allocation of funds were established in the **Federal Register** on September 14, 1993, 58 FR 48068 after public comment and are being continued in FY 1994.

As a condition of receiving funding:

(1) Applicants must meet the eligibility conditions of programs as set forth in section 746(b), and the AHEC centers they wish to have included must meet eligibility requirements in accordance with section 746(d);

(2) The State contribution to the AHEC program(s) in the current year is at least equal to the amount to be received from the Federal program as required by section 746(a)(3)(B); and

(3) The program activities for which support is requested are determined by peer reviewers to be qualitatively acceptable.

Programs that submit acceptable applications, in accordance with the above criteria, will receive funding based on the following allocation of funds:

1. The total amount available for funding under section 746(a)(3) will be divided by the total number of qualifying AHEC centers in approved applications. This will yield the per center allocation. The coordinating AHEC applicant for each State will receive an amount equal to the number of qualifying centers in the approved application times the per center allocation.

2. In accordance with the provisions of section 746(e)(1)(A), the award will clearly indicate that 75 percent of the awarded funds are to be spent in approved centers. The remaining 25 percent may be allocated to the AHEC program office and/or other participating schools.

The State matching provision was included in this new legislation to promote State funding. The allocation of Federal funds to all qualifying AHEC programs is intended to provide as broad as possible a base for the accomplishment of this purpose. The number of qualifying AHEC centers provides the means for distribution of funds because the statute requires that 75 percent of the funds are designated to go to these entities.

Application Requests

Requests for application materials and questions regarding grants policy and business management issues should be directed to: Ms. Diane Murray, Grants Management Specialist (U–76), Centers and Formula Grants Section, Bureau of Health Professions, HRSA, Parklawn Building, room 8C–26, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–6857, FAX: (301) 443–6343.

Completed applications should be returned to the Grants Management Branch at the above address.

Questions regarding programmatic information should be directed to: Ms. Cherry Tsutsumida, Chief, AHEC and Special Programs Branch, Division of Medicine, Bureau of Health Professions, HRSA, Parklawn Building, room 4C–03, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–6817, FAX: (301) 443–8890.

The standard application form PHS 6025–1, HRSA Competing Training Grant Application, General Instructions and supplement have been approved by the Office of Management and Budget under the Paperwork Reduction Act. The OMB clearance number is 0915–0060.

The deadline date for receipt of applications is May 6, 1994. Applications shall be considered to be "on time" if they are either:

(1) *Received on* or before the established deadline date, or

(2) *Sent on or* before the established deadline and received in time for orderly processing. (Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late applications not accepted for processing will be returned to the applicant.

This program is listed at 93.107 in the Catalog of Federal Domestic Assistance It is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100).

This program is not subject to the Public Health System Reporting Requirements.

Dated: February 10, 1994.

William A. Robinson,

Acting Administrator.

[FR Doc. 94–7411 Filed 3–29–94; 8:45 am]

BILLING CODE 4160–15–P–M

National Institutes of Health

National Institute of Environmental Health Sciences; Meeting of Board of Scientific Counselors, NIEHS

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, NIEHS, May 2–3, 1994 in Building 101, South Campus, Main Conference Facility, NIEHS, Research Triangle Park, NC.

This meeting will be open to the public from approximately 8:45 a.m. to 3 p.m. on May 2, for the purpose of presenting an overview of the organization and conduct of research in the Laboratory of Environmental Carcinogenesis and Mutagenesis. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sec. 552b(c)(6) of Title 5 U.S.C. and sec. 10(d) of Public Law 92–463, the meeting will be closed to the public on May 2 from approximately 3 p.m. to recess and on May 3 from 9 a.m. to adjournment, for the evaluation of the programs of the Laboratory of Environmental Carcinogenesis and Mutagenesis, 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.

The Executive Secretary, Dr. John McLachlan, Scientific Director, Division of Intramural Research, NIEHS, Research Triangle Park, N.C. 27709, telephone (919) 541–3205, will furnish rosters of committee members and program information. Individuals who

plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the Executive Secretary in advance of the meeting.

Dated: March 23, 1994.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 94–7470 Filed 3–29–94; 8:45 am]

BILLING CODE 4140–01–M

Opportunity for a License: Identification of a Suppressor of Atherogenic Apolipoprotein

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The National Institutes of Health seeks licensee(s) (in accordance with 35 U.S.C. 207) for a new invention which relates to the identification of a genetic sequence for a region of the apolipoprotein B gene which suppresses the transcription of apolipoprotein B. Apolipoprotein B is the primary cholesterol-associated protein in human blood linked with cardiovascular disease. Polypeptides that bind to the suppressor, the cis-element ABUSS, have been identified and characterized. This element binds to transactivating elements, is tissue specific, and has been demonstrated to inhibit the expression of the bacterial enzyme chloramphenical acetyl transferase, which is driven by the promotion of the thymidine kinase gene.

Using the developed construct, it would be possible to develop a simple *in vitro* assay system that would allow biotechnology and pharmaceutical companies to quickly and inexpensively evaluate candidate substances which lead to the inhibition of apolipoprotein B gene expression. Agents that suppress the transcription of this genetic sequence could then be used as novel therapeutic or prophylactic agents in the treatment and prevention of atherosclerosis.

NIH is the assignee of the patent rights for this technology covered by U.S. Patent Application 07/601,931 and developed by Drs. Ross and Hoeg of the National Heart, Lung, and Blood Institute.

ADDRESSES: Licensing information and a copy of the U.S. patent application may be obtained by contacting Carol Lavrich, Technology Licensing Specialist, National Institutes of Health, Office of Technology Transfer, Box OTT, Bethesda, Maryland 20892 (telephone 301/496–7735; fax 301/402–0220). A signed confidentiality agreement will be required to receive copies of the patent application.

Dated: March 16, 1994.

Donald P. Christoferson,

Acting Director, Office of Technology Transfer.

[FR Doc. 94–7472 Filed 3–28–94; 8:45 am]

BILLING CODE 4140–01–M

Opportunity For Licensing: Calanolide Antiviral Compounds as Antiviral Agents Useful in the Treatment of Acquired Immunodeficiency Syndrome (AIDS)

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The National Institutes of Health (NIH), Department of Health and Human Services (DHHS), seeks licensee(s) who can effectively pursue the preclinical, clinical and commercial development of calanolide A or related anti-viral compounds for the treatment of human immunodeficiency virus (HIV) infection. Scientists at the National Cancer Institute have identified the chemical structures and methods for isolating and purifying anti-HIV coumarins from extracts of the tropical rain forest tree *Calophyllum lanigerum* and a known coumarin from a related species in the genus, *Calophyllum teysmannii*. This new class of anti-HIV compounds and their analogs, also referred to as calanolides and costatolide respectively, strongly inhibit HIV–1 replication and cytopathicity *in vitro*. These compounds may have advantageous pharmacologic, toxicologic, and/or antiviral properties, especially in the treatment of AIDS. NIH intends to grant the selected firm(s) world-wide royalty-bearing license(s) to practice the inventions embodied in U.S. Patent Applications SN 07/861,249 and 08/065,618 both entitled "Calanolide Antiviral Compounds, Compositions and Uses Thereof" and related foreign patent applications for this field of use. The patent rights in these inventions have been assigned to the United States of America.

SUPPLEMENTARY INFORMATION: The NIH seeks licensee(s), who in accordance with requirements and regulations governing the licensing of government-owned inventions (37 CFR part 404), have the most meritorious plan for the development of calanolide A or related compounds to a marketable status to meet the needs of the public and with the best terms for the NIH. Specifically, firm(s) are sought who directly or indirectly, will be able to:

(1) Isolate or synthesize and provide sufficient amounts (e.g. multi-kilogram amounts) of compounds for preclinical drug development;

(2) Carry out preclinical toxicology and pharmacology studies and testing, without guaranteed assistance from the government, to complement preclinical toxicology and pharmacology currently being performed to the Investigational New Drug (IND) stage by NCI.

(3) Perform formulation for oral and intravenous use, vialing, quality control testing, bioavailability testing and distribution of the drug for Phase I and Phase II and, if appropriate, Phase III clinical trails both in the NIH intramural program and in the extramural AIDS Clinical Trials Groups (ACTGs) established by the National Institute of Allergy and Infectious Diseases (NIAID). The clinical trials may be performed under the sponsorship of an IND to be held by NCI or NIAID. Prior to being released for commercial distribution, the drug will have to be granted a product license by the Food and Drug Administration (FDA);

(4) Synthesize bulk pharmaceutical product necessary for the treatment of 500–1,500 patients with HIV infection in Phase I, II and III developmental studies;

(5) Perform clinical studies. NCI and NIAID may conduct studies of calanolide A or related compounds in the ACTGs and the NIH Clinical Center, an the company will be expected to provide the drug free of charge to NIH for studies conducted in the ACTGs and in the NIH intramural program; the company will be expected to cooperate with NCI and NIAID in providing the drug and supporting distribution of the drug under a treatment IND when appropriate;

(6) Provide data management support for both the intramural NIH and extramural studies of calanolide A and related compounds necessary for the timely submission of a NDA to the FDA;

(7) Share the cost with NIH of intramural and extramural clinical monitoring studies (pharmacokinetics, patient immune profiles and viral outgrowth studies) necessary for the demonstration of clinical efficacy of calanolide A and related compounds for the treatment of AIDS;

(8) Since these agents, calanolide A or related compounds, and their anti-HIV properties were discovered through the investigation of flora indigenous to Sarawak (Malaysia), the NIH is concerned that the collection and utilization of the natural plant material comport with all applicable Federal and Sarawak policies related to biodiversity. In order to comport with such policies,

the successful applicant will be required to negotiate and enter into agreements with the appropriate Sarawak government agencies.

The criteria that NIH will use to evaluate license applications will include, but not be limited to those set forth by 37 CFR 404.7(a)(1) (ii)-(iv), as well as:

(1) Manufacturing capabilities for antiviral compounds and a plan for production of calanolide A or related compounds;

(2) Experience in preclinical and clinical drug development with special emphasis on the development of antiviral compounds;

(3) Experience in the evaluation, monitoring and interpretation of data for investigational biologic and virologic assays under an IND;

(4) Experience in the evaluation, monitoring and interpretation of data from Phase I and Phase II clinical studies for an IND;

(5) Demonstrated expertise in monitoring drug levels using state-of-the-art methods for measuring drugs in blood, urine and CSF;

(6) A willingness to cooperate with NCI in the collection, evaluation, publication and maintenance of data from animal studies and from clinical trials and tests of investigational biologic assays;

(7) Demonstrated competence in developing oral formulation and sustained-release oral formulations;

(8) Ability to produce, package, market and distribute pharmaceutical products in the United States and to provide the product at a reasonable price;

(9) Willingness to sustain the cost of calanolide A or related compounds drug development as outlined above (i.e., bulk drug synthesis, data management, animal studies, clinical studies, etc.);

(10) Agreement to be bound by DHHS regulations and guidelines involving human and animal subjects;

(11) An aggressive developmental plan that includes appropriate milestones and deadlines for preclinical and clinical development and for marketing approval.

(12) Agreement to negotiate and enter into agreements with the appropriate Sarawak government agencies on terms acceptable to all parties.

EFFECTIVE DATE: In view of the high priority for developing new drugs for the treatment of HIV infection, all proposals must be received May 31, 1994.

ADDRESSES: Requests for a summary of the anti-HIV activity of calanolide A or related compounds, their pharmacological properties and toxicological information, or other questions and comments concerning the clinical aspects of this technology should be directed to: Dr. Dwight Kaufman, Deputy Director, Division of Cancer Treatment, National Cancer Institute, Building 31, room 3A44, 9000 Rockville Pike, Bethesda, MD 20892. Telephone: (301) 496–6711.

Requests for a copy of the patent applications, license application form, or other questions and comments concerning the licensing of this technology should be directed to: Steven M. Ferguson, Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, Box OTT, Bethesda, MD 20892. Telephone: (301) 496–7735; Facsimile: (301) 402–0220. A signed confidentiality agreement will be required to receive copies of the patent applications.

Dated: March 16, 1994.

Donald P. Christoferson,

Acting Director, Office of Technology Transfer.

[FR Doc. 94–7471 Filed 3–29–94; 8:45 am]

BILLING CODE 4140–01–M

Substance Abuse and Mental Health Services Administration

Center for Substance Abuse Treatment National Advisory Council Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Center for Substance Abuse Treatment National Advisory Council in May 1994.

The meeting of the Center for Substance Abuse Treatment National Advisory Council will include a discussion of the mission and programs of the Center, policy issues and administrative announcements. Attendance by the public will be limited to space available.

A summary of the meeting and/or roster of council members may be obtained from: Ms. D. Winstead, Committee Management Specialist, Center for Substance Abuse Treatment, Rockwall II Building, Suite 1075, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–5050.

Substantive program information may be obtained from the contact whose name and telephone number is listed below.

Committee Name: Center for Substance Abuse Treatment National Advisory Council

Meeting Date: May 6, 1994

Place: Parklawn Building, Conference Room E, 5600 Fishers Lane, Rockville, Maryland 20857

Open: May 6, 9 a.m.–5 p.m.

Contact: Penni St. Hilaire, Rockwall II Building, Suite 1075, (301) 443–5050.

Dated: March 24, 1994.

Peggy W. Cockrill,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 94–7410 Filed 3–29–94; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Administration

[Docket No. N–94–3738; FR–3678–N–01]

Privacy Act of 1974; Proposed Amendment to a System of Records

AGENCY: Office of the Assistant Secretary for Administration, HUD.

ACTION: Notification of a proposed amendment to an existing system of records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, 5 U.S.C. 552a, HUD proposes to amend its system of records entitled "Tenant Eligibility Verification Files, HUD/PIH–1." Notice of this system was published at 58 FR 37600, July 12, 1993.

The new routine use will permit HUD to initiate referrals to Federal agencies of records concerning a Federal employee's receipt of excessive housing assistance, including actions taken by the employee to repay the excessive assistance. These referrals will provide Federal employers with information needed to ensure effective implementation of the Standards of Ethical Conduct for Employees of the Executive Branch, 5 CFR part 2635. In addition, such referrals will facilitate counseling Federal employees, as needed, regarding the repayment of debts—an obligation under the Standards of Ethical Conduct. The employee counseling may be an effective means to preclude the need for garnishment of debt from employees that is now permitted under the Hatch Act Amendments of 1993. Additionally, Federal employers may initiate disciplinary and corrective actions for employees who violate the Standards of Ethical Conduct.

EFFECTIVE DATE: This amendment shall become effective without further notice in 30 calendar days (April 29, 1994) unless comments are received on or

before that date which would result in a contrary determination.

ADDRESSES: Interested persons are invited to submit comments regarding this routine use to the Rules Docket Clerk, Office of General Counsel, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500. Communications should refer to the above docket number and title. An original and four copies of comments should be submitted. Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: Jeanette Smith, Departmental Privacy Act Officer, Telephone Number (202) 708–2374, or David L. Decker, Director, Computer Matching Activities, Office of the Public and Indian Housing Comptroller, Telephone Number (202) 708–0099. (These are not toll free numbers.)

SUPPLEMENTARY INFORMATION: The additional routine use described in the notice is consistent with the Standards of Ethical Conduct for Employees of the Executive Branch, 5 CFR part 2635.

Specifically, the new routine use is consistent with 5 CFR 2635.101(b)(12), which requires employees to satisfy in good faith their obligations as citizens, including all just financial obligations. Further, the new routine use is consistent with the general principle in 5 CFR 2635.101(b)(11) that employees shall disclose waste, fraud and abuse to appropriate authorities. Disciplinary and corrective actions may be initiated by Federal employers based on 5 CFR 2635.106.

In addition to identifying potential violations of the Standards of Ethical Conduct for Employees of the Executive Branch, referral to Federal employers of records concerning an employee's indebtedness serves an important deterrent function. HUD is hopeful that such referrals will aid in the collection of funds due to public housing agencies. This will provide funds needed for housing assistance to needy families.

Records concerning a Federal employee's receipt of excessive housing assistance and repayment of the same will only be referred to Federal agencies after the public housing agencies have provided the Federal employee with administrative due process.

As required by 5 U.S.C. 552a(r), the Office of Management and Budget, the Senate Committee on Governmental Affairs, and the House Committee on Government Operations have been notified of this action. 5 U.S.C. 552(e)(11) requires that the public be provided a 30-day period in which to comment on the intended use of the information in the system of records.

Authority: 5 U.S.C. 552a.

Issued at Washington, DC, March 14, 1994.

Marilynn A. Davis,

Assistant Secretary for Administration.

HUD/PIH–1

SYSTEM NAME:

Tenant Eligibility Verification Files

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

* * * * *

7. Records concerning an individual's receipt of excessive housing assistance, including the individual's actions to repay the same, may be disclosed to the Federal agency that employs such individual, for the purpose of notifying the employer of potential violations of the Standards of Ethical Conduct for Employees of the Executive Branch.

[FR Doc. 94–7489 Filed 3–29–94; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–940–4333–01, 4350–01; CACA–23982]

Notice of Issuance of Land Exchange Conveyance Documents; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of the exchange was to acquire 1,040 acres of non-Federal land which have high public values for wildlife habitat and recreation. The land contains important fawning areas for mule deer and nesting areas for waterfowl. The public interest has been well served by completion of the exchange.

FOR FURTHER INFORMATION CONTACT: Dianna Storey, BLM California State Office, 916–978–4820.

SUPPLEMENTARY INFORMATION: The lands involved in this exchange were acquired in accordance with the procedures set forth in the Statewide Cooperative Land Exchange Agreement between The Trust for Public Land (TPL), a California nonprofit public benefit corporation, and the Bureau of Land Management.

1. On the dates indicated below the United States issued three land exchange conveyance documents (two patents and one quitclaim deed) to TPL, pursuant to land exchange provisions under sec. 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716).

Federal lands: Mount Diablo Meridian

(a) June 9, 1989 (CACA-23982 01)

T. 19 N., R. 6 E.,
Portions of sections 13, 25, and 35.
T. 18 N., R. 9 E.,
Portions of section 32.

The areas described aggregate 300.60 acres in Yuba and Nevada Counties.

(b) February 2, 1994 (CACA-23982 03)

T. 18 N., R. 7 E.,
Sec. 28, lots 1 and 2.

The area described contains 78.20 acres in Calaveras County.

2. On June 24, 1991, TPL, by grant deed, conveyed the following non-Federal land to the United States:

Mount Diablo Meridian

T. 3 N., R. 25 E.,
Portions of sec. 14, 20, 22, 23, 26, 27, and 29.

The areas described aggregate 1,040 acres in Mono County.

More specific descriptions of the Federal land described under paragraph 1(a) above and the non-Federal lands described in paragraph 2 are contained in the official case file in the California State Office.

The value of the Federal lands described under paragraph 1(a) was appraised at $955,800 and under (b), at $645,455; the value of the non-Federal land under paragraph 2 was appraised at $925,000. The values between the Federal and non-Federal lands are being equalized in accordance with the Statewide Cooperative Land Exchange Agreement, pursuant to provisions in 43 CFR 2201.1–1 for assembled land exchanges.

Dated: March 18, 1994.

Nancy J. Alex,

Chief, Lands Section.

[FR Doc. 94–7415 Filed 3–29–94; 8:45 am]

BILLING CODE 4310–40–M

Minerals Management Service (MMS)

Outer Continental Shelf (OCS) Advisory Board Scientific Committee (SC); Plenary Session Meeting

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Public Law 92–463, 5 U.S.C., appendix I, and the Office of Management and Budget Circular A–63, Revised.

The OCS Advisory Board SC will meet in plenary sessions on Wednesday, May 25, and Thursday, May 26, 1994, at

the Hyatt Regency New Orleans at Louisiana Superdome, Poydras at Loyola Avenue, New Orleans, Louisiana 70140, telephone (504) 561–1234.

The SC is an outside group of scientists which advises the Director, MMS, on the feasibility, appropriateness, and scientific value of the MMS' OCS Environmental Studies Program.

Below is a schedule of meetings that will occur.

The SC will meet in plenary session on Wednesday, May 25, from 8:30 a.m. to 5:30 p.m.

The Committee will also meet in plenary session on Thursday, May 26, from 8:30 a.m. to 5 p.m. Discussion will focus on the Gulf of Mexico with emphasis on MMS' environmental studies planning to provide scientific information for the Agency's OCS oil and gas decisionmaking process.

The meetings are open to the public. Approximately 30 visitors can be accommodated on a first-come-first-served basis at the plenary session.

A copy of the agenda may be requested from the MMS by writing Ms. Phyllis Treichel at the address below.

Other inquiries concerning the SC meeting should be addressed to Dr. Ken Turgeon, Executive Secretary to the Scientific Committee, Minerals Management Service, 381 Elden Street, Mail Stop 4310, Herndon, Virginia 22070. He may be reached by telephone at (703) 787–1717.

Dated: March 17, 1994.

Thomas M. Gernhofer,

Associate Director for Offshore Minerals Management.

[FR Doc. 94–7402 Filed 3–29–94; 8:45 am]

BILLING CODE 4310–MR–M

DEPARTMENT OF INTERIOR

National Park Service

National Preservation Technology and Training Board; Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Committee Act, 5 U.S.C. Appendix (1988), that the National Preservation Technology and Training Board will meet on April 12 and 13, 1994, in Natchitoches, Louisiana.

The Board was established by Congress to provide leadership, policy advice, and professional oversight to the National Center for Preservation Technology and Training, as required under the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470).

The Board will meet on both days, April 12–13, 1994, in the Faculty Lounge on the campus of Northwestern State University of Louisiana, in Natchitoches, Louisiana. Matters to be discussed will include, the organization of the Board, the need for research and training, priorities for research and training and filling the position of executive director of the Center.

On Tuesday, the meeting will begin at 1:30 pm concluding at 5 pm, and on Wednesday at 9 am until noon, reconvening at 1:30 pm until 3 pm. Meetings will be open to the public. However, facilities and space for accommodating members of the public are limited and persons will be accommodated on a first-come, first-served basis. Any member of the public may file a written statement concerning the matters to be discussed with Mr. E. Blaine Cliver, Acting Executive Director of the National Center for Preservation Technology and Training.

Persons wishing more information concerning this meeting, or who wish to submit written statements, may do so by contacting Mr. E. Blaine Cliver, Acting Executive Director, National Center for Preservation Technology and Training, Preservation Assistance Division, P.O. Box 37127, Washington, DC 20013–7127, telephone: (202) 343–9573. Draft summary minutes of the meeting will be available for public inspection about eight weeks after the meeting at the office of the Preservation Assistance Division, suite 200, 800 North Capitol Street, Washington, DC.

Dated: March 15, 1994.

H. Ward Jandl,

Acting Executive Director, National Center for Preservation, Technology and Training.

[FR Doc. 94–7563 Filed 3–29–94; 8:45 am]

BILLING CODE 4310–70–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–645 (Final)]

Calcium Aluminate Cement and Cement Clinker From France; Notice of Commission Determination To Conduct a Portion of the Hearing in Camera

AGENCY: U.S. International Trade Commission.

ACTION: Closure of a portion of a Commission hearing to the public.

SUMMARY: Upon request of the parties in the above-captioned final investigation, the Commission has unanimously determined to conduct a portion of its hearing scheduled for March 31, 1994, *in camera*. See Commission rules 207.23(a), 201.13 and 201.35(b)(3) (19 CFR 207.23(a), 201.13 and 201.35(b)(3)). The remainder of the hearing will be open to the public. The Commission unanimously has determined that the 7-day advance notice of the change to a meeting was not possible. See Commission rule 201.35(a), (c)(1) (19 CFR 201.35(a), (c)(1)).

FOR FURTHER INFORMATION CONTACT: Robin L. Turner, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–3103. Hearing impaired individuals are advised that information on this matter may be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: The Commission believes that good cause exists in this investigation to hold a short portion of the hearing *in camera*. The majority of the information collected by the Commission is business proprietary information (BPI) because there are two domestic firms and one foreign producer. The *in camera* portions of the hearing will be for the purpose of addressing BPI as part of the parties' presentations-in-chief, and therefore is properly the subject of an *in camera* hearing pursuant to Commission Rule 201.36(b)(4). See 19 CFR 201.36(b)(4). In making this decision, the Commission nevertheless reaffirms its belief that wherever possible its business should be conducted in public.

The hearing will include the usual public presentations by petitioner and by respondent, with questions from the Commission. In addition the hearing will include *in camera* sessions for short presentations by petitioner and by respondents with questions from the Commission of BPI submitted by the parties, as necessary. For the *in camera* portions of the hearing, the room will be cleared of all persons except: those who have been granted access to BPI under a Commission administrative protective order (APO), and who are included on the Commission's APO service list in this investigation. See 19 CFR 201.35(b)(1), (2). In addition, if petitioner's BPI will be discussed in the *in camera* session, personnel of petitioner also may be granted access to the closed session. See 19 CFR 201.35(b)(1), (2). In the alternative, if respondent's BPI will be discussed in the *in camera* session, personnel of respondent also may be granted access to the closed session. See 19 CFR 201.35(b)(1), (2). All those planning to

attend the *in camera* portions of the hearing should be prepared to present proper identification.

Authority: The General Counsel has certified, pursuant to Commission Rule 201.39 (19 CFR 201.39) that, in her opinion, a portion of the Commission's hearing in Certain Calcium Aluminate Cement and Cement Clinker from France, Inv. No. 731–TA–645 (Final), may be closed to the public to prevent the disclosure of business proprietary information.

By order of the Commission.

Issued: March 28, 1994.

Donna R. Koehnke,

Secretary.

[FR Doc. 94–7745 Filed 3–30–94; 8:45 am]

BILLING CODE 7020–02–P

[Investigation No. 337–TA–360]

Decision Not To Review Initial Determinations Granting Joint Motions to Terminate the Investigation With Respect To Respondent DGR Technologies, Inc., et al.

In the Matter of Certain Devices for Connecting Computers Via Telephone Lines.

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review initial determinations (IDs) (Order Nos. 4 and 5) issued on February 15, 1994, by the presiding administrative law judge (ALJ) in the above-captioned investigation granting the joint motion of complainant Farallon Computing, Inc. ("Farallon") and respondent DGR Technologies, Inc. (formerly known as MacProducts USA) ("DGR") to terminate the investigation as to DGR on the basis of a licensing agreement, and the joint motion of Farallon and respondent Total Technologies, Ltd. ("Total") to terminate the investigation as to Total on the basis of a settlement agreement.

FOR FURTHER INFORMATION CONTACT: Elizabeth C. Rose, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Telephone: (202) 205–3113.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation, which concerns allegations of violations of section 337 of the Tariff Act of 1930 in the importation and sale of certain devices for connecting computers via telephone lines, on November 12, 1993; a notice of the institution was published in the **Federal Register** on November 17, 1993 (58 FR 60671). Complainant Farallon alleges infringement of certain claims of U.S. Letters Patent 5,003,579.

On January 25, 1994, Farallon and DGR filed a joint motion to terminate the investigation with respect to DGR on the basis of a licensing agreement, and Farallon and Total filed a joint motion to terminate the investigation with respect to Total on the basis of a settlement agreement. The Commission investigative attorney supported the motions. The ALJ issued IDs granting the joint motions and terminating the investigation as to DGR and Total. No petitions for review of the IDs were filed. No agency or public comments were received.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and Commission interim rule 210.53, 19 CFR 210.53.

Copies of the nonconfidential version of the IDs and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–2000. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal at 202–205–1810.

By order of the Commission.

Issued: March 22, 1994.

Donna R. Koehnke,

Secretary.

[FR Doc. 94–7553 Filed 3–29–94; 8:45 am]

BILLING CODE 7020–02–P

[Investigation No. 337–TA–356]

Commission Determination Not To Review an Initial Determination Terminating the Investigation

In the Matter of Certain Integrated Circuit Devices, Processes for Making Same, Components Thereof, and Products Containing Same.

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's (ALJ's) initial determination (ID) in the above-captioned investigation terminating the investigation on the basis of a settlement agreement.

FOR FURTHER INFORMATION CONTACT: Matthew T. Bailey, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–205–3108.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on August 26, 1993, based on a complaint alleging violations of section 337 of the Tariff Act of 1930 in the importation into the United States, the sale for importation into the United States, and the sale within the United States after importation of certain integrated circuit devices that have been processed abroad by a method covered by claim 2 of U.S. Letters Patent 4,325,984, or that infringe claims 1–5, 10, 11, 13–15, and 18 of U.S. Letters Patent 4,538,247, claims 5 and 8 of U.S. Letters Patent 4,346,351, claims 1–3 of U.S. Letters Patent 4,075,509, claims 1, 2, 4, and 8–10 of U.S. Letters Patent 4,567,580, claim 1 of U.S. Letters Patent 4,238,839, and claims 4, 6, and 7 of U.S. Letters Patent 4,191,900. See 58 FR 46213–14 (1993).

On February 8, 1994, complainants National Semiconductor Corporation and Fairchild Semiconductor Corporation and respondents Mitsubishi Electric Corporation and Mitsubishi Electronics America, Inc. filed a joint motion to terminate this investigation on the basis of a settlement agreement.

On February 24, 1994, the ALJ issued an ID (Order No. 11) granting the joint motion to terminate on the basis of the settlement agreement, thereby terminating the investigation. No petitions for review were filed. No agency or public comments were received.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and § 210.53(h) of the Commission's Interim Rules of Practice and Procedure, 19 CFR § 210.53(h).

Copies of the ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–205–2000. Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

By order of the Commission.

Issued: March 22, 1994.

Donna R. Koehnke,

Secretary.

[FR Doc. 94–7556 Filed 3–29–94; 8:45 am]

BILLING CODE 7020–02–P

[Investigation No. 337-TA-352]

In the Matter of Certain Personal Computers With Memory Management Information Stored in External Memory and Related Materials.

Commission Determination Not To Review an Initial Determination Suspending the Investigation

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's (ALJ's) initial determination (ID) in the above-captioned investigation suspending the investigation until 30 days after the entry of judgment in *Cyrix Corp.* v. *Intel Corp.* v. *Texas Instruments,* No. 4:92cv52 (E.D. Texas, Sherman Division), or until otherwise ordered by the Commission. The parties to this investigation are requested to inform the Commission immediately of the entry of such judgment so as to facilitate the prompt disposition of this investigation.

FOR FURTHER INFORMATION CONTACT: Matthew T. Bailey, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-205-3108.

SUPPLEMENTARY INFORMATION: On February 4, 1994, intervenor Advanced Micro Devices, Inc. (AMD) and respondents Twinhead Int'l Corp. and Twinhead Corp. (Twinhead) filed a motion to suspend the investigation pending entry of judgment in a concurrent U.S. district court action, and to terminate the investigation following such entry of judgment. It is anticipated that the entry of judgment, which should occur soon, will collaterally estop complainant Intel Corporation (Intel) from asserting its claims against AMD and Twinhead in the subject investigation. On February 14, 1994, Intel filed a Countermotion to Suspend Investigation Through Appeal of the District Court Decision and a response to AMD and Twinhead's motion. AMD and Twinhead filed a reply brief and the Commission investigative attorney filed a response supporting the motion of AMD and Twinhead, but opposing the motion of Intel. Finally, Intel was granted leave to file a reply brief to the reply brief filed by AMD and Twinhead.

On February 23, 1994, the presiding administrative law judge (ALJ) issued an ID (Order No. 24) granting in part the motion of AMD and Twinhead, but denying Intel's countermotion. The ALJ suspended the investigation until 30 days after the entry of judgment in the district court, or until otherwise ordered by the Commission. No petitions for review were filed, and no agency comments were received.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and 210.53(h) of the Commission's Interim Rules of Practice and Procedure, 19 CFR 210.53(h).

Copies of the ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202-205-2000. Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810.

By order of the Commission.

Issued: March 22, 1994.

Donna R. Koehnke,

Secretary.

[FR Doc. 94–7555 Filed 3–29–94; 8:45 am]

BILLING CODE 7020–02–P

[Investigation No. 337–TA–352]

Commission Determination Not To Review an Initial Determination Terminating the Investigation As To Intervenor Cyrix Corporation

In the Matter of Certain Personal Computers With Memory Management Information Stored in External Memory and Related Materials.

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's (ALJ's) initial determination (ID) in the above-captioned investigation terminating the investigation with respect to intervenor Cyrix Corporation.

FOR FURTHER INFORMATION CONTACT: Matthew T. Bailey, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–205–3108.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on June 16, 1993, based on a complaint alleging violations of section 337 of the Tariff Act of 1930 in the importation into the United States, the sale for importation into the United States, and the sale within the United States after importation of certain personal computers with memory management information stored in external memory and related materials by reason of direct and induced infringement of claims 2 and 6 of U.S. Letters Patent 4,972,338. 58 FR 33283 (1993). After institution of the subject investigation, Advanced Micro Devices, Inc. and Cyrix Corporation intervened separately on the side of respondents Twinhead Int'l Corp. and Twinhead Corp. (Twinhead) asserting that they supplied microprocessors for Twinhead's personal computers. 58 FR 41486 and 44851 (1993).

On February 14, 1994, intervenor Cyrix filed a motion to terminate this investigation as to Cyrix as a party, and with respect to any personal computers or related materials containing microprocessors designed by Cyrix, on the basis of a settlement agreement.

On February 23, 1994, the ALJ issued an ID (Order No. 23) granting the motion to terminate as to Cyrix on the basis of the settlement agreement. No petitions for review were filed. No agency or public comments were received.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and § 210.53(h) of the Commission's Interim Rules of Practice and Procedure, 19 CFR 210.53(h).

Copies of the ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–205–2000. Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

By order of the Commission.

Issued: March 22, 1994.

Donna R. Koehnke,

Secretary.

[FR Doc. 94–7557 Filed 3–29–94; 8:45 am]

BILLING CODE 7020–02–P

[Investigation No. 337-TA-358]

Designation of Additional Commission Investigative Attorney

In the Matter of Certain Recombinantly Produced Human Growth Hormones.

Notice is hereby given that, as of this date, Kent R. Stevens, Esq. and James B. Coughlan, Esq. of the Office of Unfair Import Investigations are designated as the Commission investigative attorneys in the above-cited investigation instead of Kent R. Stevens, Esq.

The Secretary is requested to publish this Notice in the **Federal Register**.

Dated: March 21, 1994.

Lynn I. Levine,

Director, Office of Unfair Import Investigations, 500 E Street, SW., Washington, DC 20436.

[FR Doc. 94-7558 Filed 3-29-94; 8:45 am]

BILLING CODE 7020-02-P

[Investigation 332-347]

Global Competitiveness of U.S. Environmental Technology Industries: Municipal & Industrial Water and Wastewater

AGENCY: International Trade Commission.

ACTION: Rescheduling of public hearing; projected date for submission of report.

EFFECTIVE DATE: March 21, 1994.

SUMMARY: The public hearing on this matter, originally scheduled for April 26, 1994, has been rescheduled for June 21, 1994. The Commission plans to submit its report by February 17, 1995.

The public hearing will be held at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC, beginning at 9:30 a.m. on June 21, 1994. All interested persons will have the right to appear, by counsel or in person, to present information and to be heard. Requests to appear at the public hearing should be filed with the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436, no later than 5:15 p.m., June 7, 1994. Any prehearing briefs (original and 14 copies) should be filed not later than 5:15 p.m., June 10, 1994; the deadline for filing post-hearing briefs or statements is 5:15 p.m., July 5, 1994.

FOR FURTHER INFORMATION CONTACT: Industry-specific information may be obtained from Mr. David Ingersoll (202-205-2218) of the Office of Industries, U.S. International Trade Commission, Washington, DC 20436. For information on the legal aspects of this investigation contact Mr. William Gearhart of the Office of the General Counsel (202-205-3091). Hearing impaired individuals are advised that information on this matter can be obtained by contacting the TDD terminal on (202) 205-1107.

BACKGROUND: This is one of two competitiveness studies requested by the Committee on Finance in its letter of October 14, 1993. The other study concerns air pollution prevention and abatement equipment and services and will be formally instituted at a later date.

WRITTEN SUBMISSIONS: As provided for in the Commission's notice of investigation of November 24, 1993 (58 FR 62137), in lieu of or in addition to participating in the hearing, interested parties are invited to submit written statements concerning the matters to be addressed by the Commission in its report on this investigation. Commercial or financial information that a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of section § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available in the Office of the Secretary of the Commission for inspection by interested parties. To be assured of consideration by the Commission, written statements relating to the Commission's report should be submitted to the Commission at the earliest practical date and should be received no later than the close of business on September 30, 1994. All submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW. Washington, DC 20436.

Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000.

LIST OF SUBJECTS: Environmental protection, environmental technology, water supply, wastewater treatment, export promotion, air pollution.

By order of the Commission.

Issued: March 23, 1994.

Donna R. Koehnke,

Secretary.

[FR Doc. 94-7554 Filed 3-29-94; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-29,210]

Aluminum Company of America Lafayette, IN; Affirmative Determination Regarding Application for Reconsideration

On March 7, 1994, after being granted a filing extension, the company and the Aluminum, Glass and Brick Workers' Union (ABGWIU) requested administrative reconsideration of the Department's denial notice for workers at the subject firm. The Department's Negative Determination was issued on January 18, 1994 and was published in the **Federal Register** on February 14, 1994 (59 FR 6963).

The petitioners stated that the Department's survey was inadequate; that workers at two other Alcoa locations were recently certified eligible for trade adjustment assistance and that Russia was dumping aluminum on the open market.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 22nd day of March 1994.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Services, Unemployment Insurance Service.

[FR Doc. 94-7533 Filed 3-29-94; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-26,667]

Grace Drilling Co. A/K/A/ Nabors Drilling USA Inc.; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

Operating at Various Locations in the Following States

TA-W-26,667	Oklahoma City, OK
TA-W-26,667A	Oklahoma, exc Okla City
TA-W-26,667B	Arkansas
TA-W-26,667C	Dallas, TX, Corp Hdqr
TA-W-26,667D	Louisiana
TA-W-26,667E	Texas, exc Dallas
TA-W-26,667F	Mississippi
TA-W-26,667G	Florida
TA-W-26,667H	Alabama
TA-W-26,667I	New Mexico
TA-W-26,667J	Colorado

TA-W-26,667K North Dakota
TA-W-26,667L South Dakota
TA-W-26,667M California
TA-W-26,667N Alaska
TA-W-26,667O Utah
TA-W-26,667P Montana
TA-W-26,667Q Nevada
TA-W-26,667R Wyoming

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance applicable to all workers of Grace Drilling Company operating at the above mentioned localities. The certification notice was issued on February 7, 1992.

At the request of the State Agency, the Department reviewed the certification for workers of the subject firm. The investigation findings show that the Nabors Drilling USA, Inc., Houston, Texas purchased Grace Drilling Company in June 1993 and is a successor-in-interest firm.

Some of the claimants' wages are reported under a UI tax account for Nabors Drilling USA, Inc. Accordingly, the Department is amending the certification to properly reflect the correct worker group.

The amended notice applicable to TA-W-26,667 is hereby published as follows:

All workers of Grace Drilling Company, a/k/a/ Nabors Drilling USA, Inc., and operating in the various cities and States listed below and who became totally or partially separated from employment on or after April 17, 1991 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

TA-W-26,667 Oklahoma City, OK
TA-W-26,667A Oklahoma, exc Okla City
TA-W-26,667B Arkansas
TA-W-26,667C Dallas, TX, Corp Hdqr
TA-W-26,667D Louisiana
TA-W-26,667E Texas, exc Dallas
TA-W-26,667F Mississippi
TA-W-26,667G Florida
TA-W-26,667H Alabama
TA-W-26,667I New Mexico
TA-W-26,667J Colorado
TA-W-26,667K North Dakota
TA-W-26,667L South Dakota
TA-W-26,667M California
TA-W-26,667N Alaska
TA-W-26,667O Utah
TA-W-26,667P Montana
TA-W-26,667Q Nevada
TA-W-26,667R Wyoming

Signed at Washington, DC, this 22nd day of March 1994.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 94-7530 Filed 3-29-94; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-29, 101]

Heintz Corp. Philadelphia, PA Notice of Negative Determination Regarding Application for Reconsideration

By an application dated February 25, 1994, Counsel for the workers requested administrative reconsideration of the subject petition for trade adjustment assistance, TAA. The denial notice was published in the **Federal Register** on February 3, 1994 (59 FR 5212).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) if in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

Investigation findings show that the workers primarily produced aircraft engine parts. All workers were permanently laid off when the plant shutdown in June, 1993.

Counsel for the workers states that the Department did not consider the direct and indirect effects of foreign competition and the losses caused by the exportation of products by two of its customers.

The Department's denial was based on the fact that both the increased import criterion and the "contributed importantly" test of the Group Eligibility Requirements of the Trade Act were not met. The "contributed importantly" test is generally demonstrated through a survey of the workers' firm's customers and/or a survey of projects for which the workers' firm submitted unsuccessful bids.

U.S. aggregate imports of parts for turboprop and turbojet and aircraft engines declined in the 12-month period of September through August 1992-1993, as compared to the same period one year earlier.

The Department's survey of major declining customers revealed that most of the respondents did not purchase imported aircraft engine parts in 1992 or in the first six months of 1993. The survey further revealed that the few respondents which increased their import purchases in 1992 compared to 1991 did not decrease their purchases from Heintz during that period. Further, these respondents decreased their purchases of imports while increasing their purchases from other domestic firms.

The findings show that several customers commented that they would have continued business with Heintz had Heintz remained open for business.

The Department's survey of Heintz' major unsuccessful bids shows that the successful awardees were other domestic firms.

Finally, the two major customers cited by counsel were included in the Department's surveys.

Foreign competition and the exportation of products, in themselves, would not form a basis for a worker group certification. The basis for certification under the worker adjustment assistance program is increased imports of articles that are like or directly competitive with those produced at the workers' firm and which contributed importantly to worker separations and declines in production or sales.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 22nd day of March 1994.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Service, Unemployment Insurance Service.

[FR Doc. 94-7529 Filed 3-29-94; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-29.120]

ACT II, Incorporated d/b/a John Roberts Biddeford, ME; Notice of Revised Determination on Reconsideration

On March 9, 1994, the Department issued an Affirmative Determination Regarding Application for Reconsideration for the former workers of the subject firm. The notice will soon be published in the **Federal Register.**

Investigation findings show that the subject firm is a contractor which produces men's suits and sport coats and women's blazers and skirts. The fiscal year (FY) begins on June 1 and ends on May 31st. Sales and production declined in FY 92 compared to FY 91 and in the first four months of FY 93 compared to the same period in FY 92. Significant worker separations occurred in FY 93.

U.S. aggregate imports of women's and girls' skirts and women's and girls' coats and jackets increased absolutely and relative to domestic shipments in 1992 compared to 1991 and in the 12-month period ending in September 1993 compared to the same period in 1992. U.S. imports of men's and boys' suits increased absolutely and relative to domestic shipments in 1992 compared to 1991.

New findings on reconsideration show that a major manufacturer of the subject firm reduced its purchases of men's suits and women's jackets from the subject firm in 1993 and increased its import purchases.

Conclusion

After careful consideration of the new facts obtained on reconsideration, it is concluded that workers at John Roberts/Act II, Inc., in Biddeford, Maine were adversely affected by increased imports of articles that are like or directly competitive with the men's suits previously produced at the subject firm. In accordance with the provisions of the Act, I make the following revised determination for workers of John Roberts/Act II, Inc., in Biddeford, Maine.

All workers of Act II, Inc., d/b/a John Roberts in Biddeford, Maine who became totally or partially separated from employment on or after September 20, 1992 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 22d day of March 1994.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Service, Unemployment Insurance Service.

[FR Doc. 94-7527 Filed 3-29-94; 8:45 am]

BILLING CODE 4510-30-M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA-W) issued during the period of March, 1994.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-29,403; Johnson Controls, Inc., Bennington, VT

TA-W-29,440; Tirabarso Enterprises Limited, New York, NY

TA-W-29,381; Paxar Corp., Woven Label Group, Troy, PA

TA-W-29,436; ACA Lumber, Inc., Beaver, WA

TA-W-29,441; Worzalla East, Inc., Eatontown, NJ

TA-W-29,408; Cupples Paper Bag Co., Northwest Div., Clackamas, OR

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

TA-W-29,453; Berenergy Corp., Denver, CO

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-29,430; Exxon Store #6-0143, Carrolton, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-29,379; Carter Automotive Co., Inc., A Federal Mogul Co., Lafayette, TN

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-29,538; Brown Shoe Co., Piedmont, MO

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-29,551; Fisher-Price, Inc., East Aurora, NY

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-29,459; Beloit Corp., Beloit, WI

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period for certification.

TA-W-29,531; Aeronca, Inc., Middletown, OH

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period for certification.

TA-W-29,427; Tech-Aid, Oak Brook, IL

TA-W-29,427A; Tech Staff, Inc., of Illinois, Chicago, IL

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-29,472; Whitehall Robbins, Inc., Hammonton, NJ

The investigation revealed that criterion (2) and criterion (3) have not been met. Sales or production did not decline during the relevant period. Increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have not contributed importantly to the separations or threat thereof, and the absolute decline in sales or production.

TA-W-29,377; Donnelly Corp., Display Coatings Dept., Holland, MI

The investigation revealed that criterion (2) and criterion (3) have not been met. Sales or production did not decline during the relevant period. Increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have not contributed importantly to the separations or threat thereof, and the absolute decline in sales or production.

Affirmative Determinations for Worker Adjustment Assistance

TA-W-29,352; Hasbro, Inc., El Paso Operations, El Paso, TX

A certification was issued covering all workers separated on or after October 1, 1993.

TA-W-29,429; Forwest Drilling, Inc., Roosevelt, UT

A certification was issued covering all workers separated on or after December 14, 1992.

TA-W-29,464; Marilynn Management Corp., Bishopville, SC

A certification was issued covering all workers separated on or after January 26, 1993.

TA-W-29,375; General Instrument Corp., Power Semi Conductor Div., Hicksville, NY

A certification was issued covering all workers separated on or after December 11, 1992.

TA-W-29,369; Wells Manufacturing Corp., Fond Du Lac, WI

A certification was issued covering all workers separated on or after December 16, 1992.

TA-W-29,498, TA-W-29,499; Brown Shoe Co., Charleston, MO and Caruthersville, MO

A certification was issued covering all workers separated on or after November 4, 1993.

TA-W-29,481; Brown Shoe Co., Mountain Grove, MO

A certification was issued covering all workers separated on or after January 24, 1993.

TA-W-29,497; Brown Shoe Co., Selmer, TN

A certification was issued covering all workers separated on or after January 28, 1993.

TA-W-29,493; Andy Fashion, Pittston, PA

TA-W-29,514; Downing Garment, Plymouth, PA

TA-W-29,515; Glen Lyon Garment, Glen Lyon, PA

A certification was issued covering all workers separated on or after February 4, 1993.

TA-W-29,516; Kingston Fashion, Kingston, PA

TA-W-29,517; Pittston Fashion, Pittston, PA

TA-W-29,518; Throop Fashion, Throop, PA

A certification was issued covering all workers separated on or after February 4, 1993.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182) concerning transitional adjustment assistance hereinafter called (NAFTA-TAA) and in accordance with section 250(a) Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA-TAA issued during the month of February, 1994.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA-TAA the following group eligibility requirements of section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated form employment and either—

(A) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(B) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased.

(C) That the increase in imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(2) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA-TAA

NAFTA-TAA-00023; Bonis Sportswear, Tampa, FL

The investigation revealed that criteria (3) and criteria (4) were not met. There was no shift in production of shorts, pants or skirts from the workers' firm to Canada or Mexico.

Imports from Mexico and Canada did not contribute importantly to worker layoffs at Bonis Sportswear. Layoffs occurred as a result of the subject plant closing and the company shifting its production to Honduras, Guatemala and El Salvador.

Further, an investigation is being immediately instituted for trade adjustment assistance under section 223 of the Trade Act. The number assigned to this investigation is TA-W-29,647.

NAFTA-TAA-00022; Litton Systems, Inc., Clifton Precision, Clifton Heights, PA

The investigation revealed that criteria (3) and criteria (4) were not met. There was no shift of production to Canada or Mexico from the subject plant.

The investigation revealed that all production activities conducted at Litton Systems, Inc., Clifton Precision in Clifton Heights, PA ceased in August 1993 and were shifted to other domestic facilities owned by Litton Systems, Inc. The majority of layoffs associated with the cessation of production occurred prior to December 8, 1993, the earliest reachback date under the NAFTA-TAA program. In addition, an investigation is in process for trade adjustment assistance under Section 221 of the Trade Act. The number assigned to this investigation is TA-W-29,548.

Affirmative Determination NAFTA-TAA

NAFTA-TAA-00025; D&R Cedar Products, Inc., Forks, WA

A certification was issued covering all workers separated on or after December 8, 1993.

NAFTA-TAA-00024; Praxair, Inc., Linde Division, Tonawanda, NY

A certification was issued covering all workers separated on or after December 8, 1993.

NAFTA-TAA-00050; Eaton Corp., Arden, NC

A certification was issued covering all workers separated on or after December 8, 1993.

NAFTA-TAA-00018; Kemet Electronics, Mauldin Plant, Greenville, SC, Phillips Staffing, Greenville, SC

A certification was issued covering all workers of Phillips Staffing, Greenville, SC who were engaged in employment related to final assembly operations at Kemet Electronics, Mauldin Plant, Greenville, SC separated on or after December 8, 1993 and before May 31, 1994.

I hereby certify that the aforementioned determinations were issued during the month of March, 1994. Copies of these determinations are available for inspection in room C-4318, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons to write to the above address.

Dated March 23, 1994.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 94-7531 Filed 3-29-94; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-29,253]

Plains Petroleum Operating Co. Lakewood, CO; Revised Determination on Reconsideration

On March 7, 1994, the Department issued an Affirmative Determination Regarding Application for Reconsideration for workers and former workers of the subject firm in Lakewood, Colorado. This notice will soon be published in the **Federal Register**.

Investigation findings show that Lakewood is the central office of the Plains Operating Company which has district offices in Midland, Texas; Larkin, Kansas and Gillette, Wyoming.

The findings show significant worker separations in 1992 and 1993.

Findings on reconsideration show that a substantial portion of Plains Operating Company's revenues come from crude oil. Other findings show that a substantial portion of the Lakewood staff provide support for the activities at Midland, Texas which experienced a decline in its crude oil revenues. The workers at Midland, Texas were certified for trade adjustment assistance on December 27, 1993 under petition TA–W–28,968. Midland's revenues accounted for a substantial portion of Lakewood's total revenues in 1993.

Conclusion

After careful review of the additional facts obtained on reconsideration, it is concluded that increased imports of articles like or directly competitive with crude oil produced at the Plains Petroleum Operating Company in Midland, Texas contributed importantly to the decline in sales or production and to the total or partial separation of workers at the Lakewood, Colorado facility of Plains Petroleum Operating Company. In accordance with the provisions of the Trade Act of 1974, I make the following revised determination:

All workers of Plains Petroleum Operating Company in Lakewood, Colorado who became totally or partially separated from employment on or after November 8, 1992 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 22nd day of March 1994.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Services, Unemployment Insurance Service.

[FR Doc. 94–7528 Filed 3–29–94; 8:45 am]

BILLING CODE 4510–30–M

Job Training Partnership Act: Native American Employment and Training Council; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, and section 401(h)(1) of the Job Training Partnership Act, as amended (29 U.S.C. 1671(h)(1), notice is hereby given of meeting of the Native American Employment and Training Council.

Time and Date: The meeting will begin at 9 a.m. on April 18, 1994, and continue until close of business that day; and will reconvene on April 19, 1994, and adjourn at close of business that day. From 10 a.m. to noon on April 19 will be reserved for participation and presentations by members of the public.

Place: Cotillion Ballroom, Quality Hotel-Four Seasons, 2500 Carlisle Northeast, Albuquerque New Mexico 87110.

Status: The meeting will be open to the public. Disabled individuals should contact Mr. Atkinson if special accommodations are needed.

Matters To Be Considered: The agenda will focus on the following topics:

(1) Review of proposed revision of the Section 401 regulations developed jointly by the Council's regulations work group and the Department of Labor to address mandatory changes;

(2) New reporting plans and present requirements;

(3) Status of staffing actions within the Division of Indian and Native American Programs;

(4) Technical assistance and training;

(5) Planned evaluation of the section 401 program; and

(6) Status of nominations for expiring appointments to the Council.

Contact Person For More Information: Charles L. Atkinson, Acting Chief, Division of Indian and Native American Programs, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., room N–4641, Washington, DC 20210. Telephone: 202–219–5904 (this is not a toll-free number).

Signed at Washington, DC, this 24th day of March, 1994.

Doug Ross,

Assistant Secretary of Labor.

[FR Doc. 94–7526 Filed 3–29–94; 8:45 am]

BILLING CODE 4510–30–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: David C. Fisher, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606–8282.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) trade secrets and commercial or financial information obtained from a person and privileged or confidential; or (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated July 19, 1993, I have determined that these meetings will be closed to the public pursuant to subsections (c) (4), and (6) of section 552b of Title 5, United States Code.

1. *Date:* April 18–19, 1994.
   Time: 8:30 a.m. to 5 p.m.
   Room: 716.
   Program: This meeting will review applications submitted to Humanities Projects in Media programs during the March 1994 deadline, submitted to the Division of Public Programs, for projects beginning after June 1, 1994.
2. *Date:* April 19, 1994.
   Time: 9 a.m. to 5 p.m.
   Room: 315.
   Program: This meeting will review applications submitted to Elementary and Secondary Education, submitted to the Division of Education Programs, for projects beginning after September 1, 1994.
3. *Date:* April 21, 1994.
   Time: 9 a.m. to 5 p.m.
   Room: 315.
   Program: This meeting will review applications submitted to Elementary and Secondary Education, submitted to the Division of Education Programs, for projects beginning after September 1, 1994.
4. *Date:* April 25–26, 1994.
   Time: 8:30 a.m. to 5 p.m.
   Room: 716.
   Program: This meeting will review applications submitted to Humanities Projects in Media program during the March 11, 1994 deadline, submitted to the Division of Public Programs, for projects beginning after June, 1994.
5. *Date:* April 28, 1994.
   Time: 9 a.m. to 5 p.m.
   Room: 315.
   Program: This meeting will review applications for Special Opportunity in Foreign Language Education, submitted to the Division of Education Programs, for projects beginning after September 1, 1994.

David Fisher,

Advisory Committee, Management Officer

[FR Doc. 94–7542 Filed 3–29–94; 8:45 am]

BILLING CODE 7536–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Biochemistry and Molecular Structure and Function; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting: Advisory Panel for Biochemistry and Molecular Structure and Function—Panel B.

Name: Advisory Panel for Biochemistry and Molecular Structure and Function.

Date and Time: Monday, Tuesday, and Wednesday, April 18, 19, & 20, 1994, 8:30 a.m. to 6 p.m.

Place: The National Science Foundation, 4201 Wilson Boulevard, room 340, Arlington, Virginia 22230.

Type of Meeting: Part-Open.

Contact Persons: Dr. Kamal Shukla and Dr. Jack Horowitz, Program Directors for Molecular Biophysics, room 655, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

Purpose of Meeting: To provide advice and recommendations concerning research proposals submitted to the Molecular Biophysics Program of the Division of Molecular and Cellular Biosciences at NSF for financial support.

Agenda

Open Session April 18, 1994—12–1:30 p.m. April 19, 1994—12–2 p.m. Discussion of the program's goals and assessments.

Closed Session: April 18, 1994—8:30 a.m.–12 p.m., 1:30–6 p.m. April 19, 1994—8:30 a.m.–12 p.m., 2–6 p.m. April 20, 1994—Closed.

To review and evaluate research proposals submitted to the Molecular Biophysics Program as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 24, 1994.

M. Rebecca Wrinkler,

Committee Management Officer.

[FR Doc. 94–7417 Filed 3–29–94; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Biochemistry and Molecular Structure and Function; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting of the Advisory Panel for Biochemistry and Molecular Structure and Function in the Division of Molecular and Cellular Biosciences.

Name: Advisory Panel for Biochemistry and Molecular Structure and Function.

Date and Time: Thursday, Friday and Saturday, April 28, 29, and 30, 1994, 8:30 a.m. to 5 p.m.

Place: Holiday Inn-Fisherman's Wharf, 1300 Columbus Avenue, San Francisco, CA 94133.

Type of Meeting: Part-Open.

Contact Persons: Dr. Marcia Steinberg, Dr. Jack Horowitz, Dr. Gary Cecchini, Program Directors, Molecular Biochemistry, Division of Molecular and Cellular Biosciences, room 655, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230.

Purpose of Meeting: To provide advice and recommendations concerning research proposals submitted to the Molecular Biochemistry Program of the Division of Molecular and Cellular Biosciences at NSF for financial support.

Agenda

Open session: April 29, 1994, 12 to 2 p.m. Discussion of the program's goals and assessments.

Closed session: April 28, 1994—8:30 a.m. to 5 p.m. April 29, 1994—8:30 a.m. to 12 p.m. and 2 to 5 p.m. April 30, 1994—8:30 a.m. to 12 p.m.

To review and evaluate molecular biochemistry proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 24, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–7419 Filed 3–29–94; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Biological Sciences; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Biological Sciences.

Date and Time: April 19 & 20, 1994.

Place: National Science Foundation, 4201 Wilson Boulevard, room 330, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. James T. Callahan, Division of Environmental Biology, room 635, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1483.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Land Margin Ecosystems Research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 24, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–7421 Filed 3–29–94; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Biological Sciences (BIO); Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Biological Sciences.

Date and Time: April 17, 1994 (Sunday), 9 a.m.–5 p.m. April 18, 1994, (Monday), 9 a.m.–5p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230, Room 375

Type of Meeting: Open.

Contact Person: Dr. Mary E. Clutter, Assistant Director, Biological Sciences, room 605, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230 Tel No.: (703) 306–1400.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: The Advisory Committee for BIO provides advice, recommendations, and oversight concerning major program emphases, directions, and goals for the research-related activities of the divisions that make up BIO.

Agenda: Strategic planning discussion, including science opportunities assessment, and priority setting.

Dated: March 24, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–7422 Filed 3–29–94; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Biological Sciences; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Biological Sciences.

Date and Time: April 18 & 19, 1994.

Place: National Science Foundation, 4201 Wilson Boulevard, room 310, Arlington, VA 22230.

Type of Meeting: Part Open.

Contact Person: Dr. James R. Estes, Division of Environmental Biology, room 635, National Science Foundation, 4201

Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1483.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: Open session: Tuesday, April 19, 1994, 12 noon to 1:30 p.m. To discuss Long-Term Projects in Environmental Biology Cluster mission and goals.

Closed Session: Monday, April 18, 1994, 8 a.m.–5 p.m., Tuesday April 19, 1994, 8 a.m.–12 noon and 1:30 p.m.–5 p.m. To review and evaluate Research Collections in Systematics and Ecology proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 24, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–7428 Filed 3–29–94; 8:45 am]

BILLING CODE 7555–01–M

Cell Biology Advisory Panel; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 643, as amended), the National Science Foundation announces the following meeting.

Name: Advisory Panel for Cell Biology.

Date and Time: April 25–27, 1994, 8:30 a.m. to 6 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Arlington, Virginia 22230, Conference Room 340.

Type of Meeting: Part-Open.

Closed: April 25, 26, 27, 1994, 8:30 a.m. to 6 p.m. Except:

Open: April 26, 1994, 12 p.m. to 2 p.m. in Conference Room 630.

Contact Persons: Dr. Maryanna Henkart or Dr. Geza Hrazdina, Cell Biology Program Directors, National Science Foundation room 655 South-Arlington, Virginia 22230, Telephone: (703) 306–1442.

Purpose of Advisory Panel: To provide advice and recommendations concerning support for research in Cell Biology.

Agenda: Open: General discussion of the goals of the Cell Biology Program and approaches to assess progress towards those goals.

Closed: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information; concerning individuals associated with the proposals. These matters are with exemptions (4) and (6) of 5 U.S.C. 522(c), Government in the Sunshine Act.

Dated: March 24, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–7442 Filed 3–29–94; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Chemical and Thermal Systems; Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

Name: Special Emphasis Panel in Chemical and Thermal Systems.

Date and Time: April 25, 1993; 8:30 a.m. to 5 p.m.

Place: NSF, room 380, 4201 Wilson Blvd., Arlington, VA.

Agenda: Review and Evaluate nominations for the NSF Research Initiation Awards Programs.

Contact Person: Dr. Milton Linevsky, Program Director, (703) 306–1371.

Purpose of Meeting: To provide advice and recommendation to the Division of Chemical and Thermal Systems concerning proposals submitted to the Division for financial support.

Type of Meeting: Closed.

Reason for Closing: The nominations and proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the nominations and proposals. These matters are exempt under 5 USC 552b(c)(4) and (6) of the Government in the Sunshine Act.

Dated: March 24, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–7440 Filed 3–29–94; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Cognitive, Psychological & Language Sciences; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting for the Advisory Panel for Cognitive, Psychological & Language Sciences (No. 1758).

Date and time: April 27–29, 1994; 9 a.m–6 p.m.

Place: National Science Foundation, Stafford Place, 4201 Wilson Boulevard, room 380, Arlington, VA 22230.

Type of Meeting:

art-Open.

Contact Person: Dr. Paul G. Chapin, Program Director for Linguistics, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1731.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: Open session: April 29, 1994; 9 a.m.–12 p.m. To discuss trends and opportunities in the area of linguistics and NSF policies practices.

Closed Session: April 27–28, 1994, 9 a.m.–6 p.m. and April 29, 1994, 12 p.m.–6 p.m. To review and evaluate linguistics proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: March 24, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–7429 Filed 3–29–94; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Developmental Mechanisms; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Advisory Panel for Developmental Mechanisms.

Date and Time: April 20–22, 1994, 8:30 a.m. to 5 p.m.,

Place: Room 680, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

Type of Meeting: Closed.

Contact Person: Dr. Ralph Hecht, Program Director, Developmental Mechanisms, room 685, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230. Telephone: (703) 306–1417.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Developmental Mechanism proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 24, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–7427 Filed 3–29–94; 8:45 am]

BILLING CODE 7555–01–M

DOE/NSF Nuclear Science Advisory Committee; Meeting

Name: DOE/NSF Nuclear Science Advisory Committee.

Date and Time: April 19, 1994 from 8:30 a.m. to 1 p.m.

Place: Department of Energy, Forrestall Building, room 1E-245, 1000 Independence Ave., SW., Washington, DC 20585.

Type of Meeting: Open.

Contact Person: John W. Lightbody, Program Director for Nuclear Physics, National Science Foundation, 4201 Wilson Blvd, Arlington, VA 22230. Telephone: (703) 306-1890.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To advise the National Science Foundation and the Department of Energy on scientific priorities within the field of basic nuclear science research.

Agenda: Presentation of NSAC Subcommittee Report on Assessment and Planning for the DOE Nuclear Physics Program (W. Henning); (*) Discussion and recommendations regarding the Charge to NSAC (*) Public Comments. (*) Persons wishing to speak should make arrangements through the Contact Person identified above.

Dated: March 24, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94-7423 Filed 3-29-94; 8:45 am]

BILLING CODE 7555-01-M

Special Emphasis Panel in Electrical and Communications Systems; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Electrical and Communications Systems.

Date and Time: April 27-28, 1994; 8:30 a.m. to 5 p.m.

Place: Room 580, NSF, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Persons: Dr. Deborah Crawford, Program Director, Solid State and Microstructures, and Dr. Linton Salmon, Program Director, Microelectromechnical, Division of Electrical and Communications Systems, NSF, 4201 Wilson Boulevard, room 675, Arlington, VA 22230, Telephone: (703) 306-1339.

Purpose: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Research Initiation and Research Equipment Proposals as part of part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions 4 and 6 of 5 U.S.C. 552b. (c) (4) and (6) the Government in the Sunshine Act.

Dated: March 24, 1994.

M. Rebecca Winkler,

Committee Management Office.

[FR Doc. 94-7443 Filed 3-29-94; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Genetics & Nucleic Acids; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Panel for Genetics & Nucleic Acids.

Date and Time: April 25-26; 1994 from 8 a.m. to 5 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., room 310, Arlington, VA 22230.

Type of Meeting: Part-Open.

Contact Person: Dr. Jerry Johnson, Program Director for Genetics, Division of Molecular and Cellular Biosciences, room 655, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 306-1439.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: Open Session: April 26, 1994—8 a.m. to 9 a.m. Discussion of the program's goals and assessments.

Closed Session: April 25, 1994—8 a.m. to 5 p.m. April 26, 1994—9 a.m. to 5 p.m. To review and evaluate proposals submitted to the Genetics Program in the Division of Molecular & Cellular Biosciences at NSF as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: March 24, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94-7420 Filed 3-29-94; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Genetics & Nucleic Acids; of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting.

Name: Advisory Panel for Genetics & Nucleic Acids.

Date and Time: Thursday April 28, thru Saturday April 30, 1994, at 8:30 a.m. to 5 p.m.

Place: 4201 Wilson Blvd., Arlington, VA, room 370.

Type of Meeting: Closed, except for an open discussion of the program's goals and assessments to be held from 12 to 2 p.m. on Friday, April 28.

Contact Person: Philip Harriman, Program Director for Genetics, Division of Molecular and Cellular Biosciences, room 655, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 306-1441.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals submitted to the Genetics Program in the Division of Molecular & Cellular Biosciences at NSF as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 24, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94-7418 Filed 3-29-94; 8:45 am]

BILLING CODE 7555-01-M

Special Emphasis Panel in Human Resource Development (HRD); Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting.

Name and Committee Code: Special Emphasis Panel In Human Resource Development.

Date and Time: April 21-22, 1994; 8:30 a.m.-4:30 p.m.

Place: Room 370; National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Rodolfo Tamez; Program Director, RIMI; Human Resource Development (HRD); room 815, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306-1634.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Research Improvement In Minority Institutions (RIMI) proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 24, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–7425 Filed 3–29–94; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Mathematical Sciences; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463), as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Mathematical Sciences (1205).

Date and Time: April 25, 1994; 8:30 a.m. til 5 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, room 1020.

Type of Meeting: Closed.

Contact Person: Dr. Lloyd E. Douglas, Program Director, Division of Mathematical Sciences, room 1025, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1874.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Regional Institutes in the Mathematical Sciences (RIMS) proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 24, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–7437 Filed 3–29–94; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Mathematical Sciences; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Mathematical Sciences (1204).

Date and Time: April 18–19, 1994 8:30 a.m. to 5 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, room 370.

Type of Meeting: Closed.

Contact Person: Dr. Alvin I. Thaler, Program Director, Division of Mathematical Sciences, room 1025, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1880.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Grants for Scientific Computing Research Environments for the Mathematical Sciences proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 24, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–7433 Filed 3–29–94; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Mathematical Sciences; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Mathematical Science.

Date and Time: April 21–22, 1994, 8:30 a.m. to 5 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, room 360.

Type of Meeting: Closed.

Contact Person: Drs. Alan Izenman and Michael Steuerwalt, Program Director, Division of Mathematical Sciences, room 1025, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 306–1884 (Dr. Izenman) and (703) 306–1878 (Dr. Steuerwalt).

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate National Science Foundation's Young Investigator Award proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in The Sunshine Act.

Dated: March 24, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–7434 Filed 3–29–94; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Neuroscience; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Advisory Panel for Neuroscience.

Date and Time: April 19 & 20, 1994; 8 a.m.–5 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, room 320, Arlington, VA.

Type of Meeting: Part-Open.

Contact Person: Dr. Christopher Comer, Program Director, Division of Integrative Biology and Neuroscience, room 685, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1416.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: Closed session April 19, 1994; 9–5 and April 20, 1994; except where noted below. To review and evaluate Behavioral and Computational Neuroscience proposals as part of the selection process for awards.

Open Session: April 20, 1994, 10 a.m.–11:30 a.m.; To discuss research trends and opportunities in Behavioral and Computational Neuroscience.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 24, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–7431 Filed 3–29–94; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Physics; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Physics.

Date and Time: April 15, 1994; 8:30 a.m.–4:30 p.m.

Place: Rm. 1020, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Rolf M. Sinclair, Program Director for Special Programs, Division of Physics, room 1015, National Science Foundation. Telephone: (703) 306–1890.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Physics NYI proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 24, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–7424 Filed 3–29–94; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Physiology and Behavior; Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Panel for Physiology and Behavior.

Date and Time: April 21–22, 1994.

Place: National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22203.

Type of Meeting: Part-Open.

Contact Person: Dr. Elvira Doman and Dr. Barbara Zain, Program Directors, Integrative Animal Biology, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22203, room 321, (703) 306–1421.

Minutes: May be obtained from the contact persons listed above.

Purpose of Meeting: To provide advice and recommendation concerning proposals submitted to the NSF for financial support.

Agenda: To review and evaluate Integrative Animal Biology as part of the selection process for awards. Closed Session—Thursday, April 21, 1994, 8:30 a.m. to 12:30 p.m., 1:30 p.m. to 6 p.m. and April 22, 1994, 8:30 a.m. to 3 p.m. Open Session—Thursday, April 21, 1994, 12:30 p.m. to 1:30 p.m. Purpose: Seminar by Dr. Klaus Beyenbach of Cornell University, on research he carried out this year.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 24, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–7435 Filed 3–29–94; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Physiology and Behavior; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Advisory Panel for Physiology and Behavior

Date and Time: April 25 and 26, 1994, 8:30 a.m. to 5 p.m.

Place: Room 390, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA.

Type of Meeting: Part-Open.

Contact Person: Dr. Machi F. Dilworth, Program Director, Integrative Plant Biology, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1422.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Integrative Plant Biology Proposals as part of the selection process for awards.

Open Session: April 26, 1994, noon to 1 p.m.—To discuss research trends and opportunities in Integrative Plant Biology.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 24, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–7426 Filed 3–29–94; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Research, Evaluation and Dissemination; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Research, Evaluation and Dissemination.

Date and Time: April 19, 1994, 8:30 a.m. to 5 p.m. April 20, 1994; 8:30 a.m. to 5 p.m.

Place: Holiday Inn, 4601 North Fairfax Drive, Arlington, VA 22203.

Type of Meeting: Closed.

Contact Person: Dr. Andrew Molnar, Program Director, 4201 Wilson Boulevard, room 855, Arlington, VA 22230. Telephone (703) 306–1651.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals and provide advice and recommendations as part of the selection process for proposals submitted to the Applications of Advanced Technology Program.

Reason for Closing: Because the proposals reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with proposals, the meetings are closed to the public. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Dated: March 24, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–7436 Filed 3–29–94; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Science Resources Studies; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

Name: Special Emphasis Panel in Science Resources Studies #1211.

Date and Time: April 18, 1994, 9 a.m. to 3 p.m.

Place: NSF, room 380, 4201 Wilson Blvd., Arlington, VA.

Contact: Ann Lanier, Project Director for the Survey of Academic Research Facilities, National Science Foundation, suite 965/ Telephone: (703) 306–1774, 4201 Wilson Blvd., Arlington, VA 22230.

Type of Meeting: Closed.

Purpose of Meeting: To review and comment on the content, structure, and layout of the Congressional report, Scientific and Engineering Research Facilities at Universities and College: 1994 and NIH report, The Status of Biomedical Research Facilities: 1994.

Agenda: Review discussions of the congressionally mandated report.

Reason for Closing: The discussion could disclose data from individual institutions that is privileged or confidential. These matters are within exemptions (4) of 5 U.S.C. 552b(c) of the Government in the Sunshine Act.

Dated: March 24, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–7441 Filed 3–29–94; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Social and Political Science; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Panel for Social and Political Sciences (#1761).

Date and Time: April 21–22, 1994, 9 a.m. to 5 p.m.

Place: Room 970, 4201 Wilson Boulevard, Arlington, VA.

Type of Meeting: Closed.

Contact Persons: Susan White and Patricia White, Program Directors, Division of Social, Behavioral, and Economic Research, room

980, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1760.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate the law and social science proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed included information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 24, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–7430 Filed 3–29–94; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Social and Political Sciences; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Panel for Social and Political Sciences (#1761).

Date and Time: April 25–26, 1994; 8:30 a.m. to 5 p.m.

Place: Room 330 and 380, 4201 Wilson Boulevard, Arlington, VA.

Type of Meeting: Closed.

Contact Person: William Bainbridge and Martin Whyte, Program Directors, Division of Social, Behavioral, and Economic Research, Room 980 National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1760.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate the Sociology proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed included information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 24, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–7439 Filed 3–29–94; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Social and Political Sciences; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Panel for Social and Political Science (1761).

Date and Time: April 25–26, 1994; 9 a.m. to 5 p.m.

Place: Room 320, 4201 Wilson Boulevard, Arlington, VA.

Type of Meeting: Closed.

Contact Person: Frank Scioli, Program Director, Division of Social, Behavioral, and Economic Research, room 980 National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1760.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate the political science proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed included information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 24, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–7438 Filed 3–29–94; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel for Social, Behavioral, and Economic Research; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel for Social, Behavioral, and Economic Research.

Date and Time: April 21–22, 1994 9 a.m.–5 p.m. each day.

Place: Room 320, 4201 Wilson Boulevard Arlington, VA.

Type of Meeting: Closed.

Contact Person: Bonney H. Sheahan, Program Manager for Cross-Disciplinary Activities in the Division of Social, Behavioral, and Economic Research, room 995, National Science Foundation, 4201 Wilson Boulevard Arlington, VA 22230 (703) 306–1733.

Purpose of Meeting: To provide advice and recommendations concerning nominations submitted to NSF for financial support.

Agenda: To review and evaluate NSF Young Investigator Awards nominations as part of the selection process for awards.

Reason for Closing: The nominations being reviewed include information of a proprietary or confidential nature, including personal information concerning individuals associated with the nominations. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 24, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–7432 Filed 3–29–94; 8:45 am]

BILLING CODE 7555–01–M

UNITED STATES NUCLEAR REGULATORY COMMISSION

Biweekly Notice Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law 97-415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from March 7, 1994, through March 18, 1994. The last biweekly notice was published on March 16, 1994.

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By April 29, 1994, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington DC 20555, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 248-5100 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to **(Project Director)**: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests

for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room for the particular facility involved.

Arizona Public Service Company, et al., Docket Nos. STN 50-528, STN 50-529, and STN 50-530, Palo Verde Nuclear Generating Station, Unit Nos. 1, 2, and 3, Maricopa County, Arizona

Date of amendment requests: February 18, 1994

Description of amendment request: The proposed amendment would modify Technical Specification (TS) Figure 3.2-1, "REACTOR COOLANT COLD LEG vs CORE POWER LEVEL," of TS 3/4.2.6, "REACTOR COOLANT COLD LEG TEMPERATURE," for Units 1 and 3 to include the cold leg temperature between 552°F and 562°F at core power levels between 90 percent and 100 percent within the AREA OF ACCEPTABLE OPERATION. Also, the proposed amendment would modify TS 3/4.1.1.4, "MINIMUM TEMPERATURE FOR CRITICALITY," and BASES 3/4.1.1.4, "MINIMUM TEMPERATURE FOR CRITICALITY," for all units to allow the minimum temperature for criticality to be established at 545°F, rather than the current value of 552°F, to establish the surveillance temperature at 552°F, rather than the current 557°F, and to clarify the BASES for this TS.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensees have provided their analysis about the issue of no significant hazards consideration, which is presented below:

Standard 1 -- Involve a significant increase in the probability or consequences of an accident previously evaluated.

This amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated. The analyses performed confirmed that the existing safety analysis for cycle 5 of all three PVNGS [Palo Verde Nuclear Generating Station] units remains valid for a 10°F reduction in RCS [reactor coolant system] temperature.

Standard 2 -- Create the possibility of a new or different kind of accident from any accident previously evaluated.

This amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. The analyses performed demonstrated that the current licensing basis analyses results remain valid with a 10°F reduction in RCS [reactor coolant system] temperature, and that the safety system settings remain unchanged.

Standard 3 -- Involve a significant reduction in a margin of safety.

This amendment request will not involve a significant reduction in a margin of safety. There is no reduction in the margin of safety since the changes apply only to the reactor coolant cold leg temperature and the minimum temperature for criticality, the safety analyses have been reevaluated (and reperformed where necessary) using the new temperature, and the results remain valid. All other safety limits and safety system settings remain unchanged. Therefore, there is no reduction in any margin of safety.

The NRC staff has reviewed the licensees' analysis and, based on that review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Phoenix Public Library, 12 East McDowell Road, Phoenix, Arizona 85004

Attorney for licensees: Nancy C. Loftin, Esq., Corporate Secretary and Counsel, Arizona Public Service Company, P.O. Box 53999, Mail Station 9068, Phoenix, Arizona 85072-3999

NRC Project Director: Theodore R. Quay

Carolina Power & Light Company, et al., Docket No. 50-400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of amendment request: February 4, 1994

Description of amendment request: The proposed amendment revises the Action Statement of Technical Specification 3.6.5, Vacuum Relief System, to require that in Modes 1-4 with one vacuum relief system inoperable the system be restored to operable status within seventy-two hours or be in at least hot standby within the next six hours.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment does not physically alter the plant in any manner. The proposed amendment does not introduce any new equipment nor does it require any existing equipment or systems to perform a different type of function than they are currently designed to perform. The proposed amendment to Technical Specification 3.6.5 allows additional time to restore an inoperable containment vacuum relief system to operable status. Changing the completion time to seventy-two hours remainsquite conservative for this non-ESF system since a seventy-two hour restoration time is specified for two-train ESF systems which mitigate Final Safety Analysis Report (FSAR) Chapter 15 accidents. The CVRS [containment vacuum relief system] is designed to protect the structural integrity of containment during an inadvertent actuation of the containment spray system, which is not an FSAR Chapter 15 accident. Therefore, there would be no increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed amendment does not introduce any new equipment nor does it require any existing equipment or systems to perform a different type of function than they are currently designed to perform. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed amendment does not involve a significant reduction in the margin of safety.

The proposed amendment to Technical Specification 3.6.5 allows additional time to restore an inoperable containment vacuum relief system to operable status. Changing the completion time to seventy-two hours remains conservative since a seventy-two hour restoration time is specified for two-train ESF systems which mitigate FSAR' Chapter 15 accidents. The CVRS is designed to protect the structural integrity of containment during an inadvertent actuation of the containment spray system, which is not an FSAR Chapter 15 accident. Therefore, the proposed changes do not involve a significant reduction in a margin of safety as defined in the Technical Specifications of FSAR.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Cameron Village Regional

Library, 1930 Clark Avenue, Raleigh, North Carolina 27605.

Attorney for licensee: R. E. Jones, General Counsel, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602

NRC Project Director: S. Singh Bajwa

Duke Power Company, Docket Nos. 50-269, 50-270 and 50-287, Oconee Nuclear Station, Units 1, 2 and 3, Oconee County, South Carolina

Date of amendment request: February 24, 1994

Description of amendment request: The proposed amendments would provide surveillance requirements for a planned modification to the Keowee emergency power generators' underground power path breaker closing logic. The planned modification would provide an automatic close feature for the underground path breakers under certain specified conditions. The modification is needed to correct a design deficiency which resulted in a single failure vulnerability when both Keowee units are in their normal alignment. The single failure vulnerability is being prevented by means of administrative controls pending implementation of a permanent corrective action. The proposed amendments would add an annual operability test to Technical Specification 4.6, Emergency Power Periodic Testing, of the automatic close feature.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated:

The Keowee Hydro units provide the main source of emergency power for the Oconee Nuclear units, but they are not accident initiators. The FSAR [Final Safety Analysis Report] Loss of Electric Power Accident assumes two types of events: (1) Loss of load (unit trip) and (2) Loss of all system and station power. The changes performed by the modification that added the automatic closure circuitry do not increase the likelihood of either. Also, the modifications to the Keowee operating logic will not adversely affect the ability to mitigate LOOP [Loss of Offsite Power], LOCA [Loss of Coolant Accident], and LOCA/LOOP accidents as described in the FSAR. The loss of all station power accident analysis assumptions are still valid. This modification has no adverse impact on the ability of the Keowee Units to satisfy their design requirements to achieving rated speed and voltage within 23 seconds of receipt of an emergency start signal.

The surveillance change that is included in [the] amendment request is provided to assure the availability of the electrical power systems for mitigation of Design Basis Accidents (DBAs). As described within the technical justification [from the licensee's application], the Keowee breaker circuitry was modified to allow the Keowee Unit that is aligned to the overhead power path to automatically close to the underground power path if the postulated fault occurs. The surveillance change is an additional restriction not presently included in the Technical Specifications. [The] amendment will ensure the operability of the Keowee Unit ACB [Air Circuit Breaker] automatic close feature and will assure that proper testing requirements are maintained.

Based on the above and the technical justification provided in [the amendment application], there is no significant increase in the probability of a DBA as a result of this change, nor is there a significant increase in the consequences of a DBA as a result of this change since the proposed amendment assures the availability of the electrical power system.

(2) Create the possibility of a new or different kind of accident from any kind of accident previously evaluated:

The proposed change makes physical changes to the plant configuration. However, the modification simply changes the Keowee control logic to remove the possibility of a certain postulated failure from causing a loss of emergency power to the Oconee nuclear units. The Keowee emergency power systems will remain operable and available to mitigate accidents. Operation of ONS [Oconee Nuclear Station] in accordance with [the] Technical Specifications will not create any failure modes not bounded by previously evaluated accidents. Consequently, this change will not create the possibility of a new or different kind of accident from any kind of accident previously evaluated.

(3) Involve a significant reduction in a margin of safety:

Margins of safety associated with [the] Technical Specifications have been evaluated. No safety or design limits are adversely affected, so margins of safety as defined in the bases to any Technical Specifications are not reduced as a result of the Keowee modification. The design basis of the auxiliary electrical system is to supply the required ES [Engineered Safeguards] loads of one Unit and safe shutdown loads of the other two units. The Technical Specification amendment includes an additional surveillance restriction not presently included in the Technical Specifications. The proposed amendment assures the continued availability of the electrical power systems; thus preserving the existing margin of safety. Therefore, there will be no significant reduction in any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina 29691

Attorney for licensee: J. Michael McGarry, III, Winston and Strawn, 1200 17th Street, NW., Washington, DC 20036

NRC Project Director: David B. Matthews, Director

Entergy Operations Inc., Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: September 7, 1993, as supplemented February 8, 1994

Description of amendment request: The proposed amendment would revise the Physical Security Plan (PSP).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below.

The accident mitigation features of the plant are not affected by the proposed compensatory measures for protecting the site during periods when security systems are degraded and therefore no decrease occurs in the effectiveness of the security program to protect against radiological sabotage or increased risk to the public health and safety. This is due to continued compliance with existing regulatory requirements and other commitments within the security plan. These changes have no impact on the design basis security threat and accordingly do not create the possibility of a new or different kind of accident. New systems, modes of equipment operation, failure modes or other plan situations are not introduced by these changes. The proposed changes allow flexibility for the use of compensatory measures and do not change any safety limits, LCOs, or surveillance requirements on equipment to operate the plant.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122

Attorney for licensee: N.S. Reynolds, Esq., Winston & Strawn 1400 L Street N.W., Washington, D.C. 20005-3502

NRC Project Director: William D. Beckner

Entergy Operations Inc., Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: February 14, 1994

Description of amendment request: The proposed amendment would revise the Technical Specifications (TSs) to reflect changes that have been made to 10 CFR Part 20 AND 10 CFR 50.36a.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed revisions to the liquid and gaseous concentration release rate limits will not involve a significant increase in the probability or consequences of an accident previously evaluated because there will be no change in the types and amounts of effluents that will be released, nor will there be an increase in individual or cumulative occupational radiation exposures.

The administrative changes for definitions, terminology, paragraph references, and record keeping requirements are necessary so that the Waterford 3 Technical Specifications will remain consistent with the revised federal regulations (i.e., 10CFR20 and 10CFR50.36a). Record retention and reporting requirements will continue to meet NRC regulations. These changes are administrative in nature and do not affect plant hardware or operation.

Restricting access to high radiation areas via guards rather than locked doors provides operational flexibility while continuing to meet the underlying intent of precluding unauthorized access.

Therefore, the proposed changes will not involve a significant increase in the probability or consequences of any accident previously evaluated.

Changes to the liquid and gaseous concentration limits are necessary to provide adequate operational flexibility. Operational history at Waterford 3 has demonstrated that the use of concentration values associated with the old 10CFR20.106 requirements has resulted in calculated maximum individual doses to a member of the public that are small percentages of the limits of 10CFR50, Appendix I. The proposed revisions will not create the possibility of a new or different kind of accident from any previously evaluated because the revisions will not change the types and amounts of effluent that will be released.

The administrative changes for definitions, terminology, paragraph references, and record keeping are necessary so that the Technical Specifications will remain consistent with the revised federal regulations (i.e., 10CFR20 and 10CFR50.36a). Record retention and reporting requirements will continue to meet NRC regulations. These changes are administrative in nature and do not affect plant hardware or operation.

Restricting access for ALARA [as low as reasonably achievable] with guards rather than locked doors will continue to meet the underlying intent of the TS. These changes do not involve plant hardware or operation.

Therefore, the proposed changes will not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed revisions do not involve any changes in the types or increases in the amounts of effluents released off site. The methodology used to control radioactive effluents and calculate effluent monitor setpoints will result in the same effluent release rate as the current methodology. The basic requirements for TS concerning effluent releases (10CFR50.36a) indicate that compliance with TS will keep average annual release to small percentages of 10CFR20 limits. For liquid effluent releases, the annual dose of 500 mrem, that is the bases for the concentrations in the new 10CFR20. The 50.36a requirements further indicate that operational flexibility is allowed, compatible with considerations of health and safety, which may temporarily result in release higher than such small percentages, but still within the limits specified in the old 10CFR20.106 that references Appendix B maximum permissible concentrations (MPCs). For gaseous effluent releases, the limits associated with the gaseous release rate TS will be maintained at the current instantaneous dose rate limits. Compliance with the limits of the new 10CFR20.1301 will be demonstrated by operating within the limits of 10CFR50, Appendix I, and 40CFR190. The revision will not change the types and amounts of effluent that will be released.

The administrative changes for definitions, terminology, paragraph references, and record keeping are necessary so that the Technical Specifications will remain consistent with the revised federal regulations (i.e., 10CFR20 and 10CFR50.36a). Record retention and reporting requirements will continue to meet NRC regulations. These changes are administrative in nature and do not affect plant hardware or operation.

Controlling access to high radiation areas for ALARA can be performed effectively by guards in place of locked doors. These changes do not involve plant hardware or operation.

Therefore, the proposed changes will not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122

Attorney for licensee: N.S. Reynolds, Esq., Winston & Strawn 1400 L Street N.W., Washington, D.C. 20005-3502

NRC Project Director: William D. Beckner

Florida Power and Light Company, et al., Docket No. 50-335, St. Lucie Plant, Unit No. 1, St. Lucie County, Florida

Date of amendment request: February 22, 1994

Description of amendment request: The proposed amendment modifies the minimum stored borated water inventory requirements for Operational Modes 1 through 4 by revising Figure 3.1-1 and Limiting Condition for Operation (LCO) 3.1.2.8 of the unit Technical Specifications (TS). The associated bases for TS 3/4.1.2 are also revised to reflect the bounding borated water makeup volumes, as a function of boric acid concentration, which define the proposed inventory requirements. The proposed amendment will significantly improve operational flexibility with no risk to plant safety and will provide for consistency of operation between the two St. Lucie units.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Pursuant to 10 CFR 50.92, a determination may be made that a proposed license amendment involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. Each standard is discussed as follows:

(1) Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment will reduce the minimum borated water inventory required to be stored in the Boric Acid Makeup Tanks (BAMT) during unit operation in Modes 1 through 4. The reduction in BAMT inventory will not affect any equipment postulated to malfunction in the Updated Final Safety Analysis Report (UFSAR) to initiate an accident nor will it impact the operation of any other equipment whose malfunction could adversely affect safety-related structures, systems, or components. Credit is not taken for boron addition to the Reactor Coolant System from the BAMTs for purposes of reactivity control in accidents analyzed in the UFSAR. The minimum required capability to achieve and maintain safe shutdown for such events has not been altered. Therefore, operation of the facility in accordance with the proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The reduction in minimum required BAMT inventory does not change the boration system function, configuration, operation, or design basis as described in the UFSAR. The proposed change does not alter the modes of plant operation and does not affect the operation of safety-related structures, systems, or components. Therefore, operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) Operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety.

The reduced BAMT minimum inventory requirements are defined by analyses that utilize an approved plant cooldown scenario and conservative physics parameters representative of the present and future planned reactor core designs for St. Lucie Unit 1. The analytical methodology employed to determine the revised inventory requirements is the same as that used to establish the existing inventory requirements. The existing reactivity control Limiting Conditions for Operation (LCO) related to safe shutdown margins and redundant boron flow paths have not been altered. Sufficient quantities of borated water will continue to be stored in the BAMTs to assure compliance with these LCOs during the prescribed plant operating modes. Therefore, operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety.

Based on the discussion presented above and on the supporting Evaluation of Proposed TS Changes, FPL has concluded that this proposed license amendment involves no significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 34954-9003

Attorney for licensee: Harold F. Reis, Esquire, Newman and Holtzinger, 1615 L Street, NW, Washington, DC 20036

NRC Project Director: Herbert N. Berkow

Florida Power and Light Company, Docket Nos. 50-250 and 50-251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of amendment request: February 18, 1994

Description of amendment request: The licensee proposes to change Turkey Point Units 3 and 4 Technical Specifications (TS) by deleting the frequencies specified for audits performed under the cognizance of the Company Nuclear Review Board (CNRB). The periodicity of the audits for these activities will be controlled as described in the licensee's Topical Quality Assurance Report (FPLTQAR), wherein the minimum audit frequency for any activity is established as biennial unless the audit is otherwise required to be performed more frequently by the TS, Code of Federal Regulations, or other licensing commitments. Periodic audits of selected aspects of operational phase activities are performed with a frequency commensurate with safety significance. During the interval between the periodic audits, continuing performance evaluations are conducted of activities important to plant safety.

In addition, the licensee proposes to revise the TS in accordance with Generic Letter 93-07. Generic Letter 93-07, "Modifications of the Technical Specifications Administrative Control Requirements for Emergency and Security Plans," issued December 28, 1993, provided guidance for changes to the TS to remove the audit of the emergency and security plans and implementing procedures from the list of responsibilities of the company nuclear audit and review group. The basis of this change is that Parts 50 and 73 of Title 10 of the Code of Federal Regulations (10 CFR) include provisions that are sufficient to address these requirements.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Operation of the facility in accordance with the proposed amendments would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendments relocate the administrative control criteria for minimum audit frequencies from the facility TS to the FPL Quality Assurance (QA) Program. The QA Program is described in the FPL Topical Quality Assurance Report pursuant to 10 CFR 50, Appendix B. In addition, the proposed amendments in accordance with Generic Letter 93-07, changes the TS to remove the audit of the emergency and security plans and implementing procedures from the list of responsibilities of the Company Nuclear Review Board. The changes being proposed are administrative in nature and do not affect assumptions contained in plant safety analyses, the physical design and/or operation of the plant, nor do they affect the TS that preserve safety analysis assumptions. Therefore, operation of the facility in accordance with the proposed amendments would not affect the probability or consequences of an accident previously analyzed.

(2) Operation of the facility in accordance with the proposed amendments would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The changes being proposed are administrative in nature and will not change the physical plant or the modes of operation defined in the Facility License. The change does not involve the addition or modification of equipment nor does it alter the design or operation of plant systems. Therefore, operation of the facility in accordance with the proposed amendments would not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) Operation of the facility in accordance with the proposed amendments would not involve a significant reduction in a margin of safety.

The changes being proposed are administrative in nature and do not alter the bases for assurance that safety-related activities are performed correctly or the basis for any TS that is related to the establishment of or maintenance of a safety margin. Therefore, operation of the facility in accordance with the proposed amendments would not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Florida International University, University Park, Miami, Florida 33199

Attorney for licensee: Harold F. Reis, Esquire, Newman and Holtzer, P.C., 1615 L Street, NW., Washington, DC 20036

NRC Project Director: Herbert N. Berkow

Houston Lighting & Power Company, City Public Service Board of San Antonio, Central Power and Light Company, City of Austin, Texas, Docket Nos. 50-498 and 50-499, South Texas Project, Unit 1, Matagorda County, Texas

Date of amendment request: March 14, 1994

Description of amendment request: The licensee proposes to make a change to the technical specifications to add a new Limiting Condition For Operation (LCO), 3.0.6. LCO 3.0.6 will allow equipment removed from service or declared inoperable to comply with

actions to be returned to service, under administrative controls, solely to perform testing. The new LCO will permit non-compliance with the applicable Action statement to perform the post-maintenance and surveillance testing required to demonstrate the operability of the equipment being returned to service or the operability of other equipment.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The implementation of LCO 3.0.6 will allow the orderly and judicious return to service of inoperable equipment. This LCO will permit equipment removed from service to comply with required actions to be returned to service under administrative controls to verify the component or system will perform its safety function. The administrative controls will ensure the time involved will be limited to only the time required to demonstrate the component or system's operability. The implementation of this new LCO will provide an acceptable method of testing technical specification equipment prior to its return to operable service following required maintenance. These actions will ensure that the equipment being returned to service is capable of performing its designed safety function prior to being declared operable. Therefore, this action will ensure the probability or consequences of an accident previously evaluated are not significantly increased.

2. The proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

The equipment is only being tested in its designed configuration or being returned to service to allow testing of another component or system. Therefore, the use of this new LCO will not result in a new or different kind of accident from any previously evaluated.

3. The proposed change does not involve a significant reduction in the margin of safety.

The use of the new LCO will only allow the return to service of equipment that is expected to operate as designed. The use of the LCO will be limited to the performance of testing on the equipment being returned to service or on other equipment that is dependent on the equipment being returned to service. This testing is limited to post-maintenance testing and the testing necessary to prove operability. Since the equipment will be controlled by administrative requirements that will ensure all necessary actions are taken, this change does not involve a significant reduction in a margin of safety.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton Texas 77488

Attorney for licensee: Jack R. Newman, Esq., Newman & Holtzinger, P.C., 1615 L Street, NW, Washington, DC 20036

NRC Project Director: Suzanne C. Black

Indiana Michigan Power Company, Docket Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of amendment requests: February 22, 1994

Description of amendment requests: The proposed amendments would modify the technical specifications to reduce surveillance requirements for testing during power operation. This modification was proposed to licensees in NRC Generic Letter 93-05, "Line Item Technical Specifications Improvements to Reduce Surveillance Requirements for Testing During Power Operation."

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Criterion 1

Although the surveillance requirements are lessened by these proposed changes, the changes are consistent with those found acceptable by the NRC in Generic Letter 93-05. The proposed changes have been determined to be compatible with our plant operating experience. Based on these considerations, it is concluded that the changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2

The proposed changes do not involve physical changes to the plant or changes in plant operating configuration. The changes only involve frequency of testing required to be performed. The changes are consistent with those found to be acceptable by the NRC in Generic Letter 93-05. Thus, it is concluded that the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

Criterion 3

Although the surveillance requirements are lessened by these proposed changes, the changes are consistent with those found acceptable by the NRC in Generic Letter 93-05. The proposed changes have been determined to be compatible with our plant operating experience. Based on these considerations, it is concluded that the changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Maud Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW, Washington, DC 20037

NRC Project Director: Ledyard B. Marsh

Indiana Michigan Power Company, Docket No. 50-316, Donald C. Cook Nuclear Plant, Unit No. 2, Berrien County, Michigan

Date of amendment request: February 15, 1994

Description of amendment request: The proposed amendment would delete from the Technical Specifications the operational and surveillance requirements for the turbine overspeed protection system. The licensee intends to continue testing of the overspeed protection system as part of plant procedures.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(a) Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment does not involve a significant increase in the probability or consequences for an accident previously evaluated. The proposed deletion of the turbine overspeed protection T/S [technical specification] will not significantly change the surveillance tests on the Unit 2 turbine. The surveillance schedule and tests will be under administrative procedures outside of the TSs similar to that of Unit 1 and will be in line with operating experience at Cook Nuclear Plant and applicable industry

experience. The Unit 2 turbine is now operating in its ninth operating cycle with over 90,000 hours of operation. Turbine overspeed protection surveillance results have been very good since unit startup in 1978. In 1983, a wear problem was found with the overspeed plungers. Replacement plungers were installed. Then in 1988, these plungers were replaced with parts having stellited (hardened) surfaces. There have been no subsequent problems. Our expectation is that the turbine overspeed protection system will remain available to perform its function of preventing excessive turbine overspeed. Lastly, the STS [Standard Technical Specifications] developed by the MERITS program in NUREG-1431 do not include a T/S for turbine overspeed protection. The omission of an overspeed protection T/S in NUREG-1431 indicates that a T/S is not needed to ensure an adequate level of safety for a nuclear facility. This view is supported by WCAP 11618 which uses the NRC's "Interim Policy Statement Criteria" to evaluate the need for a turbine overspeed protection T/S and concludes that it is not needed. For these reasons, we believe that deleting the turbine overspeed protection T/S will not significantly increase the probability or consequences of an accident previously evaluated.

(b) Create the possibility of a new or different kind of accident from any previously analyzed.

The proposed amendment does not create the possibility of a new or different kind of accident from any previously evaluated. This request to delete the turbine overspeed protection T/S eliminates a control on the surveillance testing of the Unit 2 turbine. The design function of the turbine overspeed protection and the operation of the turbine/generator remain the same. The operating history of the Unit 2 surveillance results to date and our continued testing support the view that the turbine overspeed protection will remain available. For these reasons, we believe that the proposed changes will not create the possibility of a new or different kind of accident from any previously analyzed.

(c) Involve a significant reduction in a margin of safety.

The proposed amendment does not involve a significant reduction in the margin of safety. Turbine overspeed protection surveillance results have been excellent since 1983. The years of operating data well within acceptance criteria on Unit 2 turbine overspeed protection provide ample evidence that there is no significant degradation of the system to perform its function. The reliability of the overspeed protection was improved by the replacement of the plungers with parts having stellited surfaces. The surveillance schedule and tests will be based on operating experience at Cook Nuclear Plant and applicable industry experience. Surveillance testing will continue under an administrative program outside of TSs. Thus the turbine overspeed protection is expected to remain available. Also by eliminating this T/S we will be reducing the potential for shutting down the unit because of difficulties performing this T/S surveillance unrelated to the functionality of the valves and overspeed trip protection. Lastly, the STS developed by the MERITS program in NUREG-1431 do not include a T/S for turbine overspeed protection. The omission of an overspeed protection T/S in NUREG-1431 indicates that a T/S is not needed to ensure an adequate level of safety for a nuclear facility.

This view is supported by WCAP 11618 which uses the NRC's "Interim Policy Statement Criteria" to evaluate the need for a turbine overspeed protection T/S and concludes that it is not needed. For these reasons, we believe that the turbine overspeed protection system will remain operable and so this proposed amendment does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Maud Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW, Washington, DC 20037

NRC Project Director: Ledyard B. Marsh

Indiana Michigan Power Company, Docket No. 50-316, Donald C. Cook Nuclear Plant, Unit No. 2, Berrien County, Michigan

Date of amendment request: February 22, 1994

Description of amendment request: The proposed amendment would revise the reactor coolant system heatup and cooldown curves in the Technical Specifications.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes to the P-T [pressure-temperature] curves are being updated as a result of the Unit 2 Capsule U analysis, WCAP-13515. The analysis was required per the removal schedule established in Table 4.4-5 of the Cook Nuclear Plant Technical Specifications. The analysis was performed based on guidance from R/G 1.99 [Regulatory Guide 1.99, "Radiation Embrittlement of Reactor Vessel Materials"], Revision 2. The change only involves a revised time frame for material qualification from 12 EFPY [effective full-power years] to 15 EFPY as supported by the aforementioned Westinghouse analysis. Therefore, we conclude that the changes will not involve a significant increase in the probability or consequences of a previously evaluated accident, nor will the changes involve a significant reduction in a margin of safety.

(2) Create the possibility of a new or different kind of accident from any previously analyzed.

The proposed changes do not involve any physical modifications to the plant. Therefore, the changes should not create the possibility of a new or different kind of accident from any previously analyzed or evaluated.

(3) Involve a significant reduction in a margin of safety.

See the response to (1) above.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Maud Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW, Washington, DC 20037

NRC Project Director: Ledyard B. Marsh

Long Island Power Authority, Docket No. 50-322, Shoreham Nuclear Power Station, Unit 1 (SNPS), Wading River, New York

Date of application for amendment: Amendment No. 11, November 4, 1993 (Reference LSNRC-2115)

Brief description of amendment: This license amendment request (LSNRC-2115) proposes to delete from the Possession-Only License (POL) the requirements associated with the safe storage and handling of irradiated fuel, the accompanying Appendix A of SNPS Technical Specifications, and Appendix B of SNPS Environmental Protection Plan (non-radiological). This proposed amendment will update the SNPS POL to reflect the status of the facility after irradiated fuel removal from the site. SNPS License Condition No. 3 prohibits this amendment from being implemented until all the fuel has been removed from SNPS, and the licensee has certified to the NRC that all the fuel has been removed.

Basis for the proposed no significant hazards consideration determination: In accordance with the requirements and standards in 10 CFR 50.92(c), the licensee has provided an analysis of the issues related to the no significant hazards consideration.

The licensee's analysis of the issues related to no significant hazards consideration are presented below:

a. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes will become effective after the fuel and its related hazards are removed from the site.

Therefore, the proposed changes will update the SNPS license to reflect the facility status after the removal of irradiated fuel. This action will not increase the probability or consequences of any accident previously evaluated.

b. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes will update the license by deleting requirements which will no longer apply to SNPS and will not have an adverse impact on the operation of the remaining plant systems and components.

Therefore, the proposed change does not create the possibility for an accident or malfunction different from any previously analyzed.

c. Does the change involve a significant reduction in a margin of safety?

The proposed change will update the license to reflect the status of the facility after the removal of irradiated fuel from the site.

Therefore, the proposed changes will not reduce the margins of safety for the remaining plant systems and components.

The NRC staff has reviewed the licensee's analysis and based on this review the three standards of 50.92(c) are satisfied. The NRC staff agrees with the licensee's analysis and has determined that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Shoreham Wading River Public Library, Shoreham Wading River High School, Route 25A, Shoreham, NY 11792

Attorney for licensee: Mr. W. Taylor Reveley, III, Hunton and Williams, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond VA 23219-4074

NRC Branch Chief: John H. Austin

Northern States Power Company, Docket Nos. 50-282 and 50-306, Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2, Goodhue County, Minnesota

Date of amendment requests: February 14, 1994

Description of amendment requests: The proposed amendments would revise Technical Specifications to reflect the new configuration for the Unit 1 480V safeguards bus arrangement (two 480V safeguards buses fed by each 4160V safeguards bus). This would make the specifications the same for both units since the configuration for the two units will become the same during the outage.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

SBO/ESU [Station Blackout/Electrical Safeguards Upgrade] Project modifications as reflected in the proposed Technical Specifications changes were evaluated to determine their impact, if any, on potential transients and accidents as described in the Prairie Island USAR [Updated Safety Analysis Report]. Each transient and accident was evaluated in terms of the mitigating actions described or assumed in the USAR analysis. The role of the modified systems in mitigating the event was analyzed in order to evaluate whether the modification:

(1) changed, degraded or prevented actions described or assumed in the USAR analysis;

(2) altered any assumptions made in evaluating the radiological consequences of the accident;

(3) played a direct part in mitigating the radiological consequences of the accident; or

(4) affected any fission product barrier.

The evaluation demonstrated that the USAR transient and accident analyses remain valid and bounding.

As part of the evaluation, the revised emergency diesel generator load sequence was analyzed and found to be bounded by the existing analyses.

In particular, the USAR analyses of the loss of offsite power (LOOP) event and the large break loss of coolant accident (LBLOCA) remain valid and bounding. In addition, the current USAR analysis for the radiological consequences of a LBLOCA remains valid.

Further, the plant response to a loss of AC power event is not degraded as a result of these changes but, in fact, is significantly improved.

In order to determine the effect of the modifications upon the probability and consequences of an accident, the following items were specifically evaluated:

(1) the applicable design, material and construction standards;

(2) instrumentation accuracies and response times;

(3) the equipment operating and design limits, including electrical bus loading, emergency diesel generator loading and battery loading;

(4) the system interfaces;

(5) voltage margins; and

(6) coordination of protective devices.

Structures, systems and components involved in the modifications were evaluated as follows:

(1) The design specifications for the new structures, systems and components were considered for the following requirements:

- seismic;
- separation including control/power circuit interaction, redundancy/separation of systems, and isolation between safety and non-safety circuits;
- environmental parameters;
- severe meteorological events;
- missiles; and
- fire protection.

All structures, systems and components meet the appropriate design requirements for their respective classifications.

(2) Structures, systems and components were additionally evaluated for the following:

- Structural loads were determined for new cable runs in the existing plant and for new cable penetrations in the existing structures.
- New electrical loads requirements were determined.
- System/equipment protection features have been maintained in the modification.
- Support system performance was specified to maintain the safety function of the equipment.
- System/equipment redundancy and independence is maintained.
- The frequency of operation of existing equipment was evaluated and determined not to be affected.
- The testing requirements imposed on new structures, systems and components are in accordance with their safety classification.

Failures of systems and components involved in the modifications were analyzed, and it was determined that all safety functions were maintained.

Required engineered safeguards features loads are accommodated with the improved auxiliary electrical systems configuration; and, as demonstrated by the performance of a failure modes and affects analysis, no single failure will prevent the modified plant from performing its required safety function in the event of an accident on either unit.

For the reasons discussed above, the proposed amendment does not significantly increase the probability or consequences of an accident previously evaluated.

2. The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The SBO/ESU Project modifications as reflected in the proposed Technical Specifications changes were evaluated to determine if they could create the possibility of a new or different kind of accident from any accident previously evaluated.

The modifications were evaluated to determine the types of accidents which could result from malfunction of the new/modified structures, systems and components. It was determined that no new or different kinds of accidents from those previously evaluated are created. USAR analyses remain bounding.

For these reasons, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed amendment will not involve a significant reduction in the margin of safety.

The new Unit 1 480V safeguards configuration provides additional circuit breakers for improved motor control center (MCC) feeder circuit coordination by eliminating subfed 480V MCCs from safeguards 480V buses. The proposed Technical Specification changes identify the new 480V buses and require the operability

of both of the buses per train rather than the one bus per train of the current configuration and current Technical Specification requirements.

Since the operability requirements are not decreased nor are the allowed out-of-service times increased by the proposed changes, the margin of safety is maintained.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW, Washington, DC 20037

NRC Project Director: Ledyard B. Marsh

Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of amendment requests: February 16, 1994 (Reference LAR 94-03)

Description of amendment request: The proposed amendments would revise the combined Technical Specifications (TS) for the Diablo Canyon Power Plant Unit Nos. 1 and 2 to revise TS 4.6.1.2, "Containment Integrity." The specific TS changes proposed are as follows:

(1) The requirement to conduct three Type A tests specifically at 40 plus or minus 10 month intervals during each 10-year service period would be replaced with a requirement to conduct three Type A tests at approximately equal intervals during each 10-year service period.

(2) The requirement to conduct the third Type A test of each set during the shutdown for the 10-year plant inservice inspection would be deleted.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

a. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes do not affect the initiation of any accident, nor do the proposed changes involve modifications to any plant equipment.

The proposed change to the schedule provides flexibility in meeting the current requirement for 3 tests in 10 years and is consistent with the intent of the 10 CFR 50, Appendix J requirement to perform Type A tests at approximately equal intervals. The test type and test method used for Type A testing would not be changed. The Type A test acceptance criteria would not be changed, and containment leakage will continue to be maintained within the required limits.

Elimination of the requirement to perform the third Type A test during the shutdown for the 10-year plant ISI does not involve any modification to plant equipment or affect the operation or design basis of the containment. These surveillances are independent of each other and provide assurance of different plant characteristics. The Type A tests assure the required leak-tightness of the containment to demonstrate compliance with the guidelines of 10 CFR 100. The 10-year ISI program provides assurance of the integrity of plant structures, systems, and components and verifies the operational readiness of pumps and valves in accordance with 10 CFR 50.55a.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

b. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes do not involve modifications to any existing equipment or affect the operation or design basis of the containment. The proposed changes do not affect the response of the containment during a design basis accident.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

c. Does the change involve a significant reduction in a margin of safety?

The proposed changes to the schedule provide flexibility in meeting the Type A testing schedule requirements. These proposed changes do not affect or change any limiting conditions for operation (LCO) or any other surveillance requirements in the TS and the Bases for the surveillance requirement remains unchanged. The testing method, acceptance criteria, and bases are not changed and still provide assurance that the containment will perform its intended function.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407

Attorney for licensee: Christopher J. Warner, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120

NRC Project Director: Theodore R. Quay

Philadelphia Electric Company, Docket Nos. 50-352 and 50-353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of amendment request: January 10, 1994

Description of amendment request: The proposed amendment would relocate the seismic monitoring instrumentation Limiting Condition for Operation, Surveillance Requirements, and associated tables and Bases contained in TS sections 3.3.7.2 and 4.3.7.2 to the Updated Final Safety Analysis Report (UFSAR).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed Technical Specifications (TS) changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The function of the seismic monitoring instrumentation system is to monitor the magnitude and effect of a seismic event only, and cannot initiate or mitigate an accident previously evaluated. Furthermore, the proposed TS changes to relocate the seismic monitoring instrumentation requirements from TS to the UFSAR are in accordance with the criteria for determining those requirements that should remain in the TS as defined by the NRC in its final policy statement, "Final Policy Statement on Technical Specifications Improvements for Nuclear Power Reactors," dated July 22, 1993. The seismic monitoring instrumentation LCO, SRs, and associated tables and Bases proposed for relocation from TS to the LGS UFSAR will continue to be implemented by administrative controls that will satisfy the applicable requirements of TS section 6 "Administrative Controls." Those requirements include a review of changes to plant systems and equipment and to the applicable administrative controls in accordance with the provisions of 10CFR50.59.

Criterion 2 of the July 22, 1993 NRC final policy statement states, "A process variable, design feature, or operating restriction that is an initial condition of a Design Basis Accident or Transient analysis that either assumes the failure of or presents a challenge to the integrity of a fission product barrier." The seismic monitoring instrumentation system is not a system that monitors a process variable that is an initial condition for accident or transient analyses. The seismic monitoring instrumentation is also

not a design feature or an operating restriction that is an initial condition of Design Basis Accident or transient analyses since it only provides information regarding the magnitude of and the plant equipment response to a Design Basis earthquake. Therefore, the current LGS seismic monitoring instrumentation TS requirements do not meet Criterion 2 of the July 22, 1993 NRC final policy statement.

Criterion 3 of the July 22, 1993 NRC final policy statement states, "A structure, system, or component that is part of the primary success path and which functions or actuates to mitigate a Design Basis Accident or Transient that either assumes the failure of or presents a challenge to the integrity of a fission product barrier." The LGS seismic monitoring instrumentation system does not provide a function or actuate in order to mitigate the consequences of a Design Basis Accident or transient. Therefore, the current LGS seismic monitoring instrumentation TS requirements do not meet Criterion 3 of the July 22, 1993 NRC final policy statement.

Criterion 4 of the July 22, 1993 NRC final policy statement states, "A structure, system or component which operating experience or probabilistic safety assessment has shown to be significant to public health and safety." Operating experience has shown that the LGS seismic monitoring instrumentation system has no impact on public health and safety as defined by the NRC final policy statement. Furthermore, LGS specific probabilistic risk assessment (PRA) does not credit the seismic monitoring instrumentation system as a significant factor in the plant response to an accident. Therefore, the current LGS seismic monitoring instrumentation TS requirements do not meet Criterion 4 of the July 22, 1993 NRC final policy statement for determining those requirements that should remain in TS. This conclusion is consistent with the function of the seismic monitoring instrumentation system stated above.

These proposed TS changes will maintain the current operation, maintenance, testing, and system operability controls of the seismic monitoring instrumentation system. Furthermore, any future changes to the seismic monitoring instrumentation system will be evaluated for the effect of those changes on system reliability as required by 10CFR50.59. The seismic monitoring instrumentation system performance will not decrease due to these proposed TS changes and the system will continue to be administratively controlled in accordance with TS Section 6, including the requirements of 10CFR50.59, thereby precluding a future decrease in its performance.

In accordance with the current TS Section 3.3.7.2, with the seismic monitoring instrumentation inoperable, the plant would not be required to shutdown and the provisions of TS Section 3.0.3 (i.e., plant shutdown) would not be applicable. Therefore, the inoperability of this system and therefore the consequences of an accident while this system is inoperable, was previously evaluated as not significant enough to require a change to the plant operating condition.

Since the seismic monitoring instrumentation system does not monitor a process variable that is an initial condition for an accident or transient analyses, or actuates any accident mitigation feature, and since the operation, maintenance, testing, and modification of the seismic monitoring instrumentation system will continue to be administratively controlled, including the requirements of 10CFR50.59; therefore, maintaining the reliability of the system, the proposed TS changes will not involve an increase in the probability or consequences of an accident previously evaluated.

2. The proposed TS changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The function of the seismic monitoring instrumentation system is to monitor the magnitude and effect of a seismic event only. The proposed TS changes to relocate the seismic monitoring instruments requirements from TS to the UFSAR are in accordance with the criteria for determining those requirements that should remain in the TS as defined by the NRC in its final policy statement, dated July 22, 1993. The seismic monitoring instrumentation system does not monitor a process variable that is an initial condition for an accident or transient analyses. The seismic monitoring instrumentation is also not a design feature or an operating restriction that is an initial condition of a Design Basis Accident or transient analyses since it only provides information regarding the magnitude of and the plant equipment response to a Design Basis earthquake.

These proposed TS changes to relocate the TS requirements to the UFSAR will not alter the operation of the plant, or the manner in which the seismic monitoring instrumentation system will perform its function, and any future changes will continue to be administratively controlled in accordance with TS Section 6, including the requirements of 10CFR50.59.

These proposed TS changes will not impose new conditions nor result in new types of equipment which will result in different types of malfunctions of equipment important to safety than any type previously evaluated.

Therefore, the proposed TS changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed TS changes do not involve a significant reduction in a margin of safety.

These proposed TS changes to relocate the seismic monitoring instrumentation requirements from TS to the UFSAR are in accordance with the criteria for determining those requirements that should remain in the TS as defined by the NRC in final policy statement, dated July 22, 1993.

Criterion 1 of the NRC final policy statement states, "Installed instrumentation that is used to detect, and indicate in the control room, a significant abnormal degradation of the reactor coolant pressure boundary." The NRC final policy statement explains that "...This criterion is intended to ensure that Technical Specifications control those instruments specifically installed to detect excessive reactor coolant leakage. This criterion should not, however, be interpreted to include instrumentation to detect precursors to reactor coolant pressure boundary leakage or instrumentation to identify the source of actual leakage (e.g., loose parts monitor, seismic instrumentation, valve position indicators)." Based on the above NRC guidance, the LGS UFSAR, and TS Bases 3.3.7.2, the seismic monitoring instrumentation does not detect, and indicate in the control room, a significant abnormal degradation of the reactor coolant pressure boundary. Therefore, the current LGS seismic monitoring instrumentation TS requirements do not meet Criterion 1. Furthermore, operating experience has shown that the LGS seismic instrumentation system has no impact on public health and safety as defined by the NRC final policy statement. In addition, the LGS specific PRA does not credit the seismic monitoring instrumentation system as a significant factor in the plant response to accidents.

The seismic monitoring instrumentation LCO, SRs, and associated tables and Bases proposed for relocation to the LGS UFSAR will continue to be implemented by administrative controls that will satisfy the applicable requirements of TS section 6 "Administrative Controls." Those requirements include a review of future changes to the system and applicable administrative controls in accordance with the provisions of 10CFR50.59.

Accordingly, based on the above discussion of NRC specific guidance, operating experience, and continued imposition of administrative controls, the proposed TS changes do not involve a reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Attorney for licensee: J. W. Durham, Sr., Esquire, Sr. V. P. and General Counsel, Philadelphia Electric Company, 2301 Market Street, Philadelphia, Pennsylvania 19101

NRC Project Director: Charles L. Miller

Power Authority of The State of New York, Docket No. 50 286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of amendment request: February 3, 1994

Description of amendment request: The licensee commenced operating on a 24-month fuel cycle, instead of the previous 18-month fuel cycle, with fuel cycle 9. Fuel cycle 9 started in August 1992; however, the facility shut down in February 1993 for a "Performance Improvement Plan" outage and a restart

date has not yet been established. In order to accommodate operation on a 24-month cycle after the facility restarts, the licensee requested an amendment to the Technical Specifications (TSs) to incorporate the changes listed in items 1-7 below:

(1) The licensee proposed changing the calibration frequency for the reactor coolant temperature instrument channels (specified in TS Table 4.1-1) to accommodate operation on a 24-month cycle.

(2) The licensee proposed changing the calibration frequency for the steam generator level instrument channels (specified in TS Table 4.1-1) to accommodate operation on a 24-month cycle.

(3) The licensee proposed changing the calibration frequency for the containment pressure instrument channels (specified in TS Table 4.1-1) to accommodate operation on a 24-month cycle.

(4) The licensee proposed changing the calibration frequency for the steam line pressure instrument channels (specified in TS Table 4.1-1) to accommodate operation on a 24-month cycle.

(5) The licensee proposed changing the calibration frequency for the turbine first stage pressure instrument channels (specified in TS Table 4.1-1) to accommodate operation on a 24-month cycle.

(6) The licensee proposed changing the calibration frequency for the turbine trip low auto stop oil pressure instrument channels (specified in TS Table 4.1-1) to accommodate operation on a 24-month cycle.

(7) The licensee proposed changing the calibration frequency for the 480V bus undervoltage and alarm relays (specified in TS Table 4.1-1) to accommodate operation on a 24-month cycle.

These proposed changes follow the guidance provided in Generic Letter 91-04, "Changes in Technical Specification Surveillance Intervals to Accommodate a 24-Month Fuel Cycle," as applicable.

The licensee also requested the following additional changes:

(1) The addition to TS Table 3.5-5 of limiting conditions for operation (LCO) requirements for a wide range containment pressure variable.

(2) The addition of a quarterly functional test surveillance requirement to Item 4 of TS Table 4.1-1 for the low average temperature actuation circuits of the reactor coolant temperature channels.

(3) The addition of a second line to Item 14 of TS Table 4.1-1 to specify surveillance requirements for the wide range containment pressure instrumentation.

(4) The revision of Item 20 to TS Table 4.1-1 to clarify that both the reactor trip and the engineered safety features (ESF) actuation relay logic channels are functionally tested.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Consistent with the criteria of 10 CFR 50.92, the enclosed application is judged to involve no signicant hazards based on the following information:

(1) Does the proposed license amendment involve a significant increase in the probability or consequences of any accident previously evaluated?

Response:

The proposed changes do not involve a significant increase in the probability or consequences of any accident previously evaluated. The proposed changes extend the calibration intervals (given in [TS] Table 4.1-1) for the reactor coolant loop temperature instrumentation used for Engineered Safety Features Actuation Systems (ESFAS) and Post Accident Monitoring (PAM) functions, the steam generator (SG) level instrumentation used for ESFAS and PAM functions, the containment pressure instrumentation used for ESFAS and PAM functions, the steam line pressure instrumentation used for ESFAS and PAM functions, the turbine first stage pressure instrumentation used for ESFAS functions, the 480V bus undervoltage and alarm relays used for ESFAS functions, and the turbine trip low auto stop oil pressure instrumentation. These changes are being made to accommodate a 24 month operating cycle. Other changes include: 1) the addition to [TS] Table 3.5-5 of limiting conditions for operation (LCO) requirements for the wide range containment pressure channels; 2) the addition of a quarterly functional test surveillance requirement to Item 4 of [TS] Table 4.1-1 for the low T_{avg} [average temperature] actuation circuits of the reactor coolant temperature channels; 3) the addition of a second line to Item 14 of [TS] Table 4.1-1 to specify the surveillance requirements for the wide range containment pressure channels; and 4) the revision of Item 20 to [TS] Table 4.1-1.

Extension of the calibration intervals in question were evaluated and the results documented in the ESFAS and Indicating Instrument Surveillance Test Extension reports (References 7 and 8 [Engineered Safety Features Actuation Systems Surveillance Test Extensions, NYPA document IP3-RPT-ESS-00400, dated May 10, 1993 and Indicating Instruments Surveillance Test Extensions, NYPA document IP3-RPT-MULTI-00424, dated May 5, 1993]). ESFAS and indicating instrument drift analyses were performed to evaluate actual past and projected future instrument drift. Revised safety system loop accuracy/setpoint calculations, which include any additional instrument uncertainties resulting from the proposed calibration interval extensions, show that sufficient margin exists between the analytical and field trip settings for the low T_{avg}, the SG low-low level, the high and high-high containment pressure, the high differential steam line pressure, the low steam line pressure, the high steam flow (dependent upon turbine first stage pressure), the turbine trip low auto stop oil pressure, and the 480V bus undervoltage trip functions. Safety analyses are not affected. Additionally, postulated uncertainties associated with the extended calibration intervals for the wide range reactor coolant loop temperature, the narrow and wide range SG level, and the steam line pressure instrumentation will be accomodated by changes to the Emergency Operating Procedure (EOP) settings. Extension of the calibration interval for the narrow range containment pressure instrumentation channels does not affect EOP settings. Safety analyses are not affected by the EOP setting changes.

The results of the changes to: 1) add to [TS] Table 3.5-5 LCO requirements for the wide range containment pressure channels, 2) add a quarterly functional test surveillance requirement to Item 4 of [TS] Table 4.1-1 for the low T_{avg} actuation circuits of the reactor coolant temperature channels, and 3) add a monthly channel check surveillance requirement to [TS] Table 4.1-1 for the wide range containment pressure channels are consistent with Westinghouse Standard Technical Specifications (W STS - Reference 12 [NUREG-1431, Revision O, "Standard Technical Specifications - Westinghouse Plant," dated September 28, 1992]). The addition of LCO requirements to [TS] Table 3.5-5 for the wide range containment pressure instrumentation, the addition of a quarterly functional test requirement to Item 4 of [TS] Table 4.1-1 for the low T_{avg} actuation circuits, and the separation of surveillance requirements for the narrow and wide range containment pressure instrumentation into two lines on [TS] Table 4.1-1 consitute additional technical specification controls. Changes which consitute additional technical specification limitations and controls are classified by **Federal Register** dated April 6, 1983 (48 FR 14870, April 6, 1983) as not likely to involve significant hazards considerations. The change to [TS] Table 3.5-5 ensures conistency with the Authority's commitment to Regulatory Guide (RG) 1.97 ["Instrumentation for Light-Water-Cooled Nuclear Power Plants to Assess Plant and Environs Conditions During and Following an Accident"] for the containment pressure variable.

The current surveillance requirement specified by Item 20 has been interpreted by Indian Point 3 as including on-line testing of both the reactor trip and engineered safety features (ESF) actuation logic channels, but since the wording may be confusing, this application proposes to change the wording to clarify that both the reactor trip and the ESF actuation logic channels are functionally tested at least every two months on a staggered basis (i.e., one train per month). The change is consistent with W STS and

only involves a wording change which strengthens the Technical Specification requirement. The change does not involve hardware, procedural, or operational changes, and, therefore, does not affect safety analyses.

(2) Does the proposed license amendment create the possibility of a new or different kind of accident from any previously evaluated?

Response:

The proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated. Extension of the calibration intervals in question were evaluated and the results documented in the ESFAS and Indication Instrument Surveillance Test Extension reports. ESFAS and indicating instrument drift analyses were performed to evaluate actual past and projected future instrument drift. Revised safety system loop accuracy/setpoint calculations and EOP setting calculations show that, although some EOP setting changes will be made to accommodate postulated drift associated with the extended calibration intervals, safety analyses are not affected.

The changes to 1) specify LCO and surveillance requirements for the wide range containment pressure instrumentation channels, 2) add a quarterly functional test surveillance requirement to Item 4 of [TS] Table 4.1-1 for the low T_{avg} actuation circuits of the reactor coolant temperature channels, and 3) clarify that both reactor trip and ESF actuation logic channels are functionally tested constitute additional technical specification limitation and controls. Additionally, these changes are consistent with W STS.

(3) Does the proposed amendment involve a significant reduction in a margin of safety?

Response:

The proposed changes do not involve significant reductions in margins of safety. Loop accuracy/setpoint calculations show that sufficient margin exists between the analytical and field trip settings for the low T_{avg}, the SG low-low level, the high and high-high containment pressure, the high differential steam line pressure, the low steam line pressure, the high steam flow (dependent upon turbine first stage pressure), the turbine trip low auto stop oil pressure, and the 480V bus undervoltage trip functions to accommodate postulated uncertainties associated with the extended calibration intervals. And, although changes to EOP settings will be made to accommodate the postulated uncertainties associated with the extended calibration intervals for the wide range reactor coolant loop temperature, the narrow and wide range SG level, and the steam line pressure instrumentation, the EOP setting changes do not in any way adversely affect the analytical limits established by safety analyses.

Extension of the calibration intervals in question do not affect safety analyses. The other changes being made in this application involve additional technical specification limitations and controls and are consistent with W STS. None of the changes involve significant reductions in margins of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

Attorney for licensee: Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019.

NRC Project Director: Robert A. Capra

Public Service Electric & Gas Company, Docket Nos. 50-272 and 50-311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of amendment request: March 4, 1994

Description of amendment request: The proposed change would modify Sections 5.3 and 5.6 of the Technical Specifications (TSs) to allow the use of Westinghouse Vantage+ fuel with ZIRLO cladding. The present TSs require the fuel rod cladding to be Zircaloy-4, which is used in the Westinghouse Standard and Vantage 5H fuel designs.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed changes to Technical Specifications 5.3.1 and 5.6.1 for Salem Generating Station (SGS) Unit Nos. 1 and 2:

1. do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The fuel cladding design criteria for SGS would remain the same for ZIRLO clad fuel as it is for Zircaloy-4 clad fuel. All fuel design and performance criteria will continue to be met using NRC-approved methods and no new single failure mechanisms will be introduced. The use of ZIRLO clad fuel does not introduce any changes to plant equipment or operation that would adversely affect accident initiators or precursors. The proposed changes would not result in any changes to compliance with licensing basis safety limits.

2. do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes would require that NRC[-]approved methods be used in fuel assembly design. No new operating configurations potentially resulting in the occurrence of a previously unanalyzed event would be allowed by the proposed change.

3. do not involve a significant reduction in a margin of safety.

The proposed change would continue to require that NRC[-]approved methods are used to ensure compliance with the fuel design and safety limits which ensure that an acceptable margin of safety is maintained relative to fuel assembly design.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Salem Free Public library, 112 West Broadway, Salem, New Jersey 08079

Attorney for licensee: Mark J. Wetterhahn, Esquire, Winston and Strawn, 1400 L Street, NW., Washington, DC 20005-3502

NRC Project Director: Charles L. Miller

The Cleveland Electric Illuminating Company, Centerior Service Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50-440, Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio

Date of amendment request: March 1, 1993

Description of amendment request: The proposed amendment would clarify Technical Specification 3.6.1.2, Primary Containment Leakage, and revise the "as-found" value of the overall integrated primary containment leakage rate which is used when determining the test schedule for future Type A tests within Surveillance Requirement 4.6.1.2.b. This amendment also requests an exemption from the requirements of 10 CFR 50 Appendix J, Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below.

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

These proposed changes clarify Technical Specification 3.6.1.2 by providing a more definitive action to take if the leakage rate limit(s) specified in the LCO are not being met. The current Action is not clear on what actions are necessary if the leakage rate limits (e.g., Type B and C limits) are known to be exceeded while the reactor coolant system (RCS) temperature is above 200° F, which has caused compliance difficulties. The revised Action is modeled after the one in the Primary Containment Integrity Specification, which (through the definition of Primary Containment Integrity) includes a provision that the containment leakage rates be in

compliance with the requirements of Specification 3.6.1.2.

Surveillance Requirement 4.6.1.2.b has been revised to reflect the actual plant design basis leakage rate of L_a as the value against which the "as-found" Type A test results are compared when determining the test schedule for future Type A tests. The probability of exceeding the maximum allowable leakage rate, L_a, is not significantly increased since the "as-left" leakage rate requirement of 0.75 L_a (which must be met during startup from any outage in which a Type A test has been performed) is still imposed through LCO 3.6.1.2.a, Action 3.6.1.2.a and Surveillance Requirement 4.6.1.2.a. The Applicability of Specification 3.6.1.2 has been modified to resolve an existing conflict with the current Action, which requires that a reactor coolant system temperature of 200° F not be exceeded with a leakage rate greater than 0.75 L_a (during startups from outages in which a Type A ILRT has been performed). With the modified Applicability and the retained LCO requirement for the "as-left" leakage rate to be less than or equal to 0.75 L_a, the requirement of the current Action (not to exceed to 200° F) is implicitly maintained, due to the provisions contained within specification 3.0.4. This maintains the same margin for degradation between performances of the periodic Type A tests as is provided in the current specification. Since the analysis leakage limit of L_a has not changed, the offsite radiological consequences of an accident assumed in the safety analyses have not been affected.

The deletion of the current link between Specifications 3.6.1.2 and 3.10.1 is an administrative change only, made because the two Specifications no longer overlap and the link is therefore unnecessary.

In summary, there is no change in the probability or consequences of any accident since the clarifications of the existing LCO, Applicability, Actions, Surveillance Requirements and the revised "as-found" acceptance criterion do not change the design of the plant, nor the operational characteristics of any plant system, nor the procedures by which the Operators run the plant.

2. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed Action to address situations when the leakage rate limit(s) cannot be met in Operational Conditions 1, 2 and 3, with the reactor coolant system temperature greater than 200° F, does not create the possibility of a new or different kind of event - it only provides the measures to be taken following determination of increased containment leakage. The clarification to the existing Applicability simply resolves an existing conflict between the Applicability and the Action, and ensures that the same requirements that were contained within the former Action are maintained following implementation of the change, by preventing plant startup above a RCS temperature of 200° F (following an outage in which a Type A test has been performed), unless the leakage rate is below the 0.75 L_a test acceptance criterion. Additional changes are being made to clarify the application of Appendix J requirements.

Revising the "as-found" value of L_a does not create the possibility of a new or different kind of event - since the analysis limit value, L_a, has not been increased and no new mode of operation has been introduced.

In summary, the proposed changes do not create the possibility of a new or different kind of accident, since no design changes are being made that would create a new type of accident or malfunction, and the method and manner of plant operation remains unchanged.

3. The proposed changes do not involve a significant reduction in a margin of safety.

The proposed Action simply imposes a more definitive action to take when a leakage rate limit(s) is exceeded, consistent with the Primary Containment Integrity Specification. The changes to the Surveillance Requirements to reflect the "as-found" value of L_a are consistent with the intent of the requirements specified in Appendix J, and similar requirements have been provided for other plants. The current requirement for "as-left" leakage rates to be less than or equal to 0.75 L_a before increasing the reactor coolant system temperature above 200° F from outages in which a Type A ILRT has been performed has been retained since the proposed Action now includes a shutdown requirement, and in accordance with Technical Specification 3.0.4, "Entry into an OPERATIONAL CONDITION or other specified condition shall not be made when the conditions for the LCO are not met and the associated ACTION requires a shutdown if they are not met within a specified time interval." Since the new Action includes a shutdown provision and the LCO retains the current limit of 0.75 L_a, a change into the new Applicability of Specification 3.6.1.2 cannot occur if 0.75 L_a is exceeded. This ensures that the same margin as currently exists today is maintained for possible degradation between performance of the periodic Type A tests. The other changes are clarifications and are administrative in nature. Therefore, the proposed changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, Ohio 44081

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, D.C. 20037

NRC Project Director: John N. Hannon

Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of amendment request: February 10, 1994

Description of amendment request: The proposed amendment would revise Technical Specification Table 2.2-1 and Bases Section 2.2.1. The Functional Unit 14 of Table 2.2-1 would be revised to correct the Total Allowance, reflecting the undervoltage relay span and to correct the Allowable Value, reflecting the rack measurement and test equipment (M&TE) uncertainty. The Bases would be revised to clarify the relationship between the Trip Setpoint and Allowable Value, expressed in voltage, and the Total Allowance, Z and S values, expressed in percent of the undervoltage relay span (calibrated span of 70-100 volts).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed changes do not involve a significant hazards consideration because operation of the Callaway Plant with these changes would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

Overall protection system performance will remain within the bounds of the accident analyses documented in FSAR Chapter 15, WCAP-10961-P, and WCAP-11883 since no hardware changes are proposed.

The RCP undervoltage reactor trip function is a primary trip function and is credited in FSAR Section 15.3.2, Complete Loss of Forced Reactor Coolant Flow. The trip setpoint is designed to ensure plant operation within the DNB design basis. There will be no effect on this analysis, or any other accident since the safety analysis limit and trip response time are unaffected and remain the same as discussed in FSAR Section 15.0.6 and FSAR Table 15.0.4.

The RCP undervoltage reactor trip will continue to function in a manner consistent with the above analysis assumptions and the plant design basis. As such, there will be no degradation in the performance of nor an increase in the number of challenges to equipment assumed to function during an accident situation.

These Technical Specification revisions do not involve any hardware changes nor do they affect the probability of any event initiators. There will be no change to normal plant operating parameters, ESF actuation setpoints, accident mitigation capabilities, accident analysis assumptions or inputs. Therefore, these changes will not increase the probability of an accident previously evaluated.

(2) Create the possibility of a new or different kind of accident from any previously evaluated.

As discussed above, there are no hardware changes associated with these Technical Specification revisions nor are there any changes in the method by which any safety-related plant system performs its safety function.

Changes to the Total Allowance and Allowable Value terms in Technical Specification Table 2.2-1 will require only minor changes to the acceptance criteria sections of a few surveillance procedures. The normal manner of plant operation is unaffected. If an undervoltage relay setpoint is found to be below the nominal trip setpoint in Table 2.2-1, entry into Action Statements a or b of Specification 2.2.1 will be affected insofar as the Allowable Value is being lowered and the Total Allowance value contained in Equation 2.2-1 is being raised. However, the nominal trip setpoint is unchanged and the required plant condition for exiting the Action Statements, i.e. adjusting the trip setpoint consistent with the Table 2.2-1 value, is likewise unchanged. The revisions to the Total Allowance and Allowable Value correct errors in their derivation and were calculated using the previously approved Westinghouse setpoint methodology. The setpoint equations cited in that methodology are unchanged; however, inputs to those equations have been revised to reflect the undervoltage relay span and the rack M&TE uncertainty.

No new accident scenarios, transient precursors, failure mechanism, or limiting single failures are introduced as a result of these changes. There will be no adverse effect or challenges imposed on any safety-related system as a result of these changes. Therefore, the possibility of a new or different type of accident is not created.

(3) Involve a significant reduction in a margin of safety.

There will be no change to the DNBR Correlation Limit, the design DNBR limits, or the safety analysis DNBR limits discussed in Bases Section 2.1.1.

As discussed previously, the response time of the RCP undervoltage reactor trip function will remain within the assumptions used in the accident analyses. The analysis of the complete loss of flow accident will remain as presented in FSAR Section 15.3.2.

There will be no effect on the manner in which safety limits or limiting safety system settings are determined nor will there be any effect on those plant systems necessary to assure the accomplishment of protection functions. There will be no impact on DNBR limits, F_Q, F-delta-H, LOCA PCT, peak local power density, or any other margin of safety. The safety analysis limit, 9384 Vac at the RCP motor, and the nominal trip setpoint, 10,584 Vac, remain the same as before.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, N.W., Washington, DC 20037.

NRC Project Director: John N. Hannon

Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of amendment request: February 17, 1994

Description of amendment request: The proposed amendment would revise Technical Specifications 3/4.5.1 and Bases Section 3/4.5.1. A new Action Statement a. would be added to Specification 3.5.1 to provide a 72 hour allowed outage time (AOT) for one accumulator inoperable due to its boron concentration not meeting the 2300-2500 ppm band. The AOT for Action Statement b. would be changed to 24 hours in lieu of the current AOT of 1 hour. Surveillances 4.5.1.1.a.1) and 4.5.1.1.b would be revised and Surveillance 4.5.1.2 would be deleted per the guidance of NRC Generic Letter 93-05. Bases Section 3/4.5.1 would be revised to discuss the 72 hour and 24 hour AOTs for Action Statements a. and b. above.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed changes to the Technical Specifications do not involve a significant hazards consideration because operation of Callaway Plant in accordance with these changes would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

Overall protection system performance will remain within the bounds of the accident analyses documented in FSAR Chapter 15, WCAP-10961-P, and WCAP-11883 since no hardware changes are proposed.

The safety injection (SI) accumulators are credited in FSAR Section 15.6.5 for large and small break LOCA. There will be no effect on these analyses, or any other accident analysis, since the analysis assumptions are unaffected and remain the same as discussed in FSAR Section 15.6.5. Design basis accidents are not assumed to occur during allowed outage times covered by the Technical Specifications. As such, the ECCS Evaluation Model equipment availability assumptions made in FSAR Section 15.6.5 remain valid.

The SI accumulators will continue to function in a manner consistent with the above analysis assumptions and the plant design basis. As such, there will be no degradation in the performance of nor an increase in the number of challenges to equipment assumed to function during an accident situation.

These Technical Specification revisions do not involve any hardware changes nor do they affect the probability of any event initiators. There will be no change to normal plant operating parameters, ESF actuation setpoints, accident mitigation capabilities, accident analysis assumptions or inputs. The effect on the Callaway core damage frequency has been quantified as insignificant. Therefore, these changes will not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) Create the possibility of a new or different kind of accident from any previously evaluated.

As discussed above, there are no hardware changes associated with these Technical Specification revisions nor are there any changes in the method by which any safety-related plant system performs its safety function. The normal manner of plant operation is unaffected.

No new accident scenarios, transient precursors, failure mechanisms, or limiting single failures are introduced as a result of these changes. There will be no adverse effect or challenges imposed on any safety-related system as a result of these changes. Therefore, the possibility of a new or different type of accident is not created.

(3) Involve a significant reduction in a margin of safety.

There will be no change to the DNBR Correlation Limit, the design DNBR limits, or the safety analysis DNBR limits discussed in Bases Section 2.1.1.

As discussed previously, the performance of the SI accumulators will remain within the assumptions used in the large and small break LOCA analyses, as presented in FSAR Section 15.6.5.

There will be no effect on the manner in which safety limits or limiting safety system settings are determined nor will there be any effect on those plant systems necessary to assure the accomplishment of protection functions. There will be no impact on DNBR limits, F_Q, F-delta-H, LOCA PCT, peak local power density, or any other margin of safety.

Based upon the preceding information, it has been determined that the proposed changes to the Technical Specifications do not involve a significant increase in the probability or consequences of an accident previously evaluated, create the possibility of a new or different kind of accident from any accident previously evaluated, or involve a significant reduction in a margin of safety. Therefore, it is concluded that the proposed changes meet the requirements of 10CFR50.92(c) and do 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.

Local Public Document Room location: Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, N.W., Washington, DC 20037.

NRC Project Director: John N. Hannon

Virginia Electric and Power Company, Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of amendment request: March 1, 1994

Description of amendment request: The proposed change would revise the Technical Specifications (TS) for the North Anna Power Station, Units No. 1 and No. 2 (NA-1&2). Specifically, the change would eliminate certain surveillance requirements for the emergency diesel generators which have been determined to be unnecessary.

The NRC has completed a comprehensive examination of surveillance requirements in TS that require testing at power. The evaluation is documented in NUREG-1366, "Improvements to Technical Specification Surveillance Requirements," dated December 1992. The NRC staff found, that while the majority of testing at power is important, safety can be improved, equipment degradation decreased, and an unnecessary burden on personnel resources eliminated by reducing the amount of testing at power that is required by TS. Based on the results of the evaluations documented in NUREG-1366, the NRC issued Generic Letter 93-05, "Line-Item Technical Specifications Improvements to Reduce Surveillance Requirements for Testing During Power Operation," dated September 27, 1993.

The safety function of the Emergency Diesel Generators (EDGs) is to supply AC electrical power to plant safety systems whenever the preferred AC power supply is unavailable. Consistent with Generic Letter 93-05, Item 10.1 and NUREG-1366, the licensee is requesting a change to the testing requirements of an operable EDG when the alternate safety buses' EDG is inoperable or an offsite circuit is inoperable, the separation of the hot restart test of an EDG from the 24 hour loaded run, and the elimination of fast loading of EDGs except for the 18 month surveillance test of the Loss of Offsite Power (LOOP) capability.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Specifically, operation of North Anna Power Station in accordance with the proposed Technical Specifications changes will not:

(1) Involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated.

Modifying the operability testing requirements for an inoperable EDG or inoperable offsite AC source(s), gradual loading of EDGs during surveillance testing, and separating the hot restart test of an EDG from the 24 hour load run test of EDGs does not affect the probability of occurrence or consequences of any previously evaluated accidents. Surveillance testing of the EDG in accordance with Revision 2 of Regulatory Guide 1.9 (December 1979) will continue to ensure that the EDGs will be capable of performing their intended safety functions. Therefore, modifying the operability testing requirements for an inoperable EDG or inoperable offsite AC source(s), gradual loading of EDGs during surveillance testing, and separating the hot restart test of an EDG from the 24 hour load run test of EDGs does not affect the probability or consequences of any previously analyzed accident.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated.

Modifying the operability testing requirements for an inoperable EDG or inoperable offsite AC source(s), gradual loading of EDGs during surveillance testing, and separating the hot restart test of an EDG from the 24 hours load run test of EDGs does not involve any physical modifications of the plant or result in a change in a method of operation. Surveillance testing of the EDG in accordance with Revision 2 of Regulatory Guide 1.9 (December 1979) will continue to ensure that the EDGs will be capable of performing their intended safety functions. Therefore, a new or different type of accident is not made possible.

(3) Involve a significant reduction in a margin of safety.

Modifying the operability testing requirements for an inoperable EDG or inoperable offsite AC source(s), gradual loading of EDGs during surveillance testing, and separating the hot restart test of an EDG from the 24 hour load run test of EDGs does not affect any safety limits or limiting safety systems settings. System operating parameters are unaffected. The availability of equipment required to mitigate or assess the consequences of an accident is not reduced. Surveillance testing of the EDG in accordance with Revision 2 of Regulatory Guide 1.9 (December 1979) will continue to assure that the EDGs will be capable of performing their intended safety functions. Safety margins are, therefore, not decreased.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: The Alderman Library, Special Collections Department, University of Virginia, Charlottesville, Virginia 22903-2498.

Attorney for licensee: Michael W. Maupin, Esq., Hunton and Williams, Riverfront Plaza, East Tower, 951 E. Byrd Street, Richmond, Virginia 23219.

NRC Project Director: Herbert N. Berkow

Washington Public Power Supply System, Docket No. 50-397, Nuclear Project No. 2, Benton County, Washington

Date of amendment request: May 10, 1993

Description of amendment request: The amendment proposes to modify the Technical Specifications (TS) to incorporate new power to flow limits based on core power stability calculations performed for Cycle 9. In addition, the proposed amendment would clarify the maximum measured decay ration permitted during operation.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's evaluation of the licensee's analysis is presented below:

1. Does the amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change related to the instability regions on the power to flow map is based on new calculations using a new code (STAIF) while maintaining a decay ration of 0.9 or less as required in IEB 88-07. The closer the operators come to a decay ration of 1.0, the closer the core comes to potential core power instabilities. By ensuring that the decay ratio is maintained below 0.9, the operators reduce the likelihood of core power instabilities. The result of the revised calculations using this new code is that the restricted regions are expanded over the regions contained in the current TS. This increase in restricted regions results in plant operation further from potential core power instabilities compared to the restricted regions in the current TS, resulting in a decreased probability of core power oscillations. The power to flow map regions are operating restrictions that, for the core power oscillation restricted regions, are intended to reduce the likelihood of the onset of oscillations. The core power oscillation restricted regions on the power to flow map do not contribute to any mitigative actions or plant response after a power oscillation occurs, thus the proposed change does not change the consequences of any accidents previously evaluated.

The proposed amendment would also change the wording of the technical

specifications to clarify that action must be taken to reduce the measured decay ration if any two neutron signals of "greater than or equal to 0.75," as opposed to the current wording "greater than .75," are measured. This would not have any measurable effect on the implementation of the affected TS, and would, if anything, result in action being taken at a maximum lower value than the current TS. This proposed amendment would not, therefore, involve a change in the probability or consequences of an accident previously evaluated.

2. Does the amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change; modifies existing restrictions on the power to flow map, and does not involve any modifications to plant systems or components or the manner in which they are operated.

Changing the wording of the TS to require that action be taken to reduce the measured decay ration if any two neutron signals of "greater than or equal to 0.75," as opposed to the current wording "greater than .75," are measured, does not involve any modifications to plant systems or components or the manner in which they are operated.

Based on these considerations, this does not create or increase the possibility of a new or different kind of accident.

3. Does the amendment involve a significant reduction in a margin of safety?

The margin of safety related to the proposed TS change is the core power vs. core flow restrictions on the power to flow map. These restrictions are currently based on maintaining a decay ratio less than 0.9, which provides a margin of at least a decay ration of 0.1 from what is defined as a decay ration (1.0) that would result in an unstable core. Since the revised curves are based on ensuring decay rations of less than 0.9 are maintained, the existing margin of safety is maintained.

Changing the wording of the TS to require that action be taken to reduce the measured decay ratio if any two neutron signals of "greater than or equal to 0.75," as opposed to the current wording "greater than .75," are measured, would not have any measurable effect on the implementation of the affected TS, and would, if anything, result in action being taken at a maximum lower value than the current TS. This would not have any significant impact on how close the plant was allowed to operate to potential core power instability, and would not, therefore, have a significant effect ont he margin of safety related to the proposed TS.

Local Public Document Room location: Richland Public Library, 955 Northgate Street, Richland, Washington 99352

Attorney for licensee: Nicholas S. Reynolds, Esq., Winston & Strawn, 1400 L Street, N.W., Washington, D.C. 20005-3502

NRC Project Director: Theodore R. Quay

Washington Public Power Supply System, Docket No. 50-397, Nuclear Project No. 2, Benton County, Washington

Date of amendment request: July 29, 1993, with supplemental information provided March 11, 1994 and March 17, 1994

Description of amendment request: The amendment proposes to modify the Technical Specifications (TS) to reflect a new refueling platform. Specifically, the amendment would add new values for protective features in the TS to reflect the new refueling platform. Values for the old refueling platform are retained in the TS.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The staff's evaluation of the licensee's analysis is presented below:

1. Does the amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

The only accident evaluation affected by the proposed changes are those associated with the Fuel Handling Accident (FHA) analyses presented in WNP-2 Final Safety Analysis Report (FSAR) section 15.7.4. As discussed therein, the fuel handling accident event that produces the largest number of failed spent fuel rods is the drop of a spent fuel bundle into the reactor core when the reactor vessel head is off. The probability of dropping a spent fuel assembly onto other fuel assemblies in the reactor vessel does not increase with the new design. The NF500 mast functions identically to the old mast when grappling, lifting, or moving a fuel assembly. It does not degrade platform design features such as grapple fail-safe on loss of air, dual lifting cables, backup cable reel brake, and the grapple engaged loaded interlock, all of which serve to protect against a fuel drop event. The new mast is more rigid than the previous mast design and, therefore, is less prone to mast bowing. The consequences of dropping a fuel assembly are also unaffected because the weight of the mast is not considered in existing FHA analysis. The number of postulated fuel pins which fail as a result of the FHA is unaffected since the energy imparted by the dropped assembly is independent of the mast design, and mitigating systems will function as previously analyzed. Further, analysis by GE of a postulated accident in which the exposed portion of the NF500 mast is struck by a missile and severed while lifting a fuel bundle with both falling onto the top of the core has been conducted, showing that the consequences of the increased weight of the mast and bundle are bounded by the current WNP-2 FSAR analysis for the fuel bundle only FHA. Retaining the ability to use the old mast does not introduce any changes to the current TS that reflect the analysis of the old mast. The proposed change would not, therefore, significantly increase the probability or consequences of a previously analyzed accident.

2. Does the amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

No new failure modes are introduced as a result of the proposed changes. The NF500 mast in intended as an exact replacement for the currently installed mast, and is designed to match or exceed the strength and performance of the NF400 mast in all areas. No new fuel handling methods or surveillance procedures will be necessary as a result of installation of the new mast. The proposed change does not affect the manner in which protective interlocks operate. Limits on fuel travel in all directions are unchanged. Retaining the ability to use the NF400 mast presents no new accident possibilities since no changes in fuel mast operation would result from use of the existing mast. The proposed change would not, therefore, create the possibility of a new or different kind of accident from any previously analyzed.

3. Does the amendment involve a significant reduction in a margin of safety?

The changed refueling mast cutoff and interlock values account for the increase weight of the mast, or a portion thereof, and do not affect the margins related to the fuel bundle drop analyses. The new mast has the same single failure protection as the old mast. The proposed change would not, therefore, involve a significant reduction in a margin of safety.

The NRC staff has determined that it appears that the three standards of

50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Richland Public Library, 955 Northgate Street, Richland, Washington 99352

Attorney for licensee: Nicholas S. Reynolds, Esq., Winston & Strawn, 1400 L Street, N.W., Washington, D.C. 20005-3502

NRC Project Director: Theodore R. Quay

Washington Public Power Supply System, Docket No. 50-397, Nuclear Project No. 2, Benton County, Washington

Date of amendment request: December 20, 1993

Description of amendment request: The amendment proposes to modify the Technical Specifications (TS) to address new containment purge and vent valves to be installed in the 1994 refueling outage. The TS are being modified to remove the requirement to ensure the remaining existing-design valves' position remains at less than or equal to 70° because the valves have a permanently installed mechanical stop to limit the open position to ensure adequate closure times. In addition, this modification is being requested because the current TS are too limiting for the new valves, which are designed to close from a 90° open position. The TS are also being modified to change the containment leak testing requirements for the new valves from 6 months to 2 years, to reflect the improved seat design of the replacement valves. Additional administrative changes are proposed to delete an out-of-date note, and to relocate an action statement requirement from surveillance section of the TS to the action statements section.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below:

1. Does the amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Regarding the removal of the requirement to ensure the remaining existing-design valves' position remains at less than or equal to 70°: The maximum open position of the containment purge and vent valves is not one of the initiating events for any previously evaluated accident in the WNP-2 FSAR. Thus the proposed change will not affect the probability of an accident previously evaluated. The containment purge and vent valves' position is considered in the accident analyses, and could affect the analyzed consequences of events. The current limiting condition for operation (LCO) and Action Statement requires, and the surveillance verifies, that the permanently installed 70° block is in place and effective. If the existing valves were open further than 70°, the valves may not close in time. The valves have a welded mechanical stop installed that limits the position to no more than 70° open, which is a fixed condition that can only be changed by plant modification requiring evaluation against the requirements of 10 CFR 50.59. The licensee considers the mechanical stop as sufficient to ensure the existing valves will remain within existing analysis bounds for a design basis loss of coolant accident (LOCA). In addition, the new valves are qualified to close within the 5 seconds assumed in the design basis LOCA. The licensee considers, therefore, that the existing and new valves will operate as required for accident mitigation with the proposed change, and that the proposed change will not affect the consequences of accidents previously evaluated.

Regarding the modification of the containment leak testing requirements to reflect the new design valves: The containment purge and vent valves are not one of the initiating events for any previously evaluated accident in the WNP-2 FSAR. Thus the proposed change will not affect the probability of an accident previously evaluated. The metal to metal seat valves meet the Appendix J criteria necessary to be tested as type C valves. Type C valves can be tested every 2 years, compared to every 6 months for the current valves. The testing frequency is based on the performance of the valve types to ensure that they are capable of maintaining the necessary leak tightness over the test interval. The new valves' design has been certified to provide the same leak tightness over 2 years that the current valves provide over 6 months, thus the consequences of analyzed events remains unaffected by the proposed change.

Regarding the administrative changes: The proposed change would (1) delete a note that was applicable only through April 10, 1988, and (2) move an action that is currently stated in the SURVEILLANCE REQUIREMENTS section of a TS to the ACTIONS section of the same TS. These changes do not affect the design or operation of the plant or the implementation of the affected TS, and as such would not affect the probability or consequences of previously analyzed events.

2. Does the amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Regarding the removal of the requirement to ensure the remaining existing-design valves' position remains at less than or equal to 70°: No aspect of the design or plant operation is affected by deletion of the surveillance or removal of the reference to the block from the LCO and Action Statement, no new modes of plant operation are introduced, and the proposed change does not require physical modification of the plant. The valves not being replaced will continue to be limited from opening greater than 70° by the welded and non-adjustable blocking feature. The capability of these valves to close within 5 seconds to meet the limiting design basis accident (LOCA) will remain unchanged. The replacement valves will be capable of closing within the same 5 seconds from a full-open position of 90°. Since the proposed change does not introduce any new component, system, or plant operating conditions, the change does not create the possibility of a new or different kind of accident from any previously analyzed.

Regarding the modification of the containment leak testing requirements to reflect the new design valves: The proposed change in surveillance frequency for the replacement valves does not introduce any new mode of plant operation, nor does it involve plant modifications. The new valves operate in the same manner as the old valves, only the seating surfaces are different. This does not affect the way the valves operate to perform their function. The proposed change would not, therefore, involve any new or different kinds of accidents from any previously evaluated.

Regarding the administrative changes: The proposed changes do not introduce any new modes of plant or equipment operation, nor do they involve physical modification of the plant. The proposed change would not, therefore, create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the amendment involve a significant reduction in a margin of safety?

Regarding the removal of the requirement to ensure the remaining existing-design valves' position remains at less than or equal to 70°: The margin of safety of concern with the proposed change is the need for the containment

purge and vent valves to close in 5 seconds, which will ensure that part 100 limits for design basis events are not exceeded. The proposed change does not affect the maximum open position of the existing valves, thus the valves will still close within 5 seconds. In addition, the new valves, with their maximum full open position of 90°, are a new design that will still close within the five seconds from the full open position, thereby preserving the existing margin of safety.

Regarding the modification of the containment leak testing requirements to reflect the new design valves: The margin of safety involved in the proposed TS change is the amount of leakage that may occur due to plant degradation that may affect the design basis accident assumptions for leakage. The new design valves have been certified to provide the same leak tightness over 2 years that the current valves provide over 6 months, thus the leakage assumptions for design basis events is unaffected. The proposed change would not, therefore, affect the margin of safety provided by the TS.

Regarding the administrative changes: There are no margins of safety affected by the administrative changes.

Based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Richland Public Library, 955 Northgate Street, Richland, Washington 99352

Attorney for licensee: M. H. Philips, Jr., Esq., Winston & Strawn, 1400 L Street, N.W., Washington, D.C. 20005-3502

NRC Project Director: Theodore R. Quay

Washington Public Power Supply System, Docket No. 50-397, Nuclear Project No. 2, Benton County, Washington

Date of amendment request: January 6, 1994

Description of amendment request: The amendment proposes to modify the Technical Specifications (TS) to remove the requirements for the Seismic Monitoring Instrumentation from the TS and relocate them to the FSAR and plant procedures. The requirements described in the specifications will be maintained in the FSAR and plant procedures.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The staff's evaluation of the licensee's analysis is presented below:

1. Does the amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

The seismic monitors only provide monitoring and recording of seismic events that might occur in the vicinity of WNP-2. The instrumentation are not relied upon in current accident analyses for any automatic or manual initiation of safety systems in response to a seismic event. The proposed change would not, therefore, significantly increase the probability or consequences of a previously analyzed accident.

2. Does the amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change does not affect the manner in which the plant is operated, maintained, or tested. The proposed change would not, therefore, create the possibility of a new or different kind of accident from any previously analyzed.

3. Does the amendment involve a significant reduction in a margin of safety?

The seismic monitors provide monitoring and recording functions only, and are not relied upon in accident analyses for automatic or manual initiation of any safety system. Thus the results of analyzed events, and the associated margins of safety, are unaffected by the administrative removal of the seismic monitors from the TS. The proposed change would not, therefore, involve a significant reduction in a margin of safety.

The NRC staff has determined that it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Richland Public Library, 955 Northgate Street, Richland, Washington 99352

Attorney for licensee: Nicholas S. Reynolds, Esq., Winston & Strawn, 1400 L Street, N.W., Washington, D.C. 20005-3502

NRC Project Director: Theodore R. Quay

Washington Public Power Supply System, Docket No. 50-397, Nuclear Project No. 2, Benton County, Washington

Date of amendment request: February 17, 1994

Description of amendment request: The amendment proposes to modify the Technical Specifications (TS) to support hydrostatic testing of the reactor coolant system. Specifically, the proposed amendment would: (1) add a Special Test Exception that would allow Mode 4 (Cold Shutdown) operation up to 212°F, compared to the current limit of 200°F, without shutdown cooling in operation, to conduct hydrostatic testing, and (2) add a new reactor metal temperature vs reactor vessel pressure (P/T) limit curve that is applicable up to 8 effective full power years (EFPY), for use during hydrostatic testing and non-nuclear plant heatup.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below:

1. Does the amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Regarding the proposed Special Test Exception: The proposed change would allow performance of hydrostatic testing in OPERATIONAL CONDITION 4 at temperatures greater than 200°F but less than or equal to 212°F. Operating in this condition is only allowed if specified OPERATIONAL CONDITION 3 secondary containment requirements are met. The operating condition is not considered as an initiator for any event analyzed in the FSAR, therefore the proposed change would not affect the probability of an accident previously evaluated.

The specified OPERATIONAL CONDITION 3 requirements compensate for the allowed temperature increase and assure that the consequences of a potential leak will be conservatively bounded by the existing FSAR accident analyses, as discussed below.

The hydrostatic test is conducted near water solid, all rods in, and temperature less than or equal to 212°F. The stored energy in the core will be very low (approximately 43 days of shutdown conditions and partial core replacement during refueling) and the potential for failed fuel and a subsequent increase in coolant activity above Technical Specification limits is minimal. In addition, secondary containment will be OPERABLE and capable of handling airbone radioactivity from leaks that could occur during the performance of the testing. Maintaining the temperature less than or equal to 212°F will ensure

that any leak will not flash to steam, thereby ensuring the potential for airborne activity remains low. Requiring the standby gas treatment system (SGTS) to be OPERABLE will conservatively ensure that any airborne radiation from leaks will be processed by the SGTS thereby limiting releases to the environment. Existing pipe breaks analyzed in Chapter 15 of the FSAR are bounding for the proposed condition. In the event of a large break, the reactor would rapidly depressurize, allowing the low pressure ECCS subsystems to operate. The capability of the subsystems required for OPERATIONAL CONDITION 4 would be adequate to keep the core flooded under this condition. Small system leaks would be detected by leakage inspections before significant inventory loss occurred. Thus the consequences of previously analyzed accidents are not increased by the proposed amendment.

Regarding the proposed P/T limit curve: The proposed change would modify the P/T limit curves that are based on prevention of brittle fracture of the reactor vessel. The proposed change would result in plant operation closer to the actual brittle fracture condition of the reactor vessel, potentially making a brittle fracture more likely. This condition is offset by the slow heatup conducted using only pump heat, which would result in lower stresses in the reactor vessel than are assumed in the brittle fracture analyses. The resulting P/T limit curve based on 8 EFPY would have sufficient conservatism from the actual vessel brittle fracture condition to make vessel failure as unlikely as the original 32 EFPY curve.

The potential reactor vessel failure mechanisms are not affected by the proposed change, therefore the consequences of previously analyzed accidents are unaffected by the proposed change.

2. Does the amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Regarding both the proposed Special Test Exception and the proposed P/T limit curve: The proposed change introduces no new failure modes, involves no physical modification to the plant or change in system configurations, nor does it involve changes in plant, system, or component operation. The proposed change, therefore, does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the amendment involve a significant reduction in a margin of safety?

Regarding the proposed Special Test Exception: The hydrostatic test is conducted with low stored energy in the reactor, which is bounded by the assumed decay heat in current safety analyses. In the unlikely event that a leak from the reactor coolant system were to occur, the RPV would depressurize and the low pressure systems would be available to keep the core flooded. This would ensure that the fuel peak clad temperature would not exceed 2200°F, which is the design basis that provides the margin of safety for the reactor itself. In addition, secondary containment will be maintained during the hydrostatic test, which would ensure that any potential airborne activity that might occur would be filtered through the SGTS. This would ensure that the current margins to the 10 CFR Part 100 limits remain bounded by current analyses. The proposed change would, therefore, not involve a significant reduction in the margins of safety.

Regarding the proposed P/T limit curve: The proposed new curves would allow plant operation closer to the actual brittle fracture condition of the reactor vessel during hydrostatic test conditions only. This would result in a reduced margin in the protection afforded by the P/T curve. The new curves would, however, allow a lower temperature for conduct of the hydrostatic test, which would increase the heat sink available in the RCS, and increase the margin to decay heat loads assumed in accident analyses. This would result in reduced potential for extensive flow from any break, reduce the time for initiation of low pressure ECCS systems, and reduce the available radioactive decay products that are available for release during any postulated accident condition. The overall impact of the conditions increases the margin to 10 CFR Part 100 limits that are the design margin of safety for postulated loss of coolant accidents. The overall effect of the proposed change would not involve a significant reduction in the overall margins of safety.

Based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Richland Public Library, 955 Northgate Street, Richland, Washington 99352

Attorney for licensee: M. H. Philips, Jr., Esq., Winston & Strawn, 1400 L Street, N.W., Washington, D.C. 20005-3502

NRC Project Director: Theodore R. Quay

Wisconsin Public Service Corporation, Docket No. 50-305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of amendment request: February 23, 1994

Description of amendment request: The proposed amendment would revise Kewaunee Nuclear Power Plant (KNPP) Technical Specification (TS) 6.8.c by removing the requirement to conduct a biennial review of plant procedures in accordance with American National Standards Institute (ANSI) N18.7-1976. The licensee proposes using alternate programs, that are already in place, to ensure that procedures are periodically reviewed and maintained current. A biennial review of the Integrated Plant Emergency Operating Procedures (IPEOPs), however, would continue. The requirements for these alternate programs and for the IPEOP review would be added to the Operational Quality Assurance Program Description (OQAPD).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

The proposed changes were reviewed in accordance with the provisions of 10 CFR 50.92 to show no significant hazards exist. The proposed changes will not:

1) involve a significant increase in the probability or consequences of an accident previously evaluated.

The likelihood that an accident will occur is neither increased or decreased by eliminating the periodic reviews of routine administrative and technical procedures. Sufficient controls are established to ensure that procedures impacting safety-related structures, systems, and components are maintained current, accurate, and usable. This TS change will therefore not impact the function or method of operation of plant equipment. Thus, a significant increase in the probability of a previously analyzed accident does not result due to this change. No systems, equipment, or components are affected by the proposed changes. Thus, the consequences of a malfunction of equipment important to safety previously evaluated in the Updated Safety Analysis Report (USAR) are not increased by this change. The proposed changes do not affect equipment or its operation, and, thus, do not affect the probabilities or consequences of an accident. Therefore, WPSC concludes that this change does not significantly increase the probability or consequences of an accident.

2) create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes do not involve changes to the physical plant or operations.

Since periodic procedure reviews do not contribute to accident initiation, a change related to such an activity does not produce a new accident scenario or produce a new type of equipment malfunction. Also, this change does not alter any existing accident scenarios. The proposed changes do not affect equipment or its operation, and thus, do not increase the possibility of a new or different kind of accident.

3) involve a significant reduction in the margin of safety.

The proposed changes do not affect equipment or its operation, and thus, do not involve any reduction in the margin of safety. Therefore, use of the proposed Technical Specification would not involve any reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: University of Wisconsin Library Learning Center, 2420 Nicolet Drive, Green Bay, Wisconsin 54301.

Attorney for licensee: Bradley D. Jackson, Esq., Foley and Lardner, P. O. Box 1497, Madison, Wisconsin 53701-1497.

NRC Project Director: John N. Hannon

Previously Published Notices of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of application for amendment: February 17, 1994

Brief description of amendment request: The proposed amendments would revise the combined Technical Specifications (TS) for the Diablo Canyon Power Plant Unit Nos. 1 and 2 to revise TS 3/4.3.2, "Engineered Safety Feature Actuation System Instrumentation," as follows: (1) Table 3.3-3, functional unit 6.c.2), channels to trip, would be changed from 2/steam generator in one steam generator to 2/steam generator in any 2 steam generators to correct an administrative error. (2) Table 3.3-4 would be changed as follows: a. functional unit 4.6., Negative Steam Pressure Rate - High, trip setpoint and allowable value, would be changed from -100 psi/sec and -105.4 psi/sec to 100 psi and 105.4 psi, respectively; b. a note would be added stating that the time constants utilized in the rate-lag controller for Negative Steam Pressure Rate - High, are equal to 50 seconds.

Date of individual notice in **Federal Register:** March 1, 1994 (59 FR 9789)

Expiration date of individual notice: March 31, 1994

Local Public Document Room location: California Polytechnical State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Public Service Electric & Gas Company, Docket No. 50-354, Hope Creek Generating Station, Salem County, New Jersey

Date of amendment request: March 4, 1994

Brief description of amendment request: The proposed amendment would add a new Section 3/4.10.8, "Inservice Leak and Hydrostatic Testing," and the Bases. The new section would allow Hope Creek to remain in OPERATIONAL CONDITION 4 with reactor coolant temperatures up to 212 *F to facilitate inservice leak and hydrostatic testing.

Date of publication of individual notice in **Federal Register:** March 16, 1994 (59 FR 12384)

Expiration date of individual notice: April 15, 1994

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070

Public Service Electric & Gas Company, Docket Nos. 50-272 and 50-311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of amendment request: April 28, August 12, and November 17, 1993, and February 2, 1994

Brief description of amendment request: The proposed changes increase the spent fuel pool capacities for Salem 1 and 2 from the current 1170 fuel assemblies to 1632 fuel assemblies. Also, the decay time for refueling operations is being extended from 100 hours to 168 hours

Date of publication of individual notice in **Federal Register:** March 4, 1994 (59 FR 10440)

Expiration date of individual notice: April 4, 1994

Local Public Document Room location: Salem Free Public Library, 112 West Broadway, Salem, New Jersey 08079.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document rooms for the particular facilities involved.

Baltimore Gas and Electric Company, Docket No. 50-317, Calvert Cliffs Nuclear Power Plant, Unit No. 1, Calvert County, Maryland

Date of application for amendment: September 3, 1993, as supplemented February 1, 1994

Brief description of amendment: The amendment revises the heatup and cooldown curves and the low-temperature overpressure protection (LTOP) controls. The changes to the LTOP controls support proposed modifications to allow a variable-setpoint (VLTOP) protection system. The VLTOP system will increase the allowable operating pressure band in the LTOP region and increase the flexibility in the use of the reactor coolant pumps.

Date of issuance: March 15, 1994

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 185

Facility Operating License No. DPR-53: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 29, 1993 (58 FR 50963) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 15, 1994. No significant hazards consideration comments received: No

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland 20678.

Baltimore Gas and Electric Company, Docket Nos. 50-317 and 50-318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of application for amendments: September 17, 1993, as supplemented on January 4, 1994

Brief description of amendments: The amendments implement the recommendations provided in Generic Letter 88-16, "Removal of Cycle-Specific Parameter Limits From Technical Specifications," by removing cycle specific values from the Technical Specifications (TSs) and incorporating them in a separate document. The amendments also include two other changes. One is the removal of outdated references to power operation with less than four reactor coolant pumps in operation and the other includes administrative changes to clarify the existing TSs, but do not alter the existing requirements.

Date of issuance: March 17, 1994

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment Nos.: 186 and 163

Facility Operating License Nos. DPR-53 and DPR-69: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 27, 1993 (58 FR 57844) The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated March 17, 1994. No significant hazards consideration comments received: No

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland 20678.

Commonwealth Edison Company, Docket Nos. STN 50-454 and STN 50-455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois Docket Nos. STN 50-456 and STN 50-457, Braidwood Station, Unit Nos. 1 and 2, Will County, Illinois

Date of application for amendments: August 27, 1993, as supplemented February 21, 1994

Brief description of amendments: The amendments revise the requirements for snubber visual inspection intervals and corrective actions in accordance with Generic Letter 90-09. The amendments also remove two of the options for determining the sample size to be used for snubber functional testing.

Date of issuance: March 11, 1994

Effective date: March 11, 1994

Amendment Nos.: 60, 60, 48, and 48

Facility Operating License Nos. NPF-37, NPF-66, NPF-72 and NPF-77: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 2, 1994 (59 FR 4935) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 11, 1994. No significant hazards consideration comments received: No

Local Public Document Room location: For Byron, the Byron Public Library, 109 N. Franklin, P.O. Box 434, Byron, Illinois 61010; for Braidwood, the Wilmington Township Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Commonwealth Edison Company, Docket Nos. 50-237 and 50-249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois Docket Nos. 50-254 and 50-265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of application for amendments: June 1, 1992

Brief description of amendments: The amendments update the leakage test requirements of the drywell airlock to the standards of 10 CFR Part 50, Appendix J, Section III.D.2.

Date of issuance: March 11, 1994

Effective date: Immediately, to be implemented within 60 days.

Amendment Nos.: 125, 119, 145, and 141

Facility Operating License Nos. DPR-19, DPR-25, DPR-29, and DPR-30. The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 28, 1992 (57 FR 48818) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 11, 1994. No significant hazards consideration comments received: No

Local Public Document Room location: For Dresden, The Morris Public Library, 604 Liberty Street, Morris, Illinois 60450; for Quad Cities, The Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021.

Commonwealth Edison Company, Docket Nos. 50-373 and 50-374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Date of application for amendments: February 25, 1993

Brief description of amendments: The amendments change Technical Specification 4.8.1.1.2.c to update the diesel fuel oil testing requirements to the standards of ASTM D4057-88 (new fuel oil test); ASTM D975-88 (water and sediment content testing); and ASTM D2276-89 (impurity levels). The updated standards will be referenced in the Technical Specification Bases.

Date of issuance: March 10, 1994

Effective date: March 10, 1994

Amendment Nos.: 97 and 81

Facility Operating License Nos. NPF-11 and NPF-18. The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 7, 1993 (58 FR 36431) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 10, 1994. No significant hazards consideration comments received: No

Local Public Document Room location: Public Library of Illinois Valley Community College, Rural Route No. 1, Oglesby, Illinois 61348.

Commonwealth Edison Company, Docket Nos. 50-373 and 50-374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Date of application for amendments: October 28, 1993, supplemented by letter dated January 21, 1994.

Brief description of amendments: The amendments revise the ECCS injection valve stroke times and ECCS response times to allow the licensee to perform Motor Operated Valve modifications

that slow down injection valve stroke times. As part of this change, a limited break spectrum Loss-Of-Coolant Accident analysis was performed to evaluate the impact of the slower response on the Peak Cladding Temperatures and to update the plants licensing bases.

Date of issuance: March 9, 1994

Effective date: March 9, 1994

Amendment Nos.: 96 and 80

Facility Operating License Nos. NPF-11 and NPF-18. The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 2, 1994 (59 FR 4937) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 9, 1994. No significant hazards consideration comments received: No

Local Public Document Room location: Public Library of Illinois Valley Community College, Rural Route No. 1, Oglesby, Illinois 61348.

Commonwealth Edison Company, Docket Nos. 50-254 and 50-265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of application for amendments: October 21, 1993

Brief description of amendments: The amendments delete the requirements for demonstrating the operability of redundant equipment when emergency core cooling system equipment is found to be inoperable, or made inoperable for maintenance. The changes are consistent with the guidance provided by the NRC staff in Generic Letter 93-05, dated September 27, 1993.

Date of issuance: March 8, 1994

Effective date: March 8, 1994

Amendment Nos.: 144 and 140

Facility Operating License Nos. DPR-29 and DPR-30. The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 10, 1993 (58 FR 59747) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 8, 1994. No significant hazards consideration comments received: No

Local Public Document Room location: Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021.

Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association, and Mississippi Power & Light Company, Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of application for amendment: April 21, 1993

Brief description of amendment: This amendment deleted License Condition 2.C(36), Attachment 1, Item (c)(4) which implemented the requirements of Regulatory Guide 1.97, "Instrumentation For Light-Water-Cooled Nuclear Power Plants to Assess Plant and Environs Conditions During and Following an Accident," for the Grand Gulf Nuclear Station because analysis shows that these requirements are being met by alternative methods.

Date of issuance: March 7, 1994

Effective date: March 7, 1994

Amendment No: 112

Facility Operating License No. NPF-29. Amendment revises the license.

Date of initial notice in **Federal Register:** May 12, 1993 (58 FR 28056) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 7, 1994. No significant hazards consideration comments received: No

Local Public Document Room location: Judge George W. Armstrong Library, Post Office Box 1406, S. Commerce at Washington, Natchez, Mississippi 39120.

Entergy Operations, Inc., Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: May 8, 1991, as supplemented by letters dated March 6, 1992, and January 28, 1993

Brief description of amendment: The amendment revised the Technical Specifications by revising the fuel oil amounts in the feed and storage tanks for the emergency diesel generators, clarifying the testing for the interconnecting piping, and revising the specific gravity of the fuel oil.

Date of issuance: March 16, 1994

Effective date: March 16, 1994

Amendment No.: 92

Facility Operating License No. NPF-38. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 26, 1991 (56 FR 29274), as revised April 14, 1993 (58 FR 19478) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 16, 1994. No significant hazards consideration comments received: No.

Local Public Document Room location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122.

Florida Power and Light Company, et al., Docket Nos. 50-335 and 50-389, St. Lucie Plant, Unit Nos. 1 and 2, St. Lucie County, Florida

Date of application for amendments: June 21, 1993

Brief description of amendments: These amendments will change Technical Specifications Section 6.0, "Administrative Controls," by (a) revising unit staff titles to those of the current FPL Nuclear Division organization, (b) revising the composition of the Facility Review Group (FRG) to broaden the scope of available expertise, and (c) making minor editorial corrections.

Date of issuance: March 2, 1994

Effective date: March 2, 1994

Amendment Nos.: 126, 65

Facility Operating License Nos. DPR-67 and NPF-16: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 21, 1993 (58 FR 39050) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 2, 1994. No significant hazards consideration comments received: No.

Local Public Document Room location: Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 34954-9003

Florida Power and Light Company, Docket Nos. 50-250 and 50-251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of application for amendments: August 17, 1993, as supplemented January 14, 1994.

Brief description of amendments: These amendments relocate fire protection requirements from the Technical Specifications to the Final Safety Analysis Report in accordance with Generic Letter 86-10, "Implementation of Fire Protection Requirements," and amend the license conditions accordingly.

Date of issuance: February 25, 1994

Effective date: February 25, 1994

Amendment Nos. 159 and 153

Facility Operating Licenses Nos. DPR-31 and DPR-41: Amendments revised the Licenses and Technical Specifications.

Date of initial notice in **Federal Register:** September 29, 1993 (58 FR 50967) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 25, 1994. No significant hazards consideration comments received: No

Local Public Document Room location: Florida International University, University Park, Miami, Florida 33199.

GPU Nuclear Corporation, et al., Docket No. 50-219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of application for amendment: December 16, 1993

Brief description of amendment: The amendment revises the Technical Specifications to clarify the requirements for maintaining secondary containment integrity when one or more Reactor Building Ventilation supply and exhaust valves are declared inoperable. The Technical Specifications add a new Limiting Condition for Operation, Basis Statement and Surveillance Requirements for these isolation valves.

Date of issuance: March 7, 1994

Effective date: As of the date of issuance to be implemented within 60 days.

Amendment No.: 168

Facility Operating License No. DPR-16. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 2, 1994 (59 FR 4938) The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated March 7, 1994. No significant hazards consideration comments received: No.

Local Public Document Room location: Ocean County Library, Reference Department, 101 Washington Street, Toms River, New Jersey 08753.

GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of application for amendment: August 26, 1993

Brief description of amendment: The amendment revises the plant Technical Specifications (TSs) to accommodate limited fuel reconstitution based on NRC Generic Letter (GL) 90-02, Supplement 1. Such reconstitution may be appropriate in the event of a leaking fuel rod, in which case the fuel rod would be replaced with a stainless steel or zirconium alloy filler rod.

Date of issuance: March 15, 1994

Effective date: As of its date of issuance, to be implemented within 30 days of issuance.

Amendment No.: 183

Facility Operating License No. DPR-50. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 10, 1993 (58 FR 59751). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 15, 1994. No significant hazards consideration comments received: No.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Indiana Michigan Power Company, Docket Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of application for amendments: April 16, 1991, as supplemented January 6, 1993.

Brief description of amendments: The amendments revise the technical specifications to incorporate recommendations from NRC Generic Letter 90-06 for power-operated relief valve and block valve reliability and low-temperature overpressure protection.

Date of issuance: March 9, 1994

Effective date: March 9, 1994

Amendment Nos.: 176 & 161

Facility Operating License Nos. DPR-58 and DPR-74. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 3, 1993 (58 FR 12261) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 9, 1994

No significant hazards consideration comments received: No.

Local Public Document Room location: Maud Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Maine Yankee Atomic Power Company, Docket No. 50-309, Maine Yankee Atomic Power Station, Lincoln County, Maine

Date of application for amendment: January 25, 1993, as supplemented by letters dated November 3 and 23, and December 9, 1993, and January 5 and 24, 1994.

Brief description of amendment: This amendment increases the maximum number of spent fuel assemblies that can be stored in the Maine Yankee fuel pool to 2019 from 1476. The increase in fuel storage capacity is required so that storage space is available for spent fuel through the duration of the current operating license, including the final full core offload.

Date of issuance: March 15, 1994

Effective date: March 15, 1994

Amendment No.: 144

Facility Operating License No. DPR-36: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 26, 1993 (58 FR 16423) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 15, 1994. No significant hazards consideration comments received: No

Local Public Document Room location: Wiscasset Public Library, High Street, P.O. Box 367, Wiscasset, Maine 04578.

Niagara Mohawk Power Corporation, Docket No. 50-220, Nine Mile Point Nuclear Station Unit No. 1, Oswego County, New York

Date of application for amendment: December 22, 1993

Brief description of amendment: The amendment revises Technical Specification (TS) 3.4.4.e (Emergency Ventilation System) to permit fuel handling operations to continue during refueling beyond 7 days with one circuit of the emergency ventilation system inoperable, provided the remaining emergency ventilation system circuit is operable and in operation. The change to TS 3.4.4.e is consistent with the NRC's Improved Standard Technical Specifications, NUREG-1433.

Date of issuance: March 8, 1994

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 146

Facility Operating License No. DPR-63: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** February 2, 1994 (59 FR 4940) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 8, 1994. No significant hazards consideration comments received: No

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Niagara Mohawk Power Corporation, Docket No. 50-220, Nine Mile Point Nuclear Station Unit No. 1, Oswego County, New York

Date of application for amendment: December 27, 1993

Brief description of amendment: The amendment relocates TS Tables 3.2.7, "Reactor Coolant Isolation Valves," and 3.3.4, "Primary Containment Isolation Valves," from TSs 3.2.7/4.2.7 and 3.3.4/4.3.4, respectively, to a plant procedure which governs lists removed from TSs per Generic Letter (GL) 91-08, "Removal of Component Lists from Technical Specifications." The plant procedure would be subject to the requirements specified in the Administrative Controls section of the NMP-1 TSs. The proposed amendment would also make conforming changes to the TS Bases.

These lists of valves will continue to be included in the NMP-1 Updated Final Safety Analysis Report. Relocation of these valve lists from the NMP-1 TSs to the plant procedure is consistent with NRC staff guidance issued in GL 91-08.

Date of issuance: March 7, 1994

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 145

Facility Operating License No. DPR-63: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** February 2, 1994 (59 FR 4941) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 7, 1994. No significant hazards consideration comments received: No

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Northeast Nuclear Energy Company, et al., Docket No. 50-336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut

Date of application for amendment: June 11, 1993, supplemented by letter dated November 15, 1993.

Brief description of amendment: The amendment revises the pressure/temperature (P/T) limits for the reactor vessel. Specifically, Figure 3.4-2, "Millstone Unit 2 Reactor Coolant System Pressure-Temperature Limitations for 12 Full Power Years," on page 3/4 4-19, is revised to reflect the change in the curves and the title change to "Millstone Unit 2 Reactor Coolant System Pressure-Temperature Limitations for 20 EFPY."

Date of issuance: January 27, 1994

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 170

Facility Operating License No. DPR-65. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 21, 1993 (58 FR 39054) The November 15, 1993, submittal provided information that did not change the initial proposed no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 27, 1994. No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resource Center, Three Rivers Community-Technical College, Thames Valley Campus, 574 New London Turnpike, Norwich, Connecticut 06360.

North Atlantic Energy Service Corporation, Docket No. 50-443, Seabrook Station, Unit No. 1, Rockingham County, New Hampshire

Date of amendment request: May 7, 1993

Description of amendment request: The amendment changes Technical Specification (TS) 3/4 6.1 relating to primary containment integrity. Limiting Condition for Operation (LCO) 3.6.1.7 is changed to delete the requirements applicable to the 36-inch containment shutdown purge supply and exhaust isolation valves in the containment air purge (CAP) system. Surveillance Requirement (SR) 4.6.1.7.1 and associated footnote and SR 4.6.1.7.2 are deleted also. To maintain document consistency, certain other editorial changes were made.

Date of issuance: March 7, 1994

Effective date: Not effective until operational MODE 5 is entered when commencing the third refueling outage, and is to be implemented prior to reentering operational MODE 4.

Amendment No.: 29

Facility Operating License No. NPF-86. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 23, 1993 (58 FR 34083). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 7, 1994. No significant hazards consideration comments received: No.

Local Public Document Room location: Exeter Public Library, 47 Front Street, Exeter, New Hampshire 03833.

Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of application for amendments: July 7, 1993

Brief description of amendments: The amendments revise the combined Technical Specifications (TS) for the Diablo Canyon Power Plant Unit Nos. 1 and 2 to change TS 5.1.3, "Map Defining Unrestricted Areas and Site Boundary for Radioactive Gaseous and Liquid Effluents," to be consistent with a recent interpretation of the restricted area definition in 10 CFR 20.

Date of issuance: March 3, 1994

Effective date: March 3, 1994

Amendment Nos.: 90 & 89

Facility Operating License Nos. DPR-80 and DPR-82: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 18, 1993 (58 FR 43930) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 3, 1994, and an environmental assessment was published in the **Federal Register** on February 25, 1994, (59 FR 9252). No significant hazards consideration comments received: No.

Local Public Document Room location: California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407

Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of application for amendments: September 8, 1993 (Reference LAR 93-06)

Brief description of amendments: The amendments revise the combined Technical Specifications (TS) for the Diablo Canyon Power Plant Unit Nos. 1 and 2. Specifically, TS 1.44, "Radiological Monitoring and Controls Program," 3/4.11, "Radioactive Effluents," and 6.14, "Radiological Monitoring and Controls Program (RMCP), Offsite Dose Calculation Procedure (ODCP) and Environmental Radiological Monitoring Procedure (ERMP)," are revised to change the Semiannual Radioactive Effluent Release Report to Annual Radioactive Effluent Release Report. The amendment also revises TS 6.2.3, "Onsite Safety Review Group (OSRG)," 6.5.2, "Plant Staff Review Committee," and 6.5.3.7, "Nuclear Safety Oversight Committee Review," to implement organizational changes.

Date of issuance: March 7, 1994

Effective date: March 7, 1994

Amendment Nos.: 91 and 90

Facility Operating License Nos. DPR-80 and DPR-82: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 27, 1993 (58 FR 57855) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 7, 1994. No significant hazards consideration comments received: No.

Local Public Document Room location: California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407

Pennsylvania Power and Light Company, Docket Nos. 50-387 and 50-388 Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of application for amendments: October 8, 1993

Brief description of amendments: The amendments revised the existing definition of CHANNEL CALIBRATION in Technical Specification 1.4 to allow in-place qualitative methods to be used to verify resistance temperature detector or thermocouple sensor behavior.

Date of issuance: March 8, 1994

Effective date: March 8, 1994

Amendment Nos.: 133 and 102

Facility Operating License Nos. NPF-14 and NPF-22. These amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 10, 1993 (58 FR 59754) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 8, 1994. No significant hazards consideration comments received: No

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Philadelphia Electric Company, Public Service Electric and Gas Company Delmarva Power and Light Company, and Atlantic City Electric Company, Docket Nos. 50-277 and 50-278, Peach Bottom Atomic Power Station, Unit Nos. 2 and 3, York County, Pennsylvania

Date of application for amendments: November 1, 1993 as supplemented January 26, 1994 and February 18, 1994.

Brief description of amendments: These amendments concern the Radiation Monitoring Systems - Isolation and Initiation Functions of the Technical Specifications and are necessary to support modification 5281. This modification replaces the obsolete control room ventilation radiation monitoring equipment.

Date of issuance: March 15, 1994

Effective date: March 15, 1994

Amendments Nos.: 184 and 189

Facility Operating License Nos. DPR-44 and DPR-56: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 8, 1993 (58 FR 64614) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 15, 1994. No significant hazards consideration comments received: No

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of application for amendment: July 15, 1993

Brief description of amendment: The amendment revises the Technical Specifications to eliminate the reactor scram and Main Steam Line Isolation Valve closure requirements associated with the Main Steam Line Radiation Monitors. The changes are consistent with Licensing Topical Report NEDO-31400, "Safety Evaluation for Eliminating the Boiling Water Reactor Main Steam Isolation Valve Closure Function and Scram Function of the Main Steam Line Radiation Monitor," dated May 1987.

Date of issuance: March 9, 1994

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 207

Facility Operating License No. DPR-59: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 4, 1993 (58 FR 41513) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 9, 1994. No significant hazards consideration comments received: No

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Southern California Edison Company, et al., Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

Date of application for amendments: October 16, 1992

Brief description of amendments: These amendments revise TS 3/4.3.4, "Turbine Overspeed Protection," to allow one surveillance every 31 days for verification of turbine overspeed protection system operability. Currently, the surveillance tests are performed at power every 7 days and again every 31 days. The 31-day test is performed by an operator with an observer at the valve.

Date of issuance: March 9, 1994

Effective date: March 9, 1994

Amendment Nos.: 111 and 100

Facility Operating License Nos. NPF-10 and NPF-15: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 17, 1993 (58 FR 8783) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 9, 1994. No significant hazards consideration comments received: No.

Local Public Document Room location: Main Library, University of California, P. O. Box 19557, Irvine, California 92713

Tennessee Valley Authority, Docket Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama

Date of application for amendments: January 10, 1992 (TS304)

Brief description of amendments: The amendments address emergency diesel generator availability for the plant shared systems of Standby Gas Treatment and Control Room Emergency Ventilation.

Date of issuance: March 9, 1994

Effective date: March 9, 1994

Amendment Nos.: 203, 222 and 176

Facility Operating License Nos. DPR-33, DPR-52 and DPR-68: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 15, 1992

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 9, 1994. No significant hazards consideration comments received: None

Local Public Document Room location: Athens Public Library, South Street, Athens, Alabama 35611

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: January 8, 1993; which was supplemented by submittals dated April 1, May 3, and August 18, 1993; and February 22, 1994.

Brief description of amendments: The amendments remove the surveillance requirement to perform reactor vessel nozzle inspections at the end of each 10-year inspection interval.

Date of issuance: March 15, 1994

Effective date: March 15, 1994

Amendment Nos.: 177 and 168

Facility Operating License Nos. DPR-77 and DPR-79: Amendments revise the technical specifications.

Date of initial notice in **Federal Register:** February 3, 1993 (58 FR 7007) The Commission's related evaluation of the amendments are contained in a Safety Evaluation dated March 15, 1994. No significant hazards consideration comments received: None

Local Public Document Room location: Chattanooga-Hamilton County

Library, 1101 Broad Street, Chattanooga, Tennessee 37402

Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia.

Date of application for amendments: July 2, 1993, as supplemented December 10, 1993

Brief description of amendments: These amendments modify the Technical Specifications having cycle-specific parameters limits by replacing the values of those limits with a reference to a Core Operating Limits Report for the values of those limits.

Date of issuance: March 2, 1994

Effective date: March 2, 1994

Amendment Nos. 189 and 189

Facility Operating License Nos. DPR-32 and DPR-37: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 4, 1993 (58 FR 41519) The December 10, 1993, submittal did not expand the scope of the original application and did not change the proposed no significant hazards determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 2, 1994. No significant hazards consideration comments received: No

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185

Virginia Electric and Power Company, Docket Nos. 50-280, 50-281, 50-338, and 50-339, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia, and North Anna Power Station, Unit Nos. 1 and 2, Louisa County, Virginia.

Date of application for amendments: July 20, 1993

Brief description of amendments: These amendments delete the Technical Specifications requirement for Station Nuclear Safety and Operating Committee review of the Emergency and Security Plans. This requirement remains in the respective plans. The audit frequencies are also being deleted from the TS.

Date of issuance: March 1, 1994

Effective date: March 1, 1994

Amendment Nos. 188, 188, (Surry 1&2) 180, 161 (North Anna 1&2)

Facility Operating License Nos. DPR-32, DPR-37, NPF-4 and NPF-7: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 1, 1993 (58 FR 46242) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 1, 1994. No significant hazards consideration comments received: No

Local Public Document Room locations: Swem Library, College of William and Mary, Williamsburg, Virginia 23185, and The Alderman Library, Special Collections Department, University of Virginia, Charlottesville, Virginia 22903-2498.

Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia.

Date of application for amendments: December 10, 1993

Brief description of amendments: These amendments modify the surveillance requirements for the Auxiliary Feedwater System pumps and valves, define "staggered test basis," and make administrative changes to the Technical Specifications.

Date of issuance: March 7, 1994

Effective date: March 7, 1994

Amendment Nos. 190 and 190

Facility Operating License Nos. DPR-32 and DPR-37: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 19, 1994 (59 FR 2873) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 7, 1994. No significant hazards consideration comments received: No

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185

Notice of Issuance of Amendments to Facility Operating Licenses and Final Determination of No Significant Hazards Consideration and Opportunity for a Hearing (Exigent Public Announcement or Emergency Circumstances)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing.

For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards consideration determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant

to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room for the particular facility involved.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendment. By April 29, 1994, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses. Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 248-5100 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to (Project Director): petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

Illinois Power Company and Soyland Power Cooperative, Inc., Docket No. 50-461, Clinton Power Station, Unit No. 1, DeWitt County, Illinois

Date of application for amendment: February 25, 1994 as supplemented on March 11, 1994

Brief description of amendment: The amendment revised the Technical Specifications by adding a footnote to Specification 3/4.4.3.1, "Reactor Coolant System Leakage - Leakage Detection Systems," to permit continued plant operations with inoperable drywell floor drain sump flow monitoring instrumentation until the first time the plant is required to be brought to COLD SHUTDOWN after March 15, 1994.

Date of issuance: March 14, 1994

Effective date: March 14, 1994

Amendment No.: 89

Facility Operating License No. NPF-62. The amendment revised the Technical Specifications. Public comments requested as to proposed no significant hazardsconsideration: No.

The Commission's related evaluation of the amendment, finding of emergency circumstances, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated March 14, 1994.

Local Public Document Room location: The Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727.

Indiana Michigan Power Company, Docket No. 50-315, Donald C. Cook, Nuclear Plant, Unit No. 1, Berrien County, Michigan

Date of application for amendment: December 15, 1993, as supplemented February 15 and 24, 1994 (December 15, 1993, application supersedes the licensee's March 10, 1993 application.)

Brief description of amendment: The amendment revises the Technical Specifications to allow the continuance of voltage-based steam generator tube plugging criteria for outside-diameter stress corrosion cracking at tube support plate elevations. The amendment allows the use of a 2.0 volt interim repair criterion for Cycle 14 operation.

Date of issuance: March 15, 1994

Effective date: March 15, 1994

Amendment No.: 178

Facility Operating License No. DPR-58. Amendment revises the Technical Specifications. Public comments requested as to proposed no significant hazards consideration. Yes. The December 15, 1993, application was noticed in the **Federal Register** on January 5, 1994 (59 FR 621). The NRC also published a public notice of the proposed amendment, issued a proposed finding of no significant hazards consideration, and requested that any comments on the proposed finding be provided to the staff by the close of business on March 7, 1994. The notice was published in the South Haven Tribune on March 1, 1994, and in the Herald-Palladium on March 2, 1994. No comments have been received.

The Commission's related evaluation of the amendment, finding of exigent circumstances, consultation with the State of Michigan, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated March 15, 1994.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW, Washington, DC 20037

Local Public Document Room location: Maud Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

NRC Project Director: Ledyard B. Marsh

Indiana Michigan Power Company, Docket No. 50-315, Donald C. Cook, Nuclear Plant, Unit No. 1, Berrien County, Michigan

Date of application for amendment: February 15, 1994

Brief description of amendment: The amendment revises the Technical Specifications

Date of issuance: March 14, 1994

Effective date: March 14, 1994

Amendment No.: 177

Facility Operating License No. DPR-58. Amendment revises the Technical Specifications. Public comments requested as to proposed no significant hazards consideration. Yes. The NRC published a public notice of the proposed amendment, issued a proposed finding of no significant hazards consideration, and requested that any comments on the proposed finding be provided to the staff by the close of business on March 7, 1994. The notice was published in the South Haven Tribune on March 1, 1994, and in the Herald-Palladium on March 2, 1994. No comments have been received.

The Commission's related evaluation of the amendment, finding of exigent circumstances, consultantion with the State of Michigan, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated March 14, 1994

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW, Washington, DC 20037

Local Public Document Room location: Maud Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

NRC Project Director: Ledyard B. Marsh

Dated at Rockville, Maryland, this 23rd day March 1994.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director, Division of Reactor Projects - I/II, Office of Nuclear Reactor Regulation

[Doc. 94-7331 Filed 3-29-94; 8:45 am]

BILLING CODE 7590-01-F

NUCLEAR REGULATORY COMMISSION

Reclamation of Atlas Corporation's Uranium Mill Facility at Moab, UT: Intent To Prepare an Environmental Impact Statement and To Conduct a Scoping Process

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of intent to prepare an Environmental Impact Statement (EIS) and conduct a scoping process for the EIS including a scoping meeting.

SUMMARY: The NRC intends to prepare an EIS for the decommissioning and reclamation of the Atlas Corporation's (Atlas) uranium mill facility at Moab, Utah. Atlas has been licensed by the NRC to process ores (source material) to produce uranium, in the form of yellowcake. As a result of processing ores, the facility produced a large quantity of sand and slime tailings which contain much of the radioactive materials from the ore in the form of daughter products. Atlas no longer actively processes ore at the Moab, Utah mill. It is however, decommissioning the mill, and has submitted a revised reclamation plan to NRC which, like the reclamation plan approved by NRC in 1982, proposes on-site stabilization of the tailings. This notice indicates NRC's intent to prepare an EIS in conjunction with this proposed action and to conduct a scoping process that will include a public scoping meeting.

Written comments on matters covered by this notice received by May 13, 1994, will be considered in developing the scope of the EIS. Comments received after this date will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before this date.

ADDRESSES: Written comments on the matters covered by this notice should be sent to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555. ATTN: Docketing and Services Branch. Hand deliver comments to 11555 Rockville Pike, Rockville, Maryland 20852, between 7:45 a.m. and 4:15 p.m., on Federal workdays.

The scoping meeting will be held at Starr Hall, 155 East Center Street, Moab, Utah, on Thursday, April 14, 1994, from 7–10 pm.

FOR FURTHER INFORMATION CONTACT: Allan Mullins, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555, Telephone: 301–504–2578.

SUPPLEMENTARY INFORMATION:

Background

The NRC has the statutory responsibility for protection of public health and safety and the environment related to the use of source, byproduct, and special nuclear material under the Atomic Energy Act of 1954, as amended. One portion of this responsibility is to assure safe and timely reclamation at nuclear facilities which the NRC licenses. For the Atlas uranium mill,

reclamation would ensure the long-term stability of uranium tailings for up to 1000 years and control of radon releases to a low risk level.

In August 1988, Atlas submitted for NRC review, a revision to the tailings reclamation plan for the Moab mill which had been approved in 1982. This plan was revised by Atlas in response to NRC questions by submittals in January 1989, June 1992, and April 1993. Atlas submitted an Environmental Report Supplement in support of the reclamation plan in April 1993. This document supplemented Atlas' Environmental Report of 1973, NRC's EIS on the Moab facility of 1979, NRC's Final Generic EIS of 1980, and Atlas' license renewal application in 1984.

In July 1993, NRC staff noticed a "Finding of No Significant Impact" (FONSI), including an Environmental Assessment (EA), in the **Federal Register** in anticipation of approving the reclamation plan submitted by the licensee for onsite disposal of mill tailings. NRC received more than 20 letters with comments opposing the proposed action and identifying issues requiring additional evaluation and consideration. As a result, the FONSI was rescinded by **Federal Register** notice in October 1993. The technical evaluation is underway by NRC staff with additional information requested from the licensee.

Need for Proposed Action

Atlas is licensed by the NRC (License Number SUA–917) to possess and store source material in the form of uranium mill tailings at a site located near the town of Moab, Utah. The mill operated from 1956 until 1984 under license from NRC or the Atomic Energy Commission. It has been owned by Atlas since 1962. The mill produced 7 million cubic yards (11 million tons) of tailings during its operating life. These tailings are near the mill and are contained in a pile which covers 53 hectares (130 acres) and rises 33.5 meters (110 feet) above the adjacent land level.

Source material is no longer processed at the site and Atlas has been engaged in decommissioning the site for the last several years. A reclamation plan for onsite disposal of the mill tailings was approved by the NRC in 1982. Atlas has submitted a revised onsite reclamation plan for NRC approval which is currently being evaluated for technical adequacy and compliance with the requirements in Appendix A to 10 CFR part 40.

The NRC has determined that approval of the revised reclamation plan constitute a major Federal action and that based on the level of controversy related to the proposed action and uncertainties associated with the unique features of the Moab site, preparation of an EIS in accordance with the National Environmental Policy Act (NEPA) and the NRC's implementing requirements in 10 CFR part 51 is warranted.

The Commission's regulations in 10 CFR part 51 contain requirements for conducting a scoping process prior to preparation of an EIS. In accordance with 10 CFR 51.26, whenever the NRC determines that it will prepare an EIS in connection with a proposed action, NRC will publish a notice of intent in the **Federal Register** stating that it will prepare an EIS and conduct an appropriate scoping process. This scoping process may include the holding of a public scoping meeting.

NRC describes, in 10 CFR 51.27, the content of the notice of intent and requires that the notice describe the proposed action and, to the extent that sufficient information is available, possible alternatives. In addition, the notice of intent is required to describe the proposed scoping process, including the role of participants, the comment process, and the need for a public scoping meeting.

In accordance with §§ 51.26 and 51.27, the proposed action and possible alternative approaches and the scoping process are discussed below.

Description of Proposed Action

The proposed action is approval by NRC of a revised reclamation plan for the mill tailings at the Moab site.

The licensee has submitted a plan which calls for the reclamation of the tailings impoundment in place, covering the tailings with a soil cover to reduce radon emanation, re-configuring the surface of the tailings impoundment to drain toward collection ditches, and flattening the embankment side slopes. The collection ditches would merge to form a drainage channel which would convey water runoff from the covered tailings surface into Moab Wash. Moab Wash would be reconfigured to convey flood level flows into the Colorado River east of the tailings pile. On the southwest side of the tailings embankment, another drainage channel would divert runoff from the natural sandstone bluffs southwest of the channel. To protect against erosion, the top of the tailings impoundment would be covered with a layer of compacted rock and soil and the embankment side slopes covered with rock native to the region.

Two alternative sites have been identified. One site is in a box canyon about 7 miles away and the other site is near the airport, about 15 miles away. The tailings would be placed partially below grade at either site, with the pile rising approximately 11 meters (37 feet) above the ground surface. Detailed designs have not been completed for these potential sites but similar issues for erosion, floods, seismic effects, and groundwater protection would have to be considered in any detailed design. However, the environmental aspects of the sites will be addressed in the EIS.

The technical evaluation of the proposed onsite disposal of the tailings by NRC staff is in progress. The environmental evaluation will consider both onsite and offsite disposal options. The acceptability of the licensee's proposal will be determined based on the results of the technical and environmental review process.

Preparation of an Environmental Impact Statement

Under NEPA, all Federal agencies must consider the effect of their actions on the environment. Section 102(1) of NEPA requires that the policies, regulations, and public laws of the United States be interpreted and administered in accordance with the policies set forth in NEPA. It is the intent of NEPA to have Federal agencies incorporate consideration of environmental issues into their decision-making processes. NRC's regulations implementing NEPA are contained in 10 CFR part 51. To fulfill NRC's responsibilities under NEPA, NRC intends to prepare an EIS that will analyze the environmental impacts and costs of the proposed action and alternatives. Two alternative sites and the "no action" alternative will be analyzed. The scope of the EIS includes consideration of both radiological and non-radiological impacts associated with the alternative actions.

This notice announces the NRC's intent to prepare an EIS. The principal intent of the EIS is to provide a document that describes the environmental consequences of the proposed action and alternatives which will be available to support the NRC's licensing decision on the reclamation plan for the Moab site.

The Scoping Process

Participants may attend and provide oral discussion on the proposed action and possible alternatives at the public scoping meeting to be held at Starr Hall, 155 East Center Street, Moab, Utah, on Thursday, April 14, 1994, from 7 to 10 p.m. A transcript of the meeting will be prepared.

The Commission will also accept written comments on the proposed action and alternatives from the public.

Written comments should be submitted by May 13, 1994, and should be sent to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555. ATTN: Docketing and Services Branch. Hand deliver comments to 11555 Rockville Pike, Rockville, Maryland between 7:45 am and 4:15 pm on Federal workdays.

According to 10 CFR 51.29, the scoping process is to be used to conduct the following activities:

(a) *Define the proposed action to be the subject of the EIS.* The proposed action is the reclamation of uranium mill tailings onsite at the Atlas uranium mill facility in Moab, Utah.

(b) *Determine the scope of the EIS and the significant issues to be analyzed in depth.* The NRC is proposing to analyze the costs and impacts associated with the proposed action and alternative reclamation approaches. The following proposed outline for the EIS reflects the current NRC staff view on the scope and major topics to be dealt with in the EIS:

Proposed Outline: Environmental Impact Statement

Abstract

Executive Summary

Table of Contents

1. Introduction.
   - 1.1 Summary of Proposed Action and Alternatives.
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   - 1.3 Purpose and Need for Proposed Action.
   - 1.4 Scope of Environmental Impact Statement.
2. Alternatives including the Proposed Action.
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   - 3.1 Introduction.
   - 3.2 Description of the Moab Mill Facility.
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   - 3.4 Geology/Seismology.
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   - 6.1 General.
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   - 6.4 Staff Assessment.
7. Permits and Approvals.
8. List of Preparers.
9. List of Agencies, Organizations, and Persons Contacted.
10. Distribution List Receiving Copies of the Draft EIS.
11. References.

Appendix A—Reserved for Comments on DEIS.

Appendix B—Results of Scoping Process.

(c) *Identify and eliminate from detailed study issues which are not significant or which are peripheral or which have been covered by prior environmental review.* The decommissioning plan for the mill facility was approved by NRC in November 1988 and amended in September 1991. The mill property will be reclaimed and decontaminated to U.S. Environmental Protection Agency (EPA) standards allowing for unrestricted use, thus mitigating any adverse effects. Extensive water monitoring has identified no contamination in the Colorado River; therefore, there are no effects on river biota, and they will not be assessed. There should be no harmful impacts on terrestrial biota and no assessment is required, as the tailings pile will be covered and radon emanations reduced to comply with EPA standards. Rock armor will prevent burrowing animals from intruding into the tailings.

(d) *Identify any Environmental Assessments or EISs that are related but are not part of the scope of this EIS.* The operational aspects of the Atlas Moab mill facility were considered in the EIS completed in January 1979. A Generic EIS on Uranium Milling was completed in September 1980. An EA of the proposed reclamation plan was completed and noticed in the **Federal Register** on July 20, 1993. Based on issues identified in comments received on the EA, NRC determined that an EIS was required for the proposed action.

(e) *Identify other environmental review or consultation requirements related to the proposed action.* NRC will consult with other Federal, State, and local agencies that have jurisdiction or interests in the Moab site. For example, NRC has already been coordinating its technical review activities for the Moab site with EPA, the U.S. Department of Interior, the Utah Department of Environmental Quality, Division of Radiation Control, and the Grand County Council. NRC anticipates continued consultation with these and other agencies, as appropriate, during the development of the EIS. In addition, the Endangered Species Act and the National Historic Preservation Act require coordination with the U.S. Fish and Wildlife Service and the Utah State Historical Society.

(f) *Indicate the relationship between the timing of the preparation of environmental analysis and the Commission's tentative planning and decision making schedule.* NRC intends to prepare and issue for public comment a draft EIS in October 1994. The comment period would be for 45 days. The final EIS is scheduled for publication in April 1995. Subsequent to completion of the final EIS, the NRC will act on a license amendment approving a reclamation plan for the site.

(g) *Describe the means by which the EIS will be prepared.* NRC will prepare the draft EIS according to the requirements in 10 CFR part 51. The EIS will be prepared by the NRC staff and Oak Ridge National Laboratory which has been contracted to provide technical assistance in the preparation of the EIS. In addition, NRC anticipates requesting specific information from the licensee to support preparation of the EIS. Any information received from the licensee related to the EIS will be available for public review, unless the information is protected from public disclosure in accordance with NRC requirements in 10 CFR 2.790.

In the scoping process, participants are invited to speak or submit written comments, as noted above, on any or all of the areas described above. In accordance with 10 CFR 51.29, at the conclusion of the scoping process, NRC will prepare a concise summary of the determinations and conclusions reached, including the significant issues identified, and will send a copy to each participant in the scoping process.

Dated at Rockville, Maryland, this 23d day of March, 1994.

For the U.S. Nuclear Regulatory Commission.

Joseph J. Holonich,

Acting Chief, Uranium Recovery Branch, Division of Low-Level Waste Management and Decommissioning, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 94–7506 Filed 3–29–94; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 04008989]

Envirocare of Utah, Inc.; Receipt of Application From Envirocare of Utah, Inc., To Amend Byproduct Material License No. SMC–1559

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has received, by letter dated March 1, 1994, an application from Envirocare of Utah, Inc. to amend byproduct material license No. SMC–1559. The license amendment application proposes:

1. to modify license condition 11.1 to allow the licensee 72 hours, excluding weekends or holidays, to take both confirmatory sample and the third sample from the Point of Compliance (POC) wells. The current license condition requires the licensee to take the confirmatory samples within 24 hours and the third sample within 48 hours.

2. to modify license conditions 9.6(e), 10.2(b), 10.7, and 10.8 based on revisions to the radiation safety program and supporting analysis to allow more flexibility in day-to-day operations. The specific modifications are as follows:

a. Envirocare proposes a modification to license condition 9.6(e) which deletes that portion which currently requires "* * * quality controls for waste * * * classification as higher or lower specific activity waste." Envirocare states the amendment application provides sufficient information to demonstrate that the need to identify "higher or lower specific activity waste" is eliminated by the application of the sensitivity analysis. This sensitivity analysis considers all aspects of waste concentration and volume for each radionuclide and the associated handling procedures.

b. Envirocare proposes the deletion of license condition 10.2(b), which currently requires the licensee to analyze and characterize specified key radon attenuation model parameter values during placement to verify that the values used in the licensee's radon attenuation model have been achieved. Envirocare indicates that the amendment application provides sufficient data to demonstrate that the purpose behind this condition is eliminated because the sensitivity analysis uses the default parameters contained in Regulatory Guide 3.64, "Calculation of Radon Flux Attenuation by Earthen Mill Tailings Covers," for the key radon attenuation model parameter values.

c. Envirocare proposes to re-word license condition 10.7 eliminating all reference to "higher" and "lower" activity waste. Specifically, Envirocare proposes the condition be reworded to state "The licensee shall, upon arrival of the waste, perform external exposure rate measurements of the waste conveyances. Any shipment with exposure rates greater than 5 mrem per hour at a distance of 30 cm from any surface, and which cannot be disposed of within 24 hours, shall be posted as a Radiation Area in compliance with 10 CFR 20.1902(a) until disposed." The licensee justification for the change is that the reworded condition provides a greater assurance of proper radiation safety which does not depend on the shippers manifest for determination.

d. Envirocare proposes to delete condition 10.8(c), the limit on the total embankment capacity; 10.8(g), the restriction on the annual bulk concentration; and 10.8(h), the restriction on the yearly average concentration. Envirocare states that amendment application provides sufficient information to demonstrate that these conditions are "* * * satisfied by the application of the results of the sensitivity analysis on the model * * *"

In addition, Envirocare proposes to add a new condition, which would become condition 10.8(f), that requires the licensee to manage waste receipt, storage, and disposal operations in such a manner as to assure compliance with the effluent concentration limits of Table 2, appendix B to 10 CFR 20.1001–20.2401 and population dose limits of 10 CFR 20.1301.

FOR FURTHER INFORMATION CONTACT: Sandra L. Wastler, Uranium Recovery Branch, Division of Low-Level Waste Management and Decommissioning, U.S. Nuclear Regulatory Commission, Washington, DC 20555, (301) 504–2582.

Notice of Availability of License Amendment Application by Envirocare of Utah, Inc.

Envirocare of Utah, Inc.'s application to amend byproduct material license SMC–1559, which describes the proposed modifications to the 11e.(2) byproduct material disposal facility operation and design, is being made available for public inspection at the Commission's Public Document room at 2120 L Street NW. (Lower Level), Washington, DC 20555.

Notice of Opportunity for Hearing on License Amendment Request by Envirocare of Utah, Inc.

The licensee and any person whose interest may be affected by the issuance of this license amendment may file a request for hearing. A request for hearing must be filed with the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, within 30 days of the publication of this notice in the **Federal Register**; be served on the NRC staff (Executive Director for Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852); be served on the licensee (Envirocare of Utah, Inc., American Towers Commercial, 46 W. Broadway, suite 240, Salt Lake City, Utah 84101); and must comply with the requirements set forth in the Commission's regulations, 10 CFR 2.105 and 2.714. The request for hearing must 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, including the reasons why the request should be granted, with particular reference to the following factors:

1. The nature of the petitioner's right, under the Atomic Energy 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, on the petitioner's interest, of any order which may be entered in the proceeding.

The request must also set forth the specific aspect or aspects of the subject matter of the proceeding as to which petitioner wishes a hearing.

Dated at Rockville, Maryland, this 23d day of March 1994.

For the Nuclear Regulatory Commission.

Joseph J. Holonich,

Acting Chief, Uranium Recovery Branch, Division of Low-Level Waste Management and Decommissioning, Office of Nuclear Materials Safety and Safeguards.

[FR Doc. 94–7505 Filed 3–29–94; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Request for Clearance of a New Information Collection, Form RI 98–6

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S.C. chapter 35), this notice announces a request for clearance of a new information collection. Form RI 98–6, We Need Important Information About Your Eligibility for SSA Disability Benefits (SSA Benefits were Denied), is used to verify receipt of SSA disability benefits, make necessary adjustments to the FERS disability benefit, and notify the annituant of any

overpayment amount payable to OPM. It also specifically notifies annuitants of their responsibility to notify OPM of their Social Security status and the consequences of non-notification.

There are estimated to be 750 respondents for RI 98–6. It takes approximately 5 minutes to complete RI 98–6 for an annual burden of 63 hours.

For copies of this proposal, contact C. Ronald Trueworthy on (703) 908–8550.

DATES: Comments on this proposal should be received April 29, 1994.

ADDRESSES: Send or deliver comments to—

Daniel A. Green, Retirement and Insurance Group, FERS Division, U.S. Office of Personnel Management, 1900 E Street, NW., room 3349, Washington, DC 20415.

and

Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW., room 3002, Washington, DC 20503.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION CONTACT: Mary Beth Smith-Toomey, Chief, Forms Analysis and Design Section, (202) 606–0623.

U.S. Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

[FR Doc. 94–7469 Filed 3–29–94; 8:45 am]

BILLING CODE 6325–01–M

POSTAL RATE COMMISSION

[Docket No. R94–1; Order No. 1007]

Postal Rate and Fee Changes, 1994; U.S. Postal Service's Filing of Proposed Postal Rate and Fee Changes; Ruling on Motion for Settlement Conference; and Order Concerning Related Commission Proceedings; Correction

AGENCY: Postal Rate Commission.

ACTION: Correction.

SUMMARY: In FR Document 94–6473 appearing at pages 12996 thru 13016 in the issue of Friday, March 18, 1994, several pages of rate schedules were omitted from Attachment A, due to an error in photocopying. Attachment A beginning at page 12998 thru 13016 should be replaced with the following attachment.

Dated: March 24, 1994.

Charles L. Clapp,

Secretary.

Attachment A—Present and Proposed Rates of Postage and Fees for Postal Services

RATE SCHEDULE 100.—FIRST-CLASS MAIL

Mail and type postage rate unit (1) (2)	Current rates[1] (cents) (3)	Proposed rates (cents) (4)
Letters:		
Nonpresort:		
First ounce:		
Basic	29	32
ZIP + 4 Letters	[2,3] 27.6	30.5
Pre-barcoded Flats[9]	26.7	29.5
Nonstandard surcharge	10	11
Additional ounces [4]	23	25
Presort:[5].		
First ounce; 3 and 5 Digit:[6]		
Basic	24.8	27.4
ZIP + 4 Letters [3]	24.2	26.7
Pre-barcoded Letters—3 Digit	23.9	26.4
Pre-barcoded Letters—5 Digit	23.3	25.7
Pre-barcoded Flats—3/5 Digit	23.3	25.7
Carrier Route [7]	23	25.4
Nonstandard surcharge	5	6
Additional ounces [4]	23	25
Cards:		
Nonpresort:		
Basic	19	21
ZIP + 4 [2,3]	18	19.9
Pre-barcode [8]	17.7	19.6
Presort:		
3 and 5 Digit:[6]		
Basic	17	18.8
ZIP + 4 [3]	16.4	18.1
Pre-barcode—3 Digit	16.1	17.8
Pre-barcode—5 Digit	15.5	17.1
Carrier Route [7]	15.2	16.8

[1] The 5-digit presort rate applies only to each piece of group of ten or more pieces destined for the same 5–Digit ZIP Code or each piece of a group of 50 or more pieces destined for the same 3-digit ZIP Code. The lower carrier route rate applies only to mail presorted to carrier route, with a minimum of 10 pieces per route. A mailing fee of $85 must be paid once each year at each office of mailing by any person who mails presorted First-Class Mail. The fee for mailers allows usage of either or both of these rates.

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

[3] ZIP + 4 mail must be properly prepared and submitted in a single mailing of at least 250 pieces, except where the presort minimum of 500 applies. ZIP + 4 rates are not available for carrier route presort mail.
[4] Rate applies through 11 ounces. Heavier pieces are subject to Priority Mail rates.
[5] For presorted mailings weighing more than 2 ounces, subtract 4.6 cents per piece.
[6] Mail presorted to ZIP Code and prepared in mailings of 500 pieces or more as prescribed by the Postal Service.
[7] Mail presorted to carrier route and prepared in mailings of 500 pieces or more as prescribed by the Postal Service.
[8] Nonpresorted and pre-barcoded cards must be properly prepared and submitted in mailings of at least 250 pieces.
[9] Nonpresorted pre-barcoded flat mail must be properly prepared and submitted in mailings of at least 250 pieces.

RATE SCHEDULE 103.—PRIORITY MAIL* (DOLLARS) CURRENT

Weight not exceeding (pounds)	Rate					
	Zones					
	Local 1, 2, and 3	4	5	6	7	8
2	2.90	2.90	2.90	2.90	2.90	2.90
3	4.10	4.10	4.10	4.10	4.10	4.10
4	4.65	4.65	4.65	4.65	4.65	4.65
5	5.45	5.45	5.45	5.45	5.45	5.45
6	5.55	5.75	6.10	6.85	7.65	8.60
7	5.70	6.10	6.70	7.55	8.50	9.65
8	5.90	6.50	7.30	8.30	9.40	10.70
9	6.10	7.00	7.95	9.05	10.25	11.75
10	6.35	7.55	8.55	9.80	11.15	12.80
11	6.75	8.05	9.20	10.55	12.05	13.80
12	7.15	8.55	9.80	11.30	12.90	14.85
13	7.50	9.10	10.40	12.05	13.80	15.90
14	7.90	9.60	11.05	12.80	14.65	16.95
15	8.30	10.10	11.65	13.55	15.55	18.00
16	8.70	10.65	12.30	14.30	16.45	19.05
17	9.10	11.15	12.90	15.05	17.30	20.10
18	9.50	11.65	13.55	15.80	18.20	21.10
19	9.90	12.20	14.15	16.50	19.05	22.15
20	10.30	12.70	14.75	17.25	19.95	23.20
21	10.70	13.25	15.40	18.00	20.85	24.25
22	11.10	13.75	16.00	18.75	21.70	25.30
23	11.50	14.25	16.65	19.50	22.60	26.35
24	11.90	14.80	17.25	20.25	23.45	27.40
25	12.30	15.30	17.90	21.00	24.35	28.45
26	12.70	15.80	18.50	21.75	25.25	29.45
27	13.10	16.35	19.10	22.50	26.10	30.50
28	13.50	16.85	19.75	23.25	27.00	31.55
29	13.90	17.35	20.35	24.00	27.85	32.60
30	14.30	17.90	21.00	24.75	28.75	33.65
31	14.70	18.40	21.60	25.50	29.65	34.70
32	15.10	18.95	22.20	26.20	30.50	35.75
33	15.50	19.45	22.85	26.95	31.40	36.75
34	15.90	19.95	23.45	27.70	32.25	37.80
35	16.30	20.50	24.10	28.45	33.15	38.85
36	16.70	21.00	24.70	29.20	34.05	39.90
37	17.10	21.50	25.35	29.95	34.90	40.95
38	17.45	22.05	25.95	30.70	35.80	42.00
39	17.85	22.55	26.55	31.45	36.65	43.05
40	18.25	23.05	27.20	32.20	37.55	44.05
41	18.65	23.60	27.80	32.95	38.45	45.10
42	19.05	24.10	28.45	33.70	39.30	46.15
43	19.45	24.60	29.05	34.45	40.20	47.20
44	19.85	25.15	29.65	35.15	41.05	48.25
45	20.25	25.65	30.30	35.90	41.95	49.30
46	20.65	26.20	30.90	36.65	42.85	50.35
47	21.05	26.70	31.55	37.40	43.70	51.35
48	21.45	27.20	32.15	38.15	44.60	52.40
49	21.85	27.75	32.80	38.90	45.45	53.45
50	22.25	28.25	33.40	39.65	46.35	54.50
51	22.65	28.75	34.00	40.40	47.25	55.55
52	23.05	29.30	34.65	41.15	48.10	56.60
53	23.45	29.80	35.25	41.90	49.00	57.65
54	23.85	30.30	35.90	42.65	49.85	58.65
55	24.25	30.85	36.50	43.40	50.75	59.70
56	24.65	31.35	37.15	44.15	51.65	60.75
57	25.05	31.90	37.75	44.85	52.50	61.80
58	25.45	32.40	38.35	45.60	53.40	62.85
59	25.85	32.90	39.00	46.35	54.25	63.90
60	26.25	33.45	39.60	47.10	55.15	64.95

RATE SCHEDULE 103.—PRIORITY MAIL* (DOLLARS) CURRENT—Continued

Weight not exceeding (pounds)	Rate					
	Zones					
	Local 1, 2, and 3	4	5	6	7	8
61	26.65	33.95	40.25	47.85	56.05	65.95
62	27.05	34.45	40.85	48.60	56.90	67.00
63	27.40	35.00	41.45	49.35	57.80	68.05
64	27.80	35.50	42.10	50.10	58.65	69.10
65	28.20	36.00	42.70	50.85	59.55	70.15
66	28.60	36.55	43.35	51.60	60.45	71.20
67	29.00	37.05	43.95	52.35	61.30	72.25
68	29.40	37.55	44.60	53.10	62.20	73.25
69	29.80	38.10	45.20	53.80	63.05	74.30
70	30.20	38.60	45.80	54.55	63.95	75.35

Notes*: [1] The 2-pound rate is charged for matter sent in a "flat rate" envelope provided by the Postal Service.
[2] Add $4.50 for each pickup stop.
[3] Pieces presented in mailings of at least 300 pieces and meeting applicable Postal Service regulations for presorted Priority Mail receive a 10-cent per piece discount.
[4] Exception: Parcels weighing less than 15 pounds, measuring over 84 inches in length and girth combined, are chargeable with a minimum rate equal to that for a 15-pound parcel for the zone to which addressed.

RATE SCHEDULE 103.—PRIORITY MAIL* (DOLLARS) PROPOSED

Weight not exceeding (pounds)	Rate					
	Zones					
	Local 1, 2, and 3	4	5	6	7	8
2	3.20	3.20	3.20	3.20	3.20	3.20
3	4.50	4.50	4.50	4.50	4.50	4.50
4	5.15	5.15	5.15	5.15	5.15	5.15
5	6.00	6.00	6.00	6.00	6.00	6.00
6	6.10	6.35	6.75	7.55	8.45	9.50
7	6.30	6.75	7.40	8.35	9.40	10.65
8	6.50	7.15	8.05	9.15	10.35	11.80
9	6.75	7.70	8.75	10.00	11.30	12.95
10	7.00	8.35	9.45	10.80	12.30	14.10
11	7.45	8.90	10.15	11.65	13.30	15.20
12	7.90	9.45	10.80	12.45	14.25	16.40
13	8.25	10.05	11.45	13.30	15.20	17.55
14	8.70	10.60	12.20	14.10	16.15	18.70
15	9.15	11.15	12.85	14.95	17.15	19.85
16	9.60	11.75	13.55	15.75	18.15	21.00
17	10.05	12.30	14.25	16.60	19.10	22.15
18	10.50	12.85	14.95	17.45	20.05	23.25
19	10.90	13.45	15.60	18.20	21.00	24.45
20	11.35	14.00	16.25	19.05	22.00	25.60
21	11.80	14.60	17.00	19.85	23.00	26.75
22	12.25	15.15	17.65	20.70	23.95	27.90
23	12.70	15.70	18.35	21.50	24.95	29.05
24	13.15	16.30	19.05	22.35	25.85	30.20
25	13.55	16.90	19.75	23.15	26.85	31.40
26	14.00	17.45	20.40	24.00	27.85	32.50
27	14.45	18.05	21.05	24.80	28.80	33.65
28	14.90	18.60	21.80	25.65	29.80	34.80
29	15.35	19.15	22.45	26.45	30.70	35.95
30	15.75	19.75	23.15	27.30	31.70	37.10
31	16.20	20.30	23.80	28.15	32.70	38.25
32	16.65	20.90	24.50	28.90	33.65	39.45
33	17.10	21.45	25.20	29.75	34.65	40.55
34	17.55	22.00	25.85	30.55	35.55	41.70
35	18.00	22.60	26.60	31.40	36.55	42.85
36	18.40	23.15	27.25	32.20	37.55	44.00
37	18.85	23.70	27.95	33.05	38.50	45.15
38	19.25	24.30	28.60	33.85	39.50	46.35
39	19.70	24.85	29.30	34.70	40.40	47.50
40	20.15	25.40	30.00	35.50	41.40	48.60
41	20.55	26.05	30.65	36.35	42.40	49.75
42	21.00	26.60	31.40	37.15	43.35	50.90
43	21.45	27.15	32.05	38.00	44.35	52.05

RATE SCHEDULE 103.—PRIORITY MAIL* (DOLLARS) PROPOSED—Continued

Weight not exceeding (pounds)	Rate					
	Zones					
	Local 1, 2, and 3	4	5	6	7	8
44	21.90	27.75	32.70	38.75	45.30	53.20
45	22.35	28.30	33.40	39.60	46.25	54.40
46	22.80	28.90	34.10	40.40	47.25	55.55
47	23.20	29.45	34.80	41.25	48.20	56.65
48	23.65	30.00	35.45	42.10	49.20	57.80
49	24.10	30.60	36.20	42.90	50.15	58.95
50	24.55	31.15	36.85	43.75	51.10	60.10
51	25.00	31.70	37.50	44.55	52.10	61.25
52	25.40	32.30	38.20	45.40	53.05	62.45
53	25.85	32.85	38.90	46.20	54.05	63.60
54	26.30	33.40	39.60	47.05	55.00	64.70
55	26.75	34.05	40.25	47.85	56.00	65.85
56	27.20	34.60	41.00	48.70	56.95	67.00
57	27.65	35.20	41.65	49.45	57.90	68.15
58	28.05	35.75	42.30	50.30	58.90	69.30
59	28.50	36.30	43.00	51.10	59.85	70.50
60	28.95	36.90	43.70	51.95	60.85	71.65
61	29.40	37.45	44.40	52.80	61.80	72.75
62	29.85	38.00	45.05	53.60	62.75	73.90
63	30.20	38.60	45.70	54.45	63.75	75.05
64	30.65	39.15	46.45	55.25	64.70	76.20
65	31.10	39.70	47.10	56.10	65.70	77.40
66	31.55	40.30	47.80	56.90	66.70	78.55
67	32.00	40.85	48.50	57.75	67.60	79.70
68	32.45	41.40	49.20	58.55	68.60	80.80
69	32.85	42.00	49.85	59.35	69.55	81.95
70	33.30	42.60	50.50	60.15	70.55	83.10

NOTES*:
[1] The 2-pound rate is charged for matter sent in a 'flat rate' envelope provided by the Postal Service.
[2] Add $4.95 for each pickup stop.
[3] Pieces presented in mailings of at least 300 pieces and meeting applicable Postal Service regulations for presorted Priority Mail receive a 11-cent per piece discount.
[4] Exception: Parcels weighing less than 15 pounds, measuring over 84 inches in length and girth combined, are chargeable with a minimum rate equal to that for a 15-pound parcel for the zone to which addressed.

RATE SCHEDULE 200.—SECOND-CLASS MAIL: REGULAR RATE PUBLICATIONS, OUTSIDE COUNTY[1 2]

	Postage rate unit	Rate[3]	
		Current (cents)	Proposed (cents)
Per Pound:			
Nonadvertising Portion	Pound	14.7	16.2
Advertising Portion:			
Delivery Office[4]	Pound	16.8	18.5
SCF[5]	Pound	17.8	19.6
1 and 2	Pound	19.6	21.6
3	Pound	20.4	22.5
4	Pound	22.4	24.7
5	Pound	25.8	28.5
6	Pound	29.2	32.2
7	Pound	33.2	36.6
8	Pound	36.7	40.5
Science of Agriculture:			
Delivery Office	Pound	12.0	13.9
SCF	Pound	12.3	14.7
1 and 2	Pound	14.1	16.2
Per Piece: Less Editorial Factor of 0.055 cents per each 1% of Editorial Content:[6]			
A—Required Preparation[7]	Piece	20.1	22.2
B—Presorted to 3-digit city/5 digit	Piece	15.8	17.4
C—Presorted to Carrier Route	Piece	11.9	13.1
Discounts:			
Prepared to Delivery Office[4]	Piece	1.4	1.5
Prepared to SCF[5]	Piece	.9	1.0
125-Piece Walk Sequence[8]	Piece	.5	0.6
Saturation[9]	Piece	1.5	1.7

RATE SCHEDULE 200.—SECOND-CLASS MAIL: REGULAR RATE PUBLICATIONS, OUTSIDE COUNTY[1 2]—Continued

	Postage rate unit	Rate[3]	
		Current (cents)	Proposed (cents)
Automation Discounts for Automation Compatible Mail:[10]			
From Required:			
ZIP + 4 Letter size	Piece	0.9	1.0
Pre-barcoded letter size	Piece	1.9	2.1
Pre-barcoded flats	Piece	2.3	2.5
From 3/5 Digit:			
ZIP + 4 Letter size	Piece	0.4	0.4
3–Digit Pre-barcoded letter size	Piece	1.1	1.2
5–Digit Pre-barcoded letter size	Piece	1.9	2.1
Pre-barcoded flats	Piece	1.5	1.7

[1] The rates in this schedule also apply to commingled nonsubscriber, non-requester, complimentary, and sample copies in excess of 10 percent allowance in regular-rate, nonprofit, and classroom second-class mail.
[2] Rates do not apply to otherwise regular rate mail that qualifies for the In-County rates in Schedule 201.
[3] Charges are computed by adding the appropriate per piece charge to the sum of the nonadvertising portion and the advertising portion, as applicable.
[4] Applies to carrier route (including 125-piece walk sequence and saturation) mail delivered within the delivery area of the originating post office.
[5] Applies to mail delivered within the SCF area of the originating SCF office.
[6] For postage calculations, multiply the editorial percent content by this factor and subtract from the applicable piece rate.
[7] Mail presorted to 3-digit (other than 3-digit city), SCF, states, or mixed states.
[8] For walk sequenced mail in batches of 125 pieces or more from carrier route presorted mail.
[9] Applicable to saturation mail from carrier route presorted mail.
[10] For automation compatible mail meeting applicable Postal Service Regulations.

RATE SCHEDULE 201.—SECOND-CLASS MAIL: IN-COUNTY FULL (ATTRIBUTABLE COST) RATE LEVELS

	Current (cents)	Proposed (cents)
Per pound:		
General	11.6	16.6
Delivery office[1]	10.6	15.3
Piece rates:		
Required presort	7.7	10.8
Carrier route presort	4.0	5.8
Piece discounts:		
Delivery Office[2]	0.3	0.4
125-Piece walk sequence[3]	0.5	0.7
Saturation	0.7	0.9
Automation discounts for automation compatible mail[4] from required:		
ZIP + 4 Letter size	0.4	0.5
5-Digit Pre-barcoded letter size	1.7	2.3
3/5-Digit pre-barcoded flats	1.5	2.0

[1] Applicable only to the pound charge of carrier route (including 125-piece walk sequence and saturation) presorted pieces to be delivered within the delivery area of the originating post office.
[2] Applicable only to carrier presorted pieces to be delivered within the delivery area of the originating post office.
[3] Applicable only to batches of 125 or more pieces from carrier presorted pieces.
[4] For automation compatible pieces meeting applicable Postal Service regulations.

RATE SCHEDULE 202.—PUBLICATIONS OF AUTHORIZED NONPROFIT ORGANIZATIONS, OUTSIDE COUNTY FULL (ATTRIBUTABLE COST) RATE LEVELS[1]

	Postage rate unit	Current (cents)	Proposed (cents)
Per pound:			
Non-advertising portion	Pound	10.6	13.1
Advertising portion:			
Delivery Office[2]	Pound	12.0	18.5
SCF[3]	Pound	12.3	19.6
1 and 2	Pound	14.1	21.6
3	Pound	15.1	22.5
4	Pound	17.7	24.7
5	Pound	21.7	28.5
6	Pound	25.8	32.2
7	Pound	30.8	36.6
8	Pound	35.0	40.5
Per Piece: Less editorial factor of 0.04 cents per each 1% of editorial content:[4]			
A—Required preparation[5]	Piece	16.9	20.4

RATE SCHEDULE 202.—PUBLICATIONS OF AUTHORIZED NONPROFIT ORGANIZATIONS, OUTSIDE COUNTY FULL (ATTRIBUTABLE COST) RATE LEVELS [1]—Continued

	Postage rate unit	Current (cents)	Proposed (cents)
B—Presorted to 3-digit city/5-digit	Piece	12.6	15.5
C—Presorted to carrier route	Piece	8.8	11.1
Discounts:			
Prepared to delivery office [2]	Piece	0.5	0.6
Prepared to SCF	Piece	0.3	0.3
125-Piece Walk Sequence [6]	Piece	0.2	0.2
Saturation [7]	Piece	0.7	0.8
Automation Discounts for Automation Compatible Mail: [8]			
From required:			
ZIP + 4 Letter size	Piece	0.7	0.8
Pre-barcoded letter size	Piece	1.7	1.9
Pre-barcoded flats	Piece	2.3	2.6
From 3/5 Digit:			
ZIP + 4 Letter size	Piece	0.4	0.5
3-digit pre-barcoded letter size	Piece	1.0	1.1
5-digit pre-barcoded letter size	Piece	1.7	1.9
Pre-barcoded flats	Piece	1.5	1.7

[1] Charges are computed by adding the appropriate per-piece charge to the sum of the non-advertising portion and the advertising portion, as applicable.
[2] Applies to carrier route (including 125-piece walk sequence and saturation) presort mail delivered within the delivery area of the originating post office.
[3] Applies to mail delivered within the SCF area of the originating SCF office.
[4] For postage calculation, multiply the editorial percent content by the factor and subtract from the applicable piece charge.
[5] Mail presorted to 3-digit (other than 3-digit city), SCF, states, or mixed states.
[6] For walk sequence mail in batches of 125 pieces or more from carrier route presorted mail.
[7] Applicable to saturation mail from carrier route presorted mail.
[8] For automation compatible mail meeting applicable Postal Service Regulations.

RATE SCHEDULE 203.—FULL RATES SECOND-CLASS MAIL: CLASSROOM PUBLICATIONS, OUTSIDE COUNTY FULL (ATTRIBUTABLE COSTS) RATE LEVELS [1]

	Postage rate unit	Current (cents)	Proposed (cents)
Per pound:			
Non-advertising portion	Pound	10.6	10.2
Advertising portion:			
Delivery Office [2]	Pound	12.0	18.5
SCF [3]	Pound	12.3	19.6
1 and 2	Pound	14.1	21.6
3	Pound	15.1	22.5
4	Pound	17.7	24.7
5	Pound	21.7	28.5
6	Pound	25.8	32.2
7	Pound	30.8	36.6
8	Pound	35.0	40.5
Per Piece: Less editorial factor of 0.031 cents per each 1% of editorial content: [4]			
A—Required preparation [5]	Piece	16.9	16.1
B—Presorted to 3-digit city/5-digit	Piece	12.6	12.2
C—Presorted to carrier route	Piece	8.8	8.8
Discounts:			
Prepared to delivery office [2]	Piece	0.5	0.4
Prepared to SCF	Piece	0.3	0.3
125 pces walk seq. [6]	Piece	0.2	0.2
Saturation [7]	Piece	0.7	0.6
Automation discounts for automation compatible mail [8]			
From required:			
ZIP+4 letter size	Piece	0.7	0.6
Pre-barcoded letter size	Piece	1.7	1.5
Pre-barcoded flats	Piece	2.3	2.1
From 3/5 digit:			
ZIP+4 letter size	Piece	0.4	0.4
3-digit pre-barcoded letter size	Piece	1.0	0.9
5-digit pre-barcoded letter size	Piece	1.7	1.5
Pre-barcoded flats	Piece	1.5	1.3

[1] Charges are computed by adding the appropriate per piece charge to the sum of the nonadvertising portion and the advertising portion, as applicable.
[2] Applies to mail delivered within the delivery area of the originating post office.
[3] Applies to mail delivered within the SCF area of the originating SCF office.

[4] For postage calculation, multiply the editorial percent content by this factor and subtract from the applicable piece rate.
[5] Mail presorted to 3-digit (other than 3-digit city), SCF, states, or mixed states.
[6] For walk sequence mail in batches of 125 pieces or more from carrier route presorted mail.
[7] Applicable to saturation mail from carrier route presorted mail.
[8] For automation compatible mail meeting applicable Postal Service Regulations.

RATE SCHEDULE 300.—THIRD-CLASS MAIL: SINGLE PIECE

	Rate [1]	
	Current (cents)	Proposed (cents)
Single piece:		
One ounce	29	32
Two ounces	52	57
Three ounces	75	82
Four ounces	98	107
Five ounces	121	132
Six ounces	121	157
Seven ounces	133	182
Eight ounces	133	207
Nine ounces	144	232
Ten ounces	144	232
Twelve ounces	156	240
Fourteen ounces	167	248
Sixteen ounces	179	256
Nonstandard Surcharge [2]	10	11
Keys and identification devices:		
First 2 ounces	92	101
Each additional 2 ounces	51	57

Notes:
[1] When the postage rate computed at the single piece third-class rate is higher than the rate prescribed in the corresponding fourth-class category for which the piece qualifies, the applicable lower fourth-class rate is charged.
[2] Applies only to pieces weighing one ounce or less.

RATE SCHEDULE 301.—THIRD-CLASS MAIL: REGULAR BULK [1] CURRENT

	Current piece rates (cents)	Proposed piece plates (cents)
Letter size:		
Piece rate	19.8	21.8
Discounts (per piece):		
Destination entry:		
BMC	1.2	1.3
SCF	1.7	1.9
Delivery office [2]	2.2	2.4
Presort level:		
3/5 digit	3.3	3.6
Carrier route	6.7	7.4
Saturation	7.4	8.2
Automation: [3]		
ZIP + 4: [4]		
Basic	0.9	1.0
3/5 digit [5]	0.4	0.4
Barcode: [4]		
Basic	1.9	2.1
3-digit [5]	1.1	1.2
5-digit	1.9	2.1
Non-letter size:		
Piece rate [6]	23.3	25.7
Discounts (per piece):		
Destination entry:		
BMC	1.2	1 3
SCF	1.7	1.9
Delivery office [2]	2.2	2.4
Presort level:		
3/5 digit	4.6	5.1
Carrier route	9.1	10.0
125-piece walk sequence	9.6	10.6
Saturation	10.6	11.7

RATE SCHEDULE 301.—THIRD-CLASS MAIL: REGULAR BULK [1] CURRENT—Continued

	Current piece rates (cents)	Proposed piece plates (cents)
Automation: [7]		
Barcode:§ [4]		
Basic	2.5	2.8
3/5 digit	1.7	1.9

RATE SCHEDULE 301.—THIRD-CLASS MAIL: REGULAR BULK [1] CURRENT

	Current piece rates (cents)	Current pound rates (cents)	Proposed piece rates (cents)	Proposed pound rates (cents)
Pound rate: [6]				
Pound rate plus per piece rate	10.9	60.0	12.0	66.3
Discounts:				
Destination entry (per pound):				
BMC		5.8		6.4
SCF		8.1		8.9
Delivery office [2]		10.4		11.5
Presort level (per piece):				
3/5 digit	4.6		5.1	
Carrier route	9.1		10.0	
125-piece walk sequence	9.6		10.6	
Saturation	10.6		11.7	
Automation [7] (per piece):				
Barcode: [4]				
Basic	2.5		2.8	
3/5 digit	1.7		1.9	

[1] A fee of $85.00 must be paid once each 12-month period for each bulk mailing permit.
[2] Applies only to carrier route, 125-piece walk sequence presort and saturation mail.
[3] For letter size pieces meeting applicable Postal Service regulations.
[4] Among ZIP + 4 and barcode discounts, only one discount may be applied.
[5] Deducted from otherwise applicable 3/5-digit rate.
[6] Mailer pays either the piece or the pound rate, whichever is higher.
[7] For flat size pieces meeting applicable Postal Service regulations.

RATE SCHEDULE 302.—FULL RATES THIRD-CLASS MAIL: NONPROFIT-BULK MAIL [1]

	Current piece rates (cents)	Proposed piece rates (cents)
Letter size:		
Piece Rate	11.1	13.8
Discounts (per piece):		
Destination entry:		
BMC	1.2	1.2
SCF	1.7	1.7
Delivery Office [2]	2.2	2.2
Presort level:		
3/5 Digit	1.3	1.3
Carrier route	3.7	3.7
Saturation	4.0	4.0
Automation: [3]		
ZIP+4: [4]		
Basic	0.7	0.7
3/5 Digit [5]	0.4	0.4
Barcode: [4]		
Basic	1.7	1.7
3-Digit [5]	1.0	1.0
5–Digit [5]	1.7	1.7
Non-letter size:		
Piece rate [6]	12.5	17.1
Discounts (per piece):		
Destination entry:		
BMC	1.2	1.2
SCF	1.7	1.7
Delivery office [2]	2.2	2.2
Presort level:		
3/5 Digit	1.4	1.4
Carrier route	4.5	4.5

RATE SCHEDULE 302.—FULL RATES THIRD-CLASS MAIL: NONPROFIT-BULK MAIL [1]—Continued

	Current piece rates (cents)	Proposed piece rates (cents)
125-Piece walk sequence	4.7	4.8
Saturation	5.2	5.3
Automation: [7]		
Barcode: [4]		
Basic	2.5	2.5
3/5 Digit	2.5	2.5
	1.7	1.7

[1] A fee of $75.00 must be paid once each 12-month period for each bulk mailing permit.
[2] Applies only to carrier route presort, 125-piece walk sequence and saturation mail.
[3] For letter size pieces meeting applicable Postal Service regulations.
[4] Among ZIP+4 and barcode discounts, only one discount may be applied.
[5] Deducted from otherwise applicable 3/5-digit rate.
[6] Mailer pays either the piece or the pound rate, whichever is higher.
[7] For flat size pieces meeting applicable Postal Service regulations.

RATE SCHEDULE 302.—THIRD-CLASS MAIL: NONPROFIT BULK [1]

	Current piece rates (cents)	Current pound rates (cents)	Proposed piece rates (cents)	Proposed pound rates (cents)
Pound Rate: [6]				
Pound rate plus per piece rate	5.4	34.1	7.7	45.1
Discounts:				
Destination entry (per pound):				
BMC		5.8		5.9
SCF		8.1		8.2
Delivery office [2]		10.4		10.5
Presort level (per piece):				
3/5 Digit	1.4		1.4	
Carrier route	4.5		4.5	
125-Piece walk sequence	4.7		4.8	
Saturation	5.2		5.3	
Automation [7] (per piece)				
Barcode: [4]				
Basic	2.5		2.5	
3/5 Digit	1.7		1.7	

[1] A fee of $75.00 must be paid once each 12-month period for each bulk mailing permit.
[2] Applies only to carrier route presort, 125-piece walk sequence and saturation mail.
[3] For letter size pieces meeting applicable Postal Service regulations.
[4] Among ZIP+4 and barcode discounts, only one discount may be applied.
[5] Deducted from otherwise applicable 3/5-digit rate.
[6] Mailer pays either the piece or the pound rate, whichever is higher.
[7] For flat size pieces meeting applicable Postal Service regulations.

RATE SCHEDULE 400a.—PARCEL POST—INTRA BMC/ASF SERVICE CURRENT RATES (DOLLARS)

Weight not exceeding (pounds)	Rate				
	Zones				
	Local	1 & 2	3	4	5
2	1.85	1.92	2.05	2.19	2.47
3	1.92	2.02	2.22	2.43	2.85
4	1.98	2.12	2.38	2.67	3.23
5	2.04	2.22	2.54	2.90	3.61
6	2.11	2.32	2.71	3.14	3.99
7	2.17	2.41	2.87	3.38	4.37
8	2.23	2.51	3.04	3.62	4.75
9	2.30	2.61	3.20	3.85	5.13
10	2.36	2.71	3.36	4.09	5.51
11	2.42	2.81	3.53	4.33	5.89
12	2.49	2.91	3.69	4.56	6.27
13	2.53	2.98	3.81	4.72	6.52
14	2.58	3.05	3.92	4.89	6.77
15	2.62	3.11	4.01	5.00	6.96
16	2.66	3.16	4.09	5.12	7.13
17	2.70	3.21	4.17	5.22	7.29
18	2.74	3.26	4.24	5.33	7.45
19	2.78	3.31	4.32	5.42	7.60

RATE SCHEDULE 400a.—PARCEL POST—INTRA BMC/ASF SERVICE CURRENT RATES (DOLLARS)—Continued

Weight not exceeding (pounds)	Rate				
	Zones				
	Local	1 & 2	3	4	5
20	2.81	3.36	4.38	5.52	7.74
21	2.85	3.41	4.45	5.61	7.88
22	2.88	3.45	4.52	5.70	8.01
23	2.91	3.50	4.58	5.78	8.13
24	2.95	3.54	4.64	5.86	8.25
25	2.98	3.58	4.70	5.94	8.37
26	3.01	3.62	4.76	6.02	8.49
27	3.05	3.66	4.82	6.09	8.60
28	3.08	3.70	4.87	6.17	8.70
29	3.11	3.74	4.93	6.24	8.81
30	3.14	3.78	4.98	6.31	8.91
31	3.17	3.82	5.03	6.38	9.01
32	3.20	3.86	5.09	6.44	9.10
33	3.23	3.90	5.14	6.51	9.20
34	3.26	3.93	5.19	6.57	9.29
35	3.29	3.97	5.24	6.64	9.38
36	3.32	4.01	5.28	6.70	9.47
37	3.35	4.04	5.33	6.76	9.55
38	3.38	4.08	5.38	6.82	9.64
39	3.41	4.11	5.42	6.88	9.72
40	3.44	4.15	5.47	6.93	9.80
41	3.47	4.18	5.51	6.99	9.88
42	3.50	4.21	5.56	7.05	9.96
43	3.52	4.25	5.60	7.10	10.04
44	3.55	4.28	5.65	7.16	10.11
45	3.58	4.31	5.69	7.21	10.19
46	3.61	4.35	5.73	7.26	10.26
47	3.64	4.38	5.77	7.31	10.33
48	3.66	4.41	5.82	7.37	10.40
49	3.69	4.45	5.86	7.42	10.47
50	3.72	4.48	5.90	7.47	10.54
51	3.75	4.51	5.94	7.52	10.61
52	3.77	4.54	5.98	7.57	10.68
53	3.80	4.57	6.02	7.62	10.74
54	3.83	4.60	6.06	7.66	10.81
55	3.85	4.64	6.10	7.71	10.88
56	3.38	4.67	6.14	7.76	10.94
57	3.91	4.70	6.17	7.81	11.00
58	3.93	4.73	6.21	7.85	11.07
59	3.96	4.76	6.25	7.90	11.13
60	3.99	4.79	6.29	7.94	11.19
61	4.01	4.82	6.32	7.99	11.25
62	4.04	4.85	6.36	8.03	11.31
63	4.07	4.88	6.40	8.08	11.37
64	4.09	4.91	6.44	8.12	11.43
65	4.12	4.94	6.47	8.17	11.49
66	4.15	4.97	6.51	8.21	11.54
67	4.17	5.00	6.54	8.25	11.60
68	4.20	5.03	6.58	8.30	11.66
69	4.22	5.06	6.62	8.34	11.71
70	4.25	5.09	6.65	8.38	11.77

RATE SCHEDULE 400a.—PARCEL POST-INTRA BMC/ASF SERVICE, PROPOSED RATES (DOLLARS)

Weight not exceeding (pounds)	Rates				
	Zones				
	Local	1 & 2	3	4	5
2	2.10	2.18	2.33	2.48	2.80
3	2.18	2.29	2.52	2.76	3.23
4	2.25	2.41	2.70	3.03	3.66
5	2.32	2.52	2.88	3.29	4.09
6	2.39	2.63	3.07	3.56	4.52
7	2.46	2.73	3.25	3.83	4.95
8	2.53	2.85	3.45	4.10	5.38
9	2.61	2.96	3.63	4.36	5.81

RATE SCHEDULE 400a.—PARCEL POST-INTRA BMC/ASF SERVICE, PROPOSED RATES (DOLLARS)—Continued

Weight not exceeding (pounds)	Rates				
	Zones				
	Local	1 & 2	3	4	5
10	2.68	3.07	3.81	4.63	6.24
11	2.74	3.19	4.00	4.90	6.67
12	2.82	3.30	4.18	5.16	7.10
13	2.87	3.38	4.32	5.34	7.38
14	2.93	3.46	4.44	5.54	7.66
15	2.97	3.52	4.54	5.66	7.87
16	3.02	3.58	4.63	5.80	8.07
17	3.06	3.64	4.72	5.91	8.25
18	3.11	3.69	4.80	6.03	8.43
19	3.15	3.75	4.89	6.13	8.60
20	3.19	3.81	4.96	6.25	8.76
21	3.23	3.86	5.04	6.35	8.91
22	3.26	3.91	5.12	6.45	9.06
23	3.30	3.97	5.19	6.54	9.20
24	3.34	4.01	5.25	6.63	9.33
25	3.38	4.06	5.32	6.72	9.47
26	3.41	4.10	5.39	6.81	9.60
27	3.46	4.15	5.46	6.89	9.73
28	3.49	4.19	5.51	6.98	9.84
29	3.52	4.24	5.58	7.06	9.97
30	3.56	4.28	5.64	7.14	10.08
31	3.59	4.33	5.69	7.22	10.19
32	3.63	4.37	5.76	7.29	10.29
33	3.66	4.42	5.82	7.37	10.41
34	3.69	4.45	5.87	7.43	10.51
35	3.73	4.50	5.93	7.51	10.61
36	3.76	4.54	5.98	7.58	10.71
37	3.80	4.58	6.03	7.65	10.80
38	3.83	4.62	6.09	7.72	10.90
39	3.86	4.65	6.13	7.78	10.99
40	3.90	4.70	6.19	7.84	11.08
41	3.93	4.73	6.24	7.91	11.17
42	3.97	4.77	6.29	7.98	11.26
43	3.99	4.81	6.34	8.03	11.36
44	4.02	4.85	6.39	8.10	11.43
45	4.06	4.88	6.44	8.16	11.52
46	4.09	4.93	6.49	8.21	11.60
47	4.12	4.96	6.53	8.27	11.68
48	4.15	4.99	6.59	8.34	11.76
49	4.18	5.04	6.63	8.39	11.84
50	4.21	5.07	6.68	8.45	11.92
51	4.25	5.11	6.72	8.51	12.00
52	4.27	5.14	6.77	8.56	12.08
53	4.30	5.17	6.81	8.62	12.15
54	4.34	5.21	6.86	8.67	12.23
55	4.36	5.25	6.90	8.72	12.30
56	4.39	5.29	6.95	8.78	12.37
57	4.43	5.32	6.98	8.84	12.44
58	4.45	5.36	7.03	8.88	12.52
59	4.48	5.39	7.07	8.94	12.59
60	4.52	5.42	7.12	8.98	12.65
61	4.54	5.46	7.15	9.04	12.72
62	4.58	5.49	7.20	9.08	12.79
63	4.61	5.52	7.24	9.14	12.86
64	4.63	5.56	7.29	9.19	12.93
65	4.67	5.59	7.32	9.24	12.99
66	4.70	5.63	7.37	9.29	13.05
67	4.72	5.66	7.40	9.33	13.12
68	4.76	5.69	7.45	9.39	13.19
69	4.78	5.73	7.49	9.43	13.24
70	4.81	5.76	7.52	9.48	13.31

For nonmachinable intra-BMC parcels, add $1.70.

RATE SCHEDULE 400b.—PARCEL POST-INTER BMC/ASF SERVICE, CURRENT RATES (DOLLARS)

Weight not exceeding (pounds)	Rates						
	Zones						
	1 & 2	3	4	5	6	7	8
Up to:							
2	2.19	2.32	2.46	2.74	2.85	2.85	2.85
3	2.29	2.49	2.70	3.12	3.54	4.00	4.05
4	2.39	2.65	2.94	3.50	4.06	4.35	4.60
5	2.49	2.81	3.17	3.88	4.58	5.20	5.40
6	2.59	2.98	3.41	4.26	5.10	6.33	8.55
7	2.68	3.14	3.65	4.64	5.62	7.06	9.60
8	2.78	3.31	3.89	5.02	6.14	7.78	10.65
9	2.88	3.47	4.12	5.40	6.67	8.51	11.70
10	2.98	3.63	4.36	5.78	7.19	9.24	12.75
11	3.08	3.80	4.60	6.16	7.71	9.97	13.75
12	3.18	3.96	4.83	6.54	8.23	10.69	14.80
13	3.25	4.08	4.99	6.79	8.57	11.17	15.85
14	3.32	4.19	5.16	7.04	8.92	11.65	16.90
15	3.38	4.28	5.27	7.23	9.17	11.99	17.95
16	3.43	4.36	5.39	7.40	9.40	12.31	19.00
17	3.48	4.44	5.49	7.56	9.62	12.61	19.91
18	3.53	4.51	5.60	7.72	9.83	12.90	20.38
19	3.58	4.59	5.69	7.87	10.03	13.17	20.83
20	3.63	4.65	5.79	8.01	10.22	13.43	21.26
21	3.68	4.72	5.88	8.15	10.40	13.68	21.66
22	3.72	4.79	5.97	8.28	10.57	13.91	22.05
23	3.77	4.85	6.05	8.40	10.74	14.14	22.43
24	3.81	4.91	6.13	8.52	10.90	14.36	22.78
25	3.85	4.97	6.21	8.64	11.05	14.57	23.13
26	3.89	5.03	6.29	8.76	11.20	14.77	23.46
27	3.93	5.09	6.36	8.87	11.35	14.97	23.78
28	3.97	5.14	6.44	8.97	11.49	15.16	24.09
29	4.01	5.20	6.51	9.08	11.63	15.34	24.39
30	4.05	5.25	6.58	9.18	11.76	15.52	24.68
31	4.09	5.30	6.65	9.28	11.89	15.69	24.96
32	4.13	5.36	6.71	9.37	12.01	15.86	25.23
33	4.17	5.41	6.78	9.47	12.14	16.02	25.50
34	4.20	5.46	6.84	9.56	12.26	16.18	25.75
35	4.24	5.51	6.91	9.65	12.37	16.34	26.01
36	4.28	5.55	6.97	9.74	12.49	16.49	26.25
37	4.31	5.60	7.03	9.82	12.60	16.64	26.49
38	4.35	5.65	7.09	9.91	12.71	16.79	26.72
39	4.38	5.69	7.15	9.99	12.81	16.93	26.95
40	4.42	5.74	7.20	10.07	12.92	17.07	27.17
41	4.45	5.78	7.26	10.15	13.02	17.20	27.39
42	4.48	5.83	7.32	10.23	13.12	17.33	27.60
43	4.52	5.87	7.37	10.31	13.22	17.47	27.81
44	4.55	5.92	7.43	10.38	13.32	17.59	28.01
45	4.58	5.96	7.48	10.46	13.41	17.72	28.21
46	4.62	6.00	7.53	10.53	13.51	17.84	28.41
47	4.65	6.04	7.58	10.60	13.60	17.96	28.60
48	4.68	6.09	7.64	10.67	13.69	18.08	28.79
49	4.72	6.13	7.69	10.74	13.78	18.20	28.97
50	4.75	6.17	7.74	10.81	13.87	18.32	29.15
51	4.78	6.21	7.79	10.88	13.95	18.43	29.33
52	4.81	6.25	7.84	10.95	14.04	18.54	29.51
53	4.84	6.29	7.89	11.01	14.12	18.65	29.68
54	4.87	6.33	7.93	11.08	14.21	18.76	29.85
55	4.91	6.37	7.98	11.15	14.29	18.86	30.02
56	4.94	6.41	8.03	11.21	14.37	18.97	30.18
57	4.97	6.44	8.08	11.27	14.45	19.07	30.34
58	5.00	6.48	8.12	11.34	14.53	19.18	30.50
59	5.03	6.52	8.17	11.40	14.61	19.28	30.66
60	5.06	6.56	8.21	11.46	14.68	19.38	30.81
61	5.09	6.59	8.26	11.52	14.76	19.47	30.97
62	5.12	6.63	8.30	11.58	14.83	19.57	31.12
63	5.15	6.67	8.35	11.64	14.91	19.67	31.27
64	5.18	6.71	8.39	11.70	14.98	19.76	31.41
65	5.21	6.74	8.44	11.76	15.05	19.86	31.56
66	5.24	6.78	8.48	11.81	15.13	19.95	31.70
67	5.27	6.81	8.52	11.87	15.20	20.04	31.84
68	5.30	6.85	8.57	11.93	15.27	20.13	31.98

RATE SCHEDULE 400b.—PARCEL POST-INTER BMC/ASF SERVICE, CURRENT RATES (DOLLARS)—Continued

Weight not exceeding (pounds)	Rates						
	Zones						
	1 & 2	3	4	5	6	7	8
69	5.33	6.89	8.61	11.98	15.34	20.22	32.12
70	5.36	6.92	8.65	12.04	15.41	20.31	32.25

For nonmachinable inter-BMC parcels, add $1.50.

RATE SCHEDULE 400b.—PARCEL POST-INTER BMC/ASF SERVICE, PROPOSED RATES (DOLLARS)

Weight not exceeding (pounds)	Rates						
	Zones						
	1 & 2	3	4	5	6	7	8
2	2.49	2.64	2.79	3.11	3.15	3.15	3.15
3	2.60	2.83	3.07	3.54	4.02	4.45	4.45
4	2.72	3.01	3.34	3.97	4.60	4.93	5.10
5	2.83	3.19	3.60	4.40	5.19	5.89	5.95
6	2.94	3.38	3.87	4.83	5.78	7.17	9.45
7	3.04	3.56	4.14	5.26	6.37	7.99	10.60
8	3.16	3.76	4.41	5.69	6.95	8.81	11.75
9	3.27	3.94	4.67	6.12	7.55	9.63	12.90
10	3.38	4.12	4.94	6.55	8.14	10.46	14.05
11	3.50	4.31	5.21	6.98	8.73	11.28	15.15
12	3.61	4.49	5.47	7.41	9.31	12.09	16.35
13	3.69	4.63	5.65	7.69	9.70	12.64	17.50
14	3.77	4.75	5.85	7.97	10.09	13.18	18.65
15	3.83	4.85	5.97	8.18	10.38	13.56	19.80
16	3.89	4.94	6.11	8.38	10.64	13.93	20.95
17	3.95	5.03	6.22	8.56	10.89	14.26	22.10
18	4.00	5.11	6.34	8.74	11.12	14.59	23.04
19	4.06	5.20	6.44	8.91	11.35	14.90	23.55
20	4.12	5.27	6.56	9.07	11.56	15.19	24.04
21	4.17	5.35	6.66	9.22	11.77	15.47	24.49
22	4.22	5.43	6.76	9.37	11.96	15.73	24.93
23	4.28	5.50	6.85	9.51	12.15	15.99	25.36
24	4.32	5.56	6.94	9.64	12.33	16.24	25.76
25	4.37	5.63	7.03	9.78	12.50	16.48	26.15
26	4.41	5.70	7.12	9.91	12.67	16.71	26.52
27	4.46	5.77	7.20	10.04	12.84	16.93	26.89
28	4.50	5.82	7.29	10.15	13.00	17.15	27.24
29	4.55	5.89	7.37	10.28	13.16	17.35	27.58
30	4.59	5.95	7.45	10.39	13.30	17.55	27.90
31	4.64	6.00	7.53	10.50	13.45	17.74	28.22
32	4.68	6.07	7.60	10.60	13.59	17.94	28.52
33	4.73	6.13	7.68	10.72	13.73	18.12	28.83
34	4.76	6.18	7.74	10.82	13.87	18.30	29.11
35	4.81	6.24	7.82	10.92	13.99	18.48	29.41
36	4.85	6.29	7.89	11.02	14.13	18.65	29.68
37	4.89	6.34	7.96	11.11	14.25	18.82	29.95
38	4.93	6.40	8.03	11.21	14.38	18.99	30.21
39	4.96	6.44	8.09	11.30	14.49	19.15	30.47
40	5.01	6.50	8.15	11.39	14.61	19.30	30.72
41	5.04	6.55	8.22	11.48	14.73	19.45	30.97
42	5.08	6.60	8.29	11.57	14.84	19.60	31.20
43	5.12	6.65	8.34	11.67	14.95	19.76	31.44
44	5.16	6.70	8.41	11.74	15.07	19.89	31.67
45	5.19	6.75	8.47	11.83	15.17	20.04	31.89
46	5.24	6.80	8.52	11.91	15.28	20.17	32.12
47	5.27	6.84	8.58	11.99	15.38	20.31	32.33
48	5.30	6.90	8.65	12.07	15.48	20.45	32.55
49	5.35	6.94	8.70	12.15	15.59	20.58	32.75
50	5.38	6.99	8.76	12.23	15.69	20.72	32.95
51	5.42	7.03	8.82	12.31	15.78	20.84	33.16
52	5.45	7.08	8.87	12.39	15.88	20.97	33.36
53	5.48	7.12	8.93	12.46	15.97	21.09	33.55
54	5.52	7.17	8.98	12.54	16.07	21.21	33.75
55	5.56	7.21	9.03	12.61	16.16	21.33	33.94
56	5.60	7.26	9.09	12.68	16.25	21.45	34.12
57	5.63	7.29	9.15	12.75	16.34	21.56	34.30

RATE SCHEDULE 400b.—PARCEL POST-INTER BMC/ASF SERVICE, PROPOSED RATES (DOLLARS)—Continued

Weight not exceeding (pounds)	Rates						
	Zones						
	1 & 2	3	4	5	6	7	8
58	5.67	7.34	9.19	12.83	16.43	21.69	34.48
59	5.70	7.38	9.25	12.90	16.52	21.80	34.66
60	5.73	7.43	9.29	12.96	16.60	21.91	34.83
61	5.77	7.46	9.35	13.03	16.69	22.02	35.01
62	5.80	7.51	9.39	13.10	16.77	22.13	35.18
63	5.83	7.55	9.45	13.17	16.86	22.24	35.35
64	5.87	7.60	9.50	13.24	16.94	22.34	35.51
65	5.90	7.63	9.55	13.30	17.02	22.46	35.68
66	5.94	7.68	9.60	13.36	17.11	22.56	35.84
67	5.97	7.71	9.64	13.43	17.19	22.66	35.99
68	6.00	7.76	9.70	13.50	17.27	22.76	36.15
69	6.04	7.80	9.74	13.55	17.35	22.86	36.31
70	6.07	7.83	9.79	13.62	17.43	22.97	36.46

For nonmachinable inter-BMC parcels, add $1.70.

RATE SCHEDULE 401.—PARCEL POST: DESTINATION BMC/ASF SERVICE,* CURRENT

Weight not exceeding (pounds)	Rate			
	Zones			
	1 & 2	3	4	5
2	1.74	1.86	1.97	2.22
3	1.84	2.01	2.18	2.56
4	1.93	2.15	2.40	2.89
5	2.02	2.30	2.60	3.23
6	2.12	2.45	2.81	3.57
7	2.20	2.59	3.02	3.90
8	2.29	2.75	3.24	4.24
9	2.39	2.89	3.44	4.57
10	2.48	3.04	3.65	4.91
11	2.57	3.19	3.86	5.25
12	2.67	3.33	4.06	5.58
13	2.73	3.44	4.21	5.80
14	2.80	3.54	4.36	6.03
15	2.85	3.62	4.46	6.20
16	2.90	3.70	4.56	6.35
17	2.95	3.77	4.65	6.49
18	3.00	3.84	4.75	6.63
19	3.04	3.91	4.83	6.77
20	3.09	3.96	4.92	6.89
21	3.14	4.03	5.00	7.02
22	3.18	4.09	5.09	7.14
23	3.23	4.15	5.16	7.24
24	3.26	4.20	5.23	7.35
25	3.30	4.26	5.30	7.46
26	3.34	4.32	5.37	7.57
27	3.38	4.37	5.44	7.67
28	3.42	4.42	5.51	7.76
29	3.45	4.47	5.57	7.86
30	3.49	4.52	5.64	7.95
31	3.53	4.57	5.70	8.04
32	3.57	4.62	5.76	8.12
33	3.61	4.67	5.82	8.21
34	3.64	4.72	5.88	8.29
35	3.68	4.76	5.94	8.37
36	3.72	4.80	6.00	8.45
37	3.74	4.85	6.05	8.53
38	3.78	4.90	6.11	8.61
39	3.81	4.93	6.16	8.68
40	3.85	4.98	6.21	8.75
41	3.88	5.02	6.26	8.83
42	3.91	5.07	6.32	8.90
43	3.95	5.10	6.36	8.97
44	3.98	5.15	6.42	9.04
45	4.01	5.19	6.46	9.11
46	4.04	5.23	6.51	9.17

RATE SCHEDULE 401.—PARCEL POST: DESTINATION BMC/ASF SERVICE,* CURRENT—Continued

Weight not exceeding (pounds)	Rate			
	Zones			
	1 & 2	3	4	5
47	4.07	5.26	6.56	9.24
48	4.10	5.31	6.61	9.30
49	4.14	5.35	6.66	9.37
50	4.17	5.39	6.71	9.43
51	4.20	5.42	6.75	9.49
52	4.23	5.46	6.80	9.56
53	4.26	5.50	6.85	9.61
54	4.29	5.54	6.88	9.68
55	4.33	5.58	6.93	9.74
56	4.36	5.61	6.98	9.80
57	4.39	5.64	7.02	9.85
58	4.41	5.68	7.06	9.92
59	4.44	5.72	7.11	9.97
60	4.47	5.76	7.14	10.03
61	4.50	5.79	7.19	10.08
62	4.53	5.82	7.23	10.14
63	4.56	5.86	7.27	10.19
64	4.59	5.90	7.31	10.25
65	4.62	5.93	7.36	10.31
66	4.65	5.97	7.40	10.35
67	4.68	6.00	7.43	10.41
68	4.71	6.03	7.48	10.46
69	4.74	6.07	7.52	10.51
70	4.77	6.10	7.55	10.56

*A fee of $75.00 must be paid once each year.

RATE SCHEDULE 401.—PARCEL POST—DESTINATION BMC/ASF SERVICE,* PROPOSED RATES (DOLLARS)

Weight not exceeding (pounds)	Rates			
	Zones			
	1 & 2	3	4	5
2	1.97	2.10	2.23	2.51
3	2.08	2.27	2.46	2.89
4	2.18	2.43	2.71	3.27
5	2.28	2.60	2.94	3.65
6	2.40	2.77	3.18	4.03
7	2.49	2.93	3.41	4.41
8	2.59	3.11	3.66	4.79
9	2.70	3.27	3.89	5.16
10	2.80	3.44	4.12	5.55
11	2.90	3.60	4.36	5.93
12	3.02	3.76	4.59	6.31
13	3.08	3.89	4.76	6.55
14	3.16	4.00	4.93	6.81
15	3.22	4.09	5.04	7.01
16	3.28	4.18	5.15	7.18
17	3.33	4.26	5.25	7.33
18	3.39	4.34	5.37	7.49
19	3.44	4.42	5.46	7.65
20	3.49	4.47	5.56	7.79
21	3.55	4.55	5.65	7.93
22	3.59	4.62	5.75	8.07
23	3.65	4.69	5.83	8.18
24	3.68	4.75	5.91	8.31
25	3.73	4.81	5.99	8.43
26	3.77	4.88	6.07	8.55
27	3.82	4.94	6.15	8.67
28	3.86	4.99	6.23	8.77
29	3.90	5.05	6.29	8.88
30	3.94	5.11	6.37	8.98
31	3.99	5.16	6.44	9.09
32	4.03	5.22	6.51	9.18
33	4.08	5.28	6.58	9.28
34	4.11	5.33	6.64	9.37
35	4.16	5.38	6.71	9.46

RATE SCHEDULE 401.—PARCEL POST—DESTINATION BMC/ASF SERVICE,* PROPOSED RATES (DOLLARS)—Continued

Weight not exceeding (pounds)	Rates			
	Zones			
	1 & 2	3	4	5
36	4.20	5.42	6.78	9.55
37	4.23	5.48	6.84	9.64
38	4.27	5.54	6.90	9.73
39	4.31	5.57	6.96	9.81
40	4.35	5.63	7.02	9.89
41	4.38	5.67	7.07	9.98
42	4.42	5.73	7.14	10.06
43	4.46	5.76	7.19	10.14
44	4.50	5.82	7.25	10.22
45	4.53	5.86	7.30	10.29
46	4.57	5.91	7.36	10.36
47	4.60	5.94	7.41	10.44
48	4.63	6.00	7.47	10.51
49	4.68	6.05	7.53	10.59
50	4.71	6.09	7.58	10.66
51	4.75	6.12	7.63	10.72
52	4.78	6.17	7.68	10.80
53	4.81	6.22	7.74	10.86
54	4.85	6.26	7.77	10.94
55	4.89	6.31	7.83	11.01
56	4.93	6.34	7.89	11.07
57	4.96	6.37	7.93	11.13
58	4.98	6.42	7.98	11.21
59	5.02	6.46	8.03	11.27
60	5.05	6.51	8.07	11.33
61	5.09	6.54	8.12	11.39
62	5.12	6.58	8.17	11.46
63	5.15	6.62	8.22	11.51
64	5.19	6.67	8.26	11.58
65	5.22	6.70	8.32	11.65
66	5.25	6.75	8.36	11.70
67	5.29	6.78	8.40	11.76
68	5.32	6.81	8.45	11.82
69	5.36	6.86	8.50	11.88
70	5.39	6.89	8.53	11.93

* A fee of $85.00 must be paid once each year.

RATE SCHEDULE 402.—SPECIAL AND LIBRARY RATES, CURRENT

Special	Cents
First pound:	
Not presorted	105
Presorted to 5 digits [1 2]	59
Presorted to BMC [1 3]	88
Each additional pound through 7 pounds	43
Each additional pound over 7 pounds	25
Library:	Appropriation rates (cents)
First pound	65
Each additional pound through 7 pounds	24
Each additional pound over 7 pounds	12

[1] A fee of $75.00 must be paid once each calendar year for each permit.
[2] For mailings of 500 or more pieces properly prepared and presorted to five-digit destination ZIP Codes.
[3] For mailings of 500 or more pieces properly prepared and presorted to Bulk Mail Centers.

RATE SCHEDULE 402.—SPECIAL AND LIBRARY RATES, PROPOSED

Special	Cents
First pound:	
Not presorted	119
Presorted to 5-digits [1 2]	67
Presorted to BMC [1 3]	100
Each additional pound through 7 pounds	49
Each additional pound over 7 pounds	28
	Appropriation

RATE SCHEDULE 402.—SPECIAL AND LIBRARY RATES, PROPOSED—Continued

Special	Cents
Library:	rates (cents)
First pound	114
Each additional pound through 7 pounds	42
Each additional pound over 7 pounds	21

[1] A fee of $85.00 must be paid once each calendar year for each permit.
[2] For mailings of 500 or more pieces properly prepared and presorted to five-digit destination Zip Codes.
[3] For mailings of 500 or more pieces properly prepared and presorted to Bulk Mail Centers.

RATE SCHEDULE 405.—FOURTH-CLASS MAIL: SINGLE PIECE BOUND PRINTED MATTER,* (DOLLARS) CURRENT

Weight not exceeding (pounds)	Rate							
	Zones							
	Local	1 & 2	3	4	5	6	7	8
1.5	0.93	1.27	1.30	1.36	1.45	1.54	1.65	1.75
2	0.94	1.30	1.34	1.42	1.53	1.66	1.81	1.93
2.5	0.96	1.33	1.38	1.48	1.62	1.78	1.97	2.12
3	0.98	1.35	1.42	1.54	1.71	1.90	2.12	2.31
3.5	0.99	1.38	1.46	1.60	1.80	2.02	2.28	2.50
4	1.01	1.41	1.50	1.66	1.89	2.14	2.44	2.69
4.5	1.02	1.44	1.54	1.72	1.98	2.26	2.59	2.88
5	1.04	1.47	1.58	1.78	2.07	2.38	2.75	3.07
6	1.07	1.53	1.66	1.89	2.24	2.61	3.06	3.44
7	1.10	1.59	1.74	2.01	2.42	2.85	3.38	3.82
8	1.14	1.64	1.82	2.13	2.60	3.09	3.69	4.20
9	1.17	1.70	1.90	2.25	2.77	3.33	4.01	4.57
10	1.20	1.76	1.98	2.37	2.95	3.57	4.32	4.95
Per piece rate (dollars)	0.88	1.18	1.18	1.18	1.18	1.18	1.18	1.18
Per pound rate (dollars)	0.032	0.058	0.080	0.119	0.177	0.239	0.314	0.377

*Includes both catalogs and similar bound printed matter.

RATE SCHEDULE 405.—FOURTH-CLASS MAIL: SINGLE-PIECE BOUND PRINTED MATTER,* (DOLLARS) PROPOSED

Weight not exceeding (pounds)	Rate							
	Zones							
	Local	1 & 2	3	4	5	6	7	8
1.5	1.02	1.40	1.43	1.50	1.59	1.70	1.82	1.92
2	1.04	1.43	1.48	1.56	1.69	1.83	1.99	2.13
2.5	1.06	1.46	1.52	1.63	1.79	1.96	2.17	2.34
3	1.08	1.49	1.56	1.69	1.89	2.09	2.34	2.55
3.5	1.09	1.52	1.61	1.76	1.98	2.22	2.51	2.76
4	1.11	1.56	1.65	1.82	2.08	2.36	2.68	2.96
4.5	1.13	1.59	1.70	1.89	2.18	2.49	2.86	3.17
5	1.15	1.62	1.74	1.96	2.28	2.62	3.03	3.38
6	1.18	1.68	1.83	2.09	2.47	2.88	3.38	3.80
7	1.22	1.75	1.92	2.22	2.67	3.15	3.72	4.21
8	1.25	1.81	2.00	2.35	2.86	3.41	4.07	4.63
9	1.29	1.88	2.09	2.48	3.06	3.68	4.41	5.04
10	1.32	1.94	2.18	2.61	3.25	3.94	4.76	5.46
Per piece rate (dollars)	0.97	1.30	1.30	1.30	1.30	1.30	1.30	1.30
Per pound rate (dollars)	0.035	0.064	0.088	0.131	0.195	0.264	0.346	0.416

*Includes both catalogs and similar bound printed matter.

RATE SCHEDULE 406.—FOURTH-CLASS MAIL: BULK BOUND PRINTED MATTER (DOLLARS) CURRENT

Zone	Per piece		Per pound
	Required	Carrier route*	
Local	0.440	0.385	0.020
1 and 2	.590	.535	.042
3	.590	.535	.064
4	.590	.535	.103
5	.590	.535	.162
6	.590	.535	.223
7	.590	.535	.298

RATE SCHEDULE 406.—FOURTH-CLASS MAIL: BULK BOUND PRINTED MATTER (DOLLARS) CURRENT—Continued

Zone	Per piece		Per pound
	Required	Carrier route *	
8	.590	.535	.361

* Applies to mailings of at least 300 pieces presorted to carrier route as prescribed by the Postal Service.

RATE SCHEDULE 406.—FOURTH-CLASS MAIL: BULK BOUND PRINTED MATTER (DOLLARS) PROPOSED

Zone	Per piece		Per pound
	Required	Carrier route*	
Local	0.490	0.429	0.022
1 and 2	.650	.589	.046
3	.650	.589	.071
4	.650	.589	.114
5	.650	.589	.179
6	.650	.589	.246
7	.650	.589	.329
8	.650	.589	.398

*Applies to mailings of at least 300 pieces presorted to carrier route as prescribed by the Postal Service.

RATE SCHEDULE 407.—FOURTH-CLASS MAIL: BULK CATALOG BOUND PRINTED MATTER (DOLLARS) CURRENT

Zone	Per Piece		Per pound
	Required	Carrier route*	
Local	0.440	0.385	0.020
1 and 2	.590	.535	.042
3	.590	.535	.064
4	.590	.535	.103
5	.590	.535	.162
6	.590	.535	.223
7	.590	.535	.298
8	.590	.535	.361

*Applies to mailings of at least 300 pieces presorted to carrier route as prescribed by the Postal Service.

RATE SCHEDULE 407.—FOURTH-CLASS MAIL: BULK CATALOG BOUND PRINTED MATTER (DOLLARS) PROPOSED

Zone	Per Piece		Per Pound
	Required	Carrier route *	
Local	0.490	0.429	0.022
1 and 2	.650	.589	.046
3	.650	.589	.071
4	.650	.589	.114
5	.650	.589	.179
6	.650	.589	.246
7	.650	.589	.329
8	.650	.589	.398

* Applies to mailings of at least 300 pieces presorted to carrier route as prescribed by the Postal Service.

RATE SCHEDULES 500, 501, 502, AND 503, EXPRESS MAIL RATES* CURRENT (DOLLARS)

Weight not exceeding (pounds)	Schedule 500 same day airport service	Schedule 501 custom designed	Schedule 502 next day and second day PO to PO	Schedule 503 next day and second day PO to addressee
1 and 2	8.35	8.75	9.50	9.95
1	9.70	12.95	11.15	13.95
2	9.70	12.95	11.15	13.95
3	11.05	14.95	13.15	15.95
4	12.10	16.95	15.15	17.95
5	13.10	18.95	17.15	19.95
6	14.15	22.50	20.70	23.50
7	15.20	23.50	21.70	24.50
8	16.25	24.55	22.75	25.55

RATE SCHEDULES 500, 501, 502, AND 503, EXPRESS MAIL RATES* CURRENT (DOLLARS)—Continued

Weight not exceeding (pounds)	Schedule 500 same day airport service	Schedule 501 custom designed	Schedule 502 next day and second day PO to PO	Schedule 503 next day and second day PO to addressee
9	17.30	25.55	23.75	26.55
10	18.30	26.60	24.80	27.60
11	19.35	27.60	25.80	28.60
12	20.40	28.65	26.85	29.65
13	21.45	29.65	27.85	30.65
14	22.50	30.70	28.90	31.70
15	23.50	31.70	29.90	32.70
16	24.55	32.75	30.95	33.75
17	25.60	33.80	32.00	34.80
18	26.65	34.80	33.00	35.80
19	27.70	35.85	34.05	36.85
20	28.70	36.85	35.05	37.85
21	29.75	37.90	36.10	38.90
22	30.80	38.90	37.10	39.90
23	31.85	39.95	38.15	40.95
24	32.90	40.95	39.15	41.95
25	33.90	42.00	40.20	43.00
26	34.95	43.00	41.20	44.00
27	35.90	44.05	42.25	45.05
28	36.75	45.05	43.25	46.05
29	37.65	46.10	44.30	47.10
30	38.50	47.15	45.35	48.15
31	39.35	48.15	46.35	49.15
32	40.25	49.20	47.40	50.20
33	41.10	50.20	48.40	51.20
34	41.95	51.25	49.45	52.25
35	42.85	52.25	50.45	53.25
36	43.70	53.30	51.50	54.30
37	44.55	54.30	52.50	55.30
38	45.45	55.35	53.55	56.35
39	46.30	56.35	54.55	57.35
40	47.15	57.40	55.60	58.40
41	48.05	58.40	56.60	59.40
42	48.90	59.45	57.65	60.45
43	49.75	60.50	58.70	61.50
44	50.65	61.50	59.70	62.50
45	51.50	62.55	60.75	63.55
46	52.35	63.55	61.75	64.55
47	53.25	64.60	62.80	65.60
48	54.10	65.60	63.80	66.60
49	54.95	66.65	64.85	67.65
50	55.85	67.65	65.85	68.65
51	56.70	68.70	66.90	69.70
52	57.55	69.70	67.90	70.70
53	58.45	70.75	68.95	71.75
54	59.30	71.80	70.00	72.80
55	60.20	72.80	71.00	73.80
56	61.05	73.85	72.05	74.85
57	61.90	74.85	73.05	75.85
58	62.80	75.90	74.10	76.90
59	63.65	77.00	75.20	78.00
60	64.50	78.20	76.40	79.20
61	65.40	79.50	77.70	80.50
62	66.25	80.70	78.90	81.70
63	67.10	81.90	80.10	82.90
64	68.00	83.20	81.40	84.20
65	68.85	84.40	82.60	85.40
66	69.70	85.70	83.90	86.70
67	70.60	86.90	85.10	87.90
68	71.45	88.20	86.40	89.20
69	72.30	89.40	87.60	90.40
70	73.20	90.60	88.80	91.60

*Notes: 1. The applicable 2-pound rate is charged for matter sent in a 'flat rate' envelope provided by the Postal Service.
2. Add $4.50 for each pickup stop.
3. Add $4.50 for each Custom Designed delivery stop.

RATE SCHEDULES 500, 501, 502 AND 503, EXPRESS MAIL RATES,[1] AND [2] PROPOSED (DOLLARS)

Weight not exceeding (pounds)	Schedule 500 same day airport service	Schedule 501 custom designed	Schedule 502 next day and second day PO to PO	Schedule 503 next day and second day PO to addressee
1/2	9.20	9.65	10.50	10.95
1	10.70	14.30	12.30	15.40
2	10.70	14.30	12.30	15.40
3	12.20	16.50	14.50	17.60
4	13.35	18.70	16.70	19.80
5	14.45	20.90	18.90	22.00
6	15.60	24.80	22.80	25.90
7	16.75	25.90	23.90	27.00
8	17.90	27.10	25.10	28.20
9	19.10	28.20	26.20	29.30
10	20.20	29.35	27.35	30.45
11	21.35	30.45	28.45	31.55
12	22.50	31.60	29.60	32.70
13	23.65	32.70	30.70	33.80
14	24.80	33.85	31.85	34.95
15	25.90	34.95	32.95	36.05
16	27.10	36.15	34.15	37.25
17	28.25	37.30	35.30	38.40
18	29.40	38.40	36.40	39.50
19	30.55	39.55	37.55	40.65
20	31.65	40.65	38.65	41.75
21	32.80	41.80	39.80	42.90
22	33.95	42.90	40.90	44.00
23	35.15	44.05	42.05	45.15
24	36.30	45.15	43.15	46.25
25	37.40	46.35	44.35	47.45
26	38.55	47.45	45.45	48.55
27	39.60	48.60	46.60	49.70
28	40.55	49.70	47.70	50.80
29	41.55	50.85	48.85	51.95
30	42.45	52.00	50.00	53.10
31	43.40	53.10	51.10	54.20
32	44.40	54.25	52.25	55.35
33	45.35	55.35	53.35	56.45
34	46.25	56.55	54.55	57.65
35	47.25	57.65	55.65	58.75
36	48.20	58.80	56.80	59.90
37	49.15	59.90	57.90	61.00
38	50.15	61.05	59.05	62.15
39	51.05	62.15	60.15	63.25
40	52.00	63.30	61.30	64.40
41	53.00	64.40	62.40	65.50
42	53.95	65.60	63.60	66.70
43	54.85	66.75	64.75	67.85
44	55.85	67.85	65.85	68.95
45	56.80	69.00	67.00	70.10
46	57.75	70.10	68.10	71.20
47	58.75	71.25	69.25	72.35
48	59.65	72.35	70.35	73.45
49	60.60	73.50	71.50	74.60
50	61.60	74.60	72.60	75.70
51	62.55	75.80	73.80	76.90
52	63.50	76.90	74.90	78.00
53	64.45	78.05	76.05	79.15
54	65.40	79.20	77.20	80.30
55	66.40	80.30	78.30	81.40
56	67.35	81.45	79.45	82.55
57	68.30	82.55	80.55	83.65
58	69.25	83.70	81.70	84.80
59	70.20	84.95	82.95	86.05
60	71.15	86.25	84.25	87.35
61	72.15	87.70	85.70	88.80
62	73.05	89.00	87.00	90.10
63	74.00	90.35	88.35	91.45
64	75.00	91.75	89.75	92.85
65	75.95	93.10	91.10	94.20
66	76.90	94.55	92.55	95.65
67	77.85	95.85	93.85	96.95

RATE SCHEDULES 500, 501, 502 AND 503, EXPRESS MAIL RATES,[1] AND [2] PROPOSED (DOLLARS)—Continued

Weight not exceeding (pounds)	Schedule 500 same day airport service	Schedule 501 custom designed	Schedule 502 next day and second day PO to PO	Schedule 503 next day and second day PO to addressee
68	78.80	97.30	95.30	98.40
69	79.75	98.60	96.60	99.70
70	80.75	99.95	97.95	101.05

*Notes: 1. The applicable 2-pound rate is charged for matter sent in a "flat rate" envelope provided by the Postal Service.
2. Add $4.95 for each pickup stop.
3. Add $4.95 for each Custom Designed delivery stop.

SCHEDULE SS–1.—SPECIAL SERVICES: ADDRESS CORRECTIONS

Description	Fee	
	Current	Proposed
Per manual correction	$0.35	$0.50
Per automated correction	.20	.20

SCHEDULE SS–2.—SPECIAL SERVICES: BUSINESS REPLY MAIL

Description	Fees (in addition to postage)	
	Current	Proposed
Active business reply advance deposit account:		
Per piece: Pre-barcoded	$0.02	$0.06
Other	.09	.10
Payment of postage due charges if active business reply mail advance deposit account not used:		
Per piece	.40	.44
Annual license and accounting fees:		
With Advance Deposit Account	185.00	230.00
Without Advance Deposit Account	75.00	85.00

SCHEDULE SS–4.—SPECIAL SERVICES: CERTIFICATES OF MAILING

Description	Fees (in addition to postage)	
	Current	Proposed
Individual pieces:		
Original certificate of mailing for listed pieces of all classes of ordinary mail (per piece)	$0.50	$0.55
Three or more pieces individually listed in a firm mailing book or an approved customer provided manifest. (per piece)	.20	.20
Each additional copy of original certificate of mailing or original mailing receipt for registered, insured, certified, and COD mail (each copy)	.50	.55
Bulk pieces:		
Identical pieces of first- and third-class mail paid with ordinary stamps, precanceled stamps, or meter stamps are subject to the following fees:		
Up to 1,000 pieces (one certificate for total number)	2.50	2.75
Each additional 1,000 pieces or fraction	.30	.35
Duplicate copy	.50	.55

SCHEDULE SS–5.—SPECIAL SERVICES: CERTIFIED MAIL

Description	Fee (in addition to postage)	
	Current	Proposed
Per piece (in addition to postage)	$1.00	$1.10

SCHEDULE SS–6.—SPECIAL SERVICES: COLLECT ON DELIVERY

Amount to be collected or insurance coverage desired	Fees (in addition to postage)	
	Current	Proposed
$0.01 to $25	$2.50	$3.50
50.01 to 100	3.25	4.50

SCHEDULE SS–6.—SPECIAL SERVICES: COLLECT ON DELIVERY—Continued

Amount to be collected or insurance coverage desired	Fees (in addition to postage)	
	Current	Proposed
100.01 to 200	4.00	5.50
200.01 to 300	4.75	6.50
300.01 to 400	5.50	7.50
400.01 to 500	6.50	8.75
500.01 to 600	7.00	9.50
Notice of nondelivery of COD:	2.10	2.80
Alteration of COD charges or designation of new addressee	2.10	2.80
Registered COD	2.50	3.50

SCHEDULE SS–8.—MONEY ORDERS

Amount	Fees (Domestic)	
	Current	Proposed
Domestic:		
$0.01 to $700	$0.75	$0.85
APO-FPO:		
$0.01 to $700	.25	.30
Inquiry fee, which includes the issuance of copy of a paid money order	2.50	2.75

SCHEDULE SS–9.—SPECIAL SERVICES: INSURED MAIL

Liability	Fees (domestic) (in addition to postage)	
	Current	Proposed
$0.01 to $50	$0.75	$0.85
50.01 to 100	1.60	1.75
100.01 to 200	2.40	2.65
200.01 to 300	3.50	3.85
300.01 to 400	4.60	5.05
400.01 to 500	5.40	5.95
500.01 to 600	6.20	6.85

SCHEDULE SS–10.—SPECIAL SERVICES: POST OFFICE BOXES AND CALLER SERVICE

Cubic inch capacity of boxes	Fee per semi-annual period				
	Less than 296	296 to 499	500 to 999	1,000 to 1,999	2,000 to over
Box size	1	2	3	4	5
A. Semi-Annual Rates for Post Office Boxes					
Group IA:					
Current	$21.50	$31.00	$57.50	$95.00	$157.50
Proposed	23.50	34.00	63.50	105.00	173.50
Group IB:					
Current	19.50	27.50	50.00	84.00	140.00
Proposed	21.50	30.50	55.00	92.50	154.50
Group IC:					
Current	17.50	24.50	46.50	77.50	130.00
Proposed	19.50	27.00	51.50	85.50	143.50
Group II-offices w/o city carrier service:	(annual)	(annual)	.....	.....	.....
Current	7.25	11.25	10.75	15.75	25.00
Proposed	8.00	12.50	11.75	17.25	27.50
Group III-offices w/o rural carrier service:	(annual)	(annual)	(annual)	(annual)	(annual)
Current	2.00	2.00	2.00	2.00	2.00
Proposed	2.00	2.00	2.00	2.00	2.00

Description	Fees	
	Current	Proposed
B. Caller Service		
For caller service (semi-annual):		
Group IA	$225.00	$250.00

Description	Fees	
	Current	Proposed
Group IB	215.00	240.00
Group IC	202.50	225.00
For each reserved call number (annual)	25.00	30.00

SCHEDULE SS–11A.—SPECIAL SERVICES: ZIP CODING OF MAILING LISTS

Description	Fees	
	Current	Proposed
Per thousand addresses	$54.00	$60.00

SCHEDULE SS–11B.—SPECIAL SERVICES: CORRECTION OF MAILING LISTS

Description	Fees	
	Current	Proposed
Per submitted address	$0.15	$0.17
Minimum charge per list corrected	5.00	5.50

SCHEDULE SS–11C.—SPECIAL SERVICES: ADDRESS CHANGES FOR ELECTION BOARDS AND REGISTRATION COMMISSIONS

Description	Fees	
	Current	Proposed
Per change of address	$0.15	$0.17

SCHEDULE SS–11D.—SPECIAL SERVICES: CORRECTIONS ASSOCIATED WITH ARRANGEMENT OF ADDRESS CARDS IN CARRIER DELIVERY SEQUENCE

Description	Fees	
	Current	Proposed
Per Correction	$0.15	0.17
NOTE: When rural routes have been consolidated or changed to another post office, no charge will be made for correction if the list contains only names of persons residing on the route or routes involved.		

SCHEDULE SS–12.—ON-SITE METER SETTING

Description	Fees	
	Current	Proposed
On-site meter settings:		
First meter:		
By appointment	$25.00	$27.50
Unscheduled request	28.00	31.00
Additional Meters	2.75	3.25
Checking meter in or out of service (per meter)	6.50	7.50

SCHEDULE SS–13.—SPECIAL SERVICES: PARCEL AIR LIFT

Description	Fees (in addition to postage)	
	Current	Proposed
Up to 2 pounds	$0.35	$0.40
Over 2 up to 3 pounds	0.70	0.75
Over 3 up to 4 pounds	1.05	1.15
Over 4 pounds	1.40	1.55

SCHEDULE SS–14a.—SPECIAL SERVICES: REGISTERED MAIL

Value (dollars)	Current (fees in addition to postage)	
	For articles covered by insurance	For articles not covered by insurance
	Fees	Fees
0.00 to 100	$4.50	$4.40
100.01 to 500	4.85	4.70
500.01 to 1,000	5.25	5.05
1,000.01 to 2,000	5.70	5.40
2,000.01 to 3,000	6.15	5.75
3,000.01 to 4,000	6.60	6.10
4,000.01 to 5,000	7.05	6.45
5,000.01 to 6,000	7.50	6.80
6,000.01 to 7,000	7.95	7.15
7,000.01 to 8,000	8.40	7.50
8,000.01 to 9,000	8.85	7.85
9,000.01 to 10,000	9.30	8.20
10,000.01 to 11,000	9.75	8.55
11,000.01 to 12,000	10.20	8.90
12,000.01 to 13,000	10.65	9.25
13,000.01 to 14,000	11.10	9.60
14,000.01 to 15,000	11.55	9.95
15,000.01 to 16,000	12.00	10.30
16,000.01 to 17,000	12.45	10.65
17,000.01 to 18,000	12.90	11.00
18,000.01 to 19,000	13.35	11.35
19,000.01 to 20,000	13.80	11.70
20,000.01 to 21,000	14.25	12.05
21,000.01 to 22,000	14.70	12.40
22,000.01 to 23,000	15.15	12.75
23,000.01 to 24,000	15.60	13.10
24,000.01 to 25,000	16.05	13.45
25,000.01 to $1,000,000	16.05	13.45
Plus handling charge per $1,000 or fraction over first $25,000	0.35	0.35
$1,000,000 to $15,000,000:		
Plus handling charge per $1,000,000 or fraction over first $1,000,000	357.30	354.70
Over $15,000,000 additional charges may be based on consideration of weight, space and value	0.35	0.35

SCHEDULE SS–14b.—SPECIAL SERVICES: REGISTERED MAIL

Value	Proposed fees in addition to postage	
	For articles covered by insurance	For articles not covered by insurance
$0.00 to $100	$4.95	$4.85
$100.01 to $500	5.35	5.20
$500.01 to $1,000	5.80	5.55
$1,000.01 to $2,000	6.30	5.95
$2,000.01 to $3,000	6.80	6.35
$3,000.01 to $4,000	7.30	6.75
$4,000.01 to $5,000	7.80	7.10
$5,000.01 to $6,000	8.25	7.50
$6,000.01 to $7,000	8.75	7.90
$7,000.01 to $8,000	9.25	8.25
$8,000.01 to $9,000	9.75	8.65
$9,000.01 to $10,000	10.25	9.05
$10,000.01 to $11,000	10.75	9.45
$11,000.01 to $12,000	11.25	9.80
$12,000.01 to $13,000	11.75	10.20
$13,000.01 to $14,000	12.25	10.60
$14,000.01 to $15,000	12.75	10.95
$15,000.01 to $16,000	13.25	11.35
$16,000.01 to $17,000	13.75	11.75
$17,000.01 to $18,000	14.25	12.15
$18,000.01 to $19,000	14.75	12.50
$19,000.01 to $20,000	15.20	12.90
$20,000.01 to $21,000	15.70	13.30
$21,000 01 to $22,000	16.20	13.70

SCHEDULE SS–14b.—SPECIAL SERVICES: REGISTERED MAIL—Continued

Value	Proposed fees in addition to postage	
	For articles covered by insurance	For articles not covered by insurance
$22,000.01 to $23,000	16.70	14.05
$23,000.01 to $24,000	17.20	14.45
$24,000.01 to $25,000	17.70	14.85
$25,000.01 to $1,000,000	17.70	14.85
Handling charge per $1,000 over $25,000	0.40	0.40
$1,000,000.01 to $15,000,000	394.10	391.25
Handling charge per $1,000 over $1,000,000	0.40	0.40

SCHEDULE SS–15.—SPECIAL SERVICES: RESTRICTED DELIVERY

	Fee (in addition to postage)	
	Current	Proposed
Per piece	$2.50	$2.75

SCHEDULE SS–16.—SPECIAL SERVICES: RETURN RECEIPTS

Description	Fees (in addition to postage)	
	Current	Proposed
Requested at time of mailing:		
Showing to whom (signature) and date delivered	$1.00	$1.10
Merchandise only—without another special service	1.10	1.20
Showing to whom (signature) and date address where delivered	1.35	1.50
Merchandise only—without another special service	1.50	1.65
Requested after mailing:		
Showing to whom and date delivered	6.00	6.60

SCHEDULE SS–17.—SPECIAL SERVICES: SPECIAL DELIVERY

Class/weight	Fees (in addition to postage)	
	Current	Proposed
First-class and priority mail:		
Not more than 2 pounds	$7.65	$16.05
Over 2 pounds but not over 10 pounds	7.95	16.70
Over 10 pounds	8.55	18.00
All other classes:		
Not more than 2 pounds	8.05	16.90
Over 2 pounds but not over 10 pounds	8.65	18.15
Over 10 pounds	9.30	19.55

SCHEDULE SS–18.—SPECIAL SERVICES: SPECIAL HANDLING

Weight	Fees (in addition to postage)	
	Current	Proposed
Not more than 10 pounds	$1.80	$5.40
Over 10 pounds	2.50	7.50

SCHEDULE SS–19.—SPECIAL SERVICES: STAMPED ENVELOPES

Type	Fees (in addition to postage)	
	Current	Proposed
Single sale	$0.05	$0.06
Bulk (500) #6¾ size:		
Regular	7.40	8.15
Window	8.00	8.80

SCHEDULE SS–19.—SPECIAL SERVICES: STAMPED ENVELOPES—Continued

Type	Fees (in addition to postage)	
	Current	Proposed
Bulk (500) size >#6¾ through #10:		
Regular	11.00	12.15
Window	12.00	13.25
Savings bond (500):		
Plain	9.00	9.95
Printed	12.00	13.25
Printing charge per 500 envelopes (for each type of printed envelope):		
Minimum order (500 envelopes)	4.00	4.40
Order for 1,000 or more envelopes	4.00	4.40
Double window (500)—size >#6¾ through #10:	13.50	14.90
Household (50)—size #6¾:		
Regular	2.70	3.00
Window	2.80	3.10
Size >#6¾ through #10:		
Regular	2.90	3.20
Window	3.00	3.30

SCHEDULE SS–20.—SPECIAL SERVICES: MERCHANDISE RETURN

Description	Fee (in addition to postage)	
	Current	Proposed
Per transaction:		
Shipper must have an advance deposit account (see DMCS Schedule 1000)	$0.25	$0.30

SCHEDULE 1000.—FEES

Description	Fee (one time only)	
	Current	Proposed
First-class presorted mailing fee	$75.00	$85.00
Second-class mailing fees:		
A. Original entry	275.00	305.00
B. Additional entry (all zones)	75.00	85.00
Second-class re-entry fee	45.00	50.00
Second-class registration for news agents	45.00	50.00
Third-class bulk mailing fee	75.00	85.00
Parcel post: Destination BMC/ASF	75.00	85.00
Fourth-class special mail presorted mailing fee	75.00	85.00
Authorization to use permit imprint	75.00	85.00
Merchandise return (per facility receiving merchandise return labels)	75.00	85.00

[FR Doc. 94–7374 Filed 3–29–94; 8:45 am]
BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 33–7050, File No. S7–9–94]

Securities Uniformity; Annual Conference on Uniformity of Securities Law

AGENCY: Securities and Exchange Commission.

ACTION: Publication of release announcing issues to be considered at a conference on uniformity of securities laws and requesting written comments.

SUMMARY: In conjunction with a conference to be held on April 18, 1994, the Commission and the North American Securities Administrators Association, Inc. today announced a request for comments on the proposed agenda for the conference. This meeting is intended to carry out the policies and purposes of section 19(c) of the Securities Act of 1933, adopted as part of the Small Business Investment Incentive Act of 1980, to increase uniformity in matters concerning state and federal regulation of securities, to maximize the effectiveness of securities regulation in promoting investor protection, and to reduce burdens on capital formation through increased cooperation between the Commission and the state securities regulatory authorities.

DATES: The conference will be held on April 18, 1994. Written comments must be received on or before April 15, 1994 in order to be considered by the conference participants.

ADDRESSES: Written comments should be submitted in triplicate by April 15, 1994 to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Comments should refer to File No. S7–9–94 and will be available for public inspection at the Commission's Public Reference Room, 450 5th Street, NW., Washington, DC 20549.

FOR FURTHER INFORMATION CONTACT: William E. Toomey or Richard K. Wulff, Office of Small Business Policy, Division of Corporation Finance, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549, (202) 272–2644.

SUPPLEMENTARY INFORMATION:

I. Discussion

A dual system of federal-state securities regulation has existed since the adoption of the federal regulatory structure in the Securities Act of 1933 (the "Securities Act").[1] Issuers attempting to raise capital through securities offerings, as well as participants in the secondary trading markets, are responsible for complying with the federal securities laws as well as all applicable state regulations. It has long been recognized that there is a need to increase uniformity between federal and state regulatory systems, and to improve cooperation among those regulatory bodies so that capital formation can be made easier while investor protections are retained.

The importance of facilitating greater uniformity in securities regulation was endorsed by Congress with the enactment of section 19(c) of the Securities Act in the Small Business Investment Incentive Act of 1980.[2] Section 19(c) authorizes the Commission to cooperate with any association of state securities regulators which can assist in carrying out the declared policy and purposes of section 19(c). The policy of that section is that there should be greater federal and state cooperation in securities matters, including: (1) Maximum effectiveness of regulation; (2) maximum uniformity in federal and state standards; (3) minimum interference with the business of capital formation; and (4) a substantial reduction in costs and paperwork to diminish the burdens of raising investment capital, particularly by small business, and a reduction in the costs of the administration of the government programs involved. In order to establish methods to accomplish these goals, the Commission is required to conduct an annual conference. The 1994 meeting will be the eleventh such conference.

II. 1994 Conference

The Commission and the North American Securities Administrators Association, Inc. ("NASAA")[3] are planning the 1994 Conference on Federal-State Securities Regulation (the "Conference") to be held April 18, 1994 in Washington, DC. At the Conference, representatives from the Commission and NASAA will form into working groups in the areas of corporation finance, market regulation, investment management, and enforcement, to discuss methods of enhancing cooperation in securities matters in order to improve the efficiency and effectiveness of federal and state securities regulation. Generally, attendance will be limited to representatives of the Commission and NASAA in an effort to promote frank discussion. However, each working group in its discretion may invite certain self-regulatory organizations to attend and participate in certain sessions.

Representatives of the Commission and NASAA currently are formulating an agenda for the Conference. As part of that process, the public securities associations, self-regulatory organizations, agencies, and private organizations are invited to participate through the submission of written comments on the issues set forth below. In addition, comment is requested on other appropriate subjects sought to be included in the Conference agenda. All comments will be considered by the Conference attendees.

III. Tentative Agenda and Request for Comments

The tentative agenda for the Conference consists of the following topics in the areas of corporation finance, investment management, market regulation and oversight, and enforcement.

(1) Corporation Finance Issues

a. Uniform Limited Offering Exemption

Congress specifically acknowledged the need for a uniform limited offering exemption in enacting section 19(c) of the Securities Act and authorized the Commission to cooperate with NASAA in its development. Working with the states, the Commission developed Regulation D, the federal exemption for limited offerings. To compliment Regulation D, NASAA has endorsed a Uniform Limited Offering Exemption ("ULOE") for adoption by the states.

ULOE provides a uniform exemption from state registration for certain issuers and, to date, more than half the states have adopted some form of ULOE. Both the Commission and NASAA continue to make a concerted effort toward its complete adoption. The conferees will discuss the continued usefulness of ULOE, as well as possible steps to encourage its adoption by the remaining states.

b. Small Business Initiative

On July 30, 1992, the Commission adopted a number of rulemaking changes, often described as the Small Business Initiative, which are designed to improve the overall capacity to help finance new companies, and to provide new opportunities for investors.[4] Among other things, the ceiling for the Regulation A exemption was raised from $1,500,000 to $5,000,000, and issuers contemplating a Regulation A offering were, for the first time, permitted to use a written document to "test the waters" for investor interest prior to assuming the expense of an offering.

The participants will discuss the impact of these changes, and the need for any additional exemptive relief in the small business area. The participants will also review their experience with amended Regulation A and the use of "test the waters" documents.

Public comment is invited on the efficacy of the Small Business Initiative as a whole. Comment is also sought with respect to any other uniform exemptions that might be developed to enhance the ability of issuers to raise capital, while protecting legitimate interests of investors.

c. Disclosure Policy and Standards

The Commission regularly reviews and revises its policies with regard to the most appropriate methods of ensuring the disclosure of material information to the public. Coordination of this effort with the states has been extremely helpful.

The Commission and the states have devoted considerable attention to issues arising from the so-called "roll-up" of limited partnerships. A roll-up usually involves the combination or reorganization of one or more partnerships. The conferees will again consider the special disclosure problems involved in such transactions with emphasis on the disclosure rules adopted by the Commission to improve the quality of information provided to investors.[5]

Commenters are invited to discuss other areas where federal-state cooperation in the area of disclosure standards could be of particular significance as well as any ways in which federal-state cooperation could be improved.

d. Multinational Securities Offerings

The Commission has recently adopted or proposed a number of changes to its rules designed to facilitate access by

[1] 15 U.S.C. 77a et seq.

[2] Public Law 96–477, 94 Stat. 2275 (October 21, 1980).

[3] NASAA is an association of securities administrators from each of the 50 states, the District of Columbia, Puerto Rico, Mexico and twelve Canadian Provinces and Territories.

[4] Securities Act Release No. 33–6949 (July 30, 1992) [57 FR 36442].

[5] Securities Act Release No. 6922 (October 30, 1991) [56 FR 57237].

foreign issuers to the U.S. capital markets. On November 3, 1993, the Commission proposed a number of initiatives and adopted rule amendments designed to streamline the registration and reporting process for foreign companies accessing the U.S. public markets.[6] In 1991, the Commission adopted a multijurisdictional disclosure system which permits certain Canadian issuers to offer securities, undertake tender offers, and file periodic reports using the disclosure requirements of their home jurisdiction.[7] Also in 1991, the Commission proposed for comment exemptive rules and related registration forms which were designed to facilitate tender and exchange offers, business combinations and rights offers by foreign issuers in the United States.[8] Comment is specifically requested on ways to coordinate federal and state treatment of multinational offerings. Comment is also sought on the possible application of plain language principles to disclosure documents that are becoming increasingly lengthy and complex.

e. Municipal Securities

On March 9, 1994, the Commission approved the publication of two releases relating to municipal securities.[9] One is an interpretive release addressing the disclosure obligations of issuers and other market participants under the antifraud provisions of the federal securities laws in both the primary and secondary markets for municipal securities. The interpretive release also expresses the Commission's support for legislation removing the exemption from the registration and reporting requirements for certain nongovernmental, private activity conduit issuers. The second release proposed two rules for comment. The proposed rules would prohibit a municipal securities dealer from underwriting an issue of municipal securities unless the issuer undertakes to provide disclosure to the secondary market on an annual basis by providing information to repositories. A dealer also would be prohibited from recommending a security unless it has reviewed the information the issuer has committed to provide. The conferees will discuss the provisions of the releases and the area of municipal securities in general.

f. Derivatives

Typically, derivative instruments are futures contracts, forwards, swaps, option contracts or other instruments with similar characteristics. Investments in derivative instruments expose investors to potential gains or losses from changes in an underlying market price that may be an interest rate, equity price, market or defined index, foreign currency exchange rate, commodity price or other defined measure of market price.

The increasing complexity and widespread use of derivatives for trading and risk management purposes has generated widespread interest. Conferees will discuss the application of federal and state securities laws to derivative instruments as well as disclosure issues relating to such issuances and investments.

(2) Market Regulation Issues

a. Central Registration Depository ("CRD")

The CRD is a computerized filing and data processing system operated by the NASD that maintains information concerning NASD member broker-dealers and their registered personnel for access by state regulators, self-regulatory organizations, and the Commission. The NASD is currently in the process of implementing a total redesign of the CRD. The redesign, which is expected to be completed in 1995, will result in a significantly improved system. Among the improvements anticipated in the CRD redesign are: (i) User friendly capture of data, (ii) streamlined and much improved presentation of data, and (iii) better access to information.

The participants will discuss the status of the CRD rewrite project, as well as issues relating to ongoing operation of the existing CRD system.

b. Forms Revision

In connection with the CRD rewrite project, NASAA and the self-regulatory organizations are in the process of considering revisions to Form U–4, the uniform form used to register sales personnel in the securities industry. The revisions are designed to facilitate the conversion of data from the existing CRD system to the newly designed CRD. The participants will discuss issues relating to the proposed revisions and to the appropriate level of disclosure generally regarding the disciplinary and customer complaint history of registered sales personnel.

c. Bank Securities Activities

In response to continuing low level of interest rates, banks and other financial institutions have suffered large outflows of funds from certificates of deposit and other traditional bank-sponsored savings vehicles. As a result, financial institutions have sought to offer mutual funds and other securities services to their customers, either directly or through bank affiliates or arrangements with unaffiliated broker-dealers. The participants will discuss these developments, any concerns raised by sales of securities on the premises of financial institutions, and possible regulatory, examination or other responses available to the Commission, the self-regulatory organizations, and the states. In particular, the participants will focus on issues relating to advertising of securities products and activities, as well as ensuring proper sales practices by persons selling securities on bank premises.

d. Penny Stock Activities

During 1993, the Commission, together with the NASD, the New York Stock Exchange, and 40 state securities commissions undertook a nationwide sweep of more than 125 broker-dealers to determine the effectiveness of the Commissions penny stock rules (Rules 15g–1 through 15g–6 under the Securities Exchange Act of 1934). The sweep was the largest joint Commission, state and self-regulatory organization examination effort ever undertaken. The participants will discuss the results of the examinations and future efforts to combat fraud and sales practice abuses in the sale of low-priced securities.

e. Sales Practices

An area of continuing concern to the Commission, the self-regulatory organizations and the states is responding effectively to sales practice abuses (such as churning, unsuitable recommendations, misrepresentations, and unauthorized trading) by securities professionals. In particular, the participants are concerned about persons who have a history of customer complaints, arbitration or other litigation, or disciplinary actions. The participants will discuss the need for greater cooperation in addressing sales practice abuse—particularly by recidivists—and possible approaches (such as joint examination efforts) to identifying and disciplining violators.

f. Market 2000

In January 1994, the Division completed a major study of the structure of the U.S. equity markets and the regulatory environment in which our

[6] Securities Act Release Nos. 7026 and 7029 (November 3, 1993) [58 FR 60304, 60307].

[7] Securities Act Release No. 6902 (June 21, 1991) [56 FR 30036].

[8] Securities Act Release Nos. 6896 and 6897 (June 5, 1991) [56 FR 27564, 27582].

[9] Securities Exchange Act Release Nos. 33742 and 33743 (March 9, 1994) [59 FR 12748, 12750].

markets operate. The Study, entitled Market 2000, addressed the challenges presented to the Commission by the rapidly changing structure of the secondary markets. The Division's basic finding was that the equity markets are operating efficiently within the existing regulatory structure. Record amounts of trading activity are processed smoothly and efficiently. The Division concluded that a major revision of equity market regulation was not needed and instead, recommended that the Commission concentrate on the improvements that are needed to make the markets work better for investors and competition work better for the markets. Specific recommendations were made in four areas: Fair treatment of investors, disclosure of market information, fair competition, and open market access.

The participants will discuss the results of the Market 2000 study, as well as two Commission rule proposals that have already resulted from the study: (i) A proposed rule on disclosure regarding the issue of payment for order flow, and (ii) a proposed rule imposing recordkeeping and reporting requirements for trading systems operated by brokers and dealers.

g. Municipal Securities

Over the past year, the Commission has worked with Congress, other regulators, and industry participants on a number of issues relating to the municipal securities market. As indicated above, the Commission recently proposed for public comment amendments to Rule 15c2–12 that would prohibit a municipal securities dealer from acting as an underwriter of an issue of municipal securities unless the issuer has agreed to provide certain disclosure to a central repository. Moreover, these amendments would require broker-dealers, prior to recommending transactions in municipal securities, to review the disclosure that the issuer has agreed to provide. The Commission also proposed for comment rule 15c2–13 and amendments to rule 10b–10, which would require broker-dealers to disclose mark-ups in riskless principal transactions of certain debt securities. These proposals further would require broker-dealers to disclose when municipal securities are unrated. The participants will discuss these rule proposals, as well as the recent Municipal Securities Rulemaking Board rule proposal regarding political contributions.

h. Additional Issues

The participants will also discuss other issues of mutual interest relating to the regulation of broker-dealers. Possible discussion topics include the following: i. Broker-dealer books and records retention requirements, particularly a recent Commission proposal and no-action letter relating to the use of electronic storage technology (such as optical discs);

ii. Supervisory responsibilities of broker-dealers with "franchised" branch offices or large numbers of "independent contractors;"

iii. Sales practices of broker-dealers with respect to mutual funds, municipal securities and collateralized mortgage obligations and derivative products;

iv. Continuing assessment/education requirements for associated persons of broker-dealers;

v. Disclosure of front-end sales loads on mutual fund confirmations; and

vi. Payment of commissions to retired registered representatives.

(3) Investment Management Issues

a. Investment Company Disclosure

Over the last decade, investment company assets—particularly assets invested in open-end investment companies, or "mutual funds"—have increased dramatically. A large part of this growth is attributable to the increasing number of new investors and new participants in the fund industry, such as banks and defined contribution plans. The conferees will discuss ways to improve the quality of information regarding mutual funds available to investors, particularly newer, or less sophisticated investors, as well as federal and state efforts toward more uniform federal and state investment company disclosure requirements.

The conferees are also expected to discuss specific topics relating to mutual fund disclosure and sales practices such as:

(i) Methods to reduce any confusion that exists among bank customers between insured deposits and uninsured investments in mutual funds and other securities;

(ii) Simplification of prospectuses for money market mutual funds relying on rule 2a–7 under the Investment Company Act; and,

(iii) Guidelines proposed for adoption by the North American Securities Administrators Association for disclosure of investment companies' investments in high yield, or "junk", bonds and the risks associated with such investments.

The conferees will also discuss the steps they are taking to examine and to improve the clarity and adequacy of mutual fund prospectuses generally.

b. "Off-the-Page" Prospectuses

On March 19, 1993, the Division of Investment Management proposed for comment rule 482(g) under the Securities Act of 1933 to permit advertisements for certain mutual funds to include an order form if they contain specified disclosure and comply with other requirements.[10] The conferees are expected to discuss this proposal and the roles the Commission, state regulatory authorities and the National Association of Securities Dealers will play in monitoring the use of these "off-the-page" prospectuses.

c. Investment Advisers

The Commission has proposed for comment rule and form amendments that would specify the information that registered investment advisers that are sponsors of "wrap fee" programs must provide to prospective clients.[11] In a wrap fee program an investor receives a bundle of investment services including portfolio management, custody of funds and securities, execution of transactions, and monitoring of portfolio manager performance for a single "wrap" fee. The conferees are expected to discuss this proposal and the comments that the Commission has received.

The Senate and the House of Representatives have passed legislation to amend the Investment Advisers Act of 1940.[12] On January 24, 1994, Chairman Levitt sent a letter to Congress indicating that several provisions in the House bill could be addressed through rulemaking, including a suitability rule and a rule prohibiting custodian arrangements under which only the adviser (and not the client) receives periodic account statements. The letter also suggested the possibility of a joint federal/state effort to identify investment advisers that have failed to register under the Investment Advisers Act of 1940. The conferees will discuss the status of the legislation, the rule proposals that might result from the legislation, and the joint effort to identify unregistered investment advisers. The conferees will also discuss

[10] Off-the-Page Prospectuses for Open-End Management Investment Companies, Securities Act Release No. 6982 (March 19, 1993). Proposed rule 482 would implement a recommendation made by the Division of Investment Management in chapter 9 of its report, Protecting Investors: A Half Century of Investment Company Regulation (May 1992).

[11] Disclosure by Investment Adviser Regarding Wrap Fee Programs, Investment Advisers Act Release No. 1401 (January 13, 1994).

[12] Investment Adviser Oversight Act of 1993, S. 423, 103rd Cong., 1st Sess. (November 20, 1993); Investment Adviser Regulatory Enhancement and Disclosure Act of 1993, H.R. 578, 103rd Cong., 1st Sess. (May 4, 1993).

the effect the legislation might have upon proposed joint Commission and state action, such as revisions to Form ADV and the establishment by the Commission of a "one-stop" filing system allowing advisers to make one filing that would be transmitted electronically to the Commission and the states, which the legislation would authorize. The conferees are also expected to discuss the extent to which managers of mutual fund portfolios trade for their own accounts, any abuses that may be associated with that practice, and whether steps should be taken to curb the practice.

(4) Enforcement Issues

In addition to the above-stated topics, the state and federal regulators will discuss various enforcement-related issues which are of mutual interest.

(5) General

There are a number of matters which are applicable to all, or a number, of the areas noted above. These include Edgar, the Commission's electronic disclosure system, rulemaking procedures, training and education of staff examiners and analysts and sharing of information. In addition, issues of consumer protection and assistance will be discussed.

The Commission and NASAA request specific public comments and recommendations on the above-mentioned topics. Commenters should focus on the agenda but may also discuss or comment on other proposals which would enhance uniformity in the existing scheme of state and federal regulation, while helping to maintain high standards of investor protection.

By the Commission.

Dated: March 23, 1994.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–7448 Filed 3–29–94; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges; Notice and Opportunity for Hearing; Boston Stock Exchange, Incorporated

March 24, 1994.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f-1 thereunder for unlisted trading privileges in the following security:

Telefonica de Argentina S.A.
American Depositary Shares, $1.00 Par Value (File No. 7–12177)

This security is listed and registered on one or more other national securities exchanges and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before April 14, 1994, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 94–7512 Filed 3–29–94; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges; Notice and Opportunity for Hearing; Chicago Stock Exchange, Incorporated

March 24, 1994.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f–1 thereunder for unlisted trading privileges in the following securities:

Bay Apartment Communities, Inc.
Common Stock, $.01 Par Value (File No. 7–12164)
Emphesys Financial Group, Inc.
Common Stock, $.01 Par Value (File No. 7–12165)
EOTT Energy Partners, L.P.
(com units representing limited partner interest), No Par Value (File No. 7–12166)
Fidelity Advisor Emerging Asia Fund, Inc.
Common Stock, $.001 Par Value (File No. 7–12167)
Greenstar Telecommunications
Common Stock, No Par Value (File No. 7–12168)
Kaiser Aluminum
Pfd. D Cum. Pfd. 8.255% Conv. Pfd., $.05 Par Value (File No. 7–12169)
Macerich Company
Common Stock, $.01 Par Value (File No. 7–12170)
Quality Products, Inc.
Common Stock, $.00001 Par Value (File No. 7–12171)
RCM Strategic Global Government Fund
Common Stock, $.00001 Par Value (File No. 7–12172)
REFAC Technology Development Corp.
Common Stock, $.10 Par Value (File No. 7–12173)
Storage USA, Inc.
Common Stock, $.01 Par Value (File No. 7–12174)
Southern Africa Fund, Inc.
Common Stock, $.01 Par Value (File No. 7–12175)
Telefonica de Argentina S.A.
(Amer. Dep. Shrs. Each Repres. 10 Class B Ord. Shrs.), $1.00 Par Value (File No. 7–12176)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before April 14, 1994, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 94–7513 Filed 3–29–94; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges; Notice and Opportunity for Hearing; Cincinnati Stock Exchange, Incorporated

March 24, 1994.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder for unlisted trading privileges in the following securities:

Ahmanson (H.F.) & Co.
6% Cm. Cv. Dep. Pfd., $.01 Par Value (File No. 7–12178)
Ashland Oil, Inc.

$3.125 Cm. Cv. Pfd., No Par Value (File No. 7–12179)
BankAmerica Corp.
6.50% Cm. Cv. Ser. G Pfd., No Par Value (File No. 7–12180)
Cummins Engine Co., Inc.
$3.50 Dep. Cv. Exch. Pref., No Par Value (File No. 7–12181)
Freeport McMoran Copper & Gold, Inc.
7% Cm. Cv. Dep. Exch. Pref., $1.00 Par Value (File No. 7–12182)
First Chicago Corp.
5.75% Cm. Cv. Dep. Pfd., No Par Value (File No. 7–12183)
Glendale Federal Bank
8.75% Cv. E Pfd., $1.00 Par Value (File No. 7–12184)
General Motors Corp.
Ser. C Cv. Dep. Pfd., $.10 Par Value (File No. 7–12185)
Magma Copper Co.
6% Cm. Cv. Ser. E Pfd., $.01 Par Value (File No. 7–12186)
Occidental Petroleum Corp.
$3.00 Cm. Cv. EXY–Ind. Pfd. (File No. 7–12187)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before April 14, 1994, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 94–7510 Filed 3–29–94; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges; Notice and Opportunity for Hearing; Philadelphia Stock Exchange, Incorporated

March 24, 1994.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f–1 thereunder for unlisted trading privileges in the following securities:

Mallinckrodt Group, Inc.
Cum. Preferred Stock (File No. 7–12152)
Mallinckrodt Group, Inc.
Common Stock, $.01 Par Value (File No. 7–12153)
Larizza Industries, Inc.
Common Stock, $.01 Par Value (File No. 7–12154)
Quality Products, Inc.
Common Stock, $.01 Par Value (File No. 7–12155)
Bay Apartment Communities, Inc.
Common Stock, $.01 Par Value (File No. 7–12156)
Valero Energy Corporation
3.125 Conv. Pfd. Stock (File No. 7–12157)
EOTT Energy Partners L.P.
Common Units Representing Limited Partner Interest (File No. 7–12158)
REFAC Technology Development Corporation
Common Stock, $.10 Par Value (File No. 7–12158)
Nations Government Income Term Trust 2004, Inc.
Common Stock, $.001 Par Value (File No. 7–12159)
Greenstar Telecommunications, Inc.
Common Stock, No Par Value (File No. 7–12160)
Telefonica de Argentina S.A.
American Depositary Shares Each Representing 10 Cl. B Ordinary Shares, $1.00 Par Value (File No. 7–12161)
Southern Africa Fund, Inc.
Common Stock, $.01 Par Value (File No. 7–12162)
Harveys Casino Resorts
Common Stock, $.01 Par Value (File No. 7–12163)

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before April 14, 1994, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 94–7514 Filed 3–29–94; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–20156; International Series Rel. No. 643; 812–8794]

The Mexico Fund, Inc., et al.; Application

March 23, 1994.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

APPLICANT: The Mexico Fund, Inc. (the "Fund") and any registered investment companies formed in the future for which Impulsora del Fando Mexico, S.A. de C.V. (the "Adviser" or Impulsora") serves as an investment adviser and that has one or more directors that also serve as a director or directors of a company that itself or through a company controlled by, under common control, or controlling such company, acts as principal underwriter of an underwriting or selling syndicate selling a security in Mexico.

RELEVANT ACT SECTIONS: Order requested under section 10(f) granting an exemption from that section.

SUMMARY OF APPLICATION: Applicant seeks an order that would permit applicant to purchase securities in public offerings in Mexico in which a company that has the same director or directors as an applicant, or a company controlled by, under common control, or controlling such company, participates as a principal underwriter.

FILING DATES: The application was filed on January 25, 1994, and applicant's counsel has stated in a letter dated March 18, 1994 that an amendment, the substance of which is incorporated herein, will be filed during the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 18, 1994, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicant, c/o Impulsora del Fondo

Mexico, S.A. de C.V., 77 Aristoteles Street, 3rd Floor, Col. Polanco, Mexico, D.F. 11560, Mexico.

FOR FURTHER INFORMATION CONTACT: James M. Curtis, Senior Counsel, at (202) 504–2406 or Barry D. Miller, Senior Special Counsel, at (202) 272–3023 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. The Fund, a Maryland corporation, is a diversified closed-end management investment company registered under the Act. The Fund's investment objective is long-term capital appreciation through investment in securities, primarily equity, listed on the Bolsa Mexicana de Valores. The Fund may invest in Mexican fixed-income securities, bank deposits, and floating rate notes of Mexican banks. Impulsora serves as investment adviser to the Fund.

2. Two members of the Fund's Board of Directors, Juan Gallardo and Mr. Claudio Gonzalez, are affiliated with certain Mexican brokerage firms.[1] Mr. Gallardo also is a director of Bursamex Casa de Bolsa, S.A. de C.V., a Mexican brokerage firm, and of Grupo Financiero Inverlat-Comermex, a financial group holding company with interests in several companies engaged in the banking, brokerage and other financial services activities. This financial group controls, among other companies, the brokerage firm Casa de Bolsa Inverlat, S.A. de C.V. Mr. Gonzalez is a director of Groupo Financiero Banamex Accival, S.A. de C.V., also a financial group holding company with interest in several companies engaged in financial services activities. This financial group controls, among other companies, the brokerage firm Acciones y Valores de Mexico, S.A. de C.V.

Applicant's Legal Analysis

1. Section 10(f) of the Act generally prohibits an investment company registered under the Act from knowingly purchasing or otherwise acquiring securities during the existence of any underwriting or selling syndicates if a principal underwriter of the securities is either an officer, director, member of an advisory board, investment adviser, or employee of the investment company, or is an affiliated person of an officer, director, member of an advisory board, investment adviser or employee of the investment company. By virtue of having members of its Board of Directors that are also members of the board of dirctors of Mexican brokerage firms, or financial groups that have brokerage affiliates, which often act as principal underwriters in the Mexican securities market, applicant is prohibited by section 10(f) from purchasing securities from any member of any underwriting syndicate in which such entities with interlocking directors or their affiliates participate as principal underwriters. Applicant requests an exemptive order to permit, subject to the conditions set forth herein, applicant to purchase securities through any underwriting syndicate in which Casa de Bolsa Inverlat, S.A. de C.V., Bursamex Casa de Bolsa, S.A. de C.V., or Acciones y Valores de Mexico, S.A. de C.V., or any other company that has the same director or directors as an applicant, or a company controlled by, under common control, or controlling such company, participates as principal underwriter.

2. Under rule 10f–3 under the Act, a registered investment company may make a purchase of securities otherwise prohibited under section 10(f) as long as certain conditions are met. Subsection (a)(1) of rule 10f–3 requires that the securities purchased be part of an issue registered under the Securities Act of 1933 (the "Securities Act"). The Mexican listed securities in which the Fund invests are not required to be so registered, and the Fund lacks the ability to cause Mexican issuers that conduct public offerings of securities in Mexico, not otherwise subject to registration in the United States, to register these securities under the Securities Act. Applicant represents, however, that all purchases made by applicant pursuant to an order of exemption will comply with all provisions of rule 10f–3 except for the registration requirements set forth in rule 10f–3(a)(1). In addition, applicant represent that all securities purchased in Mexico under circumstances subject to section 10(f) of the Act will be purchased in public offerings conducted in Mexico and that foreign issuers of securities in which applicant invests pursuant to the order of exemption will have available to prospective purchasers, including applicant, financial statements, audited in accordance with Mexican accounting standards, for at least two years prior to the offering.

3. In order to make a public offering in Mexico, an issuer must file an application with the Comision Nacional de Valores (the "CNV") requesting approval of the offering and registration of the securities in the securities section of the Registro Nacional de Valores e Intermediarios, the National Registry of Securities and Securities Brokers, which is part of the CNV. In addition, the issuer seeking approval must represent that (i) the characteristics of the securities and the terms of the offering are such that the securities will have significant circulation and will cause no dislocation of the market; (ii) the securities possess, or have the potential for, broad circulation in relation to the size of the market or the issuer; and (iii) the issuer is solvent and has liquidity. Although the Ley del Mercado de Valores, the Mexican securities law, does not set any specific quantitative standards regarding the size of the offering, it does require that every public offering be large enough, in the opinion of the CNV, to assure investors of the liquidity of the securities. As a result, securities must be issued in sufficient quantity to be available to a wide group of offerees.

4. Once the offering price for a security is set, underwriters offer the securities to the public at a public offering price disclosed in the prospectus. Pursuant to the policies of the CNV, the securities may thereafter only be publicly offered at the disclosed price. This helps guaranty that publicly offered securities are offered to and purchased by affiliated and unaffiliated persons on the same terms. Although Mexican law does permit, under certain circumstances, securities to be publicly offered at a premium to market price, this situation rarely occurs. Applicant will not purchase securities at a premium to the prevailing market price.

5. In "firm commitment" public offerings in Mexico, the obligations of the various underwriters are several and not joint, and each underwriter is obligated to purchase shares from the issuer at a fixed price regardless of the marketing results of the underwriting group. The CNV, however, can object to the price set by the issuer and underwriters.

6. Applicant submit that the terms of the order for exemption requested are consistent with the protection of investors and the intention of the Commission in exempting transactions from section 10(f) pursuant to rule 10f–3. The requested order for exemption departs from rule 10f–3. The requested order for exemption departs from rule 10f–3 only in that the offerings will not be subject to registration under section

[1] Messrs. Gallardo and Gonzalez are currently relying on the exception from the definition of "interested person" provided by rule 2a19–1.

5 of the Securities Act as required by subsection rule 10f–3(a)(1). The purpose of subsection 10f–3(a)(1) is to ensure that investment companies purchase the subject securities at the public offering price (which ordinarily might not exist absent registration). It also tends to indicate that the securities were issued more or less in the ordinary course of business. Subparagraph (a) of rule 10f–3, by requiring subject securities to be purchased in a firm commitment underwriting, on the first day of the public offering, and for no more than the public offering price, further suggests that the registration requirement is closely related to these policy objectives.

7. Applicant submit that adherence to the conditions (as set forth below) will provide an adequate substitute for the registration requirement of rule 10f–3. In addition, the nature of a public offering and a firm commitment underwriting in Mexico make it highly likely that a wide group of offerees will take part in the offering and that the securities will be offered to and purchased by affiliated and unaffiliated persons on the same terms. Furthermore, where an issuer's financial statements are available for the last two years, applicant will be assured of having the basic financial information needed to evaluate the security. Together with the public offering requirement, such statements also provide assurance that the securities were issued in the "ordinary course" of business. It is therefore submitted that exemption from the provisions of section 10(f) in accordance with the conditions set forth herein is consistent with the protection of investors and the purposes intended by the passage of section 10(f) of the Act and the promulgation of rule 10f–3 thereunder.

Applicant's Conditions

Applicant agrees that the order granting the requested relief shall be subject to the following conditions:

1. All securities purchased in Mexico under circumstances subject to section 10(f) of the Act will be purchased in public offerings conducted in accordance with the laws of Mexico.

2. All subject foreign issuers of securities in which applicant invests pursuant to the order of exemption will have available to prospective purchasers, including applicant, financial statements, audited in accordance with Mexican accounting standards, for at least the two years prior to purchase.

3. All purchases made by applicant pursuant to the order of exemption will comply with all provisions of rule 10f–3 except for the registration requirement set forth in rule 10f–3(a)(1).

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–7447 Filed 3–29–94; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–20158; 811–5945]

California Tax-Free Money Trust; Notice of Application

March 24, 1994.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

Applicant: California Tax-Free Money Trust.

Relevant Act Section: Section 8(f).

Summary of Application: Applicant seeks an order declaring that it has ceased to be an investment company.

Filing Date: The application was filed on March 10, 1994.

Hearing or Notification of Hearing: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 18, 1994 and should be accompanied by proof of service on applicant, 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 a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549. Applicant, 6 St. James Street, Boston, Massachusetts 02116.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Staff Attorney, at (202) 272–3809, or Robert A. Robertson, Branch Chief, at (202) 272–3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a trust organized under the laws of the State of New York. On October 11, 1989, applicant registered as an investment company under the Act, and on September 14, 1990 applicant filed a registration statement on Form N–1A to register its shares. While in operation, applicant had three interestholders: Eagle California Tax-Free Money Fund, a portfolio of First Funds of America; California Tax-Free Portfolio, a portfolio of First Cash Funds of America; and California Tax-Free Money Market Fund ("CTF"), a portfolio of California Investment Trust. Applicant did not issue shares to the general public.

2. At a meeting held on October 30, 1992, applicant's board of directors approved the reorganization, termination and deregistration of applicant. In this reorganization, two of applicant's interestholders would be acquired by California Tax-Exempt Money Market Fund ("CTE"), a portfolio of Pacific Horizon Funds, Inc., and concurrently, CTE and CTF would acquire their proportionate share of applicant's portfolio securities.

3. On February 19, 1993, at a special meeting, applicant's interestholders approved a plan of reorganization. On March 1, 1993, pursuant to the plan, CTE acquired all of the assets and liabilities of Eagle California Tax-Free Money Fund and California Tax-Free Portfolio in exchange for shares of CTE with the same net asset value, and these shares were distributed to the shareholders of Eagle California Tax-Free Money Fund and California Tax-Free Portfolio. Concurrently, applicant transferred all of its assets and liabilities to its sole interestholders, CTE and CTF, in proportion to their respective interests.

4. One-third of expenses incurred in connection with the reorganization were paid by Pacific Horizon, and the balance was paid by Bank of America N.T. & S.A., Pacific Horizon's investment adviser, and Concord Holding Corporation, Pacific Horizon's administrator.

5. Applicant has no debts or other liabilities outstanding, and is not a party to any litigation or administrative proceeding. Applicant has no securityholders at the time of filing of the application.

6. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs. Applicant will be terminated under state law.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–7508 Filed 3–29–94; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGDO8–94–001]

Lower Mississippi River Waterway Safety Advisory Committee

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: The Lower Mississippi River Waterway Safety Advisory Committee will meet on Tuesday, April 19, 1994, in the World Trade Center, New Orleans, Louisiana. The meeting is open to the public.

DATES: The Advisory Committee will meet on Tuesday, April, 19, 1994 at 9 a.m.

ADDRESSES: The meeting will be held in room 1830 of the World Trade Center, 2 Canal Street, New Orleans, Louisiana.

SUPPLEMENTARY: The purpose of this Advisory Committee is to provide recommendations and guidance on navigation safety matters affecting the lower Mississippi River to the Commander, Eighth Coast Guard District.

The agenda for the meeting consists of the following items:

1. Call to Order.
2. Minutes of the last meeting.
3. Old Business.
4. New Business.
5. Next Meeting.
6. Adjournment.

The meeting is open to the public. Members of the public may present written or oral statements at the meeting.

FOR FURTHER INFORMATION CONTACT: LTJG Dave Seris, USCG, Executive Secretary, Lower Mississippi River Waterway Safety Advisory Committee, c/o Commander, Eighth Coast Guard District (oan), Room 1211, Hale Boggs Federal Building, 501 Magazine Street, New Orleans, LA 70130–3396, telephone number (504) 589–2353.

Dated: March 18, 1994.

J.C. Card,

Rear Admiral, U.S. Coast Guard Commander, Eighth Coast Guard District.

[FR Doc. 94–7539 Filed 3–29–94; 8:45 am]

BILLING CODE 4910–14–M

Federal Aviation Administration

Existence of Design Standards for Acceptance Under the Primary Category Rule

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability.

SUMMARY: This notice announces the availability of design standards for acceptance under the Primary Category Rule. The airworthiness standard is Civil Aeronautics Manual 3, dated May 1962, modified to include 14 CFR part 23 (part 23) 23.2, 23.1321(d), 23.1385 through 23.1397, and 23.1401.

DISCUSSION: The final design standard is essentially as proposed by the applicants. One commenter requested the part 23 lighting requirements substituted for the CAM 3 requirements as announced for comment be clarified/corrected, and another commenter presented a favorable argument for including the standard arrangement for primary flight instruments. Both requests were adopted.

Another commenter requested clarification of the flight manual and maintenance manual requirements. It has been determined that 14 CFR part 21 (part 21) 21.5(b) and 21.50(b) must be complied with by all primary category certification programs.

ADDRESSES: Copies of the design standards (CAM 3, dated May 1962) can be obtained from the following: Small Airplane Directorate, Standards Office (ACE–110), Aircraft Certification Service, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106.

FOR FURTHER INFORMATION CONTACT: Terre Flynn, Standards Staff (ACE–110), telephone number (816) 426–6941.

Issued in Kansas City, Missouri, March 17, 1994.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94–7451 Filed 3–29–94; 8:45 am]

BILLING CODE 4910–13–M

[Summary Notice No. PE–94–13]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petition received must identify the petition docket number involved and must be received on or before April 18, 1994.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Mr. Frederick M. Haynes, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3939.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC, on March 24, 1994.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 26793
Petitioner: Delta Air Lines, Inc.
Sections of the FAR Affected: 14 CFR 25.813(e) and 212.310(f)(5)

Description of Relief Sought/Disposition: To allow a door installation between passenger compartments on MD–11 configurations not previously allowed by Exemption Nos. 5405 and 5413.

Dispositions of Petitions

Docket No.: 26517
Petitioner: ERA Aviation, Inc.
Sections of the FAR Affected: 14 CFR 133.51

Description of Relief Sought/ Disposition: To extend Exemption No. 5421 to continue to conduct external-load operations (i.e., offshore oil drilling operations) in the United States using a Canadian-registered Aerospatial AS-332L Puma helicopter.

GRANT, March 22, 1994, Exemption No. 5421A.

[FR Doc. 94-7449 Filed 3-29-94; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement: Greene County, MO

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed project in Greene County, Missouri.

FOR FURTHER INFORMATION CONTACT: Mr. Donald Neumann, Federal Highway Administration, P.O. Box 1787, Jefferson City, MO 65102, Telephone Number 314-636-7104; or Mr. Bob Sfreddo, Design Engineer, Missouri Highway and Transportation Department, P.O. Box 270, Jefferson City, MO 65102, Telephone Number 314-751-2876.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Missouri Highway and Transportation Department (MHTD), will prepare an environmental impact statement (EIS) on a proposal to upgrade Missouri Route 160 to a dual-lane facility from Route 60 to the James River Freeway in Greene County, Missouri. An MHTD reconnaissance report determined that the upgrade of Route 160 would accomplish several goals: (1) Provide a system link between Route 60 and the James River Freeway, (2) improve safety and capacity for through-traffic, and (3) promote economic development and planned growth in the city of Springfield and Greene County.

1. The proposed highway project runs approximately 2.2 miles between Route 60 and the James River Freeway in Greene County. The proposed facility would provide a four-lane, limited-access roadway with at-grade intersections or interchanges at major arterial crossroads.

2. Alternatives under consideration include "build" alternatives and a "no build" alternative, as well as mass transit and transportation system management options.

3. To date, preliminary information has been issued to local officials and other interested parties. The scoping process will be initiated with Federal, State, and local agencies as the study progresses. Further public hearings will be held. To ensure that the full range of issues related to this proposed action are addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Any comments or questions concerning this proposed action and the EIS should be directed to the FHWA or the Missouri Highway and Transportation Department at the addresses provided above.

Issued on: March 8, 1994.

Donald Neumann,

Program Review Engineer, Jefferson City.

[FR Doc. 94-7412 Filed 3-29-94; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement: Hawaii County, HI

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement (EIS) will be prepared for a proposed highway project in Hawaii County, Hawaii. This notice rescinds and replaces the FHWA notice of intent published on December 2, 1991, which addressed a 14.5-mile portion of the currently proposed project.

FOR FURTHER INFORMATION CONTACT: W.R. Bird, Environmental Planning Engineer, Federal Highway Administration, P.O. Box 25246, Denver, Colorado 80225-0246, telephone 303-969-5909.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the state of Hawaii, the county of Hawaii, and the U.S. Department of the Army, will prepare an EIS for a portion of Hawaii State Highway (SH) 200, Saddle Road. The portion of Saddle Road covered by this notice of intent begins in Hilo, Hawaii, at approximately milepost 5 (the intersection with the proposed Pōainakō Street extension) and proceeds approximately 48 miles westward to the junction with Hawaii SH 190, the Māmalahoa Highway. The proposed improvement will be a two-lane paved roadway with paved shoulders. The purpose of this proposal is to provide a safe and functional road by eliminating existing safety hazards, including conflicts between the traveling public and military training operations. The Military Traffic Management Command has authorized Defense Access Road funds to prepare an EIS for the entire length of Saddle Road (including such preliminary design work as may be necessary for completing the EIS) and for engineering design work for the 14.5-mile section within the Pōhakuloa Training Area (PTA). Alternatives being evaluated include: (1) The "no build," (2) the improvement of the existing facility to approved Hawaii State Department of Transportation design criteria, and (3) improvement of the existing road, as in (2) above, with a northward realignment at the PTA. Other alternatives, including additional realignments that are developed during the scoping process, will also be evaluated.

Notices describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies and to private organizations and citizens who have expressed interest in this proposal. Interagency meetings, public scoping meetings, and public hearings will be held in the project area and in other appropriate areas. Information on the time and place of public scoping meetings and public hearings will be provided in the local news media. The draft EIS will be available for public and agency review and comment prior to the hearings.

To ensure that the full range of issues related to the proposed action are addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Comments and questions concerning the proposed action should be directed to the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: March 21, 1994.

James W. Keeley,

Acting Division Engineer, FHWA, Denver, CO.

[FR Doc. 94-7401 Filed 3-29-94; 8:45 am]

BILLING CODE 4910-22-M

Maritime Administration

[Docket A-184]

Keystone Shipping Co., et al. v. United States of America, Civil Action No. 90-2762

The Maritime Administration (MARAD) is providing an opportunity for submission of comments by all interested parties concerning the remand by the District Court for the District of Columbia on September 2,

1992, in Civil Action No. 90–2762. The court examined the Coast Guard and MARAD determinations that the SEABULK AMERICA is eligible for coastwise trade. The SEABULK AMERICA was constructed by the joining of the stern of the FUJI, a wrecked foreign-built vessel, and the forebody of the Barge 4102, a U.S.-built vessel constructed and acquired, respectively, with the aid of construction-differential subsidy (CDS) and the capital construction fund (CCF). In accordance with the Wrecked Vessel Act (WVA) the Coast Guard concluded that joining the FUJI stern and the Barge 4102 forebody was a rebuilding of the FUJI and that the rebuilt FUJI, renamed SEABULK AMERICA, was eligible for coastwise documentation. Based on the Coast Guard determination that the resulting vessel was the rebuilt FUJI, MARAD determined that the Barge 4102 had ceased to exist as a vessel, thereby extinguishing the contractual restrictions on the Barge 4102's participation in domestic trade.

The court remanded both the Coast Guard and MARAD determinations for a fuller explanation. The Coast Guard has not yet responded. MARAD was specifically directed to analyze the competitive effect of lifting the CDS and CCF domestic trade restrictions and to explain how such action comports with the purposes and policy of the Merchant Marine Act, 1936, as amended.

Any person, firm, or corporation having any interest in this matter and desiring to submit comments must file written comments in triplicate, to the Secretary, Maritime Administration, Room 7300, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590. Comments must be received no later than 5 p.m. on April 18, 1994. This notice is published as a matter of discretion. The Maritime Administration will consider any comments submitted and take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 20.800 Construction-Differential Subsidies (CDS)).

By Order of the Maritime Administrator.

Dated: March 24, 1994.

James E. Saari,

Secretary, Maritime Administration.

[FR Doc. 94–7405 Filed 3–29–94; 8:45 am]

BILLING CODE 4910–81–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

March 23, 1994.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Customs Service

OMB Number: 1515–0130.

Form Number: None.

Type of Review: Extension.

Title: Free Admittance Under Conditions of Emergency.

Description: This information is used to monitor goods temporarily admitted under conditions of national emergency or catastrophe for purpose of rescue or relief. Expected affected public would be non-profit assistance organizations.

Respondents: Non-profit institutions.

Estimated Number of Respondents: 1.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 1 hour.

Clearance Officer: Ralph Meyer (202) 927–1552, U.S. Customs Service, Paperwork Management Branch, room 6316, 1301 Constitution Avenue, NW., Washington, DC 20229.

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 94–7521 Filed 3–29–94; 8:45 am]

BILLING CODE 4820–02–P

Public Information Collection Requirements Submitted to OMB for Review

March 24, 1994.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512–0506.

Form Number: ATF F 5300.29.

Type of Review: Extension.

Title: Application of Extension of Time for Payment of Tax.

Description: ATF uses this information to determine if a taxpayer is qualified to extend payment of tax based circumstances beyond the taxpayer's control.

Respondents: Businesses or other for-profit, Small businesses or organizations.

Estimated Number of Respondents: 12.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 12 hours.

Clearance Officer: Robert N. Hogarth (202) 927–8930, Bureau of Alcohol, Tobacco and Firearms, room 3200, 650 Massachusetts Avenue, NW., Washington, DC 20226.

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 94–7522 Filed 3–29–94; 8:45 am]

BILLING CODE 4810–31–P

Customs Service

[T.D. 94–28]

Extension of Chem Coast, Inc.'s Customs Gauger Approval to the Site Located in Corpus Christi, TX

AGENCY: Customs Service, Treasury.

ACTION: Notice of the extension of Chem Coast, Inc.'s Customs gauger approval to include their Corpus Christi, Texas gauging facility.

SUMMARY: Chem Coast, Inc., of Laporte, Texas, a Customs approved gauger and accredited laboratory under Section 151.13 of the Customs Regulations (19 CFR 151.13), has been given an extension of its Customs gauger approval to include the Corpus Christi, Texas site. Specifically, the extension given to the Corpus Christi site will include the approval to gauge petroleum

and petroleum products, organic compounds in bulk and liquid form and animal and vegetable oils.

SUPPLEMENTARY INFORMATION:

Background

Part 151 of the Customs Regulations provides for the acceptance at Customs Districts of laboratory analyses and gauging reports for certain products from Customs accredited commercial laboratories and approved gaugers. Chem Coast, Inc., a Customs commercial approved gauger and accredited laboratory, has applied to Customs to extend its Customs gauger approval to its Corpus Christi, Texas facility. Review of the qualifications of the Corpus Christi site shows that the extension is warranted and, accordingly, has been granted.

Approved-Accredited Sites

Chem Coast, Inc., has been approved and/or accredited by the U.S. Customs Services at the following locations: Corpus Christi, Texas; Laporte, Texas; and Nederland, Texas.

EFFECTIVE DATE: March 22, 1994.

FOR FURTHER INFORMATION CONTACT: Ira S. Reese, Chief, Technical Branch, Office of Laboratories and Scientific Services, U.S. Customs Service, 1301 Constitution Ave., NW., Washington, DC 20229 at (202) 927–1060.

Dated: March 24, 1994.

George D. Heavey,

Director, Office of Laboratories and Scientific Services.

[FR Doc. 94–7520 Filed 3–29–94; 8:45 am]

BILLING CODE 4820–02–P

[T.D. 94–27]

Extension of SGS Control Services, Inc.'s Customs Gauger Approval to the Site Located in Baytown, TX

AGENCY: Customs Service, Treasury.

ACTION: Notice of the extension of SGS Control Services, Inc.'s Customs gauger approval to include their Baytown, Texas gauging facility.

SUMMARY: SGS Control Services, Inc., a Customs approved gauger and accredited laboratory under Section 151.13 of the Customs Regulations (19 CFR 151.13), has been given an extension of its Customs gauger approval to include the Baytown, Texas site. Specifically, the extension given to the Baytown site will include the approval to gauge petroleum and petroleum products, organic compounds in bulk and liquid form and animal and vegetable oils.

SUPPLEMENTARY INFORMATION:

Background

Part 151 of the Customs Regulations provides for the acceptance at Customs Districts of laboratory analyses and gauging reports for certain products from Customs accredited commercial laboratories and approved gaugers. SGS Control Services, Inc., a Customs commercial approved gauger and accredited laboratory, has applied to Customs to extend its Customs gauger approval to its Baytown, Texas facility. Review of the qualifications of the Baytown site shows that the extension is warranted and, accordingly, has been granted.

EFFECTIVE DATE: March 22, 1994.

FOR FURTHER INFORMATION CONTACT: Ira S. Reese, Chief, Technical Branch, Office of Laboratories and Scientific Services, U.S. Customs Service, 1301 Constitution Ave., NW., Washington, DC 20229 at (202) 927–1060.

Dated: March 24, 1994.

George D. Heavey,

Director, Office of Laboratories and Scientific Services.

[FR Doc. 94–7519 Filed 3–29–94; 8:45 am]

BILLING CODE 4820–02–P

Fiscal Service

[Dept. Circ. 570, 1993 Rev., Supp. No. 13; 4–00236]

Surety Companies Acceptable on Federal Bonds; Vesta Fire Insurance Corp.

A Certificate of Authority as an acceptable surety on Federal Bonds is hereby issued to the following company under sections 9304 to 9308, title 31, of the United States Code. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1993 Revision, on page 35822 to reflect this addition:

Vesta Fire Insurance Corporation. *Business Address:* P.O. Box, 43360, Birmingham, AL, 35243–3360. *Phone:* (205) 970–7000. *Underwriting Limitation* [b]: $6,816,000. *Surety Licenses* [c]: AL, AK, AZ, AR, DC, IL, IN, IA, KS, KY, MN, MO, MT, NE, NV, NJ, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. *Incorporated In:* Alabama.

Certificates of Authority expire on June 30 each year, unless revoked prior to that date. The Certificates are subject to subsequent annual renewal as long as the companies remain qualified (31 CFR, part 223). A list of qualified companies is published annually as of July 1 in Treasury Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information.

Copies of the Circular may be obtained from the Surety Bond Branch, Funds Management Division, Financial Management Service, Department of the Treasury, Washington, DC 20227, telephone (202) 874–6850.

Dated: March 22, 1994.

Charles F. Schwan III,

Director, Funds Management Division, Financial Management Service.

[FR Doc. 94–7397 Filed 3–29–94; 8:45 am]

BILLING CODE 4810–35–M

UNITED STATES ENRICHMENT CORPORATION

Freedom of Information Act, Affirmative Disclosure Provisions

AGENCY: United States Enrichment Corporation.

ACTION: Notice.

SUMMARY: This notice is published in accordance with the provisions of 5 U.S.C. 552(a) (1) and (2). It provides a brief history of the United States Enrichment Corporation (Corporation), identifies primary responsibilities of the Corporation, describes its organization, provides a source for obtaining specific information and addresses indices for materials required by 5 U.S.C. 552(a)(2) to be made available for public inspection and copying.

FOR FURTHER INFORMATION CONTACT: To obtain information, make submittals or requests, or obtain available decisions from the Corporation, members of the public should contact the Corporation's Freedom of Information Officer, in writing, at the Corporation's headquarters office, 6903 Rockledge Drive, Bethesda, Maryland 20817.

SUPPLEMENTARY INFORMATION:

History—The Corporation was established as wholly owned Government corporation by Title IX of the Energy Policy Act of 1992 (Pub.L. 102–486; 42 U.S.C. 2297 *et seq.*) for the purpose of operating the uranium enrichment enterprise, on behalf of the U.S. Government, on a profitable and efficient basis. On July 1, 1993, the Corporation assumed responsibility for the majority of the uranium enrichment enterprise activities formerly conducted by the U.S. Department of Energy (DOE).

Primary Responsibilities—The Corporation is responsible for the uranium enrichment enterprise. This includes the lease of two DOE gaseous diffusion plants, the sale of enriched

uranium and uranium enrichment and related services to domestic and foreign utilities, and the supply of enriched uranium and uranium enrichment and related services pursuant to contracts transferred to the Corporation from DOE under the Energy Policy Act of 1992. Since July 1, 1993, the Corporation has been the exclusive marketing agent for the U.S. Government for entering into contracts for providing enriched uranium and uranium enrichment and related services.

In addition, the Corporation, under authority provided by 42 U.S.C. 2297c–7, is the Executive Agent for the United States for implementation of the Agreement between the Government of the United States and the Government of the Russian Federation Concerning the Disposition of Highly Enriched Uranium Extracted from Nuclear Weapons. On January 14, 1994, in its capacity as U.S. Executive Agent, the Corporation executed a contract with the duly authorized agent of the Executive Agent of the Russian Federation for the purchase of low enriched uranium derived from highly enriched uranium extracted from nuclear weapons dismantled in Russia.

Description of Organization—Activities of the Corporation are carried out through the operation of a headquarters office located in Bethesda, Maryland and two gaseous diffusion plants leased from DOE, which are located in Paducah, Kentucky and Piketon, Ohio. In addition, the Corporation maintains an office in the District of Columbia. Section 2297b–3 of Title 42 of the U.S. Code provides for the powers of the Corporation to be vested in a five-member Board of Directors, which is responsible for the general management of the Corporation. The members of the Board of Directors took the oath of office on March 22, 1994. Under the leadership of the Board of Directors, daily activities will be conducted under the management and direction of the President, Secretary, Treasurer and other officers of the Corporation. In addition to the President, Secretary and Treasurer of the Corporation, the Board of Directors has elected an Executive Vice President of Operations and five Vice Presidents in the following areas: Production, Human Relations & Administration, Marketing & Sales, External Relations, Corporate Planning & Development, and Research & Development. Under 42 U.S.C. 2297b–14, the Corporation operated under the direction of a Transition Manager pending the appointment by the President and confirmation by the Senate of a quorum of the Board of Directors.

The headquarters office is located at 6903 Rockledge Drive, Bethesda, Maryland 20817. The headquarters office provides overall direction and day-to-day management of the Corporation's business. The Paducah Gaseous Diffusion Plant is located at 5600 Hobbs Road, Paducah, KY 42001 and the Portsmouth Gaseous Diffusion Plant is located at 3930 U.S. Rt. 23, P.O. Box 800, Perimeter Road, Piketon, OH 45661. The Corporation has contracted with Martin Marietta Utility Services, Inc. for the operation and maintenance of the two gaseous diffusion plants. A small number of employees of the Corporation are located at each plant. The Corporation's District of Columbia office is located at 1667 K Street, NW., Washington, DC 20006.

Availability of Indexes—By notice in the **Federal Register** dated March 30, 1994, the Corporation is exempt from the quarterly or more frequent publication and dissemination of indices required by 5 U.S.C. 552(a)(2) or other applicable statutes. Any required indices will be available for inspection at the Corporation's headquarters office.

Issued in Washington, DC, March 25, 1994.

William H. Timbers, Jr.

President and Chief Executive Officer.

[FR Doc. 94–7543 Filed 3–29–94; 8:45 am]

BILLING CODE 8270–01–M

DEPARTMENT OF VETERANS AFFAIRS

Information Collection Under OMB Review: Application for Dependency and Indemnity Compensation by Child, VA Form 21–4183

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Janet G. Byers, Veterans Benefits Administration (20A5), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233–3021.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395–7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before April 29, 1994.

Dated: March 22, 1994.

By Direction of the Secretary

B. Michael Berger,

Director, Records Management Service.

Revision

1. Application for Dependency and Indemnity Compensation by Child, VA Form 21–4183.
2. The form is used by a child under age 18 to claim Dependency and Indemnity Compensation when the surviving spouse is not entitled or is no longer entitled to benefits. The form is also used by a child age 18 or older regardless of the surviving spouse's entitlement.
3. Individuals or households.
4. 1,975 hours.
5. 15 minutes.
6. On occasion.
7. 7,900 respondents.

[FR Doc. 94–7457 Filed 3–29–94; 8:45 am]

BILLING CODE 8320–01–M

Information Collection Under OMB Review: Request for Information To Make Direct Payment to Child Reaching Majority, VA Form Letter 21–863

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Janet G. Byers, Veterans Benefits Administration (20A5), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233-3021.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395-7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before April 29, 1994.

Dated: March 22, 1994.

By direction of the Secretary.

B. Michael Berger,

Director, Records Management Service.

Extension

1. Request for Information To Make Direct Payment to Child Reaching Majority, VA Form Letter 21-863.
2. The form letter is used to gather the necessary information to determine a child's continued eligibility to benefits as a school child and eligibility to direct payment at the age of majority.
3. Individuals or households.
4. 3,767 hours.
5. 10 minutes.
6. On occasion.
7. 22,600 respondents.

[FR Doc. 94-7461 Filed 3-29-94; 8:45 am]

BILLING CODE 8320-01-M

Information Collection Under OMB Review: Interest Rate Reduction Refinancing Loan Worksheet, VA Form 26-8923

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Janet G. Byers, Veterans Benefits Administration (20A5), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233-3021.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395-7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before April 29, 1994.

Dated: March 22, 1994.

By direction of the Secretary.

B. Michael Berger,

Director, Records Management Service.

Extension

1. Interest Rate Reduction Refinancing Loan Worksheet, VA Form 26-8923.
2. The form is used by lenders for completing the funding fee and maximum permissible loan amounts for interest rate reduction refinancing loans to veterans.
3. Businesses or other for-profit.
4. 23,591 hours.
5. 10 minutes.
6. On occasion.
7. 9,507 respondents.

[FR Doc. 94-7462 Filed 3-29-94; 8:45 am]

BILLING CODE 8320-01-M

Information Collection Under OMB Review: Transfer of Ownership Data—Portfolio Loan, VA Form 26-8792

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Janet G. Byers, Veterans Benefits Administration (20A5), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233-3021.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395-7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before April 29, 1994.

Dated: March 22, 1994.

By direction of the Secretary.

B. Michael Berger,

Director, Records Management Service.

Extension

1. Transfer of Ownership Data—Portfolio Loan, VA Form 26-8792.
2. The form is completed by assumers of VA portfolio loans in order to provide information needed for servicing of such loans. The information is used to update portfolio loan records with names and related data on current obligors.
3. Individuals or households.
4. 150 hours.
5. 5 minutes.
6. On occasion.
7. 1,800 respondents.

[FR Doc. 94-7459 Filed 3-29-94; 8:45 am]

BILLING CODE 8320-01-M

Information Collection Under OMB Review: Application for Service-Disabled Insurance, VA Form 29-4364 and VA Form 29-4364-1

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Janet G. Byers, Veterans Benefits Administration (20A5), Department of Veterans Affairs, 810 Vermont Avenue,

NW., Washington, DC 20420 (202) 233–3021.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395–7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before April 29, 1994.

Dated: March 22, 1994.

By direction of the Secretary.

B. Michael Berger,

Director, Records Management Service.

Revision

1. Application for Service-Disabled Insurance, VA Form 29–4364 and VA Form 29–4364–1.
2. The forms are used by veterans to apply for Service-Disabled Veterans Insurance, to designate a beneficiary and to select an optional settlement.
3. Individuals or households.
4. 2,833 hours.
5. 40 minutes.
6. On occasion.
7. 4,250 respondents.

[FR Doc. 94–7460 Filed 3–29–94; 8:45 am]

BILLING CODE 8320–01–M

Information Collection Under OMB Review: Notice of Change in Student Status, VA Form 22–1999b and 22–1999b–1

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Janet G. Byers, Veterans Benefits Administration (20A5), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233–3021.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395–7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before April 29, 1994.

Dated: March 22, 1994.

By direction of the Secretary.

B. Michael Berger,

Director, Records Management Service.

Extension

1. Notice of Change in Student Status, VA Form 22–1999b and 22–1999b–1.
2. The form is used by certifying officials to report changes in the enrollment status of a student who is in receipt of VA benefits. The information is used by VA as a basis for adjusting the students' benefits.
3. State or local governments—Businesses or other for-profit—Non-profit organizations—Small businesses or organizations.
4. 88,932 hours.
5. 5 minutes.
6. On occasion.
7. 7,411 respondents.

[FR Doc. 94–7458 Filed 3–29–94; 8:45 am]

BILLING CODE 8320–01–M

Information Collection Under OMB Review: Verification of VA Benefit-Related Indebtedness, VA Form 26–8937

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Janet G. Byers, Veterans Benefits Administration (20A5), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233–3021.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395–7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before April 29, 1994.

Dated: March 22, 1994.

By direction of the Secretary.

B. Michael Berger,

Director, Records Management Service.

Extension

1. Verification of VA Benefit-Related Indebtedness, VA Form 26–8937.
2. The form is used by lenders authorized to close VA-guaranteed loans on the automatic basis to determine whether the veteran-borrower has any VA benefit-related indebtedness prior to loan closing.
3. Individuals or households.
4. 31,917 hours.
5. 5 minutes.
6. On occasion.
7. 383,000 respondents.

[FR Doc. 94–7463 Filed 3–29–94; 8:45 am]

BILLING CODE 8320–01–M

Wage Committee; Notice of Meetings

The Department of Veterans Affairs (VA), in accordance with Public Law 92–463, gives notice that meetings of the VA Wage Committee will be held on:

Wednesday, April 6, 1994, at 2 p.m.
Wednesday, April 20, 1994, at 2 p.m.
Wednesday, May 4, 1994, at 2 p.m.
Wednesday, May 18, 1994, at 2 p.m.
Wednesday, June 1, 1994, at 2 p.m.
Wednesday, June 15, 1994, at 2 p.m.
Wednesday, June 29, 1994, at 2 p.m.

The meetings will be held in room 1161, Veterans Affairs Central Office, 810 Vermont Avenue, NW., Washington, DC 20420.

The Committee's purpose is to advise the Under Secretary for Health on the development and authorization of wage schedules for Federal Wage System (blue-collar) employees.

At these meetings the Committee will consider wage survey specifications, wage survey data, local committee reports and recommendations, statistical analyses, and proposed wage schedules.

All portions of the meetings will be closed to the public because the matters considered are related solely to the internal personnel rules and practices of the Department of Veterans Affairs and because the wage survey data

considered by the Committee have been obtained from officials of private business establishments with a guarantee that the data will be held in confidence. Closure of the meetings is in accordance with subsection 10(d) of Public Law 92–463, as amended by Public Law 94–409, and as cited in 5 U.S.C. 552b(c)(2) and (4).

However, members of the public are invited to submit material in writing to the Chairperson for the Committee's attention.

Additional information concerning these meetings may be obtained from the Chairperson, VA Wage Committee, room 1161, 810 Vermont Avenue, NW., Washington, DC 20420.

Dated March 20, 1994.

By Direction of the Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 94–7464 Filed 3–29–94; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 59, No. 61
Wednesday, March 30, 1994

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11:15 a.m., Tuesday, April 26, 1994.

PLACE: 2033 K St. N.W., Washington, D.C., 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Rule enforcement review.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202-254-6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 94-7699 Filed 3-28-94; 2:44 pm]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Tuesday, April 26, 1994.

PLACE: 2033 K St., N.W., Washington, D.C., 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: ENFORCEMENT QUARTERLY REVIEW.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, (202) 254-6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 94-7698 Filed 3-28-94; 2:44 pm]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:45 a.m., Tuesday, April 26, 1994.

PLACE: 2033 K St., N.W., Washington, D.C., 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, (202) 254-6314.

Jean A. Webb,

Secretary of the Commission

[FR Doc. 94-7697 Filed 3-28-94; 2:44 pm]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10 a.m., Tuesday, April 26, 1994

PLACE: 2033 K St., N.W., Washington, D.C., Lower Level Hearing Room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

—Proposed rules on simplication of pool disclosure

—Quarterly review, 2nd Quarter, FY 1994

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, Secretary of the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 94-7696 Filed 3-28-94; 2:44 Pm]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., Tuesday, April 5, 1994.

PLACE: 2033 K St., N.W., Washington, D.C., 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, (202) 254-6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 94-7695 Filed 3-28-94; 2:44 pm]

BILLING CODE 6351-01-M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 10 a.m., Tuesday, April 5, 1994.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: March 28, 1994.

William W. Wiles,

Secretary of the Board.

[FR Doc. 94-7742 Filed 3-28-94; 3:39 pm]

BILLING CODE 6210-01-P

NUCLEAR REGULATORY COMMISSION

DATE: Friday, April 1, 1994.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Friday, April 1

10:00 a.m.

Briefing on Low Level Radioactive Waste Performance Assessment Development Plan (Public Meeting)

(Contact: John Greeves, 301-504-3334)

11:30 a.m.

Affirmation/Discussion and Vote (Public Meeting)

a. Sequoyah Fuels Corp.—Petition for Review of LBP-93-25 (Tentative)

(Contact: Cecilia Carson, 301-504-1625)

b. Final Rule on Equal Access to Justice Act (10 CFR Part 12)

(Contact: Susan Fonner, 301-504-1634)

1:00 p.m.

Discussion of Management Issues (Closed—Ex. 2 and 6)

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (Recording)—(301) 504-1292.

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 504-1661.

Dated: March 25, 1994.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 94-7640 Filed 3-28-94; 10:58 am]

BILLING CODE 7590-01-M

federal register

Wednesday
March 30, 1994

Part II

Department of the Interior

Bureau of Indian Affairs

25 CFR Part 225
Oil and Gas, Solid Mineral, and Geothermal Minerals Agreements; Final Rule

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 225

RIN 1076–AD00

Oil and Gas, Solid Mineral, and Geothermal Minerals Agreements

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Indian Affairs (BIA) of the Department of the Interior (Department) is promulgating regulations implementing the Indian Mineral Development Act (IMDA) of 1982 (25 U.S.C. 2102 through 2108). A new part 225 is added to govern solid-mineral, oil and gas, and geothermal minerals agreements entered into pursuant to the IMDA. The intent of these regulations is to ensure that Indian mineral owners wishing to develop their mineral resources are able to do so in a manner that maximizes their best economic interests and minimizes any adverse environmental or cultural impact. These regulations will assist Indian mineral owners entering into minerals agreements by allowing for greater responsibility, oversight, and flexibility in the control and development of their own resources.

EFFECTIVE DATE: April 29, 1994.

FOR FURTHER INFORMATION CONTACT: Richard N. Wilson (303) 231–5070 or Pete C. Aguilar (303) 231–5070.

SUPPLEMENTARY INFORMATION: This final rule is published in the exercise of the authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 209 DM 8. The principal authors of this final rule are: Pete C. Aguilar, Division of Energy and Mineral Resources, Golden, Colorado; Karl E. Kiehn, Office of the Solicitor, Washington, DC; and Edwin Winstead, Office of the Solicitor, Albuquerque, New Mexico.

Section 3 of the IMDA authorizes any Indian tribe to enter into joint ventures, leases, or other types of negotiated minerals agreements, subject to the approval of the Secretary of the Interior and any limitation or provision contained in the tribe's constitution or charter. The IMDA also permits individual Indians owning a beneficial or restricted interest in mineral resources to include their resources in a minerals agreement with an Indian tribe, subject to the concurrence of the parties and a finding by the Secretary that such participation is in the best interest of the individual Indian mineral owner. The IMDA does not supersede the Act of May 11, 1938 (25 U.S.C. 396a), which governs the leasing of tribally-owned minerals, or the Act of March 3, 1909, as amended, (25 U.S.C. 396) which governs the mineral leasing of allotted lands. Instead, it supplements those acts by permitting Indian tribes to elect whether they wish to offer their mineral resources for lease by competitive bidding, enter into direct negotiations for a minerals agreement, or a combination of competitive bidding and negotiations.

Pursuant to section 8 of the IMDA, the BIA published a notice of proposed rulemaking in the **Federal Register** on July 12, 1983 (48 FR 31978). The proposed rulemaking included a revision and reorganization of the regulations governing mining and oil and gas leases adopted pursuant to the Act of May 11, 1938, which governs the leasing of tribally-owned minerals, and the Act of March 3, 1909, as amended, which governs the leasing of individually-owned minerals on allotted lands. On August 24, 1987, the BIA published final regulations (52 FR 31916) which were scheduled to become effective on October 24, 1987. Then, in response to concerns expressed by the public, the regulations were amended and republished as proposed on October 21, 1987 (52 FR 39332), and the public was notified that the regulations published on August 24, 1987 would not become effective.

Public responses to these publications contained reasonable and compelling arguments for restructuring the format of the proposed regulations. Several commenters stated that the October 21, 1987 proposed regulations were confusing and ambiguous. The proposed format combined regulations implementing the Acts of May 11, 1938 and March 3, 1909, and the IMDA into two separate parts: (1) Part 211, contracts for prospecting and mining on Indian lands (except oil and gas and geothermal); and (2) Part 225, oil and gas and geothermal contracts. The most common major concern was whether provisions of the IMDA would supplant lease and regulatory conditions contained in lease contracts entered into under the authority of the 1909 and 1938 Acts. The format of the proposed rules created confusion about contract approval procedures for leasing tribal versus allotted lands. In addition, the format of the proposed rules created confusion between regulatory requirements for solid mineral versus fluid mineral contracts. The uncertainty expressed by Indian interests and industry on numerous issues convinced the Department that the regulations needed to be entirely reformatted and revised.

The proposed regulations were then organized under a system which would be more familiar to both Indian mineral owners and industry. The proposed regulations were organized into three sections: (1) 25 CFR part 211 provided the procedures for obtaining and operating standard mineral leases, for both solid and fluid minerals, on tribal lands under the Act of May 11, 1938, as amended; (2) 25 CFR part 212 provided the procedures for obtaining and operating standard mineral leases, for both solid and fluid minerals, on allotted lands under the Act of March 3, 1909, as amended; and (3) 25 CFR part 225 provided a new and separate section governing minerals agreements for development of Indian minerals under the IMDA.

Along with the reformatting, many changes were made to individual sections. These changes reflected the Department's efforts to be responsive to the comments received in 1987, and to include the additional business and administrative experience that had been gained on several issues during the last few years. In reviewing all of the issues raised in the 1987 comments and in redrafting the regulations, the goal of the BIA is to ensure that the Department is able to fulfill its trust responsibility by providing adequate provisions to ensure the protection of the trust resources and at the same time benefit the Indian mineral owners by removing unnecessary regulatory barriers and complications which could make their minerals less attractive to industry and thus frustrate development. In addition, consistent with the policy on self-determination, the Department has attempted to provide the tribes as much freedom as possible to make their own determination on issues affecting the development of their minerals.

In order to provide Indian mineral owners and Indian mineral operators full opportunity to review and comment on the reformatted and rewritten regulations, the Department determined that these regulations should be published as a proposed rather than a final rule, and that the public should be given 90 days to review the regulations and provide written comments. The proposed rulemaking was published in the **Federal Register** (56 FR 58734) on November 21, 1991. The closing date for submission of review comments on the proposed rulemaking was February 19, 1992. All comments received were considered in the preparation of the final rules.

Currently, there are regulations governing the mineral leasing of Indian

lands (25 CFR parts 211 and 212 as well as the regulations of other Federal agencies), but no specific regulations govern the disposition of the resources of the Indian mineral owner pursuant to the IMDA. Further, the IMDA is and has been utilized by tribes to participate in minerals agreements since 1982 without benefit of formal implementing regulations. To immediately implement the IMDA, the Department is publishing this final rule (25 CFR part 225) separately and restructuring the remainder of the proposed rulemaking (25 CFR parts 211 and 212). In response to the wishes and comments of the Indian tribes and the public, the comment period for Parts 211 and 212 was reopened (57 FR 40298) for 60 days on September 2, 1992, and public hearings were held on September 25 in Denver, Colorado and on September 28 in Albuquerque, New Mexico. The reopened comment period closed on November 2, 1992. Parts 211 and 212 are scheduled for future publication in the **Federal Register** and will include recognition and acknowledgement of the concerns and comments received during the latest comment period which closed November 2, 1992, as well as the concerns and comments received previously.

This preamble provides a review of the comments received on the proposed 25 CFR part 225 regulations and the changes made to the proposed rule pursuant to these comments.

I. Changes Made to Proposed Rules

The proposed rule is modified: (1) In response to comments received; (2) to enable the proposed rule to stand alone as a final rule after separation from 25 CFR parts 211 and 212 of proposed rulemaking (56 FR 58734); and (3) in recognition of prevailing and customary business and administrative practices which have developed since the passage and approval of the IMDA. This final rule and new CFR part 225 has appeared in this format as a proposed rule only once in the **Federal Register** (56 FR 58734) on November 21, 1991. As a result of the decision to publish part 225 separately as a final rule, it is no longer possible to incorporate the provisions of parts 211 and 212 by reference. Rather, minor modifications are made to part 225. The necessary sections of parts 211 and 212 which were incorporated by reference in the November 21, 1991 publication of 25 CFR part 225 have now been modified as necessary to reflect the concerns of commenters and to reflect current administrative and business practices and are included directly within part 225. The salient modifications to the proposed rule are here summarized by section. The section headings refer to the final rule.

Section 225.1. Purpose and Scope

Several changes are made to this section to more clearly reflect the language used in the IMDA and to assure the Alaska native corporations that 25 CFR part 225 is applicable only to Indian mineral interests held in trust by the United States or subject to restriction against alienation imposed by the United States. In addition, a change is made to reflect current practices that permit the parties to minerals agreements, with the approval of the Secretary, to agree in negotiation to provisions which would replace some requirements contained in the regulations of the Minerals Management Service.

Section 225.3. Definitions

The definitions section of part 225 is modified somewhat, partly in response to comments and partly because part 225 requires new definitions to describe principles and procedures. For example, the term "minerals agreement" is defined, instead of the term "agreement"; this change is necessary because the numerous agreements used in minerals industries (i.e., unit agreement, communitization agreement, operating agreement, etc.) must all be specified to prevent confusion. Also, the other agreements, as described in proposed 25 CFR parts 211 and 212, are no longer incorporated by reference, so must be properly identified within 25 CFR part 225. As a result, the word "agreement" stands without modifiers only when used in the most general, non-specific sense. The necessary changes are:

Agreement, is deleted and redefined under "minerals agreement" to conform with language of the IMDA and clearly separate the minerals agreement from other agreements in common use within the minerals industry.

Assistant Secretary, is deleted and replaced by "Assistant Secretary—Indian Affairs" and modified to: (1) Recognize the statutory requirement of 25 U.S.C. 2103(d) that disapproval of minerals agreements may not be delegated lower than the Assistant Secretary—Indian Affairs; (2) clarify that all other responsibilities, except for those under the statutory requirement of 25 U.S.C. 2103(d), may be delegated by the Secretary as a matter of policy; and (3) clarify that orders of cessation or minerals agreement cancellations issued by the Secretary or the Assistant Secretary—Indian Affairs are final orders of the Department.

Assistant Secretary—Indian Affairs is added to replace the definition of "Assistant Secretary" (see above).

Bureau is deleted from definitions because this word is no longer used in the regulations.

Director's representative is added to bring OSMRE representatives formally into Part 225.

In the best interest of the Indian mineral owner is modified to clarify that the Secretary shall consider any relevant factor in making a best interest determination, and to specifically include consideration by the Secretary of potential environmental, social and cultural effects.

Lessor is deleted because this word is no longer used in these regulations.

Minerals is modified to better define the scope and description of minerals which may be disposed under a minerals agreement.

Minerals agreement is added to replace the definition of an "agreement" in proposed rulemaking.

Operator is modified to recognize that there is no operator until a minerals agreement is approved.

Secretary is modified to recognize the statutory requirement of 25 U.S.C. 2103(d) that disapproval of minerals agreements may not be delegated lower than the Assistant Secretary—Indian Affairs.

Tar sand is deleted, but now defined as a mineral and included as a result of the modification of the definition of "minerals."

Section 225.4. Authority and Responsibility of the Bureau of Land Management (BLM)

References are added to cite the BLM regulations concerning onshore oil and gas and geothermal unitization and communitization.

Section 225.6. Authority and Responsibility of the Minerals Management Service (MMS)

This section was expanded to clarify that the Secretary may consider alternative provisions in a minerals agreement with respect to the requirements found in 30 CFR chapter II, subchapters A and C, if they are reasonable and adequately address the royalty functions governed by MMS regulations.

Section 225.20. Authority To Contract

In response to comments, § 225.20 is revised to indicate that the authority to contract covers those mineral resources in which a tribe or individual Indian owns a beneficial or restricted interest.

Section 225.21. Negotiation Procedures

Paragraph 225.21(b) is modified to require that, in a minerals agreement, the Indian mineral owner shall, if applicable, address the provisions listed. Many of the provisions listed must necessarily be included in any agreement, and most must be addressed to permit the Secretary to properly discharge the trust responsibility pursuant to 25 U.S.C. 2103(e). The paragraph at § 225.21(b)(1) is expanded by adding to the phrase concerning the legal description of lands, "to include rock intervals or thickness," in the event a minerals agreement is only for a specific interval (formation) or depth. At § 225.21(b)(20), a paragraph is added to encourage the Indian mineral owner to address, during negotiation procedures, provisions for the protection of minerals agreement lands from drainage and/or unauthorized taking of mineral resources. Two paragraphs are modified to include procedures for mineral valuation and limitations on assignments of interest as items for consideration during negotiation. Other minor editorial changes are made, such as specifying in paragraph 225.21(d) that the Superintendent or Area Director are the designees of the Secretary authorized to receive the minerals agreements executed by the tribes.

Section 225.22. Approval of Minerals Agreements

Minor changes were made to clarify this provision. The statutory requirement that only the Secretary or Assistant Secretary—Indian Affairs may disapprove a minerals agreement is stated in definitions at § 225.3. Paragraph 225.22(c) was modified to clarify that minerals agreements shall be approved if the minerals agreements are in compliance with all the requirements of the IMDA. Paragraph 225.22(d) was modified to clarify that the Secretary's decision to disapprove a minerals agreement shall be deemed a final Federal agency action (25 U.S.C. 2103(d)).

Section 225.23. Economic Assessments

This section was modified to clarify that the economic assessment is mandatory pursuant to the Secretary's obligation to consider the potential return to the tribe.

Section 225.24. Environmental Studies

A change is made in this section to clarify that although compliance with all archeological and historic preservation statutes is required, the exhaustive, site-specific analyses and surveys demanded when operations begin at a specific site are not invariably required prior to approval of a minerals agreement.

Section 225.25. Resolution of Disputes

This section was rewritten, in response to comments, to clarify the Secretary's role in dispute resolution. The revised section also removes the example dispute resolution mechanisms because several commenters assumed that the examples were mandatory methods of dispute resolution. This section now more clearly states the statutory requirements that the parties to a minerals agreement provide a mechanism for resolving disputes, and that the Secretary retains the responsibility and authority to protect Indian mineral owners in the event of violation of the provisions of a minerals agreement.

Section 225.26. Auditing and Accounting

This section was modified to specify that the accounting and auditing standards applicable to the administration of minerals agreements will be the same standards currently applied by the Minerals Management Service.

Section 225.27. Forms and Reports

This section was modified to clarify that prescribed forms (if applicable) for a minerals agreement may be obtained from the Superintendent or the Area Director, and that geothermal production reports are made to the BLM on forms prescribed by the BLM that are available from the Superintendent or the Authorized Officer.

Section 225.28. Approval of Amendments to Minerals Agreements

A change in this section clarifies that an amendment, modification, or supplement to a minerals agreement may be approved by the Secretary if the underlying minerals agreement, as amended, modified, or supplemented, meets the Secretary's criteria (§ 225.22(c)) for approval.

Section 225.30. Bonds

Section 225.30 is one of the sections requiring rewrite and inclusion because of the separation of part 225 from parts 211 and 212. Changes in this section emphasize that bonds payable to the Secretary or the Secretary's designee are negotiable within minerals agreements and provide minimal requirements for the bonding of operators holding minerals agreements. Current financial and business practices are now recognized in the regulations by providing for a variety of financial instruments to accompany a personal bond, so that a wide variety of assets may be used to secure the bond.

Section 225.31. Manner of Payments

A change is made in this section to emphasize that, prior to production, all bonus and rental payments shall be made to the Superintendent or Area Director unless specified otherwise in the minerals agreement.

Section 225.34. Unitization and Communitization Agreements, and Well Spacing Requirements

This section, along with the reference to the provisions of § 211.28 of this chapter pertaining to unitization and communitization agreements and well spacing requirements, is removed to allow Indian mineral owners greater flexibility in the structuring of their minerals agreements. The removal of this section does not preclude the inclusion of unitization and communitization and well spacing provisions in a minerals agreement if, at the time of negotiation, it is determined that such provisions are desired to develop certain Indian lands within a minerals agreement where there is mixed land ownership.

Section 225.35. Inspection of Premises; Books and Accounts

A short paragraph has been added to this section to recognize the role of the Office of Surface Mining Reclamation and Enforcement (OSMRE) Director's Representative for the purpose of inspection of properties.

Section 225.36. Minerals Agreement Cancellation; Bureau of Indian Affairs Notice of Noncompliance

Minor changes are made in this section, including a change in the title of the section: (1) To formally include the OSMRE Director's Representative in the noncompliance and cancellation (if required) process; (2) to emphasize that the notice(s) of noncompliance and cancellation are those served by the Bureau of Indian Affairs; and (3) to clarify, by reorganization of paragraphs, noncompliance procedures and the cancellation (if required) process.

Section 225.37. Penalties

This section was brought into 25 CFR part 225 from 25 CFR parts 211 and 212 because of the decision to separate 25 CFR part 225 from the other parts for purposes of final rulemaking. The section was rewritten, including a change in the section title, and made specific to minerals agreements rather than being incorporated by reference, thus enabling 25 CFR part 225 to stand alone as a final rule. A penalties section

within 225 is necessary, because without such a section the Secretary's only enforcement tool is the cancellation of a minerals agreement in the event of a violation of a minerals agreement. Also, there are no penalty provisions under any other Federal agency's regulations to provide for enforcement of minerals agreements which include solid minerals or other mineral commodities not covered by the Federal Oil and Gas Royalty Management Act of 1982 or the Surface Mining Control and Reclamation Act of 1977. In addition, changes are made to paragraphs 225.37(f)(2) and 225.37(f)(3) to clarify that this section does not apply to any action for which the BLM, MMS, or OSMRE have authority to impose a penalty. Therefore, this section will not result in multiple penalties being imposed for the same violation.

Section 225.39. Fees

Provision is made for the Indian mineral owner to acquire an additional interest in minerals agreements without imposition of a filing fee, if provision for such an acquisition by the Indian mineral owner is made in the minerals agreement.

II. Comments Received on Proposed Rule

The notice of Proposed Rulemaking was published in the **Federal Register** on November 21, 1991 (56 FR 58734). The proposed rule provided for a 90-day public comment period ending on February 19, 1992. During the comment period, 27 commenters submitted written comments. All comments were accepted for consideration in preparation of the final rule and are addressed in this section. All substantive comments applicable to sections of 25 CFR part 225, were considered whether directed to part 211, 212, or 225, because some commenters referenced their comments on other parts as applicable to part 225 and because some commenters made only general comments on the proposed regulations which were not directed by the commenter to any specific part.

(1) Several commenters stated that the proposed regulations are unsatisfactory because: (1) Of the effects of the proposed rules on existing leases and operating agreements; (2) inadequate time was provided for review of the proposed rules; (3) the proposed rules should be subject to a negotiated rule-making process among interested tribes, industry, and the Bureau (of Indian Affairs); and (4) public hearings on the proposed rulemaking should be held at locations convenient to the Indian tribes.

Response: As set forth in introductory remarks (above), the Secretary reopened the period for comment on 25 CFR parts 211 and 212 and public hearings have been held in Denver, Colorado and Albuquerque, New Mexico. Regulations at 25 CFR part 225 are treated as final rulemaking because of the need for regulatory guidance for Indian mineral owners, industry, regulatory authorities, and the public. Also, the chief concerns of commenters center on the proposed amendments to 25 CFR parts 211 and 212; part 225 is clearly less controversial than the other two parts. Therefore, the Secretary has decided to proceed with final publication of 25 CFR part 225.

(2) One commenter indicates that the purpose of the proposed rulemaking is to make proposed regulations consistent with the regulations governing mineral leasing and development of Federal lands. The commenter stated that mineral leasing and development on Indian lands are not sufficiently similar to mineral leasing on Federal lands to justify uniformity.

Response: One of the Department's purposes in reformatting and changing of the proposed rules is to make, when appropriate, these regulations consistent with the regulations governing mineral leasing and development of Federal lands (56 FR 58734). Appropriate consistency is desirable because many of the operating and reclamation regulations of other offices and bureaus of the Department are especially applicable in the day-to-day management of the mineral estate on tribal and allotted Indian lands subject to mineral leasing and disposition under 25 CFR parts 211 and 212. The commenter is correct in stating that where mineral leasing and development on Indian lands is dissimilar to leasing and development on Federal lands, different treatment is required of many issues. The consistency among the regulations of various offices and bureaus is de-emphasized in these regulations because the IMDA and these regulations provide the necessary latitude to adequately address the dissimilarities, and because the proposed 25 CFR parts 211 and 212 will now be issued as separate rules.

(3) Several Alaska native corporations ask that a statement be made that lands conveyed pursuant to the Alaska Native Claims Settlement Act are not subject to 25 CFR part 225.

Response: The requested assurance that the proposed regulations, and/or regulations in fact, do not apply to lands conveyed pursuant to the Alaska Native Claims Settlement Act is contained in 25 U.S.C. § 2101 and 2102. Section 225.1 is changed to emphasize that 25 CFR part 225 is applicable only to lands that are held in trust by the United States or are subject to a restriction against alienation imposed by the United States.

(4) Numerous commenters are generally concerned about the effect of the proposed rules on (1) fixed royalty rates more than 12½ percent, (2) terms and conditions of existing leases and operating agreements, (3) the imposition of arbitrary acreage limits on mineral leases, and (4) data gained under permit deemed by operators to be privileged and proprietary.

Response: Most of the general concerns of commenters pertain to the proposed 25 CFR parts 211 and 212 and not to part 225, and will be addressed at the time of proposed or final rulemaking for 25 CFR parts 211 and 212. The terms and conditions of existing leases and operating agreements are unaffected by part 225, unless the leases or agreements are renegotiated to become minerals agreements. Other concerns are negotiable among principals within the framework of a minerals agreement and at the time a minerals agreement is considered.

(5) One commenter objects to the language of § 225.1(a) as proposed which states:

> as part of this greater flexibility, the tribe bears the responsibility for any business risks which may be inherent in the agreement. If the Secretary approves an agreement * * *.

and urged that the language of the authorizing statute be retained in regulation to ensure that Congressional intent is honored.

Response: The language of § 225.1(a) is changed in final rulemaking to read:

> as part of this greater flexibility, where the Secretary has approved a minerals agreement in compliance with the provisions of 25 U.S.C. Chap. 23 and any other applicable provision of law, the United States shall not be liable for * * *.

in keeping with the language of 25 U.S.C. 2103(e).

(6) One commenter states that the language of § 225.1(b) should more specifically state that existing minerals agreements are subject to new regulations except for minerals agreement terms concerning duration of the minerals agreement, the rate of royalty or financial consideration, rental, or acreage unless agreed to by all parties to the minerals agreement. Another commenter states that the provision in § 225.1(b) that new regulations not affect certain provisions of existing minerals agreements is much too broad and unnecessary; that regulations affecting operations and

becoming effective after lease approval will impact lease duration, and further compares the provision in the new regulations to those provisions found in the commenter's standard lease form; and requests that § 225.1(b) be withdrawn.

Response: Section 225.1(b) is specifically intended to clarify that these new regulations, and any future amendments to these regulations, apply to existing minerals agreements except as to certain key provisions in the minerals agreement, unless the parties agree to retroactive effect of these new regulations on these key provisions. The Secretary retains authority to implement or amend and then apply regulations which are deemed necessary to protect the Indian mineral owners and the trust resource. Therefore, no changes in response to these comments were deemed necessary.

(7) One commenter is of the opinion that § 225.1(c) duplicated §§ 225.4 through 225.6 and asked that § 225.1(c) be amended to clarify that the cited regulations do not apply if specifically stated otherwise in a minerals agreement. Another commenter asked that the supplemental regulations of §§ 225.4 through 225.6 be subordinated in § 225.1(c) if inconsistent with the terms of minerals agreements. Other commenters ask that paragraphs at § 225.1(c) and 225.1(d) allow minerals agreement provisions inconsistent with regulations and that § 225.1(c) allow principals to minerals agreements to exempt themselves from regulation by the Bureau of Land Management or the Minerals Management Service.

Response: Sections 225.1(c) and 225.6 are amended to allow the parties greater flexibility in determining how the functions covered in the Minerals Management Service regulations should be handled in their minerals agreements. However, no such flexibility can be provided concerning the actual minerals operations procedures governed by other applicable regulations not expressly inconsistent with this part.

(8) Two commenters state that § 225.1(d) does not sufficiently recognize the regulatory authority of the tribe and applicability of tribal laws and regulations.

Response: Section 225.1(d) specifically recognizes the lawful governmental authority of Indian tribes to regulate the conduct of persons and businesses within their territorial jurisdiction. No additional changes to § 225.1(d) were deemed necessary.

(9) Several commenters object to the definition of "agreement" (§ 225.3) and suggest changes ranging from (1) the inclusion of negotiated agreements under authority other than the IMDA to (2) the exclusion of contracts entered into under other available regulations. One commenter suggests that the word "lease" be deleted from the definition of an agreement to avoid confusion with standard leases. One commenter suggested that the definition should be that of a "minerals agreement" and not just that of an "agreement."

Response: The definition of a minerals agreement is retained in the final rule under the definition of a "minerals agreement," and the definition of "agreement" deleted from the final rule. The definition of "minerals agreement" is carried over from statute (25 U.S.C. 2102) and can include a mineral lease if so negotiated by the principals. Therefore the word "lease" is retained in the definition of "minerals agreement," with the clarification that existing leases and leasing options available under the Act of May 11, 1938 or the Act of March 3, 1909 are not included when "lease" is used in the definition of a "minerals agreement" in the final rule.

(10) One commenter suggests that "coal" be defined because it is referenced in royalty considerations in 25 CFR part 211 as proposed.

Response: The definition in final rulemaking of "minerals" is changed to be more inclusive and now includes coal and lignite of all ranks as well as all hydrocarbons. Also included are all other minerals such that any mineral or mineral fuel however categorized is a proper subject of minerals agreements. For example, peat, variously categorized as a soil conditioner, fertilizer, mineral fuel, and/or hydrocarbon is specifically included in definition as a mineral because it is a non-metalliferous, energy mineral and a non-metalliferous, non-energy mineral.

(11) Two commenters are of the opinion that coal-bed methane should be excluded from the definition of a "gas" and one would exclude substances found as constituent parts of other minerals.

Response: The issues raised by commenters are currently being litigated. The definition of "gas" in these regulations is consistent with the position the Department of the Interior has taken in litigation and should not be taken as affecting any existing minerals agreement or lease or any pending litigation. If necessary, distinction among gases of various origin or association may be made by the use of suitable modifiers (e.g., coal-bed methane, natural gas, or carbon-dioxide gas) during negotiation of minerals agreements by principals.

(12) One commenter suggests that the definition of "gas" should also specify the meaning of "ordinary temperature and pressure conditions" because of perceived differences in ordinary temperature and pressure in subsurface contrasted with ordinary temperature and pressure at land surface.

Response: Ordinary temperature and pressure generally means near room temperature and about one atmosphere pressure as commonly used in the calculation of and the handling of gases and in specified standards for the determination of quantities of materials. The specification of a standard, if required, should be included at the time of preparation of the minerals agreement.

(13) One group of commenters concerned with the definition of "in the best interest of the Indian mineral owner" suggest that the BIA restrict its review to an examination of those factors delineated in the IMDA. Another group of commenters request that the definition be amended to state that the BIA shall consider any factor relevant to the best interests of the Indian mineral owner.

Response: The IMDA provides that the Secretary shall consider, "among other things," those factors listed and thus the Secretary may consider factors not specifically delineated. The factors considered can only be those perceived to be relevant at the time of approval or disapproval of the minerals agreement and not those unknown factors judged relevant in retrospect. The definition is changed in final rulemaking to provide that in making a best interest determination the Secretary shall consider any relevant factor.

(14) One commenter states that the definition of "Indian lands" should be changed to "Indian mineral lands" and that the interest owned in lands or minerals should be restricted to the interest owned in minerals. Another commenter states that the definition of Indian lands has surfaced mysteriously without explanation, may be in conflict with regulatory programs administered by other agencies, and that the BIA should withdraw the current proposal and consult with the Office of Surface Mining and Reclamation and Enforcement prior to initiating any future rulemaking activities on this issue.

Response: The definition of Indian lands is necessary because the IMDA defines an Indian and an Indian tribe in terms of land ownership without respect to whether the land is deemed mineral or non-mineral. The definition is further clarified by defining "Indian mineral owner" and "Indian surface owner."

(15) A commenter suggests that the definition of "lessor" be expanded to include one who is negotiating for or who has entered into a minerals agreement.

Response: This definition has been deleted from the list of definitions because the word "lessor" is not used in the final rulemaking.

(16) One commenter states that the inclusion of sand and gravel in the definition of "minerals" is beyond the statutory language of the IMDA and there is no basis in statute for inclusion of the common materials listed in the definition of "minerals."

Response: At 25 U.S.C. 2102(a) reference is made to exploration for, or extraction, processing, or other development of other energy or non-energy mineral resources in which such Indian tribe owns a beneficial or restricted interest; a reference which includes mineral resources consisting of the common varieties of minerals. For purposes of clarity of definition several examples of common and/or uncommon varieties of minerals and mineral aggregates are listed to illustrate that all minerals and mineral resources on Indian lands are subject to disposition by minerals agreements. Therefore, the definition is unchanged in final rulemaking.

(17) Two commenters object to the exclusion of materials from the definition of mining based on the type and volume of material considered for extraction.

Response: Common varieties of mineral resources extracted in small amounts were excluded from the definition of mining, because the purpose of such extraction is often for local and/or tribal use. The Department's full regulatory program was not thought necessary for such minimal operations. Permits for these small operations are reviewed and approved at the local Superintendent's level. The Indian mineral owner still retains the option of disposing of such mineral resources in whatever types and quantities specified by minerals agreement, if so desired.

(18) One commenter points out that the definitions of "oil" and "gas" are at odds with the definitions used by the Minerals Management Service and suggests that the definitions of the two Federal agencies should be more compatible.

Response: Definitions of "oil" and "gas" at § 225.3 are reasonably in accord with the definitions used by the Bureau of Land Management in the management of mineral leasing and production. The Minerals Management Service definition is more closely tied to measurement and royalty concerns. In those instances where differences in the definitions threaten to confuse issues, the provisions of the minerals agreement should specifically address the problems of concern to the parties.

(19) One commenter states that "paying quantities" should be defined in regulation because many elements of the regulations in force turn on such definition.

Response: Although "paying quantities" may ultimately be defined in 25 CFR parts 211 and 212, in the context of a minerals agreement such a definition, if deemed necessary by the parties, is properly the subject of negotiation and should be included in the minerals agreement. Therefore, the definition is not included in 25 CFR part 225.

(20) One commenter states that the definition of "tar sands" and its placement in the proposed regulations seems to limit development to quarrying or mining and that the regulations should broaden the type of development covered by their terms.

Response: The definition of "tar sands" is deleted and the definition of "minerals" broadened to include all hydrocarbons, solid minerals, or other energy or nonenergy minerals (including tar sands) without exception as properly subject to disposition by minerals agreement regardless of method of extraction.

(21) One commenter suggests that an additional section in the regulation be included after §§ 225.4 through 225.6 advising that Indian mineral owners may have also enacted laws and regulations which apply to many of the activities concurrently governed by Federal agencies, and that explicit mention of the Government's trust responsibility to Indians be included in the proposed regulations.

Response: Provision in the regulation for the laws and regulations of the Indian mineral owners is made at § 225.1(d) and further at §§ 225.21(b)(4) and 225.21(b)(8). The trust responsibility is acknowledged at § 225.1(a).

(22) One commenter is of the opinion that although referenced, it should be specifically stated in § 225.6 that the regulations of the Minerals Management Service apply to the calculation of royalty values.

Response: The incorporation by reference of the authority and responsibility of the Minerals Management Service is sufficient to bring to bear the MMS regulations applicable to the calculation of royalty values. The parties may specify in the minerals agreement that an alternative method be used to calculate value for royalty purposes.

(23) One commenter states that the word "trust" needs to be included in § 225.20(b) together with the reference to the restricted interest. Another commenter suggests that the mineral lands and not the mineral resources be included under the authority to contract.

Response: Section 225.20 is rewritten to contain the same terminology as the IMDA which applies to mineral resources in which the Indian mineral owner owns a "beneficial or restricted interest."

(24) Three commenters express their dissatisfaction with proposed § 225.21(a) which stipulates that upon the request of an Indian mineral owner advice, assistance and information be provided during the minerals agreement negotiation process to the extent of available resources. Commenters further state that the Department is obligated to have resources available to provide adequate technical and financial analyses and also state that availability (sic) of funds should be an excuse for not providing technical assistance only if the regulations require the Secretary periodically to determine the level of funding needed, report that need to Congress, and seek funding adequate to meet the established needs.

Response: The obligation of the Secretary to ensure that upon request of an Indian tribe or individual Indian, such tribe or individual shall have available advice, assistance, and information during the negotiation of a minerals agreement is, in the IMDA, expressly conditioned on the extent of the Secretary's available resources (25 U.S.C. 2106). The future resource needs of the Secretary in the discharge of the trust responsibility and in determining if minerals agreements are in the best interests of the Indian mineral owners are routinely decided in the budget process as set forth in the governing BIA manuals and procedures. In the budget process the anticipated future resource needs are estimated based on current and past experience of the BIA. Therefore, § 225.21(a) remains unchanged.

(25) One commenter prefers that the listing in § 225.21 be deleted and that the tribe decide what should or should not appear in a minerals agreement because it is felt that the listed provisions would lead to BIA requirements.

Response: The listing, which is not intended to be all- inclusive, of provisions which, if applicable, *shall* be addressed consists of those items which the Secretary feels should be included

in a minerals agreement (or most any business-like agreement dealing with minerals) such that the minerals agreement can be approved by the Secretary bearing in mind the Secretary's trust responsibility and determination of the best interest of the Indian mineral owner. Further, some of the provisions, if not addressed, allow regulation by default under rules presently in place and functional. For example, issues of (1) valuation of mineral product, (2) manner of payments, (3) accounting procedures, and (4) auditing procedures if not addressed in a minerals agreement, subsequently approved by the Secretary, will by default be regulated under the standard rules of 30 CFR chapter II, subchapters A and C.

(26) One commenter points out that there may be additional provisions, not listed in § 225.21(b) as proposed, which ought to be addressed in minerals agreements; and that all provisions should be optional and at the discretion of the Indian mineral owner.

Response: Section 225.21(b) has been rewritten to include provisions other than those listed and to make it clear that the parties to minerals agreements can include provisions not listed. However, the minerals agreement must be sufficient in detail and completeness at the time of submittal so that it can be approved by the Secretary.

(27) One commenter ventures that where the tribe is the decision maker or operator the listed elements (§ 225.21(b)) of a minerals agreement would require the tribe to recite how it intends to do business, and wishes to know if this is the Secretary's intent.

Response: It is not the intent of the Secretary to intrude into the business practices of the Indian mineral owner. If a tribe is cast as an operator and a minerals agreement is the required or chosen instrument of conduct of business, then such minerals agreement must be approved by the Secretary. Under such conditions the tribe has recourse to 25 U.S.C. 2103(c), requiring the Department of the Interior to hold the terms and conditions, among other things, of minerals agreements as privileged proprietary information of the affected Indian or Indian tribe.

(28) One commenter states that § 225.21(b) should be expanded to pinpoint which rule in regulation would be established as the governing rule by default if a minerals agreement is silent on a particular issue, especially with regard to aspects of operations. This specific default listing would be used to determine if the Indian mineral owner should negotiate a provision in the minerals agreement different from the default rule.

Response: Most Indian mineral owners negotiating or considering the negotiation of a minerals agreement have at least a modest familiarity with the operating regulations of the Federal agencies as identified in §§ 225.4, 225.5, and 225.6. This familiarity, in addition to the advice, assistance, and information that can be provided by the Secretary during negotiations, and the independent legal and technical resources available to Indian mineral owners will allow for informed analysis and consideration of provisions to be included in a minerals agreement. A default listing, although likely of considerable value, does not lend itself well to inclusion in the regulation. A default listing is more properly subject to inclusion in a BIA manual, and is presently being considered for inclusion in manuals in preparation.

(29) Two commenters find the word "indemnifying" in § 225.21(b)(3) confusing and suggest change.

Response: This section is rewritten to specify that in a minerals agreement a statement be made providing indemnity to the Indian mineral owner(s) and the United States from all claims, liabilities and causes of action that may be made by persons not a party to the minerals agreement.

(30) One commenter points out that there is no mention of mineral valuation in proposed § 225.21(b) and suggests that mineral valuation be included.

Response: The inclusion is made at § 225.21(b)(7) to include provisions establishing mineral valuation procedures.

(31) One commenter suggests that § 225.21(b)(10) would be more helpful if the kinds of bonds to be considered and the parties to be included were itemized.

Response: The kinds and types of bonds to be considered and the amounts of bonds (if not Statewide or Nationwide bonds) are negotiable in the minerals agreement. Section 225.21(b)(10) is therefore unchanged in final rulemaking. However, § 225.30 provides guidance as to the bond security acceptable to the Secretary and also provides guidance as to minimal bonding requirements in response to the provisions of a minerals agreement.

(32) One commenter suggests that an addition be made at § 225.21(b)(21) to establish limitations, if any, on assignments of interest.

Response: The suggested provision as to assignments at § 225.21(b)(9) is rewritten to suggest that any limitations on the right to assign the minerals agreement be considered during the negotiation of the minerals agreement.

(33) One commenter points out that proposed § 225.21(d) is unclear in describing minerals agreement handling after tribal preparation and approval.

Response: The regulations at § 225.21(d) are rewritten to clarify the handling of the minerals agreement after execution by the Indian mineral owner(s) and the prospective operator.

(34) Several commenters believe that 180 days (or 60 days after compliance, if required, with the National Environmental Policy Act of 1969) allowed for Secretarial approval or the disapproval of minerals agreements at § 225.22(a) is much too long and recommended allowable times of 30 to 90 days for approval or disapproval.

Response: It has been the experience of the Department that at times the full 180 days is required for the review and decision process to run its course partly because of the need to prepare and provide to the Indian minerals owners written findings forming the basis of Secretarial intent to approve or disapprove a minerals agreement. Therefore, the full time interval allowed in the IMDA (25 U.S.C. 2103(a)) is retained in final rulemaking.

(35) One commenter urges that minerals agreements presented to the Secretary as fully negotiated shall be approved if determined to be in compliance with the law. Another commenter suggests that the only basis for disapproval be that the minerals agreement is not in the best economic interest of the tribe.

Response: The duties and responsibilities of the Secretary in the approval process, including, among other things, the factors to be considered, the extent of required study, and the prior notice of proposed findings, are specifically set forth in the IMDA (25 U.S.C. 2103) and elsewhere. Therefore, the Secretary must and will approve or disapprove minerals agreements in compliance with existing laws and regulations, which allow the Secretary the discretion to weigh relevant factors and require the Secretary to make, on the basis of the Secretary's judgement, a best interest determination.

(36) One commenter states that the regulations should specify that the time allowed for Secretarial approval or disapproval of a minerals agreement should begin at the time of first submittal of a minerals agreement for approval.

Response: The time schedule for Secretarial approval or disapproval of a minerals agreement begins when the minerals agreement is first submitted for

approval to the Secretary or the Secretary's designee, usually the appropriate Superintendent, or in the absence of a Superintendent, the Area Director.

(37) A commenter suggests that § 225.22(b) be rewritten to require the Secretary to call a meeting of interested parties to address the concerns the Secretary may have about a minerals agreement, and so facilitate any necessary amendments to the minerals agreement. Another commenter suggested that the word "lessor" be substituted for the words "affected Indian mineral owners."

Response: The negotiation of a minerals agreement is completed by the Indian mineral owner(s) and the prospective operator(s) prior to submission of the minerals agreement for approval. The Secretary participates in the negotiation of a minerals agreement only at the request of the Indian mineral owner and only to the extent of giving advice, assistance, and information to the Indian mineral owner (25 U.S.C. 2106) during the negotiation. The IMDA provides that the Secretary is to give the Indian mineral owner written findings forming the basis of the Secretary's intent to approve or disapprove a minerals agreement. The written findings can include recommendations for changes in the minerals agreements. These written findings serve the same purpose as the meeting suggested by the commenter. The words "affected Indian mineral owners" are retained in final rulemaking because not all minerals agreements will be in the form of a "lease."

(38) One commenter suggests that proposed § 225.22(b) be changed to agree with § 225.23 in that the preparation of an economic assessment is to be mandatory.

Response: The necessary changes have been made at §§ 225.22(b) and 225.23.

(39) One commenter indicates that the proposed § 225.22(c) contains confusing language in the description of handling minerals agreements in the event disapproval is being considered.

Response: Paragraphs 225.22(c) and 225.22(f) are rewritten and the definitions of "Assistant Secretary" and "Secretary" are changed at § 225.3 to remove the confusion in the regulation. The "Assistant Secretary" of proposed rulemaking is now titled as the "Assistant Secretary—Indian Affairs" specifically defined to recognize the statutory authority of the Assistant Secretary—Indian Affairs to disapprove minerals agreements when so delegated by the Secretary.

(40) One commenter advocates that proposed rulemaking be revised to provide that, at the request of the tribe, the Secretary must contract with the tribe, or an independent consultant selected by the tribe and approved by the Secretary, to prepare necessary economic and geologic evaluations and assessments.

Response: The economic assessment must be prepared and made available to the Indian mineral owner during the 180-day approval period available to the Secretary and is designed to ensure that the Secretary adequately considers the potential economic return to the tribe from a negotiated minerals agreement. The conclusions contained in an economic assessment may well be based upon or include more elaborate economic and geologic evaluations completed through previous contracting by the Secretary and/or the tribe. The time available during the approval period is insufficient to permit elaborate studies, evaluations, contracting and subcontracting, transfers and disbursements of funds, and detailed studies of alternatives arising or which could arise from the consideration of a minerals agreement for approval. The contracting processes and evaluations envisioned by the commenter ordinarily would be completed and available prior to the commencement of the approval process and should be completed and available prior to or during the negotiation of a minerals agreement. Such contracting does occur under separate authority and is not properly part of these regulations dealing with minerals agreements for development of mineral resources.

(41) One commenter prefers that deference be given to tribal conclusions based on expert analysis rather than an economic assessment prepared by the Secretary.

Response: The Secretary will give appropriate weight and deference to all tribal conclusions and expert analysis available at the time of preparation of the economic assessment.

(42) One commenter opposes the provisions of proposed § 225.23 because they would cause too much delay in the leasing process.

Response: The preparation of the economic assessment must be completed within the 180-day time period allowed for the approval or disapproval of minerals agreements and therefore will not delay the approval process.

(43) One commenter would like the regulations to specifically state that an economic assessment (§ 225.23) will include a review of whether, in the Secretary's view, the minerals agreement is likely to result in a profitable operation over time.

Response: At 25 U.S.C. 2103(b) the Secretary is obligated to consider the potential economic return to the tribe (Indian mineral owner). The economic assessment is unlikely to contain an estimate of the likelihood of the profitability of an enterprise unless extensive and detailed information gathering and analysis bearing upon the profitability question has been completed prior to submittal of the minerals agreement for approval. In many instances, the information upon which to base a profitability estimate, especially for a specific operator, is not available or does not exist.

(44) One commenter suggests that proposed § 225.23(b) should be limited to minerals agreements that establish a royalty rate and not to other agreements that depend on the existence of such royalty agreements in order to be effective (operating agreements or farmouts).

Response: Side agreements between the operator and a third party are not affected by the IMDA or these regulations unless by provision within the approved minerals agreement or unless such side agreement constitutes an amendment, modification, or supplement to the minerals agreement (See § 225.28,) in which case the amendment, modification, or supplement must be approved in writing by all parties as well as the Secretary.

(45) Two commenters state that proposed § 225.23(c) should be amended to delete the last words "when such a comparison can be readily made."

Response: In § 225.23(c) the word "readily" has been changed to "reasonably." Depending upon the mineral commodity and provisions of the minerals agreement such comparisons can, at times, not be reasonably made. Oil and gas leasing is widespread and frequently done by competitive bidding and the results are widely and completely reported, thus there may be information available to make such a comparison. However, in the case of a minerals agreement involving, for example, a deposit of single purpose clay subject to special processing and marketing by a single operator and supplier there may be insufficient or even an absence of competitive bidding, or other information, upon which to make a comparison.

(46) One commenter is of the opinion that procedures apparently contemplated by § 225.23(c) reflect the general practice within the Bureau that

any geologic, economic or other technical analyses are performed by the Secretary, if at all, only after a minerals agreement has been negotiated; that this practice puts the cart before the horse; that technical evaluation work needs to be completed before the tribe begins negotiations (i.e., minerals inventories, seismic and geologic data analysis, production and revenue projections, etc.); that the Department's lack of commitment to perform adequate technical evaluations, is evidenced by the proposed FY 1993 budget for the BIA Division of Energy and Mineral Resources; that, that proposal eliminates all funding for mineral assessment and special project grants to the tribes; that those funds have been used in the past to conduct the technical analyses which are essential for adequate negotiations by the tribes and adequate review by the Department; that these regulations should be amended to strengthen the availability of technical assistance to the tribes at the beginning of the negotiation process, and not rely on Secretarial reviews after the negotiations are completed; and that this approach would enhance the negotiating position of the tribes and further full tribal self-determination in mineral development.

Response: Sound business practices indicate that the detailed economic and technical analysis and evaluation should precede the submittal for approval of a minerals agreement by an Indian mineral owner. Such procedures aid both in negotiation of the minerals agreement and in the preparation of the economic assessment. As previously stated (above), the 180-day time interval during which the economic assessment must be completed, effectively prevents elaborate and/or time-consuming analysis and evaluation for inclusion in the economic assessment. Technical assistance to the Indian mineral owners is addressed at § 225.21(a). Section 225.23(c) is left unchanged.

(47) One commenter states that § 225.24 as proposed requires environmental surveys prior to approval of the minerals agreement and another states that a cultural resources survey could be delayed until the commencement of operations and should be limited to the area disturbed by operations.

Response: The Secretary is required to comply with the National Environmental Policy Act of 1969 and any other requirement of Federal law prior to the approval of a minerals agreement (25 U.S.C. 2103(a)). If the issuance of a minerals agreement does not have a significant impact on the human environment, then the agreement may be approved without extensive environmental study. The section at proposed § 225.24 merely sets forth the authority and procedure for required compliance. Environmental requirements after approval of a minerals agreement are unaffected by the proposed rule.

(48) One commenter states that the regulations should provide that the Bureau of Land Management have supervision of any required environmental surveys.

Response: The Secretary is responsible for compliance with the National Environmental Policy Act of 1969 and all other applicable Federal law and as such may delegate authority as appropriate.

(49) Several commenters state that the proposed § 225.25 requires or prefers dispute resolution by arbitration or mediation.

Response: Change is made in final rulemaking to clarify that the minerals agreement shall provide for resolution of disputes and that the Secretary has a trust obligation to the Indian mineral owner(s). The specific mechanism is subject to negotiation among principals to minerals agreements.

(50) One commenter states there should be no requirement for provision for a dispute resolution mechanism in minerals agreements.

Response: In approving or disapproving a minerals agreement the Secretary is required to consider, among other things, provisions for resolving disputes that may arise between the parties to the minerals agreement (25 U.S.C. 2103(b)).

(51) Several commenters express concern about the right of the Secretary to preempt the dispute resolution mechanism, the purpose of preemption, and lack of explanation of how such preemption shall take effect and what the effect of such preemption will be.

Response: The Secretary's trust responsibility, an obligation reaffirmed at 25 U.S.C. 2103(e), leads to the inclusion of §§ 225.36 and 225.37 in the regulations. Although the dispute resolution provision to be included in the minerals agreement will provide the forum in which the Indian mineral owner and the operator can resolve any disputes that arise, §§ 225.36 and 225.37 provide the Secretary with the means to deal with any violations of the terms and conditions of the minerals agreement, or applicable laws or regulations, that are not amenable to resolution through the forum chosen in the minerals agreement. Any action taken pursuant to §§ 225. 36 and 225.37 will be at the discretion of the Secretary.

(52) One commenter states that it is unclear in proposed regulation why the Secretary is not made a party to the dispute resolution mechanism.

Response: Section 225.25 has been changed to delete the express prohibition on the Secretary being a party to the dispute resolution mechanism. However, the Secretary should not be made a party to the mechanism given the overall intent of these regulations to grant more responsibility and flexibility to the Indian mineral owner. The Secretary retains a role in the protection of the rights of the Indian mineral owner under §§ 225.36 and 225.37.

(53) One commenter questions the appropriateness of audit standards, as set forth in proposed § 225.26, to all types of mining operations.

Response: This section is changed in final rulemaking to set forth standards applicable to all mineral operations taking place as a result of minerals agreements.

(54) One commenter points out that the terminology in § 225.26 used to describe those with payment obligations arising from a minerals agreement are inconsistent with definitions in § 225.3.

Response: The commenter is correct, however, the additional descriptives of payors are retained because any mineral commodity may be included in a minerals agreement and other Federal agencies variously describe in regulation such operators as payors, lessees, operators, etc.

(55) One commenter suggests that the address of the Minerals Management Service be deleted at § 225.27 because the address may be changed.

Response: The commenter is correct in that the address may change in the future. Current language is retained in final rulemaking in an effort to make current regulations reflect current procedures.

(56) One commenter expresses concern that proposed § 225.28 is unwieldy, would be an impediment to successful development of Indian lands, and that amendments should be approved 30 days after submittal.

Response: A minerals agreement or any amendment, modification, or supplement to a minerals agreement is subject to the approval of the Secretary (25 U.S.C. 2102(a)). In the discharge of the trust responsibility and in the best interest of the Indian mineral owner the Secretary cannot permit an approved minerals agreement to be substantially changed by an unapproved amendment, modification, or supplement to that minerals agreement. Provision is made in the final rulemaking for approval of an amendment, modification, or supplement separately providing that the underlying minerals agreement, as

amended, modified, or supplemented meets the criteria of approval at § 225.22.

(57) One commenter points out that only a prospective operator which is a corporation should be required to comply with proposed § 225.29(b)(2).

Response: The necessary change is made in final rulemaking.

(58) One commenter prefers that a section on bonds be included similar to that in proposed 25 CFR part 211; and that provision be made to require bonds specifically directed to the protection of the surface estate as well as the mineral estate, and that the payee be declared to be the Indian surface owner and/or the Indian mineral owner rather than the Secretary or the Bureau. Also, the commenter suggests that provisions permitting the use of Statewide and Nationwide bonds be deleted from the proposed regulations and that provision be made for the required amount of bonds to be increased in any particular case at the discretion of the Secretary, after consultation with the Indian mineral owner or the Indian surface owner; and that no bond be cancelled without the written approval of the Secretary, with concurrence of the Indian mineral owner or the Indian surface owner.

Response: The rule at § 225.30 is rewritten in recognition of the concerns of the commenter. The purpose of § 225.30 in final rulemaking is to provide the minimal requirements for the bonding (or equivalent surety) of operators conducting mineral operations on Indian lands such that the Secretary may adequately and timely fulfill the trust responsibility. The final determination of the kinds and amounts (if not Statewide or Nationwide bonds) of bonds is a provision of minerals agreements subject to negotiation among principals to the minerals agreement. The Secretary remains the payee in all instances in order that bonds may be released or called timely in support of the trust responsibility. The Secretary encourages the consideration of bonds and bonding at the time of agreement at § 225.21(b)(10).

(59) One commenter states that proposed § 225.31 should provide that the Minerals Management Service perform accounting, payment monitoring, and auditing functions under the Federal Oil and Gas Royalty Management Act of 1982 whether or not payments are made to the Minerals Management Service, or some other payee designated by the Indian mineral owner and approved by the Secretary, including private lock box arrangements with a tribe's bank.

Response: Minerals Management Service regulations applicable to minerals agreements are contained in 30 CFR chapter II, subchapters A and C, and are incorporated in 25 CFR part 225 by reference at §§ 225.1(c) and 225.6. Valuation, method of payment, accounting, auditing and monitoring functions of the MMS are thus applicable unless the minerals agreement provides alternatives as § 225.(1)(c) and § 225.6 authorize. The Federal Oil and Gas Royalty Management Act of 1982 is concerned only with oil and gas and does not include solid minerals.

(60) One commenter indicates that in the proposed rules the designation of method of payment should more properly be an agreement between the lessor and the Secretary.

Response: The section at § 225.31 is rewritten in final rulemaking to clarify the regulation. The prospective operator and the Indian mineral owner have the opportunity to negotiate the manner of payment as set forth in §§ 225.21(b)(4) and 225.21(b)(6). Time of payment shall be in accordance with 30 CFR chapter II, subchapters A and C.

(61) One commenter points out that under proposed § 225.32(b) the operator is required to obtain drilling permits before commencement of operations and believes that the requirement for a drilling permit should be allowed to be waived by the parties to the minerals agreement.

Response: The operating and reclamation rules and regulations of the Secretary governing the management of minerals operations and reclamation on Indian lands are applicable to minerals agreements. Therefore, drilling permits must be secured from the proper authority before commencement of operations, but the operating and reclamation regulations need not be written separately and in detail into each and every minerals agreement at the time the minerals agreement is submitted to the Secretary for approval. Detailed operating and reclamation requirements will be part of the approval process of oil and gas and mining operations.

(62) One commenter states that the regulation at § 225.33 should define an assignment to include any instrument or agreement which either makes a present conveyance of an interest in the minerals or obligates one party to convey any interest in the minerals to another party upon performance of some condition.

Response: The suggested definition raises the possibility that under some conditions a minerals agreement could of itself be an assignment and the Secretary would be in the position of approving a minerals agreement conveying an interest that would be better conveyed by an instrument commonly perceived to be an assignment, leaving the underlying minerals agreement intact. Assignments, including the rights and conditions of assignment, are a subject of negotiation in minerals agreements and the principals are encouraged to establish these rights and conditions at §§ 225.21(b)(4) and 225.21(b)(9).

(63) One commenter states that the proposed section governing assignments should provide that no bond will be released until an audit has been conducted which confirms that the party to be released has paid the Indian mineral owner all amounts due under the minerals agreement.

Response: Regulations at § 225.33 provide that bonds may be released upon submission of satisfactory bonds by the assignee, and a determination that the assignor has satisfied all accrued obligations. It is anticipated that something less than a final audit will be required to make the determination that all accrued obligations have been satisfied. If an audit is desired, this item should be included in the minerals agreement. The proposed section is unchanged in final rulemaking.

(64) One commenter proposes that proposed § 225.33 be changed to state that an assignment of interest in a minerals agreement not be valid unless approved by the Indian mineral owner(s).

Response: All minerals agreements thus far approved by the Secretary contain provisions for approval of assignment(s) by the Indian mineral owner(s). The inclusion of provisions which address approvals of assignments in minerals agreements is encouraged at § 225.21(b)(9). The proposed change is not included in final rulemaking.

(65) One commenter states that proposed § 225.33 requires the assignor to have satisfied all accrued obligations before the assignor's bond may be released and suggests that the assignee be allowed to secure the assignor's obligations with the assignee's bond.

Response: Subject to approval, the assignee may assume and/or discharge (by execution of bond if appropriate) the obligations of the assignor. However, the accrued obligations must be satisfied before the assignment will be approved.

(66) A commenter believes that the requirement of proposed § 225.33 that the assignment be filed with the Secretary immediately after the execution by all parties imposes an onerous burden on the parties and

recommends a reasonable time period, such as within 60 days after execution, be allowed for filing.

Response: The Secretary requires that assignments of interest be filed promptly because assignments can affect the payment and subsequent distribution of royalties to the Indian mineral owner. The proposed rule is changed to require the assignment to be filed with the Secretary within five (5) working days of execution by all parties.

(67) One commenter points out that in proposed § 211.28 tribal consent is not required for unitization unless tribal consent is required in the minerals agreement and suggests amending the proposed regulation to recognize that tribal consent can be required either by provisions in a minerals agreement or by tribal law.

Response: The concerns of the commenter are valid. However, the question of tribal consent, as well as all other issues relating to unitizing and communitizing of lands, should be specified in the minerals agreement. The Secretary encourages consideration of the unitizing and communitizing of lands at § 225.21(b)(19). Specific requirements for the content, effect, and handling of unitization and communitization agreements are not included in these regulations.

(68) One commenter states there should be some provision in proposed § 225.36 indicating that the Secretary's authority to cancel a minerals agreement is not exclusive and further, that the tribe should have independent authority to bring action in a court of competent jurisdiction for cancellation of a minerals agreement if adequate grounds exist under applicable law.

Response: Under these regulations the Secretary has the exclusive right of cancellation by virtue of the sole right of approval of a minerals agreement. Therefore, the Secretary retains the right to cancel a minerals agreement in the face of a violation of the provisions of the minerals agreement or any applicable law, regulation, or order. There is no impairment of the independent authority of an Indian mineral owner to bring an action in a court of competent jurisdiction for cancellation of a minerals agreement if adequate grounds exist under applicable law.

(69) One commenter believes that the words "5 days" should be changed to "seven (7) days" at proposed § 225.36(c).

Response: The language is changed in final rulemaking to read "five (5) working days."

(70) One commenter states that in proposed § 225.36 there is no right to a hearing before the lease may be canceled, that only written responses are allowed, and that the right to a hearing should be restored.

Response: Rights to hearings and/or dispute resolution may be contained in the provisions of minerals agreements. Further, the rights of the operator under 25 CFR part 2 (see § 225.38) are not abridged. The suggested provisions are not incorporated at § 225.36.

(71) One commenter suggests that the word "issue" at proposed § 225.36(a)(1) be changed to "serve."

Response: The regulations at proposed §§ 225.36(a) and 225.36(b) are clarified by reordering sentences to separate minimal content of notices clearly from the Secretary's authority to issue the notices.

(72) One commenter indicates the words "permittee" or "lessee" at proposed § 225.36(c) should be changed to "operator."

Response: These changes have been made in final rulemaking.

(73) One commenter states that proposed § 225.37 needs to be corrected such that there is no limit to other remedies agreed to in a minerals agreement.

Response: The rule has been rewritten and made specific to minerals agreements. As now written the commenters suggestion is incorporated in final rulemaking.

(74) One commenter states that in the event an Indian tribe is the operator, penalties set by § 225.37 will be assessed against the tribe and asks tribes be exempted from imposition of the Secretary's civil penalties.

Response: In the event the tribe is or becomes the operator and a minerals agreement is the chosen instrument of conducting minerals operations on Indian lands, then the tribe and/or their designated operator will be subject to the regulations at § 225.37.

(75) One commenter states that filing fees under proposed § 225.39 should not apply to assignments to the Indian mineral owner.

Response: The concerns of the commenter have been addressed in the final rulemaking. Acquisition of an additional interest in an existing minerals agreement by the Indian mineral owner will not carry the filing-fee requirement, if provision for such acquisition is part of a minerals agreement approved by the Secretary prior to the acquisition.

III. Conclusion

The scope and purpose of this part is to implement the IMDA which provides Indian mineral owners greater flexibility for the development and sale of their mineral resources. The objective of the IMDA is to permit Indian mineral owners to enter into minerals agreements which give the Indian mineral owners more responsibility in overseeing and greater flexibility in disposing of their mineral resources. Because of the wide range of minerals agreements which Indian mineral owners and industry may negotiate, the Department has drafted regulations which (1) fully implement the statutory procedures prescribed for obtaining a minerals agreement for development of Indian minerals, (2) provide sufficient guidance to both Indian mineral owners and operators as to what information will be required for the Secretary's review of minerals agreements, and what type of criteria will be applied to the review, and (3) specify how the minerals agreement will be monitored by the Department to ensure that the Indian mineral owner's resources are protected. Some of the provisions in the regulations are applicable unless the parties to the minerals agreement specifically agree otherwise. Some of the issues subject to 30 CFR chapter II, subchapters A and C are negotiable by parties entering into a minerals agreement. Specifically, issues of: (1) Valuation of mineral product, (2) manner of payments, (3) accounting procedures, and (4) auditing procedures are negotiable such that both the Indian mineral owner and designees of the Secretary may initiate and complete audit investigations and enforcement of negotiated minerals agreement provisions. Conversely, the operating regulations germane to minerals agreements under 43 CFR Groups 3100, 3200, 3400, and 3500 and 30 CFR part 750 are not negotiable. Thus, the regulations allow the parties great freedom to negotiate many issues and specify in the minerals agreement how they intend to address these issues. Specific regulatory provisions are mandatory only if applicable. However, most of the sections address issues which need to be addressed in a minerals agreement. Although the Department would not intend to dictate the terms of a minerals agreement, it does believe that minerals agreements which fail to address important issues and which may expose the Indian mineral owners to an unreasonable amount of risk may need to be changed prior to approval.

Executive Order No. 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. In addition the Department of the Interior has determined that this rule will not have

a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

This final rulemaking will have equal impact on anyone desiring to engage in prospecting for or developing Indian-owned minerals, including oil and gas and geothermal resources. The promulgation of final rulemaking reduces the regulatory burden imposed on such persons in several instances. The final rulemaking will increase the filing fee (from $10.00 to $75.00) which must accompany each minerals agreement or an assignment thereof and is no different from the filing fees presently required when filing on Federal lands. This increase is necessary to partially compensate the United States for its costs of processing those documents, but experience shows that this increase is not an amount that will discourage or prevent any small business from contracting to engage in mineral development on Indian lands. This rule promotes economic growth by providing tribes and individual Indian mineral owners opportunity to negotiate minerals agreements which maximize their best economic interest and minimize any adverse environmental and cultural impact and at the same time enhance economic growth by allowing wise use of a portion of the National mineral reserve base which might not be otherwise available.

Executive Order No. 12612

The Department has determined that this rule does not have significant federalism effects. This rule supports the goals of E.O. No. 12612 by enhancing self determination among the Indian communities by encouraging tribes to responsibly and independently achieve their personal, cultural, and economic objectives through their own efforts.

Executive Order No. 12630

In accordance with E.O. 12630, the Department has determined that this rule does not have significant takings implications.

Executive Order No. 12778

The Department has certified to the Office of Management and Budget that these final regulations meet the applicable standards provided in sections 2(a) and 2(b)(2) of Executive Order No. 12778.

National Environmental Policy Act of 1969

The changes made by the final rulemaking are for the purpose of streamlining and updating implementation of the IMDA. These rules constitute an administrative action and do not impact on the physical environment. The approval of minerals agreements will require compliance with the provisions of the National Environmental Policy Act of 1969, including public participation in compliance with the regulations of the Council on Environmental Quality. In analyzing the alternatives to the changes in the initially proposed rulemaking which were made, the Bureau of Indian Affairs considered the changes to be of such minor variation and degree that the impacts were deemed equal to or less than the changes made by the initially proposed rulemaking. The Department of the Interior has determined therefore, that there will be no significant impact to the human environment.

Paperwork Reduction Act of 1980

It has been determined by the Office of Management and Budget that the information Collection Requirements contained in Part 225 do not require review under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

List of Subjects in 25 CFR Part 225

Geothermal energy, Indian-lands, Mineral resources, Mines, Oil and gas exploration, Reporting and recordkeeping requirements.

Words of Issuance

For the reasons set out in the preamble, part 225 of Title 25 chapter I of the Code of Federal Regulations is added as set forth below.

PART 225—OIL AND GAS, GEOTHERMAL, AND SOLID MINERALS AGREEMENTS

Subpart A—General

Sec.
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225.30 Bonds.
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225.36 Minerals agreement cancellation; Bureau of Indian Affairs notice of noncompliance.
225.37 Penalties.
225.38 Appeals.
225.39 Fees.
225.40 Government employees cannot acquire minerals agreements.

Authority: Indian Mineral Development Act of 1982, 25 U.S.C. 2101–2108; and 25 U.S.C. 2 and 9.

Subpart A—General

§ 225.1 Purpose and scope.

(a) The regulations in this part, administered by the Bureau of Indian Affairs under the direction of the Secretary of the Interior, govern minerals agreements for the development of Indian-owned minerals entered into pursuant to the Indian Mineral Development Act of 1982, 25 U.S.C. 2101–2108 (IMDA). These regulations are applicable to the lands or interests in lands of any Indian tribe, individual Indian or Alaska native the title to which is held in trust by the United States or is subject to a restriction against alienation imposed by the United States. These regulations are intended to ensure that Indian mineral owners are permitted to enter into minerals agreements that will allow the Indian mineral owners to have more responsibility in overseeing and greater flexibility in disposing of their mineral resources, and to allow development in the manner which the Indian mineral owners believe will maximize their best economic interest and minimize any adverse environmental or cultural impact resulting from such development. Pursuant to section 4 of the IMDA (25 U.S.C. 2103(e)), as part of this greater flexibility, where the Secretary has approved a minerals agreement in compliance with the provisions of 25 U.S.C. chap. 23 and any other applicable provision of law, the United States shall not be liable for losses sustained by a tribe or individual Indian under such minerals agreement. However, as further stated in the IMDA, the Secretary continues to have a trust obligation to ensure that the rights of a tribe or individual Indian are protected in the event of a violation of the terms of any minerals agreement, and to uphold the duties of the United States as derived from the trust relationship and from any treaties, executive orders, or agreements between the United States and any Indian tribe.

(b) The regulations in this part shall become effective and in full force on April 29, 1994, and shall be subject to amendment at any time by the Secretary; *Provided*, that no such regulation that becomes effective after the date of approval of any minerals agreement shall operate to affect the duration of the minerals agreement, the rate of royalty or financial consideration, rental, or acreage unless agreed to by all parties to the minerals agreement.

(c) The regulations of the Bureau of Land Management, the Office of Surface Mining Reclamation and Enforcement, and the Minerals Management Service that are referenced in §§ 225.4, 225.5, and 225.6 are supplemental to these regulations, and apply to minerals agreements for development of Indian mineral resources unless specifically stated otherwise in this part or in other Federal regulations. To the extent the parties to a minerals agreement are able to provide reasonable provisions satisfactorily addressing the issues of valuation, method of payment, accounting, and auditing, governed by the Minerals Management Service regulations, the Secretary may approve alternate provisions in a minerals agreement.

(d) Nothing in these regulations is intended to prevent Indian tribes from exercising their lawful governmental authority to regulate the conduct of persons, businesses, or minerals operations within their territorial jurisdiction.

§ 225.2 Information collection.

It has been determined by the Office of Management and Budget that the Information Collection Requirements contained in part 225 do not require review under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

§ 225.3 Definitions.

As used in this part, the following terms have the specified meaning except where otherwise indicated.

Area Director means the Bureau of Indian Affairs Official in charge of an Area Office.

Assistant Secretary—Indian Affairs means the Assistant Secretary—Indian Affairs of the Department of the Interior, a designee of the Secretary of the Interior who may be specifically authorized by the Secretary to disapprove minerals agreements (25 U.S.C. 2103(d)) and to issue orders of cessation and/or minerals agreement cancellations as final orders of the Department.

Authorized Officer means any employee of the Bureau of Land Management authorized by law or by lawful delegation of authority to perform the duties described herein and in 43 CFR parts 3160, 3180, 3260, 3280, 3480 and 3590.

Director's Representative means the Office of Surface Mining Reclamation and Enforcement Director's Representative authorized by law or by lawful delegation of authority to perform the duties described in 30 CFR part 750 and 25 CFR part 216.

Gas means any fluid, either combustible or noncombustible, that is produced in a natural state from the earth and that maintains a gaseous or rarefied state at ordinary temperature and pressure conditions.

Geothermal resources means: (1) All products of geothermal processes, including indigenous steam, hot water, and hot brines;

(2) Steam and other gases, hot water, and hot brines, resulting from water, gas, or other fluids artificially introduced into geothermal formations;

(3) Heat or other associated energy found in geothermal formations; and

(4) Any by-product derived therefrom.

In the best interest of the Indian mineral owner refers to the standards to be applied by the Secretary in considering whether to take administrative action affecting the interests of an Indian mineral owner. In considering whether it is "in the best interest of the Indian mineral owner" to take a certain action (such as approval of a minerals agreement or a unitization or communitization agreement) the Secretary shall consider any relevant factor, including, but not limited to: economic considerations, such as date of lease or minerals agreement expiration; probable financial effects on the Indian mineral owner; need for change in the terms of the existing minerals agreement; marketability of mineral products; and potential environmental, social and cultural effects.

Indian lands means any lands or interests in lands owned by any individual Indian or Alaska Native, Indian tribe, band, nation, pueblo, community, rancheria, colony, or other group, the title to which is held in trust by the United States or is subject to a restriction against alienation imposed by the United States.

Indian mineral owner means any individual Indian or Alaska Native, or Indian tribe, band, nation, pueblo, community, rancheria, colony, or other group that owns a mineral interest in oil and gas, geothermal resources or solid minerals, title to which is held in trust by the United States or is subject to a restriction against alienation imposed by the United States.

Indian surface owner means any individual Indian or Alaska Native, or Indian tribe, band, nation, pueblo, community, rancheria, colony, or other group that owns the surface estate in land the title to which is held in trust by the United States or is subject to a restriction against alienation imposed by the United States.

Indian tribe means any Indian tribe, band, nation, pueblo, community, rancheria, colony, or other group that owns land or interests in land the title to which is held in trust by the United States or is subject to a restriction against alienation imposed by the United States.

Individual Indian means any individual Indian or Alaska Native who owns land or interests in land the title to which is held in trust by the United States or is subject to a restriction against alienation imposed by the United States.

Minerals includes both metalliferous and non-metalliferous minerals; all hydrocarbons, including oil and gas, coal and lignite of all ranks; geothermal resources; and includes but is not limited to sand, gravel, pumice, cinders, granite, building stone, limestone, clay, silt, or any other energy or non-energy mineral.

Minerals Agreement means any joint venture, operating, production sharing, service, managerial, lease (other than a lease entered into pursuant to the Act of May 11, 1938, or the Act of March 3, 1909), contract, or other minerals agreement; or any amendment, supplement or other modification of such minerals agreement, providing for the exploration for, or extraction, processing, or other development of minerals in which an Indian mineral owner owns a beneficial or restricted interest, or providing for the sale or other disposition of the production or products of such minerals.

Minerals Management Service Official means any employee of the Minerals Management Service authorized by law or by lawful delegation of authority to perform the duties described in 30 CFR chapter II, subchapters A and C.

Mining means the science, technique, and business of mineral development, including, but not limited to: opencast work, underground work, in-situ leaching, or other methods directed to severance and treatment of minerals; however, when sand, gravel, pumice, cinders, granite, building stone, limestone, clay or silt is the subject mineral, an enterprise is considered "mining" only if the extraction of such

a mineral exceeds 5,000 cubic yards in any given year.

Oil means all non-gaseous hydrocarbon substances other than coal, oil shale, or gilsonite (including all vein-type solid hydrocarbons). Oil includes liquefiable hydrocarbon substances such as drip gasoline and other natural condensates recovered or recoverable in a liquid state from produced gas without resorting to a manufacturing process.

Operator means a person, proprietorship, partnership, corporation, or other business entity that has entered into an approved minerals agreement under the authority of the Indian Mineral Development Act of 1982, or who has been assigned an obligation to make royalty or other payments required by the minerals agreement.

Secretary means the Secretary of the Interior or an authorized representative, except that as used in § 225.22 (e) and (f) the authorized representative may only be the Assistant Secretary for Indian Affairs (25 U.S.C. 2103(d)).

Solid minerals means all minerals excluding oil, gas, and geothermal resources.

Superintendent means the Bureau of Indian Affairs official in charge of an agency office.

§ 225.4 Authority and responsibility of the Bureau of Land Management (BLM).

The functions of the Bureau of Land Management are found in 43 CFR part 3160—Onshore Oil and Gas Operations, 43 CFR part 3180—Onshore Oil and Gas Unit Agreements: Unproven Areas, 43 CFR part 3260—Geothermal Resources Operations, 43 CFR part 3280—Geothermal Resources Unit Agreements: Unproven Areas, 43 CFR part 3480—Coal Exploration and Mining Operations, and 43 CFR part 3590—Solid Minerals (other than coal) Exploration and Mining Operations. These functions include, but are not limited to, resource evaluation, approval of drilling permits, approval of mining, reclamation, and production plans, mineral appraisals, inspection and enforcement, and production verification. These regulations, as amended, apply to minerals agreements approved under this part.

§ 225.5 Authority and responsibility of the Office of Surface Mining, Reclamation, and Enforcement (OSMRE).

The OSMRE is the regulatory authority for surface coal mining and reclamation operations on Indian lands pursuant to the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*). The relevant regulations for surface mining and reclamation operations are found in 30 CFR part 750 and 25 CFR part 216. These regulations, as amended, apply to minerals agreements approved under this part.

§ 225.6 Authority and responsibility of the Minerals Management Service (MMS).

The functions of the MMS for reporting, accounting, and auditing are found in 30 CFR chapter II, subchapters A and C. These regulations, unless specifically stated otherwise in this part or in other regulations, apply to all minerals agreements approved under this part. To the extent the parties to a minerals agreement are able to provide reasonable provisions satisfactorily addressing the issues or functions governed by the MMS regulations relating to valuation of mineral product, method of payment, accounting procedures, and auditing procedures, the Secretary may approve alternate provisions in a minerals agreement.

Subpart B—Minerals Agreements

§ 225.20 Authority to contract.

(a) Any Indian tribe, subject to the approval of the Secretary and any limitation or provision contained in its constitution or charter, may enter into a minerals agreement with respect to mineral resources in which the tribe owns a beneficial or restricted interest.

(b) Any individual Indian owning a beneficial or restricted interest in mineral resources may include those resources in a tribal minerals agreement subject to the concurrence of the parties and a finding by the Secretary that inclusion of the resources is in the best interest of the individual Indian mineral owner.

§ 225.21 Negotiation procedures.

(a) An Indian mineral owner that wishes to enter into a minerals agreement may ask the Secretary for advice, assistance, and information during the negotiation process. The Secretary shall provide advice, assistance, and information to the extent allowed by available resources.

(b) No particular form of minerals agreement is prescribed. In preparing the minerals agreement the Indian mineral owner shall, if applicable, address provisions including, but not limited to, the following:

(1) A general statement identifying the parties to the minerals agreement, the legal description of the lands, including, if applicable, rock intervals or thicknesses subject to the minerals agreement, and the purposes of the minerals agreement;

(2) A statement setting forth the duration of the minerals agreement;

(3) A statement providing indemnification to the Indian mineral owner(s) and the United States from all claims, liabilities and causes of action that may be made by persons not a party to the minerals agreement;

(4) Provisions setting forth the obligations of the contracting parties;

(5) Provisions describing the methods of disposition of production;

(6) Provisions outlining the method of payment and amount of compensation to be paid;

(7) Provisions establishing accounting and mineral valuation procedures;

(8) Provisions establishing operating and management procedures;

(9) Provisions establishing any limitations on assignment of interests, including any right of first refusal by the Indian mineral owner in the event of a proposed assignment;

(10) Bond requirements;

(11) Insurance requirements;

(12) Provisions establishing audit procedures;

(13) Provisions for resolving disputes;

(14) A force majeure provision;

(15) Provisions describing the rights of the parties to terminate or suspend the minerals agreement, and the procedures to be followed in the event of termination or suspension;

(16) Provisions describing the nature and schedule of the activities to be conducted by the parties;

(17) Provisions describing the proposed manner and time of performance of future abandonment, reclamation and restoration activities;

(18) Provisions for reporting production and sales;

(19) Provisions for unitizing or communitizing of lands included in a minerals agreement for the purpose of promoting conservation and efficient utilization of natural resources;

(20) Provisions for protection of the minerals agreement lands from drainage and/or unauthorized taking of mineral resources; and

(21) Provisions for record keeping.

(c) In order to avoid delays in obtaining approval, the Indian mineral owner is encouraged to confer with the Secretary prior to formally executing the minerals agreement, and seek advice as to whether the minerals agreement appears to satisfy the requirements of § 225.22, or whether additions or corrections may be required in order to obtain Secretarial approval.

(d) The executed minerals agreement, together with a copy of a tribal resolution authorizing tribal officers to enter into the minerals agreement, shall be forwarded by the tribal representative to the appropriate Superintendent, or in the absence of a Superintendent to the Area Director, for approval.

§ 225.22 Approval of minerals agreements.

(a) A minerals agreement submitted for approval pursuant to § 225.21(d) shall be approved or disapproved within: (1) One hundred and eighty (180) days after submission or, (2) sixty (60) days after compliance, if required, with section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) or any other requirement of Federal law, whichever is later.

(b) At least thirty (30) days prior to approval or disapproval of any minerals agreement, the affected Indian mineral owners shall be provided with written findings forming the basis of the Secretary's intent to approve or disapprove the minerals agreement.

(1) The written findings shall include an environmental study which meets the requirements of § 225.24 and an economic assessment, as described in § 225.23.

(2) The Secretary shall include in the written findings any recommendations for changes to the minerals agreement needed to qualify it for approval.

(3) The 30-day period shall commence to run as of the date the written findings are received by the Indian mineral owner.

(4) Notwithstanding any other law, such findings and all projections, studies, data or other information (other than the environmental study required by § 225.24) possessed by the Department of the Interior regarding the terms and conditions of the minerals agreement; the financial return to the Indian parties thereto; the extent, nature, value or disposition of the mineral resources; or the production, products or proceeds thereof, shall be held by the Department of the Interior as privileged and proprietary information of the affected Indian mineral owners. The letter containing the written findings should be headed with: PRIVILEGED PROPRIETARY INFORMATION OF THE (names of Indian mineral owners).

(c) A minerals agreement shall be approved if, at the Secretary's discretion, it is determined that the following conditions are met:

(1) The minerals agreement is in the best interest of the Indian mineral owner;

(2) The minerals agreement does not have adverse cultural, social, or environmental impacts sufficient to outweigh its expected benefits to the Indian mineral owners; and,

(3) The minerals agreement complies with the requirements of this part and all other applicable regulations and the provisions of applicable Federal law.

(d) The determinations required by paragraph (c) of this section shall be based on the written findings required by paragraph (b) and paragraphs (b)(1) through (b)(4), inclusive, of this section. The question of "best interest" within the meaning of paragraph (c)(1) of this section shall be determined by the Secretary based on information obtained from the parties, and any other information considered relevant by the Secretary, including, but not limited to, a review of comparable contemporary contractual arrangements or offers for the development of similar mineral resources received by Indian mineral owners, by non-Indian mineral owners, or by the Federal Government, insofar as that information is readily available.

(e) If a Superintendent or Area Director believes that a minerals agreement should not be approved, a written statement of the reasons why the minerals agreement should not be approved shall be prepared and forwarded, together with the minerals agreement, the written findings required by paragraph (b) and subparagraphs (b)(1) through (b)(4), inclusive, of this section, and all other pertinent documents, to the Secretary for a decision with a copy to the affected Indian mineral owner.

(f) The Secretary shall review any minerals agreement referred with a recommendation that it be disapproved, and the Secretary's decision to disapprove a minerals agreement shall be deemed a final Federal agency action (25 U.S.C. 2103(d)).

§ 225.23 Economic assessments.

The Secretary shall prepare or cause to be prepared an economic assessment that shall address, among other things:

(a) Whether there are assurances in the minerals agreement that operations shall be conducted with appropriate diligence;

(b) Whether the production royalties or other form of return on mineral resources is adequate; and

(c) Whether the minerals agreement is likely to provide the Indian mineral owner with a return on the production comparable to what the owner might otherwise obtain through competitive bidding, when such a comparison can reasonably be made.

§ 225.24 Environmental studies.

(a) The Secretary shall ensure that all environmental studies are prepared as required by the National Environmental Policy Act of 1969 (NEPA) and the regulations promulgated by the Council on Environmental Quality (CEQ) found at 40 CFR Parts 1500–1508.

(b) The Secretary shall ensure that all necessary surveys are performed and clearances obtained in accordance with 36 CFR parts 60, 63, and 800 and with the requirements of the Archaeological and Historic Preservation Act (16 U.S.C. 469 *et seq.*), the National Historic Preservation Act (16 U.S.C. 470 *et seq.*), the American Indian Religious Freedom Act (42 U.S.C. 1996), and Executive Order 11593 (3 CFR 1971–1975 Comp., p. 559, May 13, 1971). If these surveys indicate that a mineral development will have an adverse effect on a property listed on or eligible for listing on the National Register of Historic Places, the Secretary shall:

(1) Seek the comments of the Advisory Council on Historic Preservation, in accordance with 36 CFR part 800;

(2) Ensure that the property is avoided, that the adverse effect is mitigated, or that appropriate excavations or other related research is conducted; and (3) Ensure that complete data describing the historic property is preserved.

§ 225.25 Resolution of disputes.

A minerals agreement shall contain provisions for resolving disputes that may arise between the parties. However, no such provision shall limit the Secretary's authority or ability to ensure that the rights of an Indian mineral owner are protected in the event of a violation of the provisions of the minerals agreement by any other party to the minerals agreement.

§ 225.26 Auditing and accounting.

The Secretary may conduct audits relating to the scope, nature and extent of compliance with the minerals agreement and with applicable regulations and orders to lessees, operators, revenue payors, and other persons with rental, royalty, net profit share and other payment requirements arising from the provisions of a minerals agreement. Procedures and standards used for accounting and auditing of minerals agreements will be in accordance with audit standards established by the Comptroller General of the United States, in "Standards for Auditing of Governmental Organizations, Programs, Activities, and Functions, 1981," and standards established by the American Institute of Certified Public Accountants.

§ 225.27 Forms and reports.

Any forms required to be filed pursuant to a minerals agreement may be obtained from the Superintendent or Area Director. Prescribed forms for filing geothermal production reports

required by the BLM (43 CFR part 3260, §§ 3264.1, 3264.2–4 and 3264.2–5) may be obtained from the Superintendent, Area Director, or the Authorized Officer. Applicable reports required by the MMS shall be filed using the forms prescribed in 30 CFR part 210, which are available from MMS. Guidance on how to prepare and submit required information, collection reports, and forms to MMS is available from: Minerals Management Service, Attention: Lessee (or Reporter) Contact Branch, P.O. Box 5760, Denver, Colorado 80217. Additional reporting requirements may be required by the Secretary.

§ 225.28 Approval of amendments to minerals agreements.

An amendment, modification or supplement to a minerals agreement entered into pursuant to the regulations in this part, whether the minerals agreement was approved before or after the effective date of these regulations, must be approved in writing by all parties before being submitted to the Secretary for approval. The provisions of § 225.22 apply to approvals of amendments, modifications, or supplements to minerals agreements entered into under the regulations in this part. However, amendments, modifications, or supplements that do not substantially alter or affect the factors listed in § 225.22(c), may be approved by referencing materials previously submitted for the initial review and approval of the minerals agreement. The Secretary may approve an amendment, modification, or supplement if it is determined that the underlying minerals agreement, as amended, modified, or supplemented meets the criteria for approval set forth in § 225.22(c).

§ 225.29 Corporate qualifications and requests for information.

(a) The signing in a representative capacity of minerals agreements or assignments, bonds, or other instruments required by a minerals agreement or these regulations, constitutes certification that the individual signing (except a surety agent) is authorized to act in such a capacity. An agent for a surety shall furnish a power of attorney.

(b) A prospective corporate operator proposing to acquire an interest in a minerals agreement shall have on file with the Superintendent a statement showing:

(1) The State(s) in which the corporation is incorporated, and a notarized statement that the corporation is authorized to hold such interests in the State where the land described in the minerals agreement is situated; and

(2) A notarized statement that it has power to conduct all business and operations as described in the minerals agreement.

(c) The Secretary may, either before or after the approval of a minerals agreement, assignment, or bond, call for any reasonable additional information necessary to carry out the regulations in this part, or other applicable laws and regulations.

§ 225.30 Bonds.

(a) Bonds required by provisions of a minerals agreement should be in an amount sufficient to ensure compliance with all of the requirements of the minerals agreement and the statutes and regulations applicable to the minerals agreement. Surety bonds shall be issued by a qualified company approved by the Department of the Treasury (see Department of the Treasury Circular No. 570).

(b) An operator may file a $75,000 bond for all geothermal, mining, or oil and gas minerals agreements in any one State, which may also include areas on that part of an Indian reservation extending into any contiguous State. Statewide bonds shall be filed for approval with the Secretary.

(c) An operator may file a $150,000 bond for full nationwide coverage to cover all geothermal or oil and gas minerals agreements without geographic or acreage limitation to which the operator is or may become a party. Nationwide bonds shall be filed for approval with the Secretary.

(d) Personal bonds shall be accompanied by:

(1) Certificate of deposit issued by a financial institution, the deposits of which are Federally insured, explicitly granting the Secretary full authority to demand immediate payment in case of default in the performance of the provisions and conditions of the minerals agreement. The certificate shall explicitly indicate on its face that Secretarial approval is required prior to redemption of the certificate of deposit by any party;

(2) Cashier's check;

(3) Certified check;

(4) Negotiable Treasury securities of the United States of a value equal to the amount specified in the bond. Negotiable Treasury securities shall be accompanied by a proper conveyance to the Secretary of full authority to sell such securities in case of default in the performance of the provisions and conditions of a minerals agreement; or

(5) Letter of credit issued by a financial institution authorized to do business in the United States and whose deposits are Federally insured, and identifying the Secretary as sole payee with full authority to demand immediate payment in the case of default in the performance of the provisions and conditions of a minerals agreement.

(i) The letter of credit shall be irrevocable during its term.

(ii) The letter of credit shall be payable to the Bureau of Indian Affairs on demand, in part or in full, upon receipt by the Secretary of a notice of attachment stating the basis thereof (e.g., default in compliance with the minerals agreement provisions and conditions or failure to file a replacement in accordance with subparagraph (d)(5)(v) of this section).

(iii) The initial expiration date of the letter of credit shall be at least one (1) year following the date it is filed in the proper Bureau of Indian Affairs office.

(iv) The letter of credit shall contain a provision for automatic renewal for periods of not less than one (1) year in the absence of notice to the proper Bureau of Indian Affairs office at least ninety (90) days prior to the originally stated or any extended expiration date.

(v) A letter of credit used as security for any minerals agreement upon which operations have taken place and final approval for abandonment has not been given, or as security for a statewide or nationwide bond, shall be forfeited and shall be collected by the Secretary if not replaced by other suitable bond or letter of credit at least thirty (30) days before its expiration date.

(e) The required amount of a bond may be increased in any particular case at the discretion of the Secretary.

§ 225.31 Manner of payments.

Unless specified otherwise in the minerals agreement, after production has been established, all payments due for royalties, bonuses, rentals and other payments under a minerals agreement shall be made to the Secretary or such other party as may be designated, and shall be made at such time as provided in 30 CFR chapter II, subchapters A and C. Prior to production, all bonus and rental payments, shall be made to the Superintendent or Area Director.

§ 225.32 Permission to start operations.

(a) No exploration, drilling, or mining operations are permitted on any Indian lands before the Secretary has granted written approval of the minerals agreement pursuant to the regulations. After a minerals agreement is approved, written permission to start operations must be secured by applying for the

permits referred to in paragraph (b) of this section.

(b) Applicable permits in accordance with rules and regulations in 30 CFR part 750, 43 CFR parts 3160, 3260, 3480, 3590, and Orders or Notices to Lessees (NTL) issued thereunder shall be required before actual operations are conducted on the minerals agreement acreage.

§ 225.33 Assignment of minerals agreements.

An assignment of a minerals agreement, or any interest therein, shall not be valid without the approval of the Secretary and, if required in the minerals agreement, the Indian mineral owner. The assignee must be qualified to hold the minerals agreement and shall furnish a satisfactory bond conditioned on the faithful performance of the covenants and conditions thereof as stipulated in the minerals agreement. A fully executed copy of the assignment shall be filed with the Secretary within five (5) working days after execution by all parties. The Secretary may permit the release of any bonds executed by the assignor upon submission of satisfactory bonds to the Bureau of Indian Affairs by the assignee, and a determination that the assignor has satisfied all accrued obligations.

§ 225.34 [Reserved]

§ 225.35 Inspection of premises; books and accounts.

(a) Operators shall allow Indian mineral owners, their authorized representatives, or any authorized representatives of the Secretary to enter all parts of the minerals agreement area for the purpose of inspection. Operators shall keep a full and correct account of all operations and submit all related reports required by the minerals agreement and applicable regulations. Books and records shall be available for inspection during regular business hours.

(b) Operators shall provide records to the Minerals Management Service (MMS) in accordance with MMS regulations and guidelines. All records pertaining to a minerals agreement shall be maintained by an operator in accordance with 30 CFR part 212.

(c) Operators shall provide records to the Authorized Officer in accordance with BLM regulations and guidelines.

(d) Operators shall provide records to the Director's Representative in accordance with OSMRE regulations and guidelines.

§ 225.36 Minerals agreement cancellation; Bureau of Indian Affairs notice of noncompliance.

(a) If the Secretary determines that an operator has failed to comply with the regulations in this part; other applicable laws or regulations; the terms of the minerals agreement; the requirements of an approved exploration, drilling or mining plan; Secretarial orders; or the orders of the Authorized Officer, the Director's Representative, or the MMS Official, the Secretary may:

(1) Serve a notice of noncompliance; or

(2) Serve a notice of proposed cancellation.

(b) The notice of noncompliance shall specify in what respect the operator has failed to comply with the requirements referenced in paragraph (a), and shall specify what actions, if any, must be taken to correct the noncompliance.

(c) The notice of proposed cancellation shall set forth the reasons why cancellation is proposed.

(d) The notice of proposed cancellation or noncompliance shall be served upon the operator by delivery in person or by certified mail to the operator at the operator's last known address. When certified mail is used, the date of service shall be deemed to be when received or five (5) working days after the date it is mailed, whichever is earlier.

(e) The operator shall have thirty (30) days (or such longer time as specified in the notice) from the date that the Bureau of Indian Affairs notice of proposed cancellation or noncompliance is served to respond, in writing, to the Superintendent or Area Director actually issuing the notice.

(f) If an operator fails to take any action that may be prescribed in the notice of proposed cancellation, fails to file a timely written response to the notice, or files a written response that does not, in the discretion of the Secretary, adequately justify the operator's failure to comply, then the Secretary may cancel the minerals agreement, specifying the basis for the cancellation. Cancellation of a minerals agreement shall not relieve the operator of any continuing obligation under the minerals agreement.

(g) If an operator fails to take corrective action or to file a timely written response adequately justifying the operator's actions pursuant to a notice of noncompliance, the Secretary may issue an order of cessation. If the operator fails to comply with the order of cessation, or fails to timely file an appeal of the order of cessation pursuant to paragraph (k) of this section, the Secretary may issue an order of minerals agreement cancellation.

(h) This section does not limit any other remedies of the Indian mineral owner as set forth in the minerals agreement.

(i) Nothing in this section is intended to limit the authority of the Authorized Officer, the Director's Representative, or the MMS Official to take any enforcement action authorized pursuant to statute or regulation.

(j) The Authorized Officer, the Director's Representative, the MMS Official, and the Superintendent or Area Director should consult with one another before taking any enforcement actions.

(k) If orders of cessation or minerals agreement cancellation issued pursuant to this section are issued by a designee of the Secretary other than the Assistant Secretary for Indian Affairs, the orders may be appealed under 25 CFR part 2. If the orders are issued by the Secretary or the Assistant Secretary for Indian Affairs, and not one of their delegates or subordinates, the orders are the final orders of the Department.

§ 225.37 Penalties.

(a) In addition to or in lieu of cancellation under § 225.36, violations of the terms and conditions of any minerals agreement, the regulations in this part, other applicable laws or regulations, or failure to comply with a notice of noncompliance or a cessation order issued by the Secretary may subject an operator to a penalty of not more than $1,000 per day for each day that such a violation or noncompliance continues beyond the time limits prescribed for corrective action.

(b) A notice of a proposed penalty shall be served on the operator either personally or by certified mail to the operator at the operator's last known address. The date of service by certified mail shall be deemed to be the date received or five (5) working days after the date mailed, whichever is earlier.

(c) The notice shall specify the nature of the violation and the proposed penalty, and shall specifically advise the operator of the operator's right to either request a hearing within thirty (30) days of receipt of the notice or pay the proposed penalty. Hearings shall be held before the Superintendent or Area Director whose findings shall be conclusive, unless an appeal is taken pursuant to 25 CFR part 2. If within thirty (30) days of receipt of the notice of proposed penalty the operator has not requested a hearing or paid the amount of the proposed penalty, a final notice of penalty shall be served.

(d) If the person served with a notice of proposed penalty requests a hearing, penalties shall accrue each day the violations or noncompliance set forth in the notice continue beyond the time limits presented for corrective action. The Secretary may issue a written suspension of the requirement to correct the violations pending completion of the hearings provided by this section only upon a determination, at the discretion of the Secretary, that such a suspension will not be detrimental to the Indian mineral owner and upon submission and acceptance of a bond deemed adequate to indemnify the Indian mineral owner from loss or damage. The amount of the bond must be sufficient to cover the cost of correcting the violations set forth in the notice or any disputed amounts plus accrued penalties and interest.

(e) Payment of penalties in full more than ten (10) days after a final decision imposing a penalty shall subject the operator to late payment charges. Late payment charges shall be calculated on the basis of a percentage assessment rate of the amount unpaid per month for each month or fraction thereof until payment is received by the Secretary. In the absence of a specific minerals agreement provision prescribing a different rate, the interest rate on late payments and underpayments shall be a rate applicable under section 6621(a)(2) of the Internal Revenue Code of 1954. Interest shall be charged only on the amount of payment not received and only for the number of days the payment is late.

(f) None of the provisions of this section shall be interpreted as:

(1) Replacing or superseding the independent authority of the Authorized Officer, the Director's Representative, or the MMS Official to impose penalties under applicable statutory or regulatory authorities;

(2) Replacing, superseding, or replicating any penalty provision in the terms and conditions of a minerals agreement approved by the Secretary pursuant to this part; or

(3) Authorizing the imposition of a penalty for violations of minerals agreement provisions for which the Authorized Officer, Director's Representative, or MMS Official has either statutory or regulatory authority to assess a penalty.

§ 225.38 Appeals.

Appeals from decisions of Officials of the Bureau of Indian Affairs under this part may be taken pursuant to 25 CFR part 2.

§ 225.39 Fees.

(a) Unless otherwise authorized by the Secretary, each minerals agreement or assignment thereof, shall be accompanied by a filing fee of $75.00 at the time of filing.

(b) An Indian mineral owner shall not be required to pay a filing fee if the Indian mineral owner, pursuant to a provision in the existing minerals agreement, acquires an additional interest in that minerals agreement.

§ 225.40 Government employees cannot acquire minerals agreements.

U.S. Government employees are prevented from acquiring any interest(s) in minerals agreements by the provisions of 25 CFR part 140 and 43 CFR part 20 pertaining to conflicts of interest and ownership of an interest in trust land.

Dated: January 27, 1994.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

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Part III

Environmental Protection Agency

Updated List of Pesticides and Uses Potentially Affected by the Delaney Clause of the Federal Food, Drug and Cosmetic Act; Notice

ENVIRONMENTAL PROTECTION AGENCY

[OPP-00374; FRL 4758-7]

Updated List of Pesticides and Uses Potentially Affected by the Delaney Clause of the Federal Food, Drug and Cosmetic Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Publication of Updated List of Pesticides.

SUMMARY: This Notice publishes an updated list of pesticides potentially affected by the Delaney clause in section 409 of the Federal Food, Drug and Cosmetic Act (FFDCA).

ADDRESSES: A copy of the list is included in the public docket at Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: by mail: Deborah J. Hartman, Policy and Special Projects Staff, Office of Pesticide Programs, (7501C), Environmental Protection Agency, 401 M St., SW., Washington, DC, 20460. Office location and telephone number: rm. 1113J, Crystal Mall #2; 1921 Jefferson Davis Highway, Arlington, VA., Telephone 703-305-7102.

SUPPLEMENTARY INFORMATION: EPA regulates pesticide residues in foods under the Federal Food, Drug, and Cosmetic Act (FFDCA). The FFDCA gives EPA the authority to set legally enforceable limits, or tolerances, for pesticide residues in food. EPA sets tolerances for pesticide residues remaining in raw foods under section 408 of the FFDCA. Under section 409 of FFDCA, EPA sets food additive tolerances for pesticide residues that concentrate in processed foods above raw food tolerances, or are the result of pesticide application during or after food processing.

To establish a tolerance or an exemption from a tolerance for pesticide residues on raw agricultural commodities under section 408 of the FFDCA, EPA must make a finding that the promulgation of the rule would "protect the public health." In reaching this determination, the Agency is directed to consider, among other relevant factors: (1) The necessity for the production of an adequate, wholesome and economical food supply; (2) other ways in which the consumer may be affected by the pesticide; and (3) the usefulness of the pesticide for which a tolerance is sought. Thus, section 408 of the FFDCA requires the Agency to balance risks against benefits in determining whether to establish tolerances.

The establishment of a food additive regulation in a processed food under section 409 requires a finding that use of the pesticide will be "safe." FFDCA section 409 also contains the Delaney clause, which specifically provides that, with limited exceptions, no additive may be approved if it has been found to induce cancer in man or animals. In 1988 EPA adopted an interpretation of the Delaney clause that allowed an exception for carcinogenic pesticides that pose only a negligible risk. In July 1992, the Ninth Circuit Court of Appeals overturned EPA's interpretation of the Delaney clause, holding that the Delaney clause bars tolerances (maximum allowable levels of residues in food) for carcinogenic pesticides in processed food without regard to the degree of risk. See *Les v. Reilly*, 968 F.2d 985 (9th Cir.1992), cert. denied, 113 S. Ct. 1361 (1993).

A. February 1993 List of Potentially Affected Pesticide and Uses

In February 1993, the Agency released a list of 32 pesticides, representing over 80 different chemical/crop combinations that appeared to be potentially affected by the court's decision. EPA included pesticides on the list if they had been classified under the Agency's cancer classification scheme as probable (Group B) or possible (Group C) carcinogens and if section 409 tolerances have been established or would be required under current EPA policy because residues of the pesticide concentrate in processed food. The original list was issued in two parts. List I included those pesticides that had section 409 food/feed additive tolerances. List II included pesticides which did not have established section 409 food additive tolerances, but based upon data indicating concentration in processing would require such tolerances.

B. Process Followed to Update the List

EPA has updated the February 1993 lists by following the same process used to create the initial list. The Agency reviewed current data on the carcinogenicity of pesticides, and data on how pesticide residues concentrate when foods are processed. Such data are received throughout the process of evaluating whether a pesticide should be reregistered.

EPA has reviewed all pesticides classified as probable or possible human carcinogens in the past year and reviewed studies on how pesticide residues concentrate. In the case of pesticides having existing section 409 tolerances, the new pesticides, together with their uses, have been added to List I. Pesticides for which studies indicate concentration in processed food, therefore requiring section 409 tolerances, were added to List II. EPA has also added to List II pesticides used for direct treatment of processed food, food handling equipment, and other uses which are likely to result in residues in the processed food.

In the year since the original list was issued, EPA has taken action to revoke section 409 tolerances for a number of pesticides. EPA has deleted pesticides from List I if the food additive tolerance has been revoked. Pesticides/uses have been removed from List II if more recent data has shown that there is no concentration of residues during processing associated with the uses in question. Pesticides used on dried hops have also been deleted from the list because EPA has changed the regulatory status of dried hops. Dried hops had been regulated as a processed food, but now will be considered a raw agricultural commodity, for which tolerances are established under section 408 of FFDCA. (See "Status of Dried Hops under the Federal Food, Drug, and Cosmetic Act," PR notice 93-12, Dec. 23, 1993.)

Thirty-four pesticides are included on the updated list. The lists contain 100 chemical/crop or site combinations. (Fourteen pesticides and 10 pesticide/crop combinations appear on both lists.)

C. The Updated List of Pesticides and Uses Potentially Affected By the Delaney Clause

The following List I includes 20 pesticides that have established section 409 food/feed additive tolerances. Forty-eight pesticide/commodity combinations are included on List I. Notes and symbols used in List I and II are explained at the end of List II.

LIST I.—PESTICIDES CLASSIFIED AS GROUP B OR C CARCINOGENS THAT HAVE ESTABLISHED SECTION 409 FOOD ADDITIVE TOLERANCES[1]

Pesticide	Raw crop	Processed food/feed	Notes	CFR Cite
Acephate	Cotton	Seed: hulls, meal		186.100
	Soybeans	Meal		186.100
	Not applicable@	Food handling establishments		185.100
•Benomyl	Apples	Pomace		186.350
	Citrus	Pulp		186.350
	Grapes	Pomace		186.350
		Raisins	A	185.350
		Raisin waste		186.350
	Rice	Hulls		186.350
	Tomatoes	Puree or catsup	A	185.350
Captan	Grapes	Raisins		185.500
•Dichlorvos (DDVP)	Not applicable@	Pkgd nonperish. food	D, E	185.1900
Dicofol	Not applicable@	Dried tea	F	185.410
Diflubenzuron (metabolite)[2] *p*-chloroaniline (PCA)	Soybeans[2]	Hulls, Soapstock[2]	*	186.2000
Dimethipin	Cotton	Seed hulls		186.2050
Dimethoate	Citrus	Pulp		186.2100
Ethylene oxide	Whole spices	Ground spices		185.2850
•Mancozeb	Barley	Bran		185.6300
		Flour		185.6300
		Milled fractions		186.6300
	Grapes	Raisins	A	185.6300
	Oats	Bran		185.6300
		Flour		185.6300
		Milled fractions		186.6300
	Rye	Flour		185.6300
		Bran		185.6300
		Milled fractions		186.6300
	Wheat	Bran	A	185.6300
		Flour	A	185.6300
		Milled fractions		186.6300
Norflurazon	Citrus	Pulp, molasses		186.4450
Oxyfluorfen	Cotton	Cottenseed Oil		185.4600
	Peppermint	Oil		185.4600
	Spearmint	Oil		185.4600
	Soybean	Oil		185.4600
•Phosmet	Cotton	Cottonseed oil	A	185.3950
Propargite	Apples	Pomace		186.5000
	Citrus	Pulp		186.5000
	Figs	Dried figs		185.5000
	Grapes	Raisins, Dried pomace		185.5000
	Tea	Dried tea		185.5000
Propylene oxide[2]	Not applicable@	Cocoa[2]	B	185.5150
		Glace fruit[2]	B	185.5150
		Edible gums[2]	B	185.5150
		Processed nutmeat (except peanuts)[2]	B	185.5150
		Prunes[2]	B	185.5150
		Processed spices[2]	B	185.5150
		Starch[2]	B	185.5150
Simazine	Sugarcane	Molasses, Syrup		185.5350
				186.5350
	Not applicable@	Potable water		185.5350
Tetrachlorvinphos[2]	Not applicable@	Feed items[2]	B	186.950

LIST I.—PESTICIDES CLASSIFIED AS GROUP B OR C CARCINOGENS THAT HAVE ESTABLISHED SECTION 409 FOOD ADDITIVE TOLERANCES[1]—Continued

Pesticide	Raw crop	Processed food/feed	Notes	CFR Cite
Thiophanate-methyl	Apples	Pomace		186.5700
Triadimefon	Apples	Pomace		186.800
	Barley	Milled fractions		185.800
	Grapes	Pomace Raisin waste		186.800 186.800
	Wheat	Milled fractions		185.800
•Trifluralin	Peppermint	Peppermint Oil	A	185.5900
	Spearmint	Spearmint Oil	A	185.5900

[1] Several 409s that have been proposed for cancellation are still included since revocations are not yet final.
[2] Use of this pesticide on this commodity has been added to the list.

The following List II shows pesticides that do not have established section 409 food additive tolerances, but based upon data indicating that residues present on a raw agricultural commodity concentrate during processing, they would require food additive tolerances under EPA's current policy. Fifty-two pesticide/commodity combinations are included on List II. Pesticides and crops which appear on both this list and List I are noted by "+."

LIST II.—PESTICIDES THAT DO NOT HAVE ESTABLISHED SECTION 409 FOOD ADDITIVE TOLERANCES[1]

Pesticide	Raw crop	Processed food/feed	Notes
+Acephate	+Soybeans	Hulls	
Alachlor	Peanuts	Meal	
	Soybeans	Hulls, meal	
	Sunflower seed	Meal	
Asulam	Sugarcane	Bagasse, molasses	
Atrazine	Sugarcane	Bagasse, molasses	
•+Benomyl	+Rice Soybeans[2]	Bran Hulls[2]	C
+Captan	Apples	Dry pomace	
	+Grapes	Raisin waste, juice, dry pomace	
	Plums	Prunes	
	Tomatoes	Dry pomace	
Chlorothalonil	Potatoes	Wet peel	
	Soybeans	Hulls	
•+Dichlorvos (DDVP)	Not applicable@	Food handling establishments	D
+Dicofol	Apples	Dry pomace	
	Citrus	Oil	
	Grapes	Dry pomace, raisins, raisin waste	
	Plums[2]	Prunes[2]	C
+Dimethoate	Apples	Juice	
	+Citrus	Oil	
Hexazinone	Alfalfa[2]	Meal[2]	C
	Pineapple[2]	Bran, molasses[2]	C
	Sugarcane	Bagasse, molasses	
Lindane	Tomatoes	Dry pomace	
Linuron	Potatoes	Dry & wet peel, chips, dried granules	
	Soybeans[2]	Meal[2]	C

LIST II.—PESTICIDES THAT DO NOT HAVE ESTABLISHED SECTION 409 FOOD ADDITIVE TOLERANCES[1]—Continued

Pesticide	Raw crop	Processed food/feed	Notes
•+Mancozeb	Apples	Dry pomace	
	+Grapes	Raisin waste	
	Sugar beets	Pulp	
	+Wheat	Middlings	
Maneb	Apples	Dry pomace	
	Grapes	Raisin waste	
	Sugar beets	Pulp	
Methidathion	Citrus	Oil	
Metiram	Apples	Dry pomace	
	Sugar beets	Dry pomace	
Metolachlor	Peanuts	Meal	
Methomyl	Wheat	Bran	
+Norflurazon[2]	+Citrus[2]	Oil[2]	C
	Grapes[2]	Raisin waste[2]	C
+Oxyfluorfen	Apples	Dry pomace	
PCNB	Potatoes	Wet & dry peel	
	Tomatoes	Dry pomace	
Permethrin	Tomatoes**	Dry pomace	
•+Phosmet	Citrus	Oil	
+Propargite	+Citrus	Oil	
	+Grapes	Raisin waste	
	Plums	Prunes	
+Simazine	+Sugarcane	Bagasse	
+Triadimefon	Pineapple	Bran	
•+Trifluralin[2]	Potatoes[2]	Processed potato waste[2]	C

[1] As noted in the table, some pesticides are listed because their registered uses include contact with food processing, handling, or storage areas, or equipment.

[2] Use of this pesticide on this commodity has been added to the list.

Notes Used in Lists I and II.

@ For some of the pesticides listed, a tolerance is established for residues on the processed food or feed items, and there is no corresponding tolerance on a raw agricultural commodity. In these instances, the entry in the "raw crop" column is "Not Applicable."

• A pesticide which EPA has concluded "induces cancer" within the meaning of the Delaney clause. The Delaney clause specifically provides that, with limited exceptions, no food additive may be approved if it is found to induce cancer in man or animals. For an explanation of the "induce cancer" standard, see the final rule revoking the food additive regulations for benomyl, mancozeb, phosmet, and trifluralin (58 FR 37863, July 14, 1993).)

A. EPA issued a final rule revoking the food additive tolerances for benomyl (on raisins and processed tomato products), mancozeb (on raisins and bran of wheat), trifluralin (on spearmint and peppermint oil), and phosmet (on cottonseed oil). (See 58 FR 37862, July 14, 1993). EPA revoked the tolerances because they were inconsistent with the Delaney clause. However, the Agency received several objections and petitions to stay the effective date of the revocations. On September 16, 1993, EPA issued an order staying the effective date during the time needed for EPA to review and respond to the stay requests.

B. Added because EPA has evaluated the pesticide for potential carcinogenicity and classified it as a probable or possible human carcinogen.

C. Added because EPA has determined under its current concentration policy that the residues of the pesticide concentrate in the processed food form.

D. EPA expects to issue a Notice of Intent to Cancel registrations of certain DDVP uses in food handling establishments which would result in unlawful residues in processed food.

E. The Agency published a notice to revoke the use of dichlorvos (DDVP) in Bagged/Packaged nonperishable processed food. The revocation was published on November 10, 1993, with an effective date of March 10, 1994. EPA received a request to stay the effective date. On March 10, 1994, EPA issued an order staying the effective date during the time needed for EPA to review and respond to a petition objecting to the revocation.

F. Dicofol: Use on dried tea, revocation published 59 FR 10993, March 9, 1994; effective date May 9, 1994.

* Indicates that the pesticide has been included because of a potential carcinogenic metabolite PCA. Diflubenzuoron has not been classified by EPA as a potential human carcinogen.

** The registration for permethrin is limited to use on tomatoes to be sold fresh in the marketplace, and is not registered for uses on processed food/feed commodities.

The following tables show the pesticides and uses which have been either added to or deleted from the list of pesticides potentially affected by the Delaney clause.

1. *Additions to the Lists—a. List I.* The following pesticides/use combinations have been added to List I (Pesticides classified as Group B or C carcinogens that have established section 409 food additive tolerances.)

Pesticide	Raw Crop	Processed Food/Feed
Diflubenzuron (metabolite PCA)	Soybeans	Hulls, Soapstock
Propylene oxide		Cocoa Glace fruit Edible gums Dried nutmeat (except peanuts) Prunes Spices
		Starch
Tetrachlorvinphos		Feed items

b. *List II.* The following pesticide/use combinations have been added to List II (Pesticides classified as B or C carcinogens that do not have established section 409 food additive tolerances, but based upon data indicating concentration during processing, would require food additive tolerances under EPA's current policy.)

Pesticide	Raw Crop	Processed Food/Feed
Benomyl	Soybeans	Hulls
Dicofol	Plums	Prunes
Hexazinone	Alfalfa	Meal
	Pineapple	Bran, molasses
Linuron	Soybeans	Meal
Norflurazon	Citrus	Oil
	Grapes	Raisin waste
Trifluralin	Potatoes	Processed potato waste

2. *Deletions from the List*— a. *List I.* The following pesticide/use combinations have been deleted from List I, for reasons noted at the end of this section.

Pesticide	Raw Crop	Processed Food/Feed	Notes	CFR Cite
Captan	Corn	Seed (detreated)	A	186.500
Ethylene oxide	Copra, Black walnut meats		B	185.2850
Methomyl	Hops	Dried hops	C	185.4100
Norflurazon	Hops	Dried hops	C	185.4450
Propargite	Hops	Dried hops	C	186.5000

Notes:

A. Deleted because EPA revoked the food additive regulation. EPA published the following final revocations:

Captan: Use on detreated corn seed, revocation published 58 FR 41430, effective date August 4, 1993.

Propylene Oxide: An exemption from the requirement to obtain a section 408 tolerance for all raw agricultural commodities has been revoked, effective 10/21/93.

B. The use of ethylene oxide on copra and black walnut meats has been deleted because it was incorrectly listed on the February 1993 list. The section 409 tolerance for ethylene oxide is for its use as a fumigant on whole spices—there is no tolerance established for use on copra and black walnuts.

C. Uses noted were deleted due to a change in EPA guidelines with respect to the classification of dried hops. Consistent with the directive contained in Public Law 103 124, the appropriations act including EPA funding for FY94, on December 23, 1993, the Agency issued a notice to registrants informing them that dried hops are reclassified as a raw agricultural commodity (RAC). This eliminates the requirement for a food additive regulation for pesticides used on hops. As time and resources permit, EPA will revoke existing section 409 tolerances for dried hops, and issue section 408 tolerances in accordance with the reclassification of hops as a RAC. EPA intends to apply the reclassification of dried hops in all future regulatory decisions involving hops.

b. *List II.* The following pesticide/use combinations have been deleted from List II, for reasons noted on the list.

Pesticide	Raw Crop	Processed Food/Feed	Notes
Alachlor	Sorghum	Bran, Flour,Germ	A
Dicamba	Barley	Hulls, bran, pearl	B
	Millet	barley	
	Oats	hulls, meal	
	Wheat	Hulls, rolled oats, bran, shorts, middling	
Dicofol		Dried hops	C

Notes:

A. Deleted because sorghum bran, germ and flour are not food/feed items. Therefore, no food additive tolerance is required. This pesticide/use combination was incorrectly included on the February 1993 list of pesticides and uses potentially affected by the Delaney clause.

B. Deleted because studies of the pesticide's residue in processed food indicate that the residue does not concentrate in the commodities noted.

C. Deleted due to change in EPA guidelines with respect to the classification of dried hops. (See note C above explaining deletions from List I.)

E. Today's List Does Not Constitute a Final Determination of Pesticides With Uses Prohibited By the Delaney Clause

For several reasons, the list of pesticide uses affected by the court's interpretation of the Delaney clause may be smaller than the lists made available by this notice. First, EPA has not made a final determination whether all of these pesticides "induce cancer" within the meaning of the Delaney clause. Second, many of the pesticide uses involve animal feeds, and EPA has not evaluated whether those uses qualify for the limited exception to the Delaney clause for animal feeds (the so-called "DES proviso"). Third, EPA has issued requests for comment on several policy issues, the resolution of which will affect precisely what pesticides and uses are affected. Fourth, in accordance with the requirements of the FFDCA, EPA's process for revoking pesticide tolerances provides the opportunity for public notice and comment on any proposed revocations. By the same reasoning, however, the lists do not reflect all pesticide uses that may be affected. EPA, through its registration and reregistration programs, continually receives new data. New studies may identify additional pesticides or uses that are subject to the Delaney clause. EPA intends to update and reissue both List I and II periodically.

List of Subjects

Environmental protection.

Dated: March 21, 1994.

Lynn R. Goldman,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 94–7363 Filed 3–29–94; 8:45 am]

BILLING CODE 6560–50–F

federal register

Wednesday
March 30, 1994

Part IV

Department of Housing and Urban Development

Office of the Assistant Secretary for Community Planning and Development

Funding for Fiscal Year 1994: Capacity Building for Community Development and Affordable Housing; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-94-3706; FR-3625-N-01]

Funding for Fiscal Year 1994: Capacity Building for Community Development and Affordable Housing

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of Funding for Fiscal Year 1994.

SUMMARY: Section 4 of the HUD Demonstration Act of 1993 authorizes HUD to provide assistance through the National Community Development Initiative (NCDI) to build the capacity of local development organizations to undertake community development and affordable housing projects and programs. This notice, mandated by the statute, indicates that HUD will fund through NCDI at the appropriated $20 million level, subject to the required three for one match, and provides details regarding program requirements.

FOR FURTHER INFORMATION CONTACT: Jerome B. Friedman, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., room 7218 Washington, DC 20410. Telephone Number (202) 708-3176; TDD Number: (202) 708-2565. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

1. Authority

Section 4 of the HUD Demonstration Act of 1993 (the Act) (Pub. L. 103-120, approved October 27, 1993) authorizes HUD to provide assistance through the National Community Development Initiative (NCDI) "to develop the capacity and ability of community development corporations and community housing development organizations to undertake community development and affordable housing projects and programs."

2. Allocation and Form of Awards

The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act 1994, (approved October 28, 1993, Pub. L. 103-124) (94 App. Act) provided $20 million for this program. The awards will be made through NCDI as required by the Act.

3. Eligible Activities

Eligible activities under this award include:

(a) Training, education, support, and advice to enhance the technical and administrative capabilities of community development corporations and community housing development organizations;

(b) Loans, grants, or predevelopment assistance to community development corporations and community housing development organizations to carry out community development and affordable housing activities that benefit low-income families; and

(c) Such other activities as may be determined by the National Community Development Initiative in consultation with the Department.

4. Matching Requirements

As required by the Act, the awards of up to $20 million will be made through NCDI, subject to each award dollar being matched by three dollars to be obtained from private sources.

5. Administrative Requirements

The award will be governed by the provisions of OMB Circulars A-110 (Grants and Agreements with Institutions of Higher Education, Hospitals and other Nonprofit Organizations), A-122 (Cost Principles for Nonprofit Organizations), and A-133 (Audits of Institutions of Higher Education and other Nonprofit Institutions), as implemented at 24 CFR part 45.

Other requirements will be detailed in the terms and conditions of the award document provided to grantees.

6. Application Content

Grantees will be required to file an application containing the following:

(a) OMB Standard Form 424 (Application for Federal Assistance);

(b) OMB Standard Form 424A (Budget);

(c) OMB Standard Form 424B (Non-construction Assurances);

(d) Statement of Work, including a timeline for completion of approved activities;

(e) Drug-Free Workplace Certification;

(f) Form SF-LLL, Disclosure of Lobbying Activities, if applicable.

7. Other Matters

(a) *Environmental Impact.* A Finding of No Significant Impact with respect to the environment has been made in accordance with the Department's regulations at 24 CFR part 50 which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays at the Office of the Rules Docket Clerk, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410.

(b) *Federalism, Executive Order 12612.* The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies and procedures contained in this notice will not have substantial direct effects on States or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government. Specifically, the notice makes funds available through a specific entity for specific activities, as required by statute, and does not impinge upon the relationships between the Federal government, and State and local governments.

(c) *Family, Executive Order 12606.* The General Counsel, the Designated Official under Executive Order 12606, Family, has determined that any impact from this document on the family will be indirect and beneficial in that the direct assistance provided to community development corporations and community housing development organizations should result in benefits to communities and families.

Authority: Section 4 of the HUD Demonstration Act of 1993 (Pub.L 103-120, approved October 27, 1993)

Dated: March 14, 1994.

Andrew Cuomo,

Assistant Secretary for Community Planning and Development.

[FR Doc. 94-7475 Filed 3-29-94; 8:45 am]

BILLING CODE 4210-29-P

federal register

Wednesday
March 30, 1994

Part V

Federal Emergency Management Agency

Changes to the Hotel and Motel Fire Safety Act National Master List; Notice

FEDERAL EMERGENCY MANAGEMENT AGENCY

Changes to the Hotel and Motel Fire Safety Act National Master List

AGENCY: United States Fire Administration, FEMA.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency (FEMA or Agency) gives notice of additions and corrections/changes to, and deletions from, the national master list of places of public accommodations which meet the fire prevention and control guidelines under the Hotel and Motel Fire Safety Act.

EFFECTIVE DATE: April 29, 1994.

ADDRESSES: Comments on the master list are invited and may be addressed to the Rules Docket Clerk, Federal Emergency Management Agency, 500 C Street SW., room 840, Washington, D.C. 20472, (fax) (202) 646–4536. To be added to the National Master List, or to make any other change to the list, see Supplementary Information below.

FOR FURTHER INFORMATION CONTACT: John Ottoson, Fire Management Programs Branch, United States Fire Administration, Federal Emergency Management Agency, National Emergency Training Center, 16825 South Seton Avenue, Emmitsburg, MD 21727, (301) 447–1272.

SUPPLEMENTARY INFORMATION: Acting under the Hotel and Motel Fire Safety Act of 1990, 15 U.S.C. 2201 note, the United States Fire Administration has worked with each State to compile a national master list of all of the places of public accommodation affecting commerce located in each State that meet the requirements of the guidelines under the Act. FEMA published the national master list in the **Federal Register** on Tuesday, November 29, 1993, 58 FR 62718, and published changes approximately monthly since then.

Parties wishing to be added to the National Master List, or to make any other change, should contact the State office or official responsible for compiling listings of properties which comply with the Hotel and Motel Fire Safety Act. A list of State contacts was published in 58 FR 17020 on March 31, 1993. If the published list is unavailable to you, the State Fire Marshal's office can direct you to the appropriate office. Periodically FEMA will update and redistribute the national master list to incorporate additions and corrections/changes to the list, and deletions from the list, that are received from the State offices.

Each update contains or may contain three categories: "Additions;" "Corrections/changes;" and "Deletions." For the purposes of the updates, the three categories mean and include the following:

"Additions" are either names of properties submitted by a State but inadvertently omitted from the initial master list or names of properties submitted by a State after publication of the initial master list;

"Corrections/changes" are corrections to property names, addresses or telephone numbers previously published or changes to previously published information directed by the State, such as changes of address or telephone numbers, or spelling corrections; and

"Deletions" are entries previously submitted by a State and published in the national master list or an update to the national master list, but subsequently removed from the list at the direction of the State.

Copies of the national master list and its updates may be obtained by writing to the Government Printing Office, Superintendent of Documents, Washington, DC 20402–9325. When requesting copies please refer to stock number 069–001–00049–1.

The update to the national master list follows below.

Dated: March 24, 1994.

John P. Carey,

General Counsel.

HOTEL AND MOTEL FIRE SAFETY ACT NATIONAL MASTER LIST 3/22/94 UPDATE

[Additions]

Property name	PO Box/Rt No and street address	City	State/ZIP	Telephone
Alaska:				
Executive Suite Hotel	4360 Spenard Rd	Anchorage	AK 99517–	907–243–6366
Comfort Inn Heritage Suites	111 Ship Creek Ave	Anchorage	AK 99501–	907–277–6887
Alabama:				
American Inn	1015 Hwy. 431 N	Anniston	AL 36201–	205–237–4805
Comfort Inn Central	195 Oxmoor Rd	Birmingham	AL 35209–	205–941–0990
Fairfield Inn By Marriott	3038 Ross Clark Cir	Dothan	AL 36301–	205–671–0100
Holiday Inn Dothan South	2195 Ross Clark Cir	Dothan	AL 36301–	205–794–8711
Boll Weevil Inn	305 S. Main St	Enterprise	AL 36330–	205–347–2871
Budgetel Inn	4890 University Dr. NW	Huntsville	AL 35816–	205–830–8999
Comfort Inn	PO Box 486, 805 Hwy. 231	Troy	AL 36081–	205–566–7799
Arkansas:				
Budgetel Inn	2123 Burnham Rd	Fort Smith	AR 72903–	501–484–5770
Quality Inn	125 E. Grand Ave	Hot Springs	AR 71901–	501–624–3321
La Quinta Inn #4916—Otter Creek	11701 I–30	Little Rock	AR 72209–	501–455–2300
Ramada Inn	1127 NE Hwy. 62	Mountain Home	AR 72653–	501–425–9191
Budgetel Inn #781	4311 Warden Rd	North Little Rock	AR 72166–	501–758–8888
Budgetel Inn	5102 N. State Line Ave	Texarkana	AR 75502–	501–773–1000
California:				
Inn At The Park Hotel	1855 S. Harbor Blvd	Anaheim	CA 92802–	714–750–1811
Residence Inn Pasadena	321 E. Huntington Dr	Arcadia	CA 91006–	818–446–6500
San Gabriel Valley Marriott	14635 Baldwin Park Town Ctr	Baldwin Park	CA 91706–	818–962–6000
Nishi International Motel DBA Plaza Inn	7039 Orangethorpe Ave	Buena Park	CA 90620–	714–522–2341
Siesta International Motel DBA Siesta Inn.	7930 Beach Blvd	Buena Park	CA 90620–	714–522–2422
Residence Inn Costa Mesa Newport Beach.	881 Baker St	Costa Mesa	CA 92626–	714–241–8800
Residence Inn Fountain Valley	9930 Slater Ave	Fountain Valley	CA 92708–	714–965–8000

HOTEL AND MOTEL FIRE SAFETY ACT NATIONAL MASTER LIST 3/22/94 UPDATE—Continued

[Additions]

Property name	PO Box/Rt No and street address	City	State/ZIP	Telephone
Ramada Ltd	3020 Cabrillo Hwy	Half Moon Bay	CA 94019–	415–726–9700
Residence Inn Livermore/Pleasanton	1000 Airway Blvd	Livermore	CA 94550–	510–373–1800
Best Western Park Plaza Hotel	150 Hegenberger Rd	Oakland	CA 94621–	510–635–5300
Residence Inn Ontario Airport	2025 E. D St	Ontario	CA 91764–	909–983–6788
Kon Tiki Inn	1621 Price St	Pismo Beach	CA 93449–	805–773–4833
Residence Inn by Marriott Cal Expo	1530 Howe Ave	Sacramento	CA 95825–	916–920–9111
Budget Motels of America Mission Valley.	641 Camino Del Rio S	San Diego	CA 92108–	619–295–6886
Crystal Tower Apartments	2140 Taylor	San Francisco	CA 94133–	415–885–0333
Trinity Towers	888 Ofarrell	San Francisco	CA 94109–	415–885–3333
Twenty Two Vanderwater	22 Vanderwater	San Francicso	CA 94133–	415–433–3333
Bay Stockton Apartments	2130 33 Stockton	San Francisco	CA 94133–	415–397–3118
The Telegraph Hill Apartments	350 Union St	San Francisco	CA 94133–	415–421–4333
Trinity Suites	845 Pine St	San Francisco	CA 94108–	415–433–3333
Two Thousand Broadway	2000 Broadway	San Francisco	CA 94115–	415–563–6333
Trinity Plaza	1169 Market	San Francisco	CA 94103–	415–861–3333
Mac Coundry Lane Apartments	1059 Union St	San Francisco	CA 94109–	415–433–3333
Thousand Chestnut	1000 Chestnut	San Francisco	CA 94109–	415–474–5333
Pico Bundy Hotel DBA Travelodge	3102 Pico Blvd	Santa Monica	CA 90405–	310–450–5766
La Paz Inn	15366 La Paz	Victorville	CA 92392–	619–223–2220
Embassy Suites Hotel	1345 Treat Blvd	Walnut Creek	CA 94596–	510–934–2500
Colorado:				
Days Inn Boulder	5397 South Boulder Road	Boulder	CO 80303–	303–499–4422
Stapleton Plaza Hotel	3333 Quebec Street	Denver	CO 80207–	303–321–3500
Inn At Silver Creek	62967 U.S. Highway 40	Silver Creek	CO 80446–	303–887–2131
District of Columbia:				
Carlyle Suites Hotel	1731 New Hampshire Ave., NW	Washington	DC 20009–	202–234–3200
Savoy Suites Georgetown	2505 Wisconsin Ave., NW	Washington	DC 20007–	202–337–9700
Stouffer Mayflower Hotel	1127 Connecticut Ave., NW	Washington	DC 20006–	202–347–3000
Illinois:				
Fairfield Inn By Marriott Kankakk/Bourbonnais.	1550 St. Rte. 50	Bourbonnais	IL 60914–	815–935–1334
Fairfield Inn By Marriott Danville	389 Lynch Dr	Danville	IL 61832–	217–443–3388
Fairfield Inn By Marriott Fairview Heights.	140 Ludwig Dr	Fairview Heights	IL 62208–	618–398–7124
Hickory Ridge Conference Centre	1195 Summerhill Dr	Lisle	IL 60532–	708–971–5752
Fairfield Inn By Marriott Mattoon	206 McFall Rd. Rte. 16 & I–57	Mattoon	IL 61983–	217–234–2355
Residence Inn By Marriott-Peoria	4201 N. War Memorial	Peoria	IL 61614–	309–681–9000
Residence Inn—Rockford	7542 Colosseum Dr	Rockford	IL 61107–	815–227–0013
Kansas:				
Residence Inn Wichita Downtown	120 W. Orme	Wichita	KS 67213–	316–263–1061
Michigan:				
Bay Valley Resort & Hotel	2470 Old Bridge Rd	Bay City	MI 48706–	517–686–3500
Marine Bay Lodge Motel	6000 River Rd	East China	MI 48054–	810–765–8877
Fairfield Inn By Marriott Jackson	2395 Shirley Dr	Jackson	MI 49202–	517–784–7877
Residence Inn By Marriott Troy Central	2600 Livernois Rd	Troy	MI 48083–	810–689–6856
Massachusetts:				
Quality Suite Hotel	123 Boston Post Road West	Marlborough	MA 01752–	508–485–5900
Maryland:				
Gaithersburg Marriott Washingtonian Center.	9751 Washingtonian Blvd	Gaithersburg	MD 20878–	301–590–0044
Embassy Suites Hunt Valley	213 International Cir	Hunt Valley	MD 21030–	410–584–1400
North Carolina:				
Holiday Inn Tunnel Road	201 Tunnel Road	Asheville	NC 28805–	704–252–4000
High Country Inn	PO Box 1399, 1785 Hwy. 105	Boone	NC 28607–	704–264–1000
Doubletree Club Hotel	895 West Trade Street	Charlotte	NC 28202–	704–347–0070
Holiday Inn Woodlawn	212 Woodlawn Rd	Charlotte	NC 28217–	704–525–8350
Residence Inn By Marriott Tyvola Exec. Pk.	5800 Westpark Drive	Charlotte	NC 28217–	704–527–8110
Holiday Inn	522 S. Hughes Blvd	Elizabeth City	NC 27909–	919–338–3951
Holiday Inn Fayetteville I–95	P.O. Box 2245, 1944 Cedar Creek Road.	Fayetteville	NC 28302–	919–323–1600
Heart Inn & Suites	2848 Bragg Blvd	Fayetteville	NC 28303–	910–484–3227
Holiday Inn Airport	550 Airport Road	Fletcher	NC 28732–	704–684–1213
Holiday Inn Laurinburg	15–401 Bypass	Laurinburg	NC 28352–	919–276–6555
Budgetel Inn Raleigh	1001 Aerial Center Parkway	Morrisville	NC 27560–	919–481–3600
Embassy Suites Hotel	4700 Creedmoor Road	Raleigh	NC 27612–	919–881–0000
Holiday Inn Salisbury	PO Box 1925, 53 Jake Alexander Blvd.	Salisbury	NC 28144–	704–638–0311
Holiday Inn	1706 North Lumina Avenue	Wrightsville	NC 28480–	919–256–2231

HOTEL AND MOTEL FIRE SAFETY ACT NATIONAL MASTER LIST 3/22/94 UPDATE—Continued

[Additions]

Property name	PO Box/Rt No and street address	City	State/ZIP	Telephone
South Carolina:				
Residence Inn Greenville	48 McPrice Ct	Greenville	SC 29615–	803–297–0099
Texas:				
La Quinta Inn #692	825 N. Watson Rd	Arlington	TX 76011–5152	817–640–4142
La Quinta Inn #4907	300 East 11th St	Austin	TX 78701–	512–476–1166
La Quinta Inn #512	4440 N. Central Expwy	Dallas	TX 75206–6525	214–821–4220
La Quinta Inn #709	8303 East R.L. Thornton Frwy	Dallas	TX 75228–7105	214–324–3731
La Quinta Inn Del Rio	2005 Ave. F	Del Rio	TX 78840–	210–775–7591
La Quinta Inn #542	700 Ft. Worth Dr. (I–35)	Denton	TX 76201–7137	817–387–5840
La Quinta Inn #1106	7920 Bedford-Euless Rd	Forth Worth	TX 76118–4019	817–485–2750
Holiday Inn #4166	5201 Gulf Freeway	La Marque	TX 77568–3507	409–986–9777
La Quinta Inn #455	4130 W. Wall Ave	Midland	TX 79703–7718	915–696–9900
La Quinta Inn #503	333 N.E. Loop 410	San Antonio	TX 78216–5346	210–828–0781
La Quinta Inn #510	7202 S. Pan AM Exprwy	San Antonio	TX 78224–1415	210–922–2111
Sheraton Hotel	100 Central Frwy	Wichita Falls	TX	817–761–6000
Virginia:				
Towers Hotel	420 N. Van Dorn Street	Alexandria	VA 22304–000	703–370–1000
Courtland Park	2500 Clarendon Blvd	Arlington	VA 22201–0000	703–243–9700
Courtland Towers	1200 North Veitch Street	Arlingon	VA 2201–0000	703–528–2700
Residence Inn Herndon	315 Elden Street	Herndon	VA 22070–0000	703–435–0044
Residence Inn Richmond West End	2121 Dickens Rd	Richmond	VA 23230–0000	804–285–8200
Residence Inn Tysons Corner	8616 Westwood Center Drive	Vienna	VA 22182–0000	703–893–0120
Quality Inn Colonial America	PO Box 3108, 6483 Richmond Road.	Williamsburg	VA 23187–0000	804–565–1000
Fort Magruder Inn & Conference Center	6945 Pocahontas Trail	Williamsburg	VA 23185–0000	804–220–2250
Vermont:				
Marshall House	18 Highland Ave	Hardwick	VT 05843–	802–472–6006
Riverview House	Meadow Lane	Stowe	VT 05672–	802–253–7730
Washington:				
Best Western Olympic Lodge	140 Del Guzzi Dr	Port Angeles	WA 98362–	206–452–2993
Ramada Inn	Spokane International Airport	Spokane	WA 99219–9228	509–838–5211
Wolff Lodging at Regal Ridge	5111 Regal	Spokane	WA 99223–	509–992–1600
Corrections/Changes				
Alabama:				
Holiday Inn West I–565	9035 Hwy. 20 W	Madison	AL 35758–	205–772–7170
Ramada Inn Limited	1418 Parkhill Pkwy	Pell City	AL 35125–	205–338–1314
Arkansas:				
Best Western Inn of Hope	I–30 & Hwy. 4	Hope	AR 71801–	501–777–9222
Holiday Inn	3006 S. Caraway	Jonesboro	AR 72401–	501–935–1625
La Quinta Inn Fair Park #571	901 Fair Park Blvd	Little Rock	AR 72204–1754	501–664–7000
La Quinta Inn West Little Rock #2806	200 S. Shackelford	Little Rock	AR 72211–	501–224–0900
La Quinta Motor Inn North #578	4100 McCain Blvd	North Little Rock	AR 72117–	501–945–0808
Express Inn	3700 Service Rd. Loop	West Memphis	AR 72301–	501–732–5688
California:				
La Quinta Inn 4541	1515 S. Coast Dr	Costa Mesa	CA 92626–	714–957–5841
La Quinta Inn Buena Park	3 Center Point Dr	La Palma	CA 90623–	714–670–1400
Washington Suites Hotel	720 The City Dr. S	Orange	CA 92668–	714–740–2700
Residence Inn Orange	201 N. State College Blvd	Orange	CA 92668–	714–978–7700
La Quinta Inn—Redding	2180 Hilltop Dr	Redding	CA 96002–	916–221–8200
La Quinta Inn Sacramento	200 Jibboom St	Sacramento	CA 95814–	916–448–8100
La Quinta Inn #3657	10185 Paseo Montril	San Diego	CA 92129–3911	916–484–8800
Colorado:				
La Quinta Inn	1011 South Abilene Street	Aurora	CO 80012–3630	303–337–0206
La Quinta Motor Inn #630	4385 Sinton Road	Colorado Springs	CO 80907–	719–528–5060
Michigan:				
Hampton Inn—Grand Rapids	4981 28th St. SE	Grand Rapids	MI 49512–	616–956–9304
North Carolina:				
La Quinta Inn #629	3100 S. I–85 Service Rd	Charlotte	NC 28208–	704–393–5306
La Quinta Motor Inn #656	7000 Nations Ford Rd	Charlotte	NC 28217–	704–522–7110
Residence Inn by Marriott	7835 N. Point Blvd	Winston Salem	NC 27106–	919–759–0777
Texas:				
La Quinta Motor Inns Inc. #544	3501 W. Lake Rd	Abilene	TX 79601–1676	915–676–1676
La Quinta Motor Inn #454	1708 I–40 East	Amarillo	TX 79103–2114	806–373–7486
La Quinta Motor Inn #639	2108 Couiter	Amarillo	TX 79106–2514	806–352–6311
La Quinta Austin #514	7100 I–35 N	Austin	TX 78752–3226	512–452–9401
La Quinta #478	4200 IH–35 S	Austin	TX 78745–1202	512–443–1774
La Quinta Motor Inn #530	5812 N. IH–35	Austin	TX 78751–1502	512–459–4381
La Quinta Inn #2522	1603 E. Oltorf (I–35)	Austin	TX 78741–3814	512–447–6661
La Quinta Motor Inn #4587	4911 E. I–10	Baytown	TX 77521–8564	713–421–5566

HOTEL AND MOTEL FIRE SAFETY ACT NATIONAL MASTER LIST 3/22/94 UPDATE—Continued

[Additions]

Property name	PO Box/Rt No and street address	City	State/ZIP	Telephone
La Quinta Inn	220 I–10 N	Beaumont	TX 77702–2112	409–838–9991
La Quinta Motor Inn #4903	1450 W. Airport Frwy	Bedford	TX 76022–6795	904–255–7412
La Quinta Motor Inn #2539	607 Texas Ave. S	College Station	TX 77840–1916	409–696–7777
La Quinta #477	6225 S. Padre Island Dr	Corpus Christi	TX 78412–4011	512–991–5736
La Quinta Motor Inn #706	10001 N. Central Exprwy	Dallas	TX 75231–4193	214–361–8200
La Quinta Inn #547	13235 Stemmons Frwy	Dallas	TX 75234–5757	214–620–7333
La Quinta Motor Inn #524	1625 Regal Row (I–35)	Dallas	TX 75247–	214–630–5701
La Quinta Motor Inn #717	13685 N. Central Exprwy	Dallas	TX 75243–1001	214–234–1016
La Quinta Inn	2525 E. Main St	Eagle Pass	TX 78852–4498	210–773–7000
La Quinta Motor Inn #596	7550 Remcon Cir	El Paso	TX 79912–3513	915–833–2522
La Quinta Motor Inn #452	11033 Gateway	El Paso	TX 79935–5003	915–591–2244
La Quinta Inn El Paso #4507	6140 Gateway East	El Paso	TX 79905–2004	915–778–9321
Days Inn #165	9125 Gateway W	El Paso	TX 79925–7038	915–593–8400
La Quinta Inn #4554	1001 W. Airport Frwy	Euless	TX 76040–	817–540–0233
La Quinta Inn #451	7888 I–30	Ft. Worth	TX 76108–3606	817–246–5511
Best Western Rockport Rebel	P.O. Box 310, 3902 N. Hwy. 35	Fulton	TX 78358–	512–729–8351
La Quinta Inn #2546	12721 I–35	Garland	TX 75041–4706	214–271–7581
La Quinta Grand Prairie	1410 NW 19th St	Grand Prairie	TX 75050–2802	214–641–3021
La Quinta Inn #2558	1002 S. Exprwy. 83	Harlingen	TX 78552–5913	210–428–6888
La Quinta Inn #515	8017 Katy Frwy	Houston	TX 77024–1601	713–688–8941
La Quinta Motor Inn #4649	13290 FM 1960 Rd. W	Houston	TX 77065–4005	713–469–4018
La Quinta Houston Brookhollow #715	11002 NW Frwy	Houston	TX 77092–7312	713–688–2581
La Quinta Motor Inn #531	6 N. Belt E	Houston	TX 77060–1821	713–447–6888
La Quinta Motor Inn #529	11113 Katy Frwy	Houston	TX 77079–2102	713–932–0808
La Quinta Inn 4591 Hobby	9902 Gulf Frwy	Houston	TX 77034–1043	713–941–0900
La Quinta Inn #4690	9911 Buffalo Speedway	Houston	TX 77054–1396	713–668–8082
La Quinta Inn #4693	10552 SW Frwy	Houston	TX 77074–1104	713–270–9559
The Plaza Hotel	1721 Central Texas Exprwy	Killeen	TX 76541–	817–634–1555
La Quinta Inn #599	1105 Hwy. 146 S	La Porte	TX 77571–6119	713–470–0760
La Quinta Inn #506	3610 Santa Ursula (I–35)	Laredo	TX 78041–4453	210–722–0511
La Quinta Inn #586	1657 S. Stemmons Frwy	Lewisville	TX 75067–6401	214–221–7525
La Quinta Inn #476	502 S. Access Rd	Longview	TX 75602–4202	903–757–3663
La Quinta Inn #2521	601 Ave. Q	Lubbock	TX 79401–2613	806–763–9441
La Quinta Inn #581	2119 S. 1st St	Lufkin	TX 75901–5902	409–634–3351
La Quinta Inn #1111	1100 S. 10th St	McAllen	TX 78501–5022	210–687–1101
La Quinta Inn #576	3215 S. St	Nacogdoches	TX 75961–7212	409–560–5453
La Quinta Inn #810	1820 N. Central Exprwy	Plano	TX 75074–5606	214–423–1300
Clarion Hotel-Richardson	1981 N. Central Exprwy	Richardson	TX 75080–	214–644–4000
La Quinta Inn #4905	2004 N. IH–35	Round Rock	TX 78681–2006	512–255–6666
La Quinta Inn #672	2307 Loop 306	San Angelo	TX 76904–6663	915–949–0515
La Quinta Inn #2710	5922 NW Exprwy	San Antonio	TX 78201–2814	210–734–7931
La Quinta Inn #567	900 Dolorosa	San Antonio	TX 78207–4540	210–271–0001
La Quinta Inn #4589	7134 NW Loop 410	San Antonio	TX 78238–4116	210–680–8883
La Quinta Motor Inn #712	9542 IH–10 W	San Antonio	TX 78230–2221	210–593–0338
La Quinta Inn #501	1001 E. Commerce St	San Antonio	TX 78205–3303	210–222–9181
La Quinta Inn #525	219 NE Loop 410	San Antonio	TX	210–342–4291
La Quinta Inn #523	6511 Military Dr. W	San Antonio	TX 78227–	210–674–3200
La Quinta Inn #556	6410 I–35 N	San Antonio	TX 78218–	210–653–6619
La Quinta Inn #4696	12727 SW Frwy	Stafford	TX 77477–3806	713–240–2300
La Quinta Inn #582	1604 W. Barton Ave	Temple	TX 76501–2457	817–771–2980
La Quinta Inn #563	5201 State Line Ave	Texarkana	TX 75503–2939	214–794–1900
La Quinta #533	1121 Hwy. 146 N	Texas City	TX 77590–6505	409–948–3101
La Quinta Inn #654	28673 I–45 N	The Woodlands	TX 77381–1156	713–367–7722
La Quinta Inn #457	1601 W. SW Loop 323	Tyler	TX 75701–8533	903–561–2223
La Quinta Inn #577	7603 N. Navarro	Victoria	TX 77904–2607	512–572–3585
La Quinta Inn #2511	1110 S. 9th St	Waco	TX 76706–2399	817–752–9741
La Quinta Inn #516	1128 Central Frwy. N	Wichita Falls	TX 76305–2626	817–322–6971
VA:				
Randolph Towers	4001 N 9th Street	Arlington	VA 22203–0000	703–525–9000
Best Western Rosslyn Westpark Hotel	1900 N Fort Myer Drive	Arlington	VA 22209–0000	703–527–4814
VT:				
Cortina Inn	Rt. 4	Killington	VT 05751–	800–451–6108
Holiday Inn	1068 Williston Rd	South Burlington	VT 05403–	802–863–6363
Comfort Inn	Sykes Ave	White River Junction	VT 05001–	
Deletions				
AL:				
Perdido Beach Hilton Resort	27200 Perdido Beach Blvd	Orange Beach	AL 36561–	205–981–9811
CA:				
Hilton San Gabriel Valley	14636 Baldwin Park Towne Ctr	Baldwin Park	CA 91706–	818–962–6000

HOTEL AND MOTEL FIRE SAFETY ACT NATIONAL MASTER LIST 3/22/94 UPDATE—Continued

[Additions]

Property name	PO Box/Rt No and street address	City	State/ZIP	Telephone
Residence Inn by Marriott	1000 Airway Blvd	Livermore	CA 94550–	510–373–1800
Park Plaza Hotel	150 Hegenberger Rd	Oakland	CA 94621–	510–635–5300
Residence Inn Ontario	2025 E. D St	Ontario	CA 91764–	714–983–6788
MI:				
Hilton Inn Ann Arbor	610 Hilton Blvd	Ann Arbor	MI 48108–	313–761–7800
NC:				
Holiday Inn Tunnel Road	201 Tunnel Rd	Asheville	NC 28805–	704–252–4000
Asheville Comfort Suites	890 Brevard St	Asheville	NC 28806–	704–665–4000
Holiday Inn Woodlawn	212 Woodlawn Rd	Charlotte	NC 28217–	704–525–8350
Residence Inn by Marriott Tyvola Executive.	5800 Westpark Dr	Charlotte	NC 28217–	704–527–8110
Holiday Inn	522 S. Hughes Blvd	Elizabeth City	NC 27909–	919–338–3951
Holiday Inn Fayetteville I–95	1944 Cedar Creek Rd	Fayetteville	NC 28302–	919–323–1600
Holiday Inn Airport	550 Airport Rd	Fletcher	NC 28732–	704–684–1213
Holiday Inn	1706 N. Lumina Ave	Wrightsville Beach	NC 28480–	919–256–2231
VT:				
Spruce Pond Inn	1250 Waterbury Rd	Stowe	VT 05672–	802–253–4236

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federal register

Wednesday
March 30, 1994

Part VI

Department of Commerce

Economic Development Administration

Economic Development Assistance Programs—Availability of Funds; Notice

DEPARTMENT OF COMMERCE

Economic Development Administration

[DOCKET No. 940244–4044]

Economic Development Assistance Programs—Availability of Funds

AGENCY: Economic Development Administration (EDA), Commerce.

ACTION: Notice.

SUMMARY: The Economic Development Administration (EDA) announces its policies and application procedures for funds available in fiscal year 1994, as described in Public Law 103–121, Departments of Commerce, Justice, State, the Judiciary, and Related Agencies Appropriations, to support projects designed to alleviate conditions of substantial and persistent unemployment and underemployment in economically-distressed areas and regions of the Nation and to address economic dislocations resulting from sudden, severe job losses. The purpose of this announcement is to communicate to potential applicants for EDA funds the policies and procedures that will be used to administer the Agency's programs during fiscal year 1994. Application procedures and funding levels for the University Center Technical Assistance program will be announced at a later date.

DATES: This announcement is effective for fiscal year 1994. Please see the end of each program section for specific dates. If there are no dates listed, applications will be processed as funds are available. Normally, one to three months is required for a final decision on an application.

ADDRESSES: Interested parties should contact the EDA office in their area (see Section XII).

FOR FURTHER INFORMATION CONTACT: See information at the end of each program section and section XII for the EDA regional office and Economic Development Representative for the area.

SUPPLEMENTARY INFORMATION:

I. General Policies

According to existing statutory criteria, areas containing approximately 90 percent of the U.S. population are eligible for EDA assistance which, in fiscal year 1994, totals approximately $322.6 million. Priority consideration for funding will be given only to those proposals having the greatest potential to benefit areas experiencing or threatened with substantial economic distress. EDA is particularly interested in projects located in authorized and designated enterprise zones. Distress may exist in a variety of forms, including exceptionally high levels of unemployment, extremely low income levels, large concentrations of low income families, low labor force participation rates, significant decline in per capita employment, substantial loss of population because of the lack of employment opportunities, unusually large numbers (or high rates) of business failures, sudden major layoffs or plant closures, and drastically reduced tax bases.

Potential applicants are responsible for demonstrating to EDA, through the provision of statistics and other appropriate information, the nature and level of the distress their efforts are intended to alleviate. In the absence of evidence of exceptionally high levels of distress, EDA funding is unlikely. In considering proposals to benefit severely distressed areas, EDA will give special consideration to those that address the needs of rural communities, particularly aid directed toward the economic diversification of such areas.

During FY 1994, EDA will place a special emphasis upon assisting projects that focus on exports, entrepreneurship, and technology initiatives including innovation, transfer, and commercialization to alleviate conditions of substantial and persistent unemployment and underemployment in economically-distressed areas and regions, through the provision of grants for Public Works and Development Facilities, Technical Assistance, Economic Development Planning, and Economic Adjustment Assistance.

EDA recognizes that small communities experience impediments to economic development other than the traditional inadequacies of existing water, sewer and roadway systems; therefore, in fiscal year 1994, EDA will give consideration to projects that will assist an area to overcome a special development or infrastructure problem that is preventing employment growth and economic development from taking place. Such projects may involve, but are not limited to, activities designed to enhance the expansion of the service sector of the economy when that sector is deemed more growth oriented than the traditional industrial sector, or innovative projects designed for the development of publicly-owned telecommunications infrastructure when it can be demonstrated that such a project is needed to foster productivity or enhance economic growth within an EDA-designated area. Such proposals must be appropriately scaled and provide substantial and direct benefit to the local economy or otherwise enhance the economic prosperity of the area. EDA will consider providing assistance to demonstration type projects that are especially creative from an economic development standpoint and that leverage a substantial amount of nonfederal resources.

EDA expects substantial state and local support for proposed projects. Proposals that do not provide evidence of strong state and local leadership and financing are less likely to receive EDA assistance.

In the case of projects involving construction, EDA expects construction to be initiated and completed in a timely manner. Applicants are expected to anticipate predictable delays such as those caused by normal weather conditions, permits and approvals, legal complications, community disputes, land acquisition, etc., and account for them in developing project schedules. Projects which are likely to encounter significant delays will receive low funding priority. Projects that experience unreasonable delays following EDA approval may be terminated and the funds deobligated. These policies are consistent with EDA's objective of supporting activities that can begin to benefit local economies as soon as possible, thereby meeting the pressing development needs identified by project applicants. EDA expects those responsible for developing and managing projects to maximize the impact of the public funds by preparing and implementing projects as thoroughly and expeditiously as possible.

EDA funding will not be used directly or indirectly to assist employers who transfer one or more jobs from one commuting area to another. EDA nonrelocation requirements (13 CFR 309.3) apply to all grants involving construction, rehabilitation or repair under Titles I, IV, IX, and section 301(f) of the Public Works and Economic Development Act of 1965 (Pub. L. 89–136, 42 U.S.C. 3121–3246h), as amended (including grants for Revolving Loan Funds, under Title IX).

No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either:

1. The delinquent account is paid in full;

2. A negotiated repayment schedule is established and at least one payment is received, or

3. Other arrangements satisfactory to DoC are made.

Applicants may be subject to a pre-award accounting system survey by the Department of Commerce's Office of

Inspector General, and fund recipients may be subject to audits or other inspections by the same office.

Applicants eligible for assistance because of membership in an economic development district must be active participants in the district's economic development planning process. EDA will evaluate applications for conformance with published statutory, regulatory, and policy requirements. Applications proposed for funding under these programs are subject to the requirements of Executive Order 12372, "Intergovernmental Review of Federal Programs."

An invitation to submit an application does not assure EDA funding. Factors that will be considered in evaluating proposals include if and to what extent the project meets the selection criteria. Unsuccessful applicants will be notified of the status of their applications when the appropriate program funds have been awarded.

Processing time for proposals will depend upon the completeness of the information and supporting documents provided in the application at the time of submission. Proposals that require additional information from applicants or other sources will be returned to correct deficiencies and the official application receipt dates will be adjusted accordingly.

EDA will not approve projects that involve actual or potential conflict-of-interest situations. If EDA identifies or suspects a possible conflict-of-interest situation, or an appearance of such, application processing and/or grant award may be suspended and the burden will be on the applicant/grantee to take appropriate steps to eliminate the perception of a conflict of interest before application/award processing is resumed.

Recipients must agree that no funds made available by EDA shall be used, directly or indirectly, for paying attorneys' or consultants' fees in connection with securing awards made by the Government, such as, for example, preparation of the application. However, attorneys' and consultants' fees incurred for meeting award requirements, such as conducting a title search or preparing plans and specifications, may be eligible project costs and may be paid out of funds made available by EDA, if such costs are otherwise eligible.

Public Law 101–510, enacted November 5, 1990, Section 1405, amending Subchapter IV of Chapter 15, Title 31, United States Code, prescribes the rules for determining the availability of appropriations. Accordingly, grant funds obligated for a project will expire in five years from the fiscal year of the grant award.

The total dollar amount of the indirect costs proposed in an application under any of the programs must not exceed the indirect cost rate negotiated and approved by a cognizant Federal agency prior to the proposed effective date of the award or 100 percent of the total proposed direct costs dollar amount in the application, whichever is less.

Primary Applicant Certification

All primary applicants must submit a completed Form CD–511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying," and the following explanations are hereby provided:

a. Nonprocurement Debarment and Suspension

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

b. Drug-Free Workplace

Grantees (as defined at 15 CFR part 26, Section 605) are subject to 15 CFR part 26, Subpart F, "Governmentwide Requirements for Drug-Free Workplace (Grants)" and the related section of the certification form prescribed above applies;

c. Anti-Lobbying

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

d. Anti-Lobbying Disclosures

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

Recipients shall require applicants/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying" and disclosure form, SF-LLL, "Disclosure of Lobbying Activities." Form CD–512 is intended for the use of recipients and should not be transmitted to the Department. SF-LLL submitted by any tier recipient or subrecipient should be submitted to DoC in accordance with the instructions contained in the award document.

The implementing regulations of the National Environmental Policy Act (NEPA) require EDA to provide public notice of the availability of project specific environmental documents such as environmental impact statements, environmental assessments, findings of no significant impact, records of decision etc., to the affected public as specified in 40 CFR 1506.6(b).

Depending on the project location, environmental information concerning specific projects can be obtained from the Regional Environmental Officer (REO) in the appropriate EDA regional office listed in Section XII or from Dr. Frank Monteferrante, Environmental Branch, Compliance Review Division, EDA, U.S. Department of Commerce, Washington, DC 20230, (202) 482–4208.

Applicants should be aware that a false statement on the application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

All nonprofit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of, or are presently facing, criminal charges such as fraud, theft, perjury, or other matters which significantly reflect on the applicant's management, honesty or financial integrity.

Final funding decisions on all recommended applications are made by the Assistant Secretary for Economic Development or his/her designee.

Recipients and subrecipients are subject to all Federal laws and Federal and DoC policies, regulations, and procedures applicable to Federal financial assistance awards.

Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

If an application is selected for funding, EDA has no obligation to provide any additional future funding in connection with an award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of the EDA.

Applicants should be aware that if they incur any costs prior to an award being made they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal or written assurance that might have been received, there is no obligation on the part of EDA to cover pre-award costs.

The following material describes other policies and procedures associated with each of EDA's programs.

II. Program: Public Works and Development Facilities Assistance

(Catalog of Federal Domestic Assistance: 11.300 Economic Development Grants and Loans for Public Works and Development Facilities. 11.304 Economic Development Public Works Impact Program (PWIP))

Authority

Funds available under the Public Works and Development Facilities Program are used to finance projects that contribute to the economic development of distressed areas. This program is authorized by Titles I and IV of the Public Works and Economic Development Act of 1965, as amended (PWEDA), 42 U.S.C. 3131 and 42 U.S.C. 3171(a)(3).

Eligibility

Eligible applicants under this program include any state, or political subdivision thereof, Indian tribe, the Federated States of Micronesia, the Republic of the Marshall Islands, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands, or private or public nonprofit organization or association representing any redevelopment area or part thereof, if the project is located within an EDA-designated redevelopment area.

Redevelopment areas, other than those designated under the Public Works Impact Program, must have a current EDA-approved Overall Economic Development Program (OEDP). Political entities claiming eligibility under OEDPs developed by multicounty economic development organizations are expected to continue to participate actively in the organization. Further information on eligibility is available from EDA's regional offices. Nonprofit applicants are urged to seek the cooperation and support of units of local government and, when deemed appropriate by EDA, to have the local government serve as co-applicant for EDA assistance. This serves the purpose of ensuring the financial stability and continuity of the project, in the event that the nonprofit entity finds itself in a position of not having the financial resources to properly and efficiently administer, operate, and maintain the EDA-assisted facility consistent with the provisions of 13 CFR 314—Property Management Standards.

Program Objective

The purpose of the Public Works Program is to assist communities with the funding of public works and development facilities that contribute to the creation or retention of private sector jobs and to the alleviation of unemployment and underemployment. Such assistance is designed to help communities achieve lasting improvement by stabilizing and diversifying local economies, and improving local living conditions and the economic development of the area. EDA emphasizes the alleviation of unemployment and underemployment among residents of the project area as a primary focus of this program. In view of the current rural distress, applications from rural communities will be reviewed with particular interest.

Funding Availability

Funds in the amount of $160 million are available for this program. Grants awarded under this program are expected to range between $100,000 and $1.5 million.

Funding Instrument

EDA may provide direct grants not to exceed 50 percent of the estimated cost of the project. However, under certain circumstances supplementary grants to augment the direct grant may be provided up to a maximum of 80 percent of the eligible project costs. Supplementary grant assistance to finance over 50 percent of the project costs will be approved by EDA only for proposals in areas of high distress. Decisions on such supplementary grant assistance will be based on the nature of the project, the amount of fair user charges or other revenues the project may reasonably be expected to generate, and the relative needs of the area (see 13 CFR 305.5). But in no event shall the Federal participation exceed 80 percent of the aggregate cost of any such project, except in the case of a grant to an Indian Tribe, where EDA may waive the non-Federal share. Applicants are required to provide the local share from acceptable sources including, but not limited to cash, local government general obligation or revenue bonds, Community Development Block Grant (CDBG) entitlement funds or balance of state awards, Farmers Home Administration loans, and other public and private financing, including donations.

The local share need not be in hand at the time of application, however, the applicant must satisfy EDA that the funds will be available to provide the nonfederal share of the project. The local share must not be encumbered in any way that would preclude its use consistent with the requirements of the grant. Priority will be given to applications which maximize the local share's percentage of the project cost.

Project Duration

Projects are expected to be completed in a timely manner consistent with the nature of the project. However, the maximum period for which assistance will be provided shall not be more than five (5) years from date of award.

Evaluation Criteria

For both regular public works projects and Public Works Impact Program (PWIP) projects, priority consideration will be given to those which are the most competitive based upon the project evaluation criteria set forth below, that best meet the needs of eligible areas, and that are located in areas of severe economic distress. Evaluation criteria will not be assigned weights, as all factors are equally important.

A. Public Works Projects

Factors that will be taken into account in considering projects eligible under section 101(a)(1)(A)—(C) of PWEDA, 42 U.S.C. 3131(a)(1)(A)—(C), include if and to what extent the project:

1. Improves opportunities for the successful establishment or expansion of industrial or commercial facilities in the area where such project will be located.

2. Assists in creating or retaining private sector jobs in the near term and assists in the creation of additional long-term employment opportunities, provided the jobs are not transferred from any other area of the United States, and will result in a low cost-per-job in relation to total EDA cost.

3. Benefits the long-term unemployed and members of low-income families who are residents of the area to be served by the project.

4. Fulfills a pressing need of the area, or part thereof, in which it will be located.

5. Is consistent with the EDA approved Overall Economic Development Program (OEDP) for the area in which it is, or will be, located, and has broad community support.

6. Is supported by significant private sector investment.

7. Promotes exports, entrepreneurship, or technology initiatives including innovation, transfer and commercialization.

8. Has evidence of adequate local share of funds.

9. Supports developments taking place in designated enterprise zones, particularly in rural areas.

10. Demonstrates that necessary permits, land acquisitions, or options on land and rights-of-way have been obtained and that all other legal requirements of the application process have been satisfied.

11. Maximizes the amount of local, state or other Federal funding that is available.

12. Gives evidence of the ability to begin and complete construction in a timely manner in accordance with a schedule to be agreed upon by EDA and the applicant and included in the grant award. EDA discourages the start of construction prior to grant award and cautions that financial hardship may be experienced by applicants whose projects are not approved. EDA will require all applicants that request approval to proceed with construction prior to grant award to acknowledge that they are proceeding at their own risk and without recourse to EDA if the grant is not awarded or EDA requirements are not met. EDA also requires that compliance with environmental regulations be completed before construction begins. EDA's regional office must have time to complete its "Finding of No Significant Impact," and clearances must be obtained from appropriate state and Federal agencies. Furthermore, EDA may view the start of construction prior to grant award as an indication that the grant funds are not essential for the successful implementation of the project.

13. If located in an Economic Development Center (i.e., Growth Center) that has a stable economy with little distress, must include an employment plan that explains how new employment opportunities for residents of nearby highly distressed redevelopment areas will be provided.

B. Public Works Impact Program

Factors that will be considered in the evaluation of projects under the Public Works Impact Program (PWIP) authorized by section 101(a)(1)(D) of PWEDA, 42 U.S.C. 3131(a)(1)(D), include if and to what extent the project:

1. Directly assists in creating immediate useful work (i.e., construction jobs) for the unemployed and underemployed residents in the project area;

2. Improves the economic or community environment in areas of severe economic distress;

3. Includes a specific plan (i.e., PWIP Employment Strategy) for hiring the unemployed and underemployed persons from the project area to work on the construction of the project; EDA will evaluate all plans to ensure that they contain a logical explanation of how the employment objectives will be met;

4. Assists in providing long-term employment opportunities or other economic benefits for the unemployed and underemployed in the project area;

5. Primarily benefits low-income families by providing essential community services, or satisfying a pressing public need;

6. In addition to the requirement for regular public works projects, as contained in paragraph A 12, can begin construction quickly (normally within 120 days after acceptance of the grant by the applicant);

7. Has substantial labor intensity, where labor intensity is the proportion of labor costs to the total project costs; and

8. Promotes exports, entrepreneurship or technology initiatives including innovation, transfer, and commercialization.

C. Industrial Park Projects

Applications proposing projects that will primarily serve an industrial park or site will be evaluated on such additional factors as:

1. A detailed analysis of existing industrial park capacity and utilization; occupancy rates for existing developed industrial parks currently available within a 25-mile radius of the project site. For cities with populations over 50,000, the prescribed area may be determined by an analysis of industrial sites within an established industrial area, which may be less than a 25-mile radius. Contact the economic development representative (EDR) for the area or the appropriate EDA regional office for guidance.

2. Commitments in writing from identified tenants to expand existing operations or to locate in the industrial park or site. Commitments must include a description of the industry, the number of jobs created or saved, an implementation schedule, and the relationship of the commitment to the requested grant assistance.

3. The existence of a documented marketing strategy and demonstrated financial ability to market space in the industrial park or site. Strong emphasis will be placed upon this requirement.

Construction Project Implementation

As indicated in the first section of this Notice, EDA expects construction projects to be initiated and completed in a timely manner and in accordance with the schedule agreed upon in the grant documentation. The recipient will be responsible for promptly notifying EDA of any events that prevent adherence to the approved schedule. The recipient must provide an explanation of why the events were beyond its ability to predict or control and obtain EDA's approval of changes in the schedule prior to proceeding with project implementation. EDA expects recipients to anticipate predictable delays (such as those caused by land acquisition problems, local financing requirements, normal weather conditions in the area, acquisition of state permits and approvals, and known public objections to the project), and to take them into account in preparing the project schedule. Recipients who fail to comply with project schedules are subject to grant suspension or termination.

Under most circumstances, EDA will not provide additional funds to finance cost overruns that occur during project implementation.

Proposal Submission Procedures

To establish the merits of project proposals, interested parties should first contact the economic development representative for the area (see listing in Section XII). The economic development representative for the area will provide a preapplication form (ED–101P, OMB Control No. 0610–0011) and arrange for conferences to discuss the proposal. EDA will screen proposals before inviting the submission of an application. As previously mentioned, an invitation does not assure EDA funding. Proposals will be evaluated based upon:

1. Conformance with statutory and other legal requirements and with the evaluation criteria mentioned above;

2. The merits of the proposal in addressing the economic development needs of the eligible area; and

3. The availability of program funds.

Processing time for project proposals depends upon the completeness of information and supporting documents provided in the preapplication form at the time of submission. Project proposals that require additional information from applicants or other sources will be returned to correct deficiencies and the official application receipt dates will be adjusted accordingly.

Application Procedures

Following a review of project proposals, EDA will invite entities whose projects are selected for consideration to submit applications. The application will include a form ED–101A, as approved by the Office of Management and Budget Control No. 0610–0011. The demand for public works assistance is expected to exceed available funding. Therefore, to avoid having incomplete proposals delay other more timely grant awards, a 120-day time restriction will apply to invited applications for resolving application deficiencies. Applications that cannot be recommended for approval within 120 days of receipt in a regional office because of unresolved issues will be returned to the applicants. Such applications may be reconsidered at a future date, but must compete with other proposals at that time.

Previous Applications

Project applications invited, but not funded in FY 1993, remain eligible for funding consideration. Applications received prior to the date of this Notice will be processed and evaluated in accordance with the project selection criteria published for FY 1993 and current legal requirements. Those applications received on or after the date of this Notice must be consistent with the project selection criteria and requirements published in this Notice. Applicants whose projects were invited but not submitted to EDA in FY 1993 should contact the appropriate EDA regional office regarding forms to be used for FY 1994.

Further Information

For further information contact the appropriate EDA regional office or economic development representative for your area (see section XII of this notice).

III. Program: Local Technical Assistance

(Catalog of Federal Domestic Assistance: 11.303 Economic Development—Technical Assistance)

Authority

Funds under the Local Technical Assistance Program are awarded to eligible applicants to provide assistance intended to assure the successful initiation and implementation of area, state, and regional development efforts designed to alleviate economic distress. This program is authorized under section 301(a) of the Public Works and Economic Development Act of 1965, as amended, 42 U.S.C. 3151(a).

Eligibility

Eligible applicants for Local Technical Assistance grants or cooperative agreements include public or private nonprofit national, state, area, district, or local organizations; public and private colleges and universities; Indian tribes, local governments, and state agencies. In certain circumstances, applications may be considered from other applicants such as private individuals, partnerships, firms, and corporations.

Program Objective

The Local Technical Assistance Program is designed to help alleviate or prevent conditions of excessive unemployment or underemployment and problems of economically distressed populations in rural and urban areas.

Funding Availability

Funds in the amount of $1.5 million are available for the Local Technical Assistance Program. It is expected that these funds will be made available for projects serving specific local or substate areas and also for projects whose impacts will cross EDA regional office boundaries. Individual award amounts have averaged $25,000 in recent years.

Funding Instrument

EDA will provide grants and cooperative agreements not to exceed 75 percent of the proposed project costs. Applicants are expected to provide the remaining share, preferably in cash. The Assistant Secretary may waive all or part of the 25 percent share of technical assistance grants, if he/she determines that the nonfederal share is not reasonably available because of the critical nature of the situation requiring technical assistance or for other good cause.

Project Duration

Assistance will be for the period of time required to complete the scope of the work. This typically does not exceed twelve months.

Evaluation Criteria

Evaluation criteria will not be assigned weights, as all factors are equally important and contribute to the overall quality of the proposal. Evaluation criteria include whether the local Technical Assistance proposal will:

1. Produce strong evidence that the proposed project will lead to the near-term (between one and five years) generation or retention of private sector jobs.

2. Do not depend upon further EDA or other Federal funding assistance to achieve results.

3. Strengthen the capability of state and local organizations and institutions, including nonprofit development groups, to undertake and promote effective economic development programs targeted to people and areas of distress.

4. Stimulate significant private and nonfederal public investment for economic development purposes, including funds from commercial lenders, public and private pension funds and other nontraditional sources.

5. Benefit severely distressed areas, particularly rural counties and communities.

6. Diversify distressed rural economies by means of enterprise zones and other strategies.

7. Demonstrate innovative approaches to stimulating economic development in depressed areas. EDA is particularly interested in receiving innovative proposals in the following areas:

a. Export development used as an economic development strategy;

b. Assistance to business in uses of technology;

c. Minority business development in distressed areas; and

d. Tourism.

8. Are consistent with the EDA approved Overall Economic Development Program (OEDP) for the area in which the projects are located and have been recommended by the OEDP Committee (if appropriate to the nature of the project).

9. Present an appropriate and clear project design.

10. Are proposed by organizations or individuals with the capacity, qualifications and staff necessary to undertake the intended activities.

11. Present a reasonable, itemized budget for the proposed activities.

12. Involve a significant (preferably cash) contribution in excess of minimum required from applicant or other nonfederal sources.

Pre-Application Procedures

Parties seeking support for Local Technical Assistance projects should contact the economic development representative (EDR) for the area to obtain a proposal package. This package may contain additional information on procedures and selection criteria. (See EDR listing in Section XII of this announcement.)

EDA will evaluate all proposals as they are received and invite applications for those which best satisfy the evaluation criteria. An invitation does not, however, assure EDA funding.

Potential applicants should submit one original and two copies of a brief and concise proposal which should not exceed 20 pages. Vita and capability information may be appended.

Proposal Submission Procedures

Potential applicants must submit to the appropriate EDR proposals that include:

1. A cover page giving a short descriptive project title, the name and address of the applicant organization, the name and telephone number of the project director, the project duration, the amount of EDA funds requested, and the program (Local Technical Assistance) that would provide the funds;
2. A brief section indicating why the project is needed, giving its objectives, and providing a capsule description of the project;
3. A more detailed description of the project and its methodology;
4. A work plan showing different phases of the project and their timing;
5. A detailed budget showing cost breakdowns, with EDA-funded and non-EDA-funded costs presented in separate columns and with the EDA-funded costs adding to the total shown on the cover page;
6. Resumes for the project director and principal staff; and
7. A corporate or institutional capability statement, where appropriate.

Parties seeking support for local technical assistance should submit proposals to the EDR who supplied the proposal package. Parties seeking support for projects whose impacts will cross EDA regional boundaries should submit proposals to the Director, Technical Assistance and Research Division, Economic Development Administration, Room 7315, U.S. Department of Commerce, Washington, DC 20230. Individuals or organizations located outside the Washington, DC, metropolitan area should submit a copy of the letter transmitting their proposal to Washington to the EDR for the area in which they are located.

Application Procedures

The appropriate EDA regional office will invite entities whose proposals for Local Technical Assistance projects are selected for further consideration to submit application packages. The application will include a Standard Form-424 (OMB Control No. 038–0043).

Eligibility for Specific Solicitations

EDA may, during the course of the year, identify specific economic development technical assistance activities it wishes to have conducted. Organizations and individuals interested in being invited to respond to Solicitations of Applications (SOAs) to conduct such work should submit information on their capabilities and experience to the Director, Technical Assistance and Research Division, Economic Development Administration, Room 7315, U.S. Department of Commerce, Washington, DC 20230.

Further Information

For further information about Local Technical Assistance projects contact the appropriate EDR. (See EDR listing in Section XII of this announcement.) For further information about submitting projects whose impact will cross EDA regional office boundaries, contact the National Technical Assistance Coordinator, telephone (202) 482–2127.

IV. Program: National Technical Assistance

(Catalog of Federal Domestic Assistance: 11.303 Economic Development—Technical Assistance)

Authority

Funds under the National Technical Assistance Program are awarded to eligible applicants who will offer assistance to local, regional and state organizations, and/or conduct demonstrations of and disseminate information about innovative development techniques designed to alleviate economic distress. This program is authorized under section 301(a) of the Public Works and Economic Development Act of 1965, as amended, 42 U.S.C. 3151(a).

Eligibility

Eligible applicants for National Technical Assistance grants or cooperative agreements include public or private nonprofit national, state, area, district, or local organizations; public and private colleges and universities; Indian tribes, local governments, and state agencies. In certain circumstances, applications may be considered from other eligible applicants such as private individuals, partnerships, firms, and corporations.

Program Objective

The National Technical Assistance Program is designed to help alleviate or prevent conditions of excessive unemployment or underemployment and problems of economically distressed populations.

Funding Availability

Funds in the amount of $1.53 million are available for the National Technical Assistance Program. Individual award amounts may vary and usually will not exceed $200,000.

Funding Instrument

EDA will provide grants not to exceed 75 percent of proposed project costs. Applicants are expected to provide the remaining share. In cases where EDA issues a Solicitation of Applications, an applicant's share may not be required. The Assistant Secretary may waive all or part of the 25 percent nonfederal share of technical assistance grants, if he/she determines that the nonfederal share is not reasonably available because of the critical nature of the situation requiring technical assistance or for other good cause.

Project Duration

Assistance will be for the period of time required to complete the scope of the work. Generally, this will not exceed fifteen months.

Evaluation Criteria

Evaluation criteria will not be assigned weights, as all factors are equally important and contribute to the overall quality of the proposal. EDA will consider proposals for National Technical Assistance that include whether the proposal:

1. Effectively support, through providing information and other means, the capability of state and local organizations and institutions, including nonprofit development groups, to undertake and promote effective economic development programs targeted to people and areas in distress.
2. Demonstrate innovative approaches to stimulating economic development in one or more of the following:
   a. Assistance to business in implementing technology initiatives including innovations, transfer, and commercialization;
   b. Export assistance;
   c. Entrepreneurship assistance;
   d. Tourism development;
   e. Empowerment/enterprise zones;
   f. Linkages in economic development and environmental goals; and
   g. Defense conversion and industrial restructuring.
3. Present an appropriate and clear project design.
4. Are proposed by organizations with the capacity, qualifications, and staff necessary to undertake the intended activities.
5. Present a reasonable, itemized budget for the proposed activities.

Pre-Application Procedure

Potential applicants should submit one original and two copies of a brief

and concise proposal which should not exceed 20 pages. Vita and capability information may be appended.

Proposals should include:

1. A cover page giving a short descriptive project title, the name and address of the performing organization, the name and telephone number of the project director, the project duration, the amount of EDA funds requested, and the program (National Technical Assistance) that would provide the funds;

2. A brief scope-and-objectives section indicating why the project is needed, giving its objectives, and providing a capsule description of the project;

3. A more detailed description of the project and its methodology;

4. A work plan showing different phases of the project and their timing;

5. A detailed budget showing cost breakdowns, with EDA-funded and non-EDA-funded costs presented in separate columns and with the EDA-funded costs adding to the total shown on the cover page;

6. Resumes for the project director and principal staff;

and

7. A corporate or institutional capability statement, where appropriate.

Proposals should be submitted to the Director, Technical Assistance and Research Division, Economic Development Administration, Room 7315, U. S. Department of Commerce, Washington, DC 20230.

Application Procedures

The Technical Assistance and Research Division will invite entities whose proposals for National Technical Assistance projects are selected for further consideration to submit application packages. Such invitation, however, does not assure EDA funding. The application will include a Standard Form-424 (OMB Control No. 038–0043).

Eligibility for Specific Solicitations

EDA may, during the course of the year, identify additional specific economic development technical assistance activities. Organizations and individuals interested in being invited to respond to Solicitations of Applications (SOAs) to conduct such work should submit information on their capabilities and experience to the Director, Technical Assistance and Research Division, Economic Development Administration, Room 7315, U.S. Department of Commerce, Washington, DC 20230.

Further Information

For further information about National Technical Assistance projects contact the National Technical Assistance Coordinator, telephone (202) 482–2127.

V. Program: University Center Technical Assistance Projects

(Catalog of Federal Domestic Assistance: 11.303 Economic Development—Technical Assistance)

Note: Application procedures and funding levels for the University Center Technical Assistance program will be announced in the **Federal Register** at a later date.

VI. Program: Planning Assistance for Economic Development Districts, Indian Tribes, and Redevelopment Areas.

(Catalog of Federal Domestic Assistance: 11.302 Economic Development—Support for Planning Organizations)

Authority

Funds under the District, Indian, and Area Planning Program are awarded to defray administrative expenses in support of the economic development planning efforts of economic development districts (Districts), redevelopment areas (Areas) and Indian tribes. This program is authorized under section 301(b) of the Public Works and Economic Development Act of 1965, as amended, 42 U.S.C. 3151(b).

Eligibility

Eligible applicants are economic development districts, redevelopment areas, organizations representing redevelopment areas (or parts of such Areas), Indian tribes, organizations representing multiple Indian tribes, the Federated States of Micronesia, the Republic of the Marshall Islands, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

Program Objective

The primary objective of planning assistance for administrative expenses under section 301(b) is to support the formulation and implementation of economic development programs designed to create or retain full-time permanent jobs and income, particularly for the unemployed and underemployed in the most distressed areas served by the applicant. Planning activities supported by these program funds must be part of a continuous process involving significant leadership by public officials and private citizens.

Funding Availability

Funds in the amount of $21.484 million are available in two categories: Districts/Areas (Category A)—$18.583 million; and Indian tribes (Category B)—$2.901 million. Individual awards may vary but usually will not exceed $58,000.

Funding Instrument

Grant assistance can be provided for up to 75 percent of project costs for Category A grants with the applicant required to provide the remaining share from local (non-federal) sources. Category B grant assistance may be provided for up to 100 percent of project costs.

Project Duration

Assistance will normally be for a period of twelve months.

Evaluation Criteria

Evaluation criteria will not be assigned weights, as all factors are equally important. EDA will consider the following factors, among other things, in evaluating proposals:

1. The responsiveness of the proposed work program to the program regulations contained in 13 CFR 307.22;

2. Past performance of any currently funded grantee (including information in scheduled progress reports);

3. The economic distress of the area served by the applicant;

4. A statement, defining management and staff capacity and qualifications in economic program/policy development and operations;

5. The local leaders' involvement in the applicants' economic development activities; and

6. Priority consideration will be given to currently funded grantees.

Proposal Submission Procedures

Application procedures may be obtained from EDA's regional offices for the following:

a. Currently funded planning grantees; and

b. Proposals from applicants not currently funded under Categories A or B, that would fit into either of those categories.

Eligible applicants under both Categories A and B should submit proposals which include:

1. A letter signed by the chief elected official (Chairman of the Board, Tribal Chairman) or another legally authorized official of the applicant stating the organization's desire to receive funds to carry out the types of planning and administrative activities eligible under the 301(b) program.

2. Significant, verifiable information on the level of economic distress in the area, including unemployment and income data. Any major changes in distress levels during the past year should be described.

3. A work program outlining the specific development activities that will be carried out under the grant and explaining how they relate to the problems identified in the area OEDP, annual report, or other documents.

New applicants should submit one copy of the proposal to the appropriate economic development representative, and an original and one copy to the appropriate EDA regional office. Addresses of the EDA regional offices and listing of the economic development representatives are found in Section XII of this Notice.

Formal Application Procedures

EDA regional offices will contact currently funded grantees to inform them of the procedures for submitting applications for continuation funding.

Following review of the proposals submitted, EDA will invite those selected for funding consideration to submit formal applications. Funding levels will be determined by the economic distress and need of the area served by the applicants, past performance of previously funded grantees, and availability of program funds. The application will include an SF–424 (approved by the Office of Management and Budget Control No. 0348–0043), proposed budget, scope of work and staffing plan.

Further Information

For further information contact the appropriate economic development representative, EDA regional office (see Section XII of this Notice), or the Director, Planning Division, Economic Development Administration, Room 7321, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 482–3027.

VII. Program: Planning Assistance for States and Urban Areas

(Catalog of Federal Domestic Assistance: 11.305 Economic Development—State and Urban Area Economic Development Planning)

Authority

Funds under the State and Urban Planning Program are awarded to defray administrative expenses in support of economic development planning efforts of eligible applicants. This program is authorized under section 302(a) of the Public Works and Economic Development Act of 1965, as amended, 42 U.S.C. 3151a.

Eligibility

Eligible applicants under this program are the governors of states, the chief executive officers of cities and counties, and substate planning and development organizations (including redevelopment areas and economic development districts).

Program Objective

The primary objective of planning assistance under section 302(a) is to support significant economic development planning and implementation initiatives of eligible applicants, particularly those experiencing severe economic distress.

Assistance must be part of a continuous process involving significant local leadership from public officials and private citizens and should include efforts to reduce unemployment and increase incomes. These efforts should be systematic and coordinated, when applicable, with other planning organizations in the area, and should strengthen the planning capabilities of applicants.

Planning program funds will not be used to provide support to activities that more appropriately meet the criteria for funding under the EDA Technical Assistance programs.

Activities eligible for support include economic analysis, definition of development goals, determination of project opportunities, development of economic development policies, processes and procedures, and formulation and implementation of an economic development program.

EDA is interested in proposals for planning activities designed to address problems of economically-distressed segments of the population. Funding priority will be given to proposals promoting exports, entrepreneurship, and technology initiatives including innovation, transfer and commercialization, or that reduce barriers to the development of new businesses. In the case of proposals from states, EDA is particularly interested in innovative approaches to planning and implementing economic development initiatives, such as tourism development, manufacturing technology and sustainable growth, as well as efforts that lend themselves to replication in other areas.

Funding Availability

Funds in the amount of $4.516 million are available for providing grant assistance under this program. Individual grants under this program are expected to range between $100,000 to $200,000.

Funding Instrument

Grant assistance may be provided for up to 75 percent of project costs. Applicants will be required to provide the remaining share, preferably in cash. Applications for grants exceeding $200,000 will be given low funding priority. EDA will consider proposals for smaller grants to support the aforementioned appropriate activities.

Project Duration

Assistance will be for the period of time required to complete the work. This period is normally 12 to 18 months. If Congress makes funds available for this program in subsequent years, grantees may submit applications for appropriate projects for up to a total of three awards.

Evaluation Criteria

Evaluation criteria will not be assigned weights, as all factors are equally important. However, the content and overall quality of the proposal and the economic distress of the area will be the principal factors considered in evaluating proposals from eligible entities. In assessing the distress factor, priority consideration will be given to proposals from states and urban areas experiencing substantial economic distress. In the case of urban areas, high priority will be given to those with unemployment rates two or more percentage points higher than the U.S. average and per capita income levels 80 percent or less of the U.S. average. For states, high priority will be given to those that meet both of the above criteria, as well as those that meet one of the above critieria and have distress equal to or greater than the national level for the other criterion. The most recent per capita income and 24-month average unemployment data available will be used to measure economic distress.

Proposals from states or urban areas which do not exhibit significant distress on the basis of unemployment or income data will not be considered unless other acceptable evidence of substantial distress is provided by the applicant (e.g., large numbers of agricultural and business failures, large numbers of low income families, drastically reduced tax bases, etc.).

Proposals from states and urban areas which are both below the U.S. national unemployment rate and above the national per capita income are unlikely to be funded.

Proposals will be judged on the basis of the elements listed below in order of more or less importance.

1. Appropriateness of the work program to the section 302(a) program objectives;

2. The economic distress of the area served by the applicant;

3. Extent to which the proposed planning activities are expected to impact upon the service area's economic development needs, and the extent to which the proposal addresses the problems of the unemployed and underemployed of the area, including the farm families, minorities, workers displaced by plant closings, etc.;

4. Past performance of currently or formerly funded grantees, when applicable;

5. The amount of local participation provided as matching dollars to the Federal funds;

6. The proximity of the performing office to the chief executive (i.e., likelihood that the activities will have a significant influence on the policy and decision making process); and

7. Other characteristics, such as involvement of the private sector in the proposed activities, and particularly for states, the innovativeness of the proposed approach and replicability of the model process or results.

Proposal Submission Procedures

Potential applicants should submit proposals that include:

1. A letter, signed by the chief executive of the applicant organization, indicating a desire to receive funds to carry out the planning activities outlined in the proposal; where the funded planning program will be placed in the organization, including the name and title of the person to be responsible for program implementation; the amount and for what period funding is being requested; and the anticipated funding arrangement if the planning activity is to continue beyond the period of EDA support.

2. Significant, verifiable information on the level of economic distress in the area, including unemployment and income data. Any major changes in distress levels during the past year should be described.

3. Information indicating the applicant's commitment to the proposed work program as demonstrated by amount of local funding and the degree of interest displayed by the chief executive.

4. A time chart showing all major work program elements, projected element start and completion dates, and the related financial expenditures programmed for each work element.

5. A work program of no more than 10 pages which outlines the specific planning activities that will be carried out under the grant and specifies which activities will be handled by in-house staff, consultants, etc. The work program should also explain the analysis and basis of the need for the proposed activities, expected impacts and their timing, target population(s), and involvement of the private sector in the proposed activities.

Current grantees seeking additional funding under this announcement should comply with the instructions of this notice. Current grantees must also include a 3–5 page progress report for the current grant when they submit the proposal and at the time they forward the formal application.

One copy of the proposal should be sent to the appropriate economic development representative, and an original and one copy to the appropriate EDA regional office. The EDA regional office and the name, address and telephone number of the economic development representative for the applicant's area can be found in Section XII of this Notice.

Formal Application Procedures

EDA will evaluate proposals using the selection criteria cited above. Once the merits of the proposal are established, EDA will initiate discussions with the prospective applicant to clarify and improve elements of the proposal, if necessary, and will invite those whose proposals are selected for funding consideration to submit formal applications, which will include an SF–424 (OMB Control No. 0348–0043), scope of work, proposed budget, staffing plan and other requested information. It should be noted that an invitation to submit a proposal does not assure EDA funding. Proposals and applications will be processed as they are received. Applications received after FY 1994 funds are exhausted may be retained by EDA for consideration for funding the following fiscal year, assuming funds are available.

Further Information

For further information contact the appropriate economic development representative, EDA regional office (see Section XII of this Notice), or the Director, Planning Division, Economic Development Administration, Room 7319, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 482–3027.

VIII. Program: Research and Evaluation Projects

(Catalog of Federal Domestic Assistance: 11.312 Economic Development—Research and Evaluation Program)

Authority

Funds under the Research and Evaluation Program are used to support studies that will increase knowledge about the causes of economic distress and approaches to alleviating such problems. This program is authorized under section 301(c) of the Public Works and Economic Development Act of 1965, as amended, 42 U.S.C. 3151(c).

Eligible Applicants

Eligible applicants for research and evaluation grants or cooperative grants include private individuals, partnerships, corporations, associations, colleges and universities, and other suitable organizations with proper expertise relevant to economic development research.

Program Objective

The objectives of section 301(c) grants and cooperative agreements are the following:

1. To determine the causes of unemployment, underemployment, underdevelopment, and chronic depression in various areas and regions of the Nation.

2. To assist in the formulation and implementation of national, state, and local programs that will raise employment and income levels and otherwise produce solutions to problems resulting from the above conditions.

3. To evaluate the effectiveness of programs, projects, and techniques used to (a) alleviate economic distress and (b) promote economic development.

Funding Availability

Funds in the amount of $500,000 are available for this program. Funds will be used for projects selected through the application procedures described below and for EDA-initiated solicitations. Individual awards may vary but usually will not exceed $100,000.

Funding Instrument

EDA will provide grants covering up to 100 percent of project costs.

Project Duration

Assistance under this program will normally be for a period not exceeding 15 months.

Evaluation Criteria

Evaluation criteria will not be assigned weights. EDA will use the following criteria to evaluate research and evaluation proposals:

1. Suitability of the subject.

2. Potential usefulness of the research to state and local economic development specialists.

3. General quality and clarity of the proposal.

4. Soundness and completeness of the research methodology.

5. Qualifications of principal investigator(s) and, where appropriate, performing organization(s).

6. Previous performance of principal investigator or performing organization on EDA-funded projects.

7. Cost and value of product in relation to cost.

EDA is interested in receiving proposals dealing with:

1. Employment and unemployment;
2. Income and poverty;
3. Rural and other nonmetropolitan economic development;
4. Regional and local growth;
5. Industrial location;
6. Job creation methods;
7. State and local economic development efforts;
8. Private sector economic development efforts;
9. Export development;
10. Development finance, particularly nonfederal sources of economic development financing;
11. Industrial competitiveness;
12. Minority business and minority jobs;
13. Productivity and technology; and
14. Sustainable development and growth management.

Requested grants and awards should be for specific, well-defined, one-time research projects. EDA research grants are not intended for support of continuing programs (permanent research programs, publication and information programs, periodic forecasts, etc.) or for non-research activities. EDA normally prefers research of broad geographic scope, that covers the whole country or a large multistate region, as opposed to research covering (in declining order of preference) a small region, a state, a multicounty area, or a single city or county. EDA prefers practical cause-and-effect research and descriptive analyses, and funding for such will receive much higher priority and likelihood of approval as compared to theoretical studies, modeling (other than for hypothesis testing), and the like. Economic development planning and technical assistance for specific places will not be funded under the Research and Evaluation Program; the Planning and Technical Assistance Programs are for those purposes.

Proposal Submission Procedures

Potential applicants should submit one original and two (2) copies of a brief and concise proposal which should not exceed 20 pages, not counting vita and capability information. Proposals should avoid long background discussions and literature surveys, but should be reasonably detailed, particularly in explaining methodology and data sources. Each proposal should include:

1. A cover page giving a short descriptive project title, the name and address of the performing organization, the names and telephone numbers of the project director and principal investigators, the project duration, the amount of EDA funds requested, and the program (Research and Evaluation) that would provide the funds;

2. A brief scope-and-objectives section indicating why the project is needed, giving its objectives, and providing a capsule description of the project;

3. A more detailed description of the project and its methodology;

4. A work plan showing different phases of the project and their timing;

5. A detailed budget showing cost breakdowns, with EDA-funded and non-EDA-funded costs presented in separate columns and with the EDA-funded costs adding to the total shown on the cover page;

6. Resumes for the project director and principal investigators; and

7. A corporate or institutional capability statement, where appropriate.

The cover letter accompanying the proposal should inform EDA of whether any other organization(s) or Federal agency(ies) is or will be considering the proposal. Any non-EDA contributions to the project, whether by the performing organization or third parties, should be identified.

The deadline for receipt of proposals shall be eight weeks after the date of this announcement.

Proposals should be submitted to the Director, Technical Assistance and Research Division, Economic Development Administration, Room 7315, U.S. Department of Commerce, Washington, DC 20230.

Formal Application Procedures

EDA will evaluate the proposals as they are received using the selection criteria described above. Organizations and individuals whose proposals are selected for further consideration will be invited to submit additional materials required for formal application. The formal application will include an SF–424 (OMB Control No. 038–0043).

Eligibility for Specific Solicitation

In addition to using research and evaluation funds to support proposals submitted under the procedures described above, EDA may during the fiscal year identify other studies, including program evaluations, for funding consideration.

Organizations and individuals interested in being invited to respond to Solicitations of Applications (SOAs) to conduct such studies should submit information on their capabilities and experience to the address listed above. This information will be used to determine eligibility to compete for projects under specific SOAs.

Further Information

For further information, contact the Director, Technical Assistance and Research Division, at the above address; telephone, (202) 482–4085.

IX. Program: Economic Adjustment Assistance (Title IX)

(Catalog of Federal Domestic Assistance No: 11.307 Special Economic Development and Adjustment Assistance Program—Long-Term Economic Deterioration (LTED) and Sudden and Severe Economic Dislocation (SSED))

Authority

Funds under the Economic Adjustment Program are used to assist areas experiencing long-term economic deterioration (LTED) and areas threatened or impacted by sudden and severe economic dislocation (SSED). This program is authorized under Title IX of the Public Works and Economic Development Act of 1965, as amended, 42 U.S.C. 3241–3245.

Program Objective

The LTED Program assists eligible applicants to develop or implement strategies designed to halt and reverse the long-term decline of their economies.

The SSED Program assists eligible applicants to respond to actual or threatened major job losses (dislocations) and other severe economic adjustment problems. It is designed to help communities prevent a sudden, major job loss; to reestablish employment opportunities and facilitate community adjustment as quickly as possible after one occurs; or to meet special needs resulting from severe changes in economic conditions. SSED assistance is intended to respond to permanent rather than temporary job losses. Assistance under both programs may be in the form of a grant to develop a strategy to respond to the adjustment problem (Strategy Grant) or a grant to implement an EDA approved strategy (Implementation Grant).

Funding Availability

Funds in the amount of $35.542 million are available for the Economic Adjustment Program in FY 1994. Individual awards are expected to range between $100,000 and $1.5 million.

Funding Instrument

Title IX funds are awarded through grants not to exceed 75 percent of the project cost. Acceptable sources of the local share include, but are not limited to, local government general revenue funds; Community Development Block Grant (CDBG) entitlement funds or balance of state awards; and other public and private donations. The Assistant Secretary may waive all or part of the 25 percent nonfederal share of economic adjustment assistance grants, if he/she determines that the nonfederal share is not reasonably available because of the critical nature of the situation requiring economic adjustment assistance or for other good cause. The full amount of the local share need not be in hand at the time of application; however, the applicant must have a firm commitment from identified source(s), and the funds must be readily available. The local share must not be encumbered in any way that would preclude its use as required by the grant agreement. With the exception of RLF grants, for which the local share must be in cash, the local share may be cash or in-kind. However, priority consideration will be given to proposals with a cash local share.

Eligible Applicants

Eligible applicants within areas meeting the EDA eligibility criteria described below include a redevelopment area or economic development district established under Title IV of this Act, 42 U.S.C. 3161; an Indian tribe; a state; a city or other political subdivision of a state, or a consortium of such political subdivisions; a Community Development Corporation defined in the Community Economic Development Act, 42 U.S.C. 9802; a nonprofit organization determined by EDA to be the representative of a redevelopment area; the Federated States of Micronesia, the Republic of the Marshall Islands, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

Eligible Areas

A. *LTED*

In order to receive priority consideration for funding under the LTED Program, an area must be experiencing at least one of three economic problems: very high unemployment; low per capita income; or chronic distress (i.e., failure to keep pace with national economic growth trends over the last five years). Priority will be given to those areas with two or more of these indicators. Eligibility is determined statistically. Further information is available from EDA's regional offices or the economic development representative for your area (see Section XII of this Notice).

B. *SSED*

In order to receive priority consideration for funding under the SSED Program, an area must show actual or threatened permanent job losses that exceed the following threshold criteria, unless otherwise determined by the Assistant Secretary:

1. For areas not in Metropolitan Statistical Areas:

a. If the unemployment rate of the Labor Market Area exceeds the national average, the dislocation must amount to the lesser of two (2.0) percent of the employed population, or 500 direct jobs.

b. If the unemployment rate of the Labor Market Area is equal to or less than the national average, the dislocation must amount to the lesser of four (4.0) percent of the employed population, or 1,000 direct jobs.

2. For areas within Metropolitan Statistical Areas:

a. If the unemployment rate of the Metropolitan Statistical Area exceeds the national average, the dislocation must amount to the lesser of one-half (0.5) percent of the employed population, or 4,000 direct jobs.

b. If the unemployment rate of the Metropolitan Statistical Area is equal to or less than the national average, the dislocation must amount to the lesser of one (1.0) percent of the employed population or 8,000 direct jobs.

In addition, fifty (50) percent of the job loss threshold must result from the action of a single employer, or eighty (80) percent of the job loss threshold must occur in a single standard industry classification (i.e., two digit SIC code).

In the case of a Presidentially declared natural disaster, the area eligibility criteria are waived. In other similarly exceptional circumstances, the criteria may be partially waived at the discretion of the Assistant Secretary.

Actual dislocations must have occurred within one year and threatened dislocations must be anticipated to occur within two years of the date EDA is contacted.

Project Duration

Projects are expected to be completed in a timely manner consistent with the nature of the project. However, the maximum period for which assistance will be provided shall not be more than five years from date of award.

Evaluation Criteria

Proposals will be evaluated based on conformance with statutory and regulatory requirements, the economic adjustment needs of the area, the merits of the proposed project in addressing those needs and the potential applicant's ability to manage the grant effectively. Evaluation criteria will not be assigned weights, as all factors are equally important.

A. LTED/RLF Evaluation Criteria

Key factors in EDA's evaluation of proposed LTED/RLF projects include:

1. Economic and Financial Needs of the Project Area: a. Areas with the highest levels of economic distress (high unemployment, low per capita income, vacant plants, deteriorating infrastructure, and declining farm economy, etc.) will receive priority consideration.

b. Need for RLF financing will be evaluated based on the local capital market and the applicant's analysis of it, and how clearly this analysis defines the financial problems to be addressed by the RLF project.

c. Applicant's need for grant funds to carry out the project will be based on an assessment of its financial resources.

2. Objectives and Benefits of Proposed Projects: Priority will be given to projects that:

a. Stimulate private sector employment. The number and types of jobs to be created/retained will be key factors in project selection along with the job/cost ratio established for the RLF portfolio as a whole.

b. Target assistance to meet program objectives and to support specific economic adjustment activities planned or underway in the area, particularly those identified in the OEDP, Title IX strategy, or other plans developed to deal with specific economic adjustment problems affecting the area. This may include target areas, industries, types of employers or other criteria that maximize the impact of assistance on specific needs within the area.

c. Leverage higher ratios of private investment than the required minimum ratio of two private sector investment dollars to one RLF dollar. (Note: the local share or other funds provided by the RLF to finance loans cannot be counted as leveraged dollars.)

d. Promote exports, entrepreneurship, and technology initiatives including innovation, transfer and commercialization.

e. Direct new job opportunities to the long-term unemployed and underemployed.

f. Provide technical and management assistance for RLF borrowers, in addition to loan funds.

g. Use creative financing techniques to overcome specific gaps in the local capital market.

h. Make loans on a timely basis. The implementation schedule for RLF projects will normally require that RLF loans in the initial round be closed (and all EDA funds disbursed) within three years of grant approval with no less than 50 percent disbursed within eighteen months and 80 percent within two years.

i. Include a larger local share than the required 25 percent or secure commitments for future funding from other private or nonfederal public sources.

j. Coordinate activities with other economic development organizations, loan programs, employment training programs and private lenders in the area.

k. Are established to fill capital gaps as opposed to providing subsidized credit (i.e., below market interest rates).

3. Effective Management of the RLF: EDA will also evaluate proposed projects to determine that the RLF will be properly managed. Key factors include:

a. A strong and effective Loan Administration Board with broad community representation, including appropriate public and private sector representation.

b. Staff capacity in program and policy development, finance, law, marketing, credit analysis, loan packaging, processing, and servicing.

c. Efficient procedures for loan selection, approval, and servicing which emphasize the economic development potential of loans as well as sound management and financing practices.

d. A strategy for relending loan repayments which will ensure that the RLF revolves continuously and thus fulfills its purpose of creating jobs and stimulating economic activity on an ongoing basis.

e. Adequate resources to cover administrative costs of the RLF.

f. The potential applicant's experience and capacity for administering economic and business loan programs. If the potential applicant has designated another organization to administer the project, EDA will evaluate the experience and capacity of that organization, rather than the potential applicant.

Nongovernmental (excluding economic development districts) organizations seeking funds must be sponsored by the local or state government having jurisdiction over the project area, and the sponsor must be willing to assume responsibility for operating the RLF should the nongovernmental entity no longer be able to administer the project.

B. *SSED Evaluation Criteria*

Key factors in EDA's evaluation of proposed SSED projects include:

1. The severity of the dislocation as measured by, but not limited to, the following factors:

a. The degree to which the number of dislocated workers exceeds the eligibility threshold.

b. The proportion of the total job loss represented by a single employer.

c. The proportion of employment in a single standard industry classification represented by the firm(s) closing.

d. The applicant's need for grant funds to carry out the project based on an assessment of its financial resources.

2. The objectives and benefits of proposed activities as measured by the extent to which:

a. *For Implementation Grants:* (1) Job creation or retention and restoration of the community's economic base in the near term are emphasized versus more long-term, general economic development. Projects likely to encounter delays, particularly in initiating or completing construction, will normally not be given favorable consideration.

(2) The jobs to be created or retained are permanent, will directly benefit the dislocated workers or will directly facilitate community adjustment, and are new employment opportunities and not transferred from one area of the United States to another.

(3) The response to the problem is timely.

(4) EDA assistance will be complemented by, or will complement, appropriate state and local efforts; for example, training and job placement services, other Federal investments, and private sector support.

(5) The adjustment strategy and implementation activities proposed demonstrate an appropriately creative approach to addressing the dislocation.

(6) The cost per job created or retained is minimized.

(7) In the case of a Revolving Loan Fund, the recycled loan proceeds generate economic development benefits.

(8) The local share exceeds the required 25 percent.

b. *For Strategy Grants:* (1) The applicant has demonstrated the capacity to manage the planning process and subsequent implementation activities.

(2) The proposed scope of work is responsive to the problem.

(3) The focus of the planning effort is on the generation of practical and implementable solutions.

(4) The local share exceeds the required 25 percent.

Project Implementation

As indicated in the first section of this Notice, EDA expects all grant-funded projects to be initiated and completed in a timely manner in accordance with the schedule agreed upon in the grant documentation. The recipient will be responsible for promptly notifying EDA of any events that prevent adherence to the approved schedule. The grantee must also provide an explanation of why the events were beyond its ability to predict or control and obtain EDA approval of changes in the schedule prior to proceeding with project implementation.

EDA expects grantees to anticipate predictable delays (such as those caused by land acquisition problems, local financing requirements, acquisition of state permits and approvals, normal weather conditions in area, and public objections to the project), and take them into account in preparing the project schedule. Grantees who fail to comply with project schedules may be subject to grant suspension or termination.

Proposal Submission Procedures

Interested parties should contact the economic development representative for the area or the appropriate EDA regional office (see section XII of this Notice) for a proposal package. Project proposals, submitted by eligible entities, will be evaluated by EDA staff on the basis of:

1. Conformance with the evaluation criteria mentioned above and statutory, regulatory and policy requirements.

2. The availability of funds.

Application Procedures

Following a review of project proposals, EDA will invite those projects selected for funding consideration to submit applications. It should be noted that an invitation to apply does not assure funding. The application will include an ED–540, as approved by the Office of Management and Budget Control No. 0610–0058.

Further Information

For further information, contact the appropriate economic development representative, EDA regional office (see Section XII of this Notice), or the Director, Economic Adjustment Division, Economic Development Administration, Room 7327, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 482–2659.

X. Program: Defense Conversion Assistance

Authority

Funds under the Defense Conversion program are used to enable areas, whose economies are adversely impacted by reductions in defense spending, to facilitate the orderly redeployment of their defense created assets to activities which help restructure and/or strengthen their economic base. Areas experiencing closure of a military facility, a defense related Department of Energy facility and/or reductions in defense procurements may be eligible for assistance. This program is authorized under section 4103(b) of Division D of Public Law 101–510 for FY 1991, and section 4305 of Division D of Public Law 102–484 for FY 1993, 10 U.S.C. 2391 note.

Program Objective

The program is designed to provide defense impacted communities with the resources to develop and/or carry out programs and projects, singly or in combination, that support implementation of a defense conversion strategy or base re-use plan. Commonly funded types of programs and projects include, but are not limited to: planning and strategy development (only as may be necessary to complement and expand work funded by the Office of Economic Adjustment, Department of Defense); research and analysis, for example, marketing and feasibility studies; design and delivery of conversion or development assistance and services for affected businesses, typically smaller defense contractors, for example, filling gaps in available technical services, developing collaborative alliances for new product and market development, and establishing or expanding financing programs for targeted businesses; and infrastructure improvements needed to facilitate the re-use of former military facilities.

Assistance may be provided directly to affected communities, and also through other entities, such as states or regional development organizations, when to do so would result in more effective and efficient delivery of a particular service or program.

Funding Availability

Funds in the amount of $80 million are available for the Defense Conversion program under Public Law 103–121, October 27, 1993.

Note: The Selection Criteria and Application Procedures set forth in this announcement supersede those previously announced in the **Federal Register** of May 6, 1993 (58 FR 27188), and apply to the unobligated balance of the $80 million authorized under section 4305 of Division D of Public Law 102–484 and of the $50 million authorized under section 4103(b) of Division D of Public Law 101–510.

Funding Instrument

Assistance is in the form of grants, which will normally be awarded under the authority of EDA's Title IX Economic Adjustment program. However, grants for assistance under the Defense Conversion program may also be made to applicants eligible for assistance under the Title I Public Works and the Title III Technical Assistance, Research and Planning programs.

Title IX grants may be awarded for up to 75 percent of the total project cost. Acceptable sources of the local share include, but are not limited to, local government general revenue funds; Community Development Block Grant (CDBG) entitlement funds or balance of state awards; and other public and private donations. The Assistant Secretary may waive all or part of the 25 percent nonfederal share of economic adjustment assistance grants, if he/she determines that the nonfederal share is not reasonably available because of the critical nature of the situation requiring economic adjustment assistance or for other good cause. The full amount of the local share need not be in hand at the time of application; however, the applicant must have a firm commitment from identified source(s), and the funds must be readily available. The local share must not be encumbered in any way that would preclude its use as required by the grant agreement. The local share for a revolving loan fund project must be in cash, and while the local share for other types of defense conversion activities may be cash or in-kind, priority consideration will be given to proposals with a cash local share.

For information regarding local share requirements for the Title I Public Works and the Title III Technical Assistance, Research and Planning programs, Sections II, IV and VI of this Announcement should be consulted.

In accordance with Public Law 103–121, financial assistance may be provided for projects to be located on military installations closed or scheduled for closure or realignment to eligible grantees under PWEDA without it being required that the grantee have title or ability to obtain a lease for the property, for the useful life of the project when, in the opinion of the Secretary of Commerce such financial assistance is necessary for the economic development of the area; and the Secretary of Commerce may, as he or she deems appropriate, consult with the Secretary of Defense regarding title to the land on military installations closed or scheduled for closure or realignment.

Eligible Applicants

Eligible applicants within areas meeting the eligibility criteria described below include a redevelopment area or economic development district established under Title IV of this Act, 42 U.S.C. 3161; an Indian tribe; a state; a city or other political subdivision of a state, or a consortium of such political subdivisions; a Community Development Corporation defined in the Community Economic Development Act, 42 U.S.C. 9802; a nonprofit organization determined by EDA to be the representative of a redevelopment area; and the Federated States of Micronesia, the Republic of the Marshall Islands, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

For assistance under the Title I Public Works program, and Title III Technical Assistance, Research and Planning programs, Sections II, IV and VI of this Announcement should be consulted.

Applicants must meet either the Department of Defense criteria or the Economic Adjustment program criteria described in A and B below:

A. Department of Defense Criteria

(1) In the case of a proposed or actual establishment, realignment, or closure of a military installation, where the Secretary of Defense determines that such action is likely to have a direct and significantly adverse consequence on the affected community.

(2) In the case of a publicly announced planned reduction in DOD spending, the cancellation or termination of a DOD contract, or the failure to proceed with a previously approved major defense acquisition program, assistance may be provided only if the reduction, cancellation, termination, or failure will have a direct and significant adverse impact on a community and will result in the loss of the lesser of:

(a) 2,500 or more employee positions, in the case of a Metropolitan Statistical Area (MSA) or similar area (as defined by the Director of the Office of Management and Budget);

(b) 1,000 or more employee positions, in the case of a labor market area outside of an MSA; or

(c) one percent of the total number of civilian jobs in that area.

B. EDA Criteria

The dislocation must satisfy one of the following criteria (in exceptional circumstances, the criteria may be partially waived by the Assistant Secretary for Economic Development):

(1) For areas not in MSAs:

(a) If the unemployment rate of the Labor Market Area exceeds the national average, the dislocation must amount to the lesser of two (2.0) percent of the employed population, or 500 direct jobs.

(b) If the unemployment rate of the Labor Market Area is equal to or less than the national average, the dislocation must amount to the lesser of four (4.0) percent of the employed population, or 1,000 direct jobs.

(2) For areas within MSAs:

(a) If the unemployment rate of the MSA exceeds the national average, the dislocation must amount to the lesser of one-half (0.5) percent of the employed population, or 4,000 direct jobs.

(b) If the unemployment rate of the MSA is equal to or less than the national average, the dislocation must amount to the lesser of one (1.0) percent of the employed population, or 8,000 direct jobs.

Actual dislocations must have occurred within one year and threatened dislocations must be anticipated to occur within two years of the date EDA is contacted.

Evaluation Criteria

Evaluation criteria will not be assigned weights, as all factors are equally important. However, key factors in EDA's evaluation of proposed defense conversion projects include:

1. The relative severity of the impact of the defense cutbacks on the economic and employment base of the area(s).

2. The quality of the area economic adjustment/defense conversion strategy or base re-use plan which is a pre-requisite for funding consideration. The plan should address and/or provide evidence of the following:

a. An appropriately designed and conducted planning process;

b. The scale and characteristics of the impact of the defense cutbacks on workers, industry sectors and businesses;

c. Strategic objectives that address the defense related problems and opportunities, are appropriate to the area's particular economic attributes and circumstances, and are based on sound research and analysis;

d. All appropriate and available Federal, State and local resources, programs, services, etc., have been identified and will be mobilized and coordinated to support implementation of the strategy; and

e. The performance measures which the community will use to assess progress toward accomplishing its strategic objectives.

Note: EDA may, in some instances, consider funding a project prior to completion of the strategy/plan, provided that (a) an appropriate community planning process is underway, (b) sufficient analysis has been done to show that the proposed project is economically viable and potentially consistent with the evolving strategy and (c) the proposed project has the support of the community.

3. The degree to which the proposed program/project contributes to:

a. Productive redeployment of defense created assets (facilities, workforce skills industrial technologies and production capacity);

b. Overcoming critical impediments to a community's ability to progress with implementing its strategy or base reuse plan; and

c. Facilitating/stimulating private sector investment in the production of the types of goods and services that will strengthen the economic base of the area over the long term, and lead to the generation of new employment opportunities and revenue.

4. The capacity of the prospective applicant to administer the proposed project and ensure achievement of the stated objectives.

Proposal Submission Procedures

When a major defense cutback is announced, EDA's economic development representative for the state in which it is to occur will normally contact officials of the affected community. Otherwise, the interested parties should contact either the economic development representative for the area or the appropriate EDA regional office (see section XII of this Notice). The economic development representative will track the community's strategy/base re-use planning process and provide information regarding activities/projects that could be considered for EDA assistance. At such time as the planning process is sufficiently advanced for prospective implementation programs and projects to have been identified, the economic development representative will advise the community on the preparation of a short funding proposal.

Application Procedures

EDA will evaluate proposals using the selection criteria cited above. Once the merits of the proposal are established, EDA will work if necessary with the prospective applicant to clarify elements of the proposal and such EDA administrative policies and requirements as may apply to the particular type of program or project for which assistance is being requested. For example, applicants for assistance to capitalize a revolving loan fund (RLF) are required to submit a RLF Plan. When a proposal is selected for funding consideration, EDA will invite the proponent to submit a formal application under the authority of the specified funding program, i.e. Title I, III or IX. It should be noted that an invitation to apply does not assure funding.

Further Information

For further information, contact the appropriate economic development representative, EDA regional office (see Section XII of this Notice), or the Director, Economic Adjustment Division, Economic Development Administration, Room 7327, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 482–2659.

XI. Program: Trade Adjustment Assistance

(Catalog of Federal Domestic Assistance: 11.313 Economic Development—Trade Adjustment Assistance)

Authority

Funds under the Trade Adjustment Assistance Program are awarded to a network of Trade Adjustment Assistance Centers, located around the Nation, which provide technical assistance to certified firms adversely affected by increased imports. Funds are also awarded under this program to organizations representing trade-injured industries. This program is authorized under Title II, Chapter 3 of the Trade Act of 1974, 19 U.S.C. 2341–2355.

Funding Availability

Funds in the amount of $10.0 million are available for trade adjustment assistance to firms. These funds will be provided to the nationwide network of Trade Adjustment Assistance Centers (TAACs) through cooperative agreements which will utilize all of the available funds for trade adjustment assistance. Individual awards are expected to range between $650,000 and $1.6 million.

Therefore, no new centers will be funded in FY 1994. No funds are available for industry technical assistance in FY 1994.

Program Objective

The Trade Adjustment Assistance Program is designed to provide technical assistance to certified firms and industries hurt by the impact of increased imports. The TAACs help

firms submit certification petitions to the Trade Adjustment Assistance Division (TAAD) of EDA, and if the firm is certified, provides technical assistance. A firm should work closely with the appropriate TAAC in petitioning for certification. Certified firms should also work closely with the appropriate TAAC in diagnosing their problems and developing an adjustment proposal, and in applying for technical assistance.

An industry association or other organization interested in receiving an industry assistance cooperative agreement must meet with a TAAD representative to discuss the industry's problems, opportunities, and assistance needs.

Criteria for Evaluating Industry Assistance Proposals

Industry associations and other organizations seeking trade adjustment industry assistance must demonstrate that the industry is injured by foreign trade and that the activities to be funded will yield some short-term actions that the industry itself (and individual firms) can and will take toward the restoration of the industry's international competitiveness. Evaluation criteria will not be assigned weights, as all factors are equally important.

The emphasis is on practical results that can be implemented in the near term, and long-term research and development activities are given low priority. It is also expected that the industry will continue activities on its own without the need for continued Federal assistance.

Application Procedures

Industry associations or other organizations seeking industry assistance must submit an application identified as Standard Form 424 (OMB Control No. 0348–0043), if encouraged to do so as a result of the meeting with a TAAD representative.

Acceptable industry assistance applications will be processed as funds are available; normally one to three months is required for final decision on application.

Formula and Matching Requirements

Generally, a minimum of 50 percent share is required for industry assistance cooperative agreements.

Length and Time Phasing of Assistance

Industry assistance cooperative agreements are generally for a 12-month period, but may be longer for tasks requiring more time to complete.

Further Information

For further information, contact the Director, Trade Adjustment Assistance Division, Economic Development Administration, Room 7023, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 482–3373.

XII. EDA Regional Offices and Economic Development Representatives

The EDA regional offices, states covered, and the economic development representatives (EDRs) are listed below.

EDRs	States covered
Atlanta Regional Office, 401 West Peachtree Street, N.W., Suite 1820, Atlanta, Georgia 30308–3510, Telephone: (404) 730–3002.	
BURNETTE, F. Wayne, Aronov Building, Room 134, 474 South Court Street, Montgomery, AL 36104, Telephone: (205) 223–7008.	Alabama.
SMITH, Lola B., Federal Building, Room 423, 80 North Hughey Avenue, Orlando, FL 32801, Telephone: (407) 648–6572.	Florida.
DAY, William J., Jr., 401 West Peachtree Street, N.W., Suite 1820, Atlanta, GA 30308–3510, Telephone: (404) 730–3000.	Georgia.
HUNTER, Bobby D., 771 Corporate Drive, Suite 200, Lexington, KY 40503–5477, Telephone: (606) 233–2596.	Kentucky.
AINSWORTH, Bob, 221 Federal Building, 100 West Capital Street, Jackson, MS 39269, Telephone: (601) 965–4342.	Mississippi.
JONES, Dale L., P.O. Box 2522, Raleigh, NC 27601, Telephone: (919) 856–4570	North Carolina.
DIXON, Patricia M., Strom Thurmond Federal Building, 1835 Assembly Street, Room 840, Columbia, SC 29201, Telephone: (803) 765–5676.	South Carolina.
PARKS, Mitchell S., 261 Cumberland Bend Drive, Nashville, TN 37228, Telephone: (615) 736–5911	Tennessee.
Austin Regional Office, Suite 201, Grant Building, 611 East Sixth Street, Austin, Texas 78701–3748, Telephone: (512) 482–5461.	
SPEARMAN, Sam, Room 2509, Federal Building, 700 West Capitol, Little Rock, AR 72201, Telephone: (501) 324–5637.	Arkansas.
DAVIDSON, Pamela, 412 North Fourth Street, Room 104, Baton Rouge, LA 70802–5523, Telephone: (504) 389–0227.	Louisiana.
SWEARINGEN, James, P.O. Box 2662, Santa Fe, NM 87504, Telephone: (505) 988–6557	New Mexico.
WATERS, Alvin X., Jr., 5500 North Western, Suite 148, Oklahoma City, OK 73118–4011, Telephone: (405) 231–4198.	Oklahoma.
RAMIREZ, Roy, Suite 201, Grant Building, 611 East Sixth Street, Austin, TX 78701–3748, Telephone: (512) 482–5118.	Texas (south).
JACOB, Lawrence, Suite 201, Grant Building, 611 East Sixth Street, Austin, TX 78701–3748, Telephone: (512) 482–5119.	Texas (north).
Chicago Regional Office, 111 North Canal Street, Suite 855, Chicago, IL 60606–7204, Telephone: (312) 353–7706.	
CASALS, Alfred L., 509 West Capitol, Suite 204, Springfield, IL 62704, Telephone: (217) 492–4224	Illinois.
HENDERSON, Richard L., Federal Building Courthouse, Room 402, 46 East Ohio Street, Indianapolis, IN 46204, Telephone: (317) 226–6104.	Indiana.
COLLISON, James L., 100 North Warren Avenue, Room 1018, Saginaw, MI 48606–0867, Telephone: (517) 758–4097.	Michigan.
ARNOLD, John B., III, 104 Federal Building, 515 West First Street, Duluth, MN 55802, Telephone: (218) 720–5326.	Minnesota.
HICKEY, Robert F., Federal Building, Room 607, 200 North High Street, Columbus, Ohio 43214, Telephone: (614) 469–7314.	Ohio.

EDRs	States covered
PRICE, Jack D., 1320 W. Clairemont Ave., Suite 114, Eau Claire, WI 54701, Telephone: (715) 834–4079 ..	Wisconsin.
Denver Regional Office, 1244 Speer Boulevard, Room 670, Denver, Colorado 80204, Telephone: (303) 844–4714.	
ZENDER, John, 1244 Speer Boulevard, Room 632, Denver, CO 80204, Telephone: (303) 844–4902	Colorado.
CECIL, Robert, Federal Building, Room 593A, 210 Walnut Street, Des Moines, IA 50309, Telephone: (515) 284–4746.	Kansas. Iowa.
KOCH, Forrest E., Robert A. Young Building, Room 8.308H, 1222 Spruce Street, St. Louis, MO 63103, Telephone: (314) 539–2321.	Missouri.
ROGERS, John C., Federal Building, Room 196, Drawer 10074, Helena, MT 59626, Telephone: (406) 449–5074.	Montana.
ALBERTSON, Warren A., Federal Building, Room 219, Pierre, SD 57501, Telephone: (605) 224–8280	Nebraska. South Dakota.
GRANT, Cornelius P., P. O. Box 1911, Bismarck, ND 58501, Telephone: (701) 250–4321	North Dakota.
OCKEY, Jack, Federal Building, Room 2414, 125 South State Street, Salt Lake City, UT 84138, Telephone: (801) 524–5119.	Utah. Wyoming.
Philadelphia Regional Office, Curtis Center, Independence Square West, Suite 140 South, Philadelphia, PA 19106, Telephone: (215) 597–4603.	
HAMMARLUND, C.N., Jr., Federal Office Building, Room 453, 450 Main Street, Hartford, CT 06103, Telephone: (203) 240–3256.	Connecticut. Rhode Island.
FLYNN, Patricia A., 2568 Riva Road, 2nd Floor, Annapolis, MD 21401, Telephone: (410) 962–2513	Delaware. Maryland. District of Columbia.
BLITZ, Sandford, Federal Building, Room 410D, 40 Western Avenue, Augusta, ME 04330, Telephone: (207) 622–8271.	Maine.
FITZHENRY, William A., Boston Federal Office Building, 10 Causeway Street, Room 420 (Box 2), Boston, MA 02222–1036, Telephone: (617) 565–7235.	Massachusetts.
POTTER, Rita V., 143 North Main Street, Suite 209, Concord, NH 03301, Telephone: (603) 225–1624	New Hampshire. Vermont.
ROSSIGNOL, Clifford J., 44 South Clinton Avenue, Room 703, Trenton, NJ 08609, Telephone: (609) 989–2192.	New Jersey.
MARSHALL, Harold J., II, 620 Erie Boulevard West, Suite 104, Syracuse, NY 13204, Telephone: (315) 423–5203.	New York.
PECONE, Anthony M., 1933A New Berwick Highway, Bloomsburg, PA 17815, Telephone: (717) 389–7560	Pennsylvania.
CRUZ, Ernesto L., Federal Office Building, Room 620, 150 Carlos Chardon Avenue, Hato Rey, PR 00918–1738, Telephone: (809) 766–5187.	Puerto Rico. Virgin Islands.
NOYES, Neal E., 700 Centre Building, Room 230, 704 E. Franklin Street, Richmond, VA 23219, Telephone: (804) 771–2061.	Virginia.
DAVIS, R. Byron, Rose City Press Building, 550 Eagan Street, Room 305, Charleston, WV 25301, Telephone: (304) 347–5252.	West Virginia.
Seattle Regional Office, Jackson Federal Building, Room 1856, 915 Second Avenue, Seattle, Washington 98174, Telephone: (206) 220–7660.	
RICHERT, Bernhard E., Jr., 605 West 4th Avenue, Room G–80, Anchorage, AK 99501–7594, Telephone: (907) 271–2274.	Alaska.
PEROT, C. Antony, 2901 North Central Phoenix Plaza, Suite 965, Phoenix, AZ 85012, Telephone: (602) 640–2541.	Arizona, Nevada (except Elko, Eureka and White Pine Counties).
SOSSON, Deena R., 1345 J Street, Suite B, Sacramento, CA 95814, Telephone: (916) 551–1541	California (northern).
LEWIS, William J., 1345 J Street, Suite B, Sacramento, CA 95814, Telephone: (916) 551–2160	California (central).
OAKS, Charles W., 11000 Wilshire Boulevard, Room 11105, Los Angeles, CA 90024, Telephone: (310) 575–7286.	California (southern).
McCHESNEY, Frank, P.O. Box 50264, Federal Building, Room 4106, Honolulu, HI 96850, Telephone: (808) 541–3391.	Hawaii, Guam, American Samoa, Marshall Islands, Micronesia, Northern Marianas.
AMES, Aldred F., Room 441, 304 North 8th Street, Boise, ID 83702, Telephone: (208) 334–1533	Idaho, Nevada (counties of Elko, Eureka & White Pine).
BERBLINGER, Anne S., One World Trade Center, 121 S.W. Salmon Street, Suite 244, Portland, OR 97204, Telephone: (503) 326–3078.	Oregon.
KIRRY, Lloyd P. (acting), Jackson Federal Building, 915 Second Avenue, Room 1856, Seattle, WA 98174, Telephone: (206) 220–7682.	Washington.

Dated: March 24, 1994.

William W. Ginsberg,

Assistant Secretary for Economic Development.

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Wednesday
March 30, 1994

Part VII

Department of Housing and Urban Development

Office of Assistant Secretary for Community Planning and Development

24 CFR Part 570

Community Adjustment and Economic Diversification Planning Program; Special Purpose Grants; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Community Planning and Development

24 CFR Part 570

[Docket No. R-94-1625; FR-3404-F-02]

RIN 2506-AB61

Community Adjustment and Economic Diversification Planning Program; Special Purpose Grants

AGENCY: Office of the Assistant Secretary for Community Planning and Development, (HUD).

ACTION: Final rule.

SUMMARY: This rule implements a new program of planning grants for community adjustment and economic diversification activities needed as the result of the effects on localities of certain Department of Defense (DoD) related actions, such as base closings or contract cancellations. Section 801(c)(2) of the Housing and Community Development Act of 1992 added a new Section 107(b)(6) to the Housing and Community Development Act of 1974 to authorize these special purpose planning grants to units of general government in nonentitlement areas.

EFFECTIVE DATE: April 29, 1994.

FOR FURTHER INFORMATION CONTACT: James Selvaggi, Deputy Director, Office of Technical Assistance, room 7168, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708-2090 or (TDD) (202) 708-4594. (These are not toll free numbers.)

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The information collection requirements contained in this rule have been approved under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501-3520) by the Office of Management and Budget (OMB) and have been assigned OMB control number 2535-0084.

Background

Congressional Initiative

On October 28, 1992, the President signed into law the Housing and Community Development Act of 1992 (Pub. L. 102-550) (HCD Act of 1992). In section 801(c)(2) of this law, Congress added a section 107(b)(6) to the Housing and Community Development Act of 1974 (42 U.S.C. 5307(b)(6)) (HCD Act of 1974) to authorize grants for planning community adjustments and economic diversification activities under any of four criteria: (1) The proposed or actual establishment, realignment or closing of a military installation, (2) the cancellation or termination of a Department of Defense (DoD) contract or the failure to proceed with an approved major weapon system program, (3) a publicly announced planned major reduction in DoD spending that would directly and adversely affect a unit of general government, and will result in the loss of 1,000 or more full-time DoD and contractor employee positions over a five-year period in the unit of general government and the surrounding area, or (4) the Secretary (in consultation with the Secretary of Defense) determines that an action described in 1, 2, or 3 is likely to have a direct and significant adverse consequence on the unit of general local government.

The statutory features of this program are: (1) The provision of assistance for planning, but not for implementation, of community adjustments and economic diversification activities, (2) limitation of assistance to units of general government in nonentitlement areas; i.e., in an area which is not a metropolitan city or part of an urban county and does not include Indian Tribes, under Title I of the Housing and Community Development Act of 1974, as amended, and (3) the four defined criteria that trigger eligibility for assistance. These criteria closely parallel the criteria in 10 U.S.C. 2391, Military Base Reuse Studies and Community Planning Assistance, which trigger assistance available from the DoD for both advance adjustment planning and implementation of adjustment and economic diversification activities.

With respect to funding for this program, HUD anticipates allocation of up to about two million dollars for FY 1994 from funds available under section 107 of the HCD Act of 1974.

Replication With DoD Adjustment Planning Assistance

After consultation with DoD's Office of Economic Adjustment, HUD confirmed that its new planning grant program, although limited to assisting nonentitlement communities, closely replicates the community adjustment planning assistance available from DoD under 10 U.S.C. 2391(b). (Section 2391(b)). Under that program, DoD may award grants to States and local governments to plan community adjustments and economic diversification activities.

Section 2391(b) was amended by section 4301 of the National Defense Authorization Act for Fiscal Year 1993 (Pub. L. 102-484, approved October 10, 1992) to add a fifth criterion to four others, any of which trigger eligibility to apply for adjustment planning grants: (1) The proposed or actual establishment, realignment, or closure of a military installation; (2) cancellation or termination of a DoD contract, (3) a publicly announced planned major reduction in DoD spending that would directly and adversely affect a community, (4) encroachment by a civilian community on a military installation, or (5) closure or significantly reduced operations of a defense facility as the result of the merger, acquisition, or consolidation of the defense contractor operating the defense facility. DoD criteria 1, 2, and 3 are identical to HUD's criteria 1, 2, and 3.

With respect to funding for the DoD section 2391(b) adjustment planning program, HUD understands that extensive DoD funding is currently available. DoD also indicates: (1) That it awards planning adjustment grants within the context of extensive on-site visitation; extensive community, State, and private sector consultation; and thorough DoD review and analysis, and (2) that this process may extend over several years, depending on the complexity of the DoD-generated impacts and the community's ability to develop capacity to plan for, as distinguished from adjusting to, these impacts.

Federal Interagency Coordination

HUD will administer the section 107(b)(6) planning grant program in coordination with long-standing and extensive Federal agency programs and arrangements in support of DoD-impacted communities.

The President's Economic Adjustment Committee (EAC), established in 1970 and amended most recently by Executive Order 12788 of January 15, 1992, is composed of 23 Federal agencies, including HUD, and is chaired by the Secretary of Defense. The EAC coordinates Federal interagency policy with respect to assisting communities to develop strategies and take actions to adjust to DoD-generated impacts and to diversify local economies.

The EAC has focused on coordinating Federal assistance to the communities affected by the 1993, 1991, and 1989 base closures and adjustments.

Under the aegis of the EAC, the DoD's Office of Economic Adjustment (DoD-OEA) administers numerous assistance programs: Military Base Reuse Studies (Section 2391(a)); Community Adjustment Planning (Section 2391(b)); Adjustment for Employees (Section 4201); Defense Conversion Adjustment

(Section 4203); and Export Financing for Firms Formerly Engaged in Defense Production (Section 4303).

DoD coordinates closely with the Department of Commerce's Economic Development Administration (DoC–EDA). DoD appropriations Acts often provide for the transfer of funds to DoC–EDA to implement adjustment projects and economic diversification activities, after they have been planned. Pursuant to the January 27, 1992, Memorandum of Understanding between DoD–OEA and DoC–EDA, DoD is responsible for providing adjustment planning assistance and DoC–EDA is responsible for funding projects that implement community adjustment and economic diversification. The agencies coordinate fully in reviewing applications for planning and implementation assistance.

DoD and the Small Business Administration also coordinate on the provision of small business loans and export financing in support of community adjustment and economic diversification.

HUD Administrative Policy for Section 107(b)(6) Planning Assistance

In order to provide clear guidance to eligible nonentitlement area applicants, to distinguish the type of planning assistance available from HUD and from DoD, and to minimize waste of public funds through duplicative projects, HUD will award section 107(b)(6) planning assistance according to the following policies:

1. Recognizing the extensive, multi-year process used by DoD to develop local capacity to plan before it makes grants for full-scale planning, HUD will give priority to applicants seeking to undertake start-up or "initial" planning activities that will enable the applicants to qualify more speedily for DoD full-scale planning assistance.

2. HUD will fund site planning, architectural and engineering studies, feasibility and cost analyses and similar planning for specific projects, but only as a last resort, because assistance for such project planning is normally available from EDA pursuant to its memo of understanding with DoD dated January 27, 1992.

3. HUD will encourage applicants for its planning grants to give appropriate local priority to planning for housing, including shelter for the homeless, and for adjusting to economic or fiscal impacts on the community. These types of planning will often complement, or fill in, the full range of planning topics usually funded by DoD.

4. HUD will encourage applicants to coordinate fully any planning assisted under this program with the strategies and activities of relevant State designated enterprise zones, and of Federal empowerment zones and enterprise communities, when selected and announced.

5. HUD will not fund Base Re-use Studies or demonstration planning activities intended to evolve new planning techniques for impacted communities because assistance is available from DoD for these purposes.

6. Consistent with Executive Order 12788 of January 15, 1992 governing the President's Economic Adjustment Committee, HUD will secure advisory reviews of all section 107(b)(6) applications by DoD's Office of Economic Assistance.

7. In view of the high dollar-volume of prior planning assistance awarded by DoD to impacted communities, the current availability of DoD planning assistance, and the statutory limitation to assist only nonentitlement areas, HUD plans to allocate initially up to $2 million for section 107(b)(6) grants. Assuming a grant range of $75,000 to $100,000 for start-up planning, an estimated 20–30 awards would be made. HUD will issue future notices annually announcing the amount of funding available for this program.

8. Since these grants are to provide initial planning assistance to address promptly the circumstances facing affected localities but beyond their control, HUD will award section 107(b)(6) assistance on a noncompetitive basis. This rule (a) provides for open submission of applications, or referrals from DoD, throughout the fiscal year; and (b) specifies the submission requirements and the factors HUD will use to qualify applicants for funding.

HUD considered, but discarded, two other administrative approaches. First, operating a routine competitive program yearly, or even quarterly, would impose unnecessary delay on communities needing to respond quickly to suddenly announced DoD or defense facility actions, such as contract cancellations or plant closings. Second, transferring program responsibility and/or funds to DoD from HUD would not be responsive to congressional intent. HUD therefore will administer the program, on a noncompetitive basis, but closely coordinated with DoD, in order to be fully responsive to potential applicants.

HUD will assess the initial year of program experience and applicant demand, and then determine whether to continue this approach, including the level of funding, or to develop other approaches more beneficial to potential applicants.

Public Comments Received on Proposed Rule

On August 17, 1993, at 58 FR 43764, the Department published a proposed rule for public comment. The comment period, which was 30 days, ended on September 16, 1993. Two late comments were received from two local government agencies. These comments are summarized below, along with the Department's responses.

One county community development agency requested that the proposed community planning adjustment assistance be made available to communities within urban counties, instead of being limited to non-entitlement communities only. The Congress, however, authorized this program solely for non-entitlement communities, i.e., for units of general local government, excluding units of general local government that are entitlement cities or are included in an urban county.

The other commenter, a county housing authority, requested that assistance under this program should be available for these types of planning: Planning for housing of the homeless component of the community adjustment effort; economic development activities to assist the homeless to become self-sufficient; economic development activities such as small business incubators, which would tie into any Federal enterprise zone; modifying current plans for shelter for the homeless, for transportation or other physical infrastructure; and identification of and coordination with Federal, State, and local entities and establishment of appropriate local committees concerned with community adjustment. All of these types of planning were eligible under the proposed rule and remain eligible in the final rule.

This commenter also recommended that eligible activities should include project-specific planning, such as site planning, architectural and engineering studies, feasibility studies and cost analyses. The proposed rule indicated that such planning would not be eligible, because assistance for such projects is available from the Economic Development Administration and the Department of Defense. Recognizing that there may be rare circumstances wherein no planning assistance is available from other Federal sources, HUD has modified the final rule to indicate that Community Adjustment Planning Assistance may be awarded, as a last resort of funding, for project-specific planning activities.

Finally, this commenter recommended that environmental studies related to base-reuse be considered an eligible activity. In order to avoid duplication of effort with environmental studies funded by the Department of Defense, as well as to conserve the limited HUD funds available under this program, neither the proposed rule nor the final rule provides for funding environmental studies.

Other Matters

Executive Order 12606, The Family

The General Counsel, as the Designated Officer under Executive Order 12606, The Family, has determined that this rule does not have potential for significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the Order. The rule involves assistance for units of general local government in nonentitlement areas for planning community adjustments and economic diversification as a result of DoD-generated impacts, and should have no direct effect on family-related issues and concerns.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this rule will not have substantial direct effects on States or their political subdivisions, or the relationships between the federal government and the States, or on the distribution of power and responsibilities among the various levels of government. While this rule provides funding directly to units of general local government in nonentitlement areas, the Department believes that there exists ample access by State and local governments to make their views known to the Department in a timely and effective manner. The rule provides for State coordination by units of general local government in nonentitlement areas on eligible community adjustment and economic diversification activities planning.

Environmental and Intergovernmental Review

A Finding of No Significant Impact with regard to the environment has been made in accordance with HUD regulations in 24 CFR part 50, which implement section 102(2)(C) of the National Environment Policy Act of 1969, 42 U.S.C. 4321. The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, room 10276, 451 Seventh Street, SW., Washington, DC 20510.

The intergovernmental review set forth in Executive Order 12372 shall be accomplished by the units of general local government in nonentitlement areas through State coordination of each proposed activity.

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and by approving it certifies that this rule will not have a significant economic impact on a substantial number of small entities. The planning assistance awards that will be based on this rule will be used by units of general local government in nonentitlement areas for community adjustment and economic diversification activities planning as a result of military base closures, or contract cancellations.

Semiannual Agenda

This rule was listed as item 1591 in the Department's Semiannual Agenda of Regulations published on October 25, 1993 (58 FR 56402, 56440) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR Part 570

Administrative practice and procedure, American Samoa, Community development block grants, Grant programs—education, Grant programs—housing and community development, Guam, Indians, Lead poisoning, Loan programs—housing and community development, Low and moderate income housing, New communities, Northern Mariana Islands, Pacific Islands Trust Territory, Pockets of poverty, Puerto Rico, Reporting and recordkeeping requirements, Small cities, Student aid, Virgin Islands.

For the reasons set out in the preamble, the Department amends 24 CFR part 570 as follows:

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

1. The authority citation for part 570 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 5300–5320.

2. Section 570.401 is added to subpart E, to read as follows:

§ 570.401 Community adjustment and economic diversification planning assistance.

(a) *General*—(1) *Purpose.* The purpose of this program is to assist units of general local government in nonentitlement areas to undertake the planning of community adjustments and economic diversification activities, in response to physical, social, economic or governmental impacts on the communities generated by the actions of the Department of Defense (DoD) defined in paragraph (a)(2) of this section.

(2) *Impacts.* Funding under this section is available only to communities affected by one or more of the following DoD-related impacts:

(i) The proposed or actual establishment, realignment, or closure of a military installation;

(ii) The cancellation or termination of a DoD contract or the failure to proceed with an approved major weapon system program;

(iii) A publicly announced planned major reduction in DoD spending that would directly and adversely affect a unit of general local government and result in the loss of 1,000 or more full-time DoD and contractor employee positions over a five-year period in the unit of general local government and the surrounding area; or

(iv) The Secretary of HUD (in consultation with the Secretary of DoD) determines that an action described in paragraphs (a)(2)(i–iii) of this section is likely to have a direct and significant adverse consequence on the unit of general local government.

(3) *Form of awards.* Planning assistance will be awarded in the form of grants.

(4) *Program administration.* HUD will publish in the **Federal Register** early in each fiscal year the amount of funds to be available for that fiscal year for awards under this section. HUD will accept applications throughout the fiscal year, and will review and consider for funding each application according to the threshold and qualifying factors in paragraphs (f) and (g) of this section.

(b) *Definitions.* In addition to the definitions in Section 570.3 of this part, the following definitions apply to this section: (1) *Adjustment planning.* Generally, developing plans and proposals in direct response to contraction or expansion of the local economy, or changes in the physical development or the social conditions of the community, resulting from a DoD-generated impact. Typically, this planning includes one or more of the following tasks: Collecting, updating, and analyzing data; identifying problems; formulating solutions; proposing long- and short-term policies; recommending public- and private-sector actions to implement community adjustments and economic diversification activities; securing

citizen involvement; and coordinating with Federal, State, and local entities with respect to the DoD-related impacts.

(2) *Community adjustment.* Any proposed action to change the physical, economic, or social infrastructure within the jurisdiction or surrounding area, directly and appropriately in response to the DoD-generated impact.

(3) *Contract.* (i) Any defense contract in an amount not less than $5 million (without regard to the date on which the contract was awarded); and

(ii) Any subcontract that is entered into in connection with a contract (without regard to the effective date of the subcontract) and involves not less than $500,000.

(4) *Defense facility.* Any private facility producing goods or services pursuant to a defense contract.

(5) *DoD.* The Department of Defense.

(6) *Economic diversification activities.* Any public or private sector actions to change the local mix of industrial, commercial, and service sectors, or the mix of business ventures within a sector, that are intended to mitigate decline in the local economy resulting from DoD-generated impacts or, in the case of expansion of a military installation or a defense facility, that are intended to respond to new economic growth spawned by that expansion.

(7) *Military installation.* Any camp, post, station, base, yard, or other jurisdiction of a military department that is located within any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or Guam.

(8) *Realignment.* Any action that both reduces and relocates functions and civilian personnel positions, but does not include a reduction in force resulting from workload adjustments, reduced personnel or funding levels, or skill imbalances.

(9) *Section 107* means section 107 of the Housing and Community Development Act of 1974, 42 U.S.C. 5307. Section 107(b)(6) was added by section 801 of the Housing and Community Development Act of 1992 (Pub. L. 102–550, approved October 28, 1992).

(10) *Section 2391(b).* The Department of Defense adjustment planning program as set out in 10 U.S.D. 2391(b).

(11) *Small Cities CDBG Program.* The Community Development Block Grant program for nonentitlement areas in which the States have elected not to administer available program funds. The regulations governing this program are set out in subpart F of this part.

(12) *Surrounding area.* The labor market area as defined by the Bureau of Labor Statistics that: (i) Includes all or part of the applicant's jurisdictions; and

(ii) Includes additional areas outside the jurisdiction.

(c) *Eligible applicants.* Any unit of general local government, excluding units of general government that are entitlement cities or are included in an urban county, and which does not include Indian Tribes.

(d) *Eligible activities.* Activities eligible for adjustment planning assistance include, generally: (1) Initial assessments and quick studies of physical, social, economic, and fiscal impacts on the community;

(2) Preliminary identification of potential public and private sector actions needed for the community to initiate its response;

(3) If timely, modification of the applicant's current comprehensive plan or any functional plan, such as for housing, including shelter for the homeless, or for transportation or other physical infrastructure;

(4) If timely, modification of the applicant's current economic plans and programs, such as for business development, job training, or industrial or commercial development;

(5) Preparation for and conduct of initial community outreach activities to begin involving local citizens and the private sector in planning for adjustment and diversification;

(6) Environmental reviews related to DoD-related impacts;

(7) Initial identification of and coordination with Federal, State and local entities that may be expected to assist in the community's adjustment and economic development; and with State-designated enterprise zones, and Federal empowerment zones and enterprise communities when selected and announced.

(8) Any other planning activity that may enable the community to organize itself, establish a start-up capacity to plan, propose specific plans and programs, coordinate with appropriate public or private entities, or qualify more quickly for the more substantial planning assistance available from DoD.

(e) *Ineligible activities.* Activities ineligible for adjustment planning assistance are: (1) Base re-use planning.

(2) Site planning, architectural and engineering studies, feasibility and cost analyses and similar planning for specific projects to implement community adjustment or economic diversification, unless as last resort funding for those applicants which are unable to obtain planning assistance from other sources.

(3) Planning by communities which are encroaching on military installations.

(4) Demonstration planning activities intended to evolve new planning techniques for impacted communities.

(5) Any planning activity proposed to supplement or replace planning that has been or is being assisted by the DoD Sec. 2391(b) adjustment planning program.

(6) Any other planning activity the purpose of which is not demonstrably in direct response to a DOD-related impact triggered by one or more of the four criteria specified in paragraph (a)(2) of this section.

(f) *Threshold requirements.* No application will qualify for funding unless it meets the following requirements: (1) Verification by HUD that the applicant is a unit of general government in a nonentitlement area.

(2) Verification by HUD and DoD that a triggering event described in paragraph (a)(2) of this section has occurred or will occur.

(3) With respect to communities affected by the 49 base closings and 28 realignments listed by the 1991 Base Closure and Realignment Commission, verification by DoD that it has provided no prior funding and that the applicant may benefit from start-up planning assistance from HUD.

(4) Determination by HUD that the proposed planning activities are eligible.

(5) Determination by HUD that the submission requirements in paragraph (h) of this section have been satisfied.

(g) *Qualifying factors.* HUD will make funding decisions on qualified applications on the basis of the factors listed below, in the order of such applications received, while program funds remain available. HUD will also request and consider advise from DoD's Office of Economic Assistance concerning the relative merits of each application.

(1) The adequacy of the applicant's initial assessment of actual or probable impacts on the community and the surrounding area;

(2) The adequacy and appropriateness of the start-up planning envisioned by the applicant in response to the impacts;

(3) The type, extent, and adequacy of coordination that the applicant has achieved, or plans to achieve, in order to undertake planning for community adjustment and economic diversification.

(4) The cost-effectiveness of the proposed budget to carry out the planning work envisioned by the applicant; (5) The capability of the organization the applicant proposes to do the planning;

(6) The credentials and experience of the key staff the applicant proposes to do the planning;

(7) The presence of significant private sector impact, as measured by the extent to which the DoD-generated impact is projected to decrease or increase the employment base by 10% or more;

(8) The presence of significant public sector impact, as measured by the extent to which the DoD-generated impact is projected to decrease or increase the applicant's capital and operating budgets for the next fiscal year by 10% or more;

(9) The degree of urgency, to the extent that a suddenly announced action, e.g. a plant closing, is officially scheduled to occur within a year of the date of application.

(h) *Submission requirements.* Applicants may submit applications at any time to: Director, Office of Technical Assistance, room 7214, 451 Seventh Street, SW., Washington, DC 20410. Each application (an original and three copies) shall include the following: (1) The Standard Form SF–424 as a face sheet, signed and dated by a person authorized to represent and contractually or otherwise commit the applicant;

(2) A concise title and brief abstract of the proposed planning work, including the total cost;

(3) A narrative that: (i) Documents one or more of the triggering events described in paragraph (a)(2) of this section that qualifies the applicant to apply for planning assistance for community adjustments and economic diversification;

(ii) Provides an initial assessment of actual or probable impacts on the applicant community and the surrounding area;

(iii) Provides an initial assessment of the type and extent of start-up planning envisioned by the applicant in response to the DoD-generated impact; and

(iv) Describes the measures by which the applicant has already coordinated, or plans to coordinate, with the DoD Office of Economic Assistance, the Economic Development Administration of the Department of Commerce, the Department of Labor, any military department, or any other appropriate Federal agency; appropriate State agencies, specifically including the agency administering the Small Cities CDBG Program; appropriate State-designated enterprise zones; appropriate Federal empowerment zones and enterprise communities, when selected and announced; appropriate other units of general local government in the nonentitlement area; appropriate businesses, corporations, and defense facilities concerned with impacts on the applicant community; and homeless nonprofit organizations, with respect to title V of the Stewart B. McKinney Act (42 U.S.C. 11411–11412), requiring the Federal property be considered for use in assisting the homeless.

(4) A Statement of Work describing the specific project tasks proposed to be undertaken in order to plan for community adjustment and economic diversification activities;

(5) A proposed budget showing the estimated costs and person-days of effort for each task, by cost categories, with supporting documentation of costs and a justification of the person-days of effort;

(6) A description of the qualifications of the proposed technical staff, including their names and resumes;

(7) A work plan that describes the schedule for accomplishing the tasks described in the Statement of Work, the time needed to do each task, and the elapsed time needed for all the tasks; and

(8) Other materials, as prescribed in the application kit; these materials will include required certifications dealing with: Drug-Free Workplace Requirements; Disclosure Regarding Payments to Influence Certain Federal Transactions; and Prohibition Regarding Excessive Force.

(i) *Approval procedures*—(1) *Acceptance.* HUD's acceptance of an application meeting the threshold requirements of paragraph (f) does not assure a commitment to provide funding or to provide the full amount requested. HUD may elect to negotiate both proposed tasks and budgets in order to promote more cost-effective planning.

(2) *Notification.* HUD will provide notification about whether a project will be funded, rejected, or held for further consideration by HUD and DoD.

(3) *Form of award.* HUD will award funds in the form of grants.

(4) *Administration.* Project administration will be governed by the terms of individual awards and by the following provisions of this part: (i) Subpart A, sec. 570.5;

(ii) Subpart E, secs. 570.400(d), (e), (f), and (g);

(iii) Subpart J, secs. 570.500(c), 570.501, 570.502, 570.503, and 570.509;

(iv) Subpart K, secs. 570.601, 570.602, 570.609, 570.610, and 570.611

The environmental review requirements of 24 CFR part 58 do not apply.

(Approved by the Office of Management and Budget under control number 2535–0084)

Dated: March 14, 1994.

Andrew Cuomo,

Assistant Secretary for Community Planning and Development.

[FR Doc. 94–7504 Filed 3–29–94; 8:45 am]

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federal register

Wednesday
March 30, 1994

Part VIII

Department of Transportation

Coast Guard

33 CFR Part 20
Class II Civil Penalties; Final Rule

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 20

[CGD 91–228]

RIN: 2115–AE39

Class II Civil Penalties Under the Federal Water Pollution Control Act and the Comprehensive Environmental Response, Compensation and Liability Act

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is issuing final regulations addressing practice and procedure for cases assessing class II civil penalties under section 311(b) of the Federal Water Pollution Control Act (FWPCA), as amended by the Oil Pollution Act of 1990 (OPA 90), and section 109 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). All class II penalties will be assessed following notice and opportunity to be heard in proceedings that meet the requirements of the Administrative Procedure Act (APA). The regulations provide for public notice of a class II civil penalty action and an opportunity for interested persons to comment on the proposed civil penalty, to present evidence at a hearing, and to seek a hearing if none is held. The regulations make available the enhanced enforcement capabilities provided by the OPA 90 amendments to the FWPCA.

EFFECTIVE DATE: March 30, 1994.

FOR FURTHER INFORMATION CONTACT: Walter D. Rabe, Marine Investigation Division (G–MMI), U.S. Coast Guard Headquarters, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays, (202) 267–1430.

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal persons involved in drafting this document are George J. Jordan, Attorney-Advisor, Office of the Chief Administrative Law Judge, U.S. Coast Guard Headquarters and Pamela M. Pelcovits, Attorney-Advisor, OPA 90 Staff, U.S. Coast Guard Headquarters.

Background and Purpose

Section 4301 of OPA 90 (Pub. L. 101–380) amends the civil penalties provisions of section 311(b) of the FWPCA (33 U.S.C. 1321(b)) by establishing three types of civil penalties: Class I, class II, and judicial. Under 33 U.S.C. 1321(b)(6), the owner, operator, or person in charge of a vessel or onshore or offshore facility from which oil or hazardous substances are discharged in violation of 33 U.S.C. 1321(b)(3) may be assessed a class I or class II civil penalty. Also, a failure or refusal to comply with regulations issued under 33 U.S.C. 1321(j), dealing with, among other things, pollution prevention, removal, and response planning, may lead to the assessment of a class I or class II penalty. OPA 90 also amends 33 U.S.C. 1321(b) by increasing the maximum civil penalty which may be assessed for those violations in accordance with the procedures set out in 33 CFR subpart 1.07. Where those procedures are used, the dollar amount has been increased from $5,000 to a maximum of $10,000 per violation with a penalty not to exceed $25,000 ("Class I")

OPA 90 also provided a "Class II" civil penalty assessment authority. The amount of a class II civil penalty assessment must not exceed $10,000 per violation per day with a maximum penalty assessment not to exceed $125,000. The OPA 90 amendments provide extensive procedural requirements for a class II civil penalty assessment resulting from a violation of section 311 of the FWPCA. In order to assess a class II civil penalty, the person charged with a violation of section 311 of the FWPCA (the "respondent") in the preamble and the regulations) must be afforded notice and opportunity for a hearing on the record in accordance with the formal procedures set out in the APA (5 U.S.C. 554). Additionally, there must be public notice and an opportunity for comment before the Coast Guard issues an order assessing a class II civil penalty for a violation of section 311 of the FWPCA. The Coast Guard must provide an opportunity for all persons who commented on the proposed assessment (the "interested person" in the preamble and the regulations) to attend and present evidence at any hearing held in the case or to petition for a hearing if there has been none. This final rule establishes procedures for class II civil penalties.

The Coast Guard also is responsible for the assessment of civil penalties under section 109 of CERCLA (42 U.S.C. 9609(b)). Section 109 of the CERCLA also divides administratively assessed penalties into class I and class II. With the exception of public notice and interested person participation, that section's penalty provisions and procedural requirements for assessing class II penalties are similar to those in section 311 of the FWPCA. Since these regulations will also address the assessment of class II civil penalties under section 109 of the CERCLA, they provide for public notice and interested person participation in class II proceedings under section 109 of the CERCLA, to the extent permitted by law.

Regulatory Procedure

The Coast Guard published these procedural regulations as an interim final rule (IFR) (58 FR 17926, April 6, 1993), effective upon publication, in order to make available the enhanced enforcement capabilities provided by the OPA 90 amendments to the FWPCA. At the same time, the Coast Guard requested comment on these rules and provided that the rules would not apply to respondents so requesting. No Class II civil penalty complaints have been filed to date. Since it is in the public interest to have all class II civil penalty cases processed under the same procedural rules and in order not to delay the application of the regulations, the Coast Guard has determined that, under 5 U.S.C. 553(d), good cause also exists for making the final regulations effective upon publication.

Discussion of Comments and Changes

The Coast Guard received eight letters commenting on the IFR. One letter suggested that class II penalty assessments should vary according to the nature of the violation, the damages caused, and any prior violations. Under section 311(b)(8) of the FWPCA and the regulations, the Administrative Law Judge has sufficient authority to consider these elements in reaching a decision. This commenter also urged that penalties be assessed under these regulations against employees for personal and willful neglect of safety, in the case where an employer makes efforts to comply. As provided in section 311(b)(6)(A) of the FWPCA, penalties for violations are assessed against the owner, operator, or person in charge of a vessel or certain facilities. No changes to the regulations were made in response to this letter.

Three commenters stated that the regulated community needs to know under what circumstances the Coast Guard will apply the class I or class II civil penalty procedures. The Coast Guard agrees with this comment. On June 1, 1993 the Coast Guard issued COMDTNOTE 5830 which amends COMDTINST 16200.3A and advises local units on how to choose a class I or class II civil penalty proceeding. That selection process relates to enforcement decisionmaking and lies outside the scope of rulemaking. Copies of COMDTNOTE 5830 are available to the public from the Marine Investigation Division at the telephone number listed under **FOR FURTHER INFORMATION.**

Six commenters addressed the issue of what kind of participation should be available to anyone other than a party to a class II proceeding. The IFR incorporated the limited participation for interested persons described in the OPA amendments to the FWPCA. Three comments endorsed the exclusion of interested persons from settlement conferences, and two of the comments also stressed that interested persons should not have the right to cross-examine witnesses or to subpoena witnesses to appear at hearings. Two commenters supported the Coast Guard's decision in the IFR not to provide for intervention.

Another commenter stated that intervention should be permitted, in limited circumstances, if the potential intervenor has a property, financial, or other legitimate interest that would be affected by a decision. In support of this position, the commenter noted that since the outcome of a class II proceeding might be admissible in subsequent proceedings, someone whose interests are directly affected should be permitted to participate.

After reviewing these comments, the Coast Guard concludes that permitting non-parties to intervene would not be appropriate for its class II proceedings. The Coast Guard finds that the provisions of the IFR allow an appropriate mechanism for non-parties to present additional relevant information to the Administrative Law Judge. To avoid disparate procedures for class II proceedings under section 311(b) of the FWPCA and section 109 of CERCLA, the Coast Guard has revised the language of § 20.402 and § 20.404 to delete the language limiting their application to cases arising under section 311(b) of the FWPCA.

One comment supported the Coast Guard's reference to alternative dispute resolution in the regulations.

Five commenters addressed issues related to service of documents. One commenter suggested that the Coast Guard use the term "mail," rather than "first class mail," consistently through the regulations. The Coast Guard agrees and has revised the regulations. This commenter also said that 14 days was inadequate time to allow for service by mail to foreign countries. The Coast Guard agrees and has extended the time allowed for service by mail in § 20.306(c) to 20 days.

One commenter stated that provisions concerning service were inadequate with respect to the owners and operators of foreign flag vessels, as the Coast Guard lacks authority for service in foreign countries, either by mail or in person. The Coast Guard finds that no changes to the regulations are necessary in response to this comment. While the Coast Guard recognizes that there is a potential for problems associated with service and enforcement of civil penalties against owners and operators of foreign flag vessels, its experience with the administrative assessment of civil penalties under section 311 of the FWPCA and other statutes demonstrates this not to be a serious concern. Notably, the bond or other surety which may be obtained instead of clearance denial under section 311(b)(12) of the FWPCA may assist in this regard.

Three commenters asked the Coast Guard to limit service to personal service because of the possibility that respondents may be at sea for lengthy periods and to avoid unnecessary default judgments. The Federal Rules of Civil Procedure already provide for service by mail and are currently being revised to permit additional flexibility. The Coast Guard believes it would be inappropriate to more in a more restrictive direction in these regulations and has made no change.

One comment suggested that a statement in the preamble to the IFR concerning official notice by an Administrative Law Judge was inconsistent with the evidentiary standard of "preponderance of the evidence" set out in the IFR. While language in the preamble may have been confusing, the Coast Guard finds that the language of § 20.806, which describes the kind of information that may be officially noticed and provides for the opportunity to show the contrary, is clear and appropriate.

One comment stated that the discovery provisions of the IFR are not adequate in that discovery is permitted not as a matter of right but only at the discretion of the Administrative Law Judge. The Coast Guard does not agree. The statute at section 311(b)(6)(B)(ii) of the FWPCA makes it clear that the provision of discovery is within the discretion of the Coast Guard. Furthermore, the Model Adjudication Rules of the Administrative Conference note that the scope of discovery is not mandatory, but is a matter for agency discretion. The Coast Guard finds that its discovery rules will permit flexible, but expedited, proceedings.

Finally, one commenter suggested that references to 49 CFR part 7 in §§ 20.903, 1002, 1102 should properly be to part 10. The Coast Guard has determined that the references to part 7 are correct.

The Coast Guard has revised § 20.311(a)(3) to clarify the basis for a Coast Guard Representative filing a notice of withdrawal after the filing of a responsive pleading by the respondent. The Coast Guard Representative will file the notice together with a certification that the withdrawal is made in response to a request by the Attorney General that the Coast Guard refrain from administrative enforcement. The authority of the Attorney General to review Coast Guard enforcement actions in these proceedings is provided in section 10(d) of Executive Order 12777 (56 FR 54757) which delegated the President's authority under OPA 90.

The Coast Guard also has revised the language in § 20.310, § 20.311, § 20.404, and § 20.1001 and renumbered § 20.904 as § 20.1102 to clarify that an interested person may appeal to the Commandant when no hearing is held and to allow 30 days for filing an appeal. Such an appeal would be limited to a request that a hearing be held.

Regulatory Assessment

This rulemaking is not major under Executive Order 12866 and not significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11040, February 26, 1979). Because the Coast Guard finds that these procedural rules will not have a direct economic impact, no Regulatory Assessment is necessary.

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). Because it expects the impact of the rulemaking to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this rulemaking will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rulemaking contains no collection of information requirement 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 rulemaking and concluded that under section 2.B.2 of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation. Procedural rules do not require environmental impact studies. As described in the IFR, a Categorical Exclusion Determination has been placed in the docket for this rulemaking.

List of Subjects in 33 CFR Part 20

Administrative practice and procedure, Authority delegations (Government agencies), Penalties, Water pollution control, Waterways.

For the reasons set forth in the preamble, 33 CFR part 20 is revised as follows:

PART 20—CLASS II CIVIL PENALTIES

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20.1002 Record on appeal.
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Subpart K—Finality, Petition for Hearing, and Availability of Decisions

20.1101 Finality.
20.1102 Petitions to set aside a decision and provide a hearing.
20.1103 Availability of decisions.

Authority: 33 U.S.C. 1321; 42 U.S.C. 9609; 49 CFR 1.46.

Subpart A—General

§ 20.101 Scope.

(a) Except as specifically noted, these rules of practice and procedure apply to the following civil penalty proceedings before the United States Coast Guard:

(1) Class II civil penalties assessed under section 311(b) of the Federal Water Pollution Control Act, (33 U.S.C. 1321(b)(6)).

(2) Class II civil penalties assessed under section 109 of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9609(b)).

(b) In the absence of a specific provision in this part, the Federal Rules of Civil Procedure will be generally followed.

§ 20.102 Definitions.

(a) *Administrative Law Judge* means any person designated by the Commandant under the Administrative Procedure Act (5 U.S.C. 556(b)) for the purpose of conducting hearings arising under 33 U.S.C. 1321(b) and 42 U.S.C. 9609(b).

(b) *Chief Administrative Law Judge* means the Administrative Law Judge appointed as the Chief Administrative Law Judge of the U.S. Coast Guard by the Commandant.

(c) *Civil penalty proceeding* means a trial-type proceeding for the assessment of a civil penalty that offers an opportunity for an oral, fact-finding hearing before an Administrative Law Judge.

(d) *Coast Guard Representative* means a Coast Guard official who has been designated to prosecute a class II civil penalty.

(e) *Commandant* means the Commandant of the U.S. Coast Guard. The term Commandant includes the Vice-Commandant of the Coast Guard acting on behalf of the Commandant in any proceeding.

(f) *Complaint* means a document issued by a Coast Guard Representative alleging a violation for which a penalty may be administratively assessed under 33 U.S.C. 1321(b) or 42 U.S.C. 9609(b).

(g) *Hearing Docket Clerk* means an employee of the Office of the Chief Administrative Law Judge who is responsible for receiving documents, determining their completeness and legibility, and distributing them to the Administrative Law Judge and others, as required by this part.

(h) *Interested person* means a person who, as provided in § 20.404, files written comments on a proposed class II civil penalty assessment or files written notice of intent to present evidence in any hearing held on the proposed class II civil penalty assessment.

(i) *Mail* includes U.S. first-class mail, U.S. certified mail, U.S. registered mail, or an express courier service.

(j) *Motion* means a request for an order or ruling from an Administrative Law Judge.

(k) *Party* means a respondent or the Coast Guard.

(l) *Person* includes an individual, partnership, corporation, association, public or private organization, or a government agency.

(m) *Personal delivery* includes hand delivery or use of a contract or express courier service. "Personal delivery" does not include the use of government interoffice mail service.

(n) *Pleading* means a complaint, an answer, any document and any

amendment to a document permitted under this part.

(o) *Respondent* means a person charged with a violation in a complaint issued under this part.

§ 20.103 Construction and waiver of rules.

(a) These rules will be construed to secure a just, speedy, and inexpensive determination in every class II civil penalty proceeding.

(b) Except to the extent that a waiver would be contrary to law, the Commandant, the Chief Administrative Law Judge or a presiding Administrative Law Judge may, after notice, waive any of these rules to prevent undue hardship or manifest injustice, or if the expeditious conduct of a case so requires.

Subpart B—Adminstrative Law Judges

§ 20.201 Assignment.

An Administrative Law Judge, assigned by the Chief Administrative Law Judge following receipt of the complaint, shall preside over each class II civil penalty proceeding.

§ 20.202 Powers.

The Administrative Law Judge shall have all powers necessary to the conduct of fair, expeditious, and impartial hearings, including the power to—

(a) Administer oaths and affirmations;

(b) Issue subpoenas authorized by law;

(c) Rule on motions;

(d) Order discovery as provided in this part;

(e) Hold hearing or settlement conferences;

(f) Regulate the course of hearings;

(g) Call and question witnesses;

(h) Issue decisions;

(i) Exclude any person from a hearing or conference for disrespect, disorderly or rebellious conduct; and

(j) Take any other action consistent with law and Coast Guard policy authorized by the Chief Administrative Law Judge;

§ 20.203 Unavailability.

(a) In the event that an Administrative Law Judge is unable to perform the duties described in § 20.202 or otherwise becomes unavailable, the Chief Administrative Law Judge shall designate a successor.

(b) If a hearing has been commenced and an Administrative Law Judge is unable to proceed, a successor Administrative Law Judge may proceed with a hearing in a case. The successor Administrative Law Judge may, at the request of a party, recall any witness whose testimony is material and disrupted and who is available to testify again without undue burden. The successor Administrative Law Judge may, within his or her discretion, recall any other witness.

§ 20.204 Withdrawal or disqualification.

(a) An Administrative Law Judge may at any time disqualify herself or himself.

(b) Prior to the filing of the Administrative Law Judge's decision, either party may move that the Administrative Law Judge disqualify herself or himself on the ground of personal bias or other disqualification, by filing with the Administrative Law Judge promptly upon discovery of the alleged facts an affidavit setting forth in detail the matters alleged to constitute grounds for disqualification.

(1) The Administrative Law Judge shall rule upon the motion, stating the grounds for the ruling. If the Administrative Law Judge concludes that the motion is timely and has merit, the Administrative Law Judge shall disqualify herself or himself and withdraw from the proceeding. If the Administrative Law Judge does not disqualify herself or himself and withdraw from the proceeding, the Administrative Law Judge shall proceed with the proceeding, or if a hearing has been concluded, proceed with the issuance of a decision.

(2) An Administrative Law Judge's denial of a motion for disqualification may be appealed to the Commandant at the conclusion of the hearing according to the procedures in subpart J of this part. When the appeal is made, the Administrative Law Judge forwards the motion and supporting affidavits or sworn statements with the ruling to the Commandant.

§ 20.205 Ex parte communications.

Ex parte communications are governed by section 557(d) of the Administrative Procedure Act (5 U.S.C. 557(d)).

§ 20.206 Separtion of functions.

(a) An Administrative Law Judge may not be responsible to or subject the supervision or direction of an officer, employee, or agent engaged in the performance of investigating or prosecuting functions for the Coast Guard.

(b) No officer, employee, or agent of the Coast Guard engaged in the performance of investigations or prosecutorial functions in connection with any class II civil penalty proceeding shall, in that proceeding or one that is factually related, participate or advise in the decision of the Administrative Law Judge or the Commandant on appeal, except as a witness or counsel in the proceeding or appellate review.

Subpart C—Pleadings and Motions

§ 20.301 Representation.

(a) A party may appear either without counsel or other representatives, by an attorney, or by other duly authorized representative. An attorney or other duly authorized representative shall file a notice of appearance. The notice must indicate—

(1) The name of the case, including docket number if assigned;

(2) The person on whose behalf the appearance is made; and

(3) The person's and representative's mailing addresses and telephone numbers.

(b) Notice, including the items listed in paragraph (a) of this section, must also be given for any withdrawal of appearance.

(c) An attorney shall be a member in good standing of the bar of the highest court of a State, the District of Columbia, or any territory or commonwealth of the United States. A personal representation of membership is sufficient proof, unless otherwise ordered by the Administrative Law Judge.

(d) Any person who is not an attorney shall file a statement setting forth the basis of his or her authority to act as a duly authorized representative. The Administrative Law Judge may deny appearance as a representative to any person whom the Administrative Law Judge finds does not possess the requisite qualifications to represent others or is lacking in character, integrity, or proper personal conduct.

§ 20.302 Filing of documents and other materials.

(a) All documents and material relating to a class II civil penalty proceeding must be filed at the following address: Chief Administrative Law Judge, Commandant (G–CJ), U.S. Coast Guard, 2100 Second St., SW., Washington, DC 20593–0001. Attention: Hearing Docket Clerk. Phone: (202) 267–2940, Fax: (202) 267–4753.

(b) An executed original and one copy of each document (including exhibits and supporting affidavits) must be filed with the Hearing Docket Clerk. One additional copy of each filed document must be filed with the assigned Administrative Law Judge. Copies need not be signed, but the name of the person signing the original must be shown on each copy.

(c) In the absence of the assignment of a case to an Administrative Law Judge,

the Administrative Law Judge's copy will be filed with the Chief Administrative Law Judge.

(d) Filing may be made by mail or personal delivery. Other methods, such as facsimile transmission or other electronic means, may be permitted at the discretion of the Hearing Docket Clerk or the Administrative Law Judge.

(e) When the Hearing Docket Clerk determines that a document, or other material, offered for filing does not comply with requirements of this part, the Hearing Docket Clerk may decline to accept the document, or other material, for filing, and return it unfiled. Alternatively, the Hearing Docket Clerk may accept it, advise the person offering it of the deficiency, and require the deficiency to be corrected.

§ 20.303 Form and content of filed documents.

(a) A filed document must identify clearly—

(1) The title of the proceeding;

(2) The docket number of the case if one has been assigned;

(3) A designation of the type of filing (e.g., petition, notice, motion to dismiss, etc.);

(4) The name and designation of the filing party; and

(5) The filer's address, telephone number, and facsimile transmission number (if any) and, if represented, the name, address, telephone number, and facsimile transmission number (if any) of the filer's representative.

(b) All filed documents must be—

(1) 8½ by 11 inches in size except, when necessary, tables, charts, and other attachments may be larger if folded to the size of the filed documents to which they are physically attached;

(2) Printed on one side of the page and be clearly typewritten, printed, or otherwise reproduced by a process that produces permanent and plainly legible copies;

(3) Double-spaced except for footnotes and long quotations, which may be single-spaced;

(4) Have a left margin of at least 1½ inches and other margins of at least 1 inch; and

(5) Bound on the left side, if bound.

(c) All documents must be in the English language or, if in a foreign language, accompanied by a certified translation.

(d) The original of every filed document must be signed by the submitting person or his or her attorney or representative. Except as otherwise provided, filed documents need not be verified or accompanied by an affidavit. The signature constitutes a certification by the signing person that he or she has read the filed document, that to the best of his or her knowledge, information, and belief the statements made in it are true, and that it is not intended to cause delay.

§ 20.304 Service of documents.

(a) A copy of each document issued by the Administrative Law Judge in the proceeding is served upon each party. The Administrative Law Judge shall serve a copy of notices of hearings upon each interested person, as determined under § 20.404. Unless otherwise provided in this part, a copy of each document filed with or issued by the Administrative Law Judge in the proceeding shall be provided to an interested person upon request by the interested person to the Administrative Law Judge.

(b) Unless otherwise ordered by the Administrative Law Judge, one copy of all documents filed with the Hearing Docket Clerk must be served upon each party by the persons filing them.

(c) Every document filed with the Hearing Docket Clerk and required to be served upon all parties must be accompanied by a certificate of service signed by or on behalf of the party or person making the service, stating that service has been made. Certificates of service should be in substantially the following form:

I hereby certify that I have this day served the foregoing document(s) upon the following parties (or designated representatives) in this proceeding at the address indicated by (specify the method):

(1) [name/address] _____

(2) [name/address] _____

Dated at _____, this ____ day of _____, 19____.

[Signature]

For _____

Capacity. _____

(d) Service may be made by mail or personal delivery. Other methods of service, such as facsimile transmission or other electronic means, may be used, other than for service of the complaint and answer, at the discretion of the Administrative Law Judge. The Hearing Docket Clerk may place limitations on the times of and circumstances for service by facsimile transmission or other electronic means.

(e) Unless otherwise ordered by the Administrative Law Judge, all documents filed in accordance with § 20.302 must be served upon counsel and representatives or, if not represented, the persons themselves. Service upon counsel or representative will constitute service upon the person to be served.

(f) Service must be made at the address of the counsel or representative, or, if not represented, at the last known address of the residence or principal place of business of the person to be served.

(g) If service is made by personal delivery, delivery is complete when the document is handed to the person to be served or delivered to the person's office during business hours or, if the person to be served has no office, is delivered to the person's residence and deposited in a conspicuous location. If service is by mail, facsimile transmission, or other electronic means, service is complete upon deposit in the mail or completion of the electronic transmission.

(h) A document that was properly addressed, was sent in accordance with this subpart, and returned, showing that it was not claimed, or was refused, is deemed to have been served in accordance with this subpart. The service will be considered valid as of the date and the time that the document was deposited with a contract or express messenger, the document was mailed, or personal delivery of the document was refused.

§ 20.305 Amendment or supplementation of filed documents.

(a) A party or interested person shall amend or supplement a previously filed pleading or document if the person learns of a material change that may affect the outcome of the class II civil penalty proceeding. However, no amendment will be allowed that would broaden the issues without an opportunity for the parties to reply to the amendment and to allow preparation for the broadened issues.

(b) The Administrative Law Judge may approve other amendments or supplements to filed documents.

(c) Parties shall notify the Hearing Docket Clerk, Administrative Law Judge, and all other parties or their representatives of any change of address.

§ 20.306 Computation of time.

(a) In computing any period of time prescribed in this part, the day on which the designated period begins to run is not included. The last day of the period so computed is included unless it is a Saturday, Sunday, or Federal holiday. When the period of time prescribed is 7 days or less, intermediate Saturdays, Sundays, and Federal holidays are excluded in the computation.

(b) If service or filing is by domestic mail, 3 days will be added to the designated period for response.

(c) If service or filing is by mail to a foreign country, 20 days will be added to the designated period for response.

(d) An Administrative Law Judge, for cause shown, may at any time in his or her discretion—

(1) With or without motion or notice, order a time period extended if request for extension is made before the end of the original time period, or as extended by a previous order; or

(2) Upon motion made after the expiration of the time period, permit the act to be done where the failure to act was excusable.

§ 20.307 Complaint.

(a) The complaint must set forth—

(1) The statute or regulation allegedly violated;

(2) The pertinent facts involved; and

(3) The amount of the requested class II civil penalty.

(b) The Coast Guard Representative should request the place of hearing when filing the complaint.

(c) The complaint must conform with the filing and service requirements of this subpart.

§ 20.308 Answer.

(a) The respondent shall file a written answer to the complaint not later than 20 days after service of the complaint. The answer must conform with the filing and service requirements of this subpart.

(b) The person filing an answer shall indicate whether he or she agrees with the place of hearing proposed in the complaint and, if necessary, shall request another location for the hearing when filing the answer.

(c) An answer must state whether or not the respondent intends to contest any of the violations set forth in the complaint. The answer must include any affirmative defenses that the respondent intends to assert at the hearing.

(1) The answer must admit or deny each numbered paragraph of the complaint. A statement that the person is without sufficient knowledge or information to admit or deny will have the effect of a denial. Except as provided in this paragraph, any allegation in the complaint that is not specifically denied in the answer is deemed admitted.

(2) A general denial of the complaint is deemed a failure to file an answer.

(d) A respondent's failure to file an answer without good cause will be deemed an admission of the truth of each allegation contained in the complaint.

§ 20.309 Motions.

(a) A person applying for an order or ruling not specifically provided in this subpart shall do so by motion. All written motions must comply with the form, filing, and service requirements of this subpart. All motions must state clearly and concisely—

(1) The purpose of and the relief sought by the motion;

(2) The statutory or regulatory authority relied upon; and

(3) The facts alleged to constitute the grounds requiring the relief requested.

(b) A proposed order may be attached to a motion.

(c) Motions must be in writing, except that a motion made at a hearing will be sufficient if stated orally upon the record unless the Administrative Law Judge directs that it be reduced to writing.

(d) Except as otherwise provided in this part, a party must file any response to a motion within 10 days following service of a written motion. When a motion is made during a hearing, an oral response may be made at the hearing or in writing, within a reasonable time, as determined by the Administrative Law Judge.

(e) Unless otherwise ordered by the Administrative Law Judge, the filing of a motion does not stay a proceeding.

(f) Rulings will be made on the record either orally or in writing. The Administrative Law Judge may summarily deny dilatory, repetitive, or frivolous motions.

§ 20.310 Default by respondent.

(a) A respondent may be found to be in default upon failure to file a timely answer to the complaint or, after motion, upon failure to appear at a conference or hearing without good cause being shown.

(b) Any motion for default must conform to the rules of form, service, and filing of this subpart and must include a proposed decision. The respondent alleged to be in default has 20 days from service to file a reply to the motion.

(c) Default by respondent constitutes, for purposes of the pending action only, an admission of all facts alleged in the complaint and a waiver of respondent's right to a hearing on such factual allegations.

(d) Upon finding that a default has occurred, the Administrative Law Judge shall issue a decision against the defaulting party.

(e) For good cause shown, the Administrative Law Judge may set aside a finding of a default.

§ 20.311 Withdrawal or dismissal.

(a) A class II civil penalty proceeding may be withdrawn without any action by an Administrative Law Judge in the following manner:

(1) By the filing of a stipulation by all parties who have appeared in the class II civil penalty proceeding;

(2) By the filing of a notice of withdrawal by the Coast Guard Representative at any time before the respondent has serviced a responsive pleading; or

(3) With respect to a complaint filed under section 311(b)(6) of the Federal Water Pollution Control Act (33 U.S.C. 1321(b)(6)), by the filing of a notice of withdrawal by the Coast Guard Representative at any time after the respondent has served a responsive pleading and prior to the issuance of an order of the Commandant assessing or denying a class II civil penalty, together with a certification by the Representative that the withdrawal is made in response to a request by the Attorney General that the Coast Guard refrain from administrative action, as provided in section 10(d) of Executive Order 12777 (56 FR 54757, 3 CFR 1991 Comp., p. 351).

(b) Unless otherwise stated in the stipulation or notice of withdrawal, a withdrawal under paragraph (a) of this section is without prejudice.

(c) Except as provided in paragraph (a) of this section, a class II civil penalty proceeding may not be withdrawn except by an Administrative Law Judge upon such terms and conditions as the Administrative Law Judge deems proper.

(d) Any party may move to dismiss the complaint, including a request for relief, for—

(1) Failure of another party to comply with the requirements of this part or with any order of the Administrative Law Judge;

(2) Failure to prosecute the civil penalty proceeding; or

(3) Failure to show a right to relief based upon the facts or law.

(E) A dismissal is the decision of the Administrative Law Judge.

Subpart D—Proceedings

§ 20.401 Initiation of class II civil penalty proceedings.

A class II civil penalty proceeding is initiated when the complaint is filed with the Hearing Docket Clerk and served on the respondent.

§ 20.402 Public notice.

Upon the filing of a complaint, the Coast Guard provides notice of the proposed issuance of an order assessing a class II civil penalty which is responsive to the complaint. The notice will be published in the **Federal Register.**

§ 20.403 Consolidation or severance of class II civil penalty proceedings.

(a) An Administrative Law Judge may for good cause, with the approval of the Chief Administrative Law Judge and with notice and opportunity to object provided to all parties, consolidate any or all matters at issue in two or more class II civil penalty proceedings docketed under this part. Good cause includes cases where there are common parties or questions of fact and where such consolidation would expedite the cases, and the interests of justice would be served. Consolidation will not be granted if it will prejudice any rights available under this part or if it will affect the right of any party to raise issues that could have been raised if consolidation had not occurred.

(b) Unless directed otherwise by the Chief Administrative Law Judge, the presiding Administrative Law Judge may in response to a motion or on his or her own motion, for good cause shown, order any class II civil penalty proceeding severed with respect to some or all parties, claims, and issues.

§ 20.404 Interested persons.

(a) A person not a party to a class II civil penalty proceeding under this part, who wishes to be an interested person in the proceeding, must file with the Hearing Docket Clerk within 30 days after publication in the **Federal Register** of the public notice required by § 20.402 either—

(1) Written comments on the proceeding; or

(2) Written notice of intent to present evidence at any hearing to be held in the proceeding.

(b) For good cause shown, the Administrative Law Judge may accept late comments or late notice of intent to present evidence.

(c) An interested person shall be given notice of any hearing to be held in the proceeding and of the decision in the proceeding. In any hearing the interested person shall have a reasonable opportunity to be heard and to present evidence

(d) For the purposes of paragraph (c) of this section, a reasonable opportunity to be heard and to present evidence does not include—

(1) Subpoena requests for witnesses;

(2) Cross-examination of witnesses; or

(3) Appearance at settlement conference(s).

Subpart E—Conferences and Settlement

§ 20.501 Conferences.

(a) The Administrative Law Judge may direct the parties to attend one or more conferences prior to or during the course of the hearing. Parties may request a conference by motion.

(b) The Administrative Law Judge may provide notice of a conference, other than a settlement conference, to interested persons, as the Administrative Law Judge deems appropriate.

(c) Reasonable notice of the time and place of the conference will be given to the parties. A conference may be held in person, by telephone conference, or by other appropriate means.

(d) Parties and interested persons when participating, shall be fully prepared for a useful discussion of all issues involved in the conference, both procedural and substantive, and authorized to make commitments with respect to the proceedings.

(e) Unless excused by the Administrative Law Judge, failure of a party to attend or participate in a conference, after being served with reasonable notice of the time and place, will constitute a waiver of all objections to the agreements reached in the conference and to any order or ruling that results.

(f) The Administrative Law Judge may order that any or all of the following be addressed or furnished before, during, or after, the conference:

(1) Motions for discovery.

(2) Motions for consolidation or severance of parties or issues in the civil penalty proceeding.

(3) Method of service and filing.

(4) Identification, simplification, and clarification of the issues.

(5) Requests for amendment of the pleadings.

(6) Stipulations and admissions of fact and of the content and authenticity of documents.

(7) A discussion of the desirability of limiting and grouping witnesses, so as to avoid duplication.

(8) Requests for official notice and particular matters to be resolved by reliance upon the agency's substantive standards, regulations, and rules.

(9) Offers of settlement.

(10) Proposed date, time, and place of the hearing.

(11) Other matters that may aid in the disposition of the civil penalty proceeding.

(g) A conference is not to be stenographically reported or otherwise recorded unless authorized by the Administrative Law Judge.

(h) During a conference, the Administrative Law Judge may dispose of any procedural matters on which he or she is authorized to rule.

(i) Actions taken as a result of a conference may be recorded in—

(1) A written report;

(2) A stenographic transcript if ordered by the Administrative Law Judge; or

(3) A statement by the Administrative Law Judge on the record at the hearing summarizing the actions taken.

§ 20.502 Settlement.

(a) The parties shall have the opportunity to submit a proposed settlement to the Administrative Law Judge.

(b) A settlement must be in the form of a proposed decision and a motion for its entry. It must also include the reasons why it should be accepted, and it must be signed by the parties or their representatives.

(c) A proposed settlement must contain—

(1) An admission of all jurisdictional facts;

(2) An express waiver of further procedural steps before the Administrative Law Judge, of any right to challenge or contest the validity of the decision entered into in accordance with the settlement, and of all rights to seek judicial review or otherwise to contest the validity of the decision;

(3) A statement that the decision will have the same force and effect as a decision made after at a full hearing; and

(4) A statement that matters in the pleading, if any, required to be adjudicated have been resolved by the proposed decision.

§ 20.503 Alternative dispute resolution.

The Administrative Law Judge may appoint a settlement adjudicator or order alternative dispute resolution proceeding with the consent of all parties.

Subpart F—Discovery

§ 20.601 General.

(a) Unless otherwise ordered by the Administrative Law Judge, each party and interested person who has filed written notice of intent to present evidence under § 20.404 shall make available to all other parties, to the Administrative Law Judge and, upon request, to interested persons—

(1) The names of any expert and other witnesses intended to be called, together with a brief narrative summary of their expected testimony or written testimony; and

(2) Copies of all documents and exhibits which are to be introduced into evidence.

(b) The Administrative Law Judge may direct the exchange of witness lists and documents during a prehearing

conference ordered under § 20.501 or may direct the exchange be accomplished by correspondence.

(c) The Administrative Law Judge may establish a schedule for conducting discovery in the proceedings and shall serve a copy of the schedule on each party.

(1) The schedule may include dates by which exchanges of witness lists and exhibits, requests for discovery, and any objections to discovery requests are to be filed.

(2) Unless otherwise ordered by the Administrative Law Judge, exchange of witness lists and documents shall be completed no less than 15 days prior to hearing, and final exchanges of proposed exhibits should be made in accordance with § 20.807.

(d) Further discovery shall be permitted only by order upon determination by the Administrative Law Judge—

(1) That such discovery will not in any way unreasonably delay the proceeding;

(2) That the information to be obtained is not otherwise obtainable;

(3) That such information has significant probative value;

(4) That the information requested is not cumulative or repetitious; and

(5) That the method or scope of discovery requested by the party is not unduly burdensome or expensive and is the least burdensome method available.

(e) A motion for discovery shall set forth—

(1) The circumstances warranting the taking of the discovery;

(2) The nature of the information expected to be discovered; and

(3) The proposed method of discovery and the time and place where it will be taken.

(f) If the Administrative Law Judge determines that the motion should be granted, the Administrative Law Judge shall issue an order for the taking of discovery together with conditions and terms.

§ 20.602 Additional response.

(a) A party or an interested person shall amend or supplement in a timely fashion—

(1) The documents and exhibits that the party or interested person intends to introduce into evidence;

(2) The identity of each person expected to be called as a witness, the subject matter on which the person is expected to testify, and a summary of the testimony; and

(3) Any information previously provided if—

(i) The party or interested person knows the information was incorrect or incomplete when made; or

(ii) The party or interested person knows that the information, though correct when made, is no longer accurate and the circumstances are such that a failure to amend or supplement the response is, in substance, a knowing concealment.

(b) An additional duty to amend or supplement may be imposed by order of the Administrative Law Judge.

§ 20.603 Interrogatories.

(a) Any party requesting interrogatories shall make a motion to the Administrative Law Judge. The motion must include—

(1) A statement of the purpose and general scope of the interrogatories; and

(2) The proposed interrogatories.

(b) The Administrative Law Judge will review the proposed interrogatories and may enter an order approving the service of some or all of the proposed interrogatories or may deny the motion.

(c) A party shall serve on the party named in the interrogatories the approved written interrogatories.

(d) Each interrogatory must be answered separately and fully in writing under oath or affirmation, unless it is objected to, in which event the reasons for the objection shall be stated instead of a response. A party, the party's attorney, or the party's representative shall sign the party's responses to interrogatories.

(e) Responses or objections must be filed within 30 days after the service of the interrogatories.

(f) If the response to an interrogatory may be derived or ascertained from the records of the party upon whom the interrogatory has been served, from an examination, audit, or inspection of such records, or from a compilation, abstract, or summary based thereon, and the burden of deriving or ascertaining the response is substantially the same for the party serving the interrogatory as for the party served, it is a sufficient response to specify the records from which the answer may be derived or ascertained. The party serving the interrogatory shall be afforded reasonable opportunity to examine, audit, or inspect the records and to make copies, compilations, abstracts, or summaries. The specification must include sufficient detail to permit the interrogating party to locate and identify the individual records from which the answer may be ascertained.

§ 20.604 Requests for production of documents or things for inspection or other purposes.

(a) Any party requesting production of documents or things for inspection or other purposes shall make a motion to the Administrative Law Judge. The motion must state with particularity—

(1) The purpose and scope of the request; and

(2) The documents and materials which are requested to be produced.

(b) The Administrative Law Judge will review the motion and may enter an order approving or denying the motion in whole or in part.

(c) A party shall serve on the party in possession, custody or control of the documents the order to produce, or to permit inspection and copying of documents.

(d) A party may, after approval of an appropriate motion by the Administrative Law Judge, inspect and copy, test, or sample any tangible things that contain or may lead to relevant information and that are in the possession, custody, or control of the party upon whom the request is served.

(e) A party may, after approval of an appropriate motion by the Administrative Law Judge, serve on another party a request to permit entry upon designated property in the possession or control of the party upon whom the request is served for the purpose of inspecting, measuring, surveying, photographing, testing, or sampling the property or any designated object or area. A request to permit entry upon property must set forth with reasonable particularity the item to be inspected and must specify a reasonable time, place, and manner for making the inspection and performing the related acts.

(f) The party upon whom the request is served shall respond within 30 days after the service of the request. Inspection and related activities will be permitted as requested, unless there are objections, in which case the reasons for each objection must be stated.

§ 20.605 Depositions.

(a) The Administrative Law Judge shall order depositions only upon a showing of good cause and upon a finding that—

(1) The information sought cannot be obtained more readily by alternative methods; or

(2) There is a substantial reason to believe that relevant and probative evidence may otherwise not be preserved for presentation by a witness at the hearing.

(b) Testimony may be taken by deposition upon approval of the Administrative Law Judge of a motion made by any party.

(1) The motion must state—

(i) The purpose and scope of the deposition;

(ii) The time and place it is to be taken;

(iii) The name and address of the person before whom the deposition is to be taken;

(iv) The name and address of each witness from whom a deposition is to be taken;

(v) The documents and materials which the witness is requested to produce; and

(vi) Whether it is intended that the deposition be used at a hearing instead of live testimony.

(2) The motion must state if the deposition is to be by oral examination, by written interrogatories, or a combination of the two. The deposition may be taken before any disinterested person authorized to administer oaths in the place where the deposition is to be taken.

(c) Upon a showing of good cause the Administrative Law Judge may enter and serve upon the parties an order to obtain the testimony of the witness.

(d) If the deposition of a public or private corporation, partnership, association, or governmental agency is ordered, the organization named must designate one or more officers, directors, or agents to testify on its behalf, and may set forth, for each person designated, the matters on which he or she will testify. Subject to the provisions of 49 CFR part 9 with respect to Coast Guard witnesses, the designated persons shall testify as to matters reasonably known to them.

(e) Each witness deposed shall be placed under oath or affirmation, and the other parties shall have the right to cross-examine.

(f) The witness being deposed may have counsel or another representative present during the deposition.

(g) Except as provided in paragraph (n) of this section, depositions shall be stenographically recorded and transcribed at the expense of the party requesting the deposition. Unless waived by the deponent, the transcription must be read by or read to the deponent, subscribed by the deponent, and certified by the person before whom the deposition was taken.

(h) Subject to objections to the questions and responses as were noted at the time of taking of the deposition and which would have been sustained if the witness were personally present and testifying, a deposition may be offered into evidence by the party taking it against any party who was present or represented at the taking of the deposition or who had notice of the deposition.

(i) The party requesting the deposition shall make appropriate arrangements for necessary facilities and personnel.

(j) During the taking of a deposition, a party or the witness may request suspension of the deposition on the grounds of bad faith in the conduct of the examination, oppression of the witness or party, or improper questioning or conduct. Upon request for suspension, the deposition will be adjourned. The objecting party or witness must immediately move the Administrative Law Judge for a ruling on the objection(s). The Administrative Law Judge may then limit the scope or manner of taking the deposition.

(k) When a deposition is taken in a foreign country, it may be taken before a person having power to administer oaths in that location, or before a secretary of an embassy or legation, consul general, consul, vice consul or consular agent of the United States, or before such other person or officer as may be agreed upon by the parties by written stipulation filed with the Administrative Law Judge.

(l) Objection to taking a deposition because of the disqualification of the officer before whom it is to be taken is waived unless made before the taking of the deposition begins or as soon thereafter as the disqualification becomes known or could have been discovered with reasonable diligence.

(m) A deposition may be taken by telephone conference call upon such terms, conditions, and arrangements as are prescribed in the order of the Administrative Law Judge.

(n) The testimony at a deposition hearing may be recorded on videotape, upon such terms, conditions and arrangements as are prescribed in the order of the Administrative Law Judge, at the expense of the party requesting the recording. The video recording may be in conjunction with an oral examination by telephone conference held pursuant to paragraph (m) of this section. After the deposition has been taken, and copies of the video recording are provided to parties requesting them, the person recording the deposition shall immediately place the videotape in a sealed envelope or a sealed videotape container, attaching to it a statement identifying the proceeding and the deponent and certifying as to the authenticity of the video recording, and return the videotape by accountable means to the Administrative Law Judge. The deposition becomes a part of the record of the proceedings in the same manner as a transcribed deposition. The videotape, if admitted into evidence, will be played during the hearing and transcribed into the record by the reporter.

§ 20.606 Protective order.

(a) In considering a motion for an order of discovery, or a motion by a party or the person from whom discovery is sought to reconsider or amend an order of discovery, the Administrative Law Judge may make any order that justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including—

(1) That the discovery may be had only on specified terms and conditions, including a designation of the time and place;

(2) That the discovery may be had only by a method of discovery other than that selected by the seeking party;

(3) That particular matters may not be inquired into, or that the scope of the discovery shall be limited to particular matters;

(4) That discovery shall be conducted with no one present except persons designated by the Administrative Law Judge;

(5) That a trade secret or other proprietary information may not be disclosed, may be disclosed only in a designated way, or may be disclosed only to designated persons; or

(6) That the party or the other person from whom discovery is sought file specified documents or information under seal to be opened as directed by the Administrative Law Judge.

(b) The Administrative Law Judge may permit a party or a person from whom discovery is sought and who is seeking a protective order to make all or part of the showing of good cause *in camera*. A record of the *in camera* proceedings must be made. If the Administrative Law Judge enters a protective order, any *in camera* record of the showing must be sealed and only released as required by law.

(c) The Administrative Law Judge may upon motion by a party or by a person from whom discovery is sought—

(1) Restrict or defer disclosure by a party of the name of a witness or, in the case of an agency witness, any prior statement of the witness; and

(2) Prescribe other appropriate measures to protect a witness.

(d) Any party affected by any such order shall have an adequate opportunity, once learning of the name of the witness and obtaining a narrative summary of expected testimony, or in the case of a Coast Guard witness, any prior statement or statements, to prepare for cross-examination and for the presentation of the party's case.

§ 20.607 Sanctions for failure to comply.

If a party fails to provide or permit discovery, the Administrative Law Judge may take such action as is just, including but not limited to the following:

(a) Infer that the testimony, document, or other evidence would have been adverse to the party.

(b) Order that, for the purposes of the class II civil penalty proceeding, designated facts will be considered to be established.

(c) Order that the party withholding discovery not introduce into evidence or otherwise rely, in support of any claim or defense, upon documents or other evidence withheld.

(d) Order that the party withholding discovery not introduce into evidence, or otherwise use in the hearing, information obtained in discovery.

(e) Order that the party withholding discovery not be heard to object to introduction and use of secondary evidence to show what the withheld admission, testimony, documents, or other evidence would have shown.

§ 20.608 Subpoenas.

(a) The Administrative Law Judge may issue subpoenas for the attendance and the giving of testimony or for the production of books, papers, documents, or any other relevant evidence. Parties shall request the issuance of subpoenas by motion.

(b) Upon application and for good cause shown, the Administrative Law Judge shall apply to the United States District Court to issue an order compelling the appearance and testimony of witnesses or for the production of evidence.

(c) The person making service shall prepare a written statement setting forth the date, time and manner of service or setting forth the reasons the subpoena was not served. The statement shall be under oath or affirmed under the penalties of perjury. The statement shall be attached to a copy of the subpoena and returned to the Administrative Law Judge who issued the subpoena.

§ 20.609 Motion to quash or modify.

(a) The person to whom a subpoena is directed may, by motion with notice to the party requesting the subpoena, petition the Administrative Law Judge to quash or modify the subpoena.

(b) Except when made at a hearing, the motion must be filed within 10 days after service of a subpoena for attendance of a witness or a subpoena for production of evidence, but in any event at or before the time specified in the subpoena for compliance.

(c) If served at the hearing, the person to whom the subpoena is directed may, by oral application at the hearing, or within a reasonable time fixed by the Administrative Law Judge, petition the Administrative Law Judge to quash or modify the subpoena.

(d) The Administrative Law Judge may quash or modify the subpoena if it is unreasonable or requires evidence not relevant to any matter in issue or may deny the request.

Subpart G—Hearings

§ 20.701 Standard of proof.

The party with the burden of proof shall prove the party's case or affirmative defense by a preponderance of the evidence.

§ 20.702 Burden of proof.

(a) Except in the case of an affirmative defense, or as provided in paragraph (b) of this section, the burden of proof is on the Coast Guard.

(b) Except as otherwise provided by statute or rule, the proponent of a motion, request, or order has the burden of proof.

§ 20.703 Presumptions.

In all class II civil penalty proceedings, a presumption imposes on the party against whom it is directed the burden of going forward with evidence to rebut or meet the presumption, but a presumption does not shift to such party the burden of proof in the sense of the risk of nonpersuasion, which remains throughout the hearing upon the party on whom it was originally placed.

§ 20.704 Scheduling and notice of hearing.

(a) The Administrative Law Judge shall be responsible for scheduling the hearing. With due regard for the convenience of the parties, their representatives, or witnesses, the Administrative Law Judge, as early as possible, shall fix the time, place, and date for the hearing and shall notify all parties and interested persons.

(b) A request for a change in the time, place, or date of a hearing may be granted by the Administrative Law Judge.

(c) At any time after commencement of a proceeding, any party may move to expedite the scheduling of a proceeding. A party moving to expedite a proceeding shall—

(1) Describe the circumstances justifying the motion to expedite; and

(2) Incorporate in the motion affidavits to support any representations of fact.

(d) Following timely receipt of the motion and any responses, the Administrative Law Judge may expedite pleading schedules, prehearing conferences, and the hearing, as appropriate.

§ 20.705 Failure to appear.

A default under § 20.310 may be entered against a respondent failing to appear at a hearing unless—

(a) Prior to the time for the hearing, the respondent shows good cause as to why neither the respondent nor the respondent's representative can appear; or

(b) Within 30 days of an order to show good cause, the respondent shows good cause for failure to appear.

§ 20.706 Witnesses.

(a) Witnesses shall testify under oath or affirmation.

(b) If a witness fails or refuses to testify, the failure or refusal to answer any question found by the Administrative Law Judge to be proper shall be grounds for striking all or part of the testimony which may have been given by the witness, or for any other action deemed appropriate by the Administrative Law Judge.

§ 20.707 Telephone testimony.

(a) The Administrative Law Judge may order that testimony of a witness be taken by telephone conference call. A person presenting evidence may request by motion to have testimony taken by telephone conference call. The telephone conference call will be arranged so that all participants can listen to and speak to each other in the hearing of the Administrative Law Judge. The Administrative Law Judge shall ensure that all participants in the telephone conference are properly identified to allow a proper record to be made by the reporter. Telephone conferences are governed by this part.

(b) A witness may be subpoenaed to testify by telephone conference call. The subpoena in such instances is issued under the procedures in § 20.608.

§ 20.708 Witness fees.

(a) Witnesses summoned in a class II civil penalty proceeding shall receive the same fees and mileage as witnesses in the courts of the United States.

(b) The party or interested person who calls a witness is responsible for any fees and mileage to be received by the witness under paragraph (a) of this section.

§ 20.709 Closing of the record.

At the conclusion of the hearing, the record of the proceeding, as described in § 20.903, will be closed unless the Administrative Law Judge directs otherwise. Once the record is closed, it may be reopened at the discretion of the Administrative Law Judge. The

Administrative Law Judge may correct the transcript of the hearing by appropriate order.

§ 20.710 Proposed findings, closing arguments, and briefs.

Before the Administrative Law Judge's decision and upon terms which the Administrative Law Judge may find reasonable, any party shall be entitled to file a brief, a proposed findings of fact and conclusions of law, or both. Before the close of the hearing, the Administrative Law Judge may hear oral argument to the extent the Administrative Law Judge deems appropriate. Any brief, proposed findings of fact and conclusions of law, and oral argument must be included as part of the record of the proceeding.

Subpart H—Evidence

§ 20.801 General.

A party is entitled to present its case or defense by oral, documentary, or demonstrative evidence; to submit rebuttal evidence; and to conduct any cross-examination that may be required for a full and true disclosure of the facts.

§ 20.802 Admissibility of evidence.

(a) The Administrative Law Judge may admit any relevant oral, documentary, or physical evidence, unless privileged.

(b) Relevant evidence is evidence having any tendency to make the existence of any material fact more probable or less probable than it would be without the evidence.

(c) The Administrative Law Judge may exclude evidence if its probative value is substantially outweighed by the danger of unfair prejudice, by confusion of the issues, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

§ 20.803 Hearsay evidence.

Hearsay evidence is admissible in proceedings governed by this part. The fact that evidence is hearsay may be considered by the Administrative Law Judge when determining the probative weight of the evidence.

§ 20.804 Objections and offers of proof.

(a) A party shall state briefly the grounds for objection to the admission or exclusion of evidence. Rulings on all objections must appear in the record. Only objections made before the Administrative Law Judge may be raised on appeal.

(b) Whenever evidence is excluded, the party offering such evidence may make an offer of proof, which must be included in the record.

§ 20.805 Proprietary information.

(a) Without limiting the discretion of the Administrative Law Judge to give effect to applicable privileges, the Administrative Law Judge may limit introduction of evidence or issues such protective or other orders that in his or her judgment may be consistent with the objective of preventing undue disclosure of proprietary matters, including, but not limited to, matters of a business nature.

(b) Where the Administrative Law Judge determines that information in documents containing proprietary matters should be made available to another party, the Administrative Law Judge may direct the party having possession of the documents to prepare a non-proprietary summary or extract of the original. The summary or extract may be admitted as evidence in the record.

(c) If the Administrative Law Judge determines that this procedure is inadequate and that proprietary matters must form part of the record in order to avoid prejudice to a party, the Administrative Law Judge may advise the parties and provide opportunity for arrangements to permit a party or representative to have access to the evidence.

§ 20.806 Official notice.

The Administrative Law Judge may take official notice of such matters as might be judicially noticed by the courts or of other facts within the specialized knowledge of the Coast Guard as an expert body. Where a decision or part of a decision rests on the official notice of a material fact not appearing in the evidence in the record, the fact of official notice must be stated in the decision, and any party, upon timely request, shall be afforded an opportunity to show the contrary.

§ 20.807 Exhibits and documents.

(a) All exhibits must be numbered and marked with a designation identifying the party or interested person introducing the exhibit. The original of each exhibit offered in evidence or marked for identification must be filed and retained in the record of the proceeding, unless the Administrative Law Judge permits the substitution of copies for the original document. Copies of each exhibit must be supplied by the party or interested person introducing the exhibit to the Administrative Law Judge and to every party to the proceeding.

(b) Unless otherwise directed by the Administrative Law Judge, proposed exhibits to be offered upon direct examination should be exchanged or made available for inspection 5 days prior to the hearing. The authenticity of all exhibits submitted prior to the hearing will be deemed admitted unless written objection is filed and served on all parties, or unless good cause is shown for failure to file a written objection.

§ 20.808 Written testimony.

The Administrative Law Judge may enter into the record written statements of witnesses that are sworn or affirmed under penalties of perjury. Witnesses whose testimony is presented by written statement shall be or have been available for oral cross-examination.

§ 20.809 Stipulations.

The parties and interested persons may stipulate, in writing, at any stage of the proceeding or orally at the hearing, to any pertinent facts or other matters fairly susceptible of stipulation. Stipulations are binding on the parties to the stipulation.

Subpart I—Decisions

§ 20.901 Summary decision.

(a) Any party may, after commencement of the proceeding and at least 15 days before the date fixed for the hearing, with or without supporting affidavits, move for a summary decision in the party's favor in all or any part of the proceeding on the grounds that there is no genuine issue as to any material fact and that the moving party is entitled to a decision as a matter of law. Any other party may, within 10 days after service of the motion, serve opposing affidavits or countermove for summary decision. The Administrative Law Judge may set the matter for argument and call for the submission of briefs.

(b) The Administrative Law Judge may grant the motion if the filed documents, affidavits, material obtained by discovery or otherwise, or matters officially noted show that there is no genuine issue as to any material fact and that a party is entitled to a summary decision as a matter of law.

(c) Affidavits must set forth such matters as would be admissible in evidence and must show affirmatively that the affiant is competent to testify to the matters stated in the affidavit. When a motion for summary decision is made and supported as provided in this section, a party opposing the motion may not rest upon the mere allegations or denials of facts contained in the opposing party's pleadings. The response to the motion, by affidavits or as otherwise provided in this section, must provide a specific basis to show

that there is a genuine issue of fact for the hearing.

(d) Should it appear from the affidavits of a party opposing the motion that the opposing party cannot, for reasons stated, present by affidavit matters essential to justify the party's opposition, the Administrative Law Judge may deny the motion for summary decision, may order a continuance to permit information to be obtained, or may make such other order as is just.

(e) The denial of all or any part of a motion for summary decision shall not be subject to interlocutory appeal.

§ 20.902 Decision of the Administrative Law Judge.

(a) After the closing of the record of the proceeding, the Administrative Law Judge shall prepare a decision containing—

(1) Findings on all material issues of fact and conclusions of law, and the basis for each;

(2) The disposition of the case, including the assessment of a class II civil penalty, as appropriate;

(3) The date upon which the decision will become effective;

(4) A statement of further right to appeal; and

(5) If no hearing was held, a statement of the right of any interested person to petition the Commandant to set aside the decision.

(b) The decision of the Administrative Law Judge must be based upon a consideration of the whole record of the proceedings.

§ 20.903 Record of Proceedings.

(a) The record of testimony at the hearing, all exhibits received into evidence, any items marked as exhibits and not received into evidence, all motions, all applications, all requests, and all rulings will constitute the official record of a proceeding. Any proceedings regarding the disqualification of an Administrative Law Judge will be included in the record.

(b) Any person may examine the record of a proceeding at the Hearing Docket Office, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001. Any person may secure a copy of part or all of the record after payment of reasonable costs for duplication in accordance with 49 CFR part 7.

§ 20.904 Reopening.

(a) To the extent permitted by law, the Administrative Law Judge, for good cause shown in accordance with paragraph (c) of this section, may reopen the record of a proceeding for the purpose of taking additional evidence.

(b) Any party may file a motion to reopen the record within 30 days of the closing of the record of a proceeding.

(1) Any motion to reopen the record must clearly set forth the facts sought to be proven and the reasons claimed to constitute grounds for reopening the record.

(2) A party who does not file a response to any motion to reopen the record will be deemed to have waived any objection to the motion.

(c) If the Administrative Law Judge has reason to believe that reopening the record of a proceeding is warranted by any changes in conditions of fact or of law or by the public interest, the record of the proceeding may be reopened by the Administrative Law Judge before the Administrative Law Judge's decision becomes an order of the Commandant assessing or denying a class II civil penalty.

(d) The filing of a motion to reopen the record does not affect the appeals periods specified in subpart J of this part, except that a motion to reopen the record tolls any time remaining in the appeals periods from the date of filing the motion until the Administrative Law Judge acts on the motion or the motion is withdrawn.

Subpart J—Appeals

§ 20.1001 General.

(a) A party may appeal the Administrative Law Judge's decision by filing a notice of appeal with the Commandant. A party shall file the notice of appeal with the Commandant (G–CJ), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001, Attention: Hearing Docket Clerk. A party shall file the notice of appeal not later than 30 days after issuance of the Administrative Law Judge's decision, and shall serve a copy of the notice of appeal on the other party and each interested person.

(b) A party may appeal only the following issues:

(1) Whether each finding of fact is supported by substantial evidence.

(2) Whether each conclusion of law is made in accordance with applicable law, precedent, and public policy.

(3) Whether there were any abuses of discretion by the Administrative Law Judge.

(4) The Administrative Law Judge's denial of a motion for disqualification.

(c) An interested person may appeal a summary decision but only on the issue that a hearing was not held and that evidence to be presented by the interested person was not considered in the issuance of the decision by the Administrative Law Judge. The appeal shall be made in accordance with the procedural requirements of this subpart.

§ 20.1002 Record on appeal.

(a) The record of the proceeding will constitute the record for decision on appeal.

(b) If the respondent requests a copy of the transcript of the hearing in the notice of appeal and the hearing was recorded or transcribed at government expense, the transcript will be provided upon payment of the fees prescribed in 49 CFR 7.95. If the services of a government contractor were utilized, the transcript must be obtained under the provisions of 49 CFR 7.99.

§ 20.1003 Procedures of appeal.

(a) A party seeking appeal shall file an appeal brief with the Commandant and shall serve a copy of the appeal brief on each other party.

(1) The appeal brief must set forth the party's specific objections to the initial decision or rulings. The appeal brief must set forth, in detail—

(i) The basis for the appeal;

(ii) The reasons supporting the appeal; and

(iii) The relief requested in the appeal.

(2) When the party relies on material contained in the record for the appeal, the appeal brief must specifically refer to the pertinent portions of the record.

(3) The appeal brief must be submitted to the Commandant within 60 days after service of the Administrative Law Judge's decision. After this time has elapsed, additional filings will not be considered as a part of the record of the appeal, unless an extension of time has been granted in writing by the Commandant or the Commandant's designee and the extended time limit has been met.

(b) Any party may file a reply brief with the Commandant no later than 35 days after being served with the appeal brief. The party filing a reply brief will serve a copy on all parties. If the party filing a reply brief relies on evidence contained in the record for the appeal, the party shall specifically refer to the pertinent evidence contained in the transcript of the hearing in the reply brief.

(c) A party may not file more than one appeal brief or reply brief, unless the party has petitioned the Commandant in writing, and the Commandant or the Commandant's designee has granted leave to file an additional brief. The Commandant will allow a reasonable time for the party to file the additional brief.

(d) The Commandant has sole discretion to permit oral argument on the appeal. On the Commandant's own initiative or upon written petition by any part, the Commandant may find that oral argument will contribute substantially to the development of the issues on appeal and may grant the parties an opportunity for oral argument.

(e) The Commandant may allow any person to file an amicus curiae brief in an appeal of an Administrative Law Judge's decision.

§ 20.1004 Civil penalty appeal decisions.

(a) The Commandant shall review the record on appeal to determine if the Administrative Law Judge committed prejudicial error in the proceedings or if the Administrative Law Judge's decision should be affirmed, modified, or reversed. The Commandant may affirm, modify, or reverse the Administrative Law Judge's decision or may remand the case for further proceedings.

(b) The Commandant shall issue a decision on an appeal in writing and shall serve a copy of the decision on each party and interested person.

Subpart K—Finality, Petitions for Hearing, and Availability of Orders

§ 20.1101 Finality.

(a) Unless appealed pursuant to subpart J of this part, a decision by the Administrative Law Judge becomes an order assessing or denying a class II civil penalty 30 days after the date of the issuance of Administrative Law Judges's decision.

(b) If the Commandant issues a decision under subpart J of this part, the decision of the Commandant constitutes an order assessing or denying a class II civil penalty on the date issued.

(c) The order assessing or denying a class II civil penalty is the order of the Commandant.

§ 20.1102 Petitions to set aside a decision and provide a hearing.

(a) If no hearing is held on a class II civil penalty complaint, any interested person may file a petition, within 30 days after the issuance of the order, asking the Commandant to set aside an order assessing or denying a civil penalty and to provide a hearing.

(b) If the Commandant decides that evidence presented by the interested person in support of the petition is material and was not considered in the issuance of the decision, the Commandant sets aside the decision and directs that a hearing be held in accordance with the requirements of this part.

(c) If the Commandant denies a hearing requested under this section, the Commandant provides to the interested person, and publishes in the **Federal Register,** notice of and the reasons for the denial.

§ 20.1103 Availability of decisions.

(a) Copies of decisions made in the adjudication of class II civil penalties are available for inspection and copying at—

(1) The document inspection facility at any Coast Guard District office; or

(2) The Coast Guard Headquarters Hearing Docket Office Public Reading Room.

(b) Requests for a copy of a decision may be made to the Hearing Docket Clerk. The person requesting a copy will be billed for the copying costs in accordance with 49 CFR 7.93.

Dated: March 23, 1994.

J.W. Kime,

Admiral, U.S. Coast Guard Commandant.

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202-523-6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202-512-2470).

S.J. Res. 56/P.L. 103-221

To designate the week beginning April 11, 1994, as "National Public Safety Telecommunicators Week". (Mar. 24, 1994; 108 Stat. 101; 1 page)

S.J. Res. 162/P.L. 103–222
Designating March 25, 1994, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy". (Mar. 24, 1994; 108 Stat. 102; 1 page)

S.J. Res. 163/P.L. 103–223

To proclaim March 20, 1994, as "National Agriculture Day". (Mar. 24; 1994; 108 Stat. 103; 2 pages)

S.J. Res. 171/P.L. 103–224

To designate March 20 through March 26, 1994, as "Small Family Farm Week". (Mar. 24, 1994; 108 Stat. 105; 1 page)

S. 1926/P.L. 103–225

Food Stamp Program Improvements Act of 1994 (Mar. 25, 1994; 108 Stat. 106; 5 pages)

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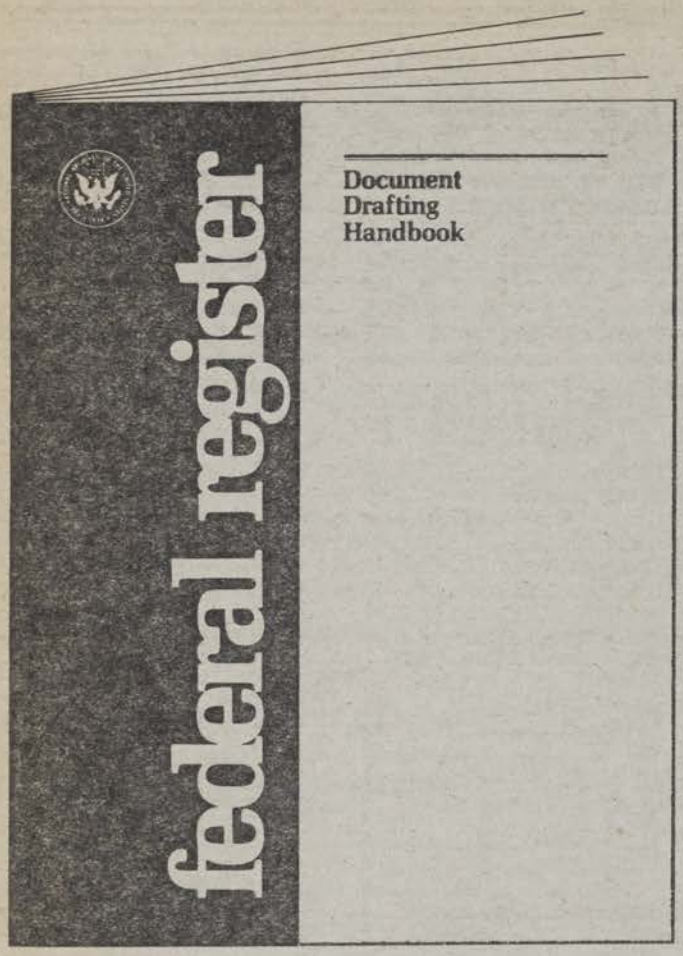

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