

9-14-94

Vol. 59 No. 177

federal register

Wednesday
September 14, 1994

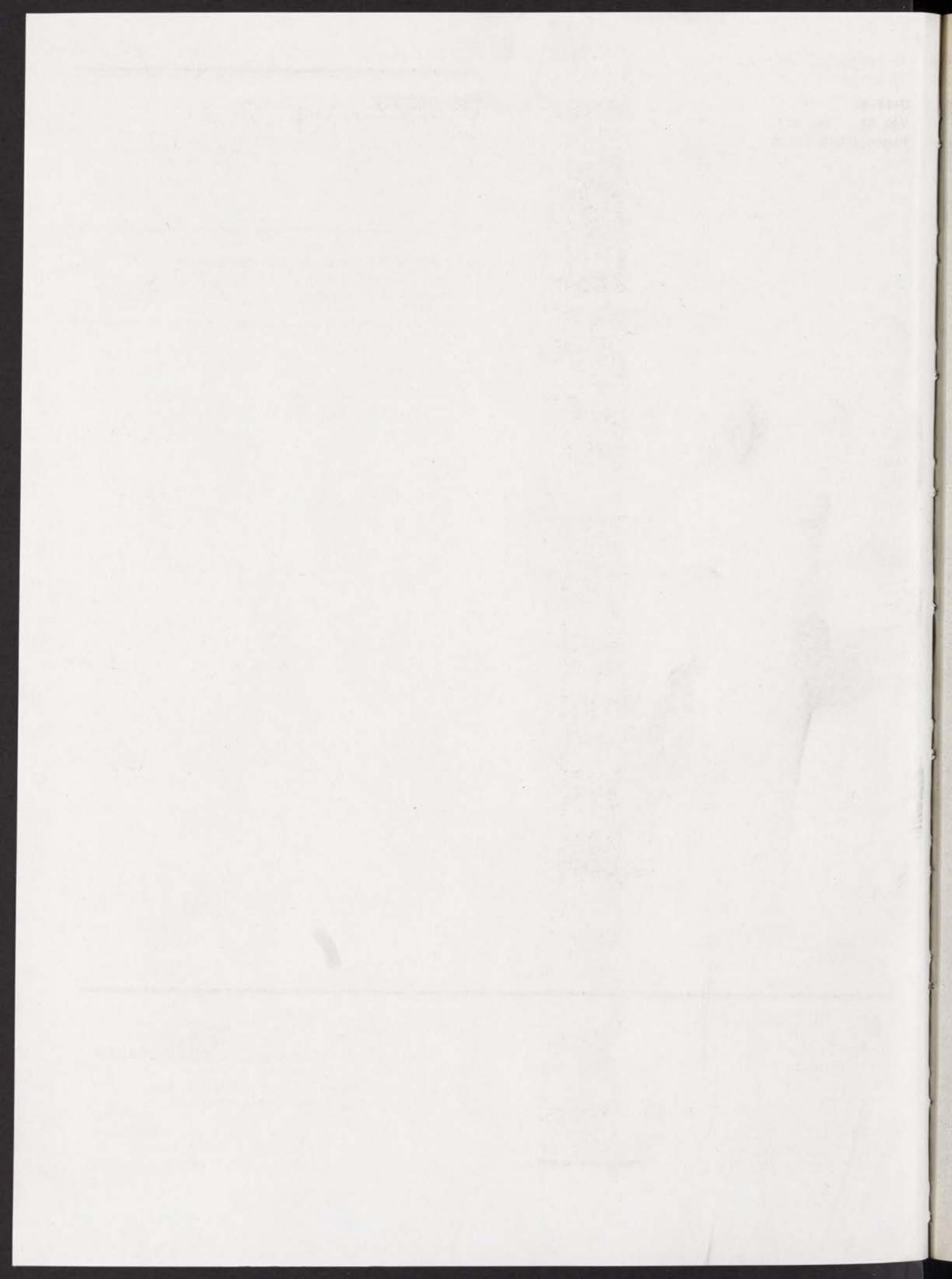
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U.S. Government Printing Office
(ISSN 0097-6326)



9-14-94
Vol. 59 No. 177
Pages 47063-47228

Wednesday
September 14, 1994

Federal Register

Briefing on How To Use the Federal Register
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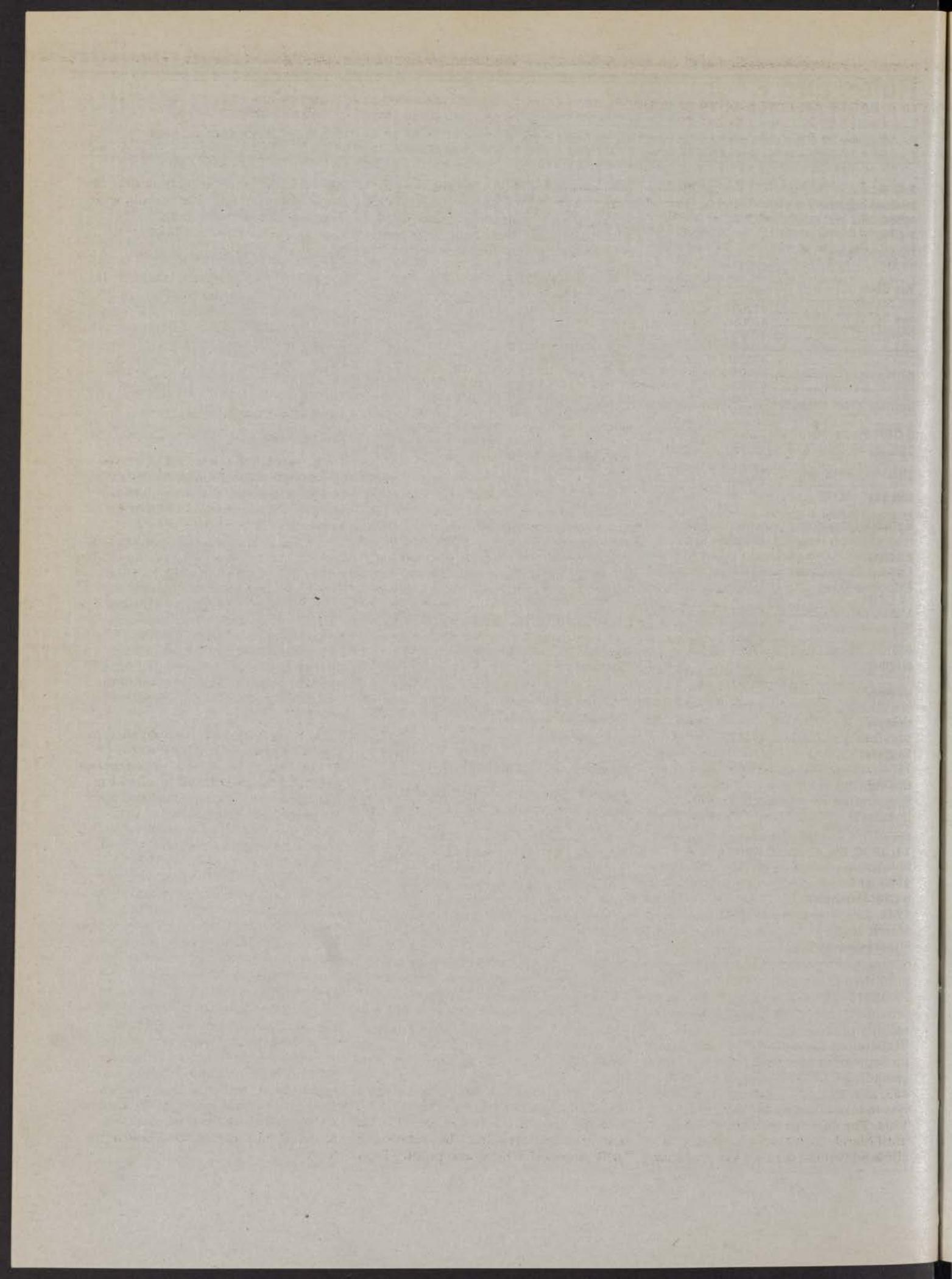
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Federal Register

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

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

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 204, 211, 223, 235, 251, 252, 274a, 299, 316, and 334

[INS No. 1381X-94]

RIN 1115-AD32

Establishment of Form I-551, Alien Registration Receipt Card, as the Exclusive Form of Registration for Lawful Permanent Residence; Delay of Effective Date

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule; delay of effective dates.

SUMMARY: The Immigration and Naturalization Service (Service) is delaying the effective date of a final rule previously published in the *Federal Register* on September 20, 1993, at 58 FR 48775-48780, which provided that the validity of Form I-151, Alien Registration Receipt Card, would terminate on September 20, 1994.

EFFECTIVE DATES: Effective September 14, 1994, the effective date for the regulation published on September 20, 1993, at 58 FR 48775-48780, amending 8 CFR Parts 204, 211, 223, 235, 251, 252, 274a, 299, 316, and 334 is delayed until March 20, 1995.

SUPPLEMENTARY INFORMATION: On September 20, 1993, the Service published in the *Federal Register* at 58 FR 48775-48780 a final rule which provided, among other things, that the validity of the Form I-151, Alien Registration Receipt Card, would expire on September 20, 1994. The final rule amending 8 CFR Parts 204, 211, 223, 235, 251, 252, 274a, 299, 316, and 334 was to take effect on September 20, 1994. The delay in the effective date until March 20, 1995, is necessary to allow additional time for the processing

of applications filed to replace the old Form I-151 cards with the current Form I-551, Alien Registration Receipt Card, and to allow additional time to publish revised instructions for the use of employers.

Resident aliens in possession of a Form I-151, Alien Registration Receipt Card, issued before 1979, who have not already applied to replace it with a valid, current Form I-551, Alien Registration Receipt Card, are urged to do so without delay. This may be done by filing Form I-90, Application to Replace Alien Registration Card. For the convenience of the public, these application forms may be ordered by telephone, toll-free, by calling: 1-800-755-0777.

Dated: September 8, 1994.

Doris Meissner,
Commissioner, Immigration and Naturalization Service.

[FR Doc. 94-22714 Filed 9-13-94; 8:45 am]
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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 92-162-2]

RIN 0579-AA57

Quarantine Facilities for Birds

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are revising the bird importation regulations to allow imported birds to be quarantined upon arrival in the United States at any privately owned bird quarantine facility located near an international airport or land-border port served by U.S. Customs, provided the facility meets the standards of the Animal and Plant Health Inspection Service. The importation system that allowed bird importations through a limited number of "approved quarantine facilities" lacked flexibility, and no longer appears necessary.

We are also establishing standards for incubator/hatcher areas and bird holding areas in quarantine facilities for hatching eggs of ratites. These standards will protect U.S. birds and poultry from

disease without requiring importers of hatching eggs of ratites to comply with the more stringent standards appropriate for imported birds.

EFFECTIVE DATE: October 14, 1994.

FOR FURTHER INFORMATION CONTACT: Dr. Keith A. Hand, Senior Staff Veterinarian, Import-Export Animals Staff, National Center for Import-Export, Veterinary Services, APHIS, USDA, room 768, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-5097.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR §§ 92.100 through 92.107, "Subpart A—Birds" (referred to below as the regulations), regulate the importation of birds to prevent the introduction of communicable diseases of poultry and other domestic livestock into the United States. As a condition of importation, all imported birds must be quarantined for a minimum of 30 days upon their arrival in the United States. The birds must be quarantined in either a U.S. Department of Agriculture (USDA) quarantine facility or in a privately owned facility approved by the Administrator of the Animal and Plant Health Inspection Service (APHIS).

On August 3, 1993, we published in the *Federal Register* (58 FR 41204-41210, Docket No. 92-162-1) a proposal to amend the regulations by allowing imported birds to be quarantined upon arrival in the United States at any privately owned bird quarantine facility located near an international airport or land-border port served by U.S. Customs, provided the facility meets APHIS standards. Our proposal also specified standards and handling procedures for incubator/hatcher areas and chick holding areas in privately owned bird quarantine facilities for hatching eggs of ratites.

We solicited comments concerning our proposal for a 60-day comment period ending October 4, 1993. We received 214 comments by that date. They were from breeders, importers, humane organizations, industry associations, and representatives of State and Federal agencies. We carefully considered all of the comments we received, and discuss them below, by topic.

Bird Import Permit Issuance; Inspection

A number of commenters stated that APHIS has insufficient personnel to provide services in conjunction with the avian import program, and expressed concern that the proposed provisions would exacerbate the problems that already exist. Several commenters expressed concern regarding the provision in our proposed rule that lack of APHIS personnel would be a condition for denial of a permit to import birds or ratite hatching eggs, and also with the provision that permits would be granted for ports of entry on a "first-come-first-served" basis. One commenter stated that such a policy places an unreasonable financial burden on importers, and suggested that when applications for permits converge, APHIS charge additional fees to provide the additional services. Another commenter expressed concern that the demand for APHIS personnel would lead to a lottery system that would destroy the ability of bird importers to operate in a normal business environment.

We are making no changes based on these comments. Because the geographical distribution of privately operated quarantine facilities for birds is expected to be broader under this rule than under the existing regulations, we anticipate that no one sector of APHIS personnel will be excessively impacted. In those occasional cases where sufficient personnel are not available in an area, we will make an effort to accommodate each importer. In some cases, this may require redistribution of APHIS personnel resources. Further, as we stated in our proposed rule, and discuss below, we anticipate a decline in the number of birds intended for importation into the United States.

A small number of commenters stated that issuing permits on a "first-come-first-served" basis would not take into account which facilities are the most qualified or most experienced in handling birds. We are making no changes based on these comments. Our statutory authority does not empower us to favor one facility over another, provided each facility is capable of meeting, and does meet, the requirements of the regulations. Owners of birds intended for importation into the United States will have the option of choosing among quarantine facilities capable of complying with the regulations.

In our proposed rule, we included the requirement that an applicant for an import permit submit a \$10,000 deposit, along with a Cooperative and Trust

Fund Agreement, to cover the cost of APHIS services provided during one quarantine and any additional costs that might be incurred due to unexpected schedule changes or extensions of the quarantine period. Several commenters supported the provision as proposed. One commenter, however, stated that \$10,000 was unreasonable for some importers—for instance, zoological parks and aquariums that do not import large numbers of birds at any single time and that are unlikely to incur \$10,000 in costs per importation. In reviewing the provision in question, we agree with the commenter that, because of the range of costs that might be incurred during a quarantine, it is difficult to set one figure that will be equitable to all importers and still cover the costs of services provided by APHIS. In some cases, the cost for APHIS services has been considerably more than \$10,000. Therefore, we are providing in § 92.106(c)(5)(i) that, in conjunction with a Cooperative and Trust Fund Agreement, an importer shall deposit with the Administrator a money order or cashier's check in an amount determined by the Administrator to be sufficient to cover all costs incurred by the Department in providing services in accordance with the provisions of the Cooperative and Trust Fund Agreement. We are also making corresponding changes in §§ 92.106(c)(5)(ii) and (c)(19). Also, we are adding language to § 92.106(c)(19) to clarify that importers will be billed for costs that exceed the amount deposited, and are adding language to § 92.103(a)(2)(ii) to clarify that an applicant for an import permit may be denied an import permit or have an import permit withdrawn if the applicant has any outstanding debts to APHIS that were not paid when due. (See 9 CFR 130.51, "Penalties for nonpayment or late payment of user fees.")

In our proposed rule, we stated that we expected a drop in the number of bird import permit applications, due to a reduction in the number of importable birds under the Wild Bird Conservation Act of 1992 (Pub. L. 102-440; the Act), which became effective on October 22, 1993. A number of commenters stated that anticipating a drop in bird imports due to the Act was premature, either because the moratoria on affected species could be lifted if certain conditions are met, or because there will likely be an increase in applications to import birds that are eligible for importation.

We are making no changes based on these comments. Under the Act, during most of Fiscal Year 1993 there was an importation quota, set at Fiscal Year

1991 levels, on all species of wild birds listed in the appendices to the Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES). According to APHIS records, during Fiscal Year 1993, 133,435 birds were imported into the United States. This was a decrease from 271,913 birds in fiscal year 1992. Although we do not have official figures for the number of birds imported during Fiscal Year 1994 to date, unofficial reports from APHIS officials indicate that the number is significantly lower than the number imported during the same period during Fiscal Year 1993. Although we agree that certain moratoria could be lifted, we consider it unlikely that any will be lifted in the foreseeable future. If, in the future, that situation should change, we will review the situation to determine what action, if any, is appropriate.

Denial or Withdrawal of Import Permits

In § 92.103 of the proposed rule, we set forth conditions for denial of an import permit based on an importer's having breached the integrity we consider necessary to carry out the importation of birds. These conditions appear in the existing regulations in § 92.106, but apply there to denial of approval of privately owned bird quarantine facilities based on a breach of integrity by the operator or other person responsibly connected with the business. Following publication of our proposed rule, we published an interim rule in the *Federal Register* on March 8, 1994 (59 FR 10729-10734, Docket No. 93-137-1), that set forth in § 92.103 conditions for the denial or withdrawal of a permit to import ratites or hatching eggs of ratites. Certain of these conditions also contained provisions regarding the integrity necessary for the conduct of operations affecting an importation, and are duplicative of the provisions set forth in our proposed rule. Therefore, in this rule, we are revising certain of the proposed provisions to eliminate this duplication.

Additionally, certain of the provisions in our interim rule regarding denial or withdrawal of a permit to import ratites and hatching eggs of ratites expanded on the provisions in our proposal. For instance, in § 92.103(a)(2)(vii) of our interim rule, we provided for an opportunity for a hearing in cases where the denial or withdrawal of a permit involves a dispute of material facts. To make our regulations consistent, in this rule we are extending these provisions to apply to import permits for all birds, not just for ratites and hatching eggs of ratites. Also, consistent with the

expressed intent of our proposal to enter into contractual agreements solely with the importer, we are providing in § 92.103(a)(2)(vii) that notification of denial or withdrawal of an import permit will be given only to the importer.

Our proposed rule addressed only the "denial" of a permit to import birds. However, the provisions in the existing regulations regarding ratites and hatching eggs of ratites, including those added by our interim rule, address both the denial and withdrawal of an import permit. There is no reason the provisions regarding all birds should differ in this case from those for ratites and hatching eggs of ratites. Therefore, in this rule, we refer to both the denial and withdrawal of import permits for birds.

A number of commenters suggested that the proposed regulations too narrowly limited the circumstances under which APHIS might deny or withdraw an import permit. One commenter stated that harassment of APHIS employees should constitute grounds for denial or withdrawal of an import permit. We agree with the commenter, and have revised § 92.103(a)(2)(i) (redesignated as § 92.103(a)(2)(ii) in this rule) to provide for denial or withdrawal of an import permit if any person responsibly connected with an importation threatens to forcibly assault or forcibly assaults, intimidates, or interferes with any APHIS representative or employee in, or on account of, the performance of his or her official duties, unless, promptly upon the incident being brought to the importer's attention by the authorized supervisor of the APHIS representative or employee, and to the satisfaction of that supervisor, the importer (1) justifies the incident, (2) takes effective steps to prevent a recurrence, or (3) provides acceptable assurance that there will not be any recurrences.

Ports of Entry

Several commenters noted that bird importers are subject to the regulations of the Fish and Wildlife Service (FWS), U.S. Department of the Interior, as well as to APHIS regulations. This is correct, and a footnote citing those permit requirements is provided in § 92.103 of the regulations.

Several commenters noted that, under Fish and Wildlife Service regulations, wild birds may be imported only through FWS-designated ports. The commenters stated that if APHIS allows birds to be quarantined at facilities throughout the country, long-distance shipping of birds from FWS-designated

ports to quarantine facilities is likely. The commenters stated that such shipping would promote disease and subject birds to stress, increasing morbidity and mortality. We are making no changes based on these comments. Our experience under the current regulations is that such shipping occurs rarely. When it does occur, it is carried out by means of chartered aircraft. In most cases, as an alternative to such shipping, arrangements are made with FWS to allow importation of the birds through a port serviced by a quarantine facility meeting APHIS requirements.

Standards for Quarantine Facilities

In our proposal, we inadvertently omitted a requirement that a quarantine facility be inspected by an APHIS representative, and be found to comply with the standards set forth in the regulations, before any permit will be issued. Such a requirement had been provided for in § 92.106(c)(5)(vi), "Selection of applicants for consideration for approval of bird quarantine facilities," which is being removed in this rulemaking. Several commenters stated that this apparent relaxation of standards for privately owned bird quarantine facilities was inappropriate. We agree that such a relaxation would be inappropriate, and regret the confusion caused by our inadvertent omission of the requirement. To prevent future confusion, we are adding this requirement both to the section that sets forth import permit requirements, at § 92.103(a)(2)(i), and to the section that sets forth construction requirements, at § 92.106(c)(2)(ii)(M).

One commenter recommended that the regulations provide that a permit will not be issued prior to the completion of construction at the quarantine facility. We agree that, in order for us to conduct an adequate inspection of a quarantine facility, all construction must be completed, and are requiring at both § 92.103(a) and § 92.106(c)(2)(ii)(L) that such construction be completed before an application for a permit is submitted.

One commenter supported our intent to enter into a contractual agreement with the importer, but stated that both the importer and the facility operator should be held liable for any failure to comply with the regulations. We are making no change based on this comment. It is the policy of Veterinary Services, APHIS, to enter into each contractual agreement with a single legal entity ("person") only. In this case, we expect the importer to ensure that the quarantine facility operates in accordance with the regulations.

Disease Risk

A number of commenters expressed concern that imported ratite hatching eggs will introduce viscerotropic velogenic Newcastle disease, avian influenza, salmonella enteritidis phage type 4, or unknown diseases unique to ratites, into the United States. We are making no changes based on these comments. We have determined that, under the unrevised regulations, using the worst case scenario, the likely frequency of importing and releasing a lot of infected ratite hatching eggs is 1 every 74 years. Under the revised regulations, the worst case estimate is that, due to a potential increase in imported ratite hatching eggs, this frequency will increase to approximately 1 such importation every 25 years. However, the most likely frequency under the revised regulations is 1 every 5,000 years ("Probability of VVND, HPAI, or SE4 in Imported Ostrich Eggs," APHIS, USDA, March, 1994). Therefore, we disagree with commenters who contend that under this rule ratite hatching eggs will present a significant disease risk to U.S. birds and poultry.

One commenter stated that privately owned quarantine facilities for birds should be required to post a \$10 million bond, in case a disease spreads from a bird quarantined at that facility to domestic ranches. We are making no changes based on this comment. The requirements in the existing regulations for approved privately owned bird quarantine facilities were essentially incorporated into the proposed requirements for privately owned facilities. Based on our experience enforcing the regulations, we consider these requirements adequate to prevent the spread of disease from quarantine facilities.

A small number of commenters expressed concern that the high mortality rate for imported ostrich eggs might be disease-related. The commenters stated that additional quarantine facilities should not be allowed until the problem of high mortality is solved. We are making no changes based on these comments. We know of no evidence to indicate that the high mortality rate for imported hatching eggs is due to disease. While the mortality rate for imported hatching eggs has been very high, it is slowly improving. At the time our proposal was published, only 14.2 percent of ratite hatching eggs imported into the United States since 1991 had been released from quarantine as live chicks. However, during Fiscal Year 1993, the percentage of live chicks released was

22.1 percent. We believe that this improvement is the result of improved management practices, and we expect further improvement as more experience is gained in the importation of ratite hatching eggs.

One commenter questioned why we proposed to remove from the regulations the provision that the same quarantine facility may have multiple units for handling separate lots of birds, provided each unit is at least 1/2 mile from any other unit. We removed this provision because, under the regulations as proposed, it is no longer necessary. What used to be referred to as multiple units will under this rule be considered separate facilities.

One commenter requested that the regulations clarify that chicks may not be transferred from one facility to another until release from quarantine. We consider this restriction to be clear in § 92.106(c)(3)(ii) of the current regulations, and are making no changes based on this comment.

Special Provisions for Facilities for Ratite Hatching Eggs

Instead of allowing hatching eggs of ratites comprising a single lot to be added to the quarantine facility in stages for up to 15 days after the arrival of the first shipment, as proposed, several commenters stated that we could make APHIS personnel available who would otherwise be constrained by the extended quarantines, if we reduced this period to 7 or 8 days. As we stated in the proposed rule, experience has shown that the 15-day period for incremental shipments affords importers the flexibility that they need. Therefore, we are making no changes as a result of these comments.

One commenter recommended that the regulations require that the bird (chick) holding area in any facility for hatching eggs of ratites be of a size large enough to accommodate the capacity of the incubator. We agree that adequate space is necessary for the health of the hatched chicks and are including at § 92.106(c)(2)(ii)(O) of this rule that the bird (chick) holding area must be large enough to provide 10 square feet per chick for 75 percent of the eggs in the incubator. Based on our experience enforcing the regulations, we consider 75 percent to be the maximum percentage of eggs likely to hatch in a lot, and 10 square feet to be the minimum amount of space necessary per hatched chick.

Several commenters stated that in a sun room where double-mesh screening is used, one layer of the double mesh should be impervious to biting insects, such as mosquitoes and gnats. We agree,

and have added this requirement to §§ 92.106(c)(2)(ii) (P)(1) and (2) of this rule.

One commenter expressed concern that in quarantine facilities with a sun room for chicks, the chicks would be quarantined in an "open area." Other commenters expressed concern that it would be difficult to ensure that birds are not removed from the quarantine facility in violation of the regulations.

While a sun room by nature is intended to allow birds sunlight, it was not our intention that the area be without security measures. A number of security features were included in the proposed rule. For instance, the sun room must have a roof that is both impervious to free-flying birds and capable of preventing contact between chicks and free-flying birds. Additionally, if any of the walls of the room are made of mesh, a 6-foot-high, chain-link fence with barbed wire at the top, or equivalent security system, must be located at least 10 feet from the screening. Our proposal, however, did not specify how high the walls of the sun room must be. While this omission would not create a significant security problem in those cases where the walls are made of mesh, due to the requirement for the perimeter fence described above, it could present a security problem if the walls are not made of mesh. Therefore, in this rule, we are requiring in § 92.106(c)(2)(ii)(P) that walls of the sun room must be at least 8 feet high. We consider this height sufficient to discourage attempts at illegal entry into the sun room.

One commenter questioned the proposed provision that would prevent personnel from working with a second lot of eggs until 3 days after the release of the first lot from quarantine. If the birds can safely mingle with domestic flocks immediately after release from quarantine, this commenter asked, why would the personnel who worked with them present a disease risk? We agree with the commenter that the 3-day delay is unnecessary following a completed quarantine, and are removing this provision from §§ 92.106 (c)(3)(i)(A)(4) and (c)(5)(iii)(A)(3).

One commenter questioned the need for a 1/2-mile separation between quarantine facilities, in light of the fact that the same facility can have separate areas for ratite hatching eggs and chicks. We are making no changes based on this comment. In those facilities with areas for both hatching eggs and chicks, the first lot of chicks will be released from the facility before the eggs are hatched. This might not be the case if eggs in different facilities are hatching on different schedules. If separate facilities,

each containing chicks, are not at least 1/2 mile apart, there could be a risk of airborne transmission of disease.

Economic Analysis

We included in our proposed rule an analysis of the potential economic impact of the proposed regulations. As part of our analysis, we included estimates of the number of ostrich farmers and adult ostriches in the United States (between 2,000 and 3,000 farmers with between 2 and 200 ostriches each). A number of commenters disagreed with our estimates, stating that we underestimated the number of ostrich farms in the United States. Many of these commenters stated that our economic analysis should have considered all ratite farms, not just ostrich farms.

We agree that any economic impact this rule might have could affect ratite owners other than ostrich owners. However, as we stated in our proposed rule, our records indicate that entities in the ratite hatching egg industry concentrate on ostrich eggs. Because ratites other than hatching eggs are not allowed to be quarantined in privately owned facilities, importers of ratites other than hatching eggs will not be affected by this rule.

We also agree that our estimates of the number of ostrich farms in the United States is probably low, partly because of the time that has passed since we developed the economic analysis in the proposal. However, none of the commenters who questioned our estimates included published documents to substantiate their estimates. Estimates supplied by the commenters of the number of ratite farms ranged from 3,500 ostrich farms to 10,000 ratite farms. Estimates of the number of adult ostriches in the United States ranged from 20,000 to 50,000. Because of this wide range of estimates, and because we are unaware of a reliable published census of ratite farms in this country, we are not including an estimate of the number of ratite owners or ratites in the economic analysis of this rule.

Miscellaneous

Several commenters stated that this rulemaking will conflict with or preempt State laws. After a review of State laws brought to our attention, we do not believe that this revision will result in a conflict with any State laws.

In § 92.103(a)(1) of the proposed rule, we stated that applicants using an APHIS form to apply for a permit to import birds other than ratites or hatching eggs of ratites should use VS

form 12-129. That is not the appropriate form for such applications, and we are including a reference to the appropriate form, VS form 17-20, in this final rule.

Also, one commenter stated that we should specify how soon following receipt of an application for a permit to import birds or hatching eggs of ratites we will issue a permit. We agree that knowing the time necessary for issuance of a permit will help importers better plan their importations. Therefore, we are providing in § 92.106(c)(5)(iii)(B)(2) of this rule that we will issue permits to import birds and hatching eggs of ratites 3 working days following receipt of the permit application, depending upon the availability of APHIS personnel to provide the necessary services at the quarantine facility (discussed in this Supplementary Information, above, under the heading "Bird Import Permit Issuance; Inspection") and upon the results of an APHIS representative's inspection of the quarantine facility.

We are also making several nonsubstantive changes to correct a typographical error, to make a provision read more clearly, to make it clear that this rule refers only to quarantine facilities for birds, and to redesignate footnote references in accordance with Federal Register guidelines.

Additional Comments

A number of commenters addressed issues that were not raised in our proposed rule. Among these, many commenters expressed concern that any importation of ratites or hatching eggs of ratites, even if conducted under the existing regulations, poses a disease risk to domestic ratite and poultry flocks. Commenters also questioned the efficacy of current testing, necropsy, recordkeeping, surveillance, construction, and security requirements for approved bird quarantine facilities. Other issues raised included: permanent identification of ratites or hatched ratite chicks entering or leaving quarantine; quarantine duration; post-quarantine tracking of hatched ratite chicks; genetic criteria for ratite hatching eggs; interstate movement restrictions; local building codes; indiscriminate breeding; smuggled birds; ratite susceptibility to airborne diseases; and the economic advisability of providing for the importation of increased numbers of ratite hatching eggs. Although we are taking no action based on these comments at this time, we have reviewed each of them and will consider them in determining what action, if any, is appropriate in the future.

Therefore, based on the rationale set forth in the proposed rule and in this

document, we are adopting the provisions of the proposal as a final rule, with the changes discussed in this document.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been determined to be significant for the purposes of Executive Order 12866 and therefore has been reviewed by the Office of Management and Budget.

While these regulations will promote competition in the bird importation industry in the United States, the Wild Bird Conservation Act of 1992 prohibits importations of certain exotic birds into the United States. During the transition year from October 23, 1992, through October 22, 1993, an importation quota, set at Fiscal Year 1991 import levels, applied to all species of exotic birds listed in the Appendices to the Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES). Effective October 22, 1993, the importation of all wild-caught exotic birds (species listed in the CITES Appendices) has been prohibited.

Cockatiels and budgerigars are among the few exotic birds that are not listed in the Appendices to CITES and are imported into the United States. Because these birds breed well in captivity, and are therefore readily available in the United States, they are imported in very low volumes.

Hatching eggs of ostriches and other ratites are unaffected by the Wild Bird Conservation Act of 1992. Therefore, potential importers of these eggs are likely to benefit from easier access to privately owned bird quarantine facilities. Our records indicate that entities involved in the hatching egg industry concentrate on ostrich eggs; we therefore expect this rule to affect primarily the ostrich egg industry. Because ratites other than hatching eggs are not allowed to be quarantined in privately owned facilities, importers of ratites other than hatching eggs will not be affected by this proposed rule.

Of the approximately 69 USDA-approved bird quarantine facilities now operating, fewer than 45 are equipped with hatcheries able to facilitate the importation and incubation of ratite hatching eggs. This rule might double, or possibly triple, this number. However, because the number of eggs available for import is limited, not least by the export restrictions of other countries, a significant increase in the total number of ostrich egg importations appears unlikely. Further limiting the domestic effects of increased importations is the poor success rate of imported hatching eggs. Of ratite

hatching eggs imported into the United States during Fiscal Year 1992, no more than 22.1 percent were released from quarantine as live chicks.

Domestic ratite production has grown rapidly in recent years. However, we are unaware of any reliable census of the number of ratite farms and adult ratites in this country.

In the short run, domestic ostrich producers could experience a minor adverse economic impact if more ostrich hatching eggs are imported and domestic prices decline as a result. This will depend on whether demand continues to increase faster than supply, and on the corresponding effect on prices. In the long run, the domestic ratite industry is expected to benefit from increased imports. An expanded domestic supply will cause U.S. prices for ratites and ratite products to drop, allowing more people access to the industry. It is anticipated that reduced prices will lead to larger domestic populations of ostriches, a change that will benefit consumers and at the same time enhance the economic viability of commercial ratite breeding, slaughter, feather, and leather markets.

While easing access to quarantine facilities could, in the short term, increase the number of ostrich egg importations, the effect on the U.S. supply of ostriches is not expected to be significant, based on the current success rate for hatching imported ratite eggs.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12778

This rule has been reviewed under Executive Order 12778, Civil Justice Reform: This rule: (1) Preempts all State and local laws and regulations that are in conflict with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this final rule will be submitted for approval to the Office of Management and Budget.

List of Subjects in 9 CFR Part 92

Animal diseases, Imports, Livestock, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements.

Accordingly, 9 CFR part 92 is amended as follows:

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

1. The authority citation for part 92 continues to read as follows:

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102-105, 111, 114a, 134a, 134b, 134c, 134d, 134f, 135, 136, and 136a; 31 U.S.C. 9701; 7 CFR 2.17, 2.51, and 371.2(d).

Subpart A—[Amended]

2. In part 92, Subpart A—Birds, footnotes 11 and 13 are removed, footnote 12 is redesignated as footnote 11, the first footnote 14 is redesignated as footnote 12, and the second footnote 14 is redesignated as footnote 13.

§ 92.100 [Amended]

3. In § 92.100, the definition of "Operator" is removed.

§ 92.101 [Amended]

4. In § 92.101, paragraphs (b)(3)(i)(B) and (b)(3)(i)(I) are amended by removing the reference to "§ 92.103(a)(2)(iii)" in each of those paragraphs and adding "§ 92.103(a)(2)(iv)" in its place.

5. Section 92.103 is amended as follows:

a. In the heading, the footnote is removed.

b. In paragraph (a), introductory text is added, to read as set forth below.

c. Paragraph (a)(1) is revised to read as set forth below.

d. Paragraph (a)(2)(v) is removed; paragraphs (a)(2)(i) through (a)(2)(iv) are redesignated as paragraphs (a)(2)(ii) through (a)(2)(v), respectively; newly redesignated paragraph (a)(2)(ii) is revised; paragraph (a)(2)(vi) is revised; and new paragraphs (a)(2)(i) and (a)(2)(viii) are added, to read as set forth below.

e. In paragraph (a)(2)(vii), the second, fourth, and fifth sentences are amended by removing the words "or the operator of the farm of the flock of origin" in each of those sentences.

§ 92.103 Import permits for birds; and reservation fees for space at quarantine facilities maintained by APHIS.

(a) * * * Before any permit application is submitted, all construction at the quarantine facility must be completed.

(1) For pet birds, commercial birds, research birds, zoological birds, and performing or theatrical birds, intended for importation into the United States,

except as otherwise provided in §§ 92.101 (b) and (c), 92.103(c), and 92.214, the importer shall first apply for and obtain an import permit. The importer (permit applicant) shall submit a completed VS form 17-128 for ratites or hatching eggs of ratites; or, for other birds, a completed VS form 17-20; or shall submit a document that states that it is an application for a permit to import ratites, hatching eggs of ratites, or birds other than ratites or hatching eggs of ratites. The application⁸ must include the following information:

(i) The name, address, and telephone number of the importer;

(ii) The status of the importer, such as individual, partnership, or corporation (if incorporated, include State where incorporated and date of incorporation);

(iii) Name and address of the quarantine facility;

(iv) Date of intended quarantine;

(v) The purpose of the importation;

(vi) The country of origin;

(vii) The name and address of the exporter;

(viii) The port of embarkation in the foreign country;

(ix) The mode of transportation, route of travel, and port of entry in the United States;

(x) The name and location of the quarantine facility in the United States to which delivery will be made from the port of entry, in accordance with § 92.106(c)(5);

(xi) A drawing of the floor plan for the facility showing the location of the bird holding area; equipment storage areas; office areas; clothes storage and change areas; feed storage areas; necropsy areas (showing entry and refrigeration); washing areas for equipment; shower areas; ventilation arrangements; and entries and exits; and, for a facility for hatching eggs of ratites in which the hatching eggs of one lot may be quarantined at the same time as the hatched chicks from a previously quarantined lot, the incubation/hatcher and bird (chick) holding areas; and

(xii) Date and certification, by signature of the importer (permit applicant), after the following language:

I certify that the information provided herein is true and correct to the best of my knowledge and belief, and agree to comply with the applicable regulations

⁸ VS import permit application forms are available from local offices of Veterinary Services, which are listed in telephone directories, or from the Administrator, c/o National Center for Import-Export, VS, APHIS, USDA, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. For other permit requirements for birds, the regulations issued by the U.S. Department of the Interior (title 50, Code of Federal Regulations, parts 14 and 17) should be consulted.

in title 9, Code of Federal Regulations, §§ 92.100 through 92.107;

(xiii) In addition, the application for a permit to import ratites or hatching eggs of ratites shall specify the number of ratites or hatching eggs intended for importation, the size of the flock of origin, and the location of the premises where the flock of origin is kept; and shall state that, from the date of application through the date of export, APHIS representatives shall be granted access to the premises where the flock of origin is kept. (For ratites intended for importation as zoological birds, the flock of origin shall be the ratites intended for importation.)

(2)(i) An import permit will be issued only after an APHIS representative has inspected the quarantine facility identified on the permit application, and has determined that it meets the standards set forth in § 92.106(c) of this part.

(ii) An application for a permit to import pet birds, commercial birds, research birds, zoological birds, and performing or theatrical birds, may be denied or withdrawn because of: Communicable disease conditions in the area or country of origin, or in a country where the shipment has been or will be held or through which the shipment has been or will be transported; deficiencies in the regulatory programs for the control or eradication of animal diseases and the unavailability of veterinary services in the above mentioned countries; the importer's failure to provide satisfactory evidence concerning the origin, history, and health status of the animals; the lack of satisfactory information necessary to determine that the importation will not be likely to transmit any communicable disease to livestock or poultry of the United States; the lack of APHIS personnel; any outstanding debts to APHIS the permit applicant has not paid when due; or any other circumstances which the Administrator believes require such denial or withdrawal to prevent the dissemination of any communicable disease of livestock or poultry into the United States, such as if:

(A) Any requirement of this subpart is not complied with;

(B) The importer (permit applicant) or any person responsibly connected with the importer's business, any person responsibly connected with the privately owned bird quarantine facility through which the importation is intended, or, in the case of the importation of ratites or ratite hatching eggs, the operator of the flock of origin or a person responsibly connected with the owner of the flock of origin, has

been convicted of any crime under any law regarding the import or export of goods, regarding the quarantine of any animal or bird, or the illegal movement of goods within a country, or involving fraud, bribery, extortion, or of any other crime involving lack of the integrity needed for the conduct of operations affecting the importation of birds;

(C) The importer (permit applicant) or any person responsibly connected with the importer's business, any person responsibly connected with the privately owned bird quarantine facility intended for use for the importation, or, in the case of the importation of ratites or ratite hatching eggs, the operator of the flock of origin or a person responsibly connected with the owner of the flock of origin, threatens to forcibly assault or forcibly assaults, intimidates, or interferes with any APHIS representative or employee in or on account of the performance of his or her official duties, unless, promptly upon the incident being brought to the importer's attention by the authorized supervisor of the APHIS representative or employee, and to the satisfaction of that supervisor, the importer justifies the incident, takes effective steps to prevent a recurrence, or provides acceptable assurance that there will not be any recurrences; or

(D) For any violation of the regulations in this subpart.

(vi) For the purposes of this section, a person shall be deemed to be responsibly connected with an importer's business, a privately owned bird quarantine facility, or an owner of a flock of origin, if such person has an ownership, mortgage, or lease interest in the physical plant of the importer's business, the privately owned bird quarantine facility, or the farm of the flock of origin, or if such person is a partner, officer, director, holder or owner of 10 per centum or more of the voting stock of the importer's business, the privately owned bird quarantine facility, or the farm of the flock of origin, or is an employee of the importer's business, the privately owned bird quarantine facility, or the owner of the flock of origin.

(viii) If APHIS receives more than one application for a permit to import birds through a specified port of entry at approximately the same time, such that APHIS personnel could provide services to only one importer (permit applicant) who requests them, APHIS will issue the permit to the first importer who meets the requirements of this subpart to deposit, with the Administrator, the

completed cooperative and trust fund agreement, accompanied by the required deposit.

6. In § 92.105, paragraph (a) is revised to read as follows:

§ 92.105 Inspection at the port of entry.

(a) All commercial birds, zoological birds, and research birds, including hatching eggs of ratites, but excluding other ratites, imported into the United States, must be inspected by the port veterinarian at the Customs port of entry, which may be any international airport, or any land-border port within 20 miles of an international airport, serviced by Customs. However, hatching eggs of ratites may be shipped, in bond, from the port of first arrival to the Customs port of entry at which they will be quarantined, for inspection at that port.

7. Section 92.106 is amended as follows:

a. In paragraph (a), the first sentence is revised to read as set forth below.

b. In paragraph (a), the third sentence is amended by removing the term "Veterinary Services,".

c. In paragraph (a), the sixth sentence is amended by removing the term "an approved quarantine facility" and adding the term "a privately owned quarantine facility" in its place, and by removing the words "operator of the facility" and adding the word "importer" in their place.

d. In paragraph (a), the seventh sentence is removed.

e. In paragraph (b)(2), the second sentence is amended by removing the words "approved by the Administrator in accordance with" and adding the words "that meets the requirements of" in their place.

f. In paragraph (b)(4), the first sentence is amended by adding the word "of" after the word "free".

g. In paragraph (c), the heading and introductory text are revised to read as set forth below.

h. Paragraph (c)(1), the introductory text to paragraph (c)(2)(i), paragraph (c)(2)(i)(A) and (c)(2)(i)(B), and the introductory text to paragraph (c)(2)(ii) are revised to read as set forth below.

i. Paragraph (c)(2)(ii)(K) is amended by removing the period at the end of the sentence and adding a semicolon in its place.

j. New paragraphs (c)(2)(ii)(L), (M), (N), (O), and (P) are added to read as set forth below.

k. In paragraph (c)(3), the heading and introductory text are revised to read as set forth below.

l. Paragraphs (c)(3)(i)(A) and (A)(1) are amended by adding the term "or the incubator/hatcher area" after the term "bird holding area" each time it appears.

m. Paragraph (c)(3)(i)(A)(3) is revised to read as set forth below.

n. A new paragraph (c)(3)(i)(A)(4) is added to read as set forth below.

o. Paragraph (c)(3)(i)(B) is amended by removing the term "operator of the facility" and adding the term "importer" in its place.

p. New paragraphs (c)(3)(ii)(A)(1) and (A)(2) are added to read as set forth below.

q. Paragraphs (c)(3)(ii)(D) and (E) are amended by removing the term "facility operator" each time it appears, and adding the term "importer" in its place.

r. Paragraph (c)(3)(iii) is amended by removing the term "operator of the facility" both times it appears, and adding the term "importer" in its place.

s. Paragraphs (c)(5) and (c)(6) are removed, and paragraph (c)(7) is redesignated as paragraph (c)(5).

t. In newly redesignated paragraph (c)(5), the introductory text and paragraphs (c)(5)(i) and (c)(5)(ii) are revised to read as set forth below.

u. In newly redesignated paragraph (c)(5)(iii), the heading of the Cooperative And Trust Fund Agreement is amended by removing the word "OPERATOR" and adding the word "IMPORTER" in its place, and by removing the word "Services" and adding the word "Service" in its place.

v. In newly redesignated paragraph (c)(5)(iii), the first undesignated paragraph is amended by removing the word "operator" and adding the word "importer" in its place, and by removing the word "Cooperator" and adding the word "Importer" in its place.

w. Newly redesignated paragraph (c)(5)(iii) is amended by removing the word "approved" in the following places:

i. First undesignated paragraph.

ii. Paragraphs (A)(1), (A)(3), (A)(5), (A)(6), and (A)(8).

iii. Paragraph (A)(20) both times it appears.

iv. Paragraph (B)(6).

v. Paragraph (C)(1) both times it appears.

x. In newly redesignated paragraph (c)(5)(iii), the second undesignated paragraph is amended by removing the phrase "Cooperator represents parties" and adding the phrase "Importer is" in its place.

y. In newly redesignated paragraph (c)(5)(iii), the third undesignated paragraph is amended by removing the phrase "quarantine facilities approved in accordance with part 92, 9 CFR, for

use in importing birds" and adding the phrase "a bird quarantine facility that meets the requirements of paragraph (c) of this section" in its place.

z. Newly redesignated paragraph (c)(5)(iii) is amended by removing the word "Cooperator" and adding the word "Importer" in its place, in the following places:

i. In the third and fourth undesignated paragraphs.

ii. Paragraphs (A), (A)(2), (A)(3), and (A)(4) each time it appears.

iii. Paragraph (A)(14) each time it appears.

iv. Paragraph (A)(18).

v. Paragraph (B)(2) each time it appears.

vi. Paragraph (B)(4).

vii. Paragraph (B)(6) each time it appears.

viii. Paragraph (B)(7) each time it appears.

ix. Paragraph (C)(3).

x. After paragraph (C)(5), below the first signature line.

aa. In newly redesignated paragraph (c)(5)(iii)(A)(2), the first sentence is amended by removing the phrase "a quarantine period" and adding the phrase "the quarantine period" in its place.

bb. In newly redesignated paragraph (c)(5)(iii)(A)(3), the last sentence is revised to read as follows: "This restriction ceases to apply on the date the birds are released from quarantine."

cc. Newly redesignated paragraph (c)(5)(iii)(A)(5) is amended by removing the reference "92.109(c)" and adding the reference "92.106(c)" in its place.

dd. In newly designated paragraph (c)(5)(iii)(A)(18), the word "Cooperator's" is removed and the word "Importer's" is added in its place.

ee. Newly redesignated paragraph (c)(5)(iii)(A)(19) is revised to read as set forth below.

ff. Newly redesignated paragraph (c)(5)(iii)(A)(20) is amended by removing the words "as provided in part 92 of 9 CFR" at the end of the paragraph, and by adding the words "contained in title 9, Code of Federal Regulations, § 92.106(c)" in their place.

gg. Newly redesignated paragraphs (c)(5)(iii)(B)(2) and (B)(3) are redesignated as, respectively,

paragraphs (c)(5)(iii)(B)(3) and (B)(2).

hh. Newly redesignated paragraph (c)(5)(iii)(B)(2) is revised to read as set forth below.

jj. Newly redesignated paragraph (c)(5)(iii)(B)(3) is amended by removing the words "on a quarterly basis, or".

kk. In newly redesignated paragraph (c)(5)(iii)(B)(6), the third sentence is amended by removing the words "the designated shall" and adding the words

"the designated employee shall" in their place.

ll. In newly redesignated paragraph (c)(5)(iii)(C)(2), the reference "(c)(7)(iii)(A)(16)" is removed and the reference "(c)(5)(iii)(A)(16)" is added in its place.

mm. In newly redesignated paragraph (c)(5)(iii)(c)(3), newly redesignated footnote 12 is amended by removing the term "operator of a bird quarantine facility" and adding the word "importer" in its place.

nn. In newly redesignated paragraph (c)(5)(iii)(C)(5), the first sentence is amended by removing the word "indefinitely" and adding the words "until the permitted lot of birds is released from quarantine" in its place.

oo. In paragraph (d), the introductory language is amended by removing the word "operator" and adding the word "importer" in its place, and by removing the reference "paragraph (d)" and adding the reference "paragraph (c)" in its place.

§ 92.106 Quarantine requirements.

(a) *Birds other than ratites and hatching eggs of ratites.* Each lot of pet birds, except as provided for in § 92.101(c) of this part; research birds; and commercial birds and zoological birds, except ratites and hatching eggs of ratites, imported into the United States shall be quarantined for a minimum of 30 days, and for such longer period as may be required by the Administrator, in any specific case, on an "all-in, all-out" basis, at a Customs port of entry, at a USDA quarantine facility when arrangements have been made in advance by the importer and approval is granted in the permit described in § 92.103, or in facilities that meet the requirements of paragraph (c) of this section. * * *

(c) *Standards for privately owned bird quarantine facilities and handling procedures for importation of birds.*

Before the Administrator will issue an import permit for a lot of birds, the Administrator must determine that the privately owned bird quarantine facility to be used to quarantine birds imported into the United States (the facility) and its maintenance and operation meet the minimum requirements of paragraphs (c)(1) through (c)(5) of this section, that adequate APHIS personnel are available to provide services required by the facility, and that a Cooperative and Trust Fund Agreement between the importer and the Department has been executed, and the required funds have been deposited, in accordance with that agreement. The cost of the facility and all costs associated with its maintenance

and operation must be borne by the importer, in accordance with the provisions of paragraph (e) of this section.

(1) *Supervision of the facility.* The facility shall be maintained under the supervision of the port veterinarian at the Customs port of entry.

(2) * * *

(i) *Location.* Each privately owned bird quarantine facility shall be located:

(A) Within the immediate metropolitan area of the port of entry to prevent the imported birds, while in transit to the quarantine facility, from introducing or disseminating disease to domestic poultry or livestock.

(B) At least one-half mile from any concentration of avian species, such as, but not limited to, poultry processing plants, poultry or bird farms, pigeon lofts, or other bird quarantine facilities. Factors such as prevailing winds, the efficiency of the air filtration system of the quarantine facility, possible exposure to poultry or birds moving in local traffic, etc., shall be taken into consideration.

(ii) *Construction.* Each quarantine facility shall consist of a single, self-contained building, which shall:

* * * * *

(L) All construction must be completed before any permit application is submitted in accordance with § 92.103.

(M) An APHIS representative shall inspect the facility to determine whether the facility complies with the standards set forth in this section before any permit is issued in accordance with § 92.103. Inspections shall take place at least once each year.

(N) In addition, a facility for hatching eggs of ratites, in which the hatching eggs of one lot may be quarantined at the same time as the hatched chicks from the previously quarantined lot, shall:

(1) Have a wall or a wall with a lockable door separating the incubator/hatcher area from the bird (chick) holding area, and this wall or wall-with-door shall provide an airtight seal between the two areas, shall be impervious to water, and shall be able to withstand continued cleaning and disinfection;

(2) Have a necropsy or sample collection area in both the incubator/hatcher area and the bird (chick) holding area; and

(3) Have separate entrances, showers, toilets, and dressing room facilities for the exclusive use of personnel working in the incubator/hatcher area and the bird (chick) holding area.

(O) The bird (chick) holding area in any facility for hatching eggs of ratites

shall be of a size large enough to accommodate 75 percent of the incubator capacity, with a minimum of 10 square feet per egg.

(P) If a facility for hatching eggs of ratites has a sun room, the sun room shall be connected to the chick holding area by a wall with a lockable door. This wall, the other walls, if any; and the flooring, must be impervious to water and able to withstand continued cleaning and disinfection. All walls of the sun room must be at least 8 feet high.

(1) Double-mesh screening impervious to biting insects (such as gnats or mosquitoes), or its equivalent, set in a concrete or concrete-block curb may replace any of the exterior walls, provided this curb is at least 12 inches high, impermeable to water, and able to prevent the escape of water, manure, and debris to the surrounding area. A 6-foot-high, chain-link fence with barbed wire at the top, or equivalent security system, must be located at least 10 feet from the double-mesh screening; this peripheral area must be vegetation-free.

(2) The sun room shall have a roof, such as a double-mesh-screened roof or a glass roof, that is both impervious to free-flying birds and biting insects (such as gnats or mosquitoes) and capable of preventing contact between chicks and free-flying birds.

(3) Be attended by personnel working in the bird (chick) holding area whenever chicks are in the sun room.

(3) *Operational procedures.* The following procedures shall be observed at the facility at all times.

(i) * * *

(A) * * *

(3) Shower when entering and leaving any bird holding area, any incubator/hatcher area, and any necropsy area. Showering when moving between the incubator/hatcher area and the bird holding area is not required when the eggs in the hatching area and the chicks in the holding area are part of the same lot;

(4) Work exclusively with one lot of birds until the lot's release from quarantine, and have no contact with other birds or poultry until the release date.

(ii) * * *

(A) * * *

(1) Hatching eggs of ratites comprising a single lot may be added to the facility in stages, provided the entire lot has been placed in the facility no later than 15 days after the arrival of the first shipment.

(2) If hatching eggs of ratites begin to hatch in the incubator/hatcher area

while ratite chicks from the previously quarantined lot remain in the bird (chick) holding area, then the separate lots assume the status of a single lot, and will be released from quarantine in accordance with paragraph (c)(3)(ii)(A) of this section.

(5) Cooperative and Trust Fund Agreement for services required by importer at a privately owned bird quarantine facility.

(i) When the Administrator determines that a privately owned bird quarantine facility meets the requirements set forth in paragraph (c) of this section, the Department and the importer shall execute a Cooperative and Trust Fund Agreement, as specified in paragraph (c)(5)(iii) of this section. In conjunction with the Cooperative and Trust Fund Agreement, the importer shall deposit with the Administrator a money order or cashier's check in an amount determined by the Administrator to cover all costs incurred by the Department in providing services in accordance with the provisions of the Cooperative and Trust Fund Agreement. Any unobligated funds will, upon request, be returned to the importer, after the birds' release from quarantine.

(ii) The Administrator may provide services required by the importer at a privately owned quarantine facility for the importation of birds on a first come, first served basis, if adequate APHIS personnel are available to provide those services, upon determining that the importer has executed a Cooperative and Trust Fund Agreement, and has deposited funds in an amount determined by the Administrator to be sufficient to cover all costs incurred by the Department in providing services in accordance with that agreement, as specified in paragraph (c)(5)(iii) of this section.

(iii) * * *

(A) * * *

(19) To deposit with the Service, upon execution of this agreement, a money order or cashier's check, in an amount determined by the Administrator to be sufficient to defray all costs incurred by the Service in providing services required. If such costs exceed the deposited amount, the importer will pay for additional costs incurred, based on official accounting records, within 14 days of receipt of the bill showing the balance due.

(B) * * *

(2) To issue permits 3 working days following receipt of the permit application, depending upon the availability of personnel to provide the services required for quarantine and the results of an APHIS

representative's inspection of the quarantine facility.

Done in Washington, DC, this 9th day of September 1994.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 94-22719 Filed 9-13-94; 8:45 am]

BILLING CODE 3410-34-P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 704 and 790

Corporate Credit Unions and Description of NCUA; Request for Agency Action

AGENCY: National Credit Union Administration ("NCUA").

ACTION: Final rule.

SUMMARY: The NCUA Board recently established a new Office of Corporate Credit Unions. This new office is responsible for the corporate credit union program. The corporate credit union program was previously managed by the Office of Examination and Insurance. Appropriate changes to the corporate credit union regulation and the regulation describing NCUA's offices are made. In addition, the section in the corporate regulation addressing effective date and waiver thereof is being modified as the waiver provisions are no longer necessary. The Office of Information Systems has been renamed the Office of Technology and Information Systems. The new name and updated description of this office is reflected in the regulation describing NCUA's offices.

EFFECTIVE DATE: September 14, 1994.

ADDRESSES: National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428.

FOR FURTHER INFORMATION CONTACT: Hattie M. Ulan, Special Counsel to the General Counsel, at above address or 703-518-6544.

SUPPLEMENTARY INFORMATION: In July, 1994, the NCUA Board established a new Office of Corporate Credit Unions. This new office is responsible for the corporate credit union program. The Office of Examination and Insurance was previously responsible for the program. All corporate credit union functions have been transferred to the new office. Part 790 of the NCUA Regulations sets forth descriptions of all of NCUA's offices. A new paragraph (16) is added to § 790.2(b) describing the Office of Corporate Credit Unions. The paragraph setting forth the corporate

credit union duties of the Director of the Office of Examination and Insurance § 790.2(b)(6)(ii) is deleted. There are several references in the corporate credit union regulation (12 CFR part 704) to the Director, Office of Examination and Insurance. These references (indicating who corporate credit unions should submit reports and requests to) are all changed to the Director, Office of Corporate Credit Unions. Section 704.16 of the corporate regulation is entitled "Effective Date." Part 704 was made effective in 1992 and this section sets forth procedures for a temporary waiver from the effective date. Since there are no longer any outstanding waivers, the provisions relating to waiver are deleted.

The Office of Information Systems has been renamed the Office of Technology and Information Services. The description of this office has been updated. The appropriate changes in name and description are made to § 790.2(b)(10).

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires the NCUA to prepare an analysis to describe any significant economic impact any regulation may have on a substantial number of small credit unions (primarily those under \$1 million in assets). The types of changes made by this rule have no economic impact on credit unions. These are merely housekeeping changes. Therefore, the NCUA Board has determined and certifies that, under the authority granted in 5 U.S.C. 605(b), this final rule will not have a significant economic impact on a substantial number of small credit unions. Accordingly, the Board has determined that a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

This final rule does not change any paperwork requirements.

Executive Order 12612

Executive Order 12612 requires NCUA to consider the effect of its actions on state interests. Since these are housekeeping changes only, there is no effect on state interests.

List of Subjects in 12 CFR Parts 704 and 790

Credit unions.

By the National Credit Union Administration Board on September 6, 1994.

Becky Baker,
Secretary of the Board.

Accordingly, for the reasons set out in the preamble, 12 CFR parts 704 and 790 are amended as set forth below.

PART 704—CORPORATE CREDIT UNIONS

1. The authority citation for part 704 continues to read as follows:

Authority: 12 U.S.C. 1762, 1766(a), 1781, and 1789.

§§ 704.10, 704.11, 704.13, 704.16, Appendix B to Part 704 [Amended]

2. Remove the phrase "Director, Office of Examination and Insurance" and add, in its place, the phrase "Director, Office of Corporate Credit Unions" in the following places (the phrase appears three times in § 704.10(b)(2)):

- (a) § 704.10(b)(2);
- (c) § 704.11(a)(1);
- (b) § 704.11(a)(2);
- (c) § 704.13(c);
- (d) Section c. of Appendix B.

3. Section 704.16 is amended by removing the second, third and fourth sentences.

PART 790—DESCRIPTION OF NCUA; REQUESTS FOR AGENCY ACTION

4. The authority citation for part 790 continues to read as follows:

Authority: 12 U.S.C. 1766, 1789, and 1795f.

5. Section 790.2 is amended by moving paragraph (b)(6)(ii); by redesignating paragraph (b)(6)(iii) as paragraph (b)(6)(ii); by revising paragraph (b)(10) and adding a new paragraph (b)(16) as follows:

§ 790.2 Central and region office organization.

* * * * *

(b) * * *
(10) *Office of Technology and Information Services.* The Director of the Office of Technology and Information Services has responsibility for the management and administration of NCUA's information resources. This includes the development, maintenance, operation, and support of information systems which directly support the Agency's mission, maintaining and operating the Agency's information processing infrastructure, responding to requests for releasable Agency information, and insuring all related material security and integrity risks are recognized and controlled as much as possible.

* * * * *

(16) *Office of Corporate Credit Unions.* The Director, Office of Corporate Credit Unions, manages NCUA's corporate credit union program in accordance with established policies and the corporate regulation. The Director's duties include directing chartering, examination and supervision programs to promote and assure safety and soundness; managing NCUA's corporate resources to meet program objectives in the most economical and practical manner, and maintaining good public relations with public, private and governmental organizations, corporate credit union officials, credit union organizations, and other groups which have an interest in corporate credit union matters.

* * * * *

[FR Doc. 94-22748 Filed 9-13-94; 8:45 am]

BILLING CODE 7535-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 135

[Docket No. 88P-0251]

Frozen Desserts: Removal of Standards of Identity for Ice Milk and Goat's Milk Ice Milk; Amendment of Standards of Identity for Ice Cream and Frozen Custard and Goat's Milk Ice Cream

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending its regulations to remove the standard of identity for ice milk; to amend the standard of identity for ice cream and frozen custard to provide for the use in these foods of safe and suitable sweeteners and of skim milk that may be concentrated, and from which part or all of the lactose has been removed by a safe and suitable procedure; and to amend the standard of identity for ice cream and frozen custard to provide for the optional use of hydrolyzed milk proteins as stabilizers in the food at a level not to exceed 3 percent by weight to ice cream mix containing not less than 20 percent total milk solids, provided that any whey and modified whey products used contribute, singly or in combination, not more than 25 percent by weight of the total nonfat milk solids content of the finished food. To ensure consistency with the removal of the standard of identity for ice milk and the changes in the standard of identity for

ice cream and frozen custard, FDA also is removing the standard of identity for goat's milk ice cream and making comparable changes in the standard of identity for goat's milk ice cream, which cross-references the standard of identity for ice cream and frozen custard. FDA finds that these actions will promote honesty and fair dealing in the interest of consumers. FDA is also requiring that all sweeteners other than nutritive carbohydrate sweeteners used in these foods be declared as part of the name of the food. This requirement will terminate after a period of 3 years. After that time, the use of these sweeteners will only have to be reflected in the ingredient statement for these products. DATES: Effective September 14, 1995; written objections and requests for a hearing by October 14, 1994. Compliance with this regulation may begin on September 14, 1994.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Margaret E. Cole, Center for Food Safety and Applied Nutrition (HFS-158), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-205-5099.

SUPPLEMENTARY INFORMATION:

I. Background

In the Federal Register of January 6, 1993 (58 FR 520), FDA published a proposed rule: (1) To remove the standards of identity for ice milk (§ 135.120 (21 CFR 135.120)) and goat's milk ice milk (§ 135.125 (21 CFR 135.125)); and (2) to amend the standards of identity for ice cream and frozen custard (§ 135.110 (21 CFR 135.110)) and, by cross-reference, goat's milk ice cream (§ 135.115 (21 CFR 135.115)) to provide for the use in these foods of safe and suitable sweeteners and of skim milk that may be concentrated and from which part or all of the lactose has been removed by a safe and suitable procedure. The agency also requested information on the use of other milk-derived protein ingredients such as milk protein hydrolysates. Interested persons were given until March 8, 1993, to comment.

II. Comments and the Agency's Responses

In response to the proposal, FDA received 46 letters, each containing one or more comments from food companies, ingredient suppliers, industry trade associations, State government agencies, and consumers. All of the comments favored the

removal of the standards of identity for ice milk (§ 135.120) and goat's milk ice milk (§ 135.125). One comment addressed an issue (i.e., the need for uniformity in the size, style, and color of the type used in food labeling) that is outside the scope of this proposal and that will not be discussed here.

Several comments suggested modifications in, or were opposed to, various provisions of the proposal to amend the standards of identity for ice cream (§ 135.110) and, by cross-reference, goat's milk ice cream (§ 135.115). A summary of these comments and the agency's responses follow.

A. Safe and Suitable Ingredients

1. Sweeteners

FDA proposed (58 FR 520 at 523 and 524) to amend the standards of identity for ice cream and, by cross-reference, goat's milk ice cream to permit the use of safe and suitable sweeteners (§ 135.110(a)(1) and § 135.115(a)) as long as the presence of sweeteners other than nutritive carbohydrate sweeteners is declared by their common or usual name on the principal display panel of the label as part of the statement of identity, and as long as the labeling of ice cream products sweetened with such sweeteners complies with the applicable provisions of § 105.66 (21 CFR 105.66) (proposed § 135.110(e)(7) and proposed § 135.115(c)(2)). The agency specifically requested comments on the need for, and appropriateness of, these proposed changes. The comments generally supported permitting alternative sweeteners (safe and suitable sweeteners other than nutritive carbohydrate sweeteners) in ice cream. Some comments, however, questioned the proposed declaration requirements for alternative sweeteners. These comments are addressed below.

1. Several comments opposed the requirement that the presence of alternative sweeteners be declared in the statement of identity, as provided in proposed § 135.110(e)(7). These comments stated that the existing regulations for the labeling of specific alternative sweeteners adequately inform consumers of the presence of alternative sweeteners in foods. These comments also expressed the view that there is no need to establish special front panel labeling requirements for alternative sweeteners in ice cream, and that such a requirement would contribute to label clutter on products in which manufacturers use more than one alternative sweetener in their formulation.

These comments noted that the proposed declaration requirement singles out ice cream for special labeling that is not applied to other standardized foods, and that such a requirement also singles out alternative sweeteners for special labeling that is not applied to other ingredients, including nutritive carbohydrate sweeteners. These comments further argued that milk and dairy components, not sugar, are the defining characteristics of ice cream. These comments expressed the view that use of the name "ice cream" with a nutrient content claim in the statement of identity, and the obligatory referral statement that directs consumers to the information panel, would signal to consumers that the product differs from the traditional standardized food.

FDA proposed to require that alternative sweeteners be declared by their common or usual name on the principal display panel of the label as part of the statement of identity because of the agency's tentative conclusion that ice cream sweetened with alternative sweeteners is a distinctly different product than that sweetened with nutritive carbohydrate sweeteners. The agency proposed this requirement to ensure that ice cream sweetened with alternative sweeteners is clearly distinguishable from the traditional food, and so that consumers who want to avoid ice cream that contains alternative sweeteners will be able to do so. In the proposal, the agency tentatively concluded that it is necessary to inform consumers of the presence of alternative sweeteners in ice cream under sections 201(n) and 403(a) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(n) and 343(a)).

Based on its consideration of the comments, the agency has confirmed its view that consumers should be advised through labeling on the principal display panel of the label or other labeling, including restaurant menus and ice cream shop and parlor listings, when ice cream products are made with sweeteners other than nutritive carbohydrate sweeteners. Currently, such products are labeled as "frozen desserts" or by some other name that is not confusingly similar to the standardized term "ice cream." When the amendments to §§ 135.110 and 135.115 set forth below become effective, products that differ from traditional ice cream in that they contain alternative sweeteners would be subject to being labeled simply as "ice cream" but for the clarification of the differences between these products and

traditional ice cream that the agency has decided to require.

FDA does not agree that the existing regulations for the labeling of specific alternative sweeteners adequately inform consumers of the presence of these sweeteners in ice cream. It is true that manufacturers must declare the presence of aspartame and of saccharin in a food on the food label. The label of ice cream that contains aspartame will have to bear either on the principal display panel or on the information panel in a prominent and conspicuous manner the statement:

"PHENYLKETONURICS: CONTAINS PHENYLALANINE," as specified in § 172.804(e)(2) (21 CFR 172.804(e)(2)). The label of ice cream that contains saccharin will have to bear in a conspicuous place on such label and labeling as proximate as possible to the name of such food, the statement: "USE OF THIS PRODUCT MAY BE HAZARDOUS TO YOUR HEALTH. THIS PRODUCT CONTAINS SACCHARIN WHICH HAS BEEN DETERMINED TO CAUSE CANCER IN LABORATORY ANIMALS," as specified in section 403(o)(2) of the act (21 U.S.C. 343(o)(2)). In neither case, however, is there a specific requirement that the statements appear on the principal display panel of the ice cream label as is the case under § 135.110(f)(7) (proposed as § 135.110(e)(7)). Further, there is no legal or regulatory requirement for special labeling statements on the principal display panel to inform consumers that ice cream contains other alternative sweeteners (e.g., sorbitol, acesulfame K). Without § 135.110(f)(7), there need not be anything on the principal display panel to call consumers' attention to the presence of alternative sweeteners in ice cream. Thus, FDA finds that there would not be adequate notice of the presence of these sweeteners without this provision.

FDA does not agree that the declaration requirement singles out ice cream sweetened with alternative sweeteners for special labeling. FDA has established a number of standards of identity specifically for artificially sweetened versions of traditional foods, such as canned fruits, so that the artificially sweetened versions of these foods are distinguishable from their traditional counterparts that are sweetened with nutritive carbohydrate sweeteners. These artificially sweetened versions of traditional foods are identified as such through label declaration on the principal display panel.

As an example, the standard of identity in § 145.170 (21 CFR 145.170)

for canned peaches provides for the addition of safe and suitable nutritive carbohydrate sweeteners (e.g., corn sirup, invert sugar sirup, sugar, dried glucose sirup, or cane sirup) to the packing medium. The name of this food is "peaches" as prescribed in § 145.170(a)(4). By contrast, the standard of identity in § 145.171 (21 CFR 145.171) for artificially sweetened canned peaches conforms to the definition and standard of identity in § 145.170 for canned peaches except that it provides for the use of water artificially sweetened with saccharin, with sodium saccharin, or with a combination of both, as the packing medium. The name of this food is "artificially sweetened peaches."

Traditionally, sugar (or other nutritive carbohydrate sweeteners), as well as milk and cream (or dairy products of equivalent composition), defines the food known as "ice cream." In establishing the standard of identity for ice cream, the findings of fact (August 8, 1950, 15 FR 5112 at 5114) gave the following definition of ice cream:

Ice cream is the common and usual name of the frozen product made from cream or a mixture of milk and cream (or a combination of dairy products of equivalent composition), sweetened with sugar or other suitable sweetening agent, and containing natural or imitation flavorings or other food ingredients, such as cocoa, fruit, and nuts, to characterize it as a kind of ice cream. Although the findings of fact stated that sugar is the most common sweetening agent in ice cream, the findings of fact also stated that a number of other nutritive carbohydrate sweeteners (e.g., dextrose, invert sugar, corn sirup, maple sirup, honey, brown sugar) are suitable for sweetening ice cream.

Based on the foregoing, the agency believes that consumers have traditionally understood that "ice cream" is a food that is sweetened with nutritive carbohydrate sweeteners. The agency is adopting §§ 135.110(f)(7) and 135.115(c)(2) to ensure that consumers will be able to distinguish the traditional food that is sweetened with nutritive carbohydrate sweeteners from ice cream sweetened with alternative sweeteners. The common or usual name of the latter food is "ice cream sweetened with _____," the blank being filled in with the common or usual name of any alternative sweeteners used in the food.

FDA advises that, as a consequence of this action, modified ice cream products made in conformance with the general definition and standard of identity in § 130.10 (21 CFR 130.10) that are named by use of a nutrient content claim and the standardized term, and that contain alternative sweeteners, must include the

common or usual names of these sweeteners in their statement of identity, e.g., "reduced fat ice cream sweetened with _____," the blank being filled with the common or usual name of any alternative sweeteners used in the food.

The agency finds that §§ 135.110(f)(7) and 135.115(c)(2) will provide for adequate notice to consumers that safe and suitable sweeteners other than nutritive carbohydrate sweeteners are present in the ice cream or goat's milk ice cream, and that the information required under these provisions is necessary to allow consumers to make informed purchasing decisions in the marketplace. Thus, FDA concludes that this action will promote honesty and fair dealing in the interest of consumers, and the agency is amending these regulations accordingly, as set forth below.

FDA concludes, however, that labeling to distinguish ice cream products sweetened with alternative sweeteners from those sweetened with nutritive carbohydrate sweeteners will not be necessary after consumers have become aware of the fact that some ice cream products are made with nutritive carbohydrate sweeteners, and others with alternative sweeteners, and have had a period of time to become familiar with such foods. Thus, the regulations set out below (§§ 135.110(f)(7) and 135.115(c)(2)) only require that the name of the alternative sweeteners be included as part of the name of the food for 3 years following the effective date of the regulation. At the end of 3 years, this requirement will terminate, and the presence of alternative sweeteners will only have to be declared as part of the ingredient list. FDA believes that 3 years is an adequate amount of time for people to become aware that "ice cream" may be made with either nutritive carbohydrate sweeteners or alternative sweeteners, and thus that it is necessary to check the ingredient list. Three years represented the amount of time necessary for "canola oil" to become the accepted common or usual name for low-erucic acid rapeseed oil (see 50 FR 3755, January 21, 1985 and 53 FR 52652, December 29, 1988). Based on this precedent, the agency finds that a similar amount of time is appropriate here.

2. One comment objected to the proposed labeling requirement that ice cream sweetened with alternative sweeteners be labeled to comply with the requirements of § 105.66.

In the proposal, FDA noted that foods that are sweetened with one or more artificial sweeteners are foods for special dietary use under § 105.3(a)(2).

The agency proposed in § 135.110(e)(7) for ice cream, and in § 135.115(c)(2) for goat's milk ice cream, to require that when these foods are sweetened with alternative sweeteners, they must be labeled to comply with the requirements of § 105.66 because FDA anticipated that these foods would be represented for special dietary use because of their usefulness in helping to reduce or maintain body weight. Such foods must comply with the labeling requirements of § 105.66 (i.e., they must bear special labeling statements such as "low calorie" and "reduced calorie").

FDA acknowledges that the requirements prescribed in § 105.66 may not always apply to the labeling of ice cream sweetened with alternative sweeteners. There may be instances in which ice cream sweetened with alternative sweeteners will not purport to be, or will not be represented to be, for special dietary use because of its usefulness in reducing or maintaining body weight. For instance, a manufacturer may replace all of the nutritive carbohydrate sweeteners in ice cream with alternative sweeteners but not reduce the fat content sufficiently for the food to be "reduced calorie," or a manufacturer may replace some of the nutritive carbohydrate sweeteners in ice cream with alternative sweeteners but not reduce the level of nutritive carbohydrate sweeteners sufficiently for the food to be "reduced calorie." Therefore, even though the ice cream is sweetened with alternative sweeteners, it would not qualify for the use of terms such as "low calorie" or "reduced calorie" or another comparative caloric claim in compliance with part 101 because the manufacturer has not reduced the fat or carbohydrate levels in the food sufficiently to permit the use of such terms on the food label. The agency recognizes that, in such instances, the food need not be labeled in compliance with § 105.66. However, in instances in which ice cream sweetened with alternative sweeteners does purport to be, or is represented, for special dietary use because of its usefulness in reducing or maintaining weight, it must bear special label statements in accordance with § 105.66. If ice cream sweetened with alternative sweeteners is represented for special dietary use because of its usefulness in the diet of diabetics, the food must be labeled to comply with the requirements of § 105.67.

Therefore, to reflect these facts, FDA has revised proposed § 135.110(e)(7) (redesignated as § 135.110(f)(7)) to delete the statement that ice cream sweetened with safe and suitable sweeteners other than nutritive

carbohydrate sweeteners must be labeled to comply with the requirements of § 105.66 and to state instead: "If the food purports to be or is represented for special dietary use, it shall bear labeling in accordance with the requirements of part 105 of this chapter." In addition, the agency has made a similar revision to § 135.115(c)(2) for goat's milk ice cream.

3. One comment expressed concern that FDA would require ingredients that are not found in traditional ice cream, such as safe and suitable sweeteners other than nutritive carbohydrate sweeteners, to be identified by an asterisk in the ingredient statement on the label of ice cream in accordance with the general definition and standard of identity in § 130.10.

This comment is incorrect. In § 130.10, FDA established requirements for foods named by use of a nutrient content claim and a standardized term. The comment specifically refers to the requirement in § 130.10(f)(2) that ingredients used to produce such a food, but that are not provided for in the standard of identity for the traditional food that the new food resembles, and for which it substitutes, be identified with an asterisk in the statement of ingredients. The agency is amending the ice cream standard in § 135.110(a)(1) to provide for the use of safe and suitable sweeteners, both nutritive and nonnutritive, in ice cream. Thus, safe and suitable sweeteners other than nutritive carbohydrate sweeteners are now provided for in the standard of identity for "ice cream." As a result, § 130.10(f)(2) does not apply to safe and suitable alternative sweeteners, such as aspartame or acesulfame K, used in a modified ice cream product. As a result, in making a "reduced calorie" ice cream, manufacturers who replace some or all of the nutritive carbohydrate sweeteners in the food with one or more safe and suitable alternative sweeteners will not need to identify these safe and suitable sweeteners with an asterisk in the ingredient statement on the label of the modified product although they will need to identify these sweeteners on the principal display panel for the next 3 years.

2. Dairy Ingredients

The standard of identity for ice cream (§ 135.110) provides for the optional use of one or more of the specific dairy ingredients listed in § 135.110(b). In view of the wide range of optional dairy ingredients listed by name or by the process by which they are derived in § 135.110(b), FDA invited comments on whether the specific names should be deleted from § 135.110(b), and whether

the standard should be amended to provide for the use of any safe and suitable dairy ingredient (58 FR 520 at 525). In addition, the agency specifically requested that any comments supporting the use of a collective term such as "dairy ingredient" provide a definition for the term that will facilitate proper interpretation of any regulation that may result.

4. Several comments requested that FDA revise § 135.110(b) to provide for the use of any safe and suitable dairy ingredient. The comments stated that the current list of specific optional dairy ingredients unnecessarily limits the types of dairy ingredients that may be used in ice cream products and impedes the development of innovative technologies for the production of new ingredients for use in ice cream products.

One comment suggested that the term "dairy ingredient" be defined as an ingredient processed by any safe and suitable process from cow's or goat's milk. Another comment merely stated that the definition of "dairy ingredient" should include ingredients that have the same physical composition that occurs in natural milk, as well as ingredients that have been modified physically but that have not been substantially altered chemically.

In establishing the standard of identity for ice cream, the findings of fact (15 FR 5112 at 5114) stated that ice cream is essentially a sweetened milk and cream product, and that it is made from cream, or a mixture of milk and cream (or a combination of dairy products of equivalent composition) and sugar or other suitable sweetening agent. The ice cream standard included a specific listing of optional dairy ingredients that FDA considered to be suitable for use in ice cream. These dairy ingredients were restricted to the following: Cream, butter, milk, concentrated milk, evaporated milk, sweetened condensed milk, dried milk, skim milk, concentrated (evaporated or condensed) skim milk, superheated condensed skim milk, sweetened condensed skim milk, dried skim milk, sweet cream buttermilk, condensed sweet cream buttermilk, dried sweet cream buttermilk, and sweetened skim milk which has been concentrated and from which part of the lactose has been removed after crystallization. However, in establishing the ice cream standard, FDA also recognized that certain ingredients that were derived in part from milk, but that were no longer equivalent in composition to milk, were not suitable for use in ice cream because they were so changed that they had lost the characteristics of milk and cream,

including a large proportion of their water-soluble vitamins and minerals (15 FR 5112 at 5115). Thus, to ensure the integrity of ice cream, the agency did not provide for the use of such ingredients in the food.

Since the standard of identity for ice cream was first published, technological advances in the dairy industry have increased the number, variety, and availability of ingredients derived from dairy sources. These developments have made less and less obvious the boundary between dairy ingredients and other ingredients that may be derived from dairy sources but that are not dairy ingredients.

Over the years, the list of optional dairy ingredients permitted in ice cream has gradually grown to include various forms of milk, skim milk, cream, butter, and whey products, although there are certain restrictions on the level of use of the last type of ingredients (i.e., any whey and modified whey products used can contribute, singly or in combination, not more than 25 percent by weight of the total milk solids content of the finished food (§ 135.110(b)). In addition, the ice cream standard permits the optional use of caseinates with certain restrictions on their levels of use in the food (i.e., they may be added to ice cream mix containing not less than 20 percent total milk solids (§ 135.110(c)), but FDA does not consider caseinates to be dairy ingredients.

FDA finds that to ensure the integrity of ice cream, any definition for the term "dairy ingredient" must differentiate between dairy ingredients and other ingredients that may be derived from dairy sources but that are not suitable as replacements for the milk solids in ice cream, or that are suitable only when used in limited amounts because they are no longer equivalent in composition to milk and cream. In the manufacture of these dairy-derived ingredients such as caseinates, changes are made that make them different from milk and cream. For example, in making caseinates, the calcium normally present in the naturally occurring casein of milk may be replaced with sodium. In addition, if casein or caseinates alone are used to replace the protein of milk, the protein quality of the ice cream may be decreased because the protein efficiency ratio for whole milk protein is higher than that for casein.

The definitions for "dairy ingredient" that were suggested by the comments do not distinguish dairy ingredients from dairy-derived ingredients. Without an adequate definition for this term, FDA is hesitant to expand the list of optional ingredients permitted for use in ice

cream in § 135.110(b) to allow for "dairy ingredients" because of the problems that use of the term will engender. Thus, the agency is retaining the list of optional dairy ingredients that may be used in ice cream and is not providing for the general category designation of safe and suitable dairy ingredients in § 135.110(b).

3. Milk Protein Hydrolysates

In the *Federal Register* of January 22, 1991 (56 FR 2149), FDA published an advance notice of proposed rulemaking (ANPRM) announcing the filing of petitions that requested, among other things, the establishment of new standards of identity for "lowfat ice cream" and "nonfat ice cream" and a change in the name of the standardized food known as "ice milk" to "reduced fat ice cream." Interested persons were given until March 25, 1991, to comment.

One comment received in response to the ANPRM requested that FDA amend the ice cream standard in § 135.110 to provide for the use of safe and suitable milk-derived protein ingredients other than caseinates, provided that the milk solids content minimums required by the standards are otherwise met (58 FR 520 at 525). The comment stated that these "other milk protein ingredients" include milk protein hydrolysates (enzyme-modified milk protein) and milk protein isolates (caseinates and whey protein co-isolates). The comment maintained that the use of milk proteins other than caseinates contributes to aeration of frozen lowfat dairy desserts, thereby improving the body and texture of these products, and that their use will not reduce the nutritional value of standardized dairy products. It further stated that these ingredients are safe and suitable for use in other nonstandardized foods such as frozen yogurt, coffee whiteners, infant formulas, fortified cereals, and medical foods.

In the proposal, FDA acknowledged that milk protein hydrolysates are generally recognized as safe (GRAS) and are now used in many foods (58 FR 520 at 525). The agency specifically invited comments on the nature of, and the need for, milk protein hydrolysates in ice cream; on the proposed levels of use for these ingredients; on their suitability to perform technical functions in the food; and on any possible adverse effects from their use. The agency stated that it would consider providing for the use of these ingredients in any final regulation that resulted from the proposal if the comments that it received on this issue adequately supported the need for these ingredients in ice cream.

FDA already provides for the optional use of modified whey products, which would include whey protein isolates, as well as for the optional use of caseinates, in ice cream within the limitations set forth in the ice cream standard. The ice cream standard in § 135.110(b) permits the use of modified whey products that are GRAS for use in the food, provided that any whey and modified whey products used contribute, singly or in combination, not more than 25 percent by weight of the total nonfat milk solids content of the finished food. Further, the ice cream standard permits the optional use of caseinates in ice cream mix containing not less than 20 percent total milk solids.

5. One comment suggested that FDA permit the optional use of safe and suitable milk-derived proteins, such as milk protein hydrolysates, in ice cream at levels of 1 to 3 percent. Concerning the nature of milk protein hydrolysates, the comment stated that these products are produced by light enzymatic hydrolysis of casein; that they are high in protein (85 percent); and that they have the same nutritional value as the caseinates from which they are derived. The comment stated that milk protein hydrolysates may be used in ice cream to stabilize the food, i.e., to improve its body and texture; to enhance aeration; and to impart resistance to heat shock. The comment also noted that, in addition to the nonstandardized foods listed previously, milk protein hydrolysates have been used in nonstandardized frozen desserts and confectionery nougats. The comment stated that, while these milk protein hydrolysates provide a similar degree of stabilization as nondairy optional ingredients such as vegetable gums, they are nutritionally superior to those ingredients.

FDA acknowledges that hydrolyzed milk proteins, like vegetable gums, may be used to stabilize foams in foods. In addition, FDA recognizes that they also may be used to enhance aeration and to improve body and texture of products such as nougats and frappes. These ingredients are also generally recognized as safe for use in infant formulas, as well as in other food products. Thus, the agency finds that it is appropriate to provide for their use as stabilizers in ice cream. Therefore, the agency is revising the ice cream standard to permit the optional use of hydrolyzed milk proteins, in addition to optional caseinates, in ice cream when the milk solids content minimum provided for in the standard is met.

Accordingly, the agency is amending § 135.110 by revising paragraph (a) and

adding new paragraph (d) to provide for the optional use of hydrolyzed milk proteins as stabilizers. Based upon the information submitted with the comment on this matter, FDA is providing in § 135.110(d) that hydrolyzed milk proteins may be used at a level not to exceed 3 percent by weight of ice cream mix containing not less than 20 percent of total milk solids (see § 135.110(a)(2)). Any whey or modified whey products contained in the milk protein hydrolysates must fall within the limitations in § 135.110(b) on the total level of whey products in ice cream; that is, singly or in combination, they must not contribute more than 25 percent by weight of the total nonfat milk solids content of the finished food.

Because the comment did not submit any information concerning the use of hydrolyzed milk proteins in goat's milk ice cream, the agency is not providing for their use in goat's milk ice cream in § 135.115.

FDA advises that all protein hydrolysates used in foods must be declared in the list of ingredients by a common or usual name that is specific to the ingredient and that includes the identity of the food source from which the protein was derived. Thus, when hydrolyzed milk proteins are used in ice cream, the declaration of these ingredients on the food label shall comply with the requirements in 21 CFR 102.22. "Hydrolyzed casein" and "hydrolyzed whey protein" would be acceptable common or usual names for products derived from casein or whey protein, whereas "hydrolyzed milk protein" would not be an acceptable name.

B. Lactose Reduction in or Removal from Dairy Ingredients by Alternate Technologies

One comment received in response to the ANPRM requested that FDA revise § 135.110(b) to replace the phrase "skim milk that has been concentrated and from which part of the lactose has been removed by crystallization" with "skim milk [that] may be concentrated and from which part of the lactose has been removed by crystallization, ultrafiltration, or other approved technologies." In the proposal, FDA tentatively found that it would be appropriate to amend the ice cream standard to permit the addition of concentrated skim milk from which part of the lactose has been removed by ultrafiltration. The agency stated that it also appeared to be appropriate to provide for the removal of part or all of the lactose by any safe and suitable procedure in order to give manufacturers the opportunity to use

state-of-the-art processing technologies as long as the nutritional quality of the resulting food is not detrimentally affected. It stated that this approach will minimize the need to revise the standard should other acceptable procedures be developed for lactose reduction or removal at a later date. Accordingly, FDA proposed to amend § 135.110(b) in the ice cream standard to provide for the addition to the food of skim milk that may be concentrated and from which part or all of the lactose has been removed by a safe and suitable procedure.

6. All of the comments on this provision supported it. One comment, however, requested that ultrafiltration for lactose reduction be extended to other suitable dairy ingredients because skim milk is not the only milk-based dairy ingredient that can be processed by ultrafiltration to remove lactose.

FDA recognizes that ultrafiltration can be used to remove part or all of the lactose from milk-based dairy ingredients other than skim milk. However, in the proposal, the agency did not foreshadow any changes in the ice cream standard to provide for the use of ultrafiltration to remove part or all of the lactose from any optional dairy ingredient listed in § 135.110(b) other than "skim milk, that may be concentrated, and from which part or all of the lactose has been removed by a safe and suitable procedure." Therefore, the modification in § 135.110 requested by this comment is outside the scope of this rulemaking. Persons interested in providing, in ice cream, for the use of additional ingredients that are processed by ultrafiltration to remove lactose may petition the agency to amend the standard.

Therefore, FDA is amending § 135.110(b) of the ice cream standard, as proposed, to allow for the use of skim milk that may be concentrated, and from which part or all of the lactose has been removed by a safe and suitable procedure, in the food.

C. Additional Comments

7. One comment suggested an alternative scheme of nomenclature for ice cream products based on percentage milkfat. The comment suggested that products bearing the term "nonfat" would contain 0 percent milkfat; products bearing the term "lowfat," greater than 0 but less than 3 percent milkfat; products bearing the term "reduced fat," 3 to 7 percent milkfat; and products bearing the name "ice cream," greater than 7 percent milkfat.

This request is outside the scope of the proposal. In the *Federal Register* of January 6, 1993, FDA published a

number of final rules establishing food labeling regulations that, in part, were intended to eliminate consumer confusion by establishing definitions for nutrient content claims. In one of these final rules (58 FR 2302), FDA established uniform, consistent definitions for a number of nutrient content claims, including terms for specific fat content claims, and prescribed the specific labeling that must accompany these claims. Terms for specific fat content claims such as "nonfat," "lowfat," and "reduced fat" are defined in § 101.62. In defining terms for specific nutrient content claims, the agency carefully considered each claim to ensure that it would be meaningful to consumers.

In another final rule (58 FR 2431), FDA amended its general provisions for food standards to provide a general definition and standard of identity for foods named by the use of a nutrient content claim defined in part 101 (such as "fat free") in conjunction with a traditional standardized name (e.g., "ice cream"). In accordance with § 130.10, specific fat content claims defined in § 101.62 may be used in conjunction with the standardized term "ice cream" for foods that resemble and substitute for ice cream but that contain less fat (both milkfat and total fat) than traditional ice cream.

Thus, the agency has addressed in separate rulemakings (58 FR 2302 and 58 FR 2431) the types of nutrient content claims that can be used to indicate the amount of fat present in foods, including ice cream products. Further, in this final rule, the agency is removing the standard of identity for ice milk, so that a reduced fat ice cream product that complies with the existing standard of identity for ice milk no longer needs to be labeled "ice milk" and may now be labeled as "reduced fat ice cream."

FDA notes that the percentage milkfat basis for the labeling of ice cream products suggested by the comment is inconsistent with the definitions that the agency has established in its food labeling regulations. Further, the agency believes that the adoption of the suggested alternative scheme of nomenclature for ice cream products could result in consumer confusion about the nature of the food. Therefore, FDA concludes that an alternative scheme of nomenclature for ice cream products, as suggested by the comment, would neither promote uniformity and consistency in the food labeling nor minimize confusion among consumers. Thus, the agency is not making the requested change in the regulations set out below.

8. One comment stated that under existing FDA regulations, frozen dairy products containing 7 to 10 percent milkfat have no standard of identity.

This comment is no longer correct now that the regulation (58 FR 2431) amending the general provisions for food standards to prescribe a general definition and standard of identity for foods named by the use of a nutrient content claim in conjunction with a traditional standardized name has been finalized. Under § 130.10, FDA-defined nutrient content claims for fat content, such as "reduced fat," "lowfat," and "nonfat," can be used in conjunction with the name of a traditional standardized food such as "ice cream" for foods that resemble and substitute for ice cream but that contain less milkfat than traditional ice cream. Therefore, manufacturers may be able to use an appropriate term such as "reduced fat" in conjunction with the standardized name "ice cream" to name ice cream products containing greater than 7 percent but less than 10 percent milkfat, provided that the use of the term complies with § 130.10 and is not false or misleading to consumers. For example, if the manufacturer's regular vanilla ice cream contains 12 percent milkfat, and the manufacturer reduces the fat level of the product by 25 percent, the new version of the product would contain 9 percent milkfat, which falls in the range of milkfat that the comment mentioned (i.e., greater than 7 percent but less than 10 percent). The manufacturer would be able to label the new version of the product with the term "reduced fat" because the product would contain 25 percent less fat per serving than the manufacturer's regular vanilla ice cream.

9. FDA received from a law firm a request for an advisory opinion (Docket No. 93A-0493), dated December 10, 1993, as to whether a frozen dessert product that contains less than 2 percent milkfat and more than 2 percent total fat may be labeled as "reduced fat ice cream." The law firm represents a company that desires to avoid using the name "ice milk" on the label of its product.

Before issuance of this final rule, "ice milk" was defined in § 135.120 as a frozen dessert that contained more than 2 percent milkfat and not more than 7 percent milkfat. With the issuance of the January 1993 final rules, however, a frozen dessert product that contained less than 2 percent milkfat and more than 2 percent total fat, such as that described by the law firm, could have been eligible to be labeled as "reduced fat ice cream" in accordance with § 130.10(a), because it contained less

than 2 percent milkfat, but provided that: (1) Any additional fat (above the 2 percent maximum level for milkfat) in the food was there as a component of a flavoring constituent, e.g., fat from nut meats, butterscotch, or chocolate, and not as a replacement of milkfat, and (2) the food was made in compliance with the provisions of § 130.10. The product described in the request was outside the scope of the ice milk standard and would have had to comply with the provisions of § 130.10(b), (c), and (d) with respect to nutrients, performance characteristics, permitted ingredients, and labeling. FDA notes that replacement of the milkfat of ice cream with fats from other sources is contrary to § 130.10(d)(2) because it would alter the dairy character of the food.

If the product described in the request complied with § 130.10, it would have been named, "reduced fat" or "low fat" ice cream. The product would have qualified for the use of the "reduced fat" claim, as defined in § 101.62(b)(4), as part of its name because the total level of fat contained in the product would have been at least 25 percent less fat than ice cream. On the other hand, the product could have borne the "low fat" claim as defined in § 101.62(b)(2) as part of its name if it contained less than 3 grams of total fat per reference amount customarily consumed.

The agency points out that now, with the removal of the ice milk standard in this final rule, the foregoing is still the case except that modified ice cream products that contain levels of milkfat within the range of that previously prescribed by the standard of identity for ice milk (i.e., more than 2 percent but not more than 7 percent) may also be labeled as "reduced fat ice cream," provided that these products comply with the provisions of § 130.10.

III. Conclusions

After review and consideration of the comments received in response to the proposal, FDA concludes that no evidence or information has been presented that would provide a basis for altering the agency's tentative determination that it should remove the standards of identity for ice milk (§ 135.120) and goat's milk ice milk (§ 135.125), and that it should amend the standards of identity for ice cream (§ 135.110) and goat's milk ice cream (§ 135.115) to provide for the use in the food of safe and suitable sweeteners and of skim milk that may be concentrated and from which part or all of the lactose has been removed by a safe and suitable procedure.

Therefore, in this final rule, FDA is removing the standards of identity for

ice milk (§ 135.120) and goat's milk ice milk (§ 135.125) as proposed and amending the standards of identity for ice cream (§ 135.110) and goat's milk ice cream (§ 135.115) as proposed with the following exceptions: (1) Ice cream sweetened with alternative sweeteners, or goat's milk ice cream sweetened with alternative sweeteners, needs to bear labeling in accordance with the requirements of part 105 only if the food purports to be or is represented for special dietary use; (2) the name of the alternative sweetener need only be included as part of the name of the food on the principal display panel of the label for a period of 3 years; and (3) hydrolyzed milk proteins may be used as optional stabilizers in ice cream at a level not to exceed 3 percent by weight in ice cream mix containing not less than 20 percent total milk solids, provided that any whey and modified whey products used contribute, singly or in combination, not more than 25 percent by weight of the total nonfat milk solids content of the finished food.

In addition, FDA has made other minor editorial revisions in the text of the final rule for internal consistency. The agency deleted the language "or may not" from the last sentence in § 135.110(a)(1) of the ice cream standard and redesignated § 135.110(d) through (f) of the ice cream standard as § 135.110(e) through (g).

Because this rulemaking involves the removal and amendment of standards for dairy products, it is subject to the formal rulemaking procedures of section 701(e) of the act (21 U.S.C. 371(e)). Section 701(e) of the act, unlike the informal rulemaking procedures of section 701(a) of the act, requires that the agency provide an opportunity for objections to the final rule. If any objection raises issues of material fact, the agency is to hold a formal evidentiary hearing on those issues.

IV. Analysis of Impacts

FDA has examined the impact of this final rule to amend the standards of identity for ice cream and goat's milk ice cream and to repeal the standards of identity for ice milk and goat's milk ice cream in 21 CFR part 135 as required by Executive Order 12866 and the Regulatory Flexibility Act. Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects; distributive impacts and equity). The Regulatory Flexibility Act (Pub. L. 96-354) requires that the

agency analyze options for regulatory relief for small businesses. FDA finds that this final rule is not a significant regulatory action as defined by Executive Order 12866. In compliance with the Regulatory Flexibility Act, the agency certifies that this final rule will not have a significant impact on a substantial number of small businesses.

V. Environmental Impact

FDA has previously considered the environmental effects of this rule as announced in the proposed rule. No new information or comments have been received that would affect the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

VI. Objections

Any person who will be adversely affected by this regulation may at any time on or before October 14, 1994, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection for which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday. FDA will publish notice of the objections that the agency has received or lack thereof in the Federal Register.

List of Subjects in 21 CFR Part 135

Food grades and standards, Food labeling, Frozen foods, Ice cream.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner

of Food and Drugs, 21 CFR part 135 is amended as follows:

PART 135—FROZEN DESSERTS

1. The authority citation for 21 CFR part 135 is revised to read as follows:

Authority: Secs. 201, 401, 403, 409, 701, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 341, 343, 348, 371, 379e).

2. Section 135.110 is amended by revising paragraphs (a)(1) and (b), by redesignating paragraphs (d) through (f) as paragraphs (e) through (g), and by adding new paragraphs (d) and (f)(7) to read as follows:

§ 135.110 Ice cream and frozen custard.

(a) *Description.* (1) Ice cream is a food produced by freezing, while stirring, a pasteurized mix consisting of one or more of the optional dairy ingredients specified in paragraph (b) of this section, and may contain one or more of the optional caseinates specified in paragraph (c) of this section subject to the conditions hereinafter set forth, one or more of the optional hydrolyzed milk proteins as provided for in paragraph (d) of this section subject to the conditions hereinafter set forth, and other safe and suitable nonmilk-derived ingredients; and excluding other food fats, except such as are natural components of flavoring ingredients used or are added in incidental amounts to accomplish specific functions. Ice cream is sweetened with safe and suitable sweeteners and may be characterized by the addition of flavoring ingredients.

(b) *Optional dairy ingredients.* The optional dairy ingredients referred to in paragraph (a) of this section are: Cream; dried cream; plastic cream (sometimes known as concentrated milkfat); butter; butter oil; milk; concentrated milk; evaporated milk; sweetened condensed milk; superheated condensed milk; dried milk; skim milk; concentrated skim milk; evaporated skim milk; condensed skim milk; superheated condensed skim milk; sweetened condensed skim milk; sweetened condensed part-skim milk; nonfat dry milk; sweet cream buttermilk; condensed sweet cream buttermilk; dried sweet cream buttermilk; skim milk, that may be concentrated, and from which part or all of the lactose has been removed by a safe and suitable procedure; skim milk in concentrated or dried form that has been modified by treating the concentrated skim milk with calcium hydroxide and disodium phosphate; and whey and those modified whey products (e.g., reduced lactose whey, reduced minerals whey, and whey protein concentrate) that have

been determined by FDA to be generally recognized as safe (GRAS) for use in this type of food. Water may be added, or water may be evaporated from the mix. The sweet cream buttermilk and the concentrated sweet cream buttermilk or dried sweet cream buttermilk, when adjusted with water to a total solids content of 8.5 percent, has a titratable acidity of not more than 0.17 percent, calculated as lactic acid. The term "milk" as used in this section means cow's milk. Any whey and modified whey products used contribute, singly or in combination, not more than 25 percent by weight of the total nonfat milk solids content of the finished food. The modified skim milk, when adjusted with water to a total solids content of 9 percent, is substantially free of lactic acid as determined by titration with 0.1N NaOH, and it has a Ph value in the range of 8.0 to 8.3.

(d) *Optional hydrolyzed milk proteins.* One or more of the optional hydrolyzed milk proteins referred to in paragraph (a) of this section may be added as stabilizers at a level not to exceed 3 percent by weight of ice cream mix containing not less than 20 percent total milk solids, provided that any whey and modified whey products used contribute, singly or in combination, not more than 25 percent by weight of the total nonfat milk solids content of the finished food. Further, when hydrolyzed milk proteins are used in the food, the declaration of these ingredients on the food label shall comply with the requirements of § 102.22 of this chapter.

(f) ***

(7) Until September 14, 1998, when safe and suitable sweeteners other than nutritive carbohydrate sweeteners are used in the food, their presence shall be declared by their common or usual name on the principal display panel of the label as part of the statement of identity in letters that shall be no less than one-half the size of the type used in the term "ice cream" but in any case no smaller than one-sixteenth of an inch. If the food purports to be or is represented for special dietary use, it shall bear labeling in accordance with the requirements of part 105 of this chapter.

3. Section 135.115 is amended by revising paragraph (a), by redesignating the text of paragraph (c) as paragraph (c)(1), and by adding new paragraph (c)(2) to read as follows:

§ 135.115 Goat's milk ice cream.

(a) *Description.* Goat's milk ice cream is the food prepared in the same manner prescribed in § 135.110 for ice cream, and complies with all the provisions of § 135.110, except that the only optional dairy ingredients that may be used are those in paragraph (b) of this section; caseinates and hydrolyzed milk proteins may not be used; and paragraphs (f)(1) and (g) of § 135.110 shall not apply.

* * * * *

(c) * * *

(2) Until September 14, 1998, when safe and suitable sweeteners other than nutritive carbohydrate sweeteners are used in the food, their presence shall be declared by their common or usual name on the principal display panel of the label as part of the statement of identity in letters that shall be no less than one-half the size of the type used in the term "goat's milk ice cream" but in any case no smaller than one-sixteenth of an inch. If the food purports to be or is represented for special dietary use, it shall bear labeling in accordance with the requirements of part 105 of this chapter.

* * * * *

§ 135.120 [Removed]

4. Section 135.120 *Ice milk* is removed from subpart B.

§ 135.125 [Removed]

5. Section 135.125 *Goat's milk ice milk* is removed from subpart B.

Dated: September 7, 1994.

William K. Hubbard,

Interim Deputy Commissioner for Policy.

[FR Doc. 94-22646 Filed 9-13-94; 8:45 am]

BILLING CODE 4160-01-F

21 CFR Part 175

[Docket No. 91F-0359]

Indirect Food Additives: Adhesives and Components of Coatings

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of (η^5 -cyclopentadienyl)(η^6 -isopropylbenzene)iron(II) hexafluorophosphate as a photoinitiator in adhesives for use in food-contact articles. This action is in response to a petition filed by Ciba-Geigy Corp.

DATES: Effective September 14, 1994; written objections and requests for a hearing by October 14, 1994.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Daniel N. Harrison, Center for Food Safety and Applied Nutrition (HFS-216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-254-9500.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of October 8, 1991 (56 FR 50726), FDA announced that a food additive petition (FAP 1B4285) had been filed by Ciba-Geigy Corp., Seven Skyline Dr., Hawthorne, NY 10532-2188. The petition proposed that the food additive regulations in § 175.105 *Adhesives* (21 CFR 175.105) be amended to provide for the safe use of iron(+), (η^5 -2,4-cyclopentadien-1-yl)[(1,2,3,4,5,6, η)-(1-methylethyl) benzene]-, hexafluorophosphate(1-) as a photoinitiator in adhesives for use in food-contact articles.

In the filing notice, FDA utilized the Chemical Abstract Service nomenclature to identify the additive. However, in the final rule, the common name (η^5 -cyclopentadienyl)(η^6 -isopropylbenzene)iron(II) hexafluorophosphate, is used because the structure of the food additive is more readily comprehended from this name.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed use of the food additive is safe, and that § 175.105 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch

(address above) between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may at any time on or before October 14, 1994, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 175

Adhesives, Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 175 is amended as follows:

PART 175—INDIRECT FOOD ADDITIVES: ADHESIVES AND COMPONENTS OF COATINGS

1. The authority citation for 21 CFR part 175 continues to read as follows:

Authority: Secs. 201, 402, 409, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 379e).

2. Section 175.105 is amended in the table in paragraph (c)(5) by alphabetically adding a new entry to the table to read as follows:

§ 175.105 Adhesives.

* * * * *

(c) * * *

(5) * * *

Substances

Limitations

(η^5 -Cyclopentadienyl)-(η^6 -isopropylbenzene)iron(II) hexafluorophosphate (CAS Reg. No. 32760-80-8).

For use only as a photoinitiator.

Dated: August 31, 1994.

Janice F. Oliver,

Deputy Director for Systems and Support,
Center for Food Safety and Applied Nutrition.

[FR Doc. 94-22648 Filed 9-13-94; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

24 CFR Parts 813, 882, 887, and 982

[Docket No. R-94-1628; FR-3727-C-02]

RIN 2577-AB47

Section 8 Certificate and Voucher Programs Conforming Rule: Admissions—Correction Concerning Effective Date

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Final rule; Technical correction.

SUMMARY: On July 18, 1994 (59 FR 36662), HUD published in the Federal Register a final rule for the Section 8 Certificate and Voucher Programs. The purpose of this document is to correct the "Effective Dates" section of the rule to include § 982.210(c)(4)(ii) as another section of the rule that will not be effective until January 18, 1995. The remainder of the "Effective Dates" section remains unchanged.

EFFECTIVE DATE: Except for §§ 982.209(b) and 982.210(c)(4)(ii), this rule is effective on October 18, 1994. Sections 982.209(b) and 982.210(c)(4)(ii) are effective January 18, 1995.

FOR FURTHER INFORMATION CONTACT: Madeline Hastings, Director, Rental Assistance Division, Room 4204, Telephone (202) 708-2841 (voice); (202) 708-0850 (TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: On July 18, 1994 (59 FR 36662), HUD published in the Federal Register a final rule for the Section 8 Certificate and Voucher Programs. This final rule amended the requirements for admission of eligible families to receive tenant-based Section 8 rental assistance under the rental

certificate program and the rental voucher program.

The purpose of this document is to correct the "Effective Dates" section of the rule to include § 982.210(c)(4)(ii) as another section of the rule that will not be effective until January 18, 1995. This section was inadvertently omitted when the rule was published on July 18, 1994. The remainder of the "Effective Dates" section remains unchanged.

Accordingly, the "Effective Dates" section in FR Doc 94-16887, a final rule published in the Federal Register on July 18, 1994 (59 FR 36662), is corrected to read as follows:

EFFECTIVE DATES: Except for §§ 982.209(b) and 982.210(c)(4)(ii), this rule is effective on October 18, 1994. Sections 982.209(b) and 982.210(c)(4)(ii) are effective January 18, 1995.

Dated: September 7, 1994.

Brenda Gladden,

Assistant General Counsel for Regulations
(Acting).

[FR Doc. 94-22637 Filed 9-13-94; 8:45 am]

BILLING CODE 4210-33-M

DEPARTMENT OF JUSTICE

28 CFR Part 16

[AAG/A Order No. 94-94]

Exemption of System of Records Under the Privacy Act

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: The Department of Justice, FBI, revises § 16.96 of Title 28 of the Code of Federal Regulations to exempt a Privacy Act system of records from subsections 5 U.S.C. 552a (c)(3), (c)(4), (d), (e)(1), (2), and (3), (e)(4) (G) and (H), (e)(5), (e)(8), (f) and (g) of the Privacy Act. The system of records is the FBI Counterdrug Information Indices System. Information in the system consists of automated indices related to the law enforcement activities and responsibilities of the FBI regarding drug law enforcement. These exemptions are necessary to avoid interference with the law enforcement functions and responsibilities of the FBI. Reasons for the exemptions are set forth in the text below.

EFFECTIVE DATE: September 14, 1994.

FOR FURTHER INFORMATION CONTACT: Patricia E. Neely, (202) 616-0178.

SUPPLEMENTARY INFORMATION: This order relates to individuals rather than small business entities. Nevertheless, pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601-612, it is hereby stated that the order will not have a "significant economic impact on a substantial number of small entities."

List of Subjects in Part 16

Administrative Practices and Procedure, Courts, Freedom of Information Act, Government in the Sunshine Act, and Privacy Act.

Pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a and delegated to me by Attorney General Order No. 793-78, 28 CFR Part 16 is amended as set forth below.

Dated: August 29, 1994.

Stephen R. Colgate,

Assistant Attorney General for
Administration.

1. The authority for Part 16 continues to read as follows:

Authority: 5 U.S.C. 301, 552, 552a, 552b(g), 553; 18 U.S.C. 4203(a)(1); 28 U.S.C. 509, 510, 534; 31 U.S.C. 3717, 9701.

2. Title 28 CFR, Section 16.96 is amended by adding paragraphs (l) and (m) as set forth below.

§ 16.96 Exemption of Federal Bureau of Investigation (FBI)—Limited Access

(l) The following system of records is exempt from 5 U.S.C. 552a (c)(3), (c)(4), (d), (e) (1), (2), and (3), (e)(4) (G) and (H), (e)(5), (e)(8), (f) and (g).

(1) FBI Counterdrug Information Indices System (CIIS) (JUSTICE/FBI—016)

(m) These exemptions apply only to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a (j)(2). Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) because making available to a record subject the accounting of disclosures from records concerning him/her would reveal

investigative interest by not only the FBI, but also by the recipient agency. This would permit the record subject to take appropriate measures to impede the investigation, e.g., destroy evidence, intimidate potential witnesses or flee the area to avoid the thrust of the investigation.

(2) From subsection (c)(4) to the extent it is not applicable because an exemption is being claimed from subsection (d).

(3)(i) From subsections (d), (e)(4) (G) and (H) because these provisions concern individual access to records, compliance with which could compromise sensitive information, interfere with the overall law enforcement process by revealing a pending sensitive investigation, possibly identify a confidential source or disclose information which would constitute an unwarranted invasion of another individual's personal privacy, reveal a sensitive investigative technique, or constitute a potential danger to the health or safety of law enforcement personnel.

(ii) In addition, from paragraph (d), because to require the FBI to amend information thought to be incorrect, irrelevant or untimely, because of the nature of the information collected and the essential length of time it is maintained, would create an impossible administrative and investigative burden by forcing the agency to continuously retrograde its investigations attempting to resolve questions of accuracy, etc.

(4)(i) From subsection (e)(1) because it is not possible in all instances to determine relevancy or necessity of specific information in the early stages of a criminal or other investigation.

(ii) Relevance and necessity are questions of judgment and timing; what appears relevant and necessary when collected ultimately may be deemed otherwise. It is only after the information is assessed that its relevancy and necessity in a specified investigative activity can be established.

(iii) In any investigation the FBI might obtain information concerning violations of law not under its jurisdiction, but in the interest of effective law enforcement, dissemination will be made to the agency charged with enforcing such law.

(iv) In interviewing individuals or obtaining other forms of evidence during an investigation, information could be obtained, the nature of which would leave in doubt its relevancy and necessity. Such information, however, could be relevant to another investigations or to an investigative

activity under the jurisdiction of another agency.

(5) From subsection (e)(2) because the nature of criminal and other investigative activities is such that vital information about an individual often can only be obtained from other persons who are familiar with such individual and his/her activities. In such investigations it is not feasible to principally rely upon information furnished by the individual concerning his own activities.

(6) From subsection (e)(3) because disclosure would provide the subject with information which could impede or compromise the investigation. The individual could seriously interfere with undercover investigative activities and could take appropriate steps to evade the investigation or flee a specific area.

(7) From subsection (e)(5) because in the collection of information for law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light. The restrictions imposed by subsection (e)(5) would restrict the ability of trained investigators and intelligence analysts to exercise their judgment in reporting on investigations and impede the development of criminal intelligence necessary for effective law enforcement.

(8) From subsection (e)(8) because the notice requirements of this provision could seriously interfere with a law enforcement activity by alerting the subject of a criminal or other investigation of existing investigative interest.

(9) From subsection (f) to the extent that this system is exempt from the provisions of subsection (d).

(10) From subsection (g) to the extent that this system of records is exempt from the provisions of subsection (d).

[FR Doc. 94-22656 Filed 9-13-94; 8:45 am]
BILLING CODE 4410-02-M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 1

[Docket No. 940415-4212]

RIN 0651-AA68

Revision of Patent Fees; Correction

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Correction to final rulemaking.

SUMMARY: This document contains a correction to the final rulemaking which was published Thursday, August 25, 1994 (59 FR 43736).

EFFECTIVE DATE: October 1, 1994.

FOR FURTHER INFORMATION CONTACT: Robert Kopson by telephone at (703) 305-8510, fax at (703) 305-8525, or by mail marked to his attention and addressed to the Commissioner of Patents and Trademarks, Washington, DC 20231.

SUPPLEMENTARY INFORMATION:

Need for Correction

The final rulemaking contains an error which may prove to be misleading and is in need of clarification. As published, section 1.492(a)(5) read, " * * * by the European Patent Office of the Japanese Patent Office * * * ". The section should read, " * * * by the European Patent Office or the Japanese Patent Office * * * ".

Correction of Publication

Accordingly, on page 43742 of the final rulemaking which was published on August 25, 1994, paragraph (a)(5) of § 1.492 is corrected as follows:

§ 1.492 National stage fees.

* * * * *
(a) * * * * *

(5) Where a search report on the international application has been prepared by the European Patent Office or the Japanese Patent Office:

By a small entity (§ 1.9(f)).....\$425.00
By other than a small entity\$850.00

* * * * *

Dated: August 1, 1994.

Michael K. Kirk,

Acting Assistant Secretary of Commerce and
Acting Commissioner of Patents and
Trademarks.

[FR Doc. 94-22681 Filed 9-13-94; 8:45 am]

BILLING CODE 3510-16-M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 14

RIN 2900-AH01

Expanded Remote Access to Computerized Veterans Claims Records by Accredited Representatives

AGENCY: Department of Veterans Affairs.
ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) is establishing policy,

procedures and criteria governing when, and under what circumstances, VA will grant authorized claimants' representatives read-only access to the automated claims records of claimants whom they represent from approved office locations away from the VA Regional Offices of jurisdiction for the claimants' records. Access will be granted only for the purpose of representing those claimants before VA on claims-related matters. In order to help safeguard the confidentiality of claimants' automated claims records, the rules also set out responsibilities and restrictions on claimants' representatives in exercising their remote access to VA's automated claims records. These procedures and criteria will provide for better and more timely representation of claimants in claims matters by allowing their representatives to have faster, easier and more efficient access to the claimants' records than they currently have when they have to travel to the Regional Offices. The regulations will also lead to more efficient use of VA resources in meeting the agency mission in that VA employees will have to spend less time providing access to those representatives who do not have their own computers in Regional Offices.

EFFECTIVE DATE: October 14, 1994.

FOR FURTHER INFORMATION CONTACT: David G. Spivey, Chief, Authorization Procedures Staff (213B), Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273-7258 or Jeffrey C. Corzatt, Staff Attorney (024H2), Office of General Counsel, Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC, 20420, (202) 273-6381. Questions concerning applying for remote access should be addressed to the Director of the Veterans Benefits Administration Regional Office with jurisdiction for the claim for which remote access is sought.

SUPPLEMENTARY INFORMATION:

Background

On July 20, 1994, the Department of Veterans Affairs published a notice of proposed rulemaking (NPRM) (59 FR 37008, July 20, 1994) to promulgate regulations at 38 CFR part 14 establishing policies, criteria and procedures governing access to certain Veterans Benefits Administration (VBA) computerized claimants records by individuals and organizations which represent those claimants from locations away from the Regional Offices of jurisdiction for those claimants records. As VA noted in its NPRM, the rules

concern when, and under what circumstances, VA will grant access, the responsibilities of those granted access, and the bases to revoke or suspend access.

Discussion of Comments

Five comments were submitted in response to the NPRM. All the comments endorsed the regulations. Three veterans service organizations had no suggested changes.

Another commenter suggested, in essence, that the regulations be clarified to expressly provide that those individuals approved by the Department to represent veterans in claims for title 38 benefits in accordance with 38 CFR 14.629 are treated equally for purposes of being granted read-only remote access to the automated claims records of their clients. As was stated in the NPRM, it is the Department's intention to provide the same on-line, remote access capability to all individuals and organizations accredited under 38 CFR 14.626-14.635 who represent claimants on VA claims for benefits and who request such access. Moreover, this purpose is expressly stated in the regulations at § 14.641(a)(1) which provides that an applicant for read-only access must be an organizations, representative, attorney or agent approved or accredited by VA under 38 CFR 14.626 through 14.635. The commenter's suggestion reflects what is already stated expressly in the regulations.

The last commenter noted a typographical error which the Department has corrected. That commenter also suggested that the regulations should clarify that the Regional Office Director, or the Regional Office Director's designee, is the VA official who may revoke an individual's or organization's access privileges under 38 CFR 14.643(b). Paragraphs (a) and (e) of § 14.643 refer to the Regional Office Director or the Regional Office Director's designee as the VA official responsible for decisions concerning the grant, denial, suspension or revocation of remote access privileges. VA similarly intended those officials to make any revocation decisions under § 14.643(b), and to avoid possible confusion on this issue, VA will clarify this point. VA accepts this suggestion, and the regulation is modified accordingly.

The fifth commenter suggested also that the Department clarify that 38 CFR 38.643(c) applies to proceedings under 38 CFR 14.643(b). VA also accepts this suggestion, and the regulation is changed accordingly.

The fifth commenter also suggested that § 14.643(c) should be modified to expressly refer only to accredited representatives of service organizations. However, attorneys and claims agents also represent veterans. These individuals may work for a law firm or some other organization which is not a veterans service organization. The proposed change would exclude some of the individuals covered by the regulations. Accordingly, the proposal is not adopted.

Finally, the commenter suggested that the proposed regulations set forth the procedures which would be followed by the Department in any revocation of access proceedings under § 14.643(b). The matter merits further consideration, and, accordingly, VA will consider whether to amend this rule to incorporate such procedures.

Following consideration of the comments submitted in response to the NPRM, as well as further consideration of the reasoning and analysis in the proposed regulation published at 59 FR 37008, the Secretary has decided to implement the regulations as proposed, for the reasons contained in that **Federal Register** notice, with the changes discussed above.

Regulatory Flexibility Act

The Secretary of Veterans Affairs has certified that these rules will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), the regulations, therefore, are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

This certification can be made because the regulations facilitate representative access to their claimants' information while imposing little in the way of cost or administrative burden. Further, the rules affect only the small number of entities and individuals which represent claimants in claims before VA.

This regulation is subject to review under Executive Order 12866.

There are no Catalog of federal Domestic Assistance numbers for this program.

List of Subjects in 38 CFR Part 14

Government employees, Lawyers, Legal services, Veterans.

Approved: September 1, 1994.

Jesse Brown,

Secretary of Veterans Affairs.

38 CFR part 14, Legal Services, General Counsel, is proposed to be amended as follows:

PART 14—LEGAL SERVICES, GENERAL COUNSEL

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

Authority: 38 U.S.C. 5903.

2. In Part 14, §§14.640 through 14.646 and an undesignated center heading prior to § 14.640 are added to read as follows:

Expanded Remote Access to Computerized Veterans Claims Records by Accredited Representatives

Sec.

14.640 Purpose.

14.641 Qualifications for access.

14.642 Utilization of access.

14.643 Disqualification.

Expanded Remote Access to Computerized Veterans Claims Records by Accredited Representatives

§ 14.640 Purpose.

(a) Sections 14.640 through 14.643 establish policy, assign responsibilities and prescribe procedures with respect to:

(1) When, and under what circumstances, VA will grant authorized claimants' representatives read-only access to the automated Veterans Benefits Administration (VBA) claims records of those claimants whom they represent;

(2) The exercise of authorized access by claimants' representatives; and

(3) The bases and procedures for disqualification of a representative for violating any of the requirements for access.

(b) VBA will grant access to its automated claimants' claims records from locations outside Regional Offices under the following conditions. Access will be provided:

(1) Only to individuals and organizations granted access to automated claimants' records under §§ 14.640 through 14.643;

(2) Only to the claims records of VA claimants whom the organization or individual represents as reflected in the claims file;

(3) Solely for the purpose of the representative assisting the individual claimant whose records are accessed in a claim for benefits administered by VA; and

(4) On a read-only basis. Individuals authorized access to VBA automated claims records under §§ 14.640 through

14.643 will not be permitted to modify the data.

(c)(1) Access will be authorized only to the inquiry commands of the Benefits Delivery Network which provide access to the following categories of data:

(i) Beneficiary identification data such as name, social security number, sex, date of birth, service number and related service data; and

(ii) Claims history and processing data such as folder location, claim status, claim establishment date, claim processing history, award data, rating data, including service-connected medical conditions, income data, dependency data, deduction data, payment data, educational facility and program data (except chapter 32 benefits), and education program contribution and delimiting data (except chapter 32 benefits).

(2) Access to this information will currently be through the inquiry commands of BINQ (BIRLS (Beneficiaries Identification and Records Location Subsystem) Inquiry), SINQ (Status Inquiry), MINQ (Master Record Inquiry), PINQ (Pending Issue Inquiry) and TINQ (Payment History Inquiry). The identifying information received from BIRLS to representative inquiries will be limited to file number, veteran's name, date of death, folder location and transfer date of folder, insurance number, insurance type, insurance lapse date and insurance folder jurisdiction.

(d) Sections 14.640 through 14.643 are not intended to, and do not:

(1) Waive the sovereign immunity of the United States; or

(2) Create, and may not be relied upon to create, any right or benefit, substantive or procedural, enforceable at law against the United States or the Department of Veterans Affairs.

§ 14.641 Qualifications for access.

(a) An applicant for read-only access to VBA automated claims records from a location other than a VA Regional Office must be:

(1) An organization, representative, attorney or agent approved or accredited by VA under §§ 14.626 through 14.635; or

(2) An attorney of record for a claimant in proceedings before the Court of Veterans Appeals or subsequent proceedings who requests access to the claimant's automated claims records as part of the representation of the claimant.

(b) The hardware, modem and software utilized to obtain access, as well as their location, must be approved in advance by VBA.

(c) Each individual and organization approved for access must sign and return a notice provided by the Regional Office Director (or the Regional Office Director's designee) of the Regional Office of jurisdiction for the claim. The notice will specify the applicable operational and security requirements for access and an acknowledgment that the breach of any of these requirements is grounds for disqualification from access.

§ 14.642 Utilization of access.

(a) Once an individual or organization has been issued the necessary passwords to obtain read-only access to the automated claims records of individuals represented, access will be exercised in accordance with the following requirements:

(1) The individual or organization will obtain access only from equipment and software approved in advance by the Regional Office from the location where the individual or organization primarily conducts its representation activities which also has been approved in advance;

(2) The individual will use only his or her assigned password to obtain access;

(3) The individual will not reveal his or her password to anyone else, or allow anyone else to use his or her password;

(4) The individual will access only the VBA automated claims records of VA claimants who are represented by the person obtaining access or by the organization employing the person obtaining access;

(5) The individual will access a claimant's automated claims record solely for the purpose of representing that claimant in a claim for benefits administered by VA;

(6) Upon receipt of the password, the individual will destroy the hard copy; no written or printed record containing the password will be retained; and

(7) The individual and organization will comply with all security requirements VBA deems necessary to ensure the integrity and confidentiality of the data and VBA's automated computer systems.

(b) An organization granted access shall ensure that all employees provided access in accordance with these regulations will receive regular, adequate training on proper security, including the items listed in § 14.643(a). Where an individual such as an attorney or registered agent is granted access, he or she will regularly review the security requirements for the system as set forth in these regulations and in any additional materials provided by VBA.

(c) VBA may, at any time without notice:

(1) Inspect the computer hardware and software utilized to obtain access and their location;

(2) Review the security practices and training of any individual or organization granted access under these regulations; and

(3) Monitor an individual's or organization's access activities. By applying for, and exercising, the access privileges under §§ 14.640 through 14.643, the applicant expressly consents to VBA monitoring the access activities of the applicant at any time.

§ 14.643 Disqualification.

(a) The Regional Office Director or the Regional Office Director's designee may revoke an individual's or an organization's access privileges to a particular claimant's records because the individual or organization no longer represents the claimant, and; therefore, the beneficiary's consent is no longer in effect. The individual or organization is no longer entitled to access as a matter of law under the Privacy Act, 5 U.S.C. 552a, and 38 U.S.C. 5701 and 7332. Under these circumstances, the individual or organization is not entitled to any hearing or to present any evidence in opposition to the revocation.

(b) The Regional Office Director or the Regional Office Director's designee may revoke an individual's or an organization's access privileges either to an individual claimant's records or to all claimants' records in the VBA automated claims benefits systems if the individual or organization:

- (1) Violates any of the provisions of §§ 14.640 through 14.643;
- (2) Accesses or attempts to access data for a purpose other than representation of an individual veteran;
- (3) Accesses or attempts to access data other than the data specified in these regulations;
- (4) Accesses or attempts to access data on a VA beneficiary who is not represented either by the individual who obtains access or by the organization employing the individual who obtains access;
- (5) Utilizes unapproved computer hardware or software to obtain or attempt to obtain access to VBA computer systems;
- (6) Modifies or attempts to modify data in the VBA computer systems.

(c) If VBA is considering revoking an individual's access under § 14.643(b), and that individual works for an organization, the Regional Office of jurisdiction will notify the organization of the pendency of the action.

(d) After an individual's access privileges are revoked, if the conduct

which resulted in revocation was such that it merits reporting to an appropriate governmental licensing organization such as a State bar, the VBA Regional Office of jurisdiction will immediately inform the licensing organization in writing of the fact that the individual's access privileges were revoked and the reasons why.

(e) The VBA Regional Office of jurisdiction may temporarily suspend access privileges prior to any determination on the merits of the proposed revocation where the Regional Office Director or the Director's designee determines that such immediate suspension is necessary in order to protect the integrity of the system or confidentiality of the data in the system from a reasonably foreseeable compromise. However, in such case, the Regional Office shall offer the individual or organization an opportunity to respond to the charges immediately after the temporary suspension.

[FR Doc. 94-22669 Filed 9-13-94; 8:45 am]

BILLING CODE 8320-01-P

POSTAL SERVICE

39 CFR Part 111

Revisions to Standards for Detached Address Labels

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Postal Service adopts changes in Domestic Mail Manual (DMM) standards concerning use of detached address labels (DALs) to standardize those rules as they apply to the different uses of DALs (second-, third-, and fourth-class flats and third-class merchandise samples).

EFFECTIVE DATE: December 13, 1994.

FOR FURTHER INFORMATION CONTACT: Leo F. Raymond, (202) 268-5199.

SUPPLEMENTARY INFORMATION: On April 8, 1994, the U.S. Postal Service (USPS) published for comment proposed changes to Domestic Mail Manual (DMM) unit A060, which contains the standards for use of detached address labels (DALs). 59 FR 16786-16788. The proposed revisions, which arose from suggestions presented during the 1993 DMM redesign project, were generally designed to eliminate as much as possible the distinctions between how second-, third-, and fourth-class flats and third-class merchandise samples can each be mailed using DALs. This proposed rule did not seek to introduce significantly new requirements or

options for existing uses (other than those that occur from standardization across classes), nor to permit new uses of DALs. To avoid wordiness, the term "item" was introduced to replace the phrase "second-class flat, third-class flat or merchandise sample, or fourth-class bound printed matter" when discussing that which is distributed with the DAL.

The USPS received five written comments on the proposed rule.

All commenters generally supported the proposed rule as a measure to simplify and standardize existing regulations. However, commenters also suggested revisions beyond those related to making the standards uniform in all mailing applications.

One commenter urged the Postal Service to allow the use of DALs in more mailing situations than at present. This proposal is beyond the scope of this rulemaking and will not be addressed as part of this final rule.

Another commenter found the language of proposed DMM A060.1.2 ambiguous in its use of "must" and "may" to describe situations in which DALs are permitted. That language is revised for greater clarity in renumbered DMM A060.1.3 of the final rule. This commenter was also concerned by the term "full" (in proposed DMM A060.3.3) as applied to the cartons used to transport the items to be delivered using DALs, fearing that, taken literally, it would require an infinite number of carton sizes to suit all situations. The intent behind the full carton requirement is that the fewest number of cartons be used and that each be as full as reasonably possible to minimize transportation cost and movement of (and potential damage to) the items inside the carton while in transit. The USPS does not expect customers to bear an unreasonable burden to ensure full cartons, and the language of the final rule is clarified to state that full cartons can be achieved by placing dunnage in cartons to maintain the integrity of their contents while in transit.

One commenter submitted a series of questions as a means of indicating areas in which it felt the proposed rule needed additional definition. The issues raised are (1) whether the DALs and items for a post office handling small volumes of mail could be combined in the same shipping carton; (2) how many 5-digit ZIP Codes are needed for general distribution and what constitutes the residual; and (3) the standards applicable to palletization of cartons of DALs and items. The final rule has been amended so that (1) only the DALs for the same 5-digit ZIP Code area may be placed in the same carton; (2) general distribution requires a minimum

density in a 5-digit ZIP Code area, not a minimum number of 5-digit areas (less-than-general-distribution quantities in that mailing are considered residual); and (3) DALs and items may be palletized under the same standards applicable to other mail.

Another commenter stated that the notification requirement in proposed DMM A060.3.1 represented an unnecessarily redundant burden on the mailer by mandating both an advance written notice to the delivery office and the enclosure of a copy of that notice in the actual mailing. The USPS is interested in ensuring that delivery offices correctly identify DAL mailings and associate them with the corresponding mailer instructions. For that reason, the enclosure of a copy of an advance notice was seen as a relatively foolproof device. However, to remove this perceived burden, the final rule will allow the mailer the alternative of showing a key number or code on both the advance letter and (instead of a copy of the notice) on the cartons used for the mailing.

One commenter raised a series of questions based on experience in applying the existing standards, noting that certain issues were not resolved by the proposed rule, and asking that they be addressed in the final rule. The questions were (1) how the carton's weight is considered for purposes of postage computation; (2) whether excess DALs should be allowed (based on an assumed number of undeliverables), what that excess should be, and how those DALs would be viewed for purposes of classification, rate eligibility, and postage payment; and (3) how the terms in proposed DMM A060.3.4 (regarding identification of quantities) were to be correctly applied. The final rule has been revised to address those questions: (1) postage is to be determined based on the weight of the mailpiece, i.e., the combined weight of the DAL and the accompanying item, excluding tare; (2) DALs and items are to be supplied in equal numbers although, if excess items or DALs are received by the delivery post office, additional quantities of items or DALs (as needed) may be shipped First-Class Mail (or Priority Mail or Express Mail); and (3) proposed DMM A060.3.4 (now DMM A060.3.5) has been revised to narrow reference to "packages" to apply to packages of compatible items (e.g., flats) placed in sacks.

Another commenter pointed out that use of the term "detached address card (DAC)" in the proposed rule was contrary to prior practice. It noted that the term "detached address label (DAL)" would be more appropriate

because it is used in the Domestic Mail Classification Schedule and is well established in the mailing industry's vocabulary. The USPS agrees and will retain the current term (DAL) in the final rule.

The same commenter, while supporting the placement on the front of the DAL of identifying information about the accompanying item, argued that the language of proposed DMM A060.2.4 was too broad in allowing "equivalent identifying information." Such a term, the commenter believed, was likely to invite "overreaching interpretations that convert the front of the DAL into an advertising or promotional vehicle." The USPS agrees that such a consequence is undesirable, and the final rule tightens the wording in DMM A060.2.4 accordingly.

That commenter also pointed out that the language of proposed DMM A060.4.1a, by requiring the mailer to supply additional items if their quantity was exceeded by the number of DALs provided to a delivery office, left the mailer without the option of having those excess DALs disposed of as waste. (The proposed rule stated that excess DALs would be returned postage due if the necessary additional items were not provided.) Particularly when additional items were not available, the commenter noted, the proposed requirement would be both impossible to satisfy and punitive in its consequence.

Concurrently, the commenter noted that proposed DMM A060.4.1c would appear not to offer the mailer a negative option concerning address correction, and apparently mandates the return of all undeliverable-as-addressed DALs. This commenter suggests that the mailer should have to request address correction. For consistency, proposed DMM A060.5.0d would also require revision. The USPS believes the commenter's points are valid, and these provisions are amended in the final rule to allow the options suggested by the commenter and to treat undeliverable-as-addressed DALs like other mail of their class and rate.

Finally, concerning proposed DMM A060.3.3, this commenter suggests that "other authorized containers" be included as means to transport items, in addition to sacks and pallets, and that the application of the 40-pound limit be more clearly defined. Although the use of "other" equipment, such as wheeled containers, might be reasonable in some instances, the USPS is concerned both over the consequences of irregular equipment supplies and how various types of equipment might not be appropriate in some applications. For that reason, the final rule allows the use

of "other" equipment but limits its use to the service area of the facility whose manager authorized such equipment and which will receive the mailing. The final rule also more clearly addresses the application of the 40-pound limit.

Based on the adoption of several commenter suggestions, the final rule has been reorganized slightly from the proposed rule. It also includes (as DMM A060.1.6) a provision that specifically states the currently unwritten requirement that the mailer is responsible for demonstrating compliance with the density, distribution, or other criteria that might apply to a particular DAL mailing.

List of Subjects in 39 CFR Part 111

Postal Service.

For the reasons discussed above, the Postal Service hereby adopts the following amendments to the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations (see 39 CFR 111).

PART 111—[AMENDED]

1. The authority citation for 39 CFR 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001-3011, 3201-3219, 3403-3406, 3621, 3626, 5001.

2. Replace Domestic Mail Manual A060 with the following:

A060 Detached Address Labels

1.0 USE

1.1 Definitions

For purpose of these standards, "item[s]" refers inclusively to the types of mail described in 1.2 through 1.4.

1.2 Second- or Third-Class Flats

Saturation mailings of unaddressed second- or third-class flats may be mailed with detached address labels (DALs). For purposes of this standard, a saturation mailing is one sent to at least 75% of the total addresses on a carrier route or 90% of the residential addresses on a route, whichever is less. Deliveries are not required to every carrier route of a delivery unit.

1.3 Third-Class Merchandise Samples

Merchandise samples more than 5 inches wide (high) or 1/4 inch thick, or nonuniform in thickness, mailed at bulk third-class rates, must be mailed with DALs when prepared for general distribution on city delivery routes. Merchandise samples may be mailed with DALs for general distribution on other (e.g., rural) routes and for the residual portion of a general distribution mailing. For purpose of this standard,

"general distribution" means distribution in a single mailing to at least 25% of the addresses in any 5-digit ZIP Code delivery area regardless of the number of samples addressed to a single route or the number of 5-digit areas to which samples are addressed. If the same mailing includes a "general distribution" to one or more 5-digit areas and distribution of lesser quantities to one or more other 5-digit areas, the latter pieces are considered "residual."

1.4 Fourth-Class Bound Printed Matter

Mailings of unaddressed pieces of bound printed matter may be mailed with DALs for delivery in the local zone of the post office of mailing.

1.5 Alternative Address Formats

The addresses on DALs may be prepared using an alternative address format, subject to the applicable eligibility, volume, density, and preparation standards.

1.6 Evidence of Distribution

When requested by the USPS, DAL mailers must provide documentation to establish that the applicable distribution standards in 1.2 through 1.4 are met.

2.0 PREPARING DETACHED ADDRESS LABELS

2.1 Construction

Each DAL must be made of paper or cardboard stock that is not folded, perforated, or creased, and that meets these measurements:

- Between 3½ and 5 inches high (perpendicular to the address label).
- Between 5 and 9 inches long (parallel to the address label).
- At least 0.007 inch thick.

2.2 Addressing

The address for each item must be placed on a DAL, parallel to the longest dimension of the DAL, and may not appear on the item it accompanies. The DAL must contain the recipient's delivery address and the mailer's return address. A ZIP+4 code or 5-digit ZIP Code is required unless an alternative address format is used. The delivery address may include the correct delivery point barcode.

2.3 Ratio

Only one DAL may be prepared for each accompanying item, and only one item may be identified for delivery per DAL (i.e., one DAL may not be prepared to deliver with one each of multiple different accompanying items or with multiples of the same item).

2.4 Required Information

The following words must appear in bold type at least 1/8 inch high on the front of each DAL: "USPS regulations require that this address label be delivered with its accompanying postage-paid mail. If you should receive this label without its accompanying mail, please notify your local postmaster." The title or brand name of the item (which may include an illustration of the item) must also appear on the front or back of the DAL to associate it with the accompanying item.

2.5 Other Information

Nothing may appear on the front of a DAL except the information described above, an indicium of postage payment, and official pictures and data circulated by the National Center for Missing and Exploited Children. Ancillary service endorsements are not permitted; undeliverable material is treated under 4.0.

3.0 PREPARING THE MAILING

3.1 Notice to Delivery Office

Each delivery office to receive a DAL mailing must be notified in writing at least 10 days in advance of the requested delivery period. To ensure that the delivery office can readily relate the notice to the cartons containing the corresponding items, a copy of that letter must be enclosed with the DALs unless the initial notice and the cartons used for the DALs and items each conspicuously bears a mailing identification number. The letter must show the following:

- Name and telephone number of mailer or representative.
- Origin post office of mailing.
- Expected mailing date.
- Description of mailing.
- Number of addressees for each 5-digit ZIP Code.
- Number of DALs per carton or package.
- Number of items per carton or package.
- Expected delivery period (range of dates).
- Requested action in the event of excess or undeliverable DALs or items (see 4.0).

3.2 DALs

The DALs must be presorted, counted, and packed by 5-digit ZIP Code delivery area. Only DALs for the same 5-digit area may be placed in the same carton. DAL mailings claimed at carrier route or walk-sequence rates must be further prepared under the corresponding standards. Different size cartons may be

used in the same mailing, but each must be filled with dunnage as necessary to ensure that the DALs retain their integrity while in transit. Each carton of DALs must bear a label showing the information in 3.5 unless a mailing identification number is used (see 3.1). Multiple containers of DALs must be numbered sequentially (1 of ____, 2 of ____, etc.).

3.3 Items

The items to be distributed with the DALs must be placed in cartons or prepared in packages placed in sacks, as appropriate for the type of item and subject to the standards applicable to the rate claimed. A label bearing the content description information in 3.5 must be affixed to each carton, sacked package, or pallet unless a mailing identification number is used (see 3.1). Cartons of items (including those on pallets) may be of different sizes but must be filled with dunnage as necessary to ensure the integrity of the items while in transit. The gross weight of each carton or sack must not be more than 40 pounds.

3.4 Combined Cartons

Both the DALs and the accompanying items may be enclosed in the same carton when sent to a small-volume 5-digit ZIP Code area. If packed together, the following standards apply:

- The DALs must be packaged and labeled under 3.2 and placed on top of the items.
- The carton must be packed with dunnage to ensure the integrity of the contents while in transit.
- The gross weight of the carton must not exceed 40 pounds.
- The exterior of the carton must be labeled under 3.5 and marked "DALs ENCLOSED" in letters not less than ½ inch high.

3.5 Label Information

Sacks, cartons, and pallets of DAL mail must be labeled under the preparation standards applicable to the rate claimed. A second label must be affixed to each carton or sacked package to provide the following information (unless a mailing identification number is used under 3.1):

- Delivery post office name and 5-digit ZIP Code delivery area.
- Title, brand name, or other description of the items.
- Name and telephone number of the mailer or representative.
- Number of labels or items in the carton, as applicable.
- Instructions to open and distribute either the DALs with matching items or the items with matching DALs, as appropriate.

3.6 Use of Equipment

Cartons, packages of flats, and sacks of items may be palletized under the applicable standards; cartons of DALs must be palletized with the corresponding items under the same standards. The USPS plant manager at whose facility a DAL mailing is deposited may authorize other types of equipment for the portion of the mailing to be delivered in that plant's service area.

3.7 Bound Printed Matter

Bound printed matter distributed with DALs must be deposited at the acceptance point specified by the postmaster. Local zone rates are available, subject to G030.

3.8 Mailing Statement

The mailer must complete and provide the appropriate mailing statement with each mailing.

4.0 DISPOSITION OF EXCESS OR UNDELIVERABLE MATERIAL**4.1 Excess Material**

The letter required under 3.1 must either request that the delivery office contact the mailer (or representative) about excess DALs or items, or provide instructions for their treatment. (If the mailer does not provide information about excess DALs or items, such material is disposed of as waste by the USPS.) The mailer must choose one of the following options for each DAL mailing and the items:

- Dispose of any excess material as waste.
- Return the excess material to the mailer, postage due at the applicable single-piece rate under 5.0.
- Hold the excess material for pickup by the mailer (or representative); if pickup is not made within 15 calendar days of the notice to the mailer, the material is returned to the mailer postage due.
- Hold the excess material while additional DALs or items are supplied (as applicable); if additional material is not supplied within 15 days of the notice to the mailer, the excess material is returned to the mailer postage due. Additional material must be sent prepaid to the delivery post office as First-Class Mail, Priority Mail, or Express Mail.

4.2 Undeliverable-as-Addressed DALs

DALs with incorrect, nonexistent, or otherwise undeliverable addresses are handled under F010. The accompanying item is treated as specified by the mailer under 4.1.

5.0 POSTAGE**5.1 Available Rates**

DAL mailings are not eligible for any automation rate, but they may qualify for carrier route or walk-sequence rates subject to the applicable standards.

5.2 Initial Distribution

Postage is computed based on the weight of the entire mailpiece (i.e., combined weight of the item and the accompanying DAL). If the number of DALs and items mailed is not identical, the "number of pieces" used to determine postage is the greater of the two; no postage refund is allowed in these situations. The total weight of the mailing excludes the weight of the cartons used to carry the DALs or items, dunnage, and carton labels. In addition, these methods of postage payment apply:

- Second-class flats must be prepaid. A notice of entry must appear in the upper right corner of the DAL.
- Third-class flats and samples and fourth-class bound printed matter must be paid by permit imprint, which must appear on each DAL. Third-class postage is computed at the applicable nonletter rates.

5.3 Returns

Postage for excess or undeliverable DALs or items being returned is computed at the single-piece third- or fourth-class rate applicable to the combined weight of the DAL and the accompanying item, regardless of whether both are being returned. The total amount due for returned material, which includes the return postage and the applicable address-correction fee for each DAL or item returned, is collected upon the material's return to the mailer.

5.4 Additional Items

Additional material (DALs or items) being supplied under 4.1d must be mailed with postage prepaid as First-Class Mail, Priority Mail, or Express Mail, subject to the eligibility standards applicable to the rate claimed and the conditions in 5.2.

A transmittal letter making these changes in the pages of the Domestic Mail Manual will be published and will be transmitted to subscribers automatically. Notice of issuance will be published in the *Federal Register* as provided by 39 CFR 111.3.

Stanley F. Mires,
Chief Counsel, Legislative.
[FR Doc. 94-22735 Filed 9-13-94; 8:45 am]
BILLING CODE 7710-12-P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Parts 52 and 81**

[CO11-1-6532a, CO30-1-6533a, and CO36-2-6303a; FRL-5067-7]

Clean Air Act Approval and Promulgation of PM-10 Implementation Plan for Colorado; Designation of Areas for Air Quality Planning Purposes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In this document, the EPA is approving the State implementation plan (SIP) and SIP revisions submitted by the State of Colorado for the purpose of bringing about the attainment of the national ambient air quality standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM-10) in Aspen, Colorado. The SIP was initially submitted by the State on January 15, 1992, with revisions submitted on March 17, 1993 and December 9, 1993. EPA proposed to grant limited approval of the January 1992 and March 1993 submittals in a December 23, 1993 *Federal Register* notice. The State's December 9, 1993 SIP revision adequately addressed the deficiencies which had been the basis for EPA's decision to propose limited approval of the previous submittals. Therefore, EPA is withdrawing the limited approval and now approving the Aspen submittals as meeting the PM-10 SIP requirements due November 15, 1991. EPA is also approving the PM-10 contingency measures for Aspen which were included in the December 1993 submittal, and EPA is amending the Aspen PM-10 nonattainment area boundary.

DATES: This final rule will become effective on November 14, 1994 unless adverse or critical comments are received by October 14, 1994. If the effective date is delayed, timely notice will be published in the *Federal Register*.

ADDRESSES: Comments should be addressed to Vicki Stamper, 8ART-AP, at the EPA Region VIII Office listed. Copies of the State's submittal and other information are available for inspection during normal business hours at the following locations: Air Programs Branch, Environmental Protection Agency, Region VIII, 999 18th Street, suite 500, Denver, Colorado 80202-2405; and Air Pollution Control Division, Colorado Department of

Health, 4300 Cherry Creek Drive South, Denver, Colorado 80222-1530.

FOR FURTHER INFORMATION CONTACT:
Vicki Stamper, 8ART-AP,
Environmental Protection Agency,
Region VIII, 999 18th Street, suite 500,
Denver, Colorado 80202-2466, (303)
293-1765.

SUPPLEMENTARY INFORMATION:

I. Background

Aspen, Colorado was designated nonattainment for PM-10 and classified as moderate under sections 107(d)(4)(B) and 188(a) of the Act upon enactment of the Clean Air Act Amendments of 1990.¹ (See 56 FR 56694, November 6, 1991; 40 CFR 81.306 (specifying nonattainment designation for Aspen.)) The air quality planning requirements for moderate PM-10 nonattainment areas are set out in subparts 1 and 4 of part D of title I of the Act. The EPA has issued a "General Preamble" describing EPA's preliminary views on how EPA intends to review SIPs and SIP revisions submitted under title I of the Act, including those State submittals containing moderate PM-10 nonattainment area SIP requirements (see generally 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992)). Because EPA is describing its interpretations here only in broad terms, the reader should refer to the General Preamble for a more detailed discussion of the interpretations of title I advanced in this rulemaking and the supporting rationale. In this document on the Colorado moderate PM-10 SIP for the Aspen nonattainment area, EPA has applied its interpretations taking into consideration the specific factual issues presented.

Those states containing initial moderate PM-10 nonattainment areas were required to submit, among other things, the following provisions by November 15, 1991:

1. Provisions to assure that reasonably available control measures (RACM) (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology (RACT)) shall be implemented no later than December 10, 1993;

2. Either a demonstration (including air quality modeling) that the plan will provide for attainment as expeditiously as practicable but no later than

December 31, 1994 or a demonstration that attainment by that date is impracticable;

3. Quantitative milestones which are to be achieved every 3 years and which demonstrate reasonable further progress (RFP) toward attainment by December 31, 1994; and

4. Provisions to assure that the control requirements applicable to major stationary sources of PM-10 also apply to major stationary sources of PM-10 precursors except where the Administrator determines that such sources do not contribute significantly to PM-10 levels which exceed the NAAQS in the area. See sections 172(c), 188, and 189 of the Act.

Some provisions were due at a later date. States with initial moderate PM-10 nonattainment areas were required to submit a permit program for the construction and operation of new and modified major stationary sources of PM-10 by June 30, 1992. See section 189(a) of the Act. Revisions to satisfy these requirements were submitted by the State on January 14, 1993, and EPA will be taking action on these requirements in a separate Federal Register document. Such States were also required to submit contingency measures by November 15, 1993 which become effective without further action by the State or EPA, upon a determination by EPA that the area has failed to achieve RFP or to attain the PM-10 NAAQS by the applicable statutory deadline. See section 172(c)(9) of the Act and 57 FR 13543-13544. The State adopted PM-10 contingency measures for Aspen in November of 1993, and those measures were included in the State's December 9, 1993 SIP submittal. Along with taking action on the moderate PM-10 nonattainment area SIP requirements which were due to EPA on November 15, 1991, EPA is also taking action on these contingency measures in this document.

II. This Action

On December 23, 1993, EPA proposed to grant limited approval of the Aspen PM-10 SIP submitted on January 15, 1992 and revised on March 17, 1993 (see 58 FR 68094-68101). Because the State could not demonstrate that the control measures included in the January 1992 and March 1993 SIP submittals were adequate to demonstrate timely attainment and maintenance of the PM-10 NAAQS in Aspen, EPA was unable to propose full approval at that time. EPA thus proposed to grant limited approval of the submittals for the purpose of strengthening the SIP and to make the control measures included in those

submittals Federally enforceable. In that document, EPA also proposed to fully approve those few elements of the SIP submittals which were separable and independent of the inadequate demonstration of attainment. EPA's proposed approval did not include the State's voluntary no-drive day control measure, on which EPA did not propose to take action.

The State subsequently adopted additional PM-10 control measures for Aspen in November of 1993 and submitted the revised control measures for approval in the SIP on December 9, 1993, along with a revised demonstration showing that the control measures adopted and submitted for the Aspen moderate PM-10 nonattainment area would result in timely attainment and maintenance of the PM-10 NAAQS.

Section 110(k) of the Act sets out provisions governing EPA's review of SIP submittals (see 57 FR 13565-13566). In this action, EPA is withdrawing its proposal to grant limited approval published in the December 23, 1993 Federal Register (58 FR 68094) and is, instead, fully approving the Aspen PM-10 plan which was due to EPA on November 15, 1991 and submitted by the State on January 15, 1992, March 17, 1993, and December 9, 1993. Note that EPA's approval does not include the voluntary no-drive day provision submitted by the State; EPA is not taking action on that provision at this time. Also, EPA is approving the PM-10 contingency measures for Aspen, which were due to EPA on November 15, 1993 and which were submitted with the additional control measures in the State's December 9, 1993 SIP revision.

Lastly, EPA is amending the nonattainment area boundary for the Aspen nonattainment area to include some of the area surrounding Aspen. The revised boundary is based on information submitted with the January 1992 SIP submittal which provided a SIP equivalent demonstration persuasively showing that the revised boundary more accurately represents the Aspen airshed. (See section 110(k)(6) of the Act.)

Since the Aspen PM-10 SIP was not submitted by November 15, 1991 as required, EPA made a finding, pursuant to section 179 of the Act, that the State failed to submit the SIP and notified the Governor in a letter dated December 16, 1991. See 57 FR 19906 (May 8, 1992). After the Aspen PM-10 SIP was submitted on January 15, 1992, EPA found the submittal to be complete pursuant to section 110(k)(1) of the Act and notified the Governor accordingly in a letter dated March 16, 1992. This

¹ The 1990 Amendments to the Clean Air Act made significant changes to the Act. See Pub. L. No. 101-549, 104 Stat. 2399. References herein are to the Clean Air Act, as amended ("the Act"). The Clean Air Act is codified, as amended, in the U.S. Code at 42 U.S.C. 7401 *et. seq.*

completeness determination corrected the State's deficiency and, therefore, terminated the 18-month sanctions clock under section 179 of the Act.

A. Analysis of State Submittals

1. Procedural Background

The Act requires States to observe certain procedural requirements in developing implementation plans and plan revisions for submission to EPA. Section 110(a)(2) of the Act provides that each implementation plan submitted by a State must be adopted after reasonable notice and public hearing.² Section 110(l) of the Act similarly provides that each revision to an implementation plan submitted by a State under the Act must be adopted by such State after reasonable notice and public hearing. The EPA also must determine whether a submittal is complete and therefore warrants further EPA review and action (see section 110(k)(1) of the Act and 57 FR 13565). The EPA's completeness criteria for SIP submittals are set out at 40 CFR part 51, appendix V (1992). The EPA attempts to make completeness determinations within 60 days of receiving a submission. However, a submittal is deemed complete by operation of law if a completeness determination is not made by EPA 6 months after receipt of the submission.

As discussed in the December 23, 1993 *Federal Register* document, the State met the procedural requirements of the Act for the adoption of the January 15, 1992 and March 17, 1993 SIP submittals, and EPA found these submittals to be complete in letters dated March 16, 1992 and May 18, 1993, respectively.

After providing more than 30 days of prior public notice for the December 1993 SIP revision, the State of Colorado held a public hearing on November 12, 1993 to entertain public comment on the revision to the implementation plan for Aspen. The plan for Aspen was subsequently adopted by the State and submitted by the Governor to EPA on December 9, 1993 as a revision to the SIP. Along with the additional PM-10 controls and contingency measures for Aspen, the SIP submittal also contained the PM-10 contingency measures for the State's other PM-10 nonattainment areas and additional PM-10 control measures for Pagosa Springs. EPA will act on those portions of the submittal in separate *Federal Register* documents.

The SIP revision was reviewed by EPA to determine completeness shortly

after its submittal, in accordance with the completeness criteria set out at 40 CFR part 51, appendix V (1992). The submittal was found to be complete, and a letter dated February 15, 1994 was forwarded to the Governor indicating the completeness of the submittal and the next steps to be taken in the review process. In this action, EPA approves these PM-10 SIP submittals for Aspen as meeting those moderate PM-10 nonattainment area SIP requirements due November 15, 1991 and as meeting the PM-10 contingency measure requirement due November 15, 1993. EPA's approval does not include the voluntary no-drive day provision which the State submitted as a PM-10 control measure; EPA is not taking action on this control measure at this time. Since this measure is not needed for the Aspen area to demonstrate timely attainment or maintenance of the PM-10 NAAQS, EPA's decision not to take action at this time on this measure does not impact the overall approvability of the Aspen SIP submittals as meeting those moderate PM-10 nonattainment area SIP requirements due November 15, 1991.

2. Accurate Emissions Inventory

Section 172(c)(3) of the Act requires that nonattainment plan provisions include a comprehensive, accurate, and current inventory of actual emissions from all sources of relevant pollutants in the nonattainment area. Because the submission of this inventory is a necessary adjunct to an area's attainment demonstration (or demonstration that the area cannot practicably attain), the emissions inventory must be received prior to or with the submission (see 57 FR 13539). An initial emissions inventory was submitted with the January 15, 1992 SIP submittal, and technical revisions to the emissions inventory were submitted on September 20, 1993 in response to EPA comments on the initial emissions inventory. The resulting emissions inventory identified area sources as the primary cause of high PM-10 concentrations, with re-entrained road dust contributing 97.6 percent, residential wood combustion contributing 2 percent, restaurant charbroiler grills contributing 0.2 percent, and tailpipe emissions contributing 0.2 percent. No stationary sources were identified in the Aspen area.

In the December 23, 1993 *Federal Register* document, EPA proposed to approve the emissions inventory for the Aspen, as revised on September 20, 1993 (see 58 FR 68096). This component of the State's PM-10 nonattainment area

plan was considered to be separable and independent of the deficiencies which prohibited EPA from granting full approval of the January 1992 and March 1993 PM-10 SIP submittals. The emissions inventory represents an assessment of PM-10 emissions in an area prior to the adoption of control measures, and EPA did not expect the Aspen PM-10 emissions inventory to change as a result of any additional control measures adopted. No comments were received on EPA's December 23, 1993 proposed approval of the emissions inventory, and the emissions inventory was not changed in the State's December 9, 1993 submittal. Therefore, EPA is finalizing its approval of the emissions inventory. EPA believes the emissions inventory is accurate and comprehensive and provides a sufficient basis for determining the adequacy of the attainment demonstration for this area consistent with the requirements of section 172(c)(3) of the Act.³ For further information, please refer to the December 23, 1993 *Federal Register* document (58 FR 68096-68097) and the Technical Support Document (TSD) associated with this action, which is available at the EPA office identified at the beginning of this document.

Under EPA's transportation conformity regulations promulgated on November 24, 1993 (58 FR 62188-62253), a State's nonattainment area plan should define the motor vehicle emissions budget for which Federal transportation plans must demonstrate conformity. However, for the Aspen PM-10 nonattainment area, the motor vehicle emissions budget was not explicitly stated in the SIP, as the SIP was developed and submitted prior to the promulgation of the transportation conformity rules. To reduce future misinterpretation on this issue, EPA, with concurrence from the State, has calculated the motor vehicle emissions budget based on the motor vehicle emissions inventory and the attainment demonstration presented in the SIP. Using the SIP's estimate of motor vehicle related emissions (including tailpipe and re-entrained road dust emissions) in the attainment year of 1994, accounting for the effect of the motor vehicle related control measures that will be implemented in 1994, the motor vehicle emissions budget was calculated to be 14,312 pounds per day.

² Also section 172(c)(7) of the Act requires that plan provisions for nonattainment areas meet the applicable provisions of section 110(a)(2).

³ The EPA issued guidance on PM-10 emissions inventories prior to the enactment of the Clean Air Act Amendments in the form of the 1987 *PM-10 SIP Development Guideline*. The guidance provided in this document appears to be consistent with the revised Act. See section 193 of the Act.

States also have the option of developing motor vehicle emissions budgets for other years. In an August 26, 1994 letter of concurrence on the attainment year motor vehicle emissions budget, the State acknowledged its intent to establish an emissions budget for 1997 pursuant to its 1997 maintenance demonstration for the Aspen PM-10 nonattainment area. The 1997 motor vehicle emissions budget was thus calculated by the State (based on the 1997 information from the SIP as discussed above) to be 13,974 pounds per day (excluding the emissions reductions from the voluntary no-drive day, on which EPA is not taking action at this time). For further details, please refer to the State's submittals and the TSD.

3. RACM (Including RACT)

As noted, the initial moderate PM-10 nonattainment areas must submit

provisions to assure that RACM (including RACT) are implemented no later than December 10, 1993 (see sections 172(c)(1) and 189(a)(1)(C) of the Act). The General Preamble contains a detailed discussion of EPA's interpretation of the RACM (including RACT) requirement (see 57 FR 13539-13545 and 13560-13561).

In broad terms, the State should identify available control measures, evaluating them for their reasonableness in light of the feasibility of the controls and the attainment needs of the area. A State may reject an available control measure if the measure is technologically infeasible or the cost of the control is unreasonable. In addition, RACM does not require controls on emissions from sources that are insignificant (i.e., de minimis) and does not require the implementation of all available control measures where an

area demonstrates timely attainment and the implementation of additional controls would not expedite attainment.

Colorado's moderate PM-10 SIP revision for Aspen targeted three source categories for emissions reductions: re-entrained road dust, residential wood combustion, and charbroiler grill emissions. Specifically, the State adopted transportation control measures, street sweeping and sanding provisions, a voluntary wood burning curtailment program, limits on installation of new wood stoves and fireplaces, and requirements for new restaurant charbroiler grills to control PM-10 emissions. The following table represents the benefits that these control measures are projected to resulting towards attaining the PM-10 NAAQS in Aspen:

| Source | Control | Benefit towards reducing PM-10 emissions |
|-----------------------------------|--|--|
| Re-entrained road dust | Transit expansion, 400 park-n-ride spaces. | No credit taken for these strategies. |
| | Crosstown shuttle service | Reduction of 400 vehicle miles of travel (VMT)/day. ¹ |
| | Paid parking | No credit taken in 1994 attainment demo; reduction of 13,070 VMT/day expected during maintenance years (1994-1997). ¹ |
| | 250 space intercept lot and shuttle | No credit taken in 1994 attainment demo; reduction of 2,640 VMT/day expected during maintenance years (1994-1997). ¹ |
| | Peak hrs bus priority lane | Reduction of 1,020 VMT/day. ¹ |
| | Event strategies | No credit taken for these provisions. |
| | Specs for sanding materials | 58 percent reduction in re-entrained road dust from minor arterial roadways. |
| | Street sweeping | 19 percent reduction in re-entrained road dust emissions from Hwy 82. |
| Residential wood combustion | Voluntary wood burning curtailment. | 10 percent reduction in residential wood combustion emissions. |
| | Limitations on new wood stoves and fireplaces. | Effectiveness incorporated into future year emissions inventories. |
| Charbroiler grills | Requires PM-10 controls on grills | Effectiveness incorporated into future year emissions inventories. |

¹ The reductions in vehicle-miles-travelled (i.e., VMT) will ultimately result in an emissions decrease from re-entrained road dust emissions.

Note that the credit listed in this table for the 250 space intercept lot has been changed from the original credit requested by the State for this control measure in its December 1993 SIP submittal because the original credit was calculated incorrectly by the State (the State based the credit on 300 parking spaces, rather than 250). The pounds per day emission reduction expected from the specifications for sanding materials was also calculated incorrectly by the State in its December 1993 SIP submittal. The State corrected these calculations and adjusted the attainment and maintenance demonstrations accordingly in a June 1, 1994 submittal. See the TSD for further information.

The State did not take credit for the mass transit service expansion and provision of 400 park-n-ride spaces

because these measures are needed to meet the increased demand in ridership expected due to the other transportation control measures in Aspen. Also, the State did not request any credit for the event strategies, which consist of additional strategies to be implemented during the 10-day period prior to and including President's Day in February of each year. The State adopted these event strategies because the majority of PM-10 exceedances in Aspen have occurred during this timeframe due to an influx of visitors to the Aspen area, and the State wanted to provide extra assurance that there would be no future PM-10 exceedances during this timeframe.

The State did not take credit for the paid parking requirements or for the provision of the 250 space intercept lot and shuttle into Aspen in the 1994 attainment demonstration because the

State's regulation does not require these measures to be implemented until June 1, 1994. Thus, the State only took the credit requested for these measures in its 1997 maintenance demonstration.

The State also requested credit for a voluntary no-drive day in its maintenance demonstration (1994-1997), but not in the attainment demonstration, for the Aspen nonattainment area. EPA is not taking action on this control measure at this time. Declining to take action at this time on this measure does not impact the approvability of the SIP submittals as meeting RACM, since the combination of the other control measures adopted and submitted is adequate to demonstrate timely attainment and maintenance of the PM-10 NAAQS in the Aspen nonattainment area.

The requirements described in the table will be implemented through Section III of the Colorado regulation entitled "Nonattainment Areas" (effective 3/2/93, with revisions effective 12/30/93). Except for the paid parking and 250 space intercept lot and shuttle measures described above, this State regulation requires implementation of these control measures by December 10, 1993. These control measures are expected to result in an estimated overall reduction of 3987 lb/day of PM-10 emissions in the Aspen area by the end of 1994.

In order to comply with the State's Administrative Procedures Act, the revisions to this regulation adopted on November 12, 1993 did not become effective until December 30, 1993. However, the State adopted an emergency rule on November 12, 1993 to make the new provisions in the State's nonattainment area regulation effective December 1, 1993. Until the State's regulation became effective, the emergency rule (which is identical to the State nonattainment area regulation) applied beginning December 1, 1993.

For an area that demonstrates attainment by the applicable attainment date, the implementation of otherwise available control measures is not "reasonably" required by RACM if such control measures would not expedite attainment. (See 57 FR 13543.) Control of other PM-10 emissions in the area, such as tailpipe emissions and coal burning stoves, was not required because the implementation of such controls would not have further advanced the attainment date in the area.

Similarly, RACM (including RACT) did not require the adoption of otherwise available control measures for stationary sources in the Aspen nonattainment area because point source emissions in the Aspen area are *de minimis* (see 57 FR 13540) and control of such sources would not expedite attainment of the PM-10 NAAQS.

A more detailed discussion of the individual source contributions, their associated control measures, and an explanation as to why certain available control measures were not implemented can be found in the TSD. The EPA has reviewed the State's explanation and associated documentation and has concluded that it adequately justifies the control measures to be implemented. The implementation of Aspen's PM-10 control strategy is projected to result in the attainment of the PM-10 NAAQS by December 31, 1994. Therefore, by this document, EPA is approving Colorado's SIP submittals

for the Aspen nonattainment area as meeting the RACM including RACT requirement. However, as discussed above, EPA is not taking any action on the voluntary no-drive day provision at this time.

4. Demonstration

As noted, the initial moderate PM-10 nonattainment areas must submit a demonstration (including air quality modeling) showing that the plan will provide for attainment as expeditiously as practicable but no later than December 31, 1994 (see section 189(a)(1)(B) of the Act). Alternatively, the State must show that attainment by December 31, 1994 is impracticable.

EPA regulations provide that attainment be demonstrated by means of a proportional model or dispersion model or other procedure shown to be adequate and appropriate for such purposes. (See 40 CFR 51.112(a).) In general, EPA policy recommends that the preferred approach for estimating the air quality impacts of emissions of PM-10 is to use receptor modeling in combination with dispersion modeling. On July 5, 1990, EPA issued guidance providing that, in certain situations, it may be more appropriate to rely on a receptor modeling demonstration alone as the basis for the attainment demonstration (see July 5, 1990 memo to Regional Air Branch Chiefs from Robert D. Bauman, Chief of SO₂/Particulate Matter Programs Branch and Joseph Tikvart, Chief of Source Receptor Analysis Branch). Aspen meets the criteria discussed in the July 5, 1990 memo to justify using receptor modeling alone and, therefore, the State utilized receptor modeling in the attainment and maintenance demonstrations provided for the Aspen moderate PM-10 nonattainment area.

The attainment and maintenance demonstrations presented in the December 9, 1993 submittal (as amended by the State's June 1, 1994 letter correcting errors in the original control measure credits) indicated that the NAAQS for PM-10 in the Aspen area would be attained in 1994 and maintained through December 31, 1997. The 24-hour PM-10 NAAQS is 150 µg/m³, and the standard is attained when the expected number of days per calendar year with a 24-hour average concentration above 150 µg/m³ is equal to or less than one (see 40 CFR 50.6). The annual PM-10 NAAQS is 50 µg/m³, and the standard is attained when the expected annual arithmetic mean concentration is less than or equal to 50 µg/m³ (id.). The demonstration provided by the State predicted a 24-hour design concentration in the attainment year of

1994 of 136 µg/m³. The demonstration also predicted a 24-hour design concentration of 133 µg/m³ in 1997 (excluding the credit requested for the voluntary no-drive day on which EPA is not taking action at this time). Thus, the State's attainment and maintenance demonstrations showed that the control measures adopted for the Aspen area would adequately result in attainment and maintenance of the 24-hour PM-10 NAAQS. Since the demonstration provided by the State for Aspen clearly shows attainment and maintenance of the 24-hour PM-10 NAAQS, it is reasonable and adequate to assume that the protection of the 24-hour standard will be sufficient to protect the annual standard as well. The control strategies used to achieve these design concentrations are summarized in Section II.A.C. of this document entitled "RACT (including RACT)." For a more detailed description of the attainment demonstration and the control strategy used, see the TSD.

5. PM-10 Precursors

The control requirements which are applicable to major stationary sources of PM-10 also apply to major stationary sources of PM-10 precursors, unless EPA determines such sources do not contribute significantly to PM-10 levels in excess of the NAAQS (see section 189(e) of the Act).

An analysis of the State's submittal of air quality and emissions data, as revised on September 20, 1993, for the Aspen nonattainment area indicates that exceedances of the NAAQS are attributable chiefly to particulate matter emissions from area sources, mainly re-entrained road dust from paved and unpaved roads and residential wood combustion. In addition, the emissions inventory for this area did not reveal any major stationary sources of PM-10 precursors. In its December 23, 1993 notice of proposed rulemaking, EPA proposed to find that major stationary sources of PM-10 precursors do not contribute significantly to PM-10 levels in excess of the NAAQS in Aspen (see 58 FR 68098). EPA received no comments on that finding, and the State's December 9, 1993 SIP revision did not include any information that would impact EPA's proposed finding. Therefore, EPA is finalizing its finding that major stationary sources of precursors of PM-10 do not contribute significantly to PM-10 levels in excess of the NAAQS in Aspen. On August 18, 1994, EPA partially approved the State's nonattainment new source review (NSR) permitting regulations for the Aspen moderate PM-10 nonattainment area (among others) because the State did not

submit NSR permitting regulations for sources of PM-10 precursors in Aspen and because EPA had not yet found that such sources did not contribute significantly in Aspen (see 59 FR 42500). The consequence of this finding is to exclude major stationary sources of PM-10 precursors in Aspen from the applicability of PM-10 nonattainment area control requirements, including nonattainment NSR permitting requirements. Thus, the State's nonattainment NSR regulations for Aspen are considered fully approved.

Further discussion of the analyses and supporting rationale for EPA's finding are contained in the TSD accompanying this document. Note that while EPA is making a general finding for this area, this finding is based on the current character of the area including, for example, the existing mix of sources in the area. It is possible, therefore, that future growth could change the significance of precursors in the area. The EPA intends to issue future guidance addressing such potential changes in the significance of precursor emissions in an area.

6. Quantitative Milestones and Reasonable Further Progress

The PM-10 nonattainment area plan revisions demonstrating attainment must contain quantitative milestones which are to be achieved every 3 years until the area is redesignated attainment and which demonstrate RFP, as defined in section 171(1), toward attainment by December 31, 1994 (see section 189(c) of the Act). RFP is defined in section 171(1) of the Act as such annual incremental reductions in emissions of the relevant air pollutant as are required by part D or may reasonably be required by the Administrator for the purpose of ensuring attainment of the applicable NAAQS by the applicable date.

While section 189(c) of the Act plainly provides that quantitative milestones are to be achieved until an area is redesignated to attainment, it is silent in indicating the starting point for counting the first 3-year period or how many milestones must be initially addressed. In the General Preamble, EPA addressed the statutory gap in the starting point for counting the 3-year milestones, indicating that it would begin from the due date for the applicable implementation plan revision containing the control measures for the area (i.e., November 15, 1991 for initial moderate PM-10 nonattainment areas). (See 57 FR 13539.) As to the number of milestones, EPA believes that at least two milestones must be initially addressed. Thus, submittals to address the SIP

revisions due on November 15, 1991 for the initial moderate PM-10 nonattainment areas must demonstrate that two milestones will be achieved (first milestone: November 15, 1991 through November 15, 1994; second milestone: November 15, 1994 through November 15, 1997). For areas that demonstrate timely attainment of the PM-10 NAAQS, the second milestone should, at a minimum, provide for continued maintenance of the standards.⁴

In implementing the quantitative milestone and RFP provisions for this initial moderate area, EPA has reviewed the attainment demonstration and control strategy for the area to assess whether the initial milestones have been satisfied and to determine whether annual incremental reductions different from those provided in the SIP submittals should be required in order to ensure attainment of the PM-10 NAAQS by December 31, 1994 (see section 171(1) of the Act). The State of Colorado's PM-10 SIP submittals for Aspen indicate that the control measures adopted will result in a reduction of 3987 lb/day of PM-10, and the State demonstrated that this annual incremental reduction will result in attainment of the PM-10 NAAQS by December 31, 1994. This satisfies the first quantitative milestone.⁵ The State has also demonstrated that the plan will provide for maintenance of the PM-10 NAAQS through the end of 1997. This satisfies the second milestone due for the area. Therefore, EPA approves the Aspen PM-10 SIP submittals as

⁴ Section 189(c) provides that quantitative milestones are to be achieved "until the area is redesignated attainment." However, this endpoint for quantitative milestones is speculative because redesignation of an area as attainment is contingent upon several factors and future events.

EPA believes it is unreasonable to require planning for each nonattainment area to cover quantitative milestones years into the future because of the possibility that such time may elapse before an area is in fact redesignated attainment. On the other hand, EPA believes it is reasonable for States initially to submit a sufficient number of milestones to ensure that there is on-going air quality protection beyond the attainment deadline. Addressing two milestones will ensure that the State continues to maintain the NAAQS beyond the attainment date for at least some period during which an area could be redesignated attainment. However, in all instances, additional milestones must be addressed if an area is not redesignated attainment within the time period covered by the initial milestones submitted.

⁵ For areas that demonstrate timely attainment of the PM-10 NAAQS, the emissions reduction progress made prior to the attainment date of December 31, 1994 (only 46 days beyond the November 15, 1994 milestone achievement date) will satisfy the first milestone requirement (57 FR 13539). The de minimis timing differential makes it administratively impracticable to require separate milestone and attainment demonstrations.

satisfying the initial quantitative milestones and RFP requirements.

7. Enforceability Issues

All measures and other elements in the SIP must be enforceable by the State and EPA (see sections 172(c)(6), 110(a)(2)(A) of the Act and 57 FR 13556). The EPA criteria addressing the enforceability of SIPs and SIP revisions were stated in a September 23, 1987 memorandum (with attachments) from J. Craig Potter, Assistant Administrator for Air and Radiation, et al. (see 57 FR 13541). Nonattainment area plan provisions must also contain a program that provides for enforcement of the control measures and other elements in the SIP (see section 110(a)(2)(C) of the Act).

The control measures contained in the SIP are addressed above under Section II.A.3. entitled "RACT (Including RACT)." These control measures, which are included in Section III. of the State Regulation entitled "Nonattainment Areas" (effective 3/2/93, with revisions effective 12/30/93), apply to the types of activities identified in that discussion, including emissions from re-entrained road dust and residential wood combustion. The State regulation provides that these control measures apply throughout the Aspen PM-10 nonattainment area. The only exemptions provided in the regulation are from the wood burning curtailment program: EPA Phase II wood burning devices are exempt from the wood burning curtailment program in order to encourage conversions to cleaner wood burning devices. This is consistent with the recommendations for voluntary wood burning curtailment programs provided in EPA's *Guidance Document for Residential Wood Combustion Emission Control Measures*.

Consistent with the attainment demonstration previously described, the SIP submittals and State regulation require that all affected activities for which the State is taking credit towards demonstrating attainment must be in full compliance with the applicable SIP provisions by December 10, 1993. In addition to the applicable control measures, this includes the applicable recordkeeping requirements which are addressed in the supporting information. (As discussed in Section II.A.3., two of the control measures which pertain to parking fees and implementation of an intercept lot and shuttle service are not required to be implemented until June 1, 1994. Accordingly, the State did not take credit for these measures in the 1994 attainment demonstration for Aspen.) Compliance with certain measures, such

as the 1 percent fines limit with regard to street sanding material used, must be determined in accordance with appropriate test methods. The regulation provides that compliance with the 1 percent fines limit will be determined in accordance with the American Society for Testing Materials (ASTM) "Standard Method for Sieve Analysis of Fine and Coarse Aggregate." EPA believes this method is appropriate for determining compliance with this provision.

The TSD associated with this action contains further information on enforceability requirements including: a description of the rules contained in the SIP and the source types subject to them, test methods, and reporting and recordkeeping requirements. EPA has reviewed the State's nonattainment area regulation, as revised in the State's December 9, 1993 SIP submittal, for enforceability and has determined that it meets all of the criteria included in the September 23, 1987 Potter Memorandum.

The State of Colorado has a program that will ensure that the measures contained in the SIP submittals for Aspen are adequately enforced. The Colorado Air Pollution Control Division (APCD) has the authority to implement and enforce all emission limitations and control measures adopted by the Colorado Air Quality Control Commission (AQCC). In addition, Colorado statute provides that the APCD shall enforce against any "person" who violates the emission control regulations of the AQCC, the requirements of the SIP, or the requirements of any permit. The definition of "person" includes, among other things, any "municipal corporation, county, city and county or other political subdivision of the State," such as the City of Aspen. Many of the control measures adopted by the AQCC in the State nonattainment regulation require the City of Aspen and Pitkin County to implement the measures. This is allowed under section 110(a)(2)(E) of the Act, as long as the State provides the necessary assurances that the State has the responsibility for ensuring adequate implementation of the plan provisions. Since State statute allows for the enforcement against any county or city and since the State regulation containing the control measures was adopted by the AQCC, the APCD has adequate authority to ensure implementation of the control measures at the local level. State statute provides for civil penalties of up to \$15,000 per day per violation for any person in violation of these requirements, and criminal penalties are also provided for in the State statute. Thus, the APCD has

adequate enforcement capabilities to ensure compliance with the Aspen PM-10 regulations. The TSD contains further information on the State-wide regulations, enforceability requirements, and a discussion of the personnel and funding intended to support effective implementation of the control measures.

8. Contingency Measures

As provided in section 172(c)(9) of the Act, all moderate nonattainment area SIPs that demonstrate attainment must include contingency measures. See generally 57 FR 13510-13512 and 13543-13544. These measures were required to be submitted by November 15, 1993 for the initial moderate PM-10 nonattainment areas. Contingency measures should consist of other available measures that are not part of the area's core attainment control strategy. These measures must take effect without further action by the State or EPA, upon a determination by EPA that the area has failed to make RFP or attain the PM-10 NAAQS by the applicable statutory deadline. The State's December 9, 1993 revision to the Aspen PM-10 SIP included the following contingency measures: Section III.D. of the State regulation entitled "Nonattainment Areas" requires that (1) each user of street sanding material in the Aspen PM-10 nonattainment area reduce the amount of street sanding materials applied by 20 percent from the base sanding amount; and (2) Pitkin County pave 3 bus pullouts on Highway 82 (which is the main highway through the City) and pave the Highway 82 road shoulder at the Owl Creek turnoff establishing a new paved lane at this intersection. The State's regulation provides that, upon a determination by EPA that the area failed to make RFP or attain the NAAQS by the December 31, 1994 statutory deadline, the reduction in sanding materials applied must be implemented within 60 days of EPA's determination and that the paving is to be completed as soon as possible, but no later than the end of the first complete paving season after EPA's determination. These provisions will become legally effective immediately upon EPA's determination that the Aspen area failed to make RFP or attain the NAAQS by the December 31, 1994 statutory deadline. EPA believes the regulation provides adequate timeframes for implementation.

After review of the contingency measures described above, EPA believes they are adequate to meet the requirements of section 172(c)(9) of the Act. Therefore, EPA is approving the PM-10 contingency measures for the

Aspen PM-10 nonattainment area. For further information, see the TSD accompanying this document.

9. Revisions to the Nonattainment Area Boundary

The Aspen nonattainment area boundary as announced on November 6, 1991 (see 56 FR 56736) is currently defined as the city limits of Aspen in 40 CFR 81.306. However, on June 20, 1991, the State adopted a more inclusive boundary for the Aspen PM-10 nonattainment area, which included some of the area surrounding the City of Aspen. This revised boundary was submitted with the Aspen PM-10 SIP in January of 1992. As discussed in the December 23, 1993 Federal Register document, the SIP provided a demonstration showing that the revised boundary represented the reasonable Aspen airshed by considering the local topography, meteorology, and land use practices (see 58 FR 68100). EPA proposed to amend the Aspen PM-10 nonattainment area boundary in its December 23, 1993 Federal Register document, and no comments were received on that proposed action. Therefore, EPA is finalizing the amendments to the Aspen PM-10 nonattainment area boundary in this document. Pursuant to section 110(k)(6) of the Act, EPA is correcting the Aspen PM-10 nonattainment area boundary in 40 CFR 81.306 to include some of the additional area surrounding the city of Aspen. The legal definition of the revised Aspen nonattainment area submitted by the State is as follows:

The area encompassed by the following Parcel ID numbers, as defined by the Pitkin County Planning Department: 2737-29, 2737-28, 2737-21, 2737-20, 2737-19, 2737-18, 2737-17, 2737-08, 2737-07, 2737-06, 2735-22, 2735-15, 2735-14, 2735-13, 2735-12, 2735-11, 2735-10, 2735-03, 2735-02, 2735-01, 2641-31, 2643-36, 2643-35, 2643-34, 2643-27, 2643-26.

A map displaying these Parcel ID numbers can be obtained by calling or writing the Pitkin County Planning Department at 130 South Galena Road, Aspen, Colorado 81611; (303) 920-5090.

Final Action

EPA is approving the State of Colorado's PM-10 SIP for the Aspen PM-10 nonattainment area, which was submitted by the State on January 15, 1992, March 17, 1993, and December 9, 1993, as meeting those moderate PM-10 SIP requirements which were due to be submitted November 15, 1991. Among other things, the State of Colorado has adequately demonstrated that the Aspen moderate PM-10 nonattainment area

will attain the PM-10 NAAQS by December 31, 1994. As discussed above, EPA's approval does not include the State's voluntary no-drive day provision, on which EPA is not taking action at this time. EPA's approval also includes the PM-10 contingency measures for Aspen, which were included with the State's December 9, 1993 SIP revision.

As noted, on January 14, 1993, the State submitted revisions to its permit program for the construction and operation of new and modified major stationary sources of PM-10 to comply with the amended Act. EPA will be taking action on these requirements in a separate Federal Register document.

Lastly, EPA is amending the nonattainment area boundary for the Aspen nonattainment area to include some of the area surrounding the City of Aspen.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. However, in a separate document in this Federal Register publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. Under the procedures established in the May 10, 1994 Federal Register, this action will be effective on November 14, 1994 unless, by October 14, 1994, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent notice that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on November 14, 1994.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for a revision to any SIP. Each request for a revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors, and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225), as revised by an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air

and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 14, 1994. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

Air pollution control, Hydrocarbons, Incorporation by reference, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide, Volatile organic compounds.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: August 31, 1994.

Jack W. McGraw,
Acting Regional Administrator.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

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

Subpart G—Colorado

2. Section 52.320 is amended by adding paragraph (c)(65) to read as follows:

§ 52.320 Identification of plan.

* * * * *

(c) * * *

(65) On January 15, 1992, March 17, 1993, and December 9, 1993, the Governor of Colorado submitted revisions to the Colorado State implementation plan (SIP) to satisfy those moderate PM-10 nonattainment area SIP requirements for Aspen, Colorado due to be submitted by November 15, 1991. Included in the December 9, 1993 submittal were PM-10 contingency measures for Aspen to satisfy the requirements of section 172(c)(9) of the Act due to be submitted by November 15, 1993.

(i) Incorporation by reference.

(A) Colorado Air Quality Control Commission Nonattainment Areas regulation, all of Section III. "Aspen/Pitkin County PM-10 Nonattainment Area" except Section III.C.6., adopted on January 21, 1993 effective on March 2, 1993, with revisions adopted on November 12, 1993, effective on December 30, 1993.

3. Section 52.332 is amended by adding paragraph (e) to read as follows:

§ 52.332 Moderate PM-10 Nonattainment Area Plans.

* * * * *

(e) On January 15, 1992, March 17, 1993, and December 9, 1993, the Governor of Colorado submitted the moderate PM-10 nonattainment area plan for the Aspen area. The submittals were made to satisfy those moderate PM-10 nonattainment area SIP requirements which were due for Aspen on November 15, 1991. The December 9, 1993 submittal was also made to satisfy the PM-10 contingency measure requirements which were due for Aspen on November 15, 1993.

PART 81—[AMENDED]

4. In § 81.306, the Colorado PM-10 Nonattainment Areas table is amended

under Pitkin County by revising the entry for "Aspen" to read as follows:

§ 81.306 Colorado.

* * * * *

COLORADO—PM-10 NONATTAINMENT AREAS

| Designated area | Designation | | Classification | |
|---|-------------|--------------------|----------------|-----------|
| | Date | Type | Date | Type |
| Pitkin County: Aspen/Pitkin County Area | 11/15/90 | Nonattainment | 11/15/90 | Moderate. |
| The area encompassed by the following Parcel ID numbers, as defined by the Pitkin County Planning Department: 2737-29, 2737-28, 2737-21, 2737-20, 2737-19, 2737-18, 2737-17, 2737-08, 2737-07, 2737-06, 2735-22, 2735-15, 2735-14, 2735-13, 2735-12, 2735-11, 2735-10, 2735-03, 2735-02, 2735-01, 2641-31, 2643-36, 2643-35, 2643-34, 2643-27, 2643-26. | | | | |

* * * * *
[FR Doc. 94-22525 Filed 9-13-94; 8:45 am]
BILLING CODE 6560-50-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 7082

[WY-930-4210-06; WYW-83356]

Partial Revocation of Secretarial Orders Dated October 14, 1918, and April 8, 1919; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes two Secretarial Orders insofar as they affect 863.98 acres of public lands withdrawn for stock driveway purposes. The lands are no longer needed for this purpose and the revocation is needed to permit disposal of the lands through exchange under Section 206 of the Federal Land Policy and Management

Act of 1976, 43 U.S.C. 1716. This action will open the lands to surface entry unless closed by overlapping withdrawals or temporary segregations of record. The lands have been and will remain open to mineral leasing.

EFFECTIVE DATE: October 14, 1994.

FOR FURTHER INFORMATION CONTACT: Duane Feick, BLM Wyoming State Office, P.O. Box 1828, Cheyenne, Wyoming 82003, 307-775-6127.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Secretarial Orders dated October 14, 1918, and April 8, 1919, which withdrew public lands for Stock Driveway No. 44, are hereby revoked insofar as they affect the following described lands:

Sixth Principal Meridian

T. 50 N., R. 101 W.,
Sec. 1, SW $\frac{1}{4}$ NW $\frac{1}{4}$ and W $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 2, lots 1 to 3, inclusive, S $\frac{1}{2}$ NE $\frac{1}{4}$, and E $\frac{1}{2}$ SE $\frac{1}{4}$;

Sec. 12, NE $\frac{1}{4}$ NW $\frac{1}{4}$.
T. 51 N., R. 101 W.,
Sec. 22, lots 2 to 6, inclusive, and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 27, N $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, and NE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 35, SE $\frac{1}{4}$ SW $\frac{1}{4}$.

The areas described aggregate 863.98 acres in Park County.

2. At 9:00 a.m. on October 14, 1994, the lands described in paragraph 1 will be opened to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 9:00 a.m. on October 14, 1994, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Dated: August 29, 1994.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 94-22658 Filed 9-13-94; 8:45 am]

BILLING CODE 4310-22-P

Proposed Rules

Federal Register

Vol. 59, No. 177

Wednesday, September 14, 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

Rural Electrification Administration

7 CFR Part 1770

Accounting Requirements for REA Telephone Borrowers

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Electrification Administration (REA) proposes to amend its regulations on accounting policies and procedures for REA telephone borrowers as set forth in REA's regulations concerning Accounting System Requirements for REA Telephone Borrowers. This proposed rule would establish an accounting interpretation for postretirement benefits that addresses both the requirements of the Financial Accounting Standards Board and the Federal Communications Commission. It would also set forth accounting interpretations that establish uniform accounting procedures for Rural Telephone Bank (RTB) stock, cushion of credit investments, Rural Economic Development loans and grants, and satellite or cable television service investments.

DATES: Written comments must be received by REA by November 14, 1994.

ADDRESSES: Submit written comments to Ms. Roberta E. Detwiler, Chief, Technical Accounting and Auditing Staff, Borrower Accounting Division, Rural Electrification Administration, room 2222 South Building, U.S. Department of Agriculture, Washington, DC 20250, telephone number (202) 720-5227. REA requires a signed original and three copies of all comments (7 CFR Part 1700). All comments received will be made available for inspection at room 2234 South Building during regular business hours (7 CFR 1.27 (b)).

FOR FURTHER INFORMATION CONTACT: Ms. Roberta E. Detwiler, Chief, Technical Accounting and Auditing Staff, Borrower Accounting Division, Rural

Electrification Administration, room 2222, South Building, U.S. Department of Agriculture, Washington, DC 20250, telephone number (202) 720-5227.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866 and therefore has not been reviewed by OMB.

Regulatory Flexibility Act Certification

The Administrator of REA has determined that the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) does not apply to this proposed rule.

Information Collection and Recordkeeping Requirements

In compliance with the Office of Management and Budget (OMB) regulations (5 CFR Part 1320) which implements the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and section 3504 of that Act, the information collection and recordkeeping requirements have been approved by the Office of Management and Budget (OMB) under control number 0572-0003. Comments regarding these requirements may be sent to the United States Department of Agriculture, Clearance Office, OIRM, Room 404-W, Washington, DC 20250 or to the Office of Management and Budget, Office of Information and Regulatory Affairs, Room 10102, Washington, DC 20503.

National Environment Policy Act Certification

The Administrator, REA, has determined that this proposed rule will not significantly affect the quality of the human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Therefore, this action does not require an environmental impact statement or assessment.

Catalog of Federal Domestic Assistance

The program described by this proposed rule is listed in the Catalog of Federal Domestic Assistance Program under numbers 10.851—Rural Telephone Loans and Loan Guarantees and 10.852—Rural Telephone Bank loans. This catalog is available on a subscription basis from the Superintendent of Documents, the

United States Government Printing Office, Washington, DC 20402.

Executive Order 12372

This proposed rule is excluded from the scope of Executive Order 12372, Intergovernmental Consultation. A Notice of Final Rule entitled Department Programs and Activities Excluded from Executive Order 12372 (50 FR 47034) exempts REA and Rural Telephone Bank (RTB) loans and loan guarantees, and RTB loans, to governmental and nongovernmental entities from coverage under this order.

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. This proposed rule:

(1) Will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule;

(2) will not have any retroactive effect; and

(3) will not require administrative proceeding before parties may file suit challenging the provisions of this proposed rule.

Background

In order to facilitate the effective and economical operation of a business enterprise, adequate and reliable financial records must be maintained. Accounting records must provide a clear, accurate picture of current economic conditions from which management can make informed decisions in charting the company's future. The rate regulated environment in which a telecommunications carrier operates causes an even greater need for financial information that is accurate, complete, and comparable with that generated by other carriers. For this reason, the Federal Communications Commission (FCC) prescribes a Uniform System of Accounts (USoA) for the telecommunications industry.

REA, as a Federal lender and mortgagee, and in furthering the objectives of the Rural Electrification Act (RE Act) (7 U.S.C. 901 *et seq.*) has a legitimate programmatic interest and a substantial financial interest in requiring adequate records to be maintained. In order to provide REA with financial information that can be analyzed and compared with the operations of other borrowers in the REA program, all REA borrowers must

maintain financial records that utilize uniform accounts and uniform accounting policies and procedures. The standard REA security instrument, therefore, requires borrowers to maintain their books, records, and accounts in accordance with methods and principles of accounting prescribed by REA in the REA USoA for its telephone borrowers.

To ensure that borrowers consistently account for and apply the provisions of recent pronouncements of the Financial Accounting Standards Board and the Federal Communications Commission (FCC), the REA USoA must be revised and updated as changes in generally accepted accounting principles and the FCC USoA occur. REA is, therefore, proposing to establish a new accounting interpretation that addresses the accounting requirements set forth in Statement of Financial Accounting Standards No. 106, Employers' Accounting for Postretirement Benefits Other Than Pensions (Statement No. 106). Statement No. 106 requires reporting entities to accrue the expected cost of postretirement benefits during the years the employee provides service to the entity. Copies of Statements of Financial Accounting Standards may be obtained from the Order Department of the Financial Accounting Standards Board, 401 Merritt 7, P.O. Box 5116, Norwalk, Connecticut 06856-5116.

REA is also proposing to establish an accounting interpretation for RTB bank stock that sets forth the journal entries necessary to record the required purchase of Class B RTB stock, patronage refunds in the form of additional shares of Class B RTB stock, purchases of Class C stock, and dividends received on Class C stock. The interpretation also addresses the proper accounting for the conversion of Class B stock to Class C stock after all RTB loans have been repaid.

REA is also proposing to set forth an accounting interpretation that establishes the accounting policies and procedures for the Rural Economic Development loan and grant programs recently established by REA and for investments in satellite and cable television services.

List of Subjects in 7 CFR Part 1770

Accounting, Loan programs—communications, Reporting and recordkeeping requirements, Rural areas, Telephone, Uniform System of Accounts.

For the reasons set forth in the preamble, REA proposes to amend 7 CFR chapter XVII as follows:

PART 1770—ACCOUNTING REQUIREMENTS FOR REA TELEPHONE BORROWERS

1. The authority for part 1770 continues to read as follows:

Authority: 7 U.S.C. 901 *et seq.*

2. Subpart C is added to read as follows:

Subpart C—Accounting Interpretations

- Sec. 1770.26 General.
- 1770.27 Definitions.
- 1770.28-1770.45 [Reserved]

Appendix to Subpart C—Accounting Methods and Procedures Required of all Borrowers

Subpart C—Accounting Interpretations

§ 1770.26 General.

(a) The standard provisions of the security instruments utilized by the Rural Electrification Administration (REA) and the Rural Telephone Bank (RTB) for all telephone borrowers require borrowers to at all times keep and safely preserve proper books, records, and accounts in which full and true entries will be made of all of the dealings, business, and affairs of the borrower in accordance with the methods and principles of accounting prescribed by the state regulatory body having jurisdiction over the borrower and by the Federal Communications Commission in its Uniform System of Accounts for telecommunications companies, as those methods and principles of accounting are supplemented from time to time by REA.

(b) This subpart implements those standard provisions of the REA and RTB security instruments by prescribing accounting principles, methodologies, and procedures applicable to all telephone borrowers for particular situations.

§ 1770.27 Definitions.

As used in this part:
Borrower is an REA telephone borrower.
Cushion of Credit Account is a 5 percent interest bearing account established by REA in which all voluntary payments or overpayments on Rural Electric and Telephone Revolving Funds after October 1, 1987, are deposited.

FCC is the Federal Communications Commission

Part 32 is 47 CFR Part 32, Uniform System of Accounts, issued by the Federal Communications Commission.

RAO is the Responsible Accounting Officer of the Federal Communications Commission.

REA is the Rural Electrification Administration, an agency of the United States Department of Agriculture, or its successor.

RE Act is the Rural Electrification Act of 1936, as amended.

RETRF is the Rural Electric and Telephone Revolving Fund.

RTB is the Rural Telephone Bank.

§§ 1770.28-1770.45 [Reserved]

Appendix to Subpart C—Accounting Methods and Procedures Required of All Borrowers

All Borrowers shall maintain and keep their books of accounts and all other books and records which support the entries in such books of accounts in accordance with the accounting principles prescribed in this appendix.

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| 103 | Cushion of Credit Investments. |
| 104 | Rural Economic Development Loan and Grant Program. |
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101 Postretirement Benefits

Statement of Financial Accounting Standards No. 106, Employers' Accounting for Postretirement Benefits Other Than Pensions (Statement No. 106), requires reporting entities to accrue the expected cost of postretirement benefits during the years the employee provides service to the entity. For purposes of applying the provisions of Statement No. 106, members of the board of

directors are considered to be employees of the cooperative. Prior to the issuance of Statement No. 106, most reporting entities accounted for postretirement benefit costs on a "pay-as-you-go" basis; that is, costs were recognized when paid, not when the employee provided service to the entity in exchange for the benefits.

As defined in Statement No. 106, a postretirement benefit plan is a deferred compensation arrangement in which an employer promises to exchange future benefits for an employee's current services. Postretirement benefit plans may be funded or unfunded. Postretirement benefits include, but are not limited to, health care, life insurance, tuition assistance, daycare, legal services, and housing subsidies provided outside of a pension plan.

Statement No. 106 applies to both written plans and to plans whose existence is implied from a practice of paying postretirement benefits. An employer's practice of providing postretirement benefits to selected employees under individual contracts with specific terms determined on an employee-by-employee basis does not, however, constitute a postretirement benefit plan under the provisions of this statement.

Postretirement benefit plans generally fall into three categories: single-employer defined benefit plans, multiemployer plans, and multiple-employer plans.

A single-employer plan is a postretirement benefit plan that is maintained by one employer. The term may also be applied to a plan that is maintained by related parties such as a parent and its subsidiaries. A multiemployer plan is a postretirement benefit plan in which two or more unrelated employers contribute, usually pursuant to one or more collective-bargaining agreements. One characteristic of a multiemployer plan is that the assets contributed by one participating employer may be used to provide benefits to employees of other participating employers since assets contributed by an employer are not segregated in a separate account or restricted to provide benefits only to employees of that employer.

A multiple-employer plan is a postretirement benefit plan that is maintained by more than one employer but is not a multiemployer plan. A multiple-employer plan is generally not collectively bargained and is intended to allow participating employers to pool their plan assets for investment purposes and reduce the cost of plan administration. A multiple-employer plan maintains separate accounts for each employer so that contributions provide benefits only for employees of the contributing employer.

The accounting requirements set forth in this interpretation focus on single- and multiple-employer plans. The accounting requirements set forth in Statement No. 106 for multiemployer plans or defined contribution plans shall be adopted for borrowers electing those types of plans.

Under the provisions of Statement No. 106, there are two components of the postretirement benefit cost: the current period cost and the transition obligation. The transition obligation is a one-time accrual of

the costs resulting from services already provided. Statement No. 106 allows the transition obligation to be deferred and amortized on a straight-line basis over the average remaining service period of the active employees. If the average remaining service period of the active employees is less than 20 years, a 20-year amortization period may be used.

Accounting Requirements

All Borrowers shall adopt the accrual accounting provisions and reporting requirements as set forth in Statement No. 106. The transition obligation and accrual of the current period cost must be based upon an actuarial study. This study must be updated to allow the Borrower to comply with the measurement date requirements of Statement No. 106; however, the study must, at a minimum, be updated every five years. REA will not allow Borrowers to account for postretirement benefits on a "pay-as-you-go" basis.

Under the provisions of Statement No. 106, an entity may recognize the transition obligation, in its entirety, when Statement No. 106 is first adopted or the entity may elect to delay the recognition of the transition obligation. On December 26, 1991, however, the Federal Communications Commission (FCC) issued 6 FCC Rcd 7560, which requires telecommunications carriers to recognize the transition obligation on a delayed basis. REA reviewed this issuance and has determined that Borrowers must comply with this ruling and recognize the transition obligation on a delayed basis.

The deferral and amortization of the transition obligation on a delayed basis is considered to be an off balance sheet item. As a result, an accounting entry is not required at the time of adoption of Statement No. 106. Instead, the transition obligation is recognized as a component of postretirement benefit cost as it is amortized. The amount of the unamortized transition obligation must be disclosed in the notes to the financial statements.

In accordance with the provisions of Responsible Accounting Officer (RAO) Letter 20, released by the FCC on April 24, 1992, Account 4310, Other Long-Term Liabilities, shall be used to record the liability accrued for postretirement benefits. Borrowers shall credit this account for the net periodic cost of postretirement benefits for the current year and shall debit this account for any fund payments made during the current year.

Net periodic postretirement benefit cost includes current period service cost, interest cost, return on plan assets, amortization of prior service cost, gains and losses, and amortization of the transition obligation. If fund payments create a debit balance in the postretirement benefits portion of Account 4310, the debit balance applicable to postretirement benefits shall be reported in Account 1410, Other Noncurrent Assets. Account 1410 shall also be used to record any prepaid postretirement benefit cost.

The benefits portion of the expense matrix shall be used to record the current year's net periodic cost of postretirement benefits in the appropriate Part 32 expense accounts.

Effective Date and Implementation

For plans outside the United States and for defined benefit plans of employers that (a) are nonpublic enterprises and (b) sponsor defined benefit postretirement plans with no more than 500 plan participants in the aggregate, Statement No. 106 is effective for fiscal years beginning after December 15, 1994.

For all other plans, Statement No. 106 is effective for fiscal years beginning after December 15, 1992.

102 Rural Telephone Bank Stock

Capital stock issued by the Rural Telephone Bank consists of Class A, Class B, and Class C stock. Class A stock is issued only to the Administrator of REA on behalf of the United States in exchange for capital furnished to RTB.

Class B stock is issued only to recipients of loans under Section 408 of the RE Act. Borrowers receiving loan funds pursuant to Section 408a (1) or (2) of the RE Act are required to invest 5 percent of the amount of loan funds approved in Class B stock. No dividends are payable on Class B stock. All holders of Class B stock are entitled to patronage refunds in the form of Class B stock under the terms and conditions specified in the bylaws of the RTB.

Class C stock is available for purchase by Borrowers, corporations, and public bodies eligible to borrow under Section 408 of the RE Act, or by organizations controlled by such Borrowers, corporations and public bodies. The payment of dividends is in accordance with the bylaws of the RTB.

Accounting Requirements

The purchase of RTB stock that is required by the RE Act shall be debited to Account 1402.1, Investments in Nonaffiliated Companies—Class B RTB Stock. Patronage refunds in the form of additional shares of RTB Class B Stock shall be debited to Account 1402.1 and credited to Account 1402.11, Investments in Nonaffiliated Companies—Class B RTB Stock—Cr.

Purchases of Class C RTB stock shall be debited to Account 1402.2, Investments in Nonaffiliated Companies—Class C RTB Stock. Cash dividends received on Class C RTB stock shall be credited to Account 7310, Dividend Income.

Once a Borrower has repaid all of its Rural Telephone Bank loans, it may request that its RTB Class B stock be converted to RTB Class C stock. When the conversion is made, Account 1402.2 shall be debited for the value of the Class C stock. Accounts 1402.1 and 1402.11, shall be debited or credited, as appropriate, for the value of the Class B stock. The gain realized on the conversion (accumulated RTB stock dividends) shall be credited to Account 7310, Dividend Income.

103 Cushion of Credit Investments

The REA Cushion of Credit account is an investment account bearing an interest rate of 5 percent. All voluntary payments or overpayments on Rural Electric and Telephone Revolving Fund (RETRF) loans made after October 1, 1987, are deposited into this account in the appropriate Borrower's name.

Accounting Requirements

The following journal entries shall be used by REA Borrowers to record the transactions associated with cushion of credit payment:

Dr. 4210.18, REA Notes—Advance Payments, Dr.

Cr. 1130.1/1120.11, Cash—General Fund
To record the cushion of credit payment.

Dr. 4210.18, REA Notes—Advance Payments, Dr.

Cr. 7320/7300.2, Interest Income
To record interest earned on cushion of credit deposits.

Dr. 4210.12, REA Notes

Cr. 4210.18, REA Notes—Advance Payments, Dr.

To apply cushion of credit payments (and interest) to the REA note.

104 Rural Economic Development Loan and Grant Program

On December 21, 1987, Section 313, Cushion of Credit Payments Program, was added to the Rural Electrification Act. Section 313 establishes a Rural Economic Development Subaccount and authorizes the Administrator of the REA to provide zero interest loans or grants to RE Act borrowers for the purpose of promoting rural economic development and job creation projects.

Subpart B, Rural Economic Development Loan and Grant Program, 7 CFR Part 1703, sets forth the policies and procedures relating to the zero interest loan program and for approving and administering grants.

Accounting Requirements

The accounting journal entries required to record the transactions associated with a Rural Economic Development Grant are as follows:

Dr. 1130.4/1120.14, Cash—General Fund—
Economic Development Grant Funds

Cr. 7360/7300.6, Other Nonoperating
Income

To record the receipt of economic
development grant funds.

Dr. 1401.1, Other Investments in Affiliated
Companies—Federal Economic
Development Grant Loans or

Dr. 1402.4, Other Investments in
Nonaffiliated Companies—Federal
Economic Development Grant Loans

Cr. 1130.4/1120.14, Cash—General Fund—
Economic Development Grant Funds

To record a Federal revolving loan to an
economic development project.

Dr. 1130.1/1120.11, Cash—General Fund

Cr. 7360/7300.6, Other Nonoperating
Income

To record payment of loan servicing fees
charged to the economic development
project.

Dr. 1130.5/1120.15, Cash—General Fund—
Economic Development Non-Federal
Revolving Funds

Cr. 1401.1, Other Investments in Affiliated
Companies—Federal Economic
Development Grant Loans or

Cr. 1402.4, Other Investments in
Nonaffiliated Companies—Federal
Economic Development Grant Loans
To record the repayment, by the project, of
the Federal revolving loan.

Dr. 1401.2, Other Investments in Affiliated
Companies—Non-Federal Economic
Development Grant Loans or

Dr. 1402.5, Other Investments in
Nonaffiliated Companies—Non-Federal
Economic Development Grant Loans

Cr. 1130.5/1120.15, Cash—General Fund—
Economic Development Non-Federal
Revolving Funds

To record a Non-Federal revolving loan to an
economic development project.

Dr. 1210, Interest and Dividends Receivable

Cr. 7320/7300.2, Interest Income

To record the interest earned on a Non-
Federal revolving loan to an economic
development project.

Dr. 1130.5/1120.15, Cash—General Fund—
Economic Development Non-Federal
Revolving Funds

Cr. 1401.2, Other Investments in Affiliated
Companies—Non-Federal Economic
Development Grant Loans or

Cr. 1402.5, Other Investments in
Nonaffiliated Companies—Non-Federal
Economic Development Grant Loans

To record the repayment, by the project, of
the Non-Federal revolving loan.

The accounting journal entries required to
record the transactions associated with a
Rural Economic Development Loan are as
follows:

Dr. 4210.26, Economic Development Notes—
Unadvanced, Dr.

Cr. 4210.25, Economic Development Notes
To record the contractual obligation to REA
for the Economic Development Notes.

Dr. 1130.6/1120.16, Cash—General Fund—
Economic Development Loan Funds

Cr. 4210.26, Economic Development
Notes—Unadvanced, Dr.

To record the receipt of the economic
development loan funds.

Dr. 1401.3, Other Investments in Affiliated
Companies—Federal Economic
Development Loans or

Dr. 1402.6, Other Investments in
Nonaffiliated Companies—Federal
Economic Development Loans

Cr. 1130.6/1120.16, Cash—General Fund—
Economic Development Loan Funds

To record the disbursement of economic
development loan funds to the project.

Dr. 1130.1/1120.11, Cash—General Fund

Cr. 7360/7300.6, Other Nonoperating
Income

To record payment of loan servicing fees
charged to the economic development
project.

Dr. 1210, Interest and Dividends Receivable

Cr. 7320/7300.2, Interest Income

To record the interest earned on the
investment of rural economic
development loan funds.

Dr. 7370, Special Charges

Cr. 1130.1, Cash—General Fund

To record the payment of interest earned in
excess of \$500 on the investment of rural
economic development loan funds.

Note: Interest earned in excess of \$500
must be used for the rural economic

development project for which the loan
funds were received or returned to REA.

Dr. 1130.6/1120.16, Cash—General Fund—
Economic Development Loan Funds

Cr. 1401.3, Other Investments in Affiliated
Companies—Federal Economic
Development Loans or

Cr. 1402.6, Other Investments in
Nonaffiliated Companies—Federal
Economic Development Loans

To record repayment, by the project, of the
economic development loan.

Dr. 4210.25, Economic Development Notes

Cr. 1130.6/1120.16, Cash—General Fund—
Economic Development Loan Funds

To record the repayment, to REA, of the
economic development loan funds.

105 Satellite and Cable Television Services

Borrowers have become involved in
providing either satellite or cable television
services to their members and others through
subsidiaries, joint ventures, or as segments of
their current operations.

Accounting Requirements

This section outlines the accounting to be
followed when recording transactions
involving satellite or cable television
services.

1. Separate Subsidiary

If a Borrower provides satellite or cable
television services through a separate
subsidiary, the investment in the subsidiary
shall be debited to Account 1401,
Investments in Affiliated Companies. The net
income or loss of the subsidiary shall be
debited or credited to Account 1401, as
appropriate, with an offsetting entry to
Account 7360, Other Nonoperating Income.

2. Joint Venture

If a Borrower provides satellite or cable
television services through a joint venture,
the Borrower's ownership interest dictates
the accounting methodology. If the Borrower
has less than a 20 percent ownership interest
in the joint venture, the investment is
accounted for under the cost method of
accounting in Account 1402, Investments in
Nonaffiliated Companies. Under the cost
method, the joint venture's net income or
loss is not recorded in the Borrower's
records. Income is only recognized to the
extent of any dividends declared by the joint
venture. When a dividend is declared, the
Borrower shall debit Account 1210, Interest
and Dividends Receivable, and credit
Account 7310, Dividend Income. When the
dividend is received in cash, the Borrower
shall debit Account 1130.1, Cash—General
Fund, and credit Account 1210.

If a Borrower has a 20-percent or more
ownership interest in the joint venture, the
investment is accounted for under the equity
method in Account 1401, Investments in
Affiliated Companies. The Borrower's
proportionate share of the joint venture's net
income or loss shall be debited or credited
to Account 1401, as appropriate, with an
offsetting entry to Account 7360, Other
Nonoperating Income.

3. Segment of Current Operations

If a Borrower provides satellite or cable
television services as a segment of current

operations and there are no shared assets between this activity and the regulated telephone activities of the Borrower, the investment shall be debited to Account 1406.1, Nonregulated Investments—Permanent Investment. The net income or loss from providing such services shall be debited or credited, as appropriate, to Account 1406.3, Nonregulated Investments—Current Net Income, with an offsetting entry to Account 7990, Nonregulated Net Income.

If a Borrower provides satellite or cable television services as a segment of current operations and shares assets between this activity and the regulated telephone activities of the Borrower, the franchise and application fees shall be debited to Account 2690, Intangibles. The cost of the satellite or cable television equipment shall be debited to Account 2231, Radio Systems. Revenues earned from providing satellite or cable services shall be credited to Account 5280, Nonregulated Operating Revenue, while the associated expenses shall be recorded in a subaccount of the applicable regulated expense accounts.

4. Sale and Installation of Satellite or Cable Television Equipment

If a Borrower sells or installs satellite or cable television equipment as a segment of current operations and there are no shared assets between this activity and the regulated telephone activities of the Borrower, the purchase of the equipment shall be debited to Account 1406.1, Nonregulated Investments—Permanent Investment. The net income or loss from providing such services shall be debited or credited, as appropriate, to Account 1406.3, Nonregulated Investments—Current Net Income, with an offsetting entry to Account 7990, Nonregulated Net Income.

If a Borrower sells or installs satellite or cable television equipment as a segment of current operations and shares assets between this activity and the regulated telephone activities of the Borrower, the purchase of the equipment shall be debited to Account 1220.2, Property Held for Sale or Lease. Revenues received for the sale or installation of the equipment shall be credited to Account 5280, Nonregulated Operating Revenue, while the associated expenses shall be debited to a subaccount of the applicable regulated expense accounts.

106 Consolidated Financial Statements

In October 1987, the Financial Accounting Standards Board issued Statement of Financial Accounting Standards No. 94, Consolidation of All Majority-Owned Subsidiaries (Statement No. 94). For purposes of reporting to REA, Statement No. 94 shall be applied as follows:

1. A Borrower that is a subsidiary of another entity shall prepare and submit to REA separate financial statements even though this financial information is presented in the parent's consolidated statements.

2. In those cases in which a Borrower has a majority-ownership in a subsidiary, the Borrower shall prepare consolidated financial statements in accordance with the requirements of Statement No. 94. These consolidated statements must also include

supplementary schedules presenting a Balance Sheet and Income Statement for each majority-owned subsidiary included in the consolidated statements.

Although Statement No. 94 requires the consolidation of majority-owned subsidiaries, the REA Form 479 is required to be prepared on an unconsolidated basis by all Borrowers.

Dated: September 7, 1994.

Bob J. Nash,

Under Secretary, Small Community and Rural Development.

[FR Doc. 94-22609 Filed 9-13-94; 8:45 am]

BILLING CODE 3410-15-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94-NM-104-AD]

Airworthiness Directives; British Aerospace Model Viscount 744, 745D, and 810 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 all British Aerospace Model Viscount 744, 745D, and 810 series airplanes. This proposal would require various inspections to detect damage, corrosion, or cracking of certain taper plugs and split bushings of the engine mount, and replacement of taper plugs or split bushings with serviceable parts, if necessary. This proposal is prompted by a report of damage of the taper plug and split bushing of the engine mount due to the effects of corrosion. The actions specified by the proposed AD are intended to prevent such damage, which could lead to failure of the engine mount attachment assembly and consequent separation of the engine from the airplane.

DATES: Comments must be received by October 24, 1994.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 94-NM-104-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from

British Aerospace Regional Aircraft Ltd., Engineering Support Manager, Military Business Unit, Chadderton Works, Greengate, Middleton, Manchester M24 1SA, England. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: William Schroeder, Aerospace Engineer, ANM-113, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-2148; 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-104-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-104-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for United Kingdom, recently notified the FAA that an unsafe condition may exist

on all British Aerospace Model Viscount 744, 745D, and 810 series airplanes. The CAA advises that it has received a report of damage to the taper plug and split bushing (bush) of the engine mount. Investigation revealed that the taper plug and split bushing had corroded. The effects of such corrosion could lead to the failure of the taper plug and split bushing, which consequently could lead to the failure of the engine mount attachment assembly. This condition, if not corrected, could result in separation of the engine from the airplane.

British Aerospace has issued Viscount Preliminary Technical Leaflet (PTL) 200, Disc 9 Doc.5, dated December 6, 1991 (for Model Viscount 810 series airplanes), and Viscount PTL 329, Disc 9 Doc.2, dated April 1, 1992 (for Model Viscount 744 and 745D series airplanes). These service documents describe procedures for performing detailed visual and nondestructive test (NDT) inspections to detect damage, corrosion, or cracking of taper plugs, having part number (P/N) 60216-1017, and split bushings, having P/N 60216-1019, of the engine mount; and replacement of discrepant parts. The CAA classified these PTL's as mandatory.

This airplane model is manufactured in the United Kingdom and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require detailed visual and nondestructive test (NDT) inspections to detect damage, corrosion, or cracking of certain taper plugs and split bushings of the engine mount; and replacement of discrepant parts. The actions would be required to be accomplished in accordance with the applicable PTL described previously.

The FAA estimates that 25 Model Viscount 744 and 745D series airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 25 work hours per airplane to accomplish the proposed

actions, and that the average labor rate is \$55 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be \$34,375, or \$1,375 per airplane.

The FAA estimates that 4 Model Viscount 810 series airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 25 work hours per airplane to accomplish the proposed actions, and that the average labor rate is \$55 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be \$5,500, or \$1,375 per airplane.

Based on the above figures, the total cost impact of the actions proposed by this AD on U.S. operators is estimated to be \$39,875, or \$1,375 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 part

39 of the Federal Aviation Regulations (14 CFR part 39) 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:

British Aerospace Regional Aircraft Limited (Formerly British Aerospace Commercial Aircraft Limited, Vickers-Armstrongs Aircraft Limited); Docket 94-NM-104-AD.

Applicability: All Model Viscount 744, 745D, and 810 series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent separation of the engine from the airplane, accomplish the following:

(a) At the next unscheduled engine removal, but no later than 12 months after the effective date of this AD, perform a detailed visual inspection to detect damage, corrosion, or cracking of taper plugs, having part number (P/N) 60216-1017, and split bushings (bushes), having P/N 60216-1019, of the engine mount, in accordance with British Aerospace Viscount Preliminary Technical Leaflet (PTL) 200, Disc 9 Doc.5, dated December 6, 1991 (for Model Viscount 810 series airplanes); or British Aerospace Viscount PTL 329, Disc. 9 Doc.2, dated April 1, 1992 (for Model Viscount 744 and 745D series airplanes); as applicable.

(1) If no taper plugs or split bushings are damaged, corroded, or cracked, repeat the inspection thereafter at each unscheduled engine removal, but no later than 48 months after the last visual inspection of the taper plugs and split bushings.

(2) If any taper plug or split bushing is damaged, corroded, or cracked, prior to further flight, replace the taper plug or split bushing with a serviceable part, in accordance with the applicable PTL. Thereafter, repeat the inspection at each unscheduled engine removal, but no later than 48 months after the last visual inspection of the taper plugs and split bushings.

(b) At the next scheduled engine removal, but no later than 12 months after the effective date of this AD, perform detailed visual and nondestructive test (NDT) inspections to detect damage, corrosion, or cracking of all taper plugs and split bushings of the engine mount, in accordance with British Aerospace Viscount PTL 200, Disc 9 Doc.5, dated December 6, 1991 (for Model Viscount 810 series airplanes); or British Aerospace Viscount PTL 329, Disc. 9 Doc.2, dated April 1, 1992 (for Model Viscount 744 and 745D series airplanes); as applicable.

(1) If no taper plug or split bushing is damaged, corroded, or cracked, repeat the visual and NDT inspections thereafter at each

scheduled engine removal, but no later than 48 months after the last visual and NDT inspections of the taper plugs and split bushings.

(2) If any taper plug or split bushing is damaged, corroded, or cracked, prior to further flight, replace the taper plug or split bushing with a serviceable part, in accordance with the applicable PTL. Thereafter, repeat the visual and NDT inspections at each scheduled engine removal, but no later than 48 months after the last visual and NDT inspections of the taper plugs and split bushings.

(c) 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.

(d) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on September 8, 1994.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94-22672 Filed 9-13-94; 8:45 am]

BILLING CODE 4910-13-U

14 CFR Part 39

[Docket No. 94-NM-93-AD]

Airworthiness Directives; McDonnell Douglas Model DC-9-80 Series Airplanes and Model MD-88 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 Model DC-9-80 series airplanes and Model MD-88 airplanes. This proposal would require an inspection to detect damage, burn marks, or discoloration at certain electrical plugs and receptacles of the sidewall lighting in the passenger cabin, and correction of discrepancies. This proposal would also require modification of the electrical connectors, which, when accomplished, would terminate the inspection requirement. This proposal is prompted

by reports of failures of the electrical connectors in the sidewall fluorescent lighting, which resulted in smoke or lighting interruption in the passenger cabin. The actions specified by the proposed AD are intended to prevent failures of the electrical connectors, which could result in poor socket/pin contact, excessive heat, electrical arcing, and subsequently, connector burn through and smoke in the passenger cabin.

DATES: Comments must be received by November 7, 1994.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 94-NM-93-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 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, California 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, 3229 East Spring Street, Long Beach, California 90806-2425.

FOR FURTHER INFORMATION CONTACT: Elvin K. Wheeler, Aerospace Engineer, Systems and Equipment Branch, ANM-132L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806-2425; telephone (310) 988-5344; 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 94-NM-93-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-93-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

The FAA has received reports of failures of the electrical connectors in the sidewall fluorescent lighting on Model DC-9-80 series airplanes, which resulted in smoke or lighting interruption in the passenger cabin. Investigation revealed that these connectors became internally overheated. The cause of this internal overheating has been attributed to physically damaged or improperly connected connectors. This condition, if not corrected, could result in poor socket/pin contact, excessive heat, electrical arcing, and subsequently, connector burn through and smoke in the passenger cabin.

The FAA has reviewed and approved McDonnell Douglas MD-80 Service Bulletin 33-99, dated May 24, 1994, which describes procedures for a visual inspection to detect damage, burn marks, or black or brown discoloration caused by electrical arcing at electrical plugs, having part number (P/N) MS3126F-15P, and receptacles, having P/N MS3124E-15S, of the sidewall lighting in the passenger cabin, and correction of discrepancies. It also describes procedures for modification of the electrical connectors of the sidewall lighting, which, when accomplished, would terminate the inspection requirement. This modification involves removing 230 VAC (400 Hz) power wires of existing electrical connectors of the sidewall lighting in the passenger cabin, and installing separate wire splice-connectors or hard splice at the 230 VAC (400 Hz) power wires. This

modification also involves ascertaining that the electrical connectors of the sidewall lighting are tight and properly installed. Accomplishment of this modification minimizes the possibility of failure of the electrical connectors.

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 a visual inspection to detect damage, burn marks, or black or brown discoloration at certain electrical plugs and receptacles of the sidewall lighting in the passenger cabin, and correction of discrepancies. It would also require the eventual modification of the electrical connectors of the sidewall lighting, which, when accomplished, would terminate the inspection requirement. The actions would be required to be accomplished in accordance with the service bulletin described previously.

There are approximately 907 McDonnell Douglas Model DC-9-80 series airplanes and Model MD-88 airplanes of the affected design in the worldwide fleet. The FAA estimates that 490 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 50 work hours per airplane to accomplish the proposed actions, and that the average labor rate is \$55 per work hour. Required parts would be supplied by the manufacturer at no cost to operators. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be \$1,347,500, or \$2,750 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 part 39 of the Federal Aviation Regulations (14 CFR part 39) 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 94-NM-93-AD.

Applicability: Model DC-9-81 (MD-81), DC-9-82 (MD-82), DC-9-83 (MD-83), and DC-9-87 (MD-87) series airplanes; and Model MD-88 airplanes; as listed in McDonnell Douglas MD-80 Service Bulletin 33-99, dated May 24, 1994; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent poor socket/pin contact, excessive heat, electrical arcing, and subsequently, connector burnthrough and smoke in the passenger cabin, accomplish the following:

(a) Within 18 months after the effective date of this AD, perform a visual inspection to detect damage, burn marks, or black or brown discoloration caused by electrical arcing at electrical plugs, having part number (P/N) MS3126F-15P, and receptacles, having P/N MS3124E-15S, of the sidewall lighting in the passenger cabin, in accordance with McDonnell Douglas MD-80 Service Bulletin 33-99, dated May 24, 1994.

(1) If no discrepancies are found, no further action is required by this paragraph.

(2) If any discrepancy is found, prior to further flight, replace the damaged connectors, pins, sockets, or wire with new parts, in accordance with the service bulletin.

(b) Within 18 months after the effective date of this AD, modify the electrical connectors of the sidewall lighting in the passenger cabin in accordance with McDonnell Douglas Service Bulletin 33-99, dated May 24, 1994. Accomplishment of this modification constitutes terminating action for the requirements of this AD.

(c) 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 Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, 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.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on September 8, 1994.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94-22673 Filed 9-13-94; 8:45 am]

BILLING CODE 4910-13-U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[CO11-1-6532b, CO30-1-6533b, and CO36-2-6303b; FRL-5067-8]

Clean Air Act Approval and Promulgation of PM-10 Implementation Plan for Colorado; Designation of Areas for Air Quality Planning Purposes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: In this document, the EPA is proposing approval of the State implementation plan (SIP) and SIP revisions submitted by the State of Colorado for the purpose of bringing about the attainment of the national ambient air quality standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM-10) in Aspen, Colorado. In the final rules Section of this Federal Register, the EPA is approving the State's SIP submittals as a direct final rule without prior proposal because the Agency views these submittals as noncontroversial and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If the EPA receives adverse comments, then the

direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: Comments on this proposed action must be received in writing by October 14, 1994.

ADDRESSES: Written comments should be addressed to Vicki Stamper, 8ART-AP, at the EPA Regional Office listed below. Copies of the documents relevant to this proposed rule are available for public inspection during normal business hours at the following locations:

Air Programs Branch, Environmental Protection Agency, Region VIII, 999 18th Street, suite 500, Denver, Colorado 80202-2466; and Air Pollution Control Division, Colorado Department of Health, 4300 Cherry Creek Drive South, Denver, Colorado 80222-1530.

FOR FURTHER INFORMATION CONTACT:

Vicki Stamper, 8ART-AP, Environmental Protection Agency, Region VIII, 999 18th Street, suite 500, Denver, Colorado 80202-2466, (303) 293-1765.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule of the same title which is located in the rules section of this Federal Register.

Dated: August 31, 1994.

Jack W. McGraw,

Acting Regional Administrator.

[FR Doc. 94-22524 Filed 9-13-94; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 70

[AD-FRL-5070-3]

Clean Air Act Proposed Interim Approval, or in the Alternative Proposed Disapproval, of Operating Permits Program; Oregon Department of Environmental Quality, Lane Regional Air Pollution Authority

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed interim approval.

SUMMARY: EPA proposes interim approval of the Operating Permits Programs submitted by the Oregon Department of Environmental Quality (ODEQ) and Lane Regional Air Pollution Authority (LRAPA) for the purpose of complying with Federal requirements which mandate that States develop, and

submit to EPA, programs for issuing operating permits to all major stationary sources, and to certain other sources, provided certain proposed revisions to Oregon rules are adopted and submitted to EPA as a program revision prior to EPA's statutory deadline for acting on the State's submittal. In the alternative, EPA proposes disapproval of the Oregon programs if the proposed revisions are not adopted and submitted prior to the statutory deadline.

DATES: Comments on this proposed action must be received in writing by October 14, 1994.

ADDRESSES: Comments should be addressed to Anne Dalrymple at the Region 10 address indicated.

Copies of the State's submittal and other supporting information used in developing the proposed action are available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: Anne Dalrymple, (206) 553-0199.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

A. Background

As required under title V of the Clean Air Act (Act) as amended (1990), EPA promulgated rules defining the minimum elements of an approvable State operating permits program and the corresponding standards and procedures by which the EPA will approve, oversee, and withdraw approval of State operating permits programs (see 57 FR 32250 (July 21, 1992)). These rules are codified at title 40 Code of Federal Regulations (CFR) part 70. Title V requires States to develop, and submit to EPA, programs for issuing these operating permits to all major stationary sources and to certain other sources.

The Act requires that States develop and submit these programs to EPA by November 15, 1993, and that EPA approve or disapprove each program within one year after receiving the submittal. The EPA's program review occurs pursuant to section 502 of the Act and part 70 which, together, outline criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of part 70, EPA may grant the program interim approval for a period of up to two years. If EPA has not fully approved a program by two years after the November 15, 1993 date, or by the end of an interim program, it must establish and implement a Federal program.

B. Federal Oversight and Sanctions

The EPA must apply sanctions to a State for which 18 months have passed since EPA disapproved the program. In addition, discretionary sanctions may be applied any time during the 18-month period following the date required for program submittal or program revision. If the State has no approved program 2 years after the date required for submission of the program, EPA will impose additional sanctions, where applicable, and EPA must promulgate, administer, and enforce a Federal permits program for the State. The EPA has the authority to collect reasonable fees from the permittees to cover the costs of administering the program.

II. Proposed Action and Implications

A. Analysis of State Submission

1. Support Materials

The program submitted by the State of Oregon includes submissions by ODEQ, LRAPA and the Oregon Attorney General. Collectively, these submissions meet the requirements of 40 CFR part 70, § 70.4 for complete program submittal including a letter of submittal from Oregon's Governor requesting approval, complete program descriptions, the legal opinions of the Attorney General and the independent legal counsel for LRAPA, and fully adopted implementing regulations. An implementation agreement is currently being developed between the Oregon agencies and EPA.

The Oregon state operating permit regulations found within the Oregon Administrative Rules (OAR), Chapter 340, Division 28, including proposed rule revisions, and the authorizing statutes substantially meet the requirements of 40 CFR part 70, §§ 70.2 and 70.3 for applicability, §§ 70.4, 70.5, and 70.6 for permit content including operational flexibility, § 70.7 for public participation and minor permit modifications, § 70.8 for permit review by EPA and affected States, § 70.5 for criteria which define insignificant activities, § 70.11 for requirements for enforcement authority, and § 70.5 for complete application forms. The full program submittal, the proposed revisions to OAR Chapter 340, Division 28, and the Technical Support Document are available for review for more detailed information.

2. Regulations and Program Implementation

a. Program Implementation

The Oregon 1991 Legislature enacted Oregon Revised Statute (ORS) 468A.300-330, which gave ODEQ

authority to promulgate regulations establishing a title V program, to collect interim fees and to develop a Small Business Assistance Program. The 1993 Legislature also passed statutes enhancing civil and criminal enforcement authority (Senate Bill 912) and authorizing collection of emissions fees to fully fund the title V program (Senate Bill 86). The Oregon Environmental Quality Commission (EQC) adopted rules implementing the title V program which are published at OAR Chapter 340, Division 28 (Stationary Source Air Pollution Control and Permitting Procedures), and OAR Chapter 340, Division 32 (Hazardous Air Pollutants), and became effective September 24, 1993. On July 11, 1994, ODEQ proposed for public comment revisions to OAR Chapter 340, Division 28. ODEQ has informed EPA that final rule revisions will be submitted to the EQC for consideration on October 21, 1994, and if adopted, would be submitted to EPA as a revision to Oregon's current program prior to EPA's statutory deadline for acting on Oregon's title V submittal.

b. Scope of the Program

ODEQ will be implementing Oregon's title V program throughout the State of Oregon, except for Lane County. ODEQ will implement the title V program under the following authority: ORS 468 *et seq.* and ORS 468A *et seq.*, OAR Chapter 340, Division 28 (Stationary Source Air Pollution Control and Permitting Procedures), and OAR Chapter 340, Division 32 (Hazardous Air Pollutants). OAR Chapter 340, Division 28 contains regulations pertaining to both title V and non-title V sources. Therefore, this notice proposes to approve certain regulations within Division 28 as part of Oregon's title V program. The Technical Support Document identifies the regulations approved in this rulemaking. The remainder of Division 28 will be approved or disapproved as part of the Oregon State Implementation Plan in a separate rulemaking. As explained more fully below, EPA intends to approve portions of OAR Chapter 340 Division 32 in a separate Federal Register notice under section 112(l) of the Act.

LRAPA will be the local title V permitting authority with jurisdiction over title V sources in Lane County, Oregon. ORS 468A.135 gives LRAPA authority to enforce Oregon's title V rules or adopt their own more stringent rules. LRAPA has not adopted its own title V rules, so it will enforce OAR 340-28 *et seq.*

The Oregon permitting authorities have not made an affirmative showing of legal authority to regulate sources

within the exterior boundaries of Indian Reservations in Oregon under the Clean Air Act. Therefore, interim approval of the Oregon operating permits programs will not extend to lands within the exterior boundaries of Indian Reservations.¹ Title V sources located within the exterior boundaries of Indian Reservations in Oregon will be subject to the Federal operating permit program, to be promulgated at 40 CFR part 71, or subject to the operating program of any Tribe delegated such authority under section 301(d) of the Act.

c. Variance Provisions

ORS 468A.075 allows the Oregon Environmental Quality Commission (EQC) discretion to grant relief from compliance with State rules and regulations under certain conditions. Section 23-005 of LRAPA's rules contains a variance provision modeled closely after ORS 468A.075. The EPA regards ORS 468A.075 and LRAPA section 23-005 as wholly external to the program submitted for approval under part 70, and consequently proposes to take no action on these provisions of State and local law in this rulemaking. The EPA does not recognize the ability of a permitting authority to grant relief from the duty to comply with a federally enforceable part 70 permit, except where such relief is granted through procedures allowed by part 70. In other words, a variance does not affect the title V source until the title V permit is modified pursuant to the procedures in part 70. EPA reserves the right to enforce the terms of the part 70 permit where the permitting authority purports to grant relief from the duty to comply with a part 70 permit in a manner inconsistent with part 70 procedures. A part 70 permit may also incorporate, via part 70 permit issuance or modification procedures, the schedule of compliance set forth in a variance. However, EPA reserves the right to pursue enforcement of applicable requirements notwithstanding the existence of a compliance schedule in a permit to operate. This is consistent with 40 CFR 70.5(c)(8)(iii)(C), which states that a schedule of compliance "shall be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based."

d. Environmental Audit Report Privilege

ORS 468.963 contains a limited "Environmental Audit Report Privilege," which prevents, with certain exceptions, the admission of voluntary,

¹ This is not a determination that the Oregon permitting authorities do not have jurisdiction over sources within the exterior boundaries of Indian Reservations in Oregon. However, no such showing has been made at the time of this proposed notice.

internal environmental audit reports as evidence in any civil, criminal or administrative proceeding. It is not clear at this time what effect, if any, this privilege might have on title V enforcement actions. EPA is currently establishing a national position regarding EPA approval of environmental programs in States which adopt statutes that confer an evidentiary privilege for environmental audit reports. The EPA regards ORS 468.963 as wholly external to the program submitted for approval under part 70, and consequently proposes to take no action on this provision of State law in this rulemaking. If, during program implementation, EPA determines that this provisions interferes with Oregon's enforcement responsibilities under part 70, EPA will consider this grounds for withdrawing program approval in accordance with 40 CFR 70.10(c).

3. Permit Fee Demonstration

Program costs for ODEQ and LRAPA will be covered through a three-part fee system composed of an emission fee, a base fee and user fees. The emission fee is set at \$25 per ton, adjusted for inflation by the percentage, if any, by which the Consumer Price Index (CPI) exceeds the CPI for the calendar year 1989 if the Oregon EQC determines by rule the increased fee is necessary to cover all reasonable direct and indirect costs of implementing the Federal operating permit program. All sources subject to the title V program will also pay a base fee of \$2,500 per year. User fees will be charged to sources to cover the costs of specific program activities requested by the source. ODEQ estimates that the total amount collected will be approximately \$50 per ton and will exceed \$4 million per year in the first year of program implementation. The Oregon submittal includes an adequate demonstration that the fees collected by each agency will cover the direct and indirect costs of implementing and enforcing the Federal operating permit program. Furthermore, each agency has committed in its submittal to review its fee schedule annually and to increase fees, as necessary, to reflect actual program implementation costs.

4. Provisions Implementing the Requirements of Other Titles of the Act

a. Authority and Commitments for Section 112 Implementation

Oregon permitting authorities are constitutionally prohibited from implementing or enforcing Federal applicable regulations, but must either adopt the Federal requirements as State regulations or include them in a State-

issued permit pursuant to OAR 340-28-640(3). ODEQ and LRAPA have broad legal authority to adopt regulations necessary to implement any and all section 112 requirements and have adopted OAR Chapter 340, Division 32 rules in order to regulate the list of hazardous air pollutants (HAPs) under section 112(b). Division 32 requires the Environmental Quality Commission to adopt and enforce Maximum Achievable Control Technology (MACT) standards for major sources and Generally Achievable Control Technology (GACT) standards for area sources as they are promulgated by EPA. Division 32 also establishes a voluntary early reductions program for HAPs and contains accidental release provisions.

EPA has determined that this broad statutory and regulatory authority is adequate for the Oregon permitting authorities to implement all section 112 requirements provided they expeditiously adopt appropriate implementing regulations as new Federal regulations are promulgated. EPA regards the commitments of the Oregon permitting authorities as an acknowledgement of their obligation to adopt regulations necessary to issue permits that assure compliance with section 112 applicable requirements. Should an Oregon permitting authority fail to adopt regulations necessary to maintain adequate legal authority to issue timely permits, or fail to include in permits pursuant to OAR 340-28-640(3) Federal applicable requirements that have not been adopted by ODEQ, EPA will consider this grounds for withdrawing approval of such permitting authority's program in accordance with the provisions of 40 CFR 70.10(c). For further discussion of this determination, please refer to April 13, 1993 guidance memorandum entitled "Title V Program Approval Criteria for Section 112 Activities," signed by John Seitz.

b. Implementation of Section 112(g) Upon Program Approval

After the effective date of the Oregon operating permit programs, no new major source or major modification to an existing major source may be constructed unless it has been subject to a case-by-case determination of maximum achievable control technology (MACT) or offsets by a permitting authority pursuant to section 112(g) of the Federal Clean Air Act. The results of such case-by-case determination of MACT or offsets must be federally-enforceable by the time construction begins on the new source or modification. The Oregon permitting authorities have committed to adopting and submitting regulations which

implement the requirements of section 112(g) of the Act as expeditiously as possible after EPA promulgates its regulations to implement section 112(g) of the Act.

However, the EPA regulations, and hence the Oregon regulations, for implementing section 112(g) will not be adopted until some time after the effective date of the Oregon operating permits program. In order to allow the continued construction of new major sources and major modifications after the effective date of the Oregon title V program, EPA has established a transition policy for permitting sources in the interim period between the effective date of a title V operating permits program and the adoption of State rules implementing EPA's forthcoming section 112(g) regulations. Because EPA has not yet promulgated regulations to implement section 112(g) of the Act, EPA has determined it has authority to approve many existing State air toxics permitting regulations under section 112(l) of the Act solely for the purpose of implementing section 112(g) during this interim period.

Oregon administrative rules Chapter 340, Division 32 contain air toxics permitting regulations which require new and modified major sources of hazardous air pollutants to obtain a permit prior to construction. Furthermore, these regulations require such new and modified major sources to utilize MACT. On August 3, 1994, Oregon submitted these rules to EPA for approval as an interim permitting program for implementing section 112(g) of the Act. Approval by EPA of these rules would provide Oregon permitting authorities with a mechanism for establishing federally-enforceable emission limitations and other restrictions to implement section 112(g).

EPA intends to propose approval of the Oregon air toxics permitting rules in the near future in a separate rulemaking pursuant to section 112(l) of the Act. The scope of the proposed approval of Oregon's air toxic permitting regulations will be narrowly limited to section 112(g) and will not confer or imply approval for purposes of any other provision under the Act. Furthermore, such approval would be for an interim period only, and would require the Oregon permitting authorities to expeditiously adopt regulations consistent with regulations promulgated by EPA to implement section 112(g) of the Act.

c. Program for Delegation of Section 112 Standards

State law prohibits Oregon permitting authorities from adopting prospective

Federal regulations. As such, EPA can only delegate section 112 standards to the State after such standards are either adopted as State regulations or included in State-issued permits pursuant to OAR 340-28-640(3). As noted above, the Oregon permitting authorities submitted OAR Chapter 340, Division 32 regulations (including regulations which adopt all of the current applicable National Emission Standards for Hazardous Air Pollutants in 40 CFR part 61²) to EPA for approval under section 112(l) of the Act on August 3, 1994. Since the adopted regulations and the requests for approval include additional sources to those subject to title V, EPA will be acting on these requests under separate rulemaking pursuant to the provisions of 40 CFR part 63.

d. Commitments for Title IV Implementation

ODEQ and LRAPA each have made commitments to adopt and submit to EPA by January 1, 1995 a program implementing title IV of the Federal Clean Air Act. This commitment is supported by adequate legal authority (see ORS 468.020, ORS 468A.310, and OAR 340-28-2100(2)).

B. Options for Program Approval and Implications

1. Proposed Interim Approval

EPA is proposing to grant interim approval to the operating permits program submitted by the ODEQ and LRAPA on November 15, 1993. If promulgated, the ODEQ and LRAPA must make the following changes to receive full approval:

a. Small Business Assistance Program Provisions

The statute establishing Oregon's Small Business Assistance (SBA) Program, ORS 468A.330, also addresses enforcement against sources for violations observed during on-site technical assistance visits. ORS 468A.330(4)(a) provides that "Onsite technical assistance for the development and implementation of the Small Business Stationary Source Technical and Environmental Compliance Assistance Program shall not result in inspections or enforcement actions."³ Oregon's statute appears not simply to give a source an opportunity to correct

² The Oregon Environmental Quality Council has adopted subpart I of the radionuclide NESHAP as applicable only to sources subject to title V. ODEQ and LRAPA will only implement and enforce this NESHAP for sources required to have title V permits pursuant to OAR 340-28-2100, et seq.

³ The statute does not prohibit enforcement actions if there is reasonable cause to believe that violation causes a clear and immediate danger to public health or safety or the environment.

a violation observed during a technical assistance visit before being subject to enforcement action, but rather appears to protect the source from followup inspections or enforcement activities that result from observations made during a technical assistance visit. In that respect, ORS 468A.330(4)(a) appears to be inconsistent with the enforcement responsibilities of 40 CFR 70.11(a)(3).

In order to obtain full approval, Oregon must ensure that no title V source, whether a major source or a minor source, will be absolutely immune from inspections and enforcement actions resulting from technical assistance visits. Interim approval is possible, however, because ORS 468.140 provides Oregon with general civil penalty authority that is in all other respects consistent with the requirements of 40 CFR 70.11(a)(3) (see 40 CFR 70.4(d)(3)(viii)).

b. Necessary Criminal Authority

i. Upset/Bypass as a Defense to Criminal Liability

ORS 468.959 provides an affirmative defense to criminal liability for violations that result from an "upset" or a "bypass" as those terms are defined in the statute. This affirmative defense appears to be broader than the affirmative defense under part 70 for emissions in excess of a technology-based emissions limitation caused by an "emergency" (see 40 CFR 70.6(g)). For example, 40 CFR 70.6(g) requires a source to prove that excess emissions were not caused by improperly designed control equipment, lack of preventative maintenance, careless or improper operation or operator error. Under ORS 468.959, however, a source is not required to make a similar showing in order to claim the affirmative defense of excess emissions due to a "bypass." ORS 468.959 also does not provide that the burden of proving that an upset or bypass occurred is on the violator. Oregon must ensure that this statute is consistent with 40 CFR 70.6(g).

ii. Criminal Liability of Corporations

ORS 161.170 addresses the extent to which a corporation can be subject to criminal liability. Under that statute, a corporation is subject to criminal liability only in one of three circumstances: (1) The conduct constituting the offense is engaged in by an agent of the corporation while acting within the scope of employment and on behalf of the corporation and the offense is a misdemeanor or a violation or the offense is one defined by a statute that clearly indicates a legislative intent to impose criminal liability on a corporation; (2) the conduct constituting

the offense consists of an omission to discharge a specific duty of affirmative performance imposed on corporations by law; or (3) the conduct constituting the offense is engaged in, authorized, solicited, requested, commanded, or knowingly tolerated by the board of directors or by a high managerial agent acting within the scope of employment and in behalf of the corporation. The first two circumstances appear to be inapplicable in the case of statutes which impose criminal liability for knowing air violations, because these offenses are felonies and do not involve the discharge of a specific duty of affirmative performance imposed on corporations by law. A corporation could be subject to criminal liability under the third category, but only if the board of directors or a high managerial agent "engaged in, authorized, solicited, requested, commanded or knowingly tolerated" the conduct constituting the offense.

Part 70 requires that the burden of proof and degree of knowledge or intent required under State law for civil and criminal liability be no greater than that required for civil and criminal liability under the Clean Air Act (see 40 CFR 70.11(b)). Under the Clean Air Act, the government must prove only that the crime was committed by an employee of the corporation and the employee at that time was performing that employee's duties for the corporation, even though the acts charged may not have been specifically authorized by the corporation. See *United States v. Hilton Hotels Corp.*, 467 F. 2d 1000 (9th Cir. 1973); *United States v. Twentieth Century Fox Film Corp.*, 882 F. Supp. 656, 660 (2d Cir., 1989); *United States v. Cadillac Overall Supply Co.*, 568 F. 2d 1078, 1090 (5th Cir. 1978). By requiring the State to prove that the board of directors or a high managerial agent "engaged in, authorized, solicited, requested, commanded or knowingly tolerated" the conduct constituting the offense, Oregon law appears to impose both a higher degree of knowledge or intent (at a minimum, the State must prove "knowing toleration" by the board or a high managerial agent) and a higher burden of proof (the State must prove the additional element of participation or knowing toleration by the board or high managerial agent). Oregon must ensure that the degree of knowledge or intent and the burden of proof required for imposing criminal liability on a corporation in Oregon do not exceed that required for imposing criminal liability under the Clean Air Act.

c. Definition of Title I Modification

OAR 340-28-110(118) defines "Title I modification" in such a way as to only include "major modifications" subject to parts C and D of title I of the Act, changes subject to section 111 of the Act, and modifications under section 112 of the Act. EPA believes the phrase "modification under any provision of title I of the Act" in 40 CFR 70.7(e)(2)(i)(A)(5) is best interpreted to mean any change at a source that would trigger permitting authority review under regulations approved or promulgated under title I of the Act. This would include State preconstruction review programs approved by EPA as part of the State implementation plan (SIP) under section 110(a)(2)(C) of the Act and regulations addressing source changes that trigger National Emission Standards for Hazardous Air Pollutants (NESHAP) established pursuant to section 112 of the Act prior to the 1990 amendments. Therefore, EPA proposes that, to receive full approval, Oregon must revise OAR 340-28-110(118) to include any determination established through a minor source pre-construction permit as well as changes reviewed under 40 CFR 61.15. EPA expects to revise its criteria for interim approval in 40 CFR 70.4(d) prior to final action on this proposal to grant interim approval to Oregon so that interim approval may be granted to State programs like Oregon's that include a narrower definition of "title I modification." As noted, EPA believes the better interpretation of "title I modifications" would preclude granting full approval to the Oregon program. However, in the proposal to revise part 70, EPA will be taking comment on whether the criteria in 40 CFR 70.7(e)(2)(i)(A), including the phrase "modification under any provision of title I," should be interpreted in a manner that would allow changes reviewed under programs approved pursuant to section 110(a)(2)(C) of the Act and changes that trigger the application of NESHAP established prior to the 1990 Amendments to be eligible for processing through minor modification procedures. Should EPA adopt this alternative interpretation, the current definition of "title I modification" in the Oregon programs would be fully consistent with part 70.

2. Proposed Approval or, in the Alternative, Proposed Interim Approval

In reviewing Oregon's title V submittal, EPA found several minor inconsistencies between the requirements of 40 CFR part 70 and Oregon's program. EPA also was unable to find in Oregon's program several minor authorities required by part 70.

To rectify these deficiencies Oregon has proposed revisions to several provisions of OAR 340, Division 28. These revisions were proposed for public comment on July 11, 1994. ODEQ has advised EPA that final rule revisions will be submitted to the EQC for consideration on October 21, 1994, and if adopted, would be submitted to EPA as a revision to Oregon's current program prior to EPA's statutory deadline for acting on Oregon's title V submittal.

If adopted without any substantial changes, these provisions of Oregon's revised rules will meet the requirements of part 70. EPA is therefore proposing to fully approve the Oregon program with respect to the provisions discussed in detail below, contingent upon the revisions being adopted and submitted without substantial changes from the proposed revisions. However, if any of the revisions are not adopted and submitted, then these items will also be a basis for interim approval, (i.e. in addition to the items referred to in section II.B.1 above.) In such event, the required changes must be adopted and submitted prior to the expiration of the interim approval period. In accordance with 40 CFR 70.4(e)(2), if the adopted revisions are substantially different from what has been proposed, EPA will consider the submittal to represent a material change to the program and shall extend the review period accordingly in order to repropose action on the Oregon title V program.

a. Timeframe for Acting on Early Reduction Applications

40 CFR 70.4(b)(11)(iii) requires a permitting authority to act on any permit application that includes an early reduction application under section 112(i)(5) of the Act within nine months of receipt of a complete application. The current Oregon regulations do not contain such a provision, but rather, would allow the permitting authority the full 18 months to act on such an application. The proposed revision to OAR 340-28-2200(1)(d) corrects this deficiency. EPA therefore proposes to fully approve this provision of the Oregon program contingent upon the final adoption and submission of the revised OAR 340-28-2200(1)(d).

b. Definition of "Prompt" for Reporting of Deviations

40 CFR 70.6(a)(3)(iii)(B) requires the permitting authority to define "prompt" in its permit program regulations for purposes of reporting deviation from permit requirements. The current Oregon regulations only require "prompt" reporting, but do not define what would be considered to be

"prompt." The proposed revision to OAR 340-28-2130(3)(c)(B) corrects this deficiency by defining prompt to be within seven days of the deviation.

c. Criteria for General Permits

40 CFR 70.6(d) allows permitting authorities to issue a "general permit" covering numerous similar sources. The current Oregon regulations purport to allow the Oregon permitting authorities to issue general permits covering any and all source categories, but only include adequate criteria for issuing permits to existing major sources of hazardous air pollutants. Oregon has indicated that it was the State's intent to currently limit its program to just such sources. The proposed revision to OAR 340-28-2170(a) corrects this deficiency by clarifying that "general permits" can only be issued to certain categories of major sources of hazardous air pollutants.

d. "Anti-Tampering" Provisions

State law does not currently demonstrate necessary criminal authority to recover fines against any person who knowingly renders inaccurate any required monitoring device or method as required by under 40 CFR 70.11(a)(3)(iii). However, Oregon has proposed a new provision at OAR 340-28-2130(3)(a)(E) which, if adopted, would prohibit any person from rendering inaccurate any required monitoring device or method. Under ORS 468.936, a knowing violation of any applicable requirement, including proposed OAR 340-28-2130(3)(a)(E), would be subject to a criminal fine in the maximum amount of not less than \$10,000 per day per violation.

3. Proposed Approval or, in the Alternative, Proposed Disapproval

In reviewing Oregon's title V submittal, EPA found several significant inconsistencies between the requirements of 40 CFR part 70 and Oregon's program. To rectify these deficiencies Oregon has proposed revisions to several provisions of OAR 340, Division 28. These revisions were proposed for public comment on July 11, 1994. ODEQ has advised EPA that final rule revisions will be submitted to the EQC for consideration on October 21, 1994, and if adopted, would be submitted to EPA as a revision to Oregon's current program prior to EPA's statutory deadline for acting on Oregon's title V submittal.

If adopted without any substantial changes, these provisions of Oregon's revised rules will meet the requirements of part 70. EPA is therefore proposing to fully approve the Oregon program with respect to the provisions discussed in detail below, contingent upon the

revisions being adopted and submitted without substantial changes from the proposed revisions. However, if any of the revisions are not adopted and submitted, EPA proposes to disapprove Oregon's program in the final action. In accordance with 40 CFR 70.4(e)(2), if the adopted revisions are substantially different than what has been proposed, EPA will consider the submittal to represent a material change to the program and shall extend the review period accordingly in order to repropose action on the Oregon title V program.

a. Categorically Insignificant Activities

The current Oregon definition of "categorically insignificant activities," OAR 340-28-110(15), contains broad descriptions of activities for which complete information need not be included in title V permit applications. However, many of these activities are subject to applicable requirements and the effect of the definition would be to prevent proper incorporation of applicable requirements into title V permits. EPA, therefore, believes that it would have to disapprove the Oregon title V program as it currently exists because the State could not ensure that permits would include all requirements applicable to emission units at a title V source.

40 CFR 70.5(c) requires permit applications to include sufficient information to determine the applicability of, or to impose, any applicable requirement. The title V permit must ensure that the source complies with all applicable requirements, and, as such, the owner or operator cannot omit any information from a permit application that is necessary to determine or impose an applicable requirement. The Oregon permit application rule, OAR 340-28-2120(3)(c)(E), requires the application to list all categorically insignificant activities but does not require the source to provide sufficient information to determine whether there are requirements applicable to any of the listed activities. Therefore, the definition of "categorically insignificant activities" must either be changed to insure that the rule does not apply to any activity for which there are applicable requirements or the list of "categorically insignificant activities" must be revised so that it does not include an activity which is subject to an applicable requirement, or the Oregon rules must require the application to provide sufficient information to determine whether there are requirements applicable to any of the listed activities and the permit will specifically include the regulations

applicable to categorically insignificant activities.

In response to EPA's preliminary review and findings with respect to this issue, Oregon has proposed revisions to its definition of "categorically insignificant activities" and to OAR 340-28-2110(7) and 340-28-2120(3). Proposed OAR 340-28-2110(7) requires that all emissions from insignificant activities, including categorically insignificant activities and aggregate insignificant emissions, must be included in the determination of the applicability of any requirement. Proposed OAR 340-28-2120(3) clarifies that an application may not omit information needed to determine the applicability of, or to impose, any applicable requirement, including those requirements that apply to categorically insignificant activities. Therefore, under the proposed revisions, all applicable requirements will be included in the permit, regardless of whether an activity is classified as a "categorically insignificant activity."

The proposed revision to the definition of "categorically insignificant activities," plus changes to the provisions for permit applications and applicability, and the existing permit content provisions, together meet the requirements of part 70. EPA is therefore proposing to fully approve the Oregon program with respect to this issue if the revised definition of "categorically insignificant activities" and proposed revisions to OAR 340-28-2110(7) and OAR 340-28-2120(3) are adopted and submitted without substantial changes from the proposed revisions.

The Oregon proposed rule revisions also delete the definitions of "Exempt Insignificant Mixture Usage," OAR 340-28-110(41), "Non-exempt Insignificant Mixture Usage," OAR 340-28-110(63), and "Insignificant Mixture," OAR 340-28-110(53) and references to these terms throughout OAR Division 28. Proposed OAR 340-28-2110(3)(c)(E) revises and replaces the concept of "insignificant mixtures," which is to be deleted by the proposed revision to OAR Division 28. EPA is therefore proposing to fully approve the Oregon program if these proposed revisions are adopted and submitted without substantial changes.

b. Use of Title I Permits to Modify Title V Permits

Section 502(b)(10) of the Act, 40 CFR 70.4(b)(12), (14) and (15) and 40 CFR 70.7(a)(1) require that, with certain exceptions, the permit revision provisions of the approved permitting program be used to modify or change the provisions of a title V permit.

However, current Oregon regulations allow a permitting authority to effectively change the provisions of a title V permit using the minor new source review provisions of the state implementation plan. These new source review provisions cannot substitute for the title V permit revision process because they do not provide for adequate public notice, affected State review, or an opportunity for EPA review and objection as required by 40 CFR 70.7(a)(1). EPA believes that it would have to disapprove the current Oregon permit program because the Oregon regulations do not ensure that any new or modified source operates in compliance with its title V permit until the title V permit is revised in accordance with the procedures for permit modifications. The proposed revision to the current OAR 340-28-2110(7) (renumbered to OAR 340-28-2110(8)) corrects this deficiency.

c. Administrative Permit Amendments

As discussed above, only the permit revision provisions of the approved permitting program can be used to modify or change the provisions of a title V permit. However, the current Oregon regulations, OAR 340-28-2230(1)(j), allow for the use of administrative amendments to change the applicable requirements included in a permit. Again, EPA believes that it would have to disapprove the current Oregon program because it would allow permitting authorities to change the content of a title V permit without following adequate procedures. The proposed revision to 340-28-2230(1) deletes subparagraph (j) which corrects this deficiency.

4. Proposed Approval or, in the Alternative, Proposed Disapproval

Section 502(a) of the Act allows EPA to exempt, by rule, one or more source categories from the requirements of title V, provided that EPA may not exempt any major source from such requirements. 40 CFR 70.3(b)(1) allows states to temporarily exempt from the requirements of title V certain categories of sources which are not major sources. The current Oregon regulations are consistent with the requirements of 40 CFR 70.3(b)(1) and EPA is proposing to fully approve these provisions of the Oregon program.

Oregon has proposed to adopt "prohibitory rules" for several source categories which, when approved into the Oregon state implementation plan, would establish federally-enforceable limits on a source's potential to emit. Sources which choose to be subject to one of these "prohibitory rules" would

no longer qualify as a major source and would therefore not be subject to the requirements of title V.

In conjunction with the proposal to adopt these "prohibitory rules," Oregon has proposed revisions to the applicability provisions of its permit program (OAR 340-28-2110(4)) to add additional source category exemptions. These revisions were proposed for public comment on July 11, 1994. ODEQ has advised EPA that final rule revisions will be submitted to the EQC for consideration on October 21, 1994, and if adopted, would be submitted to EPA as a revision to Oregon's current program prior to EPA's statutory deadline for acting on Oregon's title V submittal.

EPA believes that, if the proposed revisions are adopted, it would have to disapprove the Oregon program because it would inappropriately exempt certain title V sources from the requirements of title V. These exemptions exceed those allowed by EPA's regulations because they would exempt four categories of sources from the requirements of title V even if EPA does not approve the "prohibitory rules" so as to make them federally enforceable. Furthermore, the proposed revisions would exempt sources within the four categories even if such sources were subject to standards promulgated pursuant to sections 111 or 112 of the Act.

As discussed above, if these proposed revisions are adopted, the provisions of Oregon's revised rules will fail to meet the requirements of part 70. EPA is therefore proposing, as an alternative to full approval of the current rules, to disapprove the Oregon program with respect to these provisions if the revisions are adopted and submitted as proposed. If revisions to the applicability provisions of the Oregon rules are adopted but are substantially different than what has been proposed, EPA will consider the submittal to represent a material change to the program and shall extend the review period accordingly in order to repropose action on the Oregon title V program.

Interim approval of the Oregon operating permit programs, which may not be renewed, extends for a period of up to two years. During the interim approval period, the State is protected from sanctions for failure to have a program, and EPA is not obligated to promulgate a Federal permits program in the State. Permits issued under a program with interim approval have full standing with respect to part 70. In addition, the one year deadline for submittal of permit applications by subject sources and the three year time period for processing all initial permit

applications begins upon publication of the final action on this proposed interim approval.

The EPA is proposing to disapprove in the alternative the operating permits program submitted by the ODEQ and LRAPA. If promulgated, this disapproval would constitute a disapproval under section 502(d) of the Act (see generally 57 FR 32253-54). As provided under section 502(d)(1) of the Act, Oregon would have up to 180 days from the date of EPA's notification of disapproval to the Governor of Oregon to revise and resubmit the program.

III. Administrative Requirements

A. Request for Public Comments

The EPA is requesting comments on all aspects of this proposed interim approval and, in the alternative, proposed disapproval. Copies of the State's submittal and other information relied upon for this action are contained in a docket maintained at the EPA Regional Office. The docket is a file of information submitted to, or otherwise considered by, EPA in the development of this proposed rulemaking. The principal purposes of the docket are: (1) To allow interested parties a means to identify and locate documents so that they can effectively participate in the rulemaking process; and (2) to serve as the record in case of judicial review. The EPA will consider any comments received by October 14, 1994.

B. Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

C. Regulatory Flexibility Act

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

Operating permit program approvals under section 502(g) of the Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal operating permits program approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State

relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Act forbids EPA to base its actions concerning operating permits programs on such grounds. *Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256-66 (S.Ct 1976); 42 U.S.C. 7410(a)(2).

If EPA's final action is a disapproval, it will not affect any existing State requirements applicable to small entities. Federal disapproval of the State submittal does not affect its State-enforceability. Moreover, EPA's disapproval of the submittal does not impose a new Federal requirement. Therefore, EPA certifies that any proposed disapproval action would not have a significant impact on a substantial number of small entities because it does not remove existing State requirements nor does it substitute a new Federal requirement.

IV. Miscellaneous

A. Proposed Interim Approval

Proposal for interim approval of the program.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

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

Dated: September 1, 1994.

Jane S. Moore,

Acting Regional Administrator.

[FR Doc. 94-22721 Filed 9-13-94; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 94-98, RM-8433]

Radio Broadcasting Services; Addison, AL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Dorsey Eugene Newman, requesting the allotment of FM Channel 289A to Addison, Alabama, as that community's first local aural transmission service. Coordinates used for this proposal are 34-16-00 and 87-04-00.

DATES: Comments must be filed on or before November 3, 1994, and reply

comments on or before November 18, 1994.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner and his consultant, as follows: Dorsey Eugene Newman, 2213 Burning Tree Drive, Decatur, AL 35603 (petitioner); and Kirk A. Tollett, Commsouth Media Associates, 4001 Highway 78 East, Jasper, AL 35501 (consultant).

FOR FURTHER INFORMATION CONTACT:

Nancy Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 94-98, adopted August 18, 1994, and released September 9, 1994. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037

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

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Douglas W. Webbink,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 94-22676 Filed 9-13-94; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF DEFENSE

GENERAL SERVICES
ADMINISTRATIONNATIONAL AERONAUTICS AND
SPACE ADMINISTRATION48 CFR Parts 5, 7, 10, 15, 16, 17, 37,
44, 46, and 52

[FAR Cases 91-85]

RIN 9000-AF05

Federal Acquisition Regulation;
Service Contracting; Withdrawal of
Proposed Rule

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule; withdrawal.

SUMMARY: The Department of Defense, General Services Administration, and National Aeronautics and Space Administration have decided to withdraw a proposed rule, FAR case 91-85, Service Contracting, without further action at this time at the request of the Administrator of the Office of Federal Procurement Policy. The case implemented Office of Federal Procurement Policy Letter 91-2, Service Contracting. Service contracting will be addressed as part of the FAR rewrite. The proposed rule was published in the Federal Register on July 30, 1992 (57 FR 33702).

FOR FURTHER INFORMATION CONTACT: Ms. Beverly Fayson, FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501-4755.

List of Subjects in 48 CFR Parts 5, 7, 10, 15, 16, 17, 37, 44, 46 and 52

Government procurement.

Dated: September 6, 1994.

Albert A. Vicchiolla,
Director, Office of Federal Acquisition Policy.
[FR Doc. 94-22543 Filed 9-13-94; 8:45 am]
BILLING CODE 6820-34-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife
and Plants; Notice of Public Hearing
on Proposed Experimental Population
for Reintroduction of Gray Wolves to
Yellowstone National Park and Central
Idaho

AGENCY: Fish and Wildlife Service,
Interior.

ACTION: Proposed rule; notice of public
hearings.

SUMMARY: The Fish and Wildlife Service provides notice that public hearings will be held to solicit comments on proposed nonessential experimental population rules for the reintroduction of gray wolves (*Canis lupus*) to Yellowstone National Park and central Idaho. All interested parties are invited to submit comments on this proposal.

DATES: The public hearings will be held from 3 p.m. to 9 p.m. On September 27, 1994, meetings will be held in Cheyenne, Wyoming; Boise, Idaho; and Helena, Montana; and on September 29, 1994, meetings will be held in Seattle, Washington; Salt Lake City, Utah; and Washington, D.C.

ADDRESSES: The public hearings will be held at: Best Western Hitching Post Inn, 1700 West Lincoln Way, Cheyenne, Wyoming; Jordan Ballroom, Boise State University, Boise, Idaho; Colonial Inn, 2301 Colonial Drive, Helena, Montana; Schafer Auditorium, Seattle University, Seattle, Washington; DoubleTree Inn, 215 West South Temple, Salt Lake City, Utah; and Jefferson Auditorium, South Agriculture Building, 14th and Independence, Washington, D.C. Written comments and materials should be sent to Project Leader, Gray Wolf Reintroduction, U.S. Fish and Wildlife Service, P.O. Box 8017, Helena, Montana 59601. Comments and materials received will be available for public inspection during normal business hours, by appointment, at the above address.

FOR FURTHER INFORMATION CONTACT: Ed Bangs, Project Leader, U.S. Fish and Wildlife Service, at the above address - (telephone 406/449-5202).

SUPPLEMENTARY INFORMATION:

Background

On June 15, 1994, the Secretary of the Department of the Interior signed the Record of Decision directing the U.S. Fish and Wildlife Service (Service) to implement actions to reintroduce gray wolves to Yellowstone National Park and central Idaho, according to proposed actions detailed in an Environmental Impact Statement on the reintroduction of gray wolves to Yellowstone National Park and central Idaho. Proposed nonessential experimental population rules for the Yellowstone and central Idaho areas were published at 59 FR 42108 on August 16, 1994.

In November 1994, about 15 wolves will be captured, radio collared, transported to central Idaho, and released. At the same time, wolves from

three packs will be captured and transported to three separate holding facilities in Yellowstone National Park. Those wolves will be held and then released about January 1, 1995. All wolves will receive appropriate medical care and will be monitored by locating the signal from their radio collars. This reintroduction process may be modified based upon experience, but will be repeated for 3 to 5 years. When several wolf packs are reproducing in each area, the reintroductions will stop and wolf populations will be encouraged to expand naturally to recovery levels (a minimum of 10 breeding pairs in each area for 3 consecutive years). Once wolves are reintroduced, all wolves in the experimental population areas will be managed under the experimental population rules until they are recovered and delisted, which is expected to occur by about 2002.

Public comment on those proposed rules will be accepted until October 17, 1994. Persons that wish to receive a copy of the proposed rules may do so by contacting the Gray Wolf Reintroduction Office (see ADDRESSES). In addition, verbal and/or written statements may be presented at the hearings and will receive equal consideration. Legal notices announcing the dates, time, and location of the hearings are being published in newspapers in Wyoming, Idaho, and Montana concurrently with this notice.

Those who wish to give verbal testimony may sign up at the hearings, beginning at 2:30 p.m. At 3 p.m., a short slide presentation will be given about wolf recovery in the northwestern United States and the proposed nonessential experimental population rules. The hearing will begin at 3:30 p.m. There will be a dinner break from 6 p.m. to 7 p.m. The hearings will reconvene at 7 p.m. and conclude at 9 p.m. The order of testimony will be Federal, Tribal, and State elected representatives, and members of the general public in order of signup. Verbal testimony will be limited to 5 minutes per speaker. All testimony will be recorded by a court reporter. Submission of written comments also is encouraged; however, the comment period will close on October 17, 1994.

Based upon public comment on the proposed rules and the results of continued monitoring for wolves in Montana, Wyoming, and Idaho, the Service plans to complete the final rules and begin wolf reintroduction in 1994. The Service and its cooperators plan to reintroduce and manage wolves as early as November 1994.

Those who previously requested wolf recovery information will receive a copy

of the Record of Decision and a hearing schedule. Other interested people can obtain copies of the Record of Decision or proposed nonessential experimental population rules by writing to the Gray Wolf Reintroduction Office (see ADDRESSES).

Author

The primary author of this notice is Ed Bangs (see ADDRESSES). Harold Tyus, Denver Regional Office, served as editor.

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: September 7, 1994.

Terry Terrell,

Deputy Regional Director.

[FR Doc. 94-22652 Filed 9-13-94; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register

Vol. 59, No. 177

Wednesday, September 14, 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

Soil Conservation Service

TE-17, Falgout Canal Demonstration Project

AGENCY: Soil Conservation Service.
ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Falgout Canal Demonstration Project, Terrebonne Parish, Louisiana.

FOR FURTHER INFORMATION CONTACT: Donald W. Gohmert, State Conservationist, United States Department of Agriculture, Soil Conservation Service, 3737 Government Street, Alexandria, Louisiana 71302; telephone (318) 473-7751.

SUPPLEMENTARY INFORMATION: The environmental evaluation of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Donald W. Gohmert, State Conservationist, has determined that the preparation and review of an environmental impact statement are not necessary for this project.

The project concerns the erosion protection and stabilization of a portion of the levee along the north bank of Falgout Canal. The planned works of improvement include the construction of wave dampening devices and installation of vegetative plantings on the levee berm along the canal bank. The wave dampening structures will reduce the erosive energy of marine-traffic-induced waves to allow the

establishment of planted and naturally succeeding vegetation to stabilize the levee and reduce its rate of erosion.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Donald W. Gohmert.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the *Federal Register*.

Dated: August 31, 1994.

Donald W. Gohmert,
State Conservationist.

[FR Doc. 94-22655 Filed 9-13-94; 8:45 am]

BILLING CODE 3410-16-M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

ADAAG Review Advisory Committee

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of appointment of advisory committee members.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) announces the appointment of members to an advisory committee to review the Americans with Disabilities Act Accessibility Guidelines (ADAAG) for buildings and facilities. The committee will make recommendations to the Access Board for updating ADAAG to ensure that the guidelines remain a state-of-the-art document which is generally consistent with technological developments and changes in national standards and model codes, and meets the needs of individuals with disabilities. The committee is composed of organizations representing individuals with disabilities, model code organizations, professional associations and practitioners, State and local governments, building owners and operators, and other organizations. The time and location of committee

meetings will be announced in the *Federal Register*.

FOR FURTHER INFORMATION CONTACT: Marsha Mazz, Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., suite 1000, Washington, D.C. 20004-1111. Telephone number (202) 272-5434 extension 21 (Voice); (202) 272-5449 (TTY). This document is available in alternate formats (cassette tape, braille, large print, or computer disk) upon request.

SUPPLEMENTARY INFORMATION: On April 6, 1994, the Architectural and Transportation Barriers Compliance Board (Access Board) published a notice of intent to establish an advisory committee to review the Americans with Disabilities Act Accessibility Guidelines (ADAAG) for buildings and facilities.¹ 59 FR 16175 (April 6, 1994). The committee will make recommendations to the Access Board for updating ADAAG to ensure that the guidelines remain a state-of-the-art document which is generally consistent with technological developments and changes in national standards and model codes, and meets the needs of individuals with disabilities. In the notice announcing the committee, the Access Board requested applications from interested organizations to serve as members of the committee. The Access Board received applications from 80 organizations and has appointed the following to the committee:

American Council of the Blind
The American Institute of Architects
American Society of Interior Designers
The Arc (formerly Association for Retarded Citizens of the United States)
Builders Hardware Manufacturers Association
Building Officials and Code Administrators International
Building Owners and Managers Association International
Council of American Building Officials

¹ The Access Board is responsible for developing accessibility guidelines under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) to ensure that new construction and alterations of facilities are readily accessible to and usable by individuals with disabilities. The Access Board initially issued ADAAG in 1991. 36 CFR part 1191. ADAAG serves as the basis for accessibility standards adopted by the Department of Justice and the Department of Transportation, which are responsible for issuing regulations to implement certain titles of the Americans with Disabilities Act.

Disability Rights Education and Defense Fund
 Eastern Paralyzed Veterans Association
 International Conference of Building Officials
 International Facility Management Association
 Maryland Association of the Deaf
 National Conference of States on Building Codes and Standards
 National Easter Seal Society
 National Fire Protection Association
 National Institute of Building Sciences
 Regional Disability and Business Technical Assistance Centers
 Southern Building Code Congress International
 Texas Department of Licensing and Regulation
 Virginia Building and Code Officials Association
 World Institute on Disability

The Access Board regrets being unable to accommodate all organizations who applied for membership on the committee. There were several factors which were important in the Access Board's decision not to add more members. In order to keep the committee to a size that can be effective, it is necessary to limit membership. It is also desirable to have balance among members of the committee representing different clusters of interest, such as organizations representing individuals with disabilities, model code organizations, professional associations and practitioners, and State and local governments. It is not essential that every concerned organization be represented, so long as every interest is represented by an appropriate organization. The committee membership listed above provides representation for each interest affected by the issues to be discussed.

The time and location of the committee meetings will be announced in the **Federal Register** at least fifteen days in advance of each meeting. Committee meetings will be open to the public and interested persons can attend the meetings and communicate their views. Records will be kept of each meeting and made available for public inspection.

Judith E. Heumann,
 Chairperson, Architectural and Transportation Barriers Compliance Board.
 [FR Doc. 94-22734 Filed 9-13-94; 8:45 am]
 BILLING CODE 8150-01-P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Materials Technical Advisory Committee; Notice of Meeting Cancellation

This document cancels the following meeting: **Federal Register** citation of previous announcement: p. 42805, August 19, 1994.

Previously announced time of meeting: 10:30 a.m., September 29, 1994.

Dated: September 9, 1994.

Lee Ann Carpenter,
 Director, Technical Advisory Committee Unit.
 [FR Doc. 94-22757 Filed 9-13-94; 8:45 am]
 BILLING CODE 3510-DT-M

[Order No. 703]

Foreign-Trade Zones Board; Designation of New Grantee for Foreign-Trade Zone 16, Sault Ste. Marie, MI; Resolution and Order

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), and the Foreign-Trade Zones Board Regulations (15 CFR Part 400), the Foreign-Trade Zones Board (the Board) adopts the following Order:

After consideration of the request with supporting documents (FTZ Docket 43-93, filed 8/12/93) of the State of Michigan Department of Commerce, grantee of Foreign-Trade Zone 16, Sault Ste. Marie, Michigan, for reissuance of the grant of authority for said zone to the City of Sault Ste. Marie, a Michigan public corporation, which has accepted such reissuance subject to approval of the FTZ Board, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the request and recognizes the City of Sault Ste. Marie Michigan, as the new grantee of Foreign-Trade Zone 16, Sault Ste. Marie, Michigan.

The approval is subject to the FTZ Act and the FTZ Board's regulations, including Section 400.28.

Signed at Washington, DC, this 4th day of September 1994.

Paul L. Joffe,
 Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,
 Executive Secretary.
 [FR Doc. 94-22751 Filed 9-13-94; 8:45 am]
 BILLING CODE 3510-DS-M

[Order No. 694]

Foreign-Trade Zones Board; Milwaukee, WI, Application for Expansion

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Expansion of Foreign-Trade Zone 41, Milwaukee, Wisconsin Area

Whereas, an application from the Foreign-Trade Zone of Wisconsin, Ltd., grantee of Foreign-Trade Zone No. 41 (Milwaukee, Wisconsin area), for authority to expand its general-purpose zone to include a site at the Milwaukee County Research Park, Wauwatosa (Milwaukee County), Wisconsin, within the Milwaukee Customs port of entry, was filed by the Foreign-Trade Zones (FTZ) Board on April 22, 1993 (Docket 16-93, 58 FR 26959, 5/6/93);

Whereas, notice inviting public comment was given in the **Federal Register** and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board has found that the requirements of the Act and the regulations are satisfied, and that approval is in the public interest;

Now, Therefore, the Board hereby orders:

The grantee is authorized to expand its zone as requested in the application, subject to the Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this 4th day of September 1994.

Paul L. Joffe,
 Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,
 Executive Secretary.
 [FR Doc. 94-22750 Filed 9-13-94; 8:45 am]
 BILLING CODE 3510-DS-P

International Trade Administration

North American Free-Trade Agreement, Article 1904 Binational Panel Reviews; Request for Panel Review

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of first request for panel review.

SUMMARY: On September 1, 1994, U.S. Steel, a Division of USX Corp., Inland

Steel Company; I/N Kote; Bethlehem Steel Export Corporation; and LTV Steel Company filed a First Request for Panel Review with the Canadian Section of the NAFTA Secretariat pursuant to Article 1904 of the North American Free Trade Agreement. Panel review was requested of the final affirmative injury determination made by the Canadian International Trade Tribunal respecting Certain Corrosion-Resistant Steel Sheet Products from The United States of America. This determination was published in the Canada Gazette on August 6, 1994. The NAFTA Secretariat has assigned Case Number CDA-94-1904-04 to this request.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, D.C. 20230, (202) 482-5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement ("Agreement") establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* ("Rules"). These Rules were published in the *Federal Register* on February 23, 1994 (59 FR 8686).

A first Request for Panel Review was filed with the Canadian Section of the NAFTA Secretariat, pursuant to Article 1904 of the Agreement, on September 1, 1994, requesting panel review of the final injury determination described above.

The Rules provide that:

(a) A Party or interested person may challenge the final determination in whole or in part by filing a Complaint in accordance with Rule 39 within 30 days after the filing of the first Request for Panel Review (the deadline for filing a Complaint is October 3, 1994);

(b) A Party, investigating authority or interested person that does not file a Complaint but that intends to appear in support of any reviewable portion of the

final determination may participate in the panel review by filing a Notice of Appearance in accordance with Rule 40 within 45 days after the filing of the first Request for Panel Review (the deadline for filing a Notice of Appearance is October 17, 1994); and

(c) The panel review shall be limited to the allegations of error of fact or law, including the jurisdiction of the investigating authority, that are set out in the Complaints filed in the panel review and the procedural and substantive defenses raised in the panel review.

Dated: September 9, 1994.

James R. Holbein,

United States Secretary, NAFTA Secretariat.

[FR Doc. 94-22754 Filed 9-13-94; 8:45 am]

BILLING CODE 3510-GT-M

North American Free-Trade Agreement, Article 1904 Binational Panel Reviews; Request for Panel Review

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of first request for panel review.

SUMMARY: On September 1, 1994 Bethlehem Steel Corporation, filed a First Request for Panel Review with the Mexican Section of the NAFTA Secretariat pursuant to Article 1904 of the North American Free Trade Agreement. A Request for Panel Review was also filed by USX Corporation. Panel review was requested of the final antidumping duty determination made by the Secretaria de Comercio y Fomento Industrial with respect to Imports of Cut-Length Plate, Covered by Customs Tariff Classifications 7208.32.01, 7208.33.01, 7208.42.01 and 7208.43.01 of the Tariff Schedule of the General Tax Import Law, Originating in and Entering from the United States of America. This determination was published in the *Diario Oficial* on Tuesday, August 2, 1994. The NAFTA Secretariat has assigned Case Number MEX-94-1904-02 to this request.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, D.C. 20230, (202) 482-5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement ("Agreement") establishes a mechanism to replace domestic judicial review of final determinations in

antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* ("Rules"). These Rules were published in the *Federal Register* on February 23, 1994 (59 FR 8686).

A first Request for Panel Review was filed with the Mexican Section of the NAFTA Secretariat, pursuant to Article 1904 of the Agreement, on September 1, 1994, requesting panel review of the final antidumping determination described above.

The Rules provide that:

(a) A Party or interested person may challenge the final determination in whole or in part by filing a Complaint in accordance with Rule 39 within 30 days after the filing of the first Request for Panel Review (the deadline for filing a Complaint is October 3, 1994);

(b) A Party, investigating authority or interested person that does not file a Complaint but that intends to appear in support of any reviewable portion of the final determination may participate in the panel review by filing a Notice of Appearance in accordance with Rule 40 within 45 days after the filing of the first Request for Panel Review (the deadline for filing a Notice of Appearance is October 17, 1994); and

(c) The panel review shall be limited to the allegations of error of fact or law, including the jurisdiction of the investigating authority, that are set out in the Complaints filed in the panel review and the procedural and substantive defenses raised in the panel review.

Dated: September 9, 1994.

James R. Holbein,

United States Secretary, NAFTA Secretariat.

[FR Doc. 94-22753 Filed 9-13-94; 8:45 am]

BILLING CODE 3510-GT-M

North American Free-Trade Agreement, Article 1904 Binational Panel Reviews; Request for Panel Review

AGENCY: NAFTA Secretariat, United States Section, International Trade

Administration, Department of Commerce.

ACTION: Notice of first request for panel review.

SUMMARY: On September 1, 1994 USX Corporation, filed a First Request for Panel Review with the Mexican Section of the NAFTA Secretariat pursuant to Article 1904 of the North American Free Trade Agreement. A Request for Panel Review was also filed by Inland Steel Company. Panel review was requested of the final antidumping duty determination made by the Secretaria de Comercio y Fomento Industrial with respect to Imports of Flat Coated Steel Products, Covered by Customs Tariff Classifications 7210.31.01, 7210.31.99, 7210.39.01, 7210.39.99, 7210.41.01, 7210.41.99, 7210.49.01, 7210.49.99, 7210.70.01 and 7210.70.99 of the Tariff Schedule of the General Tax Import Law, Originating in and Coming from the United States of America. This determination was published in the *Diario Oficial* on Tuesday August 2, 1994. The NAFTA Secretariat has assigned Case Number MEX-94-1904-01 to this request.

FOR FURTHER INFORMATION CONTACT:

James R. Holbein, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, D.C. 20230, (202) 482-5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement ("Agreement") establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* ("Rules"). These Rules were published in the *Federal Register* on February 23, 1994 (59 FR 8686).

A first Request for Panel Review was filed with the Mexican Section of the NAFTA Secretariat, pursuant to Article 1904 of the Agreement, on September 1, 1994, requesting panel review of the final antidumping determination described above.

The Rules provide that:

(a) A Party or interested person may challenge the final determination in whole or in part by filing a Complaint in accordance with Rule 39 within 30 days after the filing of the first Request for Panel Review (the deadline for filing a Complaint is October 3, 1994);

(b) A Party, investigating authority or interested person that does not file a Complaint but that intends to appear in support of any reviewable portion of the final determination may participate in the panel review by filing a Notice of Appearance in accordance with Rule 40 within 45 days after the filing of the first Request for Panel Review (the deadline for filing a Notice of Appearance is October 17, 1994); and

(c) The panel review shall be limited to the allegations of error of fact or law, including the jurisdiction of the investigating authority, that are set out in the Complaints filed in the panel review and the procedural and substantive defenses raised in the panel review.

Dated: September 9, 1994.

James R. Holbein,

United States Secretary, NAFTA Secretariat.

[FR Doc. 94-22752 Filed 9-13-94; 8:45 am]

BILLING CODE 3510-GT-M

[Docket No. 940529-4250]

Special American Business Internship Training Program (SABIT)

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

This Notice supplements the Federal Register Notice Docket No. 940529-4129 (59 FR 25889, May 18, 1994) announcing the availability of funds for the Special American Business Internship Training Program (SABIT), for training business executives and scientists (also referred to as "interns") from the Newly Independent States (NIS) of the former Soviet Union. All information in the previous announcement remains current, except for the changes explained herein. This Notice extends the closing date of the referenced Federal Register Notice for three months to 5 p.m. December 15, 1994 and announces the availability of additional funds. The maximum amount of financial assistance available for the program is \$3,675,000. This amount includes the \$2,400,000 which was previously announced. All awards are expected to be made prior to January 1, 1996. The referenced announcement placed a cap of \$7,500 per intern for airfare and stipend. This notice

establishes the right of ITA to allow an award to exceed this amount in cases of unusually high costs, such as airfare from remote regions of the NIS.

For further information refer to the Notice published in the *Federal Register* on May 18, 1994 (59 FR 25889) or contact: Liesel Duhon, Acting Director, Special American Business Internship Training Program, International Trade Administration, U.S. Department of Commerce, phone (202) 482-0073, facsimile (202) 482-2443. These are not toll free numbers.

Liesel Duhon,

Acting Director, Special American Business Internship Training Program.

[FR Doc. 94-22670 Filed 9-13-94; 8:45 am]

BILLING CODE 3510-HE-M

Minority Business Development Agency

Business Development Center Applications: Brownsville, TX

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: In accordance with Executive Order 11625 and 15 U.S.C. 1512, the Minority Business Development Agency (MBDA) is soliciting competitive applications for its Brownsville, Texas Minority Business Development Center (MBDC).

The purpose of the MBDC Program is to provide business development services to the minority business community to help establish and maintain viable minority businesses. To this end, MBDC funds organizations to identify and coordinate public and private sector resources on behalf of minority individuals and firms; to offer a full range of client services to minority entrepreneurs; and to serve as a conduit of information and assistance regarding minority business. The MBDC will provide service in the Brownsville, Texas Metropolitan Area. The award number of the MBDC will be 06-10-95002-01.

DATES: The closing date for applications is October 17, 1994. Applications must be post-marked on or before October 17, 1994. A pre-application conference will be held on October 3, 1994, at 10:00 a.m., at the Dallas Regional Office, 1100 Commerce Street, Room 7B23, Dallas, Texas 75242.

ADDRESSES: U.S. Department of Commerce, Minority Business Development Agency, Dallas Regional Office, 1100 Commerce Street, Room 7B23, Dallas, Texas 75242.

FOR FURTHER INFORMATION CONTACT:
Demetrice Jenkins at (214) 767-8001.

SUPPLEMENTARY INFORMATION:

Contingent upon the availability of Federal funds, the cost of performance for the first budget period (12 months) from April 1, 1995 to March 31, 1996, is estimated at \$198,971. The total Federal amount is \$169,125 and is composed of \$165,000 plus the Audit Fee amount of \$4,125. The application must include a minimum cost share 15% \$29,846 in non-federal (cost-sharing) contributions for a total project cost of \$198,971. Cost-sharing contributions may be in the form of cash, client fees, third party in-kind contributions, non-cash applicant contributions or combinations thereof.

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.

Applications will be evaluated on the following criteria: the knowledge, background and/or 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 (45 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 (25 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 each 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.

The MBDC shall be required to contribute at least 15% of the total project cost through non-Federal contributions. To assist in this effort, the MBDC may charge client fees for services rendered. Fees may range from

\$10 to \$60 per hour based on the gross receipts of the client's business.

Anticipated processing time of this award is 120 days. Executive order 12372, "Intergovernmental Review of Federal Programs," is not applicable to this program. Federal funds for this project include audit funds for non-CPA recipients. In event that a CPA firm wins the competition, the funds allocated for audits are not applicable. 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. 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.

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.

Pre-Award Costs

Applicants are hereby notified 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 assurance that an applicant may have received, there is no obligation on the part of the Department of Commerce to cover pre-award costs.

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 Officer 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, "Certifications 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 of the certification form prescribed above applies.

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 prescribed above applies to applications/bids for grants, cooperative agreements, and contracts 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.

Buy American-Made Equipment or Products

Applicants are hereby notified that they are encouraged, to the extent feasible, to purchase American-made equipment and products with funding provided under this program in accordance with Congressional intent as set forth in the resolution contained in Public Law 103-121, Section 606 (a) and (b).

(Catalog of Federal Domestic Assistance)
11.800 Minority Business Development Center.

Dated: September 8, 1994.

Donald L. Powers,

Federal Register Liaison Office, Minority Business Development Agency.

[FR Doc. 94-22674 Filed 9-13-94; 8:45 am]

BILLING CODE 3510-21-M

National Institute of Standards and Technology

[Docket No. 940842-4242]

RIN 0693-AB24/GOSIP and 0693-AB35/GNMP

Proposed Changes to Federal Information Processing Standard (FIPS) 146-1, Version 2 of the Government Open Systems Interconnection Profile (GOSIP) and Federal Information Processing Standard 179, Government Network Management Profile (GNMP)

AGENCY: National Institute of Standards and Technology (NIST), Commerce.
ACTION: Request for comments.

SUMMARY: In May 1994, the Federal Internetworking Requirements Panel, which was established by NIST to study issues and recommend actions which the Federal Government can take to address the short- and long-term issues of interworking and convergence of networking protocols, issued its final report. The Panel concluded that no

single networking protocol suite meets the full range of government requirements for data internetworking. The Panel recommended that Federal government agencies select protocols for internetworking based on technical and marketplace factors, as well as a protocol's status as a standard.

Based on the recommendations of the Panel, NIST is proposing changes to Federal Information Processing Standard (FIPS) 146-1, Version 2 of the Government Open Systems Interconnection Profile (GOSIP), and to FIPS 179, Government Network Management Profile (GNMP). The changes to FIPS 146-1, GOSIP, rename the FIPS as Profiles for Open Systems Internetworking Technologies and modify the standard by removing the requirement that Federal agencies specify the Government Open Systems Interconnection Profile (GOSIP) protocols when agencies acquire networking products and services and communications systems and services. The revision, which will be issued as FIPS 146-2, provides references to additional specifications that agencies may use in the acquisition of open systems.

NIST also proposes that FIPS 179, Government Network Management Profile (GNMP), which builds on FIPS 146-1, and provides network management functions and services for GOSIP end systems and intermediate systems, be changed to remove the requirement for mandatory use.

Prior to the submission of these proposed changes to the Secretary of Commerce for review and approval, it is essential to assure that consideration is given to the needs and views of manufacturers, the public, and State and local governments. The purpose of this notice is to solicit such views.

Federal Information Processing Standards (FIPS) contain two sections: (1) An announcement section, which provides information concerning the applicability, implementation, and maintenance of the standards; and (2) A specifications section, which contains the detailed description of the standards.

The announcement sections of FIPS 146-1 and 179 are the only portions of the standards that are modified by these proposed changes. The specifications sections of FIPS 146-1 and 179, which reference OSI protocols, will not be changed by these revisions. Only the announcement sections of the standards are provided in this notice. Interested parties may obtain copies of FIPS 146-1 and 179 from the National Technical Information Service, U.S. Department of

Commerce, Springfield, VA 22161, telephone (703) 487-4650.

DATES: Comments on these proposed changes to FIPS 146-1 and 179 must be received on or before October 27, 1994.

ADDRESSES: Written comments concerning these changes should be sent to: Director, Computer Systems Laboratory, ATTN: Proposed Changes to FIPS 146-1 and 179, Technology Building, Room B154, National Institute of Standards and Technology, Gaithersburg, MD 20899.

Written comments received in response to this notice will be made part of the public record and will be made available for inspection and copying in the Central Reference and Records Inspection Facility, Room 6020, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC 20230.
FOR FURTHER INFORMATION CONTACT: Mr. Gerard F. Mulvenna, National Institute of Standards and Technology, Gaithersburg, MD 20899, (301) 975-3631.

Dated: September 8, 1994.

Samuel Kramer,
Associate Director.

Proposed Federal Information Processing Standards Publication 146-2 (date)

Announcing the Standard For Profiles For Open Systems Internetworking Technologies

Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Institute of Standards and Technology after approval by the Secretary of Commerce pursuant to Section 111(d) of the Federal Property and Administrative Services Act of 1949 as amended by the Computer Security Act of 1987, Public Law 100-235.

1. Name of Standard. Profiles for Open Systems Internetworking Technologies (FIPS PUB 146-2).

2. Category of Standard. Hardware and Software Standards, Computer Network Protocols.

3. Explanation. FIPS 146-1 adopted the Government Open Systems Interconnection Profile (GOSIP) which defines a common set of Open Systems Interconnection (OSI) protocols that enable systems developed by different vendors to interoperate and the users of different applications on those systems to exchange information. This change modifies FIPS 146-1 by removing the requirement that Federal agencies specify GOSIP protocols when they acquire networking products and services and communications systems and services. This change references additional specifications that Federal agencies may use in acquiring data communications protocols for open systems.

4. Approving Authority. Secretary of Commerce.

5. Maintenance Agency. U.S. Department of Commerce, National Institute of Standards

and Technology (NIST), Computer Systems Laboratory (CSL).

6. Related Documents.

a. NIST Special Publication 500-217, Industry Government Open Systems Specification (IGOSS).

b. Internet RFC 1610, Internet Official Protocol Standards.

c. NIST Special Publication 500-214, Stable Implementation Agreements for Open Systems Interconnection Protocols.

d. NISTIR _____, IGOS Conformance and Interoperation Testing and Registration.

7. Objectives. The primary objectives of this standard are:

- To achieve interconnection and interoperability of computers and systems that are acquired from different manufacturers in an open systems environment;

- To reduce the costs of computer network systems by increasing alternative sources of supply;

- To facilitate the use of advanced technology by the Federal Government;

- To provide guidance for the acquisition and use of networking products implementing open, voluntary standards such as those developed by the Internet Engineering Task Force (IETF), the International Telecommunications Union (ITU; formerly the Consultative Committee on International Telegraph and Telephone [CCITT]), and the International Organization for Standardization (ISO).

8. Specifications. GOSIP specification in FIPS 146-1, Version 2. (In a future revision of Profiles for Open Systems Interconnecting Technologies, NIST plans to offer additional guidance on the acquisition and use of the Internet and OSI protocol suites.)

9. Applicability. Federal agencies are strongly encouraged to acquire and use, whenever possible, networking products and services and communications systems and services based on open voluntary standards.

10. Implementation. The Industry Government Open Systems Specification (IGOSS) issued as NIST Special Publication 500-217 updates the OSI protocols in FIPS 146-1 and may be used by Federal Government agencies when they wish to acquire computer networking products and services and communications systems or services that are based on OSI standards.

In addition, other specifications based on open, voluntary standards such as those issued by the Internet Engineering Task Force (IETF), the International Telecommunications Union (ITU; formerly the Consultative Committee on International Telegraph and Telephone [CCITT]), and the International Organization for Standardization (ISO) may be used.

The National Institute of Standards and Technology has described a testing program in *IGOSS Conference and Interoperation Testing and Registration*, (NISTIR ____). Such testing is voluntary and limited to the protocols that claim conformance to the IGOS specifications.

11. Special Information. The National Institute of Standards and Technology plans to work with other government agencies and with industry to develop additional profiles based on open, voluntary standards and to

publish these profiles in independent documents.

Future versions of this standard will reference these additional profiles and will contain information related to recommended use of such additional profiles.

12. Where to Obtain Copies. Copies of this publication are for sale by the National Technical Information Service (NTIS), U.S. Department of Commerce, Springfield, VA 22161. When ordering, refer to Federal Information Processing Standards Publication 146-2 (FIPSPUB146-2, and title. Specify microfiche if desired. Payment may be made by check, money order, or NTIS deposit account.

Proposed Federal Information Processing Standards Publication 179-1

(date)

Announcing the Standard for Government Network Management Profile (GNMP)

Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Institute of Standards and Technology after approval by the Secretary of Commerce pursuant to Section 111(d) of the Federal Property and Administrative Services Act of 1949 as amended by the Computer Security Act of 1987, Public Law 100-235.

1. Name of Standard. Government Network Management Profile (GNMP) (FIPS PUB 179-1).

2. Category of Standard. Hardware and Software Standards, Computer Network Protocols.

3. Explanation. This Federal Information Processing Standard adopts the Version 1.0 GNMP. The Government Network Management Profile (GNMP) specifies the common management information exchange protocol and services, specific management functions and services, and the syntax and semantics of the management information required to support monitoring and control of the network and system components and their resources.

The primary source of specifications in the Version 1.0 GNMP is part 18 of the OIW Stable Implementation Agreements, June 1992, developed by the Open Systems Environment Implementors Workshop (OIW) sponsored by NIST and IEEE Computer Society. This source provides implementation specifications for network management based on the service and protocol standards issued by the International Organization for Standardization (ISO).

Additional profiles will be developed implementing open, voluntary standards developed by the Internet Engineering Task Force (IETF), the International Telecommunications Union (ITU; formerly the Consultative Committee on International Telegraph and Telephone [CCITT]), and the International Organization for Standardization (ISO).

4. Approving Authority. Secretary of Commerce.

5. Maintenance Agency. U.S. Department of Commerce, National Institute of Standards and Technology (NIST), Computer Systems Laboratory (CSL).

6. Cross Index.

a. NBS Special Publication 500-202, Stable Implementation Agreements for Open Systems Interconnection Protocols, Version 5, Edition 1, NIST Workshop for Implementors of Open Systems Environment, June 1992.

b. FIPS PUB 146-2, Profiles for Open Systems Interconnecting Technologies.

7. Related Documents. Related documents are listed in the Reference Section of the GNMP document.

8. Objectives. The primary objectives of this standard are:

- To achieve interconnection and interoperability of computers and systems that are acquired from different manufacturers in an open systems environment;

- To reduce the costs of computer network systems by increasing alternative sources of supply;

- To facilitate the use of advanced technology by the Federal Government;

- To provide guidance for the acquisition and use of networking products implementing open, voluntary standards such as those developed by the Internet Engineering Task Force (IETF), the International Telecommunications Union (ITU; formerly the Consultative Committee on International Telegraph and Telephone [CCITT]), and the International Organization for Standardization (ISO).

9. Specifications. GNMP specification in FIPS 179.

10. Applicability. Federal agencies are strongly encouraged to acquire and use, whenever possible, networking products and services and communications systems and services based on open voluntary standards.

11. Implementation. This specification may be used by Federal Government agencies when they wish to acquire computer networking products and services and communications systems or services that are based on OSI standards.

In addition, other specifications based on open, voluntary standards such as those issued by the Internet Engineering Task Force (IETF), the International Telecommunications Union (ITU; formerly the Consultative Committee on International Telegraph and Telephone [CCITT]), and the International Organization for Standardization (ISO) may be used. One example, use of open standards is the OMNI Point specification for integrated management of networked information systems.

12. Special Information. The National Institute of Standards and Technology plans to work with other government agencies and with industry to develop additional profiles based on open, voluntary standards and to publish these profiles in independent documents.

Future versions of this standard will reference these additional profiles and will contain information related to recommended use of such additional profiles.

13. Where to Obtain Copies. Copies of this publication are for sale by the National Technical Information Service (NTIS), U.S. Department of Commerce, Springfield, VA 22161. When ordering, refer to Federal Information Processing Standards Publication 179-1 (FIPSPUB179-1), and title.

Specify microfiche if desired. Payment may be made by check, money order, or NTIS deposit account.

[FR Doc. 94-22685 Filed 9-13-94; 8:45 am]
BILLING CODE 3510-CN-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Kuwait

September 8, 1994.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing limits.

EFFECTIVE DATE: September 8, 1994.

FOR FURTHER INFORMATION CONTACT: Jennifer Tallarico, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927-5850. For information on embargoes and quota re-openings, call (202) 482-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being increased for carryforward.

Charges now being applied to the 1994 limit for Kuwait categories 340/640 for the period prior to the effective date of the import control directive will make the limit heavily filled. Although the limit is now being increased for carryforward, Customs charges through September 8, 1994 plus additional missing charges will make the limit approximately 92% filled.

A description of the textile and apparel categories in terms of HTS numbers is available in the **CORRELATION:** Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 58 FR 62645, published on November 29, 1993). Also see 58 FR 65161, published on December 13, 1993.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Memorandum of

Understanding dated May 10, 1994, but are designed to assist only in the implementation of certain of its provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 8, 1994.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on May 24, 1994, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and man-made fiber textile products, produced or manufactured in Kuwait and exported during the twelve-month period which began on January 1, 1994 and extends through December 31, 1994.

Effective on September 8, 1994 you are directed to amend further the directive dated May 24, 1994 to increase the limits for the following categories, as provided under the terms of the Memorandum of Understanding dated May 10, 1994 between the Governments of the United States and the State of Kuwait:

| Category | Adjusted twelve-month limit ¹ |
|---------------|--|
| 340/640 | 212,000 dozen. |

¹ The limits have not been adjusted to account for any imports exported after December 31, 1993.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 94-22675 Filed 9-13-94; 8:45 am]

BILLING CODE 3510-DR-F

Announcement of Import Restraint Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Kenya

September 9, 1994.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: September 16, 1994.

FOR FURTHER INFORMATION CONTACT: Helen L. LeGrande, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce,

(202) 482-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927-5850. For information on embargoes and quota re-openings, call (202) 482-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Governments of the United States and the Republic of Kenya agreed to establish limits for Categories 340/640 and 360 for two consecutive one-year periods, beginning on January 1, 1994 and extending through December 31, 1995, pursuant to a Memorandum of Understanding Ad Referendum signed on July 15, 1994, as confirmed by the Government of the Republic of Kenya on August 8, 1994.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish limits for the period which began on January 1, 1994 and extends through December 31, 1994.

A description of the textile and apparel categories in terms of HTS numbers is available in the **CORRELATION:** Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 58 FR 62645, published on November 29, 1993). Also see 59 FR 25893, published on May 18, 1994.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the MOU, but are designed to assist only in the implementation of certain of its provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 9, 1994.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Effective on September 16, 1994, you are directed to cancel the directive dated May 12, 1994, which directed you to count imports for consumption and withdrawals from warehouse for consumption of cotton and man-made fiber textile products in Categories 340/640 and 360, produced or manufactured in Kenya and exported during the period April 29, 1994 through April 29, 1995. The import charges for this period shall be retained.

Under the terms of section 204 of the Agricultural Act of 1956, as amended (7

U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on December 9, 1993; pursuant to the Memorandum of Understanding dated July 15, 1994, as confirmed on August 8, 1994, between the Governments of the United States and the Republic of Kenya; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on September 16, 1994, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in the following categories, produced or manufactured in Kenya and exported during the twelve-month period beginning on January 1, 1994 and extending through December 31, 1994, in excess of the following levels of restraint:

| Category | Twelve-month restraint limit |
|---------------|------------------------------|
| 340/640 | 360,000 dozen. |
| 360 | 2,600,000 numbers. |

¹ The limits have not been adjusted to account for any imports exported after December 31, 1993.

For the import period January 1, 1994 through May 18, 1994, you are directed to charge the following amounts to the categories listed below:

| Category | Amount to charge |
|-----------|--------------------|
| 340 | 94,733 dozen. |
| 360 | 1,172,736 numbers. |
| 640 | 40 dozen. |

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 94-22755 Filed 9-13-94; 8:45 am]

BILLING CODE 3510-DR-F

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Turkey

September 9, 1994.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: September 9, 1994.

FOR FURTHER INFORMATION CONTACT: Anne Novak, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927-6718. For information on embargoes and quota re-openings, call (202) 482-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being adjusted, variously, by application of swing and carryover.

A description of the textile and apparel categories in terms of HTS numbers is available in the **CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States** (see **Federal Register** notice 58 FR 62645, published on November 29, 1993). Also see 59 FR 5394, published on February 4, 1994.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 9, 1994.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on January 31, 1994, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Turkey and exported during the twelve-month period beginning on January 1, 1994 and extending through December 31, 1994.

Effective on September 9, 1994, you are directed to amend further the directive dated January 31, 1994 to adjust the limits for the following categories, as provided under the terms of the current bilateral agreement

between the Governments of the United States and the Republic of Turkey:

| Category | Adjusted twelve-month limit ¹ |
|---|---|
| 219, 313, 314, 315, 317, 326, 617, 625, 626, 627 and 628, as a group. | 125,835,073 square meters of which not more than 30,211,029 square meters shall be in 219; 36,924,591 square meters shall be in 313; 21,483,398 square meters shall be in 314; 28,868,318 square meters shall be in 315; 30,211,029 square meters shall be in 317; 3,356,780 square meters shall be in 326; 20,140,687 square meters shall be in 617; 3,879,518 square meters shall be in 625; 3,356,780 square meters shall be in 626; 3,356,780 square meters shall be in 627; 3,356,780 square meters shall be in 628. |
| Limits not in a group 338/339/638/639 | 4,637,817 dozen of which not more than 2,151,792 dozen shall be in Categories 338-S/339-S/638-S/639-S ² . |
| 350 | 449,415 dozen. |
| 361 | 1,581,074 numbers. |

¹ The limits have not been adjusted to account for any imports exported after December 31, 1993.

² Category 338-S: only HTS numbers 6103.22.0050, 6105.10.0010, 6105.10.0030, 6105.90.3010, 6109.10.0027, 6110.20.1025, 6110.20.2040, 6110.20.2065, 6110.90.0068, 6112.11.0030 and 6114.20.0005; Category 339-S: only HTS numbers 6104.22.0060, 6104.29.2049, 6106.10.0010, 6106.10.0030, 6106.90.2010, 6106.90.3010, 6109.10.0070, 6110.20.1030, 6110.20.2045, 6110.20.2075, 6110.90.0070, 6112.11.0040, 6114.20.0010 and 6117.90.0022; Category 638-S: all HTS numbers except 6109.90.1007, 6109.90.1009, 6109.90.1013 and 6109.90.1025; Category 639-S: all HTS numbers except 6109.90.1050, 6109.90.1060, 6109.90.1065 and 6109.90.1070.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 94-22756 Filed 9-13-94; 8:45 am]

BILLING CODE 3510-DR-F

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the DOD Advisory Group on Electron Devices

AGENCY: Department of Defense, Advisory Group on Electron Devices.

ACTION: Notice.

SUMMARY: Working Group C (Mainly Opto-Electronics) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 0900, Wednesday, September 21, 1994.

ADDRESSES: The meeting will be held at Palisades Institute for Research Services, Inc., 1745 Jefferson Davis Highway, Crystal Square Four, Suite 500, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT:

Gerald Weiss, AGED Secretariat, 1745 Jefferson Davis Highway, Crystal Square Four, Suite 500, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide advice to the Under Secretary of Defense for Acquisition and Technology, to the Director of Defense Research and Engineering (DDR&E), and through the DDR&E to the Director, Advanced Research Projects Agency and the Military Departments in planning and managing an effective and economical research and development program in the area of electron devices.

The Working Group C meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. This opto-electronic device area includes such programs as imaging device, infrared detectors and lasers. The review will include details of classified defense programs throughout.

In accordance with Section 10(d) of Pub. L. No. 92-463, as amended, (5 U.S.C. APP. II § 10(d) (1988)), it has been determined that this Advisory Group 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: September 8, 1994.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 94-22728 Filed 9-13-94; 8:45 am]

BILLING CODE 5000-04-M

Meeting of the DOD Advisory Group on Electron Devices

AGENCY: Department of Defense, Advisory Group on Electron Devices.

ACTION: Notice.

SUMMARY: The DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 0900, Tuesday, 20 September 1994.

ADDRESSES: The meeting will be held at Palisades Institute for Research Services, Inc., 1745 Jefferson Davis Highway, Crystal Square Four, Suite 500, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT:

Becky Terry, AGED Secretariat, 1745 Jefferson Davis Highway, Crystal Square Four, Suite 500, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide advice to the Under Secretary of Defense for Acquisition and Technology, to the Director of Defense Research and Engineering (DDR&E), and through the DDR&E to the Director, Advanced Research Projects Agency and the Military Departments in planning and managing an effective and economical research and development program in the area of electron devices.

The AGED meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The agenda for this meeting will include programs on Radiation Hardened Devices, Microwave Tubes, Displays and Lasers. The review will include details of classified defense programs throughout.

In accordance with Section 10(d) of Pub. L. No. 92-463, as amended, (5 U.S.C. App. II § 10(d) (1988)), it has been determined that this Advisory Group 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: September 8, 1994.

L.M. Bynum,

Alternate, OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 94-22727 Filed 9-13-94; 8:45 am]

BILLING CODE 5000-04-M

Defense Science Board Task Force on Global Positioning System (GPS)

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on Global Positioning

System (GPS) will meet in closed session on October 4-6, 1994 at the ANSER Corporation, 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 review and recommend options available to improve GPS jam resistance with particular emphasis on GPS tactical weapon applications. The main focus of the Task Force shall be the investigation of techniques for improving the resistance of GPS embedded receivers in tactical missiles and precision munitions and their delivery platforms.

In accordance with section 10(d) of the Federal Advisory Committee Act, P.L. No. 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: September 7, 1994.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense

[FR Doc. 94-22730 Filed 9-13-94; 8:45 am]

BILLING CODE 5000-04-M

Defense Science Board Task Force on Depot Maintenance Operations and Management

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on Depot Maintenance Operations and Management will meet in closed session on September 28, 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 provide advice, recommendations and suggested implementations for improvements to the Department's depot maintenance operations.

In accordance with Section 10(d) of the Federal Advisory Committee Act, P.L. No. 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: September 7, 1994.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Renewal of the Defense Intelligence Agency Scientific Advisory Board

ACTION: Notice.

SUMMARY: The Defense Intelligence Agency Scientific Advisory Board (DIASAB) was renewed, effective September 7, 1994, in consonance with the public interest and in accordance with the provisions of Public Law 92-463, the "Federal Advisory Committee Act."

The DIASAB provides advice and scientific/technical expertise to the Secretary of Defense and the Director, Defense Intelligence Agency on current and long-term operational and intelligence matters covering the total range of the mission of the Defense Intelligence Agency. The Board provides a link between the scientific/technical and military operations communities of the United States and the Defense Intelligence Agency. In performing its functions, the DIASAB will address issues involving intelligence support to combat units, joint intelligence doctrine, net assessments, arms control, and the integration of intelligence with operational planning.

The DIASAB will be composed of approximately 25-30 members, to include both government and non-government scientists and technical experts, who are prominent in intelligence analysis, architectures, systems, and global interrelationships. Efforts will be made to ensure a balanced membership, considering the functions to be performed and the interest groups represented.

For further information regarding the DIASAB, contact Dr. Bill Williamson, telephone: 202-373-4930.

Dated: September 7, 1994.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 94-22726 Filed 9-13-94; 8:45 am]

BILLING CODE 5000-04-M

Department of the Navy

Board of Visitors to the United States Naval Academy; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5

U.S.C. App. 2), notice is hereby given that the Board of Visitors to the United States Naval Academy will meet on September 26, 1994, Alumni Hall, at 8:30 a.m. The session will be open to the public.

The purpose of the meeting is to make such inquiry as the Board shall deem necessary into the state of morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, and academic methods of the Naval Academy.

For further information concerning this meeting contact: LCDR, Timothy A. Batzler, U.S. Navy, Executive Secretary to the Board of Visitors, Office of the Superintendent, United States Naval Academy, Annapolis, MD 21402-5000, Telephone: (410) 293-1503.

Dated: September 9, 1994

L. R. McNees

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 94-22818 Filed 9-13-94; 8:45 am]

BILLING CODE 3810-AE-F

Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), notice is hereby given that the Naval Research Advisory Committee will meet on September 28, 1994. The meeting will be held at the Naval Research Laboratory and the Pentagon, Washington, DC. The meeting will commence at 8:30 a.m. and terminate at 4:30 p.m., on September 28, 1994. All sessions of the meeting will be closed to the public.

The purpose of the meeting is to provide briefings for the Committee related to the capabilities of the Department of the Navy's center for excellence for basic research. The agenda will consist of briefings, discussions and demonstrations related to tactical electronic warfare, optical sciences, space technology, computational physics, and fluid dynamics, chemistry, and acoustics. These briefings, discussions, and demonstrations will contain classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and, are in fact, properly classified pursuant to such Executive order. The classified and nonclassified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting.

Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions

of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting contact: Ms. Diane Mason-Muir, Office of Naval Research, 800 North Quincy Street, Arlington, VA 22217-5660, Telephone Number: (703) 696-6769.

Dated: September 9, 1994

L. R. McNees

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 94-22819 Filed 9-13-94; 8:45 am]

BILLING CODE 3810-AE-F

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Acting Director, Information Resources Management Service, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before October 14, 1994.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok: Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 400 Maryland Avenue, SW., Room 5624, Regional Office Building 3, Washington, DC 20202-4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708-9915.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public

consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Director of the Information Resources Management Service, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: September 9, 1994.

Kent H. Hannaman,

Acting Director, Information Resources Management Service.

Office of the Under Secretary

Type of Review: NEW

Title: National Evaluation of Effective Workplace Literacy Programs

Frequency: Semi-annually

Affected Public: Individuals or households; non-profit institutions

Reporting Burden:

Responses: 4,320

Burden Hours: 3,045

Recordkeeping Burden:

Recordkeepers: 0

Burden Hours: 0

Abstract: The National Evaluation of Effective Workplace Literacy Programs includes a data collection effort through the National Workplace Literacy Information System. Data will be collected from Workplace Literacy projects that receive National Workplace Literacy Program grants in FY 94, as well as the workers served by those projects.

Office of the Under Secretary

Type of Review: REVISION

Title: Evaluation of the Tech-Prep Education

Frequency: Annually

Affected Public: Non-profit institutions

Reporting Burden:

Responses: 1,651

Burden Hours: 6,451

Recordkeeping Burden:

Recordkeepers: 0

Burden Hours: 0

Abstract: This proposed evaluation will be used to describe and to identify effective practices of Tech-Prep

programs funded under the Perkins Act. The Department will use the information to report to Congress.

Office of Postsecondary Education

Type of Review: NEW

Title: Collection Request to Inform Postsecondary Institutions How to Report Ownership or Control By, Contracts With, or Gifts From Foreign Sources

Frequency: Annually

Affected Public: Individuals or households; businesses or other for-profit; non-profit institutions

Reporting Burden:

Responses: 80

Burden Hours: 40

Recordkeeping Burden:

Recordkeepers: 0

Burden Hours: 0

Abstract: Institutions participating in HEA programs must report to the Secretary of Education receipt of gifts and contracts that are over \$250,000 in value. If an institution fails to comply with the requirements of Section 1209, 20 U.S.C. 1145d of the HEA, as amended by the Higher Education Amendments of 1992 (Public Law 102-325). In a timely manner, the Secretary is authorized to undertake a civil action in Federal District Court to ensure costs of obtaining compliance with Section 1209 following a knowing or willful failure to comply.

Office of Educational Research and Improvement

Type of Review: NEW

Title: Star Schools Evaluation

Frequency: One Time

Affected Public: State or local governments

Reporting Burden:

Responses: 1,900

Burden Hours: 950

Recordkeeping Burden:

Recordkeepers: 0

Burden Hours: 0

Abstract: This evaluation will be used to obtain information about the implementation and effects of the Star Schools Program. The Department will use the information to report to Congress.

[FR Doc. 94-22736 Filed 9-13-94; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Notice of Intent to Award a Grant Based Upon Acceptance of an Unsolicited Application

SUMMARY: The Department of Energy, Golden Field Office, through the

Chicago Regional Support Office, pursuant to DOE Financial Assistance Rules 10 CFR 600.14(f), announces its intent to award a grant to the State of Illinois. The purpose of the grant is to provide assistance to Illinois to engage in a joint implementation project with Liaoning Province, People's Republic of China.

SUPPLEMENTARY INFORMATION: The State of Illinois has proposed a joint implementation project with the Liaoning Province of the People's Republic of China in an effort to identify and exploit the tremendous opportunities for reducing methane gas leakage and improving energy efficiency in this northeast province. Utilizing its already established relationship with this Chinese provincial government, Illinois, in conjunction with private sector partners, will identify the best approach to dealing with the significant greenhouse gas emissions which are the direct result of Liaoning Province's poor methane distribution system. Additionally, significant carbon dioxide reductions are expected to result from the improved efficiency of the methane distribution system as well as other energy efficiency technologies which may be deployed over the course of this project.

The unsolicited application for support of this activity has been accepted by DOE because of what was deemed to be the project's overall merit. The proposed activity is meritorious, likely to be effective and successful and offers a unique opportunity for DOE to demonstrate its commitment to several goals. These goals include accomplishing the Departmental mission of deploying energy efficiency technologies, implementing the President's Climate Change Action Plan and sponsoring projects which are likely to demonstrate the success of the U.S. Initiative on Joint Implementation.

The project period for the award is fifteen months, expected to begin October, 1994. DOE plans to fund the initial phase of the project in the amount of \$107,900. DOE participation in subsequent phases of this project is contingent upon the availability of additional DOE funding.

FOR FURTHER INFORMATION CONTACT: Juli A. Pollitt, U.S. Department of Energy, Chicago Regional Support Office, 9800 South Cass Avenue, Argonne, Illinois 60439, 708/252-2313.

Issued in Golden, Colorado on August 31, 1994.

John W. Meeker,
Contracting Officer.

[FR Doc. 94-22745 Filed 9-13-94; 8:45 am]

BILLING CODE 6450-01-M

Deviations for the Small Business Technology Transfer (STTR) Program

AGENCY: Department of Energy.

ACTION: Class deviations.

SUMMARY: The Department of Energy (DOE), pursuant to 10 CFR 600.4, hereby announces six deviations from its Financial Assistance Rules for the Small Business Technology Transfer (STTR) program. The approval of these deviations permits the application of the Special Provisions for the Small Business Innovation Research Grants contained in Section 600.125 to the Small Business Technology Transfer Grants.

The STTR is a three year pilot program created by the Small Business Research and Development Act of 1992 (Act). Its objective is to increase the commercialization of federally funded research and development by small innovative firms collaborating with non-profit research institutions. The program is conducted in two phases. Under Phase I grants, each firm will attempt to determine the feasibility of the innovative concept. During the second phase, selected concepts would be further developed.

The six deviations have been approved because they are necessary to achieve STTR program objectives set forth in the Act and the STTR Policy Directive issued by the Small Business Administration. The first deviation will ease the record-keeping requirements for recipients; the second deviation will allow the DOE officials, in appropriate circumstances, to make lump-sum payments to Phase I recipients; the third deviation allows Phase II recipients to receive a single award of 24 months; the fourth deviation requires Phase I and Phase II recipients to request DOE approval before no-cost extensions to grant project periods can be approved; the fifth deviation requires Phase I and Phase II recipients to receive prior approval from DOE before entering into any sole source or single-bid contracts in excess of \$25,000; and the sixth deviation permits the payment of fees to STTR recipients.

EFFECTIVE DATE: October 14, 1994.

FOR FURTHER INFORMATION CONTACT: Cheryl D. Seckinger, Business and Financial Policy Division, [HR-521], U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585 (202) 586-8192.

SUPPLEMENTARY INFORMATION: In this notice, the DOE announces that, pursuant to 10 CFR Part 600, the Deputy Assistant Secretary for Procurement and Assistance Management has made a

determination of the need for six deviations to the DOE Financial Assistance Rules. The determination document, dated September 8, 1994 provides for deviations for STTR recipients as explained below [i.e., a "class deviation"].

Deviation Number 1 waives the requirements of § 600.109 concerning compliance with Government record-keeping requirements. This deviation is necessary to allow the Phase I awards to be made on a "fixed obligation" basis. Fixed obligation awards further the program objective [see § 600.4(b)(1)] of reducing the administrative burden by reducing the amount of recordkeeping the recipient must perform. Phase I grants are limited to \$100,000 in dollar amount and a duration of 9 months.

Deviation Number 2 permits the cognizant program official and contracting officer to make one or more lump-sum payments in circumstances they deem appropriate. This deviation, from § 600.112(c), which requires the timing of cash advances to be as close as feasible administratively to the disbursement of funds. This deviation is necessary to support award of Phase I grants on a fixed obligation basis and contributes to the program objective [see 600.4(b)(1)] of reducing administrative burden by lessening the frequency that recipients must request payments. All awards will be conditioned where lump sum payments are made to require recipients to return to the DOE amounts in excess of \$500 remaining unexpended at the end of the project.

Deviation Number 3 permits Phase II STTR awards to be made as a single fixed budget period for each award of 24 months. This is a deviation from § 600.31 and furthers the program objective [see § 600.4(b)(1)] of reducing administrative burdens by reducing the frequency with which the recipient must submit applications for continued funding. It is appropriate because the Phase II period is considered to be a single, continuous activity under the STTR program legislation.

Deviation Number 4 requires extensions of budget and project periods beyond end dates designated on the Notice of Financial Assistance Award to receive the approval of the DOE. This deviation to § 600.31[d] removes the authority of the recipient to approve automatic no-cost extensions normally associated with simplified administration of research grants. This is necessary to achieve program objectives [see § 600.4(b)(1)] by insuring consistency with the STTR Policy Directive which establishes periods of performance for Phases I and II.

Deviation Number 5 requires a grantee to receive the prior approval of the Department and a subgrantee to receive the prior approval of the grantee before entering into a sole source contract, or a contract where only one bid or proposal is received when the contract is expected to exceed \$25,000 in the aggregate. This deviation from § 600.103 limits the authority of recipients to enter into sole source or single bid contracts on their own, and is believed to be necessary to achieve program objectives [see § 600.4(b)(1)] by helping to prevent problems which can arise from those types of contracts and adversely impact project completion.

Deviation Number 6 permits a fee or profit to be paid to STTR recipients. This deviation to § 600.103[h] is necessary to achieve program objectives [see § 600.4(b)(1)] by insuring consistency with the STTR Policy Directive effective August 10, 1993.

Richard H. Hopf,

Deputy Assistant Secretary for Procurement and Assistance Management.

[FR Doc. 94-22740 Filed 9-13-94; 8:45 am]

BILLING CODE 6450-01-P

Energy Information Administration

Agency Information Collection Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of request submitted for review by the Office of Management and Budget.

SUMMARY: The Energy Information Administration (EIA) has submitted the energy information collection(s) listed at the end of this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act (Pub. L. No. 96-511, 44 U.S.C. 3501 *et seq.*). The listing does not include collections of information contained in new or revised regulations which are to be submitted under section 3504(h) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information: (1) The sponsor of the collection; (2) Collection number(s); (3) Current OMB docket number (if applicable); (4) Collection title; (5) Type of request, e.g., new, revision, extension, or reinstatement; (6) Frequency of collection; (7) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (8) Affected

public; (9) An estimate of the number of respondents per report period; (10) An estimate of the number of responses per respondent annually; (11) An estimate of the average hours per response; (12) The estimated total annual respondent burden; and (13) A brief abstract describing the proposed collection and the respondents.

DATES: Comments must be filed within 30 days of publication of this notice. If you anticipate that you will be submitting comments but find it difficult to do so within the time allowed by this notice, you should advise the OMB DOE Desk Officer listed below of your intention to do so, as soon as possible. The Desk Officer may be telephoned at (202) 395-3084. (Also, please notify the EIA contact listed below.)

ADDRESSES: Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place N.W., Washington, D.C. 20503. (Comments should also be addressed to the Office of Statistical Standards at the address below.)

FOR FURTHER INFORMATION AND COPIES OF RELEVANT MATERIALS CONTACT: Norma White, Office of Statistical Standards, (EI-73), Forrestal Building, U.S. Department of Energy, Washington, D.C. 20585. Ms. White may be telephoned at (202) 254-5327.

SUPPLEMENTARY INFORMATION: The energy information collection submitted to OMB for review was:

1. Federal Energy Regulatory Commission
2. FERC-556
3. 1902-0075
4. Cogeneration and Small Power Production
5. Extension
6. On occasion
7. Mandatory
8. State or local governments; Businesses or other for-profit; and Small businesses or organizations
9. 332 respondents
10. 1 response
11. 6.17 hours per response
12. 2,049 hours
13. To encourage small power and cogeneration, the Public Utility Regulatory Policies Act of 1978 confers certain benefits on small power and cogeneration facilities that meet certain ownership and technical criteria. FERC-556 specifies the criteria that must be met and the process by which such benefits be obtained.

Authority: Section 2(a) of the Paperwork Reduction Act of 1980 (Pub. L. 96-511),

which amended Chapter 35 of Title 44 United States Code (See 44 U.S.C. 3506(a) and (c)(1)).

Issued in Washington, DC, September 6, 1994.

Yvonne M. Bishop,

*Director, Office of Statistical Standards
Energy Information Administration.*

[FR Doc. 94-22747 Filed 9-13-94; 8:45 am]

BILLING CODE 6450-01-P

Office of Fossil Energy

[FE Docket No. 94-57-NG]

Anadarko Trading Company; Order Granting Blanket Authorization To Export Natural Gas to Mexico

AGENCY: Office of Fossil Energy, DOE.
ACTION: Notice of Order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Anadarko Trading Company blanket authorization to export up to 108 Bcf of natural gas to Mexico over a two-year period beginning on the date of the first export.

This order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 586-9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, August 31, 1994.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 94-22742 Filed 9-13-94; 8:45 am]

BILLING CODE 6450-01-P

[FE Docket No. 94-51-NG]

The United States General Services Administration; Order Granting Long-Term Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.
ACTION: Notice of an order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting The United States General Services Administration authorization to import up to 55,000 Mcf per year of natural gas from Canada over a twenty-year term beginning on the date of first delivery, expected to be by October 1994.

This order is available for inspection and copying in the Office of Fuels

Programs Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 586-9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, August 31, 1994.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 94-22743 Filed 9-13-94; 8:45 am]

BILLING CODE 6450-01-P

[FE Docket No. 94-58-NG]

Northern States Power Company (Minnesota); Order Granting Long-Term Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.
ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has granted Northern States Power Company (Minnesota) authorization to import from Western Gas Marketing Limited (WGML) up to 19,422 Mcf per day of Canadian natural gas beginning on the date of issuance of the Order, through October 31, 2003.

This order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 586-9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, August 31, 1994.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 94-22741 Filed 9-13-94; 8:45 am]

BILLING CODE 6450-01-P

Federal Energy Regulatory Commission

[Project No. 10756-001]

Blue Diamond Power Partners; Notice of Intent To Prepare an Environmental Impact Statement (EIS) and Conduct Public Scoping Meetings and a Site Visit

September 8, 1994.

The Federal Energy Regulatory Commission (FERC) has received an application to construct and operate the proposed Blue Diamond South Pumped Storage Project, FERC Project No.

10756-001. The off-stream project would be located approximately five miles west of Las Vegas in Clark County, Nevada. This proposed project would involve both private lands and federal lands managed by the Bureau of Land Management (BLM).

The FERC staff has determined that licensing this project would constitute a major federal action significantly affecting the quality of the human environment. Therefore, the FERC staff intends to direct a third-party contractor in the preparation of an Environmental Impact Statement (EIS) on the hydroelectric project in accordance with the National Environmental Policy Act of 1969, as amended (Pub. L. 91-190, 42 U.S.C. 4321-4347, January 1, 1970, as amended by Pub. L. 94-52, July 3, 1975, Pub. L. 94-83, August 9, 1975, and Pub. L. 97-258, § 4(b), September 13, 1982). The EIS will objectively consider both site-specific and cumulative environmental impacts of the project and reasonable alternatives, and will include an economic, financial, and engineering analysis. The BLM will be a cooperating agency on the EIS.

The DRAFT EIS (DEIS) will be circulated for review and comment by all interested parties, and FERC will hold a public meeting for the DEIS. FERC and the BLM will consider and respond to comments received on the DEIS in the Final EIS. The FERC staff's conclusions and recommendations will then be presented for the consideration of the Commission in reaching its final licensing decision. The BLM will use the information in the EIS to make its decision on issuing a right-of-way grant for the project.

Scoping: Affected landowners, concerned citizens, special interest groups, local governments, and any other interested parties are invited to comment on the scope of the environmental issues that should be analyzed in the EIS. Scoping will help ensure that all significant issues related to this proposal are addressed in the EIS, and also will identify significant or potentially significant impacts that may result from the proposed project.

The FERC and BLM will conduct two scoping meetings on October 5, and 6, 1994. A scoping meeting oriented toward the agencies will begin at 2 p.m. on October 5th at the BLM offices located at 4765 Vegas Drive, Las Vegas, Nevada. A scoping meeting oriented toward the public will begin at 7 p.m. on October 6th at the West Charleston Branch Public Library located at 6301 West Charleston Street, Las Vegas, Nevada. (The public and the agencies may attend either or both meetings, however.)

Objectives: At the scoping meetings FERC and BLM staff will (1) identify preliminary environmental issues related to the proposed project; (2) identify preliminary resource issues that are not important and do not require detailed analysis; (3) identify reasonable alternatives to be addressed in the EIS; (4) solicit from the meeting participants all available information, especially quantified data, on the resource issues; and (5) encourage statements from experts and the public on issues that should be analyzed in the EIS, including points of view in opposition to, or in support of, the staffs' preliminary views.

Procedures: The meetings will be recorded by a court reporter and all statements (oral and written) thereby become a part of the official record of the Commission proceedings for the Blue Diamond South Project.

Individuals presenting statements at the meetings will be asked to clearly identify themselves for the record.

To help focus discussions at the scoping meeting, FERC will mail a Scoping Document I, outlining subject areas to be addressed in the EIS, to agencies and interested individuals on the project mailing list. Copies of the scoping document will also be available at the scoping meetings.

Persons choosing not to speak at the meetings, but who have views of the issues or information relevant to the issues, may submit written statements for inclusion in the public record at the meetings. In addition, written scoping comments may be filed with Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 until November 6, 1994. All written correspondence should clearly show the following caption on the first page: Blue Diamond South Pumped Storage Project, FERC No. 10756-001.

Intervenor—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. 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 also serve a copy of the document on that resource agency.

Site Visit: A site visit to the Blue Diamond South Project is planned for October 6th. Due to limited access, those who wish to attend must contact Randy Schroeder, Greystone, at (800) 338-9396 by September 30th to sign up

and receive further information and directions. Attendees will meet at the BLM Red Rocks Conservation Area Visitors Center at 8 a.m.

For Further Information Contact: Dianne Rodman, FERC-OHL, (202) 219-2830 or Larry Sip, BLM Las Vegas Resource Area, (702) 647-5000.

Lois D. Cashell,
Secretary.

[FR Doc. 94-22699 Filed 9-13-94; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TM95-1-67-000]

Canyon Creek Compression Company; Proposed Changes in FERC Gas Tariff

September 8, 1994.

Take notice that on September 1, 1994, Canyon Creek Compression Company (Canyon) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, First Revised Sheet Nos. 5 and 6, to be effective October 1, 1994.

Canyon states that the purpose of the filing is to implement the Annual Charges Adjustment (ACA) charge necessary for Canyon to recover from its customers annual charges assessed it by the Commission pursuant to Part 382 of the Commission's Regulations. The rate authorized by the Commission to be effective October 1, 1994 is \$.0024 per Mcf.

Canyon requested waiver of the Commission's Regulations to the extent necessary to permit the tariff sheets to become effective on October 1, 1994.

Canyon states that a copy of the filing is being mailed to Canyon's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 15, 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. 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. 94-22707 Filed 9-13-94; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TM95-2-34-000]

**Florida Gas Transmission Company;
Notice of Fuel Reimbursement Charge
Adjustment Report**

September 2, 1994.

Take notice that on August 31, 1994, Florida Gas Transmission Company (FGT), tendered for filing a Fuel Reimbursement Charge Adjustment Report pursuant to Section 27 of the General Terms and Conditions of its FERC Gas Tariff, Third Revised Volume No. 1.

FGT states that the ratio of fuel usage and unaccounted for volumes to actual deliveries determined in accordance with Section 27 of its tariff and reflected on an attached workpaper is 2.31%. Because this percentage supports the currently effective Fuel Reimbursement Charge Percentage of 2.25% requested in FGT's out-of-cycle filing on May 11, 1994, in Docket No. TM94-5-34 and approved by Commission order issued June 17, 1994, and because changes in the Percentage must be reflected in all Shippers' arrangements with suppliers and upstream transporters and or gatherers, FGT is not proposing any revisions at this time. Therefore, no tariff sheets are filed with the report.

FGT further states it will continue to closely monitor the actual quantities of fuel and lost and unaccounted for gas as information becomes available and make such adjustments to the Fuel Reimbursement Charge Percentage as warranted in accordance with Section 27 in order to closely match the fuel retention with actual operating experience and minimize the over or under retention of company used fuel and unaccounted for volumes.

FGT states that copies of the filing were mailed to all customers serviced under the rate schedules affected by the filing and the interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before September 13, 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. 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. 94-22704 Filed 9-13-94; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM95-1-26-000]

**Natural Gas Pipeline Company of
America; Proposed Changes in FERC
Gas Tariff**

September 8, 1994.

Take notice that on September 1, 1994, Natural Gas Pipeline Company of America (Natural) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, First Revised Sheet Nos. 22 and 27, to be effective October 1, 1994.

Natural states that the purpose of the filing is to implement the Annual Charges Adjustment (ACA) charge necessary for Natural to recover from its customers annual charges assessed to Natural and to Moraine Pipeline Company by the Commission pursuant to Part 382 of the Commission's Regulations. The rate authorized by the Commission to be effective October 1, 1994 is \$.0024 per Mcf. Under Natural's billing basis, this rate converts to \$.0023 per MMBtu. The charge for Natural's Moraine Lateral converts to \$.0023 per MMBtu.

Natural requested waiver of the Commission's Regulations to the extent necessary to permit the tariff sheets to become effective on October 1, 1994.

Natural states that a copy of the filing is being mailed to Natural's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 15, 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. 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. 94-22708 Filed 9-13-94; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP94-385-000]

**Northern Natural Gas Company;
Proposed Changes in FERC Gas Tariff**

September 8, 1994.

Take notice that on September 1, 1994, Northern Natural Gas Company (Northern), tendered for filing changes in its FERC Gas Tariff, Fifth Revised Volume No. 1.

Northern states that the filing revises the current Stranded Account No. 858 and Stranded Account No. 858-R.A. surcharges, both of which are designed to recover costs incurred by Northern related to its contracts with third-party pipelines. Therefore, Northern has filed Tenth Revised Sheet Nos. 50 and 51 to revise these surcharges effective October 1, 1994.

Northern states that copies of this filing were served upon the Company's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before September 15, 1994. All protests will be considered by the Commission in determining the appropriate proceeding, but will not serve to make protestant a party 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 inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94-22713 Filed 9-13-94; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP94-389-000]

**New England Power Company v.
Algonquin Gas Transmission
Company; Complaint**

September 8, 1994.

Take notice that on August 31, 1994, New England Power Company (NEP) filed a complaint pursuant to 18 CFR 385.206 of the Commission's Rules of Practice and Procedure. NEP claims that it negotiated a firm transportation contract with Algonquin Gas Transmission Company (Algonquin) for firm transportation under Algonquin's X-38 Rate Schedule. NEP asserts that this contract includes an hourly take provision that allows it to match the rate at which it takes gas from Algonquin's

system to the load profile of its gas-burning electric generators. According to NEP, Rate Schedule X-38 allows NEP to take gas at an uneven rate throughout the day, as long as it does not take more than 3926 MMBtu (1/24 of NEP's maximum daily delivery obligation) in any one hour. NEP asserts that the X-38 Rate Schedule would let NEP put gas into Algonquin's system at a substantially constant hourly rate of, for example, 2500 MMBtu over 24 hours, and allow NEP to take gas from the system over only 16 hours at a higher rate of 3750 MMBtu per hour, because this hourly delivery rate is below the 3926 MMBtu/hour delivery cap. NEP contends that the parties to the contract negotiations recognized the importance of this hourly flexibility, and agreed to it.

NEP asserts that Algonquin has informed it that the "hourly flexibility" NEP describes is not a feature of NEP's current X-38 service. Accordingly, NEP filed the instant complaint and requests that the Commission declare that Algonquin must provide the hourly flexibility that NEP asserts the parties negotiated in Rate Schedule X-38, make NEP whole for the provision it bargained for, and order a hearing as necessary to resolve any material issues of fact.

Any person desiring to be heard or to protest said complaint should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before October 11, 1994. Protests will be considered by the Commission 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 must file a motion to intervene. Copies of this filing are on file at the Commission and are available for public inspection. Answers to this complaint shall be due on or before October 11, 1994.

Lois D. Cashell,

Secretary.

[FR Doc. 94-22709 Filed 9-13-94; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM95-1-86-000]

Pacific Gas Transmission Company; Annual Charge Adjustment

September 8, 1994.

Take notice that on September 1, 1994, Pacific Gas Transmission

Company (PGT) tendered for filing and acceptance Fifth Revised Sheet No. 4, Fifth Revised Sheet No. 5 and First Revised Sheet No. 6C to be included in its FERC Gas Tariff, First Revised Volume No. 1-A and Fourth Revised Sheet No. 7 to be included in its FERC Gas Tariff, Second Revised Volume No. 1.

PGT states that the above tariff sheets have been revised to reflect a modification to the Annual Charge Adjustment fee, in accordance with the Commission's most recent Annual Charge billing to PGT.

PGT requests that the proposed tariff sheets become effective October 1, 1994.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before September 15, 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. 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. 94-22705 Filed 9-13-94; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP94-294-000, and RP94-294-002]

Panhandle Eastern Pipe Line Company; Notice of Technical Conference

September 8, 1994.

In the Commission's order issued on July 14, 1994, in Docket No. RP94-294-000, the Commission held that the filing raises issues for which a technical conference is to be convened. On August 26, 1994, the Commission issued an order in Docket No. RP94-294-002 finding that many issues raised in that proceeding could best be addressed in such technical conference. The conference to address the issues has been scheduled for Tuesday, September 27, 1994, at 10:00 a.m. in a room to be designated at the offices of the Federal Energy Regulatory Commission, 810 First Street, N.E., Washington, D.C. 20426.

All interested persons and staff are permitted to attend.

Lois D. Cashell,

Secretary.

[FR Doc. 94-22695 Filed 9-13-94; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP88-262-000, RP88-262-022, RP88-262-023, RP88-262-026, RP88-262-027, RP88-262-028, CP89-281-000, CP89-817-000, CP89-817-004, and CP89-917-000]

Panhandle Eastern Pipe Line Co.; Notice of Conference To Discuss Settlement

September 8, 1994.

An informal conference will be held to explore the possibility of settlement of the issues raised in the above-captioned proceedings. All parties should come prepared to discuss settlement, and the parties should be represented by principals who have the authority to commit to a settlement.

The conference will be held on Tuesday, September 20, 1994 at 1:30 p.m. in a room to be designated at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC 20426.

All parties and staff are permitted to attend.

Lois D. Cashell,

Secretary.

[FR Doc. 94-22697 Filed 9-13-94; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP94-387-000]

Southern Natural Gas Company; Proposed Changes in FERC Gas Tariff

September 8, 1994.

Take notice that on September 1, 1994, Southern Natural Gas Company (Southern) tendered for filing as part of its FERC Gas sheets, to be effective September 1, 1994:

Third Revised Sheet No. 2
Second Revised Sheet No. 136
Second Revised Sheet No. 138
First Revised Sheet No. 212c
Original Sheet No. 212d

Under Southern's transportation tariff, the delivery point allocation procedures allow a shipper's IT volumes to be reallocated to its firm transportation agreements, up to the contract quantity, for purposes of maximizing the firm agreement for billing purposes.

Southern states that the purpose of this filing is to (1) revise the delivery point allocation methodology in its transportation tariff to no longer reallocate IT volumes to firm transportation agreements under which

a reservation charge is not being paid, i.e. a volumetric firm agreement, and (2) specify the requirements for using a small customer's one-part, firm transportation agreement prior to other transportation services since Southern will no longer reallocate IT volumes to a small customer's volumetric transportation agreement automatically.

Southern has requested all waivers necessary to make these sheets effective September 1, 1994. Southern has further requested the ability to waive the currently effective reallocation procedure for the period of February 1–August 31, 1994, if any shipper requests that its IT volumes not be reallocated to a volumetric agreement.

Southern states that copies of the filing will be served upon its shippers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before September 15, 1994. Protests will not be considered by the Commission in determining the 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. 94-22711 Filed 9-13-94; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP94-386-000]

Southern Natural Gas Company; Proposed Changes in FERC Gas Tariff

September 8, 1994.

Take notice that on September 1, 1994, Southern Natural Gas Company (Southern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, the following tariff sheets to be effective on the dates specified:

| Tariff sheets | Effective date |
|-------------------------------|----------------|
| First Revised Sheet No. 98 | Oct. 1, 1994. |
| First Revised Sheet No. 126. | Oct. 2, 1994. |
| Second Revised Sheet No. 216. | Oct. 1, 1994. |
| First Revised Sheet No. 275. | Nov. 1, 1994. |

| Tariff sheets | Effective date |
|------------------------------------|----------------|
| Second Revised Sheet Nos. 404-408. | Aug. 1, 1994. |
| Second Revised Sheet Nos. 410-411. | Aug. 1, 1994. |

Southern states that the purpose of this filing is to make the following revisions to its transportation tariff: (1) Clarify that requests for firm transportation service must be requested to commence within 60 days after the date of the request unless facilities or authorization is required; (2) implement a "no-bump" rule for scheduling nominations at alternate firm (A-1) receipt points; (3) provide a one-day turnaround for capacity release transactions which are prearranged and are bid at the maximum rate for the full volume, capacity and term; and (4) update Southern's Index of Purchasers. Southern has requested all waivers necessary to make these sheets effective as set forth above.

Southern states that copies of the filing will be served upon its shippers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before September 15, 1994. Protests will not be considered by the Commission in determining the 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. 94-22712 Filed 9-13-94; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM95-1-69-000]

Stingray Pipeline Company; Proposed Changes in FERC Gas Tariff

September 8, 1994.

Take notice that on September 1, 1994, Stingray Pipeline Company (Stingray) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, First Revised First Revised Sheet No. 5, to be effective October 1, 1994.

Stingray states that the purpose of the filing is to implement the Annual Charges Adjustment (ACA) charge necessary for Stingray to recover from

its customers annual charges assessed it by the Commission pursuant to Part 382 of the Commission's Regulations. The rate authorized by the Commission to be effective October 1, 1994 is \$.0024 per Mcf. Under Stingray's billing basis, this rate converts to \$.0023 per Dekatherm.

Stingray requested waiver of the Commission's Regulations to the extent necessary to permit the tariff sheet to become effective on October 1, 1994.

Stingray states that a copy of the filing is being mailed to Stingray's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 15, 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. 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. 94-22706 Filed 9-13-94; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-132-042]

Tennessee Gas Pipeline Company; Notice of Tariff Filing

September 8, 1994.

Take notice that on September 2, 1994, Tennessee Gas Pipeline Company ("Tennessee") tendered for filing changes in its FERC Gas Tariff to be effective commencing on September 1, 1992, consisting of the following revised tariff sheets:

| Tariff sheet | Effective date |
|---|----------------|
| Fourth Revised Volume No. 1 | |
| Third Substitute Second Revised Sheet No. 30. | Sept. 1, 1992. |
| Second Substitute Third Revised Sheet No. 30. | Oct. 1, 1992. |
| Third Substitute Fourth Revised Sheet No. 30. | Nov. 1, 1992. |
| Second Substitute Fifth Revised Sheet No. 30. | Jan. 1, 1993. |

| Fifth Revised Volume No. 1 | |
|-----------------------------------|----------------|
| Substitute Original Sheet No. 26. | Sept. 1, 1993. |

| Tariff sheet | Effective date |
|--|----------------|
| Second Substitute First Revised Sheet No. 26. | Nov. 1, 1993. |
| Substitute Original Sheet No. 26B. | Dec. 1, 1993. |
| Second Substitute First Revised Sheet No. 176. | Nov. 1, 1993. |
| Fourth Substitute Alternate First Revised Sheet No. 177. | Nov. 1, 1993. |
| Second Substitute Original Sheet No. 180. | Sept. 1, 1993. |
| Second Substitute Alternate First Revised Sheet No. 180. | Nov. 1, 1993. |
| Second Substitute Alternate First Revised Sheet No. 181. | Nov. 1, 1993. |

Tennessee states that it is filing the above-listed tariff sheets to reinstate the Segment U charge for service to Flagg Energy Development Corporation in accordance with the Commission's August 2, 1994 Order on Remand issued in response to the Court's order in *Tennessee Gas Pipeline Co. v. FERC*, 17 F.3d 98 (5th Cir. 1994). Tennessee states that the tariff filing does not affect any of Tennessee's customers other than Flagg Energy Development Corporation.

Any person desiring to be heard or to protest said filing should file a petition 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. All such petitions or protests should be filed on or before September 15, 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. 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. 94-22696 Filed 9-13-94; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP94-005-001 and CP94-089-000]

Texas Eastern Transmission Corporation CNG Transmission Corporation; Notice of Site Visit

September 8, 1994.

On September 16, 1994, the OPR staff will inspect with CNG Transmission Corporation (CNG), the proposed location of CNG's Chambersburg Compressor Station in the Flex-X/CNG

Project. The proposed site is in Franklin County, Pennsylvania.

Parties to the proceeding may attend. Those planning to attend must provide their own transportation. For further information, call Jeff Gerber, (202) 208-1121.

Lois D. Cashell,
Secretary.

[FR Doc. 94-22703 Filed 9-13-94; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. MT94-22-000]

Texas Eastern Transmission Corp.; Notice of Proposed Changes in FERC Gas Tariff

September 8, 1994.

Take notice that Texas Eastern Transmission Corporation ("Texas Eastern") on September 1, 1994 submitted for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, six copies each of the tariff sheets listed on Appendix A of the filing.

Texas Eastern states that these revised tariff sheets are being submitted in response to Commission Order No. 566.¹ Texas Eastern states that the revised tariff sheets (1) Modify § 2.4 and delete § 16.3 of the General Terms and Conditions, which relate to information on the availability of capacity, (2) revise § 3.2 of the General Terms and Conditions, which refers to the information required for a valid request for transportation service, and (3) update Section 16 of the General Terms and Conditions.

The proposed effective date of the tariff sheets is October 1, 1994. Texas Eastern states that copies of the filing were served on firm customers of Texas Eastern and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before September 15, 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. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the

¹ Standards of Conduct and Reporting Requirements for Transportation and Affiliate Transactions, 59 FR 32885 (June 27, 1994), III FERC Stats. & Regs. Preambles Paragraph 30,997 (June 17, 1994).

Commission and are available for public inspection.

Lois D. Cashell,
Secretary.

[FR Doc. 94-22701 Filed 9-13-94; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GT94-67-000]

Texas Eastern Transmission Corp.; Notice of Proposed Changes in FERC Gas Tariff

September 8, 1994.

Take notice that Texas Eastern Transmission Corporation ("Texas Eastern") on September 1, 1994 submitted for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, six copies each of the tariff sheets listed on Appendix A of the filing.

Texas Eastern states that pursuant to § 9.1 of the General Terms and Conditions of Texas Eastern's FERC GAS Tariff, Sixth Revised Volume No. 1, the tariff sheets listed on Appendix A set forth the Operational Segment Capacity Entitlements and firm receipt point entitlements at Kosciusko, Mississippi. Texas Eastern states that the 1994 Entitlements were calculated using the same methodology as utilized to calculate the initial Entitlements which were approved by the Commission in Texas Eastern's Order No. 636 restructuring proceedings in Docket No. RS92-11, et al.

Texas Eastern states that in order to reflect the modifications, it is submitting Eighth Revised Sheet Nos. 550, 551, 557, 558, 564, 565, 571, 572, 600 and 601 and Ninth Revised Sheet Nos. 549, 556, 563, 570 and 599 to reflect necessary modifications to §§ 9.2, 9.3, 9.4, 9.5 and 14.4 of the General Terms and Conditions of its FERC Gas Tariff, Sixth Revised Volume No. 1.

In addition to the changes discussed above, Texas Eastern states that it is submitting Eighth Revised Sheet Nos. 548, 551, 555, 558, 562, 565, 569, 572, 577, 580, 583 and 601 to reflect the modifications to §§ 9.2, 9.3, 9.4, 9.5, 9.9 and 14.4 necessary to reflect the termination by its own terms of an executed service agreement with Texas Gas Transmission Corporation (Texas Gas) under Texas Eastern's Rate Schedule FT-1. Texas Eastern states that it is representing this capacity, available November 1, 1994, as "Available Firm" on the tariff sheets.

The proposed effective date of the tariff sheets is November 1, 1994, as stated in Section 9.1 of Texas Eastern's FERC Gas Tariff, Sixth Revised Volume No. 1 and in accordance with the termination of the Rate Schedule FT-1

Service Agreement with Texas Gas. Texas Eastern states that copies of the filing were served on firm customers of Texas Eastern and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before September 15, 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. 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. 94-22702 Filed 9-13-94; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. PR94-20-000]

Transok Gas Transmission Company; Petition for Rate Approval

September 8, 1994.

Take notice that on August 19, 1994, Transok Gas Transmission Company (TGTC) filed pursuant to § 284.123(b)(2) of the Commission's regulations, a petition for rate approval requesting that the Commission approve market-based rates as fair and equitable for firm and interruptible transportation services performed on its North Louisiana System under section 311(a)(2) of the Natural Gas Policy Act of 1978 (NGPA).

TGTC states that it is an intrastate pipeline within the meaning of section 2(16) of the NGPA and it owns and operates an intrastate pipeline system in the State of Louisiana. TGTC proposes an effective date of October 1, 1994.

Pursuant to § 284.123(b)(2)(ii), if the Commission does not act within 150 days of the filing date, the rates will be deemed to be fair and equitable and not in excess of an amount which interstate pipelines would be permitted to charge for similar storage service. The Commission may, prior to the expiration of the 150-day period, extend the time for action or institute a proceeding to afford parties an opportunity for written comments and for the oral presentation of views, data, and arguments.

Any person desiring to participate in this rate proceeding must file a motion to intervene in accordance with

§§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedures. All motions must be filed with the Secretary of the Commission on or before September 15, 1994. The petition for rate approval is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94-22698 Filed 9-13-94; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP94-374-000]

Trunkline Gas Co.; Notice of Direct Bill Filing in Accordance With Gas Tariff

September 8, 1994.

Take notice that on August 29, 1994 Trunkline Gas Company (Trunkline) submitted for filing with the Federal Energy Regulatory Commission (Commission) in accordance with § 27.1 of Trunkline's FERC Gas Tariff, First Revised Volume No. 1, its filing to commence the disposition of the remaining balance in its Account No. 191.

Trunkline states that the procedures set forth in its Tariff for the direct billing of these amounts are largely self-implementing and already have been approved by the Commission.

Trunkline states that a copy of this filing has been sent to all affected customers, affected state commissions and all parties on the service lists in the proceeding in Docket No. RP94-356-000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before September 15, 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 Trunkline's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94-22694 Filed 9-13-94; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP94-388-000]

Trunkline Gas Company; Proposed Changes in FERC Gas Tariff

September 8, 1994.

Take notice that on September 1, 1994, Trunkline Gas Company (Trunkline) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheet proposed to become effective September 1, 1993:

First Revised Sheet No. 38

Trunkline states that this filing is being made to clarify that rates and charges to Rate Schedule SST, Small Shipper Transportation, customers reflect the firm capacity reserved.

Trunkline states that copies of this filing are being mailed to all shippers subject to the tariff sheet and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before September 15, 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. 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. 94-22710 Filed 9-13-94; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-5072-1]

Additional Data Available on Wastes Studied in the Report to Congress on Cement Kiln Dust

AGENCY: Environmental Protection Agency.

ACTION: Notice of Data Availability and Request for Comments.

SUMMARY: This notice announces the availability for public inspection and comment, of recently acquired data on cement kiln dust studied in the Agency's December, 1993, Report to Congress on Cement Kiln Dust (see 59

FR 709, 1/6/94). Pursuant to a proposed consent decree in *Environmental Defense Fund (EDF) v. Browner* (D.C. Civ. No. 89-0598), the Agency has committed to making a final regulatory determination on whether this waste stream should continue to retain the exemption from regulation under Subtitle C of the Resource Conservation and Recovery Act (RCRA) no later than January 31, 1995. Specifically, the Agency and EDF filed a joint motion on June 27, 1994, to modify the proposed consent decree to specify the January 31, 1995, deadline.

DATES: The Agency is soliciting comment only on the new data described in this notice, and is not reopening the comment period on the Report to Congress on Cement Kiln Dust. Public comments on the additional data will be accepted through October 14, 1994. No extensions of the comment period will be granted.

ADDRESSES: Those persons, companies or organizations intending to submit comments for the record must send an original and two copies to the following address: RCRA Docket Information Center (5305), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Please place the docket number F-94-RC2A-FFFFF on your comments.

The additional data are available for public inspection at the RCRA docket, 401 M Street SW., Washington, DC, Room M2416, 2nd floor, Waterside Mall. Docket hours are 9 a.m. to 4 p.m., Monday through Friday, except Federal holidays. In order to view the docket, please call (202) 260-9327 to make an appointment. Comments on the new data will be accepted through October 14, 1994.

Certain of the documents placed in the docket for this notice are also available in electronic format from EPA's Superfund electronic bulletin board (CLU-IN). The file names are: CKD1.ZIP, CKD2.ZIP, and CKD3.ZIP, and are located in file area #6 (RCRA/Superfund/UST). The data number is (301) 589-8366; the voice number for help in using the CLU-IN bulletin board is (301) 589-8368. Modem settings are N-8-1 (parity, data bits and stop bit, respectively), and data transmission rate up to 9600 bps.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA/Superfund Hotline at (800) 424-9346 or (202) 260-3000; for technical information contact Bill Schoenborn (5302W), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (703) 308-8483.

SUPPLEMENTARY INFORMATION:

I. Background

RCRA Section 3001(b)(3)(A) (i-iii) (hereafter referred to as the Beville Exemption) exempts among other wastes "cement kiln dust waste" from regulation under RCRA Subtitle C, pending completion of a Report to Congress and a subsequent regulatory determination of whether such regulation is warranted. In particular, Section 8002(o) of RCRA requires EPA to conduct a detailed and comprehensive study and submit a Report to Congress on the adverse effects on human health and the environment, if any, of the disposal of cement kiln dust waste (CKD). Factors to be considered include:

- (1) The source and volumes of such material generated per year;
- (2) Present disposal practices;
- (3) Potential danger, if any, to human health and the environment from the disposal of [CKD];
- (4) Documented cases in which danger to human health or the environment has been proved;
- (5) Alternatives to current disposal practices;
- (6) The costs of such alternatives;
- (7) The impact of those alternatives on the use of natural resources; and
- (8) The current and potential utilization of such materials.

Based on this mandate, the Agency conducted a study of cement kiln dust waste and prepared the following report: The Report to Congress on Cement Kiln Dust Waste (hereafter referred to as the "RTC" or "the Report"), released in December, 1993. This report contains a detailed study of cement kiln dust. In the RTC, the Agency presented and solicited public comment on five regulatory options for cement kiln dust, based on the findings of the Report. These options are: (1) Retaining the Beville exemption for CKD; (2) Retaining the exemption and entering into discussions with the industry to voluntarily implement dust recycling technologies, reduce waste, and control certain off-site uses; (3) Removing the exemption, but delaying implementation of regulations to allow the industry time to employ pollution prevention options; (4) Removing the exemption, and implementing hazardous waste rules immediately; and (5) Promulgating tailored regulatory standards under Subtitle C for the management of CKD.

The Report to Congress was signed by the Administrator on December 30, 1993. In an effort to gather comment on the Report, the Agency held a series of public meetings on February 8, 10, and

14, and March 7, 9, and 10 with representatives of the cement industry, the hazardous waste management industry, regional and State environmental authorities, and citizen groups. In addition, the Agency held a formal public hearing on the Report in Washington, D.C., on February 15, 1994. The public comment period on the Report closed on March 8, 1994. The Agency has received nearly 1100 comments on the Report. The public comments and the hearing transcript are available for public inspection at the RCRA docket (docket number F-94-RC2A-FFFFF).

Not all information contained in comments on the Report was considered appropriate for use in these new analyses. The reasons for not considering specific data will be addressed in the Final Regulatory Determination, although the general reasons for not using specific data are summarized in the RCRA docket in a preamble to the technical background documents supporting this Notice.

II. Additional Information

To supplement the information included in the 1993 RTC on cement kiln dust waste, the Agency has analyzed information submitted as public comment on the Report, and undertaken several data collection efforts. Analytical data on EPA's own cement kiln dust samples, sample analytical data submitted by industry in response to the Agency's 1992 RCRA § 3007 data request, and sample analytic data submitted as comment on the Report has been obtained and utilized by the Agency. Also, additional information related to plant-specific environmental risk has been obtained from publicly available data sources. Furthermore, information on endangered species and the demographic make-up (income and ethnicity) of populations around cement manufacturing facilities have been obtained from various other Federal and public agencies. The data collected regarding these cement kiln dust wastes specifically address: waste characteristics, waste generation, environmental impacts of CKD releases, and potential environmental justice concerns. Because these new data may be utilized in the regulatory decision-making process for cement kiln dust waste, the new data are being placed into the RCRA docket for public inspection and comment. For all readers to clearly distinguish these new data, they have been placed under a new docket number: F-94-RC2A-FFFFF. The Agency will provide a full response to comments on these new data and all

comments on the Report to Congress when it publishes the Final Regulatory Determination on cement kiln dust.

A complete list of all new materials placed in the docket is available from the RCRA Docket at the address and telephone number listed above. The new data include:

Summary of analytical data and data validation reports on metals content of cement kiln dust from EPA sampling conducted at six cement manufacturing facilities in May 1993. The as-managed cement kiln dust samples that were collected during EPA's May 1993 sampling effort were subjected to analyses for metals constituents (total basis) subsequent to the initial analytical effort. The Agency solicits comment on this new metals data and how it should affect the Agency's final regulatory determination.

A compendium of technical and engineering information pertinent to cement kiln dust received by EPA and analyzed since the close of the public comment period on the Report to Congress. The compendium includes statistical analyses of dioxin and metals analytical data; descriptions of regression models; the results of regression analyses on cement kiln dust composition data, kiln characteristics, and fuel types and usage rates; description and results of calculations of generation and disposal rates of metals contained in cement kiln dust.

Publicly available demographic information from the U.S. Census Bureau on income and ethnicity characteristics of populations living around 41 cement manufacturing facilities.

Materials obtained from public files or maintained by State regulatory agencies on specific cement manufacturing sites in Michigan, Pennsylvania, and Texas. These materials focus on waste characterization and environmental monitoring data, along with supporting background information, and were used to compile new documented cases in which danger to human health and the environment has been proved ("damage cases"). Specific information in the docket includes a description of each new damage case plus documentation solicited by the Agency beyond the information contained in the Report and in comments.

Materials related to the Agency's assessment of CKD risk potential, including: (1) An expanded data base (spreadsheet format) of CKD risk factors for 83 cement plants (includes new industry data on waste quantity, characteristics and EPA-assembled data from public sources on plant locations and potential receptors); (2) preliminary

results from an expanded plant-specific risk screening for 83 plants and multiple risk pathways; (3) additional risk modeling results for predicted blood-lead level effects, including revisions to RTC estimates based on revised IEUBK model protocol and additional results for sensitivity scenarios; (4) additional applications of the RTC risk modeling results for fine dust particles via the direct inhalation pathway showing relationships of predicted dust exposures to the National Ambient Air quality Standards for fine particles; (5) an analysis of the prevalence of karst terrain and implications for the Agency's groundwater pathway risk assessments; and (6) an analysis of the proximity and prevalence of threatened and endangered species to cement plants.

Materials related to the Agency's analysis of the costs and impacts of alternative CKD management practices, including: (1) A summary of industry-submitted data on cement kiln dust waste land management costs; (2) data on costs of off-site CKD land disposal; and (3) revised costs for the Passamaquoddy Technology flue gas scrubber recovery system.

The Agency solicits comments on all aspects of the information sources described in this Notice. All comments on new data received by the close of the comment period will be considered by the Agency when making a final regulatory determination on cement kiln dust waste. Comments will be accepted and considered *only* on the new data specifically identified under the above docket number. EPA will not consider comments in response to this notice on the 1993 Report to Congress and data and analyses presented therein. In addition, since EPA is required to reach a final regulatory determination by January 31, 1995, no time extension to the comment period will be granted.

Dated: September 8, 1994.

Elliott P. Laws,

Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 94-22720 Filed 9-13-94; 8:45 am]

BILLING CODE 6560-50-P

[FRL-5071-9]

Science Advisory Board; Notification of Public Advisory Committee Meeting(s) Open Meeting(s)

Pursuant to the Federal Advisory Committee Act, Public Law 92-463, notice is hereby given that several committees of the Science Advisory Board (SAB) will meet on the dates and times described below. All times noted

are Eastern Time. Documents that are the subject of SAB reviews are normally available from the originating EPA office and are not available from the SAB Office.

Environmental Futures Committee

The *Environmental Futures Committee* (EFC) of the Science Advisory Board (SAB) will conduct two public meetings one on October 5, 1994 at Crystal Station, 2500 Jefferson Davis Highway, Arlington, VA and a second on October 24, 1994 at the Washington Information Center, EPA Headquarters, Room 3 North, 401 M Street, S.W. Washington, DC. All meetings will begin at approximately 8:30 am and adjourn daily by 5:00 pm.

The Environmental Futures Committee (EFC) was formed by the SAB at the request of Administrator Browner to assist the Agency in anticipating environmental problems, issues and opportunities. The charge to this Committee includes: developing a procedure for short and long-term forecasting of natural and anthropogenic developments which may affect environmental quality and its protection; develop detailed examinations procedures and apply them to some future developments; and draw implications from the examinations of future developments and recommend actions for EPA to address them. At these meetings, the EFC will discuss its draft report and those of the SAB Standing Committees.

These meetings are open to the public, but seating is limited and available on a first come basis. Any member of the public wishing further information concerning the meetings or who wishes to submit oral or written comments (at least 25 copies) should contact one of the Designated Federal Officials, Dr. Edward Bender, Science Advisory Board (Mail Code 1400F), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; telephone (202) 260-2562; FAX (202) 260-7118, or via the Internet at BENDER.EDWARD@EPAMAIL.EPA.GOV.

Providing Oral or Written Comments at SAB Meetings

The Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. In general, each individual or group making an oral presentation will be limited to a total time of five minutes.

For conference call meetings, opportunities for oral comment will be limited to no more than five minutes per

speaker and no more than fifteen minutes total. Written comments (at least 25 copies) received in the SAB Staff Office sufficiently prior to a meeting date, may be mailed to the relevant SAB committee or subcommittee prior to its meeting; comments received too close to the meeting date will normally be provided to the committee at its meeting. Written comments may be provided to the relevant committee or subcommittee up until the time of the meeting.

Dated: September 1, 1994.

Donald G. Barnes,

Staff Director, Science Advisory Board.

[FR Doc. 94-22725 Filed 9-13-94; 8:45 am]

BILLING CODE 6560-50-P

[PF-609; FRL-4911-6]

Ecogen, Inc.; Filing of Pesticide Petition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received from Ecogen, Inc., a pesticide petition (PP) proposing to amend 40 CFR part 180 to establish an exemption from the requirement of a tolerance for *Bacillus thuringiensis* subspecies *kurstake* strain EG7673 (Raven Bioinsecticide) in or on all raw agricultural commodities.

DATES: Comments, identified by the document control number (PF-609), must be received on or before October 14, 1994.

ADDRESSES: By mail, submit written comments on this notice, identified by the document control number (PF-609), 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.

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 this notice and any written comments will be available for public inspection in Rm. 1132 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: Phil Hutton, Product Manager (PM 18), Registration Division (7505C), Office of Pesticide Programs, 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, (703)-305-7690.

SUPPLEMENTARY INFORMATION: This document gives notice that PP 4F4339 has been filed with EPA by Ecogen, Inc., 2005 Cabot Boulevard West, Langhorne, PA 19047-1810, proposing to amend 40 CFR part 180 by establishing an exemption from the requirement of a tolerance for *Bacillus thuringiensis* subspecies *kurstaki* strain EG7673 (Raven Bioinsecticide) in or on all raw agricultural commodities. This is the first petition to establish a regulation under 40 CFR part 180 for a viable microbial pesticide that has been developed in recombinant DNA technology.

List of Subjects

Environmental protection, Agricultural commodities, Pesticides and pests.

Authority: 21 U.S.C. 346a and 348.

Dated: September 7, 1994.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 94-22722 Filed 9-13-94; 8:45 am]

BILLING CODE 6560-50-F

[PF-605; FRL-4904-7]

Pesticide Tolerance Petitions; Filings and a Withdrawal

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces two filings of pesticide petitions proposing the establishment of regulations for residues of certain pesticide chemicals in or on various agricultural commodities. This notice also announces the withdrawal of a food additive petition without prejudice to future filing.

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 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 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. 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: Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 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 |
|------------------------------------|----------------------------------|---|
| George LaRocca (PM 13) | Rm. 202, CM #2, 703-305-6100. | 1921 Jefferson Davis Hwy., Arlington, VA. |
| Phil Hutton (PM 18) | Rm. 213, CM #2, 703-305-7690. | Do. |
| Cynthia Giles-Parker (PM 22) | Rm. 229, CM #2, 703-305-5540. | Do. |

SUPPLEMENTARY INFORMATION: EPA has received two pesticide petition filings and a request to withdraw a food additive petition without prejudice to future filing as follows:

Filings

1. *PP 4F4331*. Monsanto Co., 700 Chesterfield Parkway North, St. Louis, MO 63198, has filed *PP 4F4331* proposing to amend 40 CFR part 180 to establish an exemption from the requirement of a tolerance for the plant pesticide *Bacillus thuringiensis* var. *kurstaki* delta endotoxin protein as produced by the CryIA(c) gene and its controlling sequences. (PM 18)

2. *PP 8F3635*. ATL Enterprises, Inc., 3601 Garden Brook, Dallas, TX 75234, proposes to amend 40 CFR part 180 by establishing an exemption from the requirement of a tolerance for Aqueous extract of roots, galls, and bark from *Opuntia Lindheimeri*, *Quercus Placata*, *Rhus Aromatica*, and *Rhizophoria Mangle* when used as a plant regulator in soil and/or foliar applications in or on all raw agricultural commodities. This notice originally appeared in the *Federal Register* of October 12, 1988 (53 FR 39783). (PM 22)

Withdrawal of Petition

3. *FAP 3H5679*. In a notice issued in the *Federal Register* of October 21, 1993 (58 FR 54357), it was announced that Zeneca AG Products, P.O. Box 751, Wilmington, DE 19897, had filed the food additive petition proposing to amend 40 CFR part 185 to establish a food/feed additive regulation to permit residues of the insecticide 1-alpha(S)-(±), 3-alpha(Z)-(±)-cyano(3-phenoxyphenyl)methyl 3-(2-chloro-3,3,3-trifluoro-1-propenyl)-2,2-dimethylcyclopropanecarboxylate (lambda-cyhalothrin) for use in food-handling establishments. Zeneca AG Products has notified EPA that it requests that the petition be withdrawn without prejudice to future filing. (PM 13)

Authority: 7 U.S.C. 136a.

Dated: August 12, 1994.

Lois Rossi,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 94-22724 Filed 9-13-94; 8:45 am]

BILLING CODE 6580-50-F

[OPP-50794; FRL-4909-2]

Issuance of Experimental Use Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted experimental use permits to the following applicants. These permits are in accordance with, and subject to, the provisions of 40 CFR part 172, which defines EPA procedures with respect to the use of pesticides for experimental use purposes.

FOR FURTHER INFORMATION CONTACT: By mail: Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person or by telephone: Contact the product manager at the following address at the office location or telephone number cited in each experimental use permit: 1921 Jefferson Davis Highway, Arlington, VA.

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permits:

241-EUP-126. Issuance. American Cyanamid Company, P.O. Box 400, Princeton, NJ 08543-0400. This experimental use permit allows the use of the insecticide/miticide 4-bromo-2-(4-chlorophenyl)-1-(ethoxymethyl)-5-(trifluoromethyl)-1H-pyrrole-3-carbonitrile on 3,990 acres of cotton to evaluate the control of various pests. The program is authorized only in the States of Alabama, Arkansas, Arizona, California, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Texas. The experimental use permit is effective from February 28, 1994 to February 28, 1995. A temporary tolerance for residues of the active ingredient in or on cottonseed has been established. (Dennis Edwards, PM 19, Rm. 207, CM#2, (703-305-6386))

56336-EUP-2. Extension. Consep Membranes, Inc., 213 S.W. Columbia St., Bend, OR 97702-1013. This experimental use permit allows the use of 765 pounds of the pheromone (E,E)-8,10-dodecadien-1-ol on 11,950 acres of apples, pears, and walnuts to evaluate the control of codling moth. The program is authorized only in the States of Arizona, California, Colorado, Connecticut, Delaware, Georgia, Idaho, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Texas, Utah, Vermont, Virginia, Washington, West Virginia, and Wisconsin. The experimental use permit is effective from November 1, 1993 to December 30, 1994. A temporary exemption from the requirement of a tolerance for residues of the active ingredient in or on apples, pears, and walnuts has been established.

(Phil Hutton, PM 18, Rm. 213, CM #2, (703-305-7690))

62719-EUP-8. Renewal. DowElanco, 9002 Purdue Road, Indianapolis, IN 46268. This experimental use permit allows the use of 250 pounds of the herbicide 3,5,6-trichloro-2-pyridinyloxyacetic acid, triethylamine salt on 2,000 acres of rice to evaluate the control of various broadleaf weeds. The program is authorized only in the States of Arkansas, California, Louisiana, Mississippi, Missouri, and Texas. The experimental use permit is effective from May 18, 1994 to June 23, 1995. A temporary tolerance for residues of the active ingredient in or on rice (grain and straw) has been established. (Robert Taylor, PM 25, Rm. 241, CM #2, (703-305-6800))

62719-EUP-25. Issuance. DowElanco, 9002 Purdue Road, Indianapolis, IN 46268. This experimental use permit allows the use of 105 grams of the insecticide/miticide N(((3,5-dichloro-4-(1,1,2,2-tetrafluoroethoxy)phenyl)amino)carbonyl)-2,6-difluorobenzamide on different termite populations under different climatic and geographic conditions to evaluate the control of termites. The program is authorized only in the States of Alabama, Arizona, California, Florida, Georgia, Hawaii, Illinois, Indiana, Kentucky, Louisiana, Maryland, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, and Virginia. The experimental use permit is effective from December 15, 1993 to March 15, 1995. (Robert Taylor, PM 25, Rm. 241, CM #2, (703-305-6800))

352-EUP-152. Renewal. E.I. duPont deNemours and Company, Inc., Agricultural Products, P.O. Box 80038, Wilmington, DE 19880-0038. This experimental use permit allows the use of 650 pounds of the insecticide phosphorothioic acid, O,O-diethyl O-(1,2,2,2-tetrachloroethyl)ester on 4,000 acres of corn to evaluate the control of various insects. The program is authorized only in the States of Colorado, Illinois, Indiana, Iowa, Kansas, Nebraska, and Wisconsin. The experimental use permit is effective from January 24, 1994 to January 24, 1995. A temporary tolerance for residues of the active ingredient in or on field corn (fodder, forage, and grain) has been established. (Dennis Edwards, PM 19, Rm 207, CM #2, (703-305-6386))

618-EUP-13. Amended/Renewal. Merck and Company, Inc., P.O. Box 450, Three Bridges, NJ 08887-0450. This experimental use permit allows the use of 11.25 pounds of the insecticide/miticide abamectin and its delta 8,9-

isomer on 225 acres of apples to evaluate the control of various insects and mites. The program is authorized only in the States of California, Colorado, Idaho, New Jersey, New York, North Carolina, Maine, Michigan, Ohio, Oregon, Pennsylvania, Virginia, Washington, and West Virginia. The experimental use permit is effective from May 1, 1994 to December 31, 1994. A temporary tolerance for residues of the active ingredient in or on apples has been established. (George LaRocca, PM 13, Rm. 204, CM #2, (703-305-6100))

3125-EUP-202. Renewal. Miles, Inc., Agricultural Division, P.O. Box 4913, Kansas City, MO 64120. This experimental use permit allows the use of 700.0 and 35.0 pounds of the insecticides O-[2-(1,1-dimethylethyl)-5-pyrimidinyl] O-ethyl O-(1-methylethyl)phosphorothioate and cyfluthrin, respectively on 4,800 acres of corn to evaluate the control of corn rootworm larvae (northern, southern, and western), cutworms, seedcorn beetle, seedcorn maggot, white grubs, and wireworms. The program is authorized only in the States of Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, Ohio, Pennsylvania, South Dakota, and Wisconsin. The experimental use permit is effective from March 21, 1994 to December 31, 1994. Temporary tolerances for residues of the active ingredients in or on corn have been established. (Robert Forest, PM 14, Rm. 219, CM #2, (703-305-6600))

524-EUP-84. Issuance. Monsanto Agricultural Company, 800 North Lindbergh Blvd., St. Louis, MO 63167. This experimental use permit allows the use of 4.13 pounds of the herbicide methyl 5-[[[4,6-dimethoxy-2-pyrimidinyl] amino]carbonylamino]sulfonyl]-3-chloro-1-methyl-1-H-pyrazole-4-carboxylate on 100 acres of milo (grain sorghum) to evaluate the control of various broadleaf weeds. The program is authorized only in the States of Kansas and Nebraska. The experimental use permit is effective from May 6, 1994 to May 6, 1995. This permit is issued with the limitation that all treated crops are destroyed or used for research purposes only. (Joanne Miller, PM 23, Rm. 237, CM #2, (703-305-7830))

Persons wishing to review these experimental use permits are referred to the designated product managers. Inquires concerning these permits should be directed to the persons cited above. It is suggested that interested persons call before visiting the EPA office, so that the appropriate file may be made available for inspection

purposes from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection,
Experimental use permits.

Dated: August 26, 1994.

Lois Rossi,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 94-22723 Filed 9-13-94; 8:45 am]

BILLING CODE 6560-60-F

[OPP-34064; FRL-4908-9]

Reregistration Eligibility Decision Document for Maleic Hydrazide; Availability for Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of Reregistration Eligibility Decision document; opening of public comment period.

SUMMARY: This Notice announces the availability of the Reregistration Eligibility Decision (RED) document for the following active ingredient from List A, and this notice also starts a 60-day public comment period. The RED for the chemical listed are the Agency's formal regulatory assessments of the health and environmental data base of the subject chemical and present the Agency's determination regarding which pesticidal uses are eligible for reregistration.

DATES: Written comments on the RED must be submitted by November 14, 1994.

ADDRESSES: Three copies of comments identified with the docket number "OPP-34064" and the case number, should be submitted to: By mail: OPP Pesticide Docket, Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., S.W., Washington, DC 20460. In person, deliver comments to: OPP Pesticide Docket, Rm. 1132, Crystal Mall 2 (CM#2), 1921 Jefferson Davis Highway, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: Technical questions on the above listed RED document should be directed to the appropriate Chemical Review Manager: Maleic Hydrazide - Susanne Cerrelli - (703) 308-8077

Information submitted as a comment in response to 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 that does not contain CBI must be submitted for inclusion in the public docket. Information not marked confidential will be included in the public docket without prior notice. The public docket and docket index will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

SUPPLEMENTARY INFORMATION: The Agency has issued Reregistration Eligibility Decision (RED) document for the pesticidal active ingredient listed above. Under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1988, EPA is conducting an accelerated reregistration program to reevaluate existing pesticides to make sure they meet current scientific and regulatory standards. The data base to support the reregistration of the chemical listed above is substantially complete. EPA has determined that all currently registered products subject to reregistration containing these active ingredients are eligible for reregistration.

List A -
Case 0381 - Maleic Hydrazide

To request a copy of any of the above listed RED document, or a RED Fact Sheet, contact the OPP Pesticide Docket, Public Response and Program Resources Branch, in Rm. 1132 at the address given above or call (703) 305-5805.

All registrants of products containing the listed active ingredient have been sent the appropriate RED document and must respond to labeling requirements and product specific data requirements (if applicable) within 8 months of receipt. Products containing the other active ingredients will not be reregistered until adequate product specific data have been submitted and all necessary product label changes are implemented.

The reregistration program is being conducted under Congressionally mandated time frames, and EPA recognizes both the need to make timely reregistration decisions and to involve the public. Therefore, EPA is issuing these REDs as final documents with a 60-day comment period. Although the 60-day public comment period does not affect the registrant's response due date, it is intended to provide an opportunity for public input and a mechanism for initiating any necessary amendments to the RED. All comments will be carefully

considered by the Agency. If any comment significantly affect a RED, EPA will amend the RED by publishing the amendment in the **Federal Register**.

List of Subjects

Environmental protection.

Dated: August 26, 1994.

Jay S. Ellenberger,

Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 94-22444 Filed 9-13-94; 8:45 am]

BILLING CODE 6560-50-F

[OPP-64024; FRL 4902-3]

Cancellation of Pesticides for Non-Payment of 1994 Registration Maintenance Fees

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Since the amendments of October, 1988, the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) has required payment of an annual maintenance fee to keep pesticide registrations in effect. The fee due last January 15 has gone unpaid for about 1,480 registrations. Section 4(i)(5)(D) of FIFRA provides that the Administrator may cancel these registrations by order and without a hearing; orders to cancel all but a few of them have been issued within the past few days. The Agency is deferring cancellation for certain of these registrations, however, to permit time for affected users to explore alternatives to cancellation directly with the registrants.

DATES: Reports of agreements to support continued registration or transfer of the registrations for which cancellation is being deferred must be received by December 13, 1994.

FOR FURTHER INFORMATION CONTACT: To report agreements to support continued registration of any of the products for which cancellation has been deferred, for instructions on payment of delinquent maintenance fees for these products, or for further information on the maintenance fee program in general, contact by mail: John Jamula, Office of Pesticide Programs (7504C), Environmental Protection Agency, 401 M St., SW, Washington, DC 20460. Office location and telephone number: Room 226, Crystal Mall No. 2, 1921 Jefferson Davis Highway South, Arlington, VA 22202, (703) 305-6426.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 4(i)(5) of FIFRA as amended in October, 1988, and again in December, 1991 requires that all pesticide registrants pay an annual registration maintenance fee, due by January 15 of each year, to keep their registrations in effect. This requirement applies to all registrations granted under section 3 as well as those granted under section 24(c) to meet special local needs. Registrations for which the fee is not paid are subject to cancellation by order and without a hearing.

The 1990 Farm Bill amended FIFRA to allow the Administrator to reduce or waive maintenance fees for minor agricultural use pesticides when she determines that the fee would be likely to cause significant impact on the availability of the pesticide for the use. The Agency has waived the fee for 42 minor agricultural use registrations at the request of the registrants. The Agency has identified 11 other registrations for which the maintenance fee was not paid and for which no waiver was requested that fall into this category, and is deferring cancellation of these registrations for a period of 90 days. Section III contains a list of these registrations and their vulnerable minor uses, along with instructions for preventing their cancellation.

In late November, 1993, all holders of either section 3 registrations or section 24(c) registrations were sent lists of their active registrations, along with forms and instructions for responding. They were asked to identify which of their registrations they wished to maintain in effect, and to calculate and remit the appropriate maintenance fees. Most responses were received by the statutory deadline of January 15. A notice of intent to cancel was sent in mid-March to companies who did not respond and to companies who responded, but paid for less than all of their registrations. Late payments of the fees were accepted until April 15, when the actual process of cancellation was begun.

Since mailing the notices, EPA has maintained a toll-free inquiry number through which the questions of affected registrants have been answered.

Maintenance fees have been paid for about 16,925 section 3 registrations, or about 94 percent of the registrations on file in December. Fees have been paid for about 2,400 section 24(c) registrations, or about 84 percent of the total on file in November. Cancellations for non-payment of the maintenance fee affect about 1000 section 3 registrations and about 480 section 24(c) registrations.

II. Product Cancellations Not Affecting Status of Active Ingredient

Our analyses indicate that many of these cancellations are simple housekeeping transactions, unlikely to affect pesticide markets or users. For example, more than 80 percent of the section 3 registrations for which no fee was paid are no longer in production, and their disappearance from the market will cause no adverse impact.

Although we do not have comparable production data for them, we believe that most of the canceled 24(c) registrations for special local needs are similarly obsolete. Over 60 percent of them were originally issued before 1988--most for a finite period which has long since expired. We also know that a large proportion have been made obsolete by subsequent section 3 registrations for the same uses.

The remaining registrations, 276 section 3 registrations and 158 section 24(c) registrations issued in the past 5 years, have been the principal focus of our further impact analyses. In all cases but five section 3 registrations discussed in section III below, the active ingredients will remain available in other registered products. We anticipate two types of impact for the bulk of these cancellations. First, some of these disappearing registrations will be survived in the market by substantially identical registrations. These substantially identical products may not, however, be readily available wherever a disappearing product was sold, so there may be local or regional disruptions while distribution patterns are adjusted. We expect these disruptions to be minor and temporary.

The cancellation orders generally permit registrants to continue to sell and distribute existing stocks of the canceled products until the due date for the next annual registration maintenance fee, January 15, 1995. Existing stocks already in the hands of dealers or users, however, can generally be distributed, sold or used legally until they are exhausted. Existing stocks are defined as those stocks of a registered pesticide product which are currently in the United States and which have been packaged, labeled and released for shipment prior to the effective date of the action.

The exceptions to these general rules are cases where more stringent restrictions on sale, distribution, or use of the products have already been imposed, through Special Reviews or other Agency actions. These general provisions for disposition of stocks should serve in most cases to cushion

the impact of these cancellations while the market adjusts.

Second, in some cases unique non-agricultural uses will disappear, although the active ingredients will remain available for different uses in other products. When this situation occurs, there may be more serious impacts on users of the canceled products. Once again, existing stocks of the canceled products already in channels of trade will be usable to mitigate these impacts in the short term. For the longer term the mechanisms of section 3 amendments and 24(c) registrations will remain available to obtain replacement registrations.

Neither of these types of impact leaves users without the means to replace lost registrations; neither is considered to justify further deferral of cancellations for non-payment of the maintenance fee. Thus all these

registrations for which the active ingredient will remain in other products have been canceled.

III. Cancellations Leading to Disappearance of Minor Agricultural Uses

A third type of impact arises in cases where unique agricultural uses would disappear. The 1990 Farm Bill amended FIFRA to allow the Administrator to reduce or waive maintenance fees for minor agricultural uses when she determines that the fee would be likely to cause significant impact on the availability of the pesticide for the use. The Agency waived the fee for 42 registrations at the request of the registrants. The Agency has also identified 11 more registrations for minor agricultural uses for which the maintenance fee was not paid and for which no waiver was requested, and

will defer cancellation of these registrations for 90 days to permit affected users to explore alternatives to cancellation. If the Agency is notified within 90 days of this notice at the address given above either (1) that the registrant will continue to support the registration, or (2) that an agreement has been reached to transfer the registration to another party, we will waive the 1994 maintenance fee and retain the registration in full active status. It should be emphasized, however, that any such registrations would still be subject to all requirements for reregistration, including reregistration fees (except as they may be reduced through the statutory provisions for small businesses or low volume uses).

The 11 registrations containing a disappearing minor agricultural use are grouped by active ingredient in the following Table 1:

TABLE 1. — PRODUCTS REGISTERED FOR A DISAPPEARING MINOR AGRICULTURAL USE WHICH ARE PENDING CANCELLATION FOR NON-PAYMENT OF 1994 REGISTRATION MAINTENANCE FEE

| Chemical Name | Registration No. | Product Name | Site |
|--|------------------|-----------------------------|--|
| Acetic acid, (2,4-dichlorophenoxy)-, 2-ethylhexyl ester. | 010292-00032 | Venus Selective Weed Killer | Barley (spring) (foliar treatment) |
| Aliphatic petroleum hydrocarbons | 005967-00128 | Dormant Emulsion | Wheat (winter) (foliar Treatment) |
| | | | Almonds (dormant application) |
| | | | Apples (dormant) |
| | | | Pears (delayed dormant application) |
| | | | Apricots (dormant application) |
| | | | Cherries (dormant application) |
| | | | Nectarines (dormant application) |
| | | | Peaches (dormant) |
| | | | Plums (dormant application) |
| | | | Prunes (dormant application) |
| | 005967-00155 | Superior 993 Oil Spray | Almonds (delayed dormant application) |
| | | | Apples (foliar treatment) |
| | | | Pears (foliar treatment) |
| | | | Apricots (delayed dormant application) |
| | | | Nectarines (delayed dormant application) |
| | | | Peaches (delayed dormant application) |
| | | | Plums (delayed dormant application) |
| | | | Prunes (delayed dormant treatment) |
| | | | Soybeans (forage) (foliar treatment) |
| | | | |
| 2,2-Dichlorovinyl dimethyl phosphate | 005602-00171 | Lethataire A-50 | Peanut Storage Areas |
| O,O-Diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate. | 000550-00136 | NAMCO Diazinon 4e | Citrus (citrus) (bark treatment) |
| | | | Grapefruit (bark treatment) |
| | | | Kumquat (basal bark treatment) |
| | | | Lemons (bark treatment) |
| | | | Limes (bark treatment) |

TABLE 1. — PRODUCTS REGISTERED FOR A DISAPPEARING MINOR AGRICULTURAL USE WHICH ARE PENDING CANCELLATION FOR NON-PAYMENT OF 1994 REGISTRATION MAINTENANCE FEE—Continued

| Chemical Name | Registration No. | Product Name | Site |
|--|------------------|--|--|
| O,O-Dimethyl phosphorodithioate of diethyl mercaptosuccinate. | 014775-00018 | Diazinon AG 50 Insecticide | Oranges (bark treatment) |
| | | | Tangelos (bark treatment) |
| | | | Tangerines (bark treatment) |
| | | | Cherries (sweet) (postharvest) |
| | 011773-00006 | Cornbelt Malathion 57 | Beans (forage-fodder) (foliar treatment) |
| | | | Blackberries (foliar Treatment) |
| | | | Boysenberries (foliar Treatment) |
| | | | Dewberries (foliar Treatment) |
| | | | Loganberries (foliar Treatment) |
| | | | Raspberries (foliar Treatment) |
| Methoxychlor (2,2-bis(p-methoxyphenyl)-1,1,1-trichloroethane). | 049074-00003 | Michlin "MA-2" Methoxychlor Elm Tree Spray Insecticide. | Walnuts (bait application) |
| | | | Soybeans (forage) (foliar treatment) |
| 1-Naphthyl-N-methylcarbamate | 000299-00220 | C.J. Martin Dipel and Sevin for Insect Control In Garden | Beets, Garden (leafy vegetable) |
| Sodium dichloro-s-triazinetrione | 063287-00001 | Mr.O's Sanitizing Tablets | Bushberries (foliar Treatment) |
| | | | Strawberries (foliar-treatment) |
| | | | Citrus (dormant application) |
| | | | Nectarines (foliar treatment) |
| | | | Peaches (foliar treatment) |
| | | | Alfalfa (seed treatment) |
| cis-N-Trichloromethylthio-4-cyclohexene-1,2-dicarboximide. | 000407-00290 | Imperial Captan 50W | Pears (foliar treatment) |

We encourage individual users or user groups who are concerned about the potential loss of these active ingredients to work directly with registrants identified by the first six digits of the Reg. No. in Table 1 to persuade them to continue to support the ingredient, or to identify third parties who would be willing to support the ingredient if the registrations were transferred to them. The full names and addresses of the current registrants appear in Table 3 below.

IV. Cancellations Leading to Disappearance of Active Ingredients

A final type of impact arises if an active ingredient that is now or has recently been available in the marketplace disappears. The Agency believes there are eight registered active ingredients in this category. No production has been reported for three of these active ingredients during the past three years; after deleting these three from the list of eight, five active ingredients remain. Of the five active ingredients—none subject to prior

regulatory action, and all likely to disappear as a consequence of these cancellations—two are used in agriculture; one is a rodenticide; one is used for turf grass, and one is used on ornamental plants. If the last section 3 registration for an ingredient disappears, the section 24(c) registration process is unlikely to be able to compensate for the loss.

These five ingredients, grouped by these same general categories of use patterns, are listed along with the EPA Company Number of their registrants in the following Table 2.

TABLE 2. — ACTIVE INGREDIENTS WITH RECENT PRODUCTION PENDING CANCELLATION OF ALL PRODUCTS FOR NON-PAYMENT OF 1994 REGISTRATION MAINTENANCE FEES, IN SEQUENCE BY BROAD USE PATTERN

| Chemical Name | Registration No. | Product Name |
|---|------------------|--|
| A. Agricultural Uses: | | |
| Kerosene | 005967-00153 | Maxipreme |
| Dinitor-N,N-dipropylcumidene | 062719-00104 | PAARLAN EC |
| B. Rodenticide: | | |
| Isovaleryl-1,3 indandione, calcium salt | 000769-00746 | TRAC Anticoagulant Tracking Powder Kills Rats and Mice |
| C. Turf Grass: | | |
| Isooctyl(2-octyl) 2,4-dichlorophenoxy-acetate | 039335-00051 | Lo-Vol 2D/2DP Turf Care Herbicide |

TABLE 2. — ACTIVE INGREDIENTS WITH RECENT PRODUCTION PENDING CANCELLATION OF ALL PRODUCTS FOR NON-PAYMENT OF 1994 REGISTRATION MAINTENANCE FEES, IN SEQUENCE BY BROAD USE PATTERN—Continued

| Chemical Name | Registration No. | Product Name |
|--|------------------|--------------|
| D. Ornamental Plants: Cyclododecyl-2,6 dimethylmorpholine acetate | 058185-00012 | MILBAN |

Because these active ingredients are likely to disappear with their product registration, the Agency has deferred for 90 days the cancellation of these five registrations. During that time those registrants or other affected persons may make arrangements to continue the registration.

We encourage individual users or user groups who are concerned about the potential loss of these active ingredients to work directly with the registrant identified by the first six digits of the Reg. No. in Table 2 to persuade them to

continue to support the ingredient, or to identify third parties who would be willing to support the ingredient if the registration were transferred to them.

The full names and addresses of current registrants appear in Table 3 below. We also encourage users to consult with the Cooperative Extension Service or other local sources to identify alternatives to these active ingredients.

If the Agency is notified within 90 days of this notice at the address given above either (1) that the registrant will continue to support the registration, or

(2) that an agreement has been reached to transfer the registration to another party, we will retain the registration in full active status as soon as the delinquent maintenance fee payment is received. It should be emphasized, however, that any such registrations would still be subject to all requirements for reregistration, including reregistration fees (except as they may be reduced through the statutory provisions for small businesses or low volume uses).

TABLE 3. — REGISTRANTS OF SELECTED REGISTRATIONS CANCELLATION FOR NON-PAYMENT OF 1993 REGISTRATION MAINTENANCE FEE

| EPA Company Number | Registrant Name and Address |
|--------------------|---|
| 000299 | C.J. Martin Co, Box 630009, Nacogdoches, TX 75963. |
| 000407 | Imperial Inc., Box 98, Shenandoah, IA 51601. |
| 000550 | Van Waters & Rogers, Inc., Subsidiary of Univar, Box 34325, Seattle, WA 98104. |
| 000769 | H.R. McLane, Inc., Agent For: Sureco, Inc., 7210 Red Rd., Suite 206, Miami, FL 33143. |
| 005602 | Hub States Corp., 8455 Keystone Crossing Suite 150, Indianapolis, IN 46240. |
| 005967 | Moyer Products, Inc., Box 5434, Fresno, CA 93755. |
| 010292 | Venus Laboratories, Inc., 855 Lively Blvd, Wood Dale, IL 60191. |
| 011773 | Van Diest Supply Co., Box 610, Webster City, IA 50595. |
| 014775 | Asgrow Florida Co, 4144 Hwy 39 N, Plant City, FL 33565. |
| 039335 | Maxus Agri Chem'l, 717 N. Harwood St. 13300, Dallas, TX 75201. |
| 049074 | Michlin Diazo Products Corp., 10501 Haggerty St., Dearborn, MI 48126. |
| 058185 | Grace-Sierra Crop Protection Co, Regulatory Affairs Dept, 1001 Yosemite Dr, Milpitas, CA 95035. |
| 062719 | DOWELANCO, 9330 Zionsville Rd, Indianapolis, IN 46268. |
| 063287 | Olde Tyme Products Inc., Subsidiary of Carroll Co, 2900 W. Kingsley Rd, Garland, TX 75041. |

In addition to publishing this notice in the Federal Register, we are sending it directly to the States, to the U.S. Department of Agriculture, and to other parties who have previously expressed concern for minor uses. They should be receiving the notice at approximately the same time it is published. We hope that this extraordinary notification effort, and the deferral of cancellations for the most sensitive registrations, will serve to prevent any avoidable loss of critical minor use pesticides.

Because so many registrations are involved, it would be impractical to list those which have been canceled in this notice. Complete lists of registrations

canceled for non-payment of the maintenance fee will, however, be available for reference during normal business hours in the OPP Public Docket, Room 1128, Crystal Mall 2, 1921 Jefferson Davis Highway South, Arlington VA, and at each EPA Regional Office. Product-specific status inquiries may be made by telephone by calling toll-free 1-800-444-7255.

List of Subjects

Environmental protection, Agricultural commodities, Pesticides and pests.

Dated: August 31, 1994.

Susan H. Wayland,
Acting Assistant Administrator for
Prevention, Pesticides and Toxic Substances.

[FR Doc. 94-22583 Filed 9-13-94; 8:45 am]

BILLING CODE 6560-52-F

FEDERAL RESERVE SYSTEM

Galatia Bancorp, Inc., et al.;
Formations of; Acquisitions by; and
Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding

Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than October 7, 1994.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Galatia Bancorp, Inc.*, Galatia, Illinois; to merge with Mounds Bancorp, Inc., Mounds, Illinois, and thereby indirectly acquire The First State Bank of Mounds, Mounds, Illinois.

B. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *First Colorado Bankshares, Inc.*, Telluride, Colorado; to become a bank holding company by acquiring 80 percent of the voting shares of First National Bank of Telluride, Telluride, Colorado.

Board of Governors of the Federal Reserve System, September 8, 1994.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 94-22687 Filed 9-13-94; 8:45 am]

BILLING CODE 6210-01-F

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 October 4, 1994.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *D & TC Inc.*, New Hampton, Iowa; 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, September 8, 1994.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 94-22688 Filed 9-13-94; 8:45 am]

BILLING CODE 6210-01-F

company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 7, 1994.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Mercantile Bancorporation Inc.*, St. Louis, Missouri; to acquire UNSL Financial Corp., Lebanon, Missouri, and thereby indirectly acquire United Savings Bank, Lebanon, Missouri, and engage in operating a savings association, pursuant to § 225.25(b)(9) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, September 8, 1994.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 94-22689 Filed 9-13-94; 8:45 am]

BILLING CODE 6210-01-F

D & TC, Inc.; 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

Mercantile Bancorporation Inc.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a

Eloise Pohl; 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 October 4, 1994.

A. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. *Eloise Pohl*, Edina, Minnesota; to acquire 30 percent; *Howard Wolf* to acquire 26 percent; *John Knox* and *Cole Thomson* to acquire 10 percent each; *Walter Manning* and *Sherwin Siff*, to acquire 4 percent each; *Chris Bagley*, *Malcolm Granberry*, *Bob Grundy*, *Robert Hutson*, to acquire 2 percent each; *David Moulton*, to acquire 2.5 percent; *Joe Sykes*, to acquire 0.5 percent; *John Carson*, *Terrence Schillaci*, *Sam Sicola*, *Scott Siff*, and *Charles Vernon*, to acquire 1 percent each, all of the above are from Houston, Texas, of the voting shares of B.O.A. Bancshares, Inc., Houston, Texas, and thereby indirectly acquire Bank of Alameda, Houston, Texas.

Board of Governors of the Federal Reserve System, September 8, 1994.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 94-22690 Filed 9-13-94; 8:45 am]

BILLING CODE 6210-01-F

Westamerica Bancorporation; Acquisition of Company Engaged in Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a) or (f) of the Board's Regulation Y (12 CFR 225.23(a) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity. 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 October 5, 1994.

A. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. *Westamerica Bancorporation*, San Rafael, California; to engage *de novo* through its subsidiary *Westcore*, San Rafael, California, in providing planning and servicing for retirement and employee benefit programs, including plan design, plan implementation, administrative services, employee communications, and trust services as approved by Board Order. *Norstar Bancorp Inc.*, 71 Federal Reserve Bulletin 656 (1985); *Bank Vermont Corporation*, 72 Federal Reserve Bulletin 337 (1986).

Board of Governors of the Federal Reserve System, September 8, 1994.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 94-22691 Filed 9-13-94; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 92F-0015]

GE Silicones; Withdrawal of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

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

withdrawal, without prejudice to a future filing, of a food additive petition (FAP 2B4302) proposing that the food additive regulations be amended to provide for the safe use of polyoxyethylene-grafted polydimethylsiloxane as a flow-control agent in silicone coatings intended for use in contact with food.

FOR FURTHER INFORMATION CONTACT:

Helen R. Thorsheim, Center for Food Safety and Applied Nutrition (HFS-216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-254-9511.

SUPPLEMENTARY INFORMATION: In a notice published in the *Federal Register* of March 10, 1992 (57 FR 8460), FDA announced that a food additive petition (FAP 2B4302) had been filed by GE Silicones, c/o 1120 G St. NW., Washington, DC 20005 (currently 700 13th St., suite 1200, Washington DC 20005). The petition proposed to amend the food additive regulations in § 175.300 *Resinous and polymeric coatings* (21 CFR 175.300) to provide for the safe use of polyoxyethylene-grafted polydimethylsiloxane as a flow-control agent in silicone coatings intended for use in contact with food. GE Silicones has now withdrawn the petition without prejudice to a future filing (21 CFR 171.7).

Dated: August 30, 1994.

Janice F. Oliver,

Deputy Director for Systems and Support, Center for Food Safety and Applied Nutrition.

[FR Doc. 94-22649 Filed 9-13-94; 8:45 am]

BILLING CODE 4160-01-F

[Docket No. 94D-0265]

The Seafood List—FDA Guide to Acceptable Market Names for Seafood Sold in Interstate Commerce; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of The Seafood List. The Seafood List is a revision of the "FDA Guide to Acceptable Market Names for Food Fish Sold in Interstate Commerce" (The Fish List), which was developed jointly with the National Marine Fisheries Service (NMFS). It compiles existing names that are recommended or required for use in labeling seafood products in interstate commerce. **DATES:** Written comments by December 13, 1994.

ADDRESSES: The Seafood List is available for purchase from the

Superintendent of Documents, U.S. Government Printing Office (GPO), Washington, DC 20402, 202-783-3238, at a cost of \$6.00 per copy. Orders should reference GPO Stock No. 017-012-00-366-4. Submit written comments on The Seafood List to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857. Comments should be identified with the docket number found in brackets in the heading of this document. The Seafood List and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Spring C. Randolph, Center for Food Safety and Applied Nutrition (HFS-416), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-418-3160.

SUPPLEMENTARY INFORMATION: In recent years there has been an increase in seafood consumption in the United States, along with increased importation of unfamiliar seafood and use of different names for the same seafood in different regions of the country. These changes have led FDA and NMFS to recognize the need for a single source of recommended or required market names for seafood sold in interstate commerce in the United States.

In 1988, The Fish List was published by FDA to provide a source of names that would facilitate order in the marketplace and reduce confusion among consumers. Although this list has had significant success in achieving its goals, its usefulness has been limited by the fact that it did not address invertebrate seafood species (mollusks and crustaceans). To alleviate this problem and to update The Fish List, FDA included vertebrate and invertebrate species of seafood in its current revision. In addition, to reflect its broader coverage, FDA has renamed it The Seafood List.

The Seafood List represents an extensive, although not complete, listing of seafood commonly sold in the United States. This list includes market names, scientific names, common names, and vernacular names for seafood sold in the United States. The agency advises that the listed common name or market name should be used to market seafood sold in interstate commerce. Vernacular names are included on this list for information purposes only and to encourage references to the acceptable common or market name. While a vernacular name may be used within the region where the name is commonly

used, the agency discourages the use of such names. FDA notes that the use of the name outside the region where the name is commonly used may mislead consumers and cause the agency to take regulatory action.

FDA used the following criteria in determining which species to include on the list:

- (1) The species is currently sold in interstate commerce in the United States or has a strong potential for sale;
- (2) The species is not listed as endangered; and
- (3) The species is not prohibited by law or policy from sale in interstate commerce.

FDA used the following sources in determining the scientific nomenclature, common names, market names, and vernacular names that it included in the list:

- (1) Common or usual names prescribed by Federal regulation.
- (2) In the absence of a required common or usual name, the American Fisheries Society's (AFS) "List of Common and Scientific Names of Mollusks and Crustaceans from the United States and Canada" was the primary reference that FDA consulted.
- (3) For species not listed in the AFS reference, FDA used the following references, in the order of priority:
 - (a) Food and Agriculture Organization species catalogues identification worksheets; and
 - (b) source country reference for species originating outside the United States.

FDA based its determination on the appropriate market name on the common usage in the U.S. marketplace. When more than one name is used for a species, FDA based its determination on the above references and on consultation with NMFS.

Use of the common and market names supplied in this list will promote consistency in labeling among various areas of the United States and will enhance the ability of the consumer to make informed choices among seafood products. In addition, The Seafood List will provide the industry with uniform nomenclature and assurance that the use of the listed common or market names for seafood products will be in compliance with food labeling requirements.

This list will also serve as a resource document for FDA and NMFS to provide consistent advice to inquiries. The agency recommends that a manufacturer or distributor who contemplates use of a name other than the listed common or market name first consult with FDA. Such a discussion may prevent expenditure of money and

effort for labeling that may mislead consumers and cause the agency to take regulatory action.

Interested persons may, on or before December 13, 1994, submit written comments regarding The Seafood List to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments will be used to determine whether amendments to or revisions of The Seafood List are warranted.

Dated: September 6, 1994.

William K. Hubbard,

Interim Deputy Commissioner for Policy.

[FR Doc. 94-22647 Filed 9-13-94; 8:45 am]

BILLING CODE 4160-01-F

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting:

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel.

Date: September 23, 1994.

Time: 8 a.m. to 5 p.m.

Place: 6120 Executive Blvd., Room 434, Rockville, MD.

Contact Person: Mary Nekola, Ph.D., Scientific Review Administrator, NIH, NIDCD, EPS Suite 400C, 6120 Executive Boulevard, MSC 7180, Bethesda, MD 20892-7180, 301/496-8683.

Purpose/Agenda: To review and evaluate contract proposals.

The meeting will be closed in accordance with the provisions set forth in sec. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.173 Biological Research Related to Deafness and Communication Disorders)

Dated: September 2, 1994.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 94-22668 Filed 9-13-94; 8:45 am]

BILLING CODE 4140-01-M

Division of Research Grants; Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panels (SEPs) meetings:

Purpose/Agenda: To review Small Business Innovation Research Program grant applications.

Name of SEP: Multidisciplinary Sciences.

Date: September 28-29, 1994.

Time: 8:00 a.m.

Place: Washington Dulles Airport Marriott, VA.

Contact Person: Dr. Harish Chopra, Scientific Review Admin., 5333 Westbard Ave., Room 2A18A, Bethesda, MD 20892, (301) 594-7342.

Name of SEP: Multidisciplinary Sciences.

Date: October 25, 1994.

Time: 8 a.m.

Place: Georgetown Holiday Inn, DC.

Contact Person: Dr. Eileen Bradley, Scientific Review Admin., 5333 Westbard Ave., Room 2A10, Bethesda, MD 20892, (301) 594-7188.

Name of SEP: Clinical Sciences.

Date: October 28, 1994.

Time: 8:30 a.m.

Place: Holiday Inn Chevy Chase, Chevy Chase, MD.

Contact Person: Dr. Sooja Kim, Scientific Review Administrator, 5333 Westbard Ave., Room 348, Bethesda, MD 20892, (301) 594-7174.

Purpose/Agenda: To review individual grant applications.

Name of SEP: Clinical Sciences.

Date: October 17, 1994.

Time: 9:00 a.m.

Place: One Washington Circle, DC.

Contact Person: Dr. Mushtaq Khan, Scientific Review Admin., 5333 Westbard Ave., Room 354B, Bethesda, MD 20892, (301) 594-7168.

Name of SEP: Clinical Sciences.

Date: October 18, 1994.

Time: 3:00 p.m.

Place: Dupont Plaza Hotel, Washington, D.C.

Contact Person: Dr. Sooja Kim, Scientific Review Administrator, 5333 Westbard Ave., Room 348, Bethesda, MD 20892, (301) 594-7174.

Name of SEP: Multidisciplinary Sciences.

Date: November 6-8, 1994.

Time: 7:30 p.m.

Place: Georgetown Holiday Inn, DC.

Contact Person: Dr. Eileen Bradley, Scientific Review Admin., 5333 Westbard Ave., Room 2A10, Bethesda, MD 20892, (301) 594-7188.

Name of SEP: Clinical Sciences.

Date: November 7, 1994.

Time: 8:30 a.m.

Place: Embassy Suites, Chevy Chase, MD.

Contact Person: Dr. H.M. Stiles, Scientific Review Admin., 5333 Westbard Ave., Room 203C, Bethesda, MD 20892, (301) 594-7194.

Name of SEP: Chemistry and Related Sciences.

Date: November 9, 1994.

Time: 8:30 a.m.

Place: Chevy Chase Holiday Inn, Chevy Chase, MD.

Contact Person: Dr. Jerry Critz, Scientific Review Administrator, 5333 Westbard Ave., Room 339B, Bethesda, MD 20892, (301) 594-7322.

The meetings will be closed in accordance with the provisions set forth in sec. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393-93.396, 93.837-93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: September 7, 1994.

Margery G. Grubb,

Senior Committee Management Specialist, NIH.

[FR Doc. 94-22667 Filed 9-13-94; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service**Centers for Disease Control and Prevention; Statement of Organization, Functions, and Delegations of Authority**

Part H, Chapter HC (Centers for Disease Control and Prevention) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772-67776, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 59 FR 24451, dated May 11, 1994) is amended to reflect organizational changes within the Office of the Director, National Institute for Occupational Safety and Health (NIOSH). In an effort to streamline reporting authorities, the NIOSH Washington Office and the Office of Program Planning and Evaluation will be abolished as official organizational components. Responsibilities for these functions will be retained within the Office of the Director, NIOSH.

Section, HC-B Organization and Functions, is hereby amended as follows:

After the functional statement for the *Office of Administrative and Management Services (HCC11)*, delete in its entirety the title and functional statement for the *Office of Program Planning and Evaluation (HCC12)*.

After the functional statement for the *Office of Extramural Coordination and*

Special Projects (HCC13), delete in its entirety the title and functional statement for the *NIOSH Washington Office (HCC15)*.

Effective Date: September 1, 1994.

David Satcher,

Director, Centers for Disease Control and Prevention.

[FR Doc. 94-22664 Filed 9-13-94; 8:45 am]

BILLING CODE 4160-18-M

Social Security Administration**1994 Advisory Council on Social Security; Regional Meetings**

AGENCY: Social Security Administration, HHS.

ACTION: Notice of public meetings.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice announces regional meetings of the 1994 Advisory Council on Social Security (the Council).

DATES AND ADDRESSES: The following meetings will be held on September 29, 1994, 10:00 a.m. to 4:00 p.m.

CHICAGO REGION:

Loyola University, Rubloff Auditorium, 25 East Pearson, Chicago, IL

ATLANTA REGION:

The University of Miami, Koubek Center, 2705 S.W. 3 Street, Miami, FL

DALLAS REGION:

University of Texas at Austin, Lyndon Baines Johnson School of Public Affairs, Bass Lecture Hall, Austin, TX

The following meetings will be held on September 30, 1994, 10:00 a.m. to 4:00 p.m.

BOSTON REGION:

Boston College, Gasson Hall, Room 100, 140 Commonwealth Avenue, Chestnut Hill, MA

NEW YORK REGION:

U.S. Court of International Trade, One Federal Plaza, 2nd Floor, New York, NY

SAN FRANCISCO REGION:

University of San Francisco, 250 McLaren Hall, Golden Gate Avenue and Parker Street, San Francisco, CA.

FOR FURTHER INFORMATION CONTACT: By mail—Dan Wartonick, 1994 Advisory Council on Social Security, Room 639H, Hubert H. Humphrey Building, 200 Independence Avenue, SW,

Washington, DC 20201; By telephone—(202) 205-4861; By telefax—(202) 260-6101.

SUPPLEMENTARY INFORMATION:

I. Purpose

Under section 706 of the Social Security Act (the Act), the Secretary of Health and Human Services (the Secretary) appoints the Council every 4 years. The Council examines issues affecting the Social Security Old-Age, Survivors, and Disability Insurance (OASDI) programs, as well as the Medicare program and impacts on the Medicaid program, which were created under the Act.

In addition, the Secretary has asked the Council specifically to address the following:

- Social Security financing issues, including developing recommendations for improving the long-range financial status of the OASDI programs;

- General program issues such as the relative equity and adequacy of Social Security benefits for persons at various income levels, in various family situations, and various age cohorts, taking into account such factors as the increased labor force participation of women, lower marriage rates, increased likelihood of divorce, and higher poverty rates of aged women.

In addressing these topics, the Secretary suggested that the Council may wish to analyze the relative roles of the public and private sectors in providing retirement income, how policies in both sectors affect retirement decisions and the economic status of the elderly, and how the disability insurance program provisions and the availability of health insurance and health care costs affect such matters.

The Council is composed of 12 members in addition to the chairman: Robert Ball, Joan Bok, Ann Combs, Edith Fierst, Gloria Johnson, Thomas Jones, George Kourpias, Sylvester Schieber, Gerald Shea, Marc Twinney, Fidel Vargas, and Carolyn Weaver. The chairman is Edward Gramlich.

The Council met previously on June 24-25, and July 29, 1994 (59 FR 30367 and 59 FR 35942, respectively).

II. Agenda

The Council will consider views and comments from the public on the following subjects:

- Social Security financing, including the long-range financial status of the OASDI programs;

- Adequacy and equity of Social Security benefits paid to persons at various income levels, in various family situations, and age groups; and

- The relative roles of the public and private sectors in providing retirement income and how policies in both sectors affect the retirement decisions and economic well-being of individuals.

The agenda items are subject to change as priorities dictate.

The meeting is open to the public to the extent that space is available. Public officials, representatives of professional and advocacy organizations, concerned citizens, and Social Security and SSI recipients may speak and submit written comments on the issues considered by the Council. Interpreter services for persons with hearing impairments will be provided.

In order to ensure that as many speakers as possible are given the opportunity in the time allotted for public comment, each person will be limited to a maximum of 5 minutes. Because of the time limitation, individuals are requested to present comments in their order of importance. A written copy of comments should be prepared and presented to us, preferably in advance of the meeting. To ensure our full understanding and consideration of all of each speaker's concerns, we welcome written comments that provide a detailed and elaborative discussion of the subjects presented orally, as well as further written comments on other issues not presented orally. Persons unable to attend the meeting also may submit written comments. Written comments will receive the same consideration as oral comments.

To request to speak, please telephone the Council at the information contact shown above, and provide the following: (1) Name; (2) business or residence address; (3) telephone number (including area code) during normal working hours; and (4) capacity in which presentation will be made; i.e., public official, representative of an organization, or citizen. For planning purposes, we will appreciate receiving requests to speak 7 days before the date of the meeting.

A transcript of the meeting will be available at an at-cost basis. Transcripts may be ordered from the information contact shown above. The transcript and all written submissions will become part of the record of these meetings.

(Catalog of Federal Domestic Assistance Program Nos. 93.802, Social Security-Disability Insurance; 93.803, Social Security-Retirement Insurance; 93.805, Social Security-Survivors Insurance)

Dated: September 7, 1994.

David Lindeman,

Executive Director, 1994 Advisory Council on Social Security.

[FR Doc. 94-22718 Filed 9-13-94; 8:45 am]

BILLING CODE 4190-29-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. N-94-3789; FR-3705-N-02]

NOFA for the Rental Voucher Program and Rental Certificate Program; Correction

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of fund availability for FY 1994 and procedures for allocating funds and approving housing agency applications; Correction.

SUMMARY: The Department is amending the Notice of Funding Availability (NOFA) published in the *Federal Register* on July 11, 1994 (59 FR 35426), for the Rental Voucher and the Rental Certificate Programs to rename a component part of the non-metropolitan allocation area for the HUD Honolulu Field Office. The Department changed the definition for the non-metropolitan allocation area to include the Pacific Islands and the Trust Territories but inadvertently failed to reflect the changed definition on the allocation table and only listed Guam. This correction will use the term Pacific Islands to include Guam, Marianna Islands and Trust Territories. This will clarify that all housing agencies in the Pacific Islands are in the non-metropolitan allocation area for the HUD Honolulu Field Office.

DATES: Please refer to the July 11, 1994, NOFA publication (59 FR 35426) for the application deadline dates and addresses for the fair share funding.

ADDRESSES: See DATES section above.

FOR FURTHER INFORMATION CONTACT: Gerald J. Benoit, Director, Operations Branch, Rental Assistance Division, Office of Public and Indian Housing, Room 4220, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410-8000, telephone (202) 708-0477. Hearing- or speech-impaired individuals may call HUD's TDD number (202) 708-4594. (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION:

Accordingly, FR Doc. 94-16717, a

NOFA for the Rental Voucher Program and Rental Certificate Program, published in the *Federal Register* on July 11, 1994 (59 FR 35426), is amended by correcting the table appearing on page 35452, following the heading for "HUD REGION IX (SAN FRANCISCO)", as follows:

HUD REGION IX (SAN FRANCISCO)
HONOLULU, HAWAII OFFICE

* * * * *

Nonmetropolitan allocation area,
\$1,743,902, 34, Hawaii, Kuai, Maui,
Pacific Islands

* * * * *

Dated: September 8, 1994.

Joseph Shuldiner,

Assistant Secretary for Public and Indian
Housing.

[FR Doc. 94-22671 Filed 9-13-94; 8:45 am]

BILLING CODE 4210-33-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, et seq.):

Applicant: Matson's Laboratory,
Milltown, MT, PRT-793989

The applicant requests a permit to import 25 teeth from wood bison (*Bison bison athabasca*) obtained from animals legally taken in the Northwest Territories, Canada, in a government authorized hunt. The teeth will be used for age determinations to study population dynamics of the species.

Applicant: Wildlife Conservation
Society, Bronx, NY, PRT-794086

The applicant requests a permit to export one Gelada baboon (*Theropithecus gelada*) and six Brown antlered deer (*Cervus eldi thamin*) to Zoofari, Tlalpan, Mexico, for enhancement of the species through propagation.

The public is invited to comment on the following application(s) for permits to conduct certain activities with marine mammals. The application(s) was/were submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 et seq.) and the regulations governing marine mammals (50 CFR 18).

Applicant: National Biological
Survey, Anchorage AK, PRT-789245

Type of Permit: Import and export of preserved, dried or embedded specimens of sea otter.

Name and Number of Animals: Sea Otter (*Enhydra lutris*), unlimited.

Summary of Activity to be Authorized: Applicant requests a permit to import and export accessioned museum specimens with other scientific institutions and museums for scientific studies.

Period of Activity: Four Years.
Concurrent with the publication of this notice in the *Federal Register*, the Office of Management Authority is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Written data or comments, requests for copies of the complete application, or requests for a public hearing on this application should be sent to the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 N. Fairfax Drive, Room 420(c), Arlington, Virginia 22203, telephone 703/358-2104 or fax 703/358-2281 and must be received within 30 days of the date of publication of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such hearing is at the discretion of the Director.

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice at the above address.

Dated: September 9, 1994.

Caroline Anderson,

Acting Chief, Branch of Permits, Office of
Management Authority.

[FR Doc. 94-22758 Filed 9-13-94; 8:45 am]

BILLING CODE 4310-55-P

Availability of an Environmental Assessment/Habitat Conservation Plan and Receipt of an Application for an Incidental Take Permit for the Proposed Treetops Residential Development in Travis County, TX

AGENCY: Fish and Wildlife Service,
Interior.

ACTION: Notice.

SUMMARY: J.P.I. Texas Development Inc. (Applicant) has applied to the Fish and Wildlife Service (Service) for an incidental take permit pursuant to Section 10(a)(1)(B) of the Endangered Species Act (Act). The Applicant has been assigned permit number PRT-

790130. The requested permit, which is for a period not to exceed 30 years, would authorize the incidental take of the endangered golden-cheeked warbler (*Dendroica chrysoparia*). The proposed take would occur as a result of the construction of a 20 acre residential development, in Travis County, Texas. The proposed development will eliminate about 20 acres and impact an additional 48 acres of occupied and/or potential endangered species habitat.

The Service has prepared an Environmental Assessment/Habitat Conservation Plan (EA/HCP) for the incidental take application. A determination of jeopardy to the species or a Finding of No Significant Impact (FONSI) will not be made before 30 days from the date of publication of this notice. This notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

DATES: Written comments on the application should be received on or before October 14, 1994.

ADDRESSES: Persons wishing to review the application may obtain a copy by writing to the Assistant Regional Director, Ecological Services, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Persons wishing to review the EA/HCP may obtain a copy by contacting Ann Henry, Ecological Services Field Office, U.S. Fish and Wildlife Service, 611 East Sixth Street, Suite 407, Austin, Texas 78701 (512/482-5436). Documents will be available for public inspection by written request, by appointment only, during normal business hours (8:00 to 4:00) at the Southwest Regional Office, Division of Endangered Species/Permits, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103, or the Ecological Services Field Office (9:00 to 4:30), U.S. Fish and Wildlife Service, 611 East Sixth Street, Suite 407, Austin, Texas 78701. Written data or comments concerning the application should be submitted to the Acting Field Supervisor, Ecological Services Field Office, Austin, Texas (see ADDRESSES above). Please refer to permit number PRT-790130 when submitting comments.

FOR FURTHER INFORMATION CONTACT: Ann Henry at the above Austin Ecological Services Field Office address.

SUPPLEMENTARY INFORMATION: Section 9 of the Act prohibits the "taking" of endangered species such as the golden-cheeked warbler. However, the Service, under limited circumstances, may issue permits to take endangered wildlife species incidental to, and not the

purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

The Applicant plans to build a residential subdivision in northwest Austin, Travis County, Texas. An Environmental Assessment/Habitat Conservation Plan has been prepared for the construction of the 20 acre residential subdivision. As mitigation for the incidental taking of the golden-cheeked warbler, the Applicant proposes to preserve 71 acres of occupied warbler habitat in the Bull Creek drainage; minimize the clearing of vegetation; and schedule work outside of the warbler's breeding season (August 1 through March 1).

The Applicant considered four alternatives but rejected three of them because they were not economically viable.

James A. Young,

Assistant Regional Director, Ecological Services, Southwest Region (2).

[FR Doc. 94-22663 Filed 9-13-94; 8:45 am]

BILLING CODE 4310-55-P

Notice of Availability of a Draft Revised Recovery Plan for the Florida Panther for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability and public comment period.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability for public review of a draft revised recovery plan for the Florida panther, *Felis concolor coryi*. A single population estimated to number 30 to 50 adults represents the sole known remaining population in the wild. This population utilizes approximately 3 million acres of habitat on public and privately owned lands in south Florida. Existing data indicate that the Florida panther will likely go extinct without actions to restore genetic health to the population. The draft plan is an abbreviated revision of the 1987 revised plan. It was prepared specifically to incorporate a task designed to restore and maintain the historic genetic character of the Florida panther. The Service solicits review and comments from the public on this draft revision.

DATES: Comments on the draft recovery plan must be received on or before October 31, 1994 to receive consideration by the Service.

ADDRESSES: Persons wishing to review the draft recovery plan may do so by appointment, during normal business hours at the following four U.S. Fish and Wildlife Service locations:

Jacksonville Field Office, 6620 South point Drive, South, Suite 310, Jacksonville, Florida 32216-0912 (Telephone 904/232-2580); Vero Beach Field Office, 1360 US Highway 1, Suite 5, Vero Beach, Florida 32961-2676 (Telephone 407/562-3909); Florida Panther National Wildlife Refuge, 3860 Tollgate Blvd., Suite 30, Naples, Florida 33942 (Telephone 813/353-8442); Florida Panther Coordinator, 117 Newins-Ziegler Hall, University of Florida, Gainesville, Florida 32611-0450 (Telephone 904/392-1961). Copies can be purchased by contacting the Fish and Wildlife Reference Service, 5430 Grosvenor Lane, Suite 110, Bethesda, Maryland 20814 (Telephone 301/492-6403 or 800/582-3421). Written comments and materials regarding the plan should be addressed to the Florida Panther Coordinator at the above Gainesville, Florida address. Comments and materials received are available on request for public inspection, by appointment, during normal business hours at the above Gainesville, Florida address.

FOR FURTHER INFORMATION CONTACT:

Dennis Jordan, Florida Panther Coordinator, at the above Gainesville, Florida address (telephone 904/392-1961).

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals or plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of the Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for conservation of the species, establish criteria for recognizing the recovery levels for downlisting or delisting them, and estimate time and costs for implementing the recovery measures needed.

The Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act), requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that a public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. The Service and other

Federal agencies will also take these comments into account in the course of implementing approved recovery plans.

The species considered in this draft revised recovery plan is the Florida panther, *Felis concolor coryi*. A single population estimated to number 30 to 50 adults represents the sole known remaining population in the wild. This population utilizes approximately 3 million acres of habitat on public and privately owned lands in south Florida. Existing data indicate that the Florida panther will likely go extinct without actions to restore genetic health to the population. The subject plan represents an abbreviated revision to the 1987 revised plan and was undertaken specifically to incorporate into the recovery program a task designed to restore and maintain the historic genetic character of the Florida panther. Available biological data indicated that perhaps even if all other major tasks contained in the present recovery program are successfully implemented, the continued existence of the panther would be doubtful without specific actions to restore genetic health to the panther. The identification and implementation of actions needed to accomplish this task would be guided by the analysis and evaluation of various alternatives that may be available.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified above will be considered prior to approval of the plan.

Authority

The authority for this action is Section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: August 31, 1994.

David J. Wesley,

Field Supervisor.

[FR Doc. 94-22659 Filed 9-13-94; 8:45 am]

BILLING CODE 4310-55-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-368]

Notice of Investigation

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

In the Matter of: Certain rechargeable nickel metal hydride anode materials and batteries, and products containing same.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on August 8, 1994, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Ovonic Battery Company, Inc., 1707 Northwood Drive, Troy, MI 48094 and Energy Conversion Devices, Inc., 1675 West Maple Road, Troy, MI 48094. An amendment to the complaint was filed on August 11, 1994, and an amendment and supplement was filed on August 30, 1994. The complaint, as amended and supplemented, alleges violation of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain rechargeable nickel metal hydride anode materials and batteries, and products containing same, by reason of alleged infringement of claims 1-17, 22-23, 25, 27, and 32 of U.S. Letters Patent 4,623,597, and that there exists an industry in the United States as required by subsection (a)(2) of section 337.

The complainants request that the Commission institute an investigation and, after a hearing, issue a permanent exclusion order and permanent cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is 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., Room 112, Washington, DC 20436, telephone 202-205-1802. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810.

FOR FURTHER INFORMATION CONTACT: Kent Stevens, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202-205-2579.

Authority

The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 59 FR 39020, 39043 (Aug. 1, 1994).

Scope of Investigation

Having considered the complaint, the U.S. International Trade Commission, on September 2, 1994, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of section 337(a)(1)(B) in the importation into the United States, the sale for importation, or the

sale within the United States after importation of certain rechargeable nickel metal hydride anode materials and batteries, and products containing same, by reason of alleged infringement of claims 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 22, 23, 25, 27 or 32 of U.S. Letters Patent 4,623,597, and whether there exists an industry in the United States as required by subsection (a)(2) of section 337.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are—
Ovonic Battery Company, Inc., 1707 Northwood Drive, Troy, MI 48094
Energy Conversion Devices, Inc., 1675 West Maple Road, Troy, MI 48094

(b) The respondents are the following companies alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Sanyo Electric Co., Ltd., 222-1 Kaminaizen, Sumoto-City, Hyogo, Japan
Sanyo Energy (USA) Corporation, 2001 Sanyo Avenue, San Diego, CA 92173
Yuasa Corporation, Sumitomo Higashi-Shimbashi, Bldg. No. 5, 2-11-7, Higashi-Shimbashi, Minato-ky, Tokyo 105, Japan
Yuasa-Exide, Inc., 2400 Burnville Road, Reading, Pennsylvania 19605
Toshiba Battery Co., Ltd., KOEI Bldg. 13-10, Ginza 7-Chome, Chuo-Ku, Tokyo 105, Japan

Toshiba America Information Systems, Inc., 9740 Irvine Blvd., Irvine, CA 92718
Toshiba America Consumer Products, Inc., 82 Totowa Road, Wayne, NJ 07470

(c) Kent Stevens, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW., Room 401-L, Washington, DC 20436, who shall be the Commission investigative attorney, party to this investigation; and

(3) For the investigation so instituted, Janet D. Saxon, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with § 210.13 of the Commission's Rules of Practice and Procedure, 59 F.R. 39020, 39045 (Aug. 1, 1994). Pursuant to sections 201.16(d) and 210.13(a) of the Commission's Rules, 19 CFR § 201.16(d) and 59 F.R. 39020, 39045 (Aug. 1, 1994), such responses will be considered by the Commission if received no later than 20 days after the date of service of the complaint. Extensions of time for submitting responses to the complaint will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the

allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondents, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against such respondent.

By order of the Commission.

Issued: September 8, 1994.

Donna R. Koehnke,
Secretary.

[FR Doc. 94-22738 Filed 9-13-94; 8:45 am]

BILLING CODE 7020-02-P

[Investigation No. 731-TA-683 (Final)]

Fresh Garlic From the People's Republic of China

AGENCY: International Trade Commission.

ACTION: Revised schedule for the subject investigation.

EFFECTIVE DATE: September 7, 1994.

FOR FURTHER INFORMATION CONTACT: Jonathan Seiger (202-205-3183), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. 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. Information can also be obtained by calling the Office of Investigations' remote bulletin board system for personal computers at 202-205-1895 (N,8,1).

SUPPLEMENTARY INFORMATION: The Commission is revising its schedule in the subject investigation as follows: Requests to appear at the hearing must be filed with the Secretary to the Commission not later than September 16, 1994; the prehearing conference will be held at the U.S. International Trade Commission Building at 9:30 a.m. on September 20, 1994; the prehearing staff report will be placed in the nonpublic record on September 14, 1994; the deadline for filing prehearing briefs is September 21, 1994; the hearing will be held at the U.S. International Trade Commission Building at 9:30 a.m. on September 27, 1994; and the deadline for filing posthearing briefs is October 5, 1994.

For further information concerning this investigation see the Commission's notice of investigation (59 FR 39574, August 8, 1994) and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules.

By order of the Commission.

Issued: September 8, 1994.

Donna R. Koehnke,

Secretary.

[FR Doc. 94-22737 Filed 9-13-94; 8:45 am]

BILLING CODE 7020-02-P

[Investigation No. 337-TA-357]

Certain Sports Sandals and Components Thereof; Notice of Decision Not to Review An Initial Determination Granting a Joint Motion To Terminate the Investigation With Respect to Respondent Brown Group Retail, Inc. on the Basis of a Consent Order; Issuance of Consent Order; Termination of Investigation

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (ID) (Order No. 11) issued on August 25, 1994, by the presiding administrative law judge (ALJ) in the above-captioned investigation granting the joint motion of complainant Deckers Corporation and respondent Brown Group Retail, Inc. to terminate the investigation as to Brown on the basis of a settlement agreement, consent order agreement, and consent order. As Brown is the last remaining respondent, termination of Brown terminates the investigation.

FOR FURTHER INFORMATION CONTACT: Rhonda M. Hughes, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202-205-3083.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation, which concerns allegations of section 337 violations in the importation, the sale for importation, and the sale within the United States after importation of sports sandals that infringe three claims of U.S. Letters Patent 4,793,075, on September 9, 1993.

On January 14, 1994, Deckers and Brown filed a joint motion to terminate the investigation on the basis of a settlement agreement, a consent order agreement, and a proposed consent order. On April 19, 1994, the ALJ issued an ID granting the joint motion, which was unopposed, and terminating the investigation as to Brown. The Commission reviewed the ID and remanded it to the ALJ. By order dated June 13, 1994, the Commission directed the ALJ to advise the parties that, if they wish to terminate the investigation on the basis of a consent order, the stipulated findings in the proposed consent order should make it clear that the stipulation concerning the patent's validity will become void only if the patent is found to be invalid by a court or agency in a final decision that is no longer subject to appeal and is unrelated to enforcement of the consent order. The parties then filed a supplement to their joint motion, an amendment to the settlement agreement, and a revised proposed consent order. Subsequently, the ALJ issued an ID on August 25, 1994, granting the joint motion and terminating the investigation as to Brown. No petitions for review of the ID, or agency or public comments concerning the ID, were filed.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and Commission interim rule, 210.53, 19 CFR 210.53.

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, S.W., Washington, D.C. 20436, telephone 202-205-2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810.

By order of the Commission.

Issued: September 6, 1994.

Donna R. Koehnke,

Secretary.

[FR Doc. 94-22739 Filed 9-13-94; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF JUSTICE

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the

Paperwork Reduction Act (44 U.S.C. chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

- (1) the title of the form/collection;
- (2) the agency form number, if any, and the applicable component of the Department sponsoring the collection;
- (3) how often the form must be filled out or the information is collected;
- (4) who will be asked or required to respond, as well as a brief abstract;
- (5) an estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;
- (6) an estimate of the total public burden (in hours) associated with the collection; and,
- (7) an indication as to whether Section 3504(h) of Public Law 96-511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jeff Hill on (202) 395-7340 and to the Department of Justice's Clearance Officer, Mr. Robert B. Briggs, on (202) 514-4319. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the Department of Justice Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Robert B. Briggs, Department of Justice Clearance Officer, Systems Policy Staff/ Information Resources Management/ Justice Management Division Suite 850, WCTR, Washington, DC 20530.

Revision of a Currently Approved Collection

- (1) Report of Suspicious Orders or Theft/Loss of Listed Chemicals/Machines.
- (2) None. Drug Enforcement Administration.
- (3) Recordkeeping for retailers of drug products. Reporting: On Occasion.
- (4) Individuals or households, Businesses or other for-profit, Small businesses or organizations. The Domestic Chemical Diversion Control Act of 1993 amends DEA's chemical recordkeeping and reporting requirements to remove the exemption

for certain drugs which contain ephedrine. Persons who previously were not required to keep records or make reports regarding sales of these products now must do so.

(5) 10,300 annual respondents at .17 hours per response. 10,000 recordkeepers at 100 annual hours per recordkeeper.

(6) 3,502 total annual reporting hours. 1,000,000 total annual recordkeeping hours. Recordkeeping retention period: 4 years. 1,003,451 Total Annual Burden.

(7) Not applicable under Section 3504(h) of Public Law 96-511.

Public comment on this item is encouraged.

Dated: September 8, 1994.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 94-22651 Filed 9-13-94; 8:45 am]

BILLING CODE 4410-09-M

Information Collections Under Review

The Office of Management and Budget (OMB) had been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

- (1) the title of the form/collection;
- (2) the agency form number, if any, and the applicable component of the Department sponsoring the collection;
- (3) how often the form must be filled out or the information is collected;
- (4) who will be asked or required to respond, as well as a brief abstract;
- (5) an estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;
- (6) an estimate of the total public burden (in hours) associated with the collection; and,
- (7) an indication as to whether Section 3504(h) of Public Law 96-511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jeff Hill on (202) 395-7340 and to the Department of Justice's Clearance Officer, Mr. Robert B. Briggs, on (202) 514-4319. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify

the OMB reviewer and the Department of Justice Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Robert B. Briggs, Department of Justice Clearance Officer, Systems Policy Staff/Information Resources Management/Justice Management Division Suite 850, WCTR, Washington, DC 20530.

New Collection

(1) Application for Registration under Domestic Chemical Diversion Control Act of 1993 (DEA Form 510) Renewal Application for Registration under Domestic Chemical Diversion Control Act of 1993 (DEA Form 510a)

(2) DEA Forms 510 and 510a. Drug Enforcement Administration.

(3) On Occasion. DEA Form 501, New Applicant. Annually. DEA Form 510a, Renewal.

(4) Individuals or households, Businesses or other for-profit, Small businesses or organizations. The Domestic Chemical Diversion Control Act requires that distributors, importers and exporters of listed chemicals which are being diverted in the United States for the production of illicit drugs must register with the DEA. Registration provides a system to aid in the tracking of the distribution of List I chemicals.

(5) 11,500 annual respondents at .5 hours per response.

(6) 5,750 annual burden hours.

(7) Not applicable under Section 3504(h) of Public Law 96-511.

Public comment on this item is encouraged.

Dated: September 8, 1994.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 94-22650 Filed 9-13-94; 8:45 am]

BILLING CODE 4410-09-M

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated May 6, 1994, and published in the **Federal Register** on May 13, 1994, (59 FR 25126), Sanofi Winthrop L.P., DBA Sanofi Winthrop Pharmaceutical, 200 East Oakton Street, Des Plaines, Illinois 60018, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

| Drug | Schedule |
|----------------------------|----------|
| Codeine (9050) | II |
| Hydromorphone (9150) | II |
| Meperidine (9230) | II |
| Morphine (9300) | II |

Comments were received and a registered importer did file a written request for a hearing with respect to the registration of Sanofi Winthrop L.P., the firm subsequently withdrew its request for a hearing on July 22, 1994, because it intends to use the import registration to allow its Distribution Center to re-import controlled substances not acceptable to foreign customers. Therefore, pursuant to Section 1008(a) of the Controlled Substances Import and Export Act and in accordance with Title 21, Code of Federal Regulations, § 1311.42, the above firm is granted registration as an importer of the basic classes of controlled substances listed above.

Dated: September 6, 1994.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 94-22717 Filed 9-13-94; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Employment and Training Administration Notice of Attestations Filed by Facilities Using Nonimmigrant Aliens as Registered Nurses

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is publishing, for public information, a list of the following health care facilities that have submitted attestations (Form ETA 9029 and explanatory statements) to one of four Regional Offices of DOL (Boston, Chicago, Dallas and Seattle) for the purpose of employing nonimmigrant alien nurses. A decision has been made on the these organizations' attestations and they are on file with DOL.

ADDRESSES: Anyone interested in inspecting or reviewing the employer's attestation may do so at the employer's place of business.

Attestations and short supporting explanatory statements are also available for inspection in the U.S. Employment Service, Employment and Training Administration, Department of Labor, Room N-4456, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Any complaints regarding a particular

attestation or a facility's activities under that attestation, shall be filed with a local office of the Wage and Hour Division of the Employment Standards Administration, Department of Labor. The address of such offices are found in many local telephone directories, or may be obtained by writing to the Wage and Hour Division, Employment Standards Administration, Department of Labor, Room S-3502, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT:*Regarding the Attestation Process:*

Chief, Division of Foreign Labor Certifications, U.S. Employment Service. Telephone: 202-219-5263 (this is not a toll-free number).

Regarding the Complaint Process:

Questions regarding the complaint process for the H-1A nurse attestation program will be made to the Chief, Farm Labor Program, Wage and Hour Division. Telephone: 202-219-7605 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

The Immigration and Nationality Act requires that a health care facility seeking to use nonimmigrant aliens as

registered nurses first attest to the Department of Labor (DOL) that it is taking significant steps to develop, recruit and retain United States (U.S.) workers in the nursing profession. The law also requires that these foreign nurses will not adversely affect U.S. nurses and that the foreign nurses will be treated fairly. The facility's attestation must be on file with DOL before the Immigration and Naturalization Service will consider the facility's H-1A visa petitions for bringing nonimmigrant registered nurses to the United States. 26 U.S.C. 1101(a)(15)(H)(i)(a) and 1181(m). The regulations implementing the nursing attestation program are at 20 CFR Parts 655, Subpart D, and 29 CFR Part 504, (January 6, 1994). The Employment and Training Administration, pursuant to 20 CFR 655.310(c), is publishing the following list of facilities which have submitted attestations which have been accepted for filing and those which have been rejected.

The list of facilities is published so that U.S. registered nurses, and other persons and organizations can be aware of health care facilities that have

requested foreign nurses for their staff. If U.S. registered nurses or other persons wish to examine the attestation (on Form ETA 9029) and the supporting documentation, the facility is required to make the attestation and documentation available. Telephone numbers of the facilities chief executive officer also are listed to aid public inquiries. In addition, attestations and explanatory statements (but not the full supporting documentation) are available for inspection at the address for the Employment and Training Administration set forth in the ADDRESSES section of this notice.

If a person wishes to file a complaint regarding a particular attestation or a facility's activities under the attestation, such complaint must be filed at the address for the Wage and Hour Division of the Employment Standards Administration set forth in the ADDRESSES section of this notice.

Signed at Washington, D.C., this 7th day of September 1994.

John M. Robinson,

Deputy Assistant Secretary, Employment and Training Administration.

DIVISION OF FOREIGN LABOR CERTIFICATIONS, HEALTH CARE FACILITY ATTESTATIONS
[FORM ETA-9029]

CEO-Name/Facility Name/Address

State

Action date

ETA REGION 1
07/04/94 TO 07/10/94

| | | |
|---|----|----------|
| David Potvin, Bethany Health Care Center, Inc., 97 Bethany Road, Framingham, MA 01701, 508-872-6750 | MA | 07/06/94 |
| ETA CONTROL NUMBER—1/212623 ACTION—ACCEPTED | | |
| Neal M. Elliott, Greenery—Beverly, 40 Heather St., Beverly, MA 01915, 508-927-6620 | MA | 07/07/94 |
| ETA CONTROL NUMBER—1/212733 ACTION—ACCEPTED | | |
| Neal M. Elliott, Greenery—Boston, 99 Chestnut Hill Ave., Boston, MA 02135, 787-3390 | MA | 07/07/94 |
| ETA CONTROL NUMBER—1/212731 ACTION—ACCEPTED | | |
| Neal M. Elliott, Greenery—North Andover, 75 Park Street, N. Andover, MA 01845, 508-685-3372 | MA | 07/07/94 |
| ETA CONTROL NUMBER—1/212725 ACTION—ACCEPTED | | |
| Neal M. Elliott, Greenery—Waltham, 775 Trapelo Road, Waltham, MA 02554, 895-7000 | MA | 07/07/94 |
| ETA CONTROL NUMBER—1/212726 ACTION—ACCEPTED | | |
| Neal M. Elliott, Greenery—Worcester, 59 Acton St., Worcester, MA 01604, 508-791-3147 | MA | 07/07/94 |
| ETA CONTROL NUMBER—1/212724 ACTION—ACCEPTED | | |
| Neal M. Elliott, Greenery Rehab & Skilled Nursing, 89 Lewis Bay Road, Hyannis, MA 02601, 508-775-7601 | MA | 07/07/94 |
| ETA CONTROL NUMBER—1/212728 ACTION—ACCEPTED | | |
| Neal M. Elliott, Greenery Rehabilitation Center, P.O. Box 1330, Isaac Street, Middleboro, MA 02346, 508-947-9295 | MA | 07/07/94 |
| ETA CONTROL NUMBER—1/212727 ACTION—ACCEPTED | | |
| Gerald L. MacDonald, Mediplex Skilled Nursing & Rehab., 910 Saratoga St., East Boston, MA 02128, 569-1157 | MA | 07/06/94 |
| ETA CONTROL NUMBER—1/212701 ACTION—ACCEPTED | | |
| Nancy Hsu, South Cove Manor Nursing Home, 120 Shawmut Avenue, Boston, MA 02118, 423-0590 | MA | 07/06/94 |
| ETA CONTROL NUMBER—1/212552 ACTION—ACCEPTED | | |
| Jeanne V. Sanders, Golden View Health Center Corp., 19 NH Route 104, Meredith, NH 03253, 603-279-8111 | NH | 07/06/94 |
| ETA CONTROL NUMBER—1/212884 ACTION—ACCEPTED | | |
| Kristine Graff, Bristol Manor Health Care Center, 96 Parkway, Rochelle Park, NJ 07662, 201-845-0099 | NJ | 07/05/94 |
| ETA CONTROL NUMBER—1/212550 ACTION—ACCEPTED | | |
| Natalie Zanetich Fatigati, Hamilton Park Health Care Center, 525-535 Monmouth St., Jersey City, NJ 07302, 201-653-8800. | NJ | 07/06/94 |
| ETA CONTROL NUMBER—1/212554 ACTION—ACCEPTED | | |
| Gloria F. Estabillo, Philippino Placement Agency, Inc., 880 Bergen Avenue, Jersey City, NJ 07306, 201-983-0245 | NJ | 07/06/94 |
| ETA CONTROL NUMBER—1/212553 ACTION—ACCEPTED | | |
| Joan V. Tomczyk, Beach Terrace Care Center, Inc., 640 W. Broadway, Long Beach, NY 11561, 516-431-4400 | NY | 07/05/94 |
| ETA CONTROL NUMBER—1/212513 ACTION—ACCEPTED | | |
| Debra A. Sabato, Cedar Manor Nursing Home, P.O. Box 928, Cedar Lane, Ossining, NY 10562, 914-762-1600 | NY | 07/06/94 |

DIVISION OF FOREIGN LABOR CERTIFICATIONS, HEALTH CARE FACILITY ATTESTATIONS—Continued
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| CEO-Name/Facility Name/Address | State | Action date |
|---|-------|-------------|
| ETA CONTROL NUMBER—1/212887 ACTION—ACCEPTED John C. Federspiel, Hudson Valley Hospital Center, 1980 Crompond Road, Peekskill, NY 10566, 914-734-3571 | NY | 07/05/94 |
| ETA CONTROL NUMBER—1/212514 ACTION—ACCEPTED William Tan, St. Agnes Hospital, 305 North Street, White Plains, NY 10605 914-681-4507 | NY | 07/06/94 |
| ETA CONTROL NUMBER—1/212700 ACTION—ACCEPTED | | |
| ETA REGION 1 07/11/94 TO 07/17/94 | | |
| Margaret K. Degnan, Moris Hills Multicare Center, 77 Madison Avenue, Morristown, NJ 07960, 201-540-9800 | NJ | 07/11/94 |
| ETA CONTROL NUMBER—1/213002 ACTION—ACCEPTED Abraham Schlafrig, Meadow Park Nursing Home, 78-10 164th St., Flushing, NY 11366, 718-591-8300 | NY | 07/14/94 |
| ETA CONTROL NUMBER—1/213131 ACTION—ACCEPTED Patricia Lambert, New York State Kingsboro Psych. Ctr, 681 Clarkson Avenue, Brooklyn, NY 11203-2199, 718-221-7100. | NY | 07/12/94 |
| ETA CONTROL NUMBER—1/213047 ACTION—ACCEPTED | | |
| ETA REGION 1 07/18/94 TO 07/24/94 | | |
| Jonathan M. Metsch, Greenville Hospital, 1825 Kennedy Boulevard, Jersey City, NJ 07305, 201-547-6100 | NJ | 07/18/94 |
| ETA CONTROL NUMBER—1/213200 ACTION—ACCEPTED Edward Mr. Einhorn, Hospitality Care Center, 300 Broadway, Newark, NJ 07104, 201-484-4222 | NJ | 07/18/94 |
| ETA CONTROL NUMBER—1/213203 ACTION—ACCEPTED Charles P. Berkowitz, Jewish Home & Rehabilitation Ctr., 198 Stevens Avenue, Jersey City, NJ 07305, 201-451-9000 | NJ | 07/18/94 |
| ETA CONTROL NUMBER—1/213168 ACTION—ACCEPTED Alvin J. Conway, Catholic Med. Ctr./Brooklyn & Queens, 88-25 153rd Street, Jamaica, NY 11432, 718-630-6800 | NY | 07/18/94 |
| ETA CONTROL NUMBER—1/213201 ACTION—ACCEPTED | | |
| ETA REGION 1 07/25/94 TO 07/31/94 | | |
| Maurice I. May, Hebrew Rehab Ctr for the Aged, 1200 Centre Street, Boston, MA 02131, 617-325-8000 | MA | 07/26/94 |
| ETA CONTROL NUMBER—1/213425 ACTION—ACCEPTED Michele B. Anderson, ARO Community Services, Inc., 11 Northeastern Blvd., Nashua, NH 03062-3139, 603-598-9800. | NH | 07/26/94 |
| ETA CONTROL NUMBER—1/213388 ACTION—REJECTED Raymond C. Lemire, Epsom Manor, Inc., Junction Route 4 on 28 RR2, Box 107, Epsom, NH 03234, 603-736-4772 ... | NH | 07/25/94 |
| ETA CONTROL NUMBER—1/213303 ACTION—ACCEPTED Benjamin F. Miller, Delaire Nursing & Convalescent Ctr, 400 W. Stimpson Ave., Linden, NJ 07036, 908-862-3399 | NJ | 07/26/94 |
| ETA CONTROL NUMBER—1/213372 ACTION—ACCEPTED Lowell Fein, Eagle Rock Convalescent Center, T/A West Caldwell Care Center 165, Fairfield Avenue, West Caldwell, NJ 07006, 201-226-1100. | NJ | 07/25/94 |
| ETA CONTROL NUMBER—1/213297 ACTION—ACCEPTED Michael J. McDonough, Hospital Center at Orange (The), 188 South Essex Avenue, Orange, NJ 07050, 201-266-2269. | NJ | 07/29/94 |
| ETA CONTROL NUMBER—1/213498 ACTION—ACCEPTED John P. McGee, JFK Health Systems, Inc., 65 James St., Edison, NJ 08818-3059, 908-321-7170 | NJ | 07/25/94 |
| ETA CONTROL NUMBER—1/213387 ACTION—ACCEPTED Harvey Holzberg, Robert Wood Johnson Univ. Hospital, 1 RobertWood Jonson Place, New Brunswick, NJ 08901, 908-828-3000. | NJ | 07/26/94 |
| ETA CONTROL NUMBER—1/213426 ACTION—ACCEPTED James Davis, Amsterdam Nursing Home, 1060 Amsterdam Avenue, New York, NY 10025, 212-678-2600 | NY | 07/25/94 |
| ETA CONTROL NUMBER—1/213296 ACTION—ACCEPTED A. Dixon, Bayview Correctional Facility, 550 West 20th Street, New York, NY 10011, 212-255-7590 | NY | 07/26/94 |
| ETA CONTROL NUMBER—1/213371 ACTION—ACCEPTED Raquel Ayala, Central Bronx Hospital, Immigration Unit, 125 Worth Street, New York, NY 10013, 212-788-3485 | NY | 07/25/94 |
| ETA CONTROL NUMBER—1/213293 ACTION—ACCEPTED George Adams, Lutheran Medical Center, 150 55th Street, Brooklyn, NY 11220, 718-630-7000 | NY | 07/26/94 |
| ETA CONTROL NUMBER—1/213374 ACTION—ACCEPTED Raquel Ayala, New York City Health & Hospitals, Immigration Unit, 125 Worth St., New York, NY 10013, 212-788-3500. | NY | 07/25/94 |
| ETA CONTROL NUMBER—1/213291 ACTION—ACCEPTED George H. McCoy, St. Croix Hospital, 4007 Est. Diamond Ruby, St. Croix, VI 00820-4421, 809-778-6311 | VI | 07/29/94 |
| ETA CONTROL NUMBER—1/213499 ACTION—ACCEPTED | | |
| ETA REGION 1 08/01/94 TO 08/07/94 | | |
| Joseph Barrick, Riverdale Gardens Inc., 42 Prospect Avenue, West Springfield, MA 01089, 413-733-3151 | MA | 08/01/94 |
| ETA CONTROL NUMBER—1/213521 ACTION—ACCEPTED Lawrence N. Stein, King James Care Center, 1501 State Highway 33, Hamilton Square, NJ 08690, 609-586-1114 | NJ | 08/02/94 |

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| CEO-Name/Facility Name/Address | State | Action date |
|---|-------|-------------|
| ETA CONTROL NUMBER—1/213582 ACTION—ACCEPTED C. Beth Kelly, Lakewood Nursing Center, 285 River Avenue, Lakewood, NJ 08701, 908-363-0400 | NJ | 08/01/94 |
| ETA CONTROL NUMBER—1/213524 ACTION—REJECTED Charlotte Seltzer, Creedmoor Psychiatric Center, 80-45 Winchester Blvd., Queens Village, NY 11427, 718-264-4552 . | NY | 08/02/94 |
| ETA CONTROL NUMBER—1/213583 ACTION—ACCEPTED Kenneth M. Brown, Margaret Tietz Center/Nursing Care, 164-11 Chapin Parkway | NY | 08/02/94 |
| Stony Brook University Hospital, Health Science Center, L-3, Rm. 106, Stony Brook, NY 11794-8300, 516-444-2525 | NY | 08/01/94 |
| ETA CONTROL NUMBER—1/213526 ACTION—ACCEPTED Robert Koenig, Woodmere Health Care & Nursing Fac, 130 Irving Place, Woodmere, NY 11598, 516-374-9300 | NY | 08/02/94 |
| ETA CONTROL NUMBER—1/213598 ACTION—ACCEPTED | | |
| ETA REGION 1 08/08/94 TO 08/14/94 | | |
| Michele B. Anderson, ARO Community Services, Inc., 11 Northeastern Blvd., Nashua, NH 03062-3139, 603-598-9800. | NH | 08/09/94 |
| ETA CONTROL NUMBER—1/213740 ACTION—ACCEPTED Maryann Dolak, Hudson Management Consultants, Inc., 50 Maine Avenue, Rockville Centre, NY 11570, 516-536-8000. | NY | 08/09/94 |
| ETA CONTROL NUMBER—1/213742 ACTION—ACCEPTED | | |
| ETA REGION 1 08/15/94 TO 08/21/94 | | |
| Linda Shyavitz, Sturdy Memorial Hospital, Inc., 211 Park Street, P.O. Box 2963, Attleboro, MA 02703, 508-222-5200 . | MA | 08/16/94 |
| ETA CONTROL NUMBER—1/213909 ACTION—ACCEPTED Richard Courville, Mammoth Nursing Home, 1, Mammoth, Manchester, NH 03109, 603-625-9891 | NH | 08/16/94 |
| ETA CONTROL NUMBER—1/213915 ACTION—ACCEPTED Edward Zirbser, Greenbriar Nursig Ctr of Hammonton, 190 N. Evergreen Avenue, Woodbury, NJ 08096, 609-848-7400. | NJ | 08/15/94 |
| ETA CONTROL NUMBER—1/213887 ACTION—ACCEPTED Magdy Elamir, Jersey City Neurological Center, 550 Summit Avenue, Jersey City, NJ 07306, 201-653-0022 | NJ | 08/16/94 |
| ETA CONTROL NUMBER—1/213911 ACTION—ACCEPTED C. Beth Kelly, Lakewood Nursing Center, 285 River Avenue, Lakewood, NJ 08701, 908-363-0400 | NJ | 08/15/94 |
| ETA CONTROL NUMBER—1/213886 ACTION—ACCEPTED Blanche Bonifacio, Merry Heart Nursing Home, 200 Route 10, Succasunna, NJ 07876, 201-584-4000 | NJ | 08/16/94 |
| ETA CONTROL NUMBER—1/213912 ACTION—ACCEPTED Carmen B. Alecci, West Hudson Hospital, 206 Bergen Ave, Kearney, NJ 07032, 201-955-7014 | NJ | 08/15/94 |
| ETA CONTROL NUMBER—1/213888 ACTION—ACCEPTED Frank Maddalena, Brookdale Hospital Medical Center, Linden Boulevard/Brookdale Plaza, Brooklyn, NY 11218-3198, 718-240-5058. | NY | 08/16/94 |
| ETA CONTROL NUMBER—1/213910 ACTION—ACCEPTED | | |
| ETA REGION 1 08/22/94 TO 08/28/94 | | |
| Scott L. Goldberg, MediCenter of Lakewood, 685 River Ave., Lakewood, NJ 08701, 908-364-8300 | NJ | 08/23/94 |
| ETA CONTROL NUMBER—1/214133 ACTION—ACCEPTED | | |
| ETA REGION 10 07/11/94 TO 07/17/94 | | |
| Michael Freeman, Bullhead Community Hospital, 2735 Silver Creek Road, Bullhead, AZ 86442, Bullhead, AZ 86442, 602-763-2273. | AZ | 07/15/94 |
| ETA CONTROL NUMBER—10/204726 ACTION—ACCEPTED Michael Freeman, Silver Ridge Village, 2812 Silver Creek Rd., Bullhead, AZ 86442, 602-763-1404 | AZ | 07/15/94 |
| ETA CONTROL NUMBER—10/204725 ACTION—ACCEPTED Jose S Valdomar, Los Palos Convalescent Hospital, 1430 West Sixth Street, San Pedro, CA 90732, 310-832-6431 | CA | 07/11/94 |
| ETA CONTROL NUMBER—10/204805 ACTION—ACCEPTED Teresita Nery, MedPro Home Health, Inc., 3345 Wilshire Blvd., Suite 515, Los Angeles, CA 90010, 213-384-3800 | CA | 07/15/94 |
| ETA CONTROL NUMBER—10/204804 ACTION—ACCEPTED S. Lynn Cook, San Joaquin General Hospital, P.O. Box 1020, Stockton, CA 95201, 209-468-6260 | CA | 07/15/94 |
| ETA CONTROL NUMBER—10/204751 ACTION—ACCEPTED Jose S. Valdomar, Seacrest Convalescent Hospital, 1416 West Sixth Street, San Pedro, CA 90732, 310-833-3526 | CA | 07/15/94 |
| ETA CONTROL NUMBER—10/204750 ACTION—ACCEPTED | | |
| ETA REGION 10 07/18/94 TO 07/24/94 | | |
| Grant Asay, St. Ann's Nursing Home, 415 Sixth Street, Juneau, AK 99801, 907-586-3383 | AK | 07/18/94 |
| ETA CONTROL NUMBER—10/204786 ACTION—ACCEPTED Deenah Stockton, Good Samaritan Hospital, 901 Olive Drive, Bakersfield, CA 93308, 805-399-4461 | CA | 07/20/94 |

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| CEO-Name/Facility Name/Address | State | Action date |
|---|-------|-------------|
| ETA CONTROL NUMBER—10/204835 ACTION—ACCEPTED Joan Barlow, Placerville Pines Conv. Hospital, 1040 Marshall Way, Placerville, CA 95667, 916-622-3400 | CA | 07/21/94 |
| ETA CONTROL NUMBER—10/204860 ACTION—ACCEPTED | | |
| ETA REGION 10 07/25/94 TO 07/31/94 | | |
| Anelli Stamm, Silver Oak Manor, 788 Holmes Street, Livermore, CA 94550, 510-447-2280 | CA | 07/28/94 |
| ETA CONTROL NUMBER—10/204956 ACTION—ACCEPTED | | |
| ETA REGION 10 08/08/94 TO 08/14/94 | | |
| Cecil Mays, Care West Arroyo Vista, 3022 45th Street, San Diego, CA 92105, 619-283-5855 | CA | 08/11/94 |
| ETA CONTROL NUMBER—10/205008 ACTION—ACCEPTED | | |
| Cecil Mays, Care West Tri City, 3232 Thunder Drive, Oceanside, CA 92056, 619-724-2183 | CA | 08/11/94 |
| ETA CONTROL NUMBER—10/205009 ACTION—ACCEPTED | | |
| Leila Knox, Casa Metro Convalescent Hospital, 2020 North Weber, Fresno, CA 93105, 209-237-0883 | CA | 08/11/94 |
| ETA CONTROL NUMBER—10/204994 ACTION—ACCEPTED | | |
| Karen G. Sell, Hanford Community Medical Center, 450 Greenfield Avenue, Hanford, CA 93230, 209-585-5463 | CA | 08/11/94 |
| ETA CONTROL NUMBER—10/204991 ACTION—ACCEPTED | | |
| Cecil Mays, Palomares Nursing & Rehabilitation, 250 West Artesia Street, Pomona, CA 91768, 909-623-3564 | CA | 08/11/94 |
| ETA CONTROL NUMBER—10/205005 ACTION—ACCEPTED | | |
| Cecil Mays, Vista Knoll, 2000 Westwood Road, Vista, CA 92083, 619-630-2273 | CA | 08/11/94 |
| ETA CONTROL NUMBER—10/205007 ACTION—ACCEPTED | | |
| ETA REGION 10 08/15/94 TO 08/21/94 | | |
| Cecil Mays, Care West Anza, 622 South Anza Street, El Cajon, CA 92020, 619-442-0544 | CA | 08/16/94 |
| ETA CONTROL NUMBER—10/205028 ACTION—ACCEPTED | | |
| Cecil Mays, Care West Arizona Nursing Center, 1330 17th Street, Santa Monica, CA 90404, 310-829-5411 | CA | 08/16/94 |
| ETA CONTROL NUMBER—10/205025 ACTION—ACCEPTED | | |
| Cecil Mays, Care West Bayside Nursing Center, 1251 South Eliseo Drive, Kentfield, CA 94904, 415-461-1900 | CA | 08/16/94 |
| ETA CONTROL NUMBER—10/205023 ACTION—ACCEPTED | | |
| Cecil Mays, Care West Gateway Nursing Center, 26660 Patrick Avenue, Hayward, CA 94554, 510-782-1845 | CA | 08/16/94 |
| ETA CONTROL NUMBER—10/205012 ACTION—ACCEPTED | | |
| Cecil Mays, Care West Intercommunity Nursing, 12527 Studebaker Road, Norwalk, CA 90650, 310-868-4767 | CA | 08/16/94 |
| ETA CONTROL NUMBER—10/205013 ACTION—ACCEPTED | | |
| Cecil Mays, Care West Madison Nursing & Rehab, 1391 East Madison Avenue, El Cajon, CA 92021, 619-444-1107 .. | CA | 08/16/94 |
| ETA CONTROL NUMBER—10/205011 ACTION—ACCEPTED | | |
| Cecil Mays, Care West Manteca Nursing & Rehab, 410 Eastwood Avenue, Manteca, CA 95336, 209-239-1222 | CA | 08/16/94 |
| ETA CONTROL NUMBER—10/205010 ACTION—ACCEPTED | | |
| Johntai E. Jackson, II, Ph.D., Julia's Nursing Service Agency, Suite 510, 1800 N. Argyle Avenue, Los Angeles, CA 90028, 213-466-8930. | CA | 08/17/94 |
| ETA CONTROL NUMBER—10/204952 ACTION—ACCEPTED | | |
| Cecil Mays, Playa Del Rey Rehab & Care Center, 7716 Manchester Avenue, Playa del Rey, CA 90293, 310-823-4694. | CA | 08/16/94 |
| ETA CONTROL NUMBER—10/205027 ACTION—ACCEPTED | | |
| Jay Jeffers, BHC Health Services oc Nevada, Inc, 1240 East Ninth Street, Reno, NV 89512, 702-323-0478 | NV | 08/16/94 |
| ETA CONTROL NUMBER—10/204992 ACTION—ACCEPTED | | |
| ETA REGION 5 07/04/94 TO 07/10/94 | | |
| Gary R. House, Community Care at Colorado Springs, 110 W. Van Buren St., Colorado Springs, CO 80907-8400, 719-475-8686. | CO | 07/05/94 |
| ETA CONTROL NUMBER—5/226722 ACTION—ACCEPTED | | |
| Lynn Bunkholder, Community Care at Panoia, 1625 Meadowbrook Blvd., Paonia, CO 81428, 303-527-4837 | CO | 07/05/94 |
| ETA CONTROL NUMBER—5/226709 ACTION—ACCEPTED | | |
| Lucie Frah, Community Care of America, 2825 Patterson Road, Grand Junction, CO 81506, 303-342-7356 | CO | 07/05/94 |
| ETA CONTROL NUMBER—5/226707 ACTION—ACCEPTED | | |
| Paul Whisler, Community Care of Mediapolis, 608 Prairie Street, Mediapolis, IA 52637, 319-394-3991 | IA | 07/05/94 |
| ETA CONTROL NUMBER—5/226723 ACTION—ACCEPTED | | |
| Charles Stumpf, Margaret Manor, Inc., 1121 N. Orleans St., Chicago, IL 60604, 312-943-4300 | IL | 07/05/94 |
| ETA CONTROL NUMBER—5/226671 ACTION—ACCEPTED | | |
| Roberta Caurdy, Advance Nursing Center, 2936 South John Daly, Inkster, MI 48141, 313-278-7272 | MI | 07/05/94 |
| ETA CONTROL NUMBER—5/226665 ACTION—ACCEPTED | | |
| Noreen Trout, Medical Case Management of America, 812 B East Franklin St., Centerville, OH 45459, 800-538-4218 | OH | 07/05/94 |

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| CEO-Name/Facility Name/Address | State | Action date |
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| ETA CONTROL NUMBER—5/226727 ACTION—ACCEPTED | | |
| ETA REGION 5 07/11/94 TO 07/17/94 | | |
| Carolyn Manna, Community Care, 139 Park Drive, Grand Junction, CO 81501, 303-260-1152 | CO | 07/14/94 |
| ETA CONTROL NUMBER—5/227263 ACTION—ACCEPTED | | |
| Kelly Everly, Community Care at Delta, 2050 South Main, Delta, CO 81416, 303-874-9775 | CO | 07/14/94 |
| ETA CONTROL NUMBER—5/227258 ACTION—ACCEPTED | | |
| Janet B. Ryder, Community Care at La Villa Grande, 2501 Little Bookcliff Drive, Grand Junction, CO 81501, 303-245-1211. | CO | 07/14/94 |
| ETA CONTROL NUMBER—5/227256 ACTION—ACCEPTED | | |
| Larry Levelle, Community Care of Cannon City, 515 Fairview, Canon City, CO 81212, 719-275-0665 | CO | 07/14/94 |
| ETA CONTROL NUMBER—5/227252 ACTION—ACCEPTED | | |
| Sharon Shumaker, Community Care of Am. at Muscatine, 3440 Mulberry Avenue, Muscatine, IA 52761, 319-263-2194. | IA | 07/14/94 |
| ETA CONTROL NUMBER—5/227268 ACTION—ACCEPTED | | |
| Steven Frank, Apple Home Healthcare, Ltd., 2777 Finley Road, Suite 10, Downers Grove, IL 60515, 708-495-6060 | IL | 07/15/94 |
| ETA CONTROL NUMBER—5/227397 ACTION—ACCEPTED | | |
| Bryan Barrish, Elmwood Care, Inc., 7733 West Grand Avenue, Elmwood Park, IL 60635, 708-452-9200 | IL | 07/15/94 |
| ETA CONTROL NUMBER—5/227399 ACTION—ACCEPTED | | |
| Chung S. Kim, M.D., KBC Health Centre, Inc., d/b/a Lake Bluff HealthCare Centre, 700 Jenkisson Avenue, Lake Bluff, IL 60044, 708-295-3900. | IL | 07/15/94 |
| ETA CONTROL NUMBER—5/227398 ACTION—ACCEPTED | | |
| Marlaine Brunsluk, Loretto Hospital, 645 South Central Avenue, Chicago, IL 60644, 312-854-5044 | IL | 07/14/94 |
| ETA CONTROL NUMBER—5/227261 ACTION—ACCEPTED | | |
| Perla J. Cordero, New Life Health Care Personnel, 651 W. Gladys St., Elmhurst, IL 60126-1874, 708-530-5170 | IL | 07/15/94 |
| ETA CONTROL NUMBER—5/227396 ACTION—ACCEPTED | | |
| Barbara H. Hecht, Regency Nursing Center, 6631 Milwaukee Avenue, Niles, IL, 708-647-7444 | IL | 07/15/94 |
| ETA CONTROL NUMBER—5/227394 ACTION—ACCEPTED | | |
| Celia Anschutz, Christopher Manor of Lucas, 414 North Main P.O. Box 68, Lucas, KS 67648, 913-525-6215 | KS | 07/14/94 |
| ETA CONTROL NUMBER—5/227273 ACTION—ACCEPTED | | |
| Shirley Robinson, Community Care of America, Inc., 117 W. First Street, P.O. Box 369, Smith Center, KS 66967, 913-282-6696. | KS | 07/14/94 |
| ETA CONTROL NUMBER—5/227248 ACTION—ACCEPTED | | |
| Salvatore Bensiatto, Eastwood Nursing Center, 626 East Grand Boulevard, Detroit, MI 48207, 313-923-5816 | MI | 07/15/94 |
| ETA CONTROL NUMBER—5/227401 ACTION—ACCEPTED | | |
| Salvatore Bensiatto, Father Solanus Casey Nursing Ctr., 660 East Grand Boulevard, Detroit, MI 48207, 313-923-5800 | MI | 07/15/94 |
| ETA CONTROL NUMBER—5/227402 ACTION—ACCEPTED | | |
| Salvatore Benisatto, Westwood Nursing Center, 16588 Schaefer, Detroit, MI 48235, 313-345-5000 | MI | 07/15/94 |
| ETA CONTROL NUMBER—5/227400 ACTION—ACCEPTED | | |
| Steve Riely, Community Care of Amer. at Tarkio, 300 Cedar, Tarkio, MO 64491, 816-736-4116 | MO | 07/14/94 |
| ETA CONTROL NUMBER—5/227260 ACTION—ACCEPTED | | |
| John Turner, Community Care at Ashland, 1700 Furnas Street, Ashland, NE 68003, 402-944-7031 | NE | 07/15/94 |
| ETA CONTROL NUMBER—5/227271 ACTION—ACCEPTED | | |
| Christi Karle, Community Care at Edgar, Route 1, P.O. Box 1183, Edgar, NE 68935, 402-224-5015 | NE | 07/14/94 |
| ETA CONTROL NUMBER—5/227247 ACTION—ACCEPTED | | |
| Peggy Ryan, Community Care at Sutherland, 333 Maple Street, Sutherland, NE 69165, 308-386-4393 | NE | 07/14/94 |
| ETA CONTROL NUMBER—5/227257 ACTION—ACCEPTED | | |
| Joyce Bauer, Community Care of Ainsworth, 143 No. Fullerton, Ainsworth, NE 69210, 402-387-2500 | NE | 07/14/94 |
| ETA CONTROL NUMBER—5/227254 ACTION—ACCEPTED | | |
| Connie Jones, Community Care of Amer. at Aurora, 616 13th Street, P.O. Box 266, Aurora, NE 68818, 402-694-6905 | NE | 07/14/94 |
| ETA CONTROL NUMBER—5/227264 ACTION—ACCEPTED | | |
| Marcia Malone, Community Care of Amer. at Waverly, 11041 North 137th Street, P.O. Box 160, Waverly, NE 68462, 402-786-2626. | NE | 07/14/94 |
| ETA CONTROL NUMBER—5/227249 ACTION—ACCEPTED | | |
| Lyn Hemphill, Community Care of Utica, 1350 Centennial Avenue, Utica, NE 68456, 402-534-2041 | NE | 07/14/94 |
| ETA CONTROL NUMBER—5/227251 ACTION—ACCEPTED | | |
| Tamara Schell, Grandview Manor, Broad Street & Highway 4, Campbell, NE 68932, 402-756-8701 | NE | 07/14/94 |
| ETA CONTROL NUMBER—5/227246 ACTION—ACCEPTED | | |
| Michael Garnet, Community Care of Amer. at Waland, 1901 Howell, Waland, WY 82401, 307-347-4285 | WY | 07/14/94 |
| ETA CONTROL NUMBER—5/227266 ACTION—ACCEPTED | | |
| ETA REGION 5 07/18/94 TO 07/24/94 | | |
| Jeff White, Bloomingdale Pavilion Inc., 311 Edgewater Drive, Bloomingdale, IL 60108, 708-894-7400 | IL | 07/18/94 |
| ETA CONTROL NUMBER—5/227447 ACTION—ACCEPTED | | |
| Dov Solomon, Lincoln Park Terrace, Inc., 2732 N. Hampden Court, Chicago, IL 60614 312-248-6000 | IL | 07/20/94 |
| ETA CONTROL NUMBER—5/227588 ACTION—ACCEPTED | | |
| Cynthia Sauer, Wellington Plaza Nursing Center, 504 W. Wellington Avenue, Chicago, IL 60657, 312-281-6200 | IL | 07/19/94 |

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| CEO-Name/Facility Name/Address | State | Action date |
|--|-------|-------------|
| ETA CONTROL NUMBER—5/227576 ACTION—ACCEPTED Bonnie Alterwitz, Johns Hopkins Hospital, Office of Career Services, Rm. 300, Houck Bldg., 600 North Wolfe St., Baltimore, MD 21287, 410-955-6529. ETA CONTROL NUMBER—5/227590 ACTION—ACCEPTED | MD | 07/19/94 |
| ETA REGION 5 07/25/94 TO 07/31/94 | | |
| Jakob Bakst, Hillcrest Healthcare Center, Inc., 777 Draper Avenue, Joliet, IL 60432, 815-727-4794 ETA CONTROL NUMBER—5/227918 ACTION—ACCEPTED | IL | 07/26/94 |
| M. Mermelstein, Lake Front Healthcare Center, Inc., 7618 N. Sheridan, Chicago, IL 60626, 312-743-7711 ETA CONTROL NUMBER—5/227939 ACTION—ACCEPTED | IL | 07/26/94 |
| Mr. Pat Owen or Jill Henson, Walnut Ridge Healthcare & Rehab, 555 West Carpenter Street, Springfield, IL 62702, 217-525-1880. ETA CONTROL NUMBER—5/228099 ACTION—ACCEPTED | IL | 07/29/94 |
| Marshall Mauer, Woodbridge Nursing Pavilion, Ltd., 2242 N. Kedzie Avenue, Chicago, IL 60647, 708-679-6725 ETA CONTROL NUMBER—5/228080 ACTION—ACCEPTED | IL | 07/29/94 |
| Sharon D. McKenzie, Experts In Home Health Management, 25150 Evergreen, Southfield, MI 48075, 810-353-4663 .. ETA CONTROL NUMBER—5/228074 ACTION—ACCEPTED | MI | 07/29/94 |
| David S. Midenberg, Lakeland Convalescent Center, Inc., P.O. Box 189 751 E. Grand Blvd., St. Clair Shores, MI 48080, 313-921-0998. ETA CONTROL NUMBER—5/228100 ACTION—ACCEPTED | MI | 07/29/94 |
| ETA REGION 5 08/01/94 TO 08/07/94 | | |
| Marian Stevenson, Comm. Care of America at Toledo, P.O. Box 279 Grandview Drive, Toledo, IA 52342, 515-484-5080. ETA CONTROL NUMBER—5/228435 ACTION—ACCEPTED | IA | 08/05/94 |
| Demi Rafael, Health Services Specialist, Inc., 1880 Spruce Avenue, Highland Park, IL 60035, 708-831-1356 ETA CONTROL NUMBER—5/228439 ACTION—ACCEPTED | IL | 08/05/94 |
| Virginia Moravetz, Bethany Care Center, 42235 C.R. 390, Bloomingdale, MI 49026, 616-521-3383 ETA CONTROL NUMBER—5/228432 ACTION—ACCEPTED | MI | 08/05/94 |
| ETA REGION 5 08/08/94 TO 08/14/94 | | |
| Diane Rucker, Chevy Chase Nursing Center, 3400 S. Indiana, Chicago, IL 60616, 312-842-5000 ETA CONTROL NUMBER—5/228799 ACTION—ACCEPTED | IL | 08/12/94 |
| Julie Capouch, Elmwood Nursing and Rehab. Center, 1017 W. Galena Blvd., Aurora, IL 60506, 708-897-3100 ETA CONTROL NUMBER—5/228811 ACTION—ACCEPTED | IL | 08/12/94 |
| Felice Cordero, Elston Nursing Center, 4340 North Keystone, Chicago, IL 60641, 312-545-8700 ETA CONTROL NUMBER—5/228713 ACTION—ACCEPTED | IL | 08/10/94 |
| Felice Cordero, Glen Oaks Nursing Center, 270 Skokie Hwy., Northbrook, IL 60062, 708-498-9320 ETA CONTROL NUMBER—5/228762 ACTION—ACCEPTED | IL | 08/12/94 |
| Felice Cordero, GlenBridge Nursing & Rehab. Ctr., 8333 West Golf Road, Niles, IL 60648, 708-966-9190 ETA CONTROL NUMBER—5/228761 ACTION—ACCEPTED | IL | 08/11/94 |
| Felice Cordero, GlenShire Nursing & Rehab. Center, 22660 So. Cicero Avenue, Richton Park, IL 60471, 708-747-6120. ETA CONTROL NUMBER—5/228760 ACTION—ACCEPTED | IL | 08/11/94 |
| Jakob Bakst, Imperial of Hazel Crest, Inc., 3300 West 175th Street, Hazel Crest, IL, 708-335-2400 ETA CONTROL NUMBER—5/228810 ACTION—ACCEPTED | IL | 08/12/94 |
| Virgie Taberos or Quinn Corcoran, Maplewood Health Care Center, 310 Banbury Road, North Aurora, IL 60542, 708-892-7627. ETA CONTROL NUMBER—5/228758 ACTION—ACCEPTED | IL | 08/11/94 |
| Ross Brown, Oakwood Terrace, 1300 Oak Avenue, Evanston, IL 60201, 708-869-1300 ETA CONTROL NUMBER—5/228802 ACTION—ACCEPTED | IL | 08/12/94 |
| Lucille Devaux, Royal Terrace Healthcare Center, 803 Royal Drive, McHenry, IL 60050, 815-344-2600 ETA CONTROL NUMBER—5/228808 ACTION—ACCEPTED | IL | 08/12/94 |
| Morris Esformes, West Chicago Terrace, 928 Joliet Street, West Chicago, IL 60185, 708-231-9292 ETA CONTROL NUMBER—5/228809 ACTION—ACCEPTED | IL | 08/12/94 |
| Judy Reitz or Ronald Peterson, Johns Hopkins Bayview Medical Cntr, 4940 Eastern Avenue, Baltimore, MD 21224, 410-550-0126. ETA CONTROL NUMBER—5/228707 ACTION—ACCEPTED | MD | 08/10/94 |
| Nancy L. Furbish, Alpha Annex Nursing Home, 609 E. Grand Blvd., Detroit, MI 48207, 313-923-8262 ETA CONTROL NUMBER—5/228813 ACTION—ACCEPTED | MI | 08/12/94 |
| Jess Boyer, HealthSpring, Inc., 11921 Freedom Drive, Ste. 600, Reston, VA 22090, 703-834-5646 | VA | 08/10/94 |

DIVISION OF FOREIGN LABOR CERTIFICATIONS, HEALTH CARE FACILITY ATTESTATIONS—Continued
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| CEO-Name/Facility Name/Address | State | Action date |
|--|-------|-------------|
| ETA CONTROL NUMBER—5/228716 ACTION—ACCEPTED | | |
| ETA REGION 5 8/15/94 TO 08/21/94 | | |
| Ruth Bosworth, Community Care at Clarinda, 600 Manor Drive, Clarinda, IA 51632, 712-542-5161 | IA | 08/15/94 |
| ETA CONTROL NUMBER—5/228829 ACTION—ACCEPTED | | |
| Wendell P. Monyak, Bohemian Home for the Aged, 5061 North Pulaski Road, Chicago, IL 60630, 312-588-1220 | IL | 08/15/94 |
| ETA CONTROL NUMBER—5/228825 ACTION—ACCEPTED | | |
| Paul Richman or Leo Feigenbaum, Concord Nursing Home, 9401 S. Ridgeland Avenue, Oak Lawn, IL 60453, 708-599-6700. | IL | 08/17/94 |
| ETA CONTROL NUMBER—5/229030 ACTION—ACCEPTED | | |
| Judy Pree, Gilman Nursing Home, P.O. Box 307, Route 45 South, Gilman, IL 60938, 815-265-7208 | IL | 08/15/94 |
| ETA CONTROL NUMBER—5/228831 ACTION—ACCEPTED | | |
| Jeff S. Berns, Norridge Nursing Center, Inc., 7001 W. Cullom, Norridge, IL 60634, 708-457-0700 | IL | 08/15/94 |
| ETA CONTROL NUMBER—5/228830 ACTION—ACCEPTED | | |
| Morris Esformes, Cedars (The), 6400 The Cedars Court, Cedar Hill, MO 63016, 314-942-2700 | MO | 08/15/94 |
| ETA CONTROL NUMBER—5/228826 ACTION—ACCEPTED | | |
| V.C. Vasisth, Mount View Nursing & Rehab Ctr, Inc., 102 Chandra Drive, Duncannon, PA 17020, 717-834-4111 | PA | 08/17/94 |
| ETA CONTROL NUMBER—5/229032 ACTION—ACCEPTED | | |
| ETA REGION 6 7/11/94 TO 07/17/94 | | |
| Ms. Judy Hensley, Hillhaven Conv. Center, 5430 Linton Blvd., Delray Beach, FL 33484-6512, 407-495-3188 | FL | 07/13/94 |
| ETA CONTROL NUMBER—6/218328 ACTION—ACCEPTED | | |
| Mr. Dyer Mitchell, Munroe Regional Medical Center, 131 S.W. 15th Street, Ocala, FL 32670, 904-351-7273 | FL | 07/15/94 |
| ETA CONTROL NUMBER—6/218494 ACTION—ACCEPTED | | |
| Mr. Jesse Dunwoody, Southpoint Manor, 42 Collins Avenue, Miami Beach, FL 33139, 305-672-1771 | FL | 07/15/94 |
| ETA CONTROL NUMBER—6/218383 ACTION—ACCEPTED | | |
| Mr. Robert N. Helms, Jr., Transitional Hospital of Tampa, 4801 N. Howard Ave., Tampa, FL 33603, 813-874-7575 | FL | 07/12/94 |
| ETA CONTROL NUMBER—6/218322 ACTION—ACCEPTED | | |
| Mr. R. Hill, Britthaven of Louisburg, Rte. 3, Box 8, Louisburg, NC 27549, 919-496-7222 | NC | 07/15/94 |
| ETA CONTROL NUMBER—6/218432 ACTION—ACCEPTED | | |
| Deborah Croft, Hillhaven Rose Manor, 4230 North Roxboro Road, Durham, NC 27704, 919-477-9805 | NC | 07/13/94 |
| ETA CONTROL NUMBER—6/218368 ACTION—ACCEPTED | | |
| Ms. Jean Eastwood, Meadowbrook Manor, Box 249, Clemmons, NC 27012, 910-766-9158 | NC | 07/13/94 |
| ETA CONTROL NUMBER—6/218367 ACTION—ACCEPTED | | |
| Mr. Don Gray Angell, Jr., Meadowbrook Manor, Rt. 6, Box 300, Advance, NC 27006, 919-998-0240 | NC | 07/12/94 |
| ETA CONTROL NUMBER—6/218327 ACTION—ACCEPTED | | |
| Mr. Cecil A. Butler, Pemberton Place Nursing Ctr., Inc., 310 East Wardell Drive, Pembroke, NC 27372-2529, 910-521-1273. | NC | 07/13/94 |
| ETA CONTROL NUMBER—6/218372 ACTION—ACCEPTED | | |
| Mr. Ruben Arceo, ACE Therapy & Rehab. Clinic, Inc., Arena Tower II 7324 Southwest, Freeway, Ste. 348, Houston, TX 77074, 713-272-7844. | TX | 07/12/94 |
| ETA CONTROL NUMBER—6/218320 ACTION—ACCEPTED | | |
| Mr. J. Barry Shevchuk, Houston Northwest Medical Center, 710 FM 1960 West, Houston, TX 77090, 713-440-2288 ... | TX | 07/15/94 |
| ETA CONTROL NUMBER—6/218431 ACTION—ACCEPTED | | |
| ETA REGION 6 07/18/94 TO 07/24/94 | | |
| Mr. Emil Miller, CHS, Inc. Univ. Gen. Hospital, 10200 Seminole Blvd., Seminole, FL 34648, 813-545-7355 | FL | 07/21/94 |
| ETA CONTROL NUMBER—6/218583 ACTION—ACCEPTED | | |
| Mr. Alan A. Fletcher, Hillhaven Rehab. Center, 4411 North Habana Avenue, Tampa, FL 33614-7299, 813-872-2771 .. | FL | 07/21/94 |
| ETA CONTROL NUMBER—6/218703 ACTION—ACCEPTED | | |
| Mr. William A. Sanger, JFK Medical Center, 5301 S. Congress Avenue, Atlantis, FL 33462, 407-965-7300 | FL | 07/21/94 |
| ETA CONTROL NUMBER—6/218496 ACTION—ACCEPTED | | |
| Ephraim Barsam, Nursing Management Services, Inc., 300 31st Street North Suite 335, St. Petersburg, FL 33713, 813-321-2411. | FL | 07/21/94 |
| ETA CONTROL NUMBER—6/218763 ACTION—ACCEPTED | | |
| Dr. William Zubkoff, South Shore Hospital & Med. Ctr., 630 Alton Road, Miami Beach, FL 33139, 305-672-2100 | FL | 07/21/94 |
| ETA CONTROL NUMBER—6/218626 ACTION—ACCEPTED | | |
| P. Douglas Osborne, Central State Hospital, Milledgeville, GA 31062, 912-453-4128 | GA | 07/21/94 |
| ETA CONTROL NUMBER—6/218788 ACTION—ACCEPTED | | |
| Ms. Kay Beckworth, Dogwood Rehab. Center, 7560 Butner Road, Fairburn, GA 30213-1914, 404-306-7878 | GA | 07/21/94 |
| ETA CONTROL NUMBER—6/218624 ACTION—ACCEPTED | | |
| Mr. Michael Mays, Twelve Oaks Health Care, 315 Upper Riverdale Road, Riverdale, GA 30274, 404-991-1050 | GA | 07/21/94 |
| ETA CONTROL NUMBER—6/218499 ACTION—ACCEPTED | | |
| Mr. Bill Renick, Holly Springs Memorial Hospital, 1430 E. Salem Ave. P.O. Drawer 6000, Holly Springs, MS 38634, 601-252-1212. | MS | 07/21/94 |

DIVISION OF FOREIGN LABOR CERTIFICATIONS, HEALTH CARE FACILITY ATTESTATIONS—Continued
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| CEO-Name/Facility Name/Address | State | Action date |
|--|-------|-------------|
| ETA CONTROL NUMBER—6/218584 ACTION—ACCEPTED | | |
| Mr. G. Thomas Usher, Vicksburg Medical Center, 1111 I-20 Frontage Road, Vicksburg, MS 39180, 601-636-2611 | MS | 07/22/94 |
| ETA CONTROL NUMBER—6/218347 ACTION—ACCEPTED | | |
| Ms. Michelle Harris, Whispering Pines, 523 Country Club Road, Fayetteville, NC 28301, 910-488-0711 | NC | 07/21/94 |
| ETA CONTROL NUMBER—6/218789 ACTION—ACCEPTED | | |
| Mr. James Knoble, Eastern New Mexico Medical Center, 405 W. Country Club Road, Roswell, NM 88201, 505-624-3515. | NM | 07/21/94 |
| ETA CONTROL NUMBER—6/218397 ACTION—ACCEPTED | | |
| Mr. W.R. Barger, Heritage Manor of Monteagle, 218 2nd Street P.O. Box 429, Monteagle, TN 37356, 615-924-2041 .. | TN | 07/21/94 |
| ETA CONTROL NUMBER—6/218498 ACTION—ACCEPTED | | |
| Mr. James M. Flynn, Western Mental Health Institute, 11100 Hwy. 64, W. Institute, TN 38074, 901-658-5141 | TN | 07/21/94 |
| ETA CONTROL NUMBER—6/218581 ACTION—ACCEPTED | | |
| Mr. Don E. Miller, Fair Park Health Care Center, 2815 Martin Luther King Jr. Blvd., Dallas, TX 75215, 214-421-2159 .. | TX | 07/21/94 |
| ETA CONTROL NUMBER—6/218586 ACTION—ACCEPTED | | |
| Mr. Don E. Miller, Ferris Nurs. Care Ctr. & Retire., 201 East 5th St., Ferris, TX 75125, 214-225-5000 | TX | 07/21/94 |
| ETA CONTROL NUMBER—6/218587 ACTION—ACCEPTED | | |
| Mr. Neal M. Elliott, Mountain View Place, 1600 Murchison Road, El Paso, TX 79902, 915-544-2002 | TX | 07/21/94 |
| ETA CONTROL NUMBER—6/218501 ACTION—ACCEPTED | | |
| Mr. Neal M. Elliott, Parkwood Place, 300 North Bynum, Lufkin, TX 75904, 409-637-7215 | TX | 07/21/94 |
| ETA CONTROL NUMBER—6/218500 ACTION—ACCEPTED | | |
| Mr. Don E. Miller, Rockwall Nursing Care Center, 206 Storrs, Rockwall, TX 75087, 214-771-5000 | TX | 07/21/94 |
| ETA CONTROL NUMBER—6/218585 ACTION—ACCEPTED | | |
| Mr. Don E. Miller, Rowlett Nursing Care Center, 9300 Highway 66, Rowlett, TX 75088, 214-475-4700 | TX | 07/21/94 |
| ETA CONTROL NUMBER—6/218588 ACTION—ACCEPTED | | |
| Mr. L. Marcus Fry, Jr., Sierra Medical Center, 1625 Medical Center Drive, El Paso, TX 79902, 915-747-4000 | TX | 07/21/94 |
| ETA CONTROL NUMBER—6/218502 ACTION—ACCEPTED | | |
| Mr. Mark Bernard, Southwest General Hospital, 7400 Barlite Blvd., San Antonio, TX 78224, 210-921-3435 | TX | 07/21/94 |
| ETA CONTROL NUMBER—6/218582 ACTION—ACCEPTED | | |
| Mr. Jim Bushmaier, Stuttgart Reg. Medical Center, P.O. Box 1905, Stuttgart, AR 72160, 501-673-3511 | AR | 07/27/94 |
| ETA CONTROL NUMBER—6/218854 ACTION—ACCEPTED | | |
| Mr. Rick Knight, Carrollwood Care Center, 15002 Hutchinson Road, Tampa FL 33625, 813-960-1969 | FL | 07/28/94 |
| ETA CONTROL NUMBER—6/218901 ACTION—ACCEPTED | | |
| Ms. Carmelita P. Galang, International Med. Staffing, Inc., P.O. Box 47974, St. Petersburg, FL 33743-7974, 813-384-5902. | FL | 07/27/94 |
| ETA CONTROL NUMBER—6/218895 ACTION—ACCEPTED | | |
| Mr. Daniel J. Friedrich III, Pompano Beach Medical Center, 600 S.W. Third Street, Pompano Beach, FL 33060, 305-782-2000. | FL | 07/28/94 |
| ETA CONTROL NUMBER—6/218949 ACTION—ACCEPTED | | |
| Mr. Daniel J. Friedrich III, Pompano Beach Medical Center, 600 S.W. Third Street, Pompano Beach, FL 33060, 305-782-2000. | FL | 07/28/94 |
| ETA CONTROL NUMBER—6/218948 ACTION—ACCEPTED | | |
| Mr. Henry Robertts, Brian Center-Austell, 2130 Anderson Mill Road, Austell, GA 30073, 404-941-8813 | GA | 07/28/94 |
| ETA CONTROL NUMBER—6/218896 ACTION—ACCEPTED | | |
| Mr. Stelling Nelson, Chaplinwood Nursing Home, 325 Allen Memorial Drive, Milledgeville, GA 31032, 912-453-851 | GA | 07-27-94 |
| ETA CONTROL NUMBER—6/218851 ACTION—ACCEPTED | | |
| Mr. Mark Jacobs, Cherokee Nursing Home, Box 937, Calhoun, GA 30701, 706-629-1289 | GA | 07-27-94 |
| ETA CONTROL NUMBER—6/218852 ACTION—ACCEPTED | | |
| Ms. Paulette Adams, Starcrest of Newnan, 120 Spring Street, Newnan, GA 30263, 404-253-1475 | GA | 07-27-94 |
| ETA CONTROL NUMBER—6/218894 ACTION—ACCEPTED | | |
| Patricia Troxell, Autumn Care of Marshville, 311 W. Phifer Street, P.O. Box 608, Marshville, NC 28103, 704-624-6643 | NC | 07-27-94 |
| ETA CONTROL NUMBER—6/218839 ACTION—ACCEPTED | | |
| Sharon Stiles, Brian Center, 969 Cox Road, Gastonia, NC 28054, 704-866-8596 | NC | 07-28-94 |
| ETA CONTROL NUMBER—6/218840 ACTION—ACCEPTED | | |
| Ms. Maxine Sasser, Brian Center-Windsor, 1306 S. King St., Windsor, NC 27983, 919-794-5146 | NC | 07-28-94 |
| ETA CONTROL NUMBER—6/218900 ACTION—ACCEPTED | | |
| Mr. Richard Hess, Evergreens, Inc., 4007 W. Wendaver Ave., Greensboro, NC 27407, 910-854-7122 | NC | 07-27-94 |
| ETA CONTROL NUMBER—6/218850 ACTION—ACCEPTED | | |
| Ms. Donna Rein, Meadowbrook Terrace of N. Raleigh, 8200 Litchford Rd., Raleigh, NC 27615, 919-878-7772 | NC | 07-28-94 |
| ETA CONTROL NUMBER—6/218898 ACTION—ACCEPTED | | |
| Mr. Philip Holmes, Chandler Nursing Center, 601 West First, Chandler, OK 74834, 405-258-1131 | OK | 07-28-94 |
| ETA CONTROL NUMBER—6/218837 ACTION—ACCEPTED | | |
| Mr. Lawrence J. Centella, REN Corporation—USA, 1326 Dow St., Murfreesboro, TN 37209, 615-353-4200 | TN | 07-27-94 |
| ETA CONTROL NUMBER—6/218853 ACTION—ACCEPTED | | |
| Mr. Thomas B. Symonds, Mission Hospital, Inc., 900 South Bryan Road, Mission, TX 78572, 210-580-9000 | TX | 07-27-94 |
| ETA CONTROL NUMBER—6/218848 ACTION—ACCEPTED | | |
| K. Stevem Rowley, South Park Hospital & Medical Ctr., 6610 Quaker Avenue, Lubbock, TX 79413, 806-791-8000 | TX | 07-27-94 |
| ETA CONTROL NUMBER—6/218838 ACTION—ACCEPTED | | |
| Mr. Pete T. Duarte, Thomason Hospital, 4815 Alameda Avenue, El Paso, TX 79905, 915-521-7950 | TX | 07-27-94 |

DIVISION OF FOREIGN LABOR CERTIFICATIONS, HEALTH CARE FACILITY ATTESTATIONS—Continued
[FORM ETA-9029]

| CEO-Name/Facility Name/Address | State | Action date |
|--|-------|-------------|
| ETA CONTROL NUMBER—6/218836 ACTION—ACCEPTED | | |
| ETA REGION 6 08/01/94 TO 08/07/94 | | |
| Mr. Mark Aanonson, Osceola Regional Hospital, 700 West Oak Street, Kissimmee, FL 34741, 407-846-2266 | FL | 08-02-94 |
| ETA CONTROL NUMBER—6/218986 ACTION—ACCEPTED | | |
| Mr. Richard S. Freeman, West Boca Medical Center, 21644 State Road 7, Boca Raton, FL 33428, 407-488-8000 | FL | 08-02-94 |
| ETA CONTROL NUMBER—6/219041 ACTION—ACCEPTED | | |
| Ms. Myrtle Vickers, Shady Acres, Inc., 1310 W. Gordon, Douglas, GA 31533, 912-384-7811 | GA | 08-05-94 |
| ETA CONTROL NUMBER—6/219143 ACTION—ACCEPTED | | |
| Mr. Gary M. Stein, Touro Infirmary, 1401 Foucher Street, New Orleans, LA 70115, 504-897-8900 | LA | 08/02/94 |
| ETA CONTROL NUMBER—6/218990 ACTION—ACCEPTED | | |
| Mr. Dan Cotten, Brian Center of Wilson, P.O. Box 3566, Wilson, NC 27895, 919-237-6300 | NC | 08/02/94 |
| ETA CONTROL NUMBER—6/219043 ACTION—ACCEPTED | | |
| Mr. Steve Messer, Brian Center-Charlotte/Shamrock, 2727 Shamrock Drive, Charlotte, NC 28205, 704-563-0886 | NC | 08/02/94 |
| ETA CONTROL NUMBER—6/219044 ACTION—ACCEPTED | | |
| Mr. Dave Carver, Brighton Manor, 415 Sunset Dr., Fuquay-Varina, NC 27526, 919-552-5609 | NC | 08/02/94 |
| ETA CONTROL NUMBER—6/219104 ACTION—ACCEPTED | | |
| Ms. Frances Messar, Carver Living, 321 E. Carver St., Durham, NC 27704, 919-471-3558 | NC | 08/02/94 |
| ETA CONTROL NUMBER—6/218984 ACTION—ACCEPTED | | |
| Mr. Mel Bourne, Evangeline of Woodfin, 25 Reynolds Mtn. Blvd., Asheville, NC 28804, 704-645-6619 | NC | 08/05/94 |
| ETA CONTROL NUMBER—6/219145 ACTION—ACCEPTED | | |
| Mr. Russell Myers, Hillside Nursing of Wake Forest, 968 Wait Avenue P.O. Box 1826, Wake Forest, NC 27587, 919-556-4082. | NC | 08/02/94 |
| ETA CONTROL NUMBER—6/218985 ACTION—ACCEPTED | | |
| Ms. Mary T. Lennon, Len-Care Nursing/Conv. Center, Inc., Highway 701 S. P.O. Box 2310, Elizabethtown, NC 28337, 910-862-8100. | NC | 08/02/94 |
| ETA CONTROL NUMBER ACTION—ACCEPTED | | |
| Mr. Harold Hunter, Jr., Williamsburg Hospital, P.O. Drawer 568, Kingstree, SC 29556, 803-354-9661 | SC | 08/02/94 |
| ETA CONTROL NUMBER—6/219101 ACTION—ACCEPTED | | |
| Mr. Stephen Adams, Pebble Creek Nursing Center, 11608 Scott Simpson, El Paso, TX 79936, 915-857-0071 | TX | 08/05/94 |
| ETA CONTROL NUMBER—6/219146 ACTION—ACCEPTED | | |
| Mr. Michael S. Potter, Physicians & Surgeons Hospital, 3201 Sage St., Midland, TX 79705, 915-683-2273 | TX | 08/05/94 |
| ETA CONTROL NUMBER—6/219148 ACTION—ACCEPTED | | |
| Ms. Nancy Wood, Renaissance Nursing Home—Katy, 1525 Tull Drive, Katy, TX 77449, 713-578-1600 | TX | 08/02/94 |
| ETA CONTROL NUMBER—6/219142 ACTION—ACCEPTED | | |
| ETA REGION 6 08/08/94 TO 08/14/94 | | |
| Mr. Davide M. Carbone, Aventura Hospital, 20900 Biscayne Boulevard, Miami, FL 33180, 305-682-7000 | FL | 08/10/94 |
| ETA CONTROL NUMBER—6/219199 ACTION—ACCEPTED | | |
| Mr. Nicholas Stavropoulos, Medi-Search International, 16140 Prestwich Dr., E. Loxahatchee, FL 33470, 407-798-8704 | FL | 08/11/94 |
| ETA CONTROL NUMBER—6/219355 ACTION—ACCEPTED | | |
| Mr. Frank Murphy, Morton Plant Hospital, 323 Jeffords Street, P.O. Box 210, Clearwater, FL 34616, 813-462-7000 | FL | 08/10/94 |
| ETA CONTROL NUMBER—6/219253 ACTION—ACCEPTED | | |
| Mr. Scott Perlman, Titusville Nursing, 1705 Jess Parish Court, Titusville, FL 32716, 305-269-5720 | FL | 08/11/94 |
| ETA CONTROL NUMBER—6/219353 ACTION—ACCEPTED | | |
| Mr. William F. Borne, Analytical Nursing Mtg. Corp., 3029 S. Sherwoodforest Blvd., Suite 300, Baton Rouge, LA 70816, 504-292-2031. | LA | 08/11/94 |
| ETA CONTROL NUMBER—6/219292 ACTION—ACCEPTED | | |
| Mr. Steven L. Smith, Earl K. Long Medical Center, 5825 Airline Highway, P.O. Box 52999, Baton Rouge, LA 70805, 504-358-1000. | LA | 08/11/94 |
| ETA CONTROL NUMBER—6/219293 ACTION—ACCEPTED | | |
| Mr. Mary Ann Thompson, Brian Center-Lincolnton, P.O. Box 249, Lincolnton, NC 28093, 704-735-8065 | NC | 08/11/94 |
| ETA CONTROL NUMBER—6/219349 ACTION—ACCEPTED | | |
| Mr. Felton Wooten, The Evergreens, 206 Greensboro Road, High Point, NC 27260, 910-886-4121 | NC | 08/10/94 |
| ETA CONTROL NUMBER—6/219249 ACTION—ACCEPTED | | |
| Mr. Jack Russell, Vespera Nursing Home, 1000 College Street, Wilkesboro, NC 28697, 910-838-4141 | NC | 08/11/94 |
| ETA CONTROL NUMBER—6/219346 ACTION—ACCEPTED | | |
| Mr. Elijah D. Nacionales, Good Samaritan Health & Rehab., 500 Hickory Hollow Terrace, Antioch, TN 37013, 615-731-7130. | TN | 08/11/94 |
| ETA CONTROL NUMBER—6/219352 ACTION—ACCEPTED | | |
| Ms. Casilda Webb, Casha Res. Home Health Serv. Inc., 9901 E. Valley Ranch Pkwy., Suite 1040, Irving, TX 75060, 214-556-0808. | TX | 08/11/94 |
| ETA CONTROL NUMBER—6/219354 ACTION—ACCEPTED | | |
| Mr. Donald A. Anderson, Everglades Memorial Hospital, 200 S. Barfield Highway, Pahokee, FL 33476-9988, 407-924-5200. | FL | 08/17/94 |
| ETA CONTROL NUMBER—6/219373 ACTION—ACCEPTED | | |
| Mr. Jon C. Aaron, Oakwood Terrace, 18905 N.E. 24th Avenue, N. Miami Beach, FL 33180, 305-932-6360 | FL | 08/18/94 |

DIVISION OF FOREIGN LABOR CERTIFICATIONS, HEALTH CARE FACILITY ATTESTATIONS—Continued
[FORM ETA-9029]

| CEO-Name/Facility Name/Address | State | Action date |
|---|-------|-------------|
| ETA CONTROL NUMBER—6/219599 ACTION—ACCEPTED | | |
| Mr. Ralph L. Stacey, Riverside Care Center, 899 N.W. 4th St., Miami, FL 33128, 305-326-1236 | FL | 08/17/94 |
| ETA CONTROL NUMBER—6/219593 ACTION—ACCEPTED | | |
| Mr. Albert Boulenger, SMH Homestead Hospital, 160 N.W. 13 Street, Homestead, FL 33030, 305-248-3232 | FL | 08/18/94 |
| ETA CONTROL NUMBER—6/219598 ACTION—ACCEPTED | | |
| Mr. David Banks, Stonegate Rehab. & Nursing Ctr., 2021 S.W. 1st Avenue, Ocala, FL 34474, 904-629-0063 | FL | 08/17/94 |
| ETA CONTROL NUMBER—6/219595 ACTION—ACCEPTED | | |
| Ms. Nila Willhoite, Willis-Knighton Health System, 2600 Greenwood Rd., Shreveport, LA 71118, 318-632-4692 | LA | 08/18/94 |
| ETA CONTROL NUMBER—6/219597 ACTION—ACCEPTED | | |
| Ms. Crystal Sossoman, Brian Center Health & Retirement, 520 Valley Street, Statesville, NC 28677, 704-873-0517 | NC | 08/17/94 |
| ETA CONTROL NUMBER—6/219507 ACTION—ACCEPTED | | |
| Mr. Paul Babinski, Brian Center-Charlotte, 5939 Reddman Road, Charlotte, NC, 704-563-6862 | NC | 08/17/94 |
| ETA CONTROL NUMBER—6/219374 ACTION—ACCEPTED | | |
| Mr. Floyd Steinberg, Britthaven of Chapel Hill, 1716 Legion Road, Chapel Hill, NC 27514, 919-942-2280 | NC | 08/17/94 |
| ETA CONTROL NUMBER—6/219504 ACTION—ACCEPTED | | |
| Ms. Susan Macias, Rehoboth McKinley Christian HCS, 800 A Hospital Drive, Gallup, NM 87305, 505-863-7189 | NM | 08/17/94 |
| ETA CONTROL NUMBER—6/219503 ACTION—ACCEPTED | | |
| Mr. D. W. Sims, Camp Wood Convalescent Center, P.O. Box 310, Camp Wood, TX 78833, 210-597-5250 | TX | 08/17/94 |
| ETA CONTROL NUMBER—6/219376 ACTION—ACCEPTED | | |
| Mr. Stañ Weyer, Coronado Nursing Center, 223 S. Resler Drive, El Paso, TX 79912, 915-584-9417 | TX | 08/17/94 |
| ETA CONTROL NUMBER—6/219378 ACTION—ACCEPTED | | |
| Mr. David Hodgson, Doctors Hospital of Laredo, 500 E. Mann Road, Laredo, TX 78041, 210-723-1131 | TX | 08/17/94 |
| ETA CONTROL NUMBER—6/219377 ACTION—ACCEPTED | | |
| Mr. Jerry Tanqan, McAllen Good Samaritan Center, 812 Houston Avenue, McAllen, TX 78501-0279, 210-682-6331 ... | TX | 08/17/94 |
| ETA CONTROL NUMBER—6/219506 ACTION—ACCEPTED | | |

ETA REGION 6
08/22/94 TO 08/28/94

| | | |
|--|----|----------|
| Mr. Lawrence J. Centella, REN Corporation—USA, 1160 S. Sermoran Blvd., Ste. C, Orlando, FL 32807, 407-823-9533. | FL | 08/24/94 |
| ETA CONTROL NUMBER—6/219601 ACTION—ACCEPTED | | |
| Mr. Lawrence J. Centella, REN Corporation—USA, 4141 S. Tamiami Trail, Sarasota, FL 34231, 813-924-4025 | FL | 08/24/94 |
| ETA CONTROL NUMBER—6/219600 ACTION—ACCEPTED | | |
| Mr. Lawrence J. Centella, REN Corporation—USA, Medical Office Building 11140 W., Colonial Dr., Ste. #5, Ocoee, FL 32761, 407-877-0626. | FL | 08/24/94 |
| ETA CONTROL NUMBER—6/219604 ACTION—ACCEPTED | | |
| Mr. Lawrence J. Centella, REN Corporation—USA, 1500 N.W., 12th Ave., Ste. 106, Miami, FL 33136, 305-324-8891 . | FL | 08/24/94 |
| ETA CONTROL NUMBER—6/219605 ACTION—ACCEPTED | | |
| Mr. Lawrence J. Centella, REN Corporation—USA, 1026 S. Ridgewood Avenue, Daytona Beach, FL 32114, 904-257-3211. | FL | 08/24/94 |
| ETA CONTROL NUMBER—6/219610 ACTION—ACCEPTED | | |
| Mr. Lawrence J. Centella, REN Corporation—USA, Lucerne Medical Plaza 100 W. Gore, St., Ste. 102, Orlando, FL 32806, 407-841-8182. | FL | 02/24/94 |
| ETA CONTROL NUMBER—6/219602 ACTION—ACCEPTED | | |
| Mr. Lawrence J. Centella, REN Corporation—USA, 1001 NW 13th Street, Boca Raton, FL 33486, 407-362-9113 | FL | 08/24/94 |
| ETA CONTROL NUMBER—6/219611 ACTION—ACCEPTED | | |
| Mr. J. David Lawrence, Jr., B-J-C Medical Center, 70 Medical Center Drive, Commerce, GA 30529, 706-335-1000 ... | GA | 08/24/94 |
| ETA CONTROL NUMBER—6/219783 ACTION—ACCEPTED | | |
| Mr. Bill Lang, Community Care Center, 8422 Kurthwood Road, P.O. Box 270, Leesville, LA 71446, 318-239-6578 | LA | 08/24/94 |
| ETA CONTROL NUMBER—6/219780 ACTION—ACCEPTED | | |
| Mr. Jeff Burch, Riverlands Health Care Center, 1980 River Road P.O. Drawer CC, Litcher, LA 70071, 504-869-5725 . | LA | 08/24/94 |
| ETA CONTROL NUMBER—6/219781 ACTION—ACCEPTED | | |
| Ms. Linda Howard, Carrington Place, 600 Fullwood Lane, Matthews, NC 28105, 704-841-4920 | NC | 08/24/94 |
| ETA CONTROL NUMBER—6/219782 ACTION—ACCEPTED | | |
| Ms. Linda Roberts, Hillhaven Sunnybrook, 25 Sunnybrook Road, Raleigh, NC 27610-1894, 919-231-6150 | NC | 08/24/94 |
| ETA CONTROL NUMBER—6/219614 ACTION—ACCEPTED | | |
| Mr. James P. Seward, Hillside Hospital, Inc., 1265 E. College Street, Pulaski, TN 38478, 615-363-7531 | TN | 08/26/94 |
| ETA CONTROL NUMBER—6/220922 ACTION—ACCEPTED | | |
| Mr. J. F. Adams, Medical Plaza Hospital, 1111 Gallagher Rd., Sherman, TX 75090, 903-870-7000 | TX | 08/24/94 |
| ETA CONTROL NUMBER—6/219767 ACTION—ACCEPTED | | |
| Ms. Brenda Chung, Nightingale Services, 6220 Westpark Drive, Suite #220, Houston, TX 77057, 713-780-0695 | TX | 08/24/94 |
| ETA CONTROL NUMBER—6/219617 ACTION—ACCEPTED | | |
| Mr. Eddie Kuntz, Retama Manor, 400 S. Pete Diaz, Jr. Ave., Rio Grande, TX 78582, 210-487-2513 | TX | 08/24/94 |
| ETA CONTROL NUMBER—6/219766 ACTION—ACCEPTED | | |
| Mr. Louis Robichaux, Silver Leaves Nursing/Rehab. Ctr., 505 W. Centerville, Garland, TX 75041, 214-278-3566 | TX | 08/24/94 |
| ETA CONTROL NUMBER—6/219612 ACTION—ACCEPTED | | |
| Mr. Stan Weyer, Sunset Haven Nursing Center, 9001 N. Loop Drive, El Paso, TX 79907, 915-859-1650 | TX | 08/24/94 |

DIVISION OF FOREIGN LABOR CERTIFICATIONS, HEALTH CARE FACILITY ATTESTATIONS—Continued
[FORM ETA-9029]

| CEO-Name/Facility Name/Address | State | Action date |
|---|-------|-------------|
| ETA CONTROL NUMBER—6/219615 ACTION—ACCEPTED Ms. Vicki Archer, Norfolk Health Care, 1005 Hampton Road, Norfolk, VA 23507, 804-623-5602 ETA CONTROL NUMBER—6/219673 ACTION—ACCEPTED | VA | 08/24/94 |

[FR Doc. 94-22716 Filed 9-13-94; 8:45 am]
BILLING CODE 4510-30-P

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 August 22, 1994 through September 1, 1994. The last biweekly notice was published on August 31, 1994 (59 FR 45015).

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 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, 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 October 14, 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.

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 amendments request: August 2, 1994

Description of amendments request: The proposed amendment would revise Technical Specifications (TSs) 3.9.1 and 3.1.2.7 and the Bases to Specification 3.1.2.7. Specifically, TS 3.9.1, "Refueling Operations, Boron Concentration," would be revised to require action to restore boron concentration to within its limits in place of the current requirement to initiate and continue boration at a rate greater than or equal to 40 gpm of 2300 ppm boric acid solution or its equivalent until the boron concentration is within its limit. TS 3.1.2.7, "Borated Water Sources - Shutdown," gives the operability requirement for borated water sources including the Refueling

Water Tank (RWT), in Modes 5 and 6. The minimum boron concentration is given as 2300 ppm. While this minimum value is correct for Mode 5, a larger boron concentration may be necessary in Mode 6. The RWT is the preferred borated water source for restoring the required boron concentration as required by TS 3.9.1. Therefore, the RWT boron concentration in Mode 6 should be at least be that required by TS 3.9.1. The proposed change to TS 3.1.2.7 would clarify the boron concentration requirements. In Mode 5, 2300 ppm will continue to be required. In Mode 6, the boron concentration limit for the RWT will be the boron concentration limits given in TS 3.9.1.

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. Would not involve a significant increase in the probability or consequences of an accident previously evaluated.

During refueling operations, the reactivity condition of the core is maintained consistent with the initial conditions assumed for the boron dilution event in the accident analysis (Updated Final Safety Analysis Report Section 14.3) and is sufficient to ensure the core remains subcritical during core alterations. Technical Specification 3.9.1 requires that the boron concentration be maintained to ensure a k_{eff} [is less than or equal to] 0.95. Should the boron concentration drop below the Technical Specifications limit, the Action requires boration at a specified flow rate and boron concentration until the boron concentration is restored to within its limit. Refueling boron concentrations higher than the concentration specified by the Action in [Technical] Specification 3.9.1 are allowed by the Technical Specifications and clarification of the Action for that circumstance is needed. The proposed change eliminates the specified flow rate and boron concentration in the Action and substitutes a directive to immediately initiate action to restore the boron concentration to within its limits. The accident analysis does not assume a specific boration rate, but only assumes that the operator acts to terminate the dilution.

Therefore, the consequences of the event are unchanged. In addition, the proposed change revises the boron concentration limit on the Refueling Water Tank in Mode 6 to make the boron concentration limit on the tank the same as the boron concentration limit on the reactor coolant system. This will ensure that the RWT will contain water of a sufficient boron concentration to respond to a boron dilution event.

The proposed change does not change the boron concentration or shutdown margin required by [Technical] Specification 3.9.1 and continues to meet the initial conditions

of the boron dilution event. Therefore, the probability of a boron dilution event is not increased. Furthermore, the revised action ensures that the appropriate actions for a boron dilution event will be taken and that a borated water source of sufficient concentration is available to respond to that event. Therefore, the consequences of a boron dilution event are not increased.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Would not create the possibility of a new or different type of accident from any accident previously evaluated.

The proposed change does not represent a significant change in the configuration or operation of the plant. The proposed actions will result in the same operator actions as the current Technical Specifications. The minimum boron concentration of the Refueling Water Tank in Mode 6 may be increased above the current value, but the concentrations will be within the analyzed maximum concentration for that tank.

Therefore, the proposed change does not create the possibility of a new or different type of accident from any accident previously evaluated.

3. Would not involve a significant reduction in a margin of safety.

The margin of safety provided by [Technical] Specification 3.9.1 is to ensure that the core remains subcritical during a boron dilution event and during core alterations. The proposed change does not alter the required shutdown margin or significantly change the actions to be taken if that shutdown margin is lost. The proposed change ensures that all assumed borated water sources will have sufficient boron concentration to respond to boron dilution event.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendments request involves no significant hazards consideration.

Local Public Document Room: Calvert County Library, Prince Frederick, Maryland 20678.

Attorney for licensee: Jay E. Silbert, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Michael J. Case

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 amendments request: August 2, 1994

Description of amendments request: The proposed change would revise Technical Specifications (TSs) regarding

surveillances associated with the Emergency Diesel Generators (EDGs). Specifically, TS 4.8.1.1.2.d.3.c would be revised to add high crankcase pressure to the EDG trips which are verified to be automatically bypassed on a Safety Injection Actuation Signal (SIAS). In addition, a footnote would be added stating that verification of the high crankcase pressure trip bypass will not be required on a particular EDG until the modification has been completed for that EDG.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The Calvert Cliffs Emergency Diesel Generators (EDGs) are used to provide electrical power for the operation of Engineered Safety Features (ESF) and safe shutdown equipment for events involving a loss of offsite power. The EDGs are also called upon to automatically start if an accident condition (SIAS) is present. In the event of an automatic start from a SIAS, the EDGs do not assume any load until the preferred, offsite power source is actually lost. On an undervoltage condition on a vital bus, the corresponding EDGs automatically start and load.

Emergency diesel generator trips are provided to initiate engine shutdown during abnormal diesel-run conditions, thereby protecting the EDGs from any resulting damage. Under emergency conditions, EDG reliability is a key accident-mitigating factor; therefore, upon receipt of a SIAS, the EDG control logic blocks two of the normal shutdown signals so that the only signals remaining are those required to prevent rapid destruction of the diesel engine. High crankcase pressure is typically not an indication of impending rapid diesel engine failure; therefore, this trip will be added to those shutdown signals bypassed on a SIAS. The proposed Technical Specification change adds the high crankcase pressure trip as one of the EDG trips verified to be bypassed by a SIAS. A high crankcase pressure condition on one EDG will not impact either of the two unaffected EDGs, or any other equipment required to mitigate accident consequences, and satisfies the single failure criteria. The manufacturer concurs with the proposed change to bypass this trip on a SIAS. In blocking this trip on a SIAS, the ultimate effect is an increase in the reliability of the effected EDG, and therefore, no increase in the consequences of a previously evaluated accident.

Additionally, the EDGs are not initiators to any previously evaluated accident. Therefore, blocking the high crankcase pressure trip on a SIAS will not increase the probability of an accident previously evaluated.

Therefore, the proposed change does not involve a significant increase to the

probability or consequences of an accident previously evaluated.

2. Would not create the possibility of a new or different type of accident from any accident previously evaluated.

The function of the EDGs is to provide power to ESF and safe shutdown equipment for events involving a loss of offsite power. The proposed change does not represent a significant change in the configuration or operation of the plant; therefore, the EDGs continue to function in an accident mitigation role. The EDGs are not accident precursors, either in the current configuration, or following the modification to block the high crankcase pressure trip.

Therefore, the proposed changes do not create the possibility of a new or different type of accident from any accident previously evaluated.

3. Would not involve a significant reduction in a margin of safety.

The margin of safety credited with the EDG function associated with this change is the reliability of the EDGs following an event involving a loss of offsite power. By blocking high crankcase pressure trips on a SIAS, this change increases the likelihood that an EDG will be able to supply power when it is needed most, during a SIAS, because the probability of an unnecessary EDG shutdown is decreased. In effect, the margin of safety associated with this function, EDG reliability, is increased.

Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendments request involves no significant hazards consideration.

Local Public Document Room: Calvert County Library, Prince Frederick, Maryland 20678.

Attorney for licensee: Jay E. Silbert, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Michael J. Case

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 amendments request: August 4, 1994

Description of amendments request: The proposed amendment would eliminate Technical Specifications 3/4.3.3.3, 6.9.2.b, and 6.9.2.d and Bases 3/4.3.3.3 which gives requirements for seismic monitoring instrumentation. Specifically, the requirements for operation and testing of the seismic monitoring instrumentation would be relocated to the Calvert Cliffs Nuclear Power Plant Updated Final Safety Analysis Report (UFSAR) 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, which is presented below:

The proposed change has been evaluated against the standards in 10 CFR 50.92 and has been determined to not involve a significant hazards consideration, in that operation of the facility in accordance with the proposed amendments:

1. Would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The seismic monitoring system is used to measure the seismic response of selected Class 1 structures, provide time-history records of seismic events, and would indicate if predetermined seismic acceleration values had been exceeded. The seismic monitoring system itself has no safety function. The system measures values which are used after the fact to assess the intensity of an earthquake.

The proposed change will relocate requirements regarding the operability and testing of the seismic monitors from the Technical Specifications to the UFSAR and plant procedures. This will allow changes to the requirements to be made without Commission approval as long as the changes meet the criteria of 10 CFR 50.59. Associated Technical Specification Special Report requirements and Bases will be deleted. Changes to the seismic monitoring system requirements which do not meet the criteria of 10 CFR 50.59 must be approved by the Commission by license amendment.

The seismic monitoring system is not an initiator and does not act to minimize the consequences of any accident previously evaluated. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Would not create the possibility of a new or different type of accident from any accident previously evaluated?

The proposed relocation of seismic monitor requirements from the Technical Specifications to the UFSAR and plant procedures does not represent a change in the configuration or operation of the plant. The seismic monitoring system will continue to be controlled under 10 CFR 50.59. Associated Technical Specification Special Report requirements and Bases will be deleted. The proposed change will not add any new hardware and will not introduce any new accident initiators. Therefore, the proposed change does not create the possibility of a new or different type of accident from any accident previously evaluated.

3. Does operation of the facility in accordance with the proposed amendment involve a significant reduction in a margin of safety?

The seismic monitoring system is used to measure the response of selected Class 1 structures to seismic events. The plant is designed to withstand the loads imposed by the maximum hypothetical accident and the

design seismic disturbance without loss of functions required for reactor shutdown and emergency core cooling. As a consequence, the seismic monitoring system makes no contribution to the margin of safety, and neither do the associated special reports.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendments request involves no significant hazards consideration.

Local Public Document Room: Calvert County Library, Prince Frederick, Maryland 20678.

Attorney for licensee: Jay E. Silbert, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Michael J. Case

Duke Power Company, et al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: July 18, 1994

Description of amendment request:
The purpose of the proposed amendment is to separate the Technical Specification (TS) into two separate volumes, one volume explicitly for Unit 1 and one volume explicitly for Unit 2. At present, each unit has a single volume of TS which contains the specifications covering both units. In anticipation of the steam generator (SG) replacement project scheduled to begin in the fall of 1994, the licensee is requesting that the TS reflect unit specific data. Since the SG project outlines a schedule for single units, the present documentation reflecting both units in one volume will make it difficult to facilitate TS changes to a single unit. The proposed TS will modify the current situation as follows: 1) The pages will now contain the same information as found before with the exception of references to different units. The Unit 1 volume will only contain parameter and setpoint values applicable to Unit 1; the Unit 2 volume will only contain information applicable to Unit 2.2) The limits established by the TS (the definitions, the limiting conditions for operation, the surveillance requirements, the Bases, etc.) will be unchanged by this amendment, with the exception of (3) below. The effect of the amendment will be that the Unit 1 TS will be found only in the volume dedicated solely to Unit 1 and likewise for Unit 2. 3) TS Sections 3.0.5 and 4.0.6 will be deleted and

minor editorial changes, such as the correction of misspellings and the deletion of obsolete footnotes, will be made. TS 3.0.5 and 4.0.6 define the applicability of the current joint TS volume to each unit individually. Since each unit's TS will be located in a separate volume, no statements are necessary to indicate differences in parameters between units and TS 3.0.5 and 4.0.6 may 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:

The proposed amendments would not involve a significant increase in the probability or consequences of a previously evaluated accident. The separation of the existing technical specification manual into unit-specific volumes is a strictly administrative process which will not affect the probability or consequence of any accident.

They will not create the possibility of a new or different kind of accident from any accident previously evaluated. The changes do not have any impact upon the design or operation of plant equipment; therefore, they cannot serve to initiate a new type of accident.

The proposed amendments would not involve a reduction in a margin of safety. The changes would not impact the design or operation of any plant systems or components.

Based upon the preceding analysis, Duke Power Company concludes that the proposed amendments do not involve a significant hazards consideration as defined by 10 CFR 50.92.

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: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242

NRC Project Director: Herbert N. Berkow

Duke Power Company, Docket Nos. 50-369 and 50-370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: July 18, 1994

Description of amendment request:
The purpose of the proposed amendment is to separate the Technical

Specifications (TS) into two separate volumes, one volume explicitly for Unit 1 and one volume explicitly for Unit 2.

At present, each unit has a single volume of TS which contains the specifications covering both units. In anticipation of the steam generator (SG) replacement project scheduled to begin in the fall of 1994, the licensee is requesting that the TS reflect unit specific data. Since the SG project schedules SG replacement for each unit at different times, the present common TS would make it difficult to facilitate TS changes to a single unit. The proposed amendment will modify the current TS as follows: 1) The pages will now contain the same information as found before with the exception of references to different units. The Unit 1 volume will only contain parameter and setpoint values applicable to Unit 1; the Unit 2 volume will only contain information applicable to Unit 2. 2) The limits established by the TS (the definitions, the limiting conditions for operation, the surveillance requirements, the Bases, etc.) will be unchanged by this amendment, with the exception of (3) below. The effect of the amendment will be that the Unit 1 TS will be found only in the volume dedicated solely to Unit 1 and likewise for Unit 2. 3) TS Sections 3.0.5 and 4.0.6 will be deleted and minor editorial changes, such as the correction of misspellings and the deletion of obsolete footnotes, will be made. TS 3.0.5 and 4.0.6 define the applicability of the current joint TS volume to each unit individually. Since each unit's TS will be located in a separate volume, no statements are necessary to indicate differences in parameters between units and TS 3.0.5 and 4.0.6 may 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:

The proposed amendments would not involve a significant increase in the probability or consequences of a previously evaluated accident. The separation of the existing technical specification manual into unit-specific volumes is a strictly administrative process which will not affect the probability or consequence of any accident.

They will not create the possibility of a new or different kind of accident from any accident previously evaluated. The changes do not have any impact upon the design or operation of plant equipment; therefore, they cannot serve to initiate a new type of accident.

The proposed amendments would not involve a reduction in a margin of safety. The

changes would not impact the design or operation of any plant systems or components.

Based upon the preceding analysis, Duke Power Company concludes that the proposed amendments do not involve a significant hazards consideration as defined by 10 CFR 50.92.

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: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223

Entergy Operations, Inc., et al., Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: June 17, 1994, as supplemented by letter dated August 17, 1994.

Description of amendment request: The amendment requests the removal of license conditions for Transamerica Delaval (TDI) Emergency Diesel Generators (EDGs) associated with NUREG-1216.

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 the consequences of an accident previously evaluated:

The proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated. Elimination of the required teardowns and inspections has no effect on the probability of an accident occurring, because the diesel generators are not accident initiating equipment. Also, deleting the teardowns and inspections would decrease the consequences of an accident because the availability of the engines would increase as a result of the less frequent teardowns. Additionally, the high average reliability of the TDI engines would not be negatively affected due to this change. NRC research has shown there is a period of decreased reliability immediately following intrusive teardowns, (break in period), followed by a long period of high reliability.

2. Create the possibility of a new or different kind of accident from any previously evaluated:

The proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed amendment will not cause any physical change to the plant or the design or operation of the diesel units.

3. Involve a significant decrease in the margin of safety.

The proposed amendment would not involve a significant reduction in a margin of safety. The proposed amendment will increase the reliability and availability of the EDGs and therefore will not result in a decrease in a margin of safety at Grand Gulf.

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: Judge George W. Armstrong Library, Post Office Box 1406, S. Commerce at Washington, Natchez, Mississippi 39120
Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., 12th Floor, Washington, DC 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: August 9, 1994

Description of amendment request: The proposed amendment would revise the technical specifications (TSs) by relocating the functions under review and audit to the Waterford 3 quality assurance program manual. The proposed change also incorporates the TS line-item-improvement of Generic Letter 93-07, "Modification Of The Technical Specification Administrative Control Requirements For Emergency And Security Plans," dated December 28, 1993. The changes are proposed to reduce regulatory burden by relocating TS requirements that are duplicated by other regulatory 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:

The proposed change will have no effect on design bases accidents nor will the change directly affect any material condition of the plant that could directly contribute to causing or mitigating the effects of an accident. Relocating Review and Audit functions from the TS is consistent with the NRC Final Policy Statement on Technical Specifications Improvements and will have no negative impact on plant operation or safety. Therefore, the proposed change will not involve a significant increase in the probability or consequences of any accident previously evaluated.

The proposed change will not alter the operation of the plant or the manner in

which the plant is operated. The change will not involve a design change or introduce any new failure modes. Therefore, the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change is administrative in nature. The Waterford 3 safety margins are defined and maintained by the Technical Specifications in Sections 2-5 which are unaffected. Therefore, the proposed change will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room:
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

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-424 and 50-425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of amendment request: August 16, 1994

Description of amendment request:
The proposed changes revise VEGP Technical Specification 3/4.7.1.1 and its bases regarding the setpoint tolerance for the Main Steam Safety Valves (MSSVs).

Basis for proposed no significant hazards consideration determination:
As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated. The setpoint tolerance change for the MSSVs from plus or minus 1% to +2%, -3% is intended to accommodate setpoint drift that may occur with these valves during plant operation. However, this change will not adversely affect the pressure boundary integrity or safety function of the valves. The increase in MSSV setpoint tolerance was also reviewed with respect to the accident analyses presented in the VEGP Final Safety Analysis Report (FSAR). The evaluation demonstrated that the acceptance criteria of the accident analyses continued to be met. Additionally, the radiological consequences associated with the accident analysis are unaffected by the proposed changes. Accordingly, since the performance and

capability of the MSSVs will be maintained as a result of the proposed changes with no increase in radiological consequences, there will be no significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed changes do not involve any change to the configuration or method of operation of any plant equipment, and no new failure modes have been defined for any plant system or component. The design basis requirement for the MSSVs will continue to be met and the structural integrity of the valves will not be challenged. Also, the setpoint tolerance change will not adversely affect the capability of the MSSVs to perform their pressure relief function to ensure the secondary side steam design pressure is not exceeded. Additionally, the as-left lift setpoints following testing of the MSSVs will continue to be within plus or minus 1% of their lift settings, further ensuring their safety function capability. Therefore, since the function of the MSSVs is unaffected by the proposed changes, the possibility of a new or different kind of accident from any accident previously evaluated is not created.

3. The proposed changes do not involve a significant reduction in a margin of safety. All applicable acceptance criteria associated with increasing the MSSV setpoint tolerance will continue to be met. This includes the structural integrity of the valves and the effect of the setpoint change on the accident analyses presented in the VEGP FSAR. Therefore, since the MSSVs remain in compliance with the appropriate codes and standards and all applicable acceptance criteria continue to be met, there will not be a significant reduction in a margin of safety.

Based on the preceding analysis, Georgia Power Company has determined that the proposed changes to the VEGP Technical Specifications will not significantly increase the probability or consequences of an accident previously evaluated, create the possibility of a new or different kind of accident than any previously evaluated, or involve a significant reduction in a margin of safety. Therefore, the proposed changes meet the requirements of 10 CFR 50.92(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

Local Public Document Room: Burke County Public Library, 412 Fourth Street, Waynesboro, Georgia 30830.

Attorney for licensee: Mr. Arthur H. Domby, Troutman Sanders, NationsBank Plaza, Suite 5200, 600 Peachtree Street, NE., Atlanta, Georgia 30308

NRC Project Director: Herbert N. Berkow

GPU Nuclear Corporation, et al., Docket No. 50-219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of amendment request: August 19, 1994

Description of amendment request:
The amendment updates and clarifies the surveillance requirements for control rod exercising and standby liquid control pump operability testing including the bases to be consistent with Generic Letter 93-05.

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. Although the surveillance requirements are lessened by these proposed changes, the changes are consistent with those found acceptable by the NRC in GL 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.

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 acceptable by the NRC in GL 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.

3. Although the surveillance requirements are lessened by these proposed changes, the changes are consistent with those found acceptable by the NRC in GL 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 request involves no significant hazards consideration.

Local Public Document Room: Ocean County Library, Reference Department, 101 Washington Street, Toms River, NJ 08753

Attorney for licensee: Ernest L. Blake, Jr., Esquire. Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John F. Stolz

IES Utilities Inc., Docket No. 50-331,
Duane Arnold Energy Center, Linn
County, Iowa

Date of amendment request: August
15, 1994

Description of amendment request:
The proposed amendment would
increase the allowable main steam
isolation valve (MSIV) leakage and
delete the Technical Specifications
requirements applicable to the MSIV
leakage control system.

Basis for proposed no significant
hazards consideration determination:
As required by 10 CFR 50.91(a), the
licensee has provided its analysis of the
issue of no significant hazards
consideration, which is presented
below:

Description of Amendment Request:
Proposed Change 1

This proposed change increases the
allowable leak rate specified in Technical
Specification (TS) 4.7.A.2.c.3 from 11.5
standard cubic feet per hour (scfh) for any
one main steam isolation valve (MSIV) when
tested at 24 psig to 100 scfh for any one MSIV
with a total maximum pathway leakage rate
of 200 scfh through all four main steam lines
when tested at 24 psig. If an MSIV exceeds
100 scfh, it will be restored to less than or
equal to 11.5 scfh.

Basis for proposed no significant hazards
consideration determination:

1. The change does not involve a
significant increase in the probability or
consequences of an accident previously
evaluated. The proposed amendment does
not involve a change to structures,
components, or systems which would affect
the probability of an accident previously
evaluated in the DAEC Updated Final Safety
Analysis Report (UFSAR). It results in
acceptable radiological consequences for the
design basis loss of coolant accident (LOCA)
which was previously evaluated in the
UFSAR.

Plant specific radiological analyses have
been performed to assess the effects of the
proposed increase in the allowable MSIV
leak rate in terms of control room, technical
support center (TSC), and offsite doses
following a postulated design basis LOCA.
These analyses utilize the hold-up volumes
of the main steam piping and condenser as
an alternate method for treating MSIV
leakage. The radiological analyses use
standard conservative assumptions for the
release of source terms consistent with
Regulatory Guide 1.3, "Assumptions Used for
Evaluating the Potential Radiological
Consequences of a Loss of Coolant Accident
for Boiling Water Reactors," Revision 2,
dated June 1974.

Dose contributions from the proposed
MSIV leakage rate limit of 100 scfh per MSIV
(with a maximum pathway leakage rate not
to exceed 200 scfh through all four main
steam lines) were calculated. The analysis
demonstrated that the dose contributions
from the proposed MSIV leakage rate resulted
in an acceptable increase to the LOCA doses
previously evaluated against the regulatory
limits for the offsite, control room, and TSC

doses as contained in 10 CFR 100 and 10 CFR
50, Appendix A (General Design Criterion
19). The revised LOCA doses are the LOCA
doses previously evaluated in the UFSAR
plus the MSIV leakage doses calculated
assuming use of the alternate treatment
method. Table 1 of Attachment 2 shows the
previously calculated doses and the newly
calculated doses.

It is important to note that the resulting
doses are dominated by the organic iodine
fractions which occur because of the
conservative source term assumptions used
in this analysis. For a total leakage rate of 200
scfh through all four main steam lines, more
than 90 percent of the offsite, control room,
and TSC iodine doses are due to the organic
iodine from the Regulatory Guide 1.3 source
term and organic iodine converted from the
elemental iodine deposited in main steam
piping systems. If the actual iodine
composition from the fuel release (cesium
iodine) is used in the calculations, essentially
all of this organic iodine dose would be
eliminated.

The TSC doses due to MSIV leakage are
especially conservative. It is not expected
that there will be any radioactive releases to
the TSC due to MSIV leakage during the
initial stages of a LOCA since it would take
considerable time for the MSIV leakage to
travel through the main steam lines and main
steam line drain system to the condenser,
into the turbine building, and finally to the
atmosphere and TSC. It was conservatively
estimated that the 30-day integrated dose to
personnel in the TSC would increase by only
0.02 rem. The dose calculations were
performed using control room occupancy
factors specified in NUREG-0800, Standard
Review Plan (SRP) Section 6.4.

Therefore, we conclude that the proposed
change will not significantly increase the
probability or consequences of any
previously analyzed accidents.

2. The proposed change will not create the
possibility of a new or different kind of
accident from any previously evaluated. The
BWROG evaluated MSIV leakage
performance and concluded that MSIV
leakage rates up to 100 scfh will not inhibit
the capability and isolation performance of
the valves to isolate the primary
containment. There is no new modification
to the MSIVs which could impact their
operability. The LOCA has been analyzed
using the main steam piping and condenser
as a treatment method to process MSIV
leakage at the proposed maximum rate of 200
scfh through all four main steam lines.
Therefore, the proposed change will not
create any new or different kind of accident
from any accident previously analyzed in the
UFSAR.

3. Operation of the DAEC in accordance
with the proposed change will not involve a
significant reduction in the margin of safety.
The allowable leak rate limit specified for the
MSIVs is used to quantify a maximum
amount of bypass leakage assumed in the
LOCA radiological analysis. Results of the
analysis are evaluated against the dose
requirements contained in 10 CFR 100 for the
offsite doses and 10 CFR 50, Appendix A
(General Design Criterion 19) for the control
room and TSC doses.

The margins of safety are not significantly
affected because the dose levels remain well
below the limits of 10 CFR 100 and General
Design Criterion 19. Therefore, the proposed
change does not involve a significant
reduction in the margin of safety at the
DAEC.

Description of Amendment Request:
Proposed Change 2

This proposed change to delete TS 3.7.E
and 4.7.E and Bases section 3.7.E and 4.7.E
involves eliminating the MSIV leakage
control system (LCS) requirements from the
TS.

1. The proposed change does not involve
a significant increase in the probability or
consequences of an accident previously
evaluated. As currently described in the
UFSAR, the LCS is manually initiated after
a design basis LOCA occurs. Since the LCS
is operated only after an accident has
occurred, this proposed amendment has no
effect on the probability of an accident. The
proposed change results in acceptable
radiological consequences of the design basis
LOCA previously evaluated in the UFSAR.

The DAEC has an inherent MSIV leakage
treatment capability. IES Utilities Inc.
proposes to use the main steam line drains
and condenser as an alternative to the LCS.
Figure 1.1 of Attachment 2 shows the
primary and alternate drain paths. The
proposed primary drain path at DAEC
employs an MSL drain downstream of the
MSIVs. There are two motor-operated valves
(MOVs) in series in this line between the
MSL and the main condenser. Both valves
must be open to establish the required drain
path. Both MOVs will be provided with
essential power to assure that they can be
opened following the DBA LOCA to establish
a large enough drain path to support the
radiological analysis.

An alternate drain path will be available to
convey MSIV leakage to the isolated
condenser if either MOV fails to open. The
alternate drain path consists of the bypass
lines around the MOVs in the primary drain
path. This alternate path contains a "fail
open" valve and a restricting orifice.
Consequently, if either primary MOV failed
to open as required, the second drain path
would be available to convey MSIV leakage
to the main condenser. Radiological dose
calculations have been performed for this
alternate path as well as for the primary path.
The results were acceptable. IES Utilities Inc.
will update DAEC procedures as necessary to
address the applicable alternate leakage
treatment methods.

IES Utilities Inc. contracted with EQE
Engineering Consultants (EQE) to confirm the
seismic capability of the DAEC's main steam
piping and condenser to serve as an alternate
leakage treatment system. Seismic
verification walkdowns were performed to
assure that the MSLs, the steam drain lines,
the condenser, and interconnecting piping
and equipment that were not seismically
analyzed fall within the bounds of the design
characteristics of the seismic experience
database as discussed in Section 6.7 of the
BWROG report.

The DAEC main steam lines, main steam
drain lines, condenser, and applicable
interconnecting piping and equipment, are

well represented by the earthquake experience data demonstrating good seismic performance, are confirmed to exhibit excellent resistance to damage from a design basis earthquake and have been shown to have substantial margin for seismic capability. The outliers that were identified are discussed in Attachment 7. They have been either evaluated to demonstrate their acceptability as they currently exist, or plant modifications will be implemented to resolve the concerns. By taking the measures discussed in Attachment 7 to ensure resolution for all of the identified outliers, IES Utilities Inc. is assured that the damage reported for the database components should not occur to the DAEC main steam piping and condenser or to the associated support systems.

Therefore, the proposed method for MSIV leakage treatment is seismically adequate to withstand the DAEC design basis earthquake and maintain pressure retaining integrity and serve as an acceptable alternative to the currently installed LCS. The capability of the alternate MSIV leakage treatment system to withstand the effects of the safe shutdown earthquake and continue to perform its intended function (treatment of MSIV leakage) satisfies the intent of the seismic requirement of Appendix A to 10 CFR 100.

Plant specific radiological analyses have been performed to assess the effects of MSIV leakage in terms of control room and offsite doses following a postulated design basis LOCA. While not previously considered a requirement for the design of the LCS, dose calculations were also performed for the TSC. These analyses utilize the hold-up volumes of the main steam piping and condenser as an alternate treatment method for the MSIV leakage. The analysis demonstrates that the proposed change results in an acceptable increase in the radiological consequences of a LOCA previously evaluated in the UFSAR. The LOCA previously evaluated in the UFSAR is still the bounding accident; the proposed change will not involve a significant increase in the consequences of an accident previously analyzed.

The LCS lines will be disconnected, capped and welded, ensuring that the integrity of the primary containment is maintained. IES Utilities Inc. will incorporate the alternate leakage treatment system into the inservice inspection (ISI) and inservice testing (IST) programs, consistent with program requirements.

2. The proposed change does not create the possibility of a new or different kind of accident from any previously evaluated. The purpose of the LCS is to reduce the untreated MSIV leakage when isolation of the primary coolant system and containment are required. Radiological dose contributions due to MSIV leakage are bounded by a LOCA. The LOCA has been analyzed using the main steam piping and condenser as a treatment method to process MSIV leakage at the proposed maximum rate of 100 scfh per MSIV and 200 scfh total maximum pathway leakage, and determined to be within the regulatory requirements. The LCS lines connected to the main steam lines will be permanently closed to assure the primary containment integrity, isolation, and leak testing capability are not compromised.

3. The proposed change to delete TS 3.7.E and 4.7.E and Bases section 3.7.E and 4.7.E does not involve a significant reduction in the margin of safety. The intended function of the LCS for treatment of MSIV leakage will be performed by using the more effective alternate path via the main steam drain lines and condenser. This treatment method is effective for treatment of MSIV leakage over an expanded leakage range. Except for the requirement to assure that certain valves are opened to establish a proper flow path from the MSIVs to the condenser and that certain valves are closed to establish the seismic boundary, the proposed method is passive and does not require any logic controls or interlocks. On the other hand, the LCS consists of complicated logic controls and sensitive equipment which must be maintained at significant cost and radiation exposure. The radiological effects on the margin of safety are discussed above for Change 1. The safety significance of the LCS in terms of public risk was addressed in NUREG/CR-4330 which contains the evaluation for eliminating the LCS and disabling the systems currently installed at BWRs. The conclusion was that the increased public risk is less than 1 percent. Therefore, the proposed change does not involve a significant reduction in the margin of safety at the DAEC.

The various attachments referred to in the above analysis may be found in the licensee's request for amendment dated August 15, 1994. This document is available in the NRC's Public Document Room located at the Gelman Building, 2120 L. Street, NW., Washington, DC 20555 and at the local public document room address below.

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: Cedar Rapids Public Library, 500 First Street, S.E., Cedar Rapids, Iowa 52401

Attorney for licensee: Jack Newman, Esquire, Kathleen H. Shea, Esquire, Newman and Holtzinger, 1615 L Street, NW., Washington, DC 20036

NRC Project Director: John N. Hannon

Northeast Nuclear Energy Company, et al., Docket No. 50-423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of amendment request: June 2, 1994, as supplemented August 25, 1994

Description of amendment request: The proposed amendment would change the Technical Specifications (TS) to remove expired one-time extensions of surveillances, remove an obsolete definition of charging pump operability, and incorporate 11 line item improvements in accordance with the

guidance provided in Generic Letter (GL) 93-05. Other editorial changes would be made to renumber some pages and delete the blank pages from 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 NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below.

A. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated (10 CFR 50.92(c)(1)). The expired one-time extensions were in effect to September 30, 1993. Since these extensions have expired and the appropriate surveillances were performed, the proposed changes do not effect the configuration, operation, or performance of any system, or component.

The proposals to delete Definition 1.45, "THE CHARGING PUMP OPERABILITY," and modify the Index to reflect this change are administrative changes. Definition 1.45 was applicable only for cycle 4 operation. Northeast Nuclear Energy Company (NNECO) has completed the necessary modifications and no longer rely on a temporary heating source. Therefore, the elimination of Definition 1.45 does not involve a significant increase in the probability or consequences of an accident previously analyzed.

The proposed changes to incorporate the recommendations of GL 93-05 do not affect the configuration, operation or performance of the subject systems. Increasing the surveillance test intervals as proposed will reduce the number of surveillance tests and minimize the potential for inadvertent actuation of an engineered safety feature. The increase in the surveillance test intervals will enhance the operational effectiveness of plant personnel, by reducing the amount of time that the plant staff has available to perform other tasks, such as additional preventive maintenance. Additionally, increasing the surveillance test interval will reduce unnecessary wear to equipment. NNECO's proposals to delete pages that were intentionally left blank, to renumber remaining pages and renumber Sections, and modify the Index to reflect these changes are purely administrative and editorial changes. Proposals to correct typographical errors on TS pages are also administrative changes. These changes would not affect the configuration, operation, or performance of any system, structure, or component.

The proposed changes do not affect the manner by which the facility is operated and do not change any facility design feature or equipment. The proposed changes involve administrative or programmatic requirements or merely involve editorial changes, corrections, or clarifications. Since there is no change to the facility or operating procedures, there is no affect upon the probability or consequences of any accident previously analyzed.

B. The changes do not create the possibility of a new or different kind of accident from any accident previously evaluated (10 CFR 50.92(c)(2)) because they do not affect the manner by which the facility is operated and do not change any facility design feature or equipment which affects the operational characteristics of the facility. The proposed changes involve administrative or programmatic requirements or merely involve editorial changes, corrections, or clarifications.

C. The changes do not involve a significant reduction in a margin of safety (10 CFR 50.92(c)(3)) because the proposed changes do not affect the manner by which the facility is operated or involve equipment or features which affect the operational characteristics of the facility.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room:
Learning Resource Center, Three Rivers Community-Technical College, Thames Valley Campus, 574 New London Turnpike, Norwich, CT 06360.

Attorney for licensee: Ms. L. M. Cuoco, Senior Nuclear Counsel, Northeast Utilities Service Company, Post Office Box 270, Hartford, CT 06141-0270.

NRC Project Director: John F. Stolz
Northeast Nuclear Energy Company, et al., Docket No. 50-423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of amendment request: July 22, 1994

Description of amendment request:
The proposed amendment would revise the Technical Specifications to incorporate a different setpoint and transient methodology for determining the maximum allowable power range neutron flux setpoint. The changes would allow Millstone Unit 3 to operate with a reduced number of main steam-line safety valves at a reduced power

level, as determined by the high neutron flux setpoint.

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 an SHC [significant hazards consideration] because the changes would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

Technical Specification Tables 3.7-1 and 3.7-2 are being revised to reflect a reduction in the maximum allowable power range neutron flux high setpoint with inoperable steam generator safety valves. The new setpoints reflect a change in the methodology for calculating the setpoints.

Westinghouse has determined that under certain conditions with typical safety analysis assumptions, the current setpoints in Tables 3.7-1 and 3.7-2 may not provide adequate steam generator overpressure protection for a Loss of Load/Turbine Trip transient at reduced power levels. At reduced power levels, a reactor trip may not be actuated early in the transient. An overtemperature delta T trip may not be generated since the core thermal margins are increased at lower power levels. The PORVs [power-operated relief valves] and pressurizer spray may control RCS [Reactor Coolant System] pressure such that a high pressurizer pressure trip isn't generated. The reactor would eventually trip on low steam generator water level, but this may not occur before steam pressure exceeds 110% of the design value if one or more MSSVs [main steam-line safety valves] are inoperable.

To address this issue, Westinghouse has developed a new method for determination of the required power range neutron flux high setpoint. The new setpoint is based upon the heat removal capability of the operable MSSVs, rather than the previous method based only on flow capacity. The new equation is shown in the proposed changes to the Technical Specification basis. This new method has been developed by Westinghouse generically and a Millstone Unit No. 3 specific calculation has been performed. The new setpoints are being incorporated in this proposed Technical Specification change.

The new method includes several conservative assumptions. The equation is developed assuming that the maximum number of inoperable MSSVs applies to each loop. For example, for four loop operation, the maximum allowable power range neutron flux high setpoint of 65% is based upon four inoperable MSSVs, one per steam generator. Thus, in the event that only one MSSV is inoperable, the application of the new setpoint is very conservative. In addition, the setpoint is based upon the assumption that the largest capacity MSSV is inoperable. For the case where one of the lower capacity MSSVs is inoperable, the setpoint will be conservative.

The method of calculating the setpoint provides assurance that the heat removal

capability of the operable MSSVs is sufficient for reactor power up to the power range neutron flux high setpoint taking into account instrument and channel uncertainties. Consequently, steam generator pressure will remain below 110% of design in the event of the limiting overpressurization transient, the Loss of Load/Turbine Trip.

Reducing the power range neutron flux high setpoint and consequently the allowable reduced power level has no impact on the consequences of any other accident. In addition, since the proposed changes only involve a reduction in the allowable power range neutron flux high setpoint, and operation at a lower power level, they cannot affect the probability of any design basis accident.

2. Create the possibility of a new or different kind of accident from any previously analyzed.

Since the proposed changes just reduce the existing limit on the power range neutron flux high setpoint with inoperable MSSVs, the change cannot create the possibility for a new or different kind of accident.

3. Involve a significant reduction in the margin of safety.

The reduced setpoint provides additional assurance that the steam generator pressure will remain below 110% of design for the limiting overpressurization transient, the Loss of Load/Turbine Trip. Thus, the proposed changes do not reduce the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

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**Pennsylvania Power and Light Company, Docket No. 50-387
Susquehanna Steam Electric Station,
Unit 1, Luzerne County, Pennsylvania**

Date of amendment request: July 27, 1994

Description of amendment request: By letter dated June 15, 1992, Pennsylvania Power and Light Company (PP&L) submitted "Licensing Topical Report NE-092-001, Revision 0, Power Uprate With Increased Core Flow," for Susquehanna Steam Electric Station, Units 1 and 2. The report was submitted to support future amendments to the Units 1 and 2 licenses to permit a 4.5-

percent increase in reactor thermal power and an 8-percent increase in core flow for each unit. The initial submittal was revised and supplemented by letters of July 24, September 17, and December 18, 1992, and January 8, January 25, April 2, August 5, August 12, and September 29, 1993. The Commission's safety evaluation on these submittals was issued November 30, 1993 (Letter, Thomas E. Murley, NRC, to Robert G. Byram, PP&L). The Commission concluded that the revised (Revision 2) licensing topical report adequately supports PP&L's proposed power uprate. The Commission also concluded that SES, Units 1 and 2, can operate safely with the proposed 8-percent increase in core flow, the proposed 4.5-percent increase in reactor thermal power, the corresponding 5-percent increase in main turbine inlet steam flow, and the corresponding increases in flows, temperatures, pressures, and capacities required in supporting systems and components at these uprated conditions. This amendment will change several Technical Specifications sections (listed below in the no significant hazards consideration) for Susquehanna Steam Electric Station, Unit 1, to increase the licensed power level from the current 3293 MWt to a new limit of 3441 MWt.

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 following three questions are addressed for each of the proposed Technical Specification Changes:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?
2. Does the proposed change create the possibility of a new or different kind of accident from any previously evaluated?
3. Does the proposed change involve a significant reduction in a margin of safety?

Section 1.0, Definitions, Definition 1.33, Rated Thermal Power

This change redefines Rated Thermal Power as 3441 megawatts thermal.

1. No. Neither the probability (frequency of occurrence) nor consequences of any accident previously evaluated is significantly affected by the increased power level because the design and regulatory criteria established for plant equipment remain imposed for the uprated power level. The PP&L assessment to increase the rated thermal power level at Susquehanna SES Unit 1, followed the guidelines of NEDC-31879P (Generic Guidelines for General Electric Boiling Water Reactor Power Uprate," G.E. Nuclear Energy, June 1991). NEDC-31879P provides generic licensing criteria, methodology, and a defined scope of analytical and equipment

review to be performed to demonstrate the ability to operate safely at the uprated power level which has been approved by the NRC. NE-092-001 (≥Licensing Topical Report for Power Uprate With Increased Core Flow," Pennsylvania Power & Light Company, December 1992) provides the description of the power uprate licensing analysis methodology and the results of the evaluations performed to support the proposed uprated power operation consistent with the methodology presented in NEDC-31879P. NE-092-001 provides a description of the power uprate licensing analysis methodology which will be used to determine cycle specific thermal limits for Unit 1, Cycle 9 and future cycles and concludes that an uprated power level of 3441 megawatts thermal can be achieved without significant effect on equipment or safety analyses.

2. No. The methodology and results described above do not indicate that a possibility for a new or different kind of accident from any previously evaluated has been created by uprated operation.

3. No. Based on the response to Question 1 above, the methodology and results do not indicate a significant reduction in a margin of safety.

Section 2.1, Safety Limits

The reference to "rated core flow" in Technical Specification 2.1.1 and 2.1.2 has been replaced with a reference to actual core flow. The references to "rated core flow" have been deleted to avoid confusion since allowable core flow is being increased by 8%. 10 Mlbm/hr is being used in these specifications to be consistent with other similar Technical Specification changes (Technical Specifications 3.2.2, 4.4.1.1.1.2, 4.4.1.1.2.5, 3.4.1.3 and Figure 3.4.1.1.1-1).

1. No. The probability and consequences of accidents previously evaluated are not affected by this change. The basis for Technical Specification 2.1.1 is that boiling transition will not occur in bundles if core power is less than 25% of rated thermal power, regardless of pressure or core flow. Consequently, the specification of less than 10% rated core flow is not crucial to the basis and, thus, the use of 10 Mlbm/hr. is acceptable and has no effect on the probability or consequences of a previously evaluated accident.

For Technical Specification 2.1.2, the XN-3 critical power correlation is valid for pressure greater than or equal to 580 psig and bundle flow greater than or equal to 0.25 Mlbm/hr-ft². As stated in the basis for Technical Specification 2.1.1, if vessel downcomer water level is above TAF [top of active fuel], and core power greater than 25%, bundle flows for potentially limiting bundles will be greater than 0.25 Mlbm/hr-ft² due to natural circulation. In addition, Technical Specification 3.4.1.1.1 requires at least one (1) recirculation loop in operation to run in Condition 2, which would produce a core flow in excess of 30 Mlbm/hr. Therefore, core flows below about 30 Mlbm/hr-ft² are prohibited when the reactor is at power. Thus, the change from "10%" to "10 million lbm/hr" is acceptable and has no effect on the probability or consequences of a previously evaluated accident.

2. No. The basis for Technical Specification 2.1.1 is that boiling transition will not occur in bundles if core power is less than 25% of rated thermal power, regardless of pressure or core flow. The proposed change is not crucial to this basis. The XN-3 critical power correlation is valid for pressures greater than or equal to 580 psig and bundle flow greater than or equal to 0.25 Mlbm/hr-ft². The specification is based upon vessel downcomer water level being above TAF and core power greater than 25% which yields a bundle flow for potentially limiting bundles greater than 0.25 Mlbm/hr-ft² due to natural circulation. Based on Technical Specification 3.4.1.1.1, core flows below about 30 Mlbm/hr-ft² are prohibited when the reactor is at power. Therefore, the change to a limit of 10 Mlbm/hr is acceptable and does not create the possibility for a new or different kind of accident from any accident previously evaluated.

3. No. As explained above, the margin of safety has not been reduced.

Table 2.2.1-1 (Items 2.a, 2.b, and 2.c) and Specifications 3.2.2, 3.4.1.1.2.a.2, 3.4.1.1.2.a.3, 3.4.1.1.2.a.5.b and 3.3.6-2 (Item 2.a.1, 2.c, and 2.d), APRM Flow Biased Setpoints and Allowable Values

Although the equation for determining these setpoints does not change as a result of the power uprate, because the setpoints in these technical specifications are referenced to rated thermal power, the current limits do change in that the top portion of the operating map (power vs. reactor flow) is raised by 4.5%.

1. No. The safety analyses contained in NE-092-001 evaluated operation at both uprated power with 4.5% higher rod lines and increased core flow. In addition, General Electric Co. has analyzed and received generic approval for their BWR/4 product line operation in the Maximum Extended Operating Domain (MEOD). Operation at the 4.5% higher rod lines is bounded by the MEOD analysis. Additional justification for this small increase in the power flow operating range is contained in Section C.2.3 of NEDC-31984P.

Cycle specific reload analyses will evaluate operation at the increased power vs. flow conditions (100% uprated power vs. 87% core flow to 100% uprate power vs. 108% core flow). These analyses will ensure that the limits established in the Core Operating Limits Report are applicable to rated power operation from 87% to 108% core flow.

Based on the above analyses, increasing the current limits do not represent a significant increase in the probability or consequences of an accident previously evaluated.

2. No. The analyses described above in response to Question 1 do not indicate that a possibility for a new or different kind of accident from any previously evaluated has been created by the proposed change.

3. No. Based on the response to Question 1 above, the proposed change does not result in a reduction in the margin of safety.

Table 2.2.1-1, Item 3, Reactor Steam Dome Pressure - High Scram

The reactor steam dome pressure-high scram trip setpoint and allowable values are being changed to less than or equal to 1087 psig and less than or equal to 1093 psig respectively.

1. No. This scram function is designed to terminate a pressure increase transient not terminated by direct scram or high flux scram. The nominal trip setpoint is maintained above the reactor vessel maximum operating pressure and the specified analytical limit is used in the transient analyses. The analytical limit of 1105 psig is used in the updated transient analyses. The results of the overpressure protection analysis indicate that the peak pressure will remain below the 1375 psig ASME limit which meets plant licensing requirements. In accordance with the methodology described in NE-092-001, transient analyses will be performed using the analytic limit and the results will be incorporated into the Core Operating Limits Report. Therefore, this proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. No. The purpose of this scram function is to terminate a pressure increase transient not terminated by direct scram or high flux scram. The nominal trip setpoint is maintained above the reactor vessel maximum operating pressure and the specified analytical limit is used in the transient analysis. 1105 psig is being used as the analytical limit in the updated transient analysis. The results of the overpressure protection analysis indicate peak pressure will remain below the ASME limit of 1375 psig which satisfies plant licensing requirements. Based upon that result, it is concluded that the proposed change will not create the possibility of a new or different kind of accident from any previously evaluated.

3. No. The results of the overpressure protection analysis indicate peak pressure will remain below the 1375 psig licensing limit, therefore, it is concluded that the proposed change does not result in a significant reduction in a margin of safety.

Specification 4.1.5.c, Standby Liquid Control System

This specification has been revised to require SLC [Standby Liquid Control] pumps to develop a discharge pressure of greater than or equal to 1224 psig.

1. No. The ability of the SLC system to achieve and maintain safe shutdown is a function of the amount of fuel in the core and is not directly affected by core thermal power. The SLC pump test discharge pressure acceptance criteria are based on the lowest relief valve setpoint. The lowest setpoint is being increased by 30 psi (to 1106) due to power uprate. Operating with increased core flow will result in additional friction losses through the core and a slightly larger core differential pressure (approximately 4 psi). Therefore, increasing the SLC pump test discharge pressure acceptance criteria ensures the capability of SLC injection. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. No. The ability of the SLC system to achieve and maintain safe shutdown is a function of the amount of fuel in the core and is not directly affected by core thermal power. Therefore, the proposed change does

not result in a new or different kind of accident from any previously evaluated.

3. No. The ability of the SLC system to achieve and maintain safe shutdown is a function of the amount of fuel in the core and is not directly affected by core thermal power. As stated in the response to question 1 above, the SLC pump discharge pressure acceptance criteria are based upon the lowest relief valve setpoint. The lowest setpoint is being increased by 30 psi. As the SLC pumps are positive displacement pumps, the uprate will not adversely affect the performance of the pumps to achieve proper injection. Based on above, the proposed change does not result in a significant reduction in a margin of safety.

Specifications 3.2.2, 4.4.1.1.1.2, 4.4.1.1.2.5, 3.4.1.3 and Figure 3.4.1.1.1-1, Rated Core Flow References

Technical Specification 3.2.2 contains the definition of "W" for the flow biased APRM scram equation. The word "rated" is being deleted from the definition of "W" since rated core flow is being increased. The definition of "W" is not altered. The change is being made for editorial purposes.

Technical Specifications 4.4.1.1.1.2, 4.4.1.1.2.5, 3.4.1.3, and Figure 3.4.1.1.1-1 specify performance requirements and limits for the Reactor Recirculation System. These specifications are referenced to the current rated core flow. The references to "rated core flow" are being replaced with actual equivalent core flows. The specifications are equivalent and unchanged. This change is being made for editorial purposes to avoid confusion since rated core flow is being increased. These changes are also consistent with the changes made in Section 2.1.

1. No. The proposed changes are editorial and do not effect the probability or consequences of an accident previously evaluated.

2. No. The proposed changes are editorial and do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. No. The proposed changes are editorial and do not involve a significant reduction in a margin of safety.

Specification Table 3.3.1-1, Note (j) and Action 6, Reactor Protection System Instrumentation, and Table 3.3.4.2-1, Note b, End-of-Cycle Recirculation Pump Trip System Instrumentation

The turbine first stage pressure scram bypass at 30% power in Technical Specification Table 3.3.1-1, Note (j) and Table 3.3.4.2-1, Note (b) is revised to indicate that the uprated equivalent allowable value of first stage turbine pressure is 136 psig. This value ensures that the analytical limit of 147.7 psig, which represented 30% rated thermal power, is not exceeded.

As currently written Note (j), Note (b) and Table 3.3.1-1, ACTION 6 are unclear and could be misinterpreted. They apply only when RPS scram functions and End-of-Cycle Recirculation Pump Trip on turbine main stop valves closure or control valve fast closure are not automatically bypassed. ACTION 6 provides no guidance in the event the bypass fails to lift when thermal power is above 30%. In the worst case, the action statement could be interpreted literally to

allow full power operation with the RPS function still bypassed. Such operation would violate the licensing basis analysis for the MCPR operating limit (for the Generator Load Rejection Without Bypass transient), which takes credit for operation of the anticipatory scram on control valve fast closure at greater than 30% of rated thermal power.

1. No. The revisions to Table 3.3.1-1, ACTION 6, Table 3.3.1-1, Note (j), and Table 3.3.4-1 Note (b) clarify the current requirements; they do not change their intent.

FSAR Chapter 15 transient analyses and reload licensing analyses take credit for operation of the anticipatory scram function on turbine stop valve closure and control valve fast closure for power levels greater than 30% of rated thermal power. The proposed revision to Table 3.3.1-1, ACTION 6 provides better assurance of the availability of the anticipatory scram function, since the current specifications could be interpreted literally to allow full power operation with the RPS function bypassed.

The proposed revision to Table 3.3.1-1, Note (j) and Table 3.3.4.2-1, Note (b) does not change the operation of the RPS and EOC-RPT bypasses on turbine stop valve closure and control valve fast closure below 30% power. The turbine first stage pressure switches will still be calibrated in the same manner, and, by procedure, the reactor operator will not exceed 30% power if the trip bypass annunciator does not clear.

The setpoints for the RPS and EOC-RPT bypass functions were selected to allow sufficient operating margin to avoid scrams during low power turbine generator trips. As discussed in NEDC-31894P, Section F4.2(c) and in Section 5.1.2.8 of NEDC 31948P, this small absolute setpoint increase maintains the safety basis for the setpoint.

Based on the above, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. No. The changes proposed are clarifications and do not change specification intent. The proposed change to Table 3.3.1-1, Action 6 provides better assurance of the availability of the anticipatory scram function as the specification could currently be interpreted to allow full power operation with the RPS function bypassed. The proposed changes to Table 3.3.1-1, Note (j) and Table 3.3.4-1, Note (b) do not change the operation of the RPS and EOC-RPT bypasses on turbine stop valve closure and control valve fast closure below 30% power. Therefore, the possibility for a new or different kind of accident is not created.

3. No. The proposed changes are clarification and do not change intent. Operation of the RPS and EOC-RPT bypasses on turbine stop valve closure and control valve fast closure below 30% power is not changed. Therefore, there is no reduction in the margin of safety.

Specification Table 3.3.2-2, Item 3.d, Main Steam Line Flow Differential Pressure Setpoint

The main steam line flow high differential pressure setpoint and allowable value are revised to read trip setpoint and allowable

values of 113 psid and 121 psid respectively. Footnote "****" was added to Table 3.3.2-2 to indicate that these values will be confirmed during the power uprate start-up testing. If revisions to the setpoint and allowable value are required, they will be forwarded to the Commission for approval within 90 days of completion of the test program.

1. No. The main steam line flow high differential pressure setpoint changes reflect the redefinition of rated main steam line flow that occurs with power uprate. The allowable value is maintained at the same percentage of rated steam flow as the differential pressure changes due to the increased uprate steam flow. The analytical limit of 140% of uprated steam flow is maintained for the uprated analyses. The relationship between the allowable value and the analytical limit was retained to ensure that a trip avoidance margin is maintained for the normal plant testing of MSIV's and turbine stop valves. The increase in the absolute value of the trip setpoint still provides a high assurance of isolation protection for a main steam line break accident which satisfies the original intent of the design. Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. No. The increase in the absolute value of the trip setpoint still provides a high assurance of isolation protection for the main steam line break accident which satisfies the original intent of the design and, therefore, does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. No. The increase in the absolute value of the trip setpoint still provides a high assurance of isolation protection for a main steam line break accident which satisfies the original intent of the design and, therefore, does not involve a significant reduction in a margin of safety.

*Specification Table 3.3.2-2, Item 4.f,
Isolation Actuation Instrumentation
Setpoints*

The RWCU system flow-high isolation trip setpoint and allowable value are being changed. System flow is being increased by 10% to maintain reactor coolant water chemistry at a level equal to pre uprate levels. The isolation setpoint change is being made to adequately maintain operating margin between normal process values and the isolation setpoints.

1. No. The basis for the RWCU flow-high isolation is to ensure a RWCU System isolation in case of a pipe break. The high flow setpoint is set high enough to avoid spurious trips from normal operating transients but low enough to ensure an isolation during a pipe break. The proposed Technical Specification limits will result in a negligible reduction in the margin between the RWCU isolation setpoint and the 4350 gpm flow postulated during a RWCU line break and will avoid spurious isolations. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. No. As stated above, the proposed change will result in only a negligible reduction in the margin between the RWCU

isolation setpoint while avoiding spurious isolation. Therefore, this change maintains the original design intent and does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. No. See 1. above.

*Specification Table 3.3.2-2, Items 5.a and 6.1, Isolation Actuation Instrumentation
Setpoints*

The HPCI and RCIC Steam Line Flow-High Technical Specifications are being changed to account for changes in steam conditions and flows that result from operation at the uprated conditions. The setpoint and allowable value for HPCI Steam Line Flow-High isolation are less than or equal to 387 inches H₂O setpoint and allowable value for the RCIC Steam Line Delta Pressure-High isolation are less than or equal to 188 inches H₂O and less than or equal to 193 inches H₂O respectively.

1. No. The bases for these setpoints are contained in the General Electric Design Specification Data Sheets for the HPCI and RCIC systems. The Design Specification Data Sheets specify that the setpoint and allowable value be set so that the isolation occurs at greater than 272% normal steam flow and less than 300% steam flow. General Electric has historically seen start-up transients as high as 272% of normal steam flow. Setting the isolation above this value prevents spurious isolations and ensures availability of the system and its safety function. Setting the isolation at less than or equal to 300% of normal flow insures that the isolation will occur if a steam line should rupture.

The existing setpoints were calculated using information obtained during the recent surveillance tests. The revised setpoints and allowable values were calculated using the current system performance and adjusted for uprate conditions in accordance with additional guidance provided in General Electric Information Letter (SIL) No. 475, Revision 2, NEDC-31336, "General Electric Setpoint Methodology," and GE Letter SPU-9378, "HPCI and RCIC Steam Line Break Detection Setpoints".

Based on the above approach, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. No. The setpoint and allowable value are set so that isolation occurs at greater than 272% normal steam flow and less than 300% steam flow. Setting the isolation at less than or equal to 300% of normal flow ensures that the isolation will occur if a steam line rupture should occur. Therefore, no new events are postulated as a result of this change.

3. No. The proposed change does not involve a significant reduction in a margin of safety as the setpoint and allowable value are set to isolate at greater than 272% normal steam flow and less than 300% steam flow which are the setpoints contained in the General Electric Design Specification Data Sheets for the HPCI and RCIC systems.

*Specification Table 4.3.2.1-1, footnote "****"*
The footnote is being changed to delete reference to reactor pressure.

1. No. The original purpose of Footnote "****" to Technical Specification Table

4.3.2.1-1 was to describe the functioning of the permissive circuitry that allowed the MSIV low condenser pressure isolation to be bypassed. The original circuitry required the Mode Switch not be in Run, the Turbine Stop Valves closed, and reactor pressure to be above setpoint. In the start-up phase of the Susquehanna Units, General Electric deleted the reactor pressure setpoint input to the bypass circuitry. Therefore, this change is being made to make the footnote conform to the installed configuration. The revised footnote is the same as found in the BWR/4 Standard Technical Specifications (NUREG 1433). This change is editorial in nature and, therefore, does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. No. Based on the response to Question 1 above, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. No. Based on the response to Question 1 above, the proposed change does not involve a significant reduction in a margin of safety.

Specification Table 3.3.6-2, Item 1.a and Specification 3.4.1.1.2.a.5.a, Rod Block Monitor Flow Biased Rod Blocks

The Rod Block Monitor (RBM) flow biased rod blocks are being changed as follows:

a. Technical Specification Table 3.3.6-2, Item 1.a is revised to read trip setpoint and allowable values of less than or equal to 0.63 W + 41% and less than or equal to 0.63 W + 43%, respectively.

b. Technical Specification 3.4.1.1.2.a.5.a is being revised to read trip setpoint and allowable values of less than or equal to 0.63 W + 35% and less than or equal to 0.63 W + 37%, respectively.

1. No. These Technical Specification changes do not represent a change from current limits. The change reflects the rescaling made necessary by the re-definition of rated thermal power.

The RBM flow biased rod blocks are used in the Rod Withdrawal Error (RWE) analysis. In order to maintain Critical Power Ratio (CPR) margins similar to previous Susquehanna cycles, the flow biased rod blocks were changed in terms of megawatts thermal but the change was not appreciable. The rescaling of the RBM flow biased rod block to reflect the re-definition of Rated Thermal Power maintains the same level of protection as previously provided. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. No. These changes do not represent a change from current limits but are rather a rescaling made necessary by the re-definition of rated thermal power.

3. No. These changes do not represent a change from current limits but are rather a rescaling made necessary by the re-definition of rated thermal power. The rescaling of the RBM flow biased rod block maintains the same level of protection as previously provided.

Specification Table 3.3.6-2, Item 2.a, Control Rod Block Instrumentation Setpoints

The APRM rod block upscale value has been changed to add a high flow clamp

setpoint at 108% with a high flow clamped allowable value at 111%.

1. No. The addition of the high flow clamp to the flow biased APRM rod block function maintains the normal margins between the rod block and the scram power levels in the increased core flow regions. When the reactor core flow is greater than 100 million lbm/hr, the APRM clamp provides an alarm to help the operator avoid scrams while operating in the ICF region. This action does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. No. The changes maintain the normal margins between the rod block and the scram power levels in ICF regions. The clamp provides an alarm to avoid scrams in the ICF region.

3. No. The changes maintain the normal margins between the rod block and the scram power levels.

Specification Table 3.3.6-2, Item 6.a, Reactor Coolant System Recirculation Flow Upscale Rod Block Setpoint and Allowable Value Change

The reactor coolant system recirculation flow upscale rod block setpoint and allowable value are being increased to 114/125 divisions of full scale and 117/125 divisions of full scale respectively.

1. No. The Reactor Coolant System recirculation flow upscale rod block setpoint and allowable value are being increased to allow operation in the ICF region. The 114/125 divisions setpoint and 117/125 divisions allowable value, specified by General Electric, are based on BWR operating history.

The purpose of the Reactor Coolant System recirculation flow upscale rod block is to prevent rod movement when an abnormally high increase in reactor recirculation flow exists. An increase in reactor recirculation flow causes an increase in neutron flux that results in an increase in reactor power. However, this increase in neutron flux is monitored by the Neutron Monitoring System that can provide a rod block. No design basis accident or transient analysis takes credit for rod block signals initiated by the Reactor Coolant Recirculation System. Therefore, this change does not increase the probability or consequences of an accident previously evaluated.

2. No. Rod block signal initiation by the Reactor Coolant Recirculation System is not taken credit for in the mitigation of a design basis accident or in any transient analysis. 3. No. Rod block signal initiation by the Reactor Coolant Recirculation System is not taken credit for in any transient analysis or in the mitigation of a design basis accident.

Specification 4.4.1.1.1.2 and 4.4.1.1.2.5 Reactor Coolant System

The reactor recirculation pump motor generator set scoop tube electrical and mechanical overspeed stop setpoints are being increased to a core flow of 109.5 million lbm/hr. and 110.5 million lbm/hr., respectively.

1. No. The reactor recirculation pump motor generator set scoop tube stops are being increased to allow operation at core flows in the ICF region of up to 108 million lbm/hr.

The electrical stop is maintained above the maximum operating core flow and below the

mechanical stop. The 109.5 million lbm/hr. electrical stop setpoint, specified by General Electric, is based on BWR operating history. The electrical stop is a system design feature and is not used in any safety analyses.

The 110.5 million lbm/hr. mechanical stop setpoint is used in transient analysis to limit core flow during a recirculation pump controller failure. The 110.5 million lbm/hr. mechanical stop setpoint, specified by General Electric, is also based on BWR operating history. The cycle specific analyses, performed for power uprate, used the 110.5 million lbm/hr. mechanical stop setpoint.

Based on the above, this change does not involve a significant increase of the probability or consequences of an accident previously evaluated.

2. No. Increasing the reactor recirculation motor generator set scoop tube electrical and mechanical overspeed stop setpoints is being done to allow operation at core flows in the ICF region up to 108 Mlbm/hr. The electrical stop setpoint is a design feature and is not used in any safety analysis. The mechanical stop setpoint is used in transient analysis to limit core flow during a recirculation pump controller failure. Changing of this setpoint was considered in appropriate transient analyses, and will not create the possibility of a new or different kind of accident from any previously evaluated.

3. No. See 1. above. This change does not significantly reduce the margin of safety.

Specification Figure 3.4.1.1.1-1, Thermal Power Restrictions

This figure has been redrawn to reflect the new definition of Rated Thermal Power to retain the same stability operating restrictions in terms of megawatts thermal as were previously described by this graph.

1. No. The core thermal hydraulic stability curve and associated bases are maintained at the current rod lines and power levels. Those values are redefined to reflect the redefinition of rated thermal power. Since the current operating restrictions are maintained, power uprate has no detrimental effect on the level of protection provided by these Technical Specifications. This position is consistent with NEDC-31894P, Section 5.3.3 and with NEDC-31984P, Section 3.2.

2. No. The core thermal hydraulic stability curve and associated bases are maintained at the current rod lines and power levels. Those values are changed to reflect the redefinition of rated thermal power. Since the current operating restrictions are maintained, power uprate has no detrimental effect on the level of protection provided and does not create the possibility for a new or different kind of accident.

3. No. The core thermal hydraulic stability curve and associated bases are maintained at the current rod lines and power levels. Those values are redefined to reflect the redefinition of rated thermal power. Since the current operating restrictions are maintained, there is no detrimental effect on the level of protection provided, and therefore no significant decrease in any margin of safety.

Specifications 3.4.1.1.2.5, 3.4.1.1.2.6, Reactor Coolant System, Recirculation Loops - Single Loop Operation

Specification 3.4.1.1.2.5 is being renumbered to 3.4.1.1.2.6. A new specification 3.4.1.1.2.5 is being added to specify that a 0.70 LHGR multiplier has been applied to Specification 3.2.4 when in single recirculation loop operation.

1. No. Operation with one recirculation loop out of service is allowed, but it is not considered a normal mode of operation. Single loop operation (SLO) is a special operational condition when only one of the two recirculation loops is operable. In this operating condition, the reactor power will be limited to less than 80% of rated by the maximum achievable core flow, which is typically less than 60% of rated core flow. A postulated LOCA occurring in the active recirculation loop during SLO would cause a more rapid coastdown of the recirculation flow than would occur in two loop operation, where one active loop would remain intact. This rapid coastdown causes an earlier boiling transition and deeper penetration of boiling transition into the bundle, which tends to increase the calculated PCT. However, the PCT effects of early boiling transition are substantially offset by the mitigating effect of the lower power level achievable at the start of such an event. The SAFER/GESTR-LOCA analysis results for Susquehanna for SLO and two loop operation are well below 2200°F and are documented in NEDC-32064P-1, Revision 1, "Power Uprate with Increased Core Flow Safety Analysis for Susquehanna 1 and 2", GE Nuclear Energy, July 1993.

The ECCS performance for Susquehanna under SLO was evaluated using SAFER/GESTR-LOCA. Calculations for the DBA were performed using both nominal and Appendix K inputs. The SLO SAFER/GESTR-LOCA analysis for the DBA assumes that there is essentially no period of recirculation pump coastdown. Thus, dryout is assumed to occur simultaneously at all axial locations of the hot bundle shortly after initiation of the event. Dryout is assumed to occur in one second for the nominal case and 0.1 second for the Appendix K case. These assumptions are very conservative and provide bounding results for the DBA under SLO.

The two-loop Appendix K break spectrum documented in NEDC-32064P-1 is representative of SLO because the two-loop spectrum was analyzed assuming a one second dryout time for all axial locations of the hot bundle. As shown by the two-loop break spectrum, the DBA is the limiting case for SLO. With breaks smaller than the DBA, there is a longer period of nucleate and/or film boiling prior to fuel uncover to remove the fuel stored energy.

An LHGR multiplier of 0.70 will be imposed when the plant is in SLO. As shown in Table 5-6 of NEDC-32064P-1, the SLO results are less limiting (i.e., lower PCT's) than the results for the two loop DBA LOCA.

Thus, the licensing PCT is based appropriately on two loop operation rather than SLO.

2. No. The licensing PCT is based upon two loop operation rather than SLO, thus the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. No. Based on the response to Question 1 above, the proposed change does not

involve a significant reduction in a margin of safety.

Specification 4.4.1.1.2.3, Reactor Coolant System

Footnote **** to this Specification is being changed to reference the power uprate startup test program.

1. No. This footnote provided a mechanism for changing the power limits specified if the results of the initial startup test program determined that it was necessary. The footnote is being modified to allow operation at uprated power with the present power limits. Should the power uprate startup test program determine a need to change the power limits they will be submitted to the Commission within 90 days as required by the revised footnote. This is consistent with the original BWR startup test program philosophy and does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. No. See 1. above; this change is administrative in nature and does not create the possibility of a new or different kind of accident from any previously evaluated.

3. No. See 1. above; this change is administrative in nature and does not involve a significant reduction in a margin of safety.

Specification 3.4.2, Reactor Coolant System, Safety Relief Valves

The safety relief valve specification is being changed to reduce the number of setpoint groups from 5 to 3. Two valves will be set at 1175 psig plus or minus 1%, 6 will be set at 1195 psig plus or minus 1%. Also, the number of Operable safety valves is being increased from 10 to 12.

1. No. This change does not increase the probability of occurrence of an accident previously evaluated as, with one exception, the accidents described in FSAR Sections 5.2.2, 7.2.3, 15.1, 15.2 and 15.3 do not document any cases where the SRV's are designated as the cause or initiator of an accident. The exception is inadvertent safety relief valve opening which results in a decrease in reactor coolant inventory and/or reactor coolant temperature. The revised setpoints and proposed groupings will not increase the probability of occurrence of this type of accident.

The change does not increase the probability of occurrence of a malfunction of equipment important to safety as previously evaluated in the FSAR. The margin between peak allowable pressure and the maximum safety setpoint is unchanged. The reactor vessel and components were evaluated for the setpoint change to assure continued compliance with the structural requirements of the ASME Code. Analysis was performed on the effects of the setpoint change for the design conditions, the normal and upset conditions and the emergency and faulted conditions. The increasing RPV dome pressure does not affect the design condition and, therefore, stresses remain unchanged.

The proposed change will also not adversely affect HPCI and RCIC system performance.

There is no indication that changed setpoints contribute to an increase in probability of SRV malfunction. Reduction in the simmer margin will be compensated for by more stringent leak test requirements during valve refurbishment.

2. No. This change does not involve any hardware changes or changes in system function. Relief and safety setpoints are only slightly increased and the maximum safety setpoint remains unchanged, thus the margin between peak allowable pressure and the setpoint remains unchanged.

3. No. The technical specifications were reviewed for margins of safety applicable to the components and systems affected by the change. Analysis has been performed that demonstrates that reactor pressure will be limited to within ASME Section III allowable values for the worst case upset transient. The margin of safety is inherent in the ASME Section III allowable pressure values.

Specification 3.4.3.2.d, Reactor Coolant System, Operational Leakage

This specification is being revised to indicate that the 1 gpm leakage rate limit currently applicable applies at the uprated maximum allowable pressure of 1035 psig, plus or minus 10 psig.

1. No. The steam dome pressure for leakage is being increased by 35 psig to 1035 psig (reactor design pressure). This pressure is chosen on the basis of steam line pressure drop characteristics and excess steam flow capability of the turbine observed during plant operation up to the current rated power level. Increasing the leakage rate pressure to 1035 psig is consistent with the expected uprated operating pressure. Increasing the reactor steam dome pressure has been analyzed and found to be within allowable limits. Maintaining the leakage rate limit at 1 gpm does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. No. This change does not involve any hardware changes or change in safety function. The reactor steam dome pressure has been analyzed and found to be within allowable limits.

3. No. Maintaining leakage the rate limit at 1 gpm is conservative and does not involve a reduction in the margin of safety.

Specifications 3.4.6.2 and 4.4.6.2, Reactor Coolant System, Reactor Steam Dome

The reactor steam dome pressure limits have been changed to 1050 psig.

1. No. Operating pressure for uprated power is increased by a minimum amount necessary to assure that satisfactory reactor pressure control is maintained. The operating pressure was chosen on the basis of steam line pressure drop characteristics and excess steam flow capability of the turbine observed during plant operation up to the current rated power level. Satisfactory reactor pressure control requires an adequate flow margin between the uprated operating condition and the steam flow capability of the turbine control valves at their maximum stroke. An operating dome pressure of 1032 psig is expected and is being assumed in the transient analyses. The 1050 psig limit was chosen to maintain an adequate level of operating flexibility while maintaining an adequate distance from the high pressure scram for trip avoidance. This limit is the initial pressure value used in the overpressure protection safety analysis for power uprate, for which all licensing criteria have been met. Therefore, this change does not involve a significant increase in the

probability or consequences of an accident previously evaluated.

2. No. Based on the response to Question 1. above, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. No. As described in 1. above, the 1050 psig limit was chosen to maintain an adequate level of operating flexibility while maintaining an adequate distance from the high pressure scram. This limit is the initial pressure value used in the over pressure protection safety analysis for power uprate, for which all licensing criteria have been met. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

Specification 4.5.1.b.3, Emergency Core Cooling Systems

This specification has been revised to permit a test line pressure for the flow surveillance of greater than or equal to 1140 psig at nominal reactor operating conditions.

1. No. Currently, the HPCI pump test acceptance criteria discharge pressure is greater than or equal to 1266 psig. This is based, in part, on the lowest SRV setpoint of 1146 psig plus a 1% tolerance and line flow losses. For this test, the HPCI turbine is supplied with steam at the nominal operating reactor pressure of 920 +140/-20 psig. Therefore, the test requires the HPCI pump/turbine to produce an output that exceeds that which would be commensurate with the input conditions. Stated differently, HPCI would be required to develop a pump discharge pressure associated with a steam dome pressure of 1187 psig (1175 plus or minus 1% psig), while being supplied with a steam dome pressure as low as 900 psig.

The purpose of this specification is to demonstrate that the system is capable of producing the required flow at the required pressure. The concern with this approach is that while it demonstrates the required capability by achieving the actual Technical Specification value, it requires the pump turbine to "over perform". It also reduces the margin available to compensate for normal wear and tear [that] occurs and is monitored under the ASME Section XI Pump and Valve Test Program. Power uprate will be further increasing the demand because of the increase in reactor steam dome pressure.

The intent of Surveillance 4.5.1b.3 is to demonstrate that the HPCI System will produce its design flow rate at an expected reactor pressure during a LOCA. Confirmation of the capability to achieve the required flow and pressure can be satisfactorily demonstrated without requiring the pump/turbine to "over perform". This can be done by producing the nominal operating design pressure from the pump with steam supplied to the turbine at nominal reactor operating pressure. From these conditions extrapolation via pump affinity laws will show the pump discharge pressure that would be developed at emergency reactor operation conditions (i.e. lowest SRV setpoint). This value could then be compared to the calculated value required for assuring adequate core cooling in both SSES specific and generic evaluations. The HPCI System has been evaluated and shown to be capable of achieving the required

pressure and flow conditions for power uprate.

Applying the method of pump affinity laws, the new Technical Specification pump discharge pressure would become greater than or equal to 1140 psig. This value is determined based on the maximum allowable test steam dome pressure of $920 + 140 = 1060$ psig, plus head losses. Through the use of pump affinity laws it has been shown by calculation that achieving a value of 1140 psig at nominal reactor operating conditions will produce the required flow and pressure during emergency conditions.

Therefore, the Technical Specification HPCI pump discharge pressure at power uprate conditions is changed to greater than or equal to 1140 psig.

2. No. The methodology and the supporting change described above in the response to Question 1 above do not alter the function nor the operation of the HPCI system. Therefore, they do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. No. The methodology and the supporting change described above in response to Question 1 do not involve a significant reduction in a margin of safety.

Specification 5.4.2, Design Features, Reactor Coolant System, Volume

This specification is being changed to show that the nominal T_{ave} is being changed from 528°F to 532°F. This change is being made to reflect the higher average saturation temperature that results from a 30 psi increase in reactor design pressure.

1. No. The effects of power uprate have been evaluated to ensure that the increase in system temperatures causes minor increases in thermal loadings on pipe supports, equipment nozzles, and in-line components. The results of analyses show that at uprated conditions all ASME components will satisfy design specification requirements and code limits when evaluated to the rules of Subsection NB-3600 of the ASME Boiler and Pressure Vessel Code Section III. The effects of thermal expansion as a result of power uprate were found to be insignificant. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. No. Increases in system temperatures as a result of power uprate have been evaluated to show that increase in thermal loadings on pipe supports, equipment nozzles and in-line components are minor. Analysis shows that at all uprated conditions all ASME components will satisfy design specification requirements and code limits when evaluated to the rules of subsection NB-3600 of Section IV to the Boiler and Pressure Vessel Code. The effects of power uprate with respect to thermal expansion were found to be insignificant and, therefore, not found to create the possibility of a new or different kind of accident.

3. No. As stated above, the effects of thermal expansion as a result of power uprate were found to be insignificant. Consequently, the nominal increase in T_{ave} does not involve a significant reduction in a margin of safety.

Specification Table 5.7.1-1, Component Cyclic or Transient Limits

This specification is being changed to raise the upper limit for a heat cycle from 546°F to 551°F. This change is being made to reflect the higher average saturation temperature that results from a 30 psi increase in reactor design pressure.

1. No. The purpose of this specification is to limit the number of heatup and cooldown cycles. The effects of power uprate have been evaluated to ensure that the reactor vessel components continue to comply with the existing structural requirements of the ASME Boiler and Pressure Vessel Code. The analyses were performed for the design, normal, upset, emergency and faulted conditions. The increase in the temperature limitation is not significant with respect to the effect it has upon the RPV and associated components.

2. No. The effects of uprating power have been evaluated for the design, normal, upset, emergency and faulted conditions to ensure that the reactor vessel components continue to comply with the existing structural requirements of the ASME Boiler and Pressure Vessel Code. The increase in the temperature limitation has been found not to be significant and, therefore, does not create the possibility of a new or different kind of accident from any previously evaluated.

3. No. This specification is intended to limit the number of heatup/cooldown cycles. The increase in the temperature limitation has not been found to be significant with respect to its effects upon the RPV and its associated components and, therefore, does not significantly reduce the margin of safety.

Specification 6.9.3.2, Core Operating Limits Report

Administrative Control Section 6.9.3.2 describes and lists topical reports that are used to determine core operating limits. Topical reports 15 through 19 are LOCA methodology reports and are being deleted. These reports describe Siemens LOCA methodology. As stated in Reference 1, the GE SAFER/GESTR LOCA methodology is being used for this uprated cycle. In addition, other minor methodology changes were made for power uprate transient analysis. GE topical report NEDC-32071P, PP&L topical report NE-092-001 and the NRC Safety Evaluation Report on the PP&L power uprate licensing topical are proposed to be added as Topical Reports No. 15, 16, and 17, respectively.

1. No. These changes are editorial in nature in that only the references to documents are being changed. The methodology used to determine core limits have been previously reviewed and approved by the NRC.

2. No. See the response to Question 1 above.

3. No. See the response to Question 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.

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NRC Project Director: Mohan C. Thadani, Acting

Pennsylvania Power and Light Company, Docket Nos. 50-387 and 50-388 Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of amendment request: July 27, 1994

Description of amendment request:
This amendment will change the definition of a CORE ALTERATION included in Technical Specification Section 1.0 for each unit to allow movement and replacement of local power range monitors and control rods in a defueled cell. The new definition is consistent with the Improved Standard 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. In the submittal, the licensee stated that:

1. This proposal does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change eliminates two previous evolutions, LPRM and Control Rod movement from a defueled cell, from being considered CORE ALTERATIONS. Thus the issue is whether the elimination of these constraints could contribute to a significant increase in the probability or consequences of a reactivity event.

Adding local power range monitors to the list of detectors which can be moved without invoking CORE ALTERATION requirements allows for the removal of these detectors for repair and replacement. Movement of these components does not impact the reactivity of the core. Therefore, allowing the movement of these detectors without invoking CORE ALTERATION provisions, does not contribute to a significant increase in the probability or consequences of a reactivity event.

Removal of a Control Rod from a defueled cell results in a negligible increase in core reactivity. Appropriate Technical Specification controls and refueling interlocks are applied during the fuel movements preceding the control rod removal to protect from or mitigate a reactivity excursion event. In addition, the design of a control rod precludes its replacement without all fuel assemblies in the cell removed. Therefore, allowing the movement of control rods from a defueled cell without invoking CORE ALTERATION provisions, does not contribute to a significant increase in the probability or consequences of a reactivity event.

The proposed Technical Specification change to adopt the revised CORE ALTERATION definition (NUREG 1433, as amended) does not effect the probability or consequences of an accident previously evaluated.

II. This proposal does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change eliminates two previous evolutions, LPRM and Control Rod movement from a defueled cell, from being considered CORE ALTERATIONS. Thus the issue is whether the elimination of these constraints could create the possibility of a new or different kind of accident from any accident previously evaluated.

For local power range monitors, Technical Specification 3/4.3.1 defines the minimum number of LPRMs required to be maintained operable in OPCON 5 and during Shutdown Margin Demonstration. The addition of LPRMs as an exclusion under the CORE ALTERATION definition does not change the operability requirements for the LPRMs under Technical Specification 3/4.3.1. Thus the ability of the LPRMs to perform their monitoring function is not affected by the proposed CORE ALTERATION definition change. In addition, movement of these components does not impact the reactivity of the core. Therefore, allowing the movement of these detectors without invoking CORE ALTERATION provisions, does not create the possibility of a new or different kind of accident from any accident previously evaluated.

For Control Rods, in the unlikely event that the wrong control rod was inadvertently withdrawn from a fueled cell during evolutions which were not intended to be CORE ALTERATIONS, adequate protective measures are provided by design and core monitoring instrumentation required to be operable in OPCON 5. Withdrawal of a single control rod from a cell containing fuel is bounded by Shutdown Margin analysis and demonstration. However, assuming the inadvertent control rod withdrawal resulted in a significant reactivity addition, the Reactor Protection System (RPS) would respond by inserting all control rods via the Scram function. The RPS monitors for recriticality during OPCON 5 with SRMs (except during specific controlled evolutions), IRMs, and APRMs. The Scram circuitry is completely redundant from the insert and withdrawal circuitry for the control rods. Therefore, allowing the movement of control rods from a defueled cell without invoking CORE ALTERATION provisions, does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed Technical Specification change to adopt the revised CORE ALTERATION definition (NUREG 1433, as amended) does not create the possibility of a new or different kind of accident from any accident previously evaluated.

III. This change does not involve a significant reduction in a margin of safety.

To evaluate the potential effect on safety margin, the proposed change was evaluated as to its effect on Shutdown Margin.

Shutdown Margin defines the amount of reactivity by which the reactor is subcritical, and thus is a measure of the safety margin in avoiding unanticipated criticality events.

The movement of LPRMs does not impact the reactivity of the core, and thus does not reduce the Shutdown Margin. Removal of a Control Rod from a defueled cell results in a negligible increase in core reactivity. Therefore, the removal of a Control Rod from a defueled cell will have a negligible effect on the core Shutdown Margin. Per Technical Specification 3/4.9.10.2(c), adequate core Shutdown Margin must exist during refueling when multiple control rods and the surrounding fuel assemblies are removed from the core. Appropriate Technical Specification controls and refueling interlocks are applied during the fuel movements preceding the control rod removal to protect from or mitigate a reactivity excursion event. In addition, the core is analyzed to maintain Shutdown Margin even with the withdrawal of the highest worth rod from a fueled cell.

The proposed Technical Specification change to adopt the revised CORE ALTERATION definition (NUREG 1433, as amended) does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

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**Philadelphia Electric Company, Docket
Nos. 50-352 and 50-353, Limerick
Generating Station, Units 1 and 2,
Montgomery County, Pennsylvania**

Date of amendment request: July 20,
1994

Description of amendment request:
The amendments would raise the Steam Leakage Detection system set-points that isolate the High Pressure Coolant Injection System (HPCI) and Reactor Core Isolation Cooling (RCIC) system equipment on high equipment room temperature and high delta temperature. The amendments are supported by a Limerick Generating Station modification to increase the environmental qualifications limits of the HPCI and RCIC systems to allow the systems to remain operable when equipment room cooling is unavailable.

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 changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

Those accident which are potentially impacted by these changes are any accident or events that require the isolation of the HPCI or RCIC system steam supply lines. This would include gross failures (pipe breaks) or significant leaks (pipe cracks) in steam lines. Minor leaks that do not significantly affect the environment in the equipment compartments are only considered with regard to being potential precursors to the development of a larger crack or break. The ability to detect small steam leaks is not dependent on the isolation instrumentation and the proposed changes to the isolation instrumentation will not impact the detection methods.

The proposed TS changes will not increase the probability of an accident since the changes will only increase the trip set-points of the instrumentation which detect increases in the temperature in the HPCI and RCIC equipment rooms. The physical establishment and setting of the proposed set-points of these accident detection and mitigation instruments will have no direct physical impact on the plant's normal operating conditions. This instrumentation is normally in a "monitoring mode," and is not actively supporting normal plant operation. Therefore, the proposed set-points can have no impact on the operating plant that would make an accident more likely to occur.

Two perspectives were evaluated regarding the potential impact on the consequences of accidents. One case is the impact on accidents which do not require HPCI or RCIC steam line isolation, but that may require the operation of the HPCI or RCIC Systems. The other case is the impact resulting from HPCI and RCIC steam line break accidents.

In the first case, the proposed changes to the set-points of these accident mitigation instruments will have no direct physical impact on the plant's accident response, except during the HPCI or RCIC pipe break accidents. During all other pipe breaks or accidents, the bounding peak HPCI and RCIC equipment compartment temperatures will still be at least 35°F below the proposed TS lower allowable values (i.e., 218°F and 198°F, respectively), and the isolation instrumentation will remain in a "monitoring mode." The isolation instrumentation will only be required to continue to passively monitor the HPCI and RCIC compartment temperatures and will meet the design basis by not inadvertently isolating the HPCI or RCIC systems.

In the second case, the HPCI and RCIC pipe break accidents described in LGS, Updated Final Safety Analysis Report (UFSAR) Section 3.6 "Protection Against Dynamic Effects Associated with the Postulated Rupture of Piping," determine the peak pressures and temperatures for the affected compartments. These peak pressures for the HPCI and RCIC breaks are the bounding

pressures for breaks in these lines and, since they occur quickly, they are unaffected by the leak detection and isolation actuation systems. The peak pressures predicted in the UFSAR for the largest HPCI and RCIC steam line breaks, in the HPCI, RCIC and isolation valve compartments, are the bounding values for breaks of all sizes in these compartments. In addition, the peak temperatures are not affected by the proposed changes to the isolation actuation set-points. Therefore, the isolation of the HPCI and RCIC steam lines following a HPCI or RCIC steam line guillotine break is not dependent on the temperature trip functions, rather, the isolation is dependent on the high flow or low pressure trip functions where a delay in the response of the temperature isolation instrumentation will have no adverse impact on the consequences of the accidents described in the SAR.

An evaluation was performed to determine the potential impacts due to the proposed changes affecting the room temperatures used in the environmental qualification program. The results of this evaluation determined that the postulated peak temperatures for the HPCI pump room and the HPCI and RCIC piping areas would be at the saturation temperature for the HPCI or RCIC break blow-down in these compartments, therefore, these compartment temperatures values will not be exceeded. The RCIC pump room and isolation valve compartment environmental qualification temperatures were not postulated to be at the saturation temperature. However, this does not increase the consequences of any of the accident described in the SAR because the equipment which is normally required for RCIC system operation and which is located in the RCIC pump compartment is not required to operate following breakage of the RCIC steam supply line. The only equipment in the RCIC pump compartment that is required to operate following a RCIC steam line break is the RCIC leak detection instrumentation which are qualified to operate at temperatures greater than the saturation temperature. Finally, the isolation valve compartment postulated peak temperatures result from a HPCI steam line break in the Unit 1 and 2 isolation valve compartments. This line break produces the highest isolation valve compartment temperatures which bounds the results of a RCIC steam line break in the isolation valve compartment and the HPCI and RCIC steam line breaks in the HPCI and RCIC pump rooms and piping areas. However, since the leak detection and isolation actuation trip set-points for the instruments in the isolation valve compartment are not being changed, then the environmental conditions in the isolation valve compartment will remain unchanged. This will assure that the isolation valves will be able to provide isolation when required.

For HPCI or RCIC leaks, the environmental conditions were not the only design basis considerations evaluated. The radiological effects were also considered. By increasing the upper allowable high ambient temperature or high delta temperature values for certain line break sizes there will be a larger total mass blow-down from the break due to the corresponding lengthening of the

time to reach the higher temperature limit. However, the total integrated mass of blowdown prior to isolation of the HPCI or RCIC steam line break will still be bounded by the LGS UFSAR accident analysis and therefore, the radiological consequences of these breaks as described in the SAR will remain unchanged. These conclusions are supported by an evaluation that provided the design basis for the main steam line break and then examines the radiological consequences at the upper and lower end of the HPCI and RCIC break spectrum. Since the largest HPCI and RCIC breaks are isolated based on high flow and not based on compartment temperature increases, then the proposed changes in the temperature set-points have no impact on the radiological consequences of the design basis HPCI or RCIC pipe break accidents as described in the SAR.

The impact of the proposed changes on the probability of a malfunction of the system isolation instrumentation, valves, or the HPCI or RCIC systems was evaluated. The isolation actuation instruments are qualified for the expected environmental conditions and the proposed set-points are within the normal operating range of the instruments. Therefore, these isolation actuation instruments are more likely to randomly fail than before. In addition, by ensuring that there is no adverse impact on the ability of the HPCI or RCIC systems to respond to events which are caused by malfunctions of equipment, then the consequences of these events are not increased. An adequate margin between the proposed lower allowable trip values and the postulated equipment room environmental conditions is being maintained such that an inadvertent actuation of the HPCI or RCIC system isolation function is also no more likely to occur. The increase in the temperature isolation allowable trip values will allow increased blow-down from a pipe break or crack which will result in higher pump compartment temperatures and pressures than before for a given break size; however, the overall impact is still bounded by the LGS UFSAR Section 3.6 ruptured piping analyses. The isolation actuation instruments are qualified for the expected environmental conditions, and the proposed set-points are also within the normal operating range of the isolation instruments. Therefore, the instruments are no more likely to randomly fail and cause the loss of the HPCI or RCIC system than before. In fact, by increasing the qualification limits of the HPCI and RCIC systems, the systems will be able to remain operable with an even large steam leak in the room when room cooling is available. Therefore, the changes will have no impact on the operating plant that would increase the possibility or consequences of a malfunction of equipment important to safety.

Since the proposed changes will maintain the HPCI or RCIC steam isolation system design basis, where the consequences are bounded by an analysis contained in the LGS UFSAR, and will only change the set-points of the existing instrumentation without impacting equipment important to safety, the proposed Technical Specifications changes

do not involve a significant 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 proposed TS changes will not create the possibility of a different type of accident or malfunction of equipment since the changes will only increase the trip set-points of the instrumentation which detect increases in the temperature in the HPCI and RCIC equipment rooms. The physical establishment and resetting of the set-points of these accident detection and mitigation instruments will have no direct physical impact on the plant's normal operating conditions and will not create any new accident initiators or failure modes. The severity of the potential piping system pressure transients caused by the isolation of the HPCI or RCIC steam lines at higher room temperatures remains unchanged since the isolation occurs after the postulated break blow-down has dropped to its steady state rate. Therefore, the changes will not result in a pipe break or result in any malfunction of equipment that has not previously been postulated to occur.

Therefore, the proposed set-points will not create the possibility of a different type of accident or possibility of a different type of malfunction of equipment important to safety than previously evaluated in the SAR.

3. The proposed TS changes do not involve a significant reduction in a margin of safety.

The margin of safety for the isolation actuation instrumentation as defined in the TS bases is not reduced. The proposed system isolation TS trip set-points were selected to provide equivalent margins that ensure the effectiveness of the isolation systems to mitigate the consequences of accidents without compromising the operability of the HPCI and RCIC systems. The proposed trip set-points and proposed allowable value ranges maintain adequate margins between these new values and the operating range of the HPCI and RCIC systems in order to prevent the inadvertent actuation of the isolation system and the loss of either the HPCI or RCIC systems. The differences between the trip set-points and the allowable values are being maintained as an allowance for instrument drift. The trip set-points and the allowable ranges are within the specified range of the instruments and therefore, the accuracy and drift will provide the same margin of safety as previously assumed.

Therefore, the proposed TS change do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room:
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: Mohan C. Thadani, Acting

Philadelphia Electric Company, Docket Nos. 50-352 and 50-353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of amendment request: July 22, 1994

Description of amendment request: This amendment would remove the surveillance frequency details which govern 10 CFR 50, Appendix J, Type B and C testing from 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. The proposed Technical Specifications changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes involve the removal of repetitive surveillance details from TS also found in 10 CFR 50, Appendix J, and rewording of TS. The removal and rewording involves no technical changes to the existing TS. The changes to the existing TS are proposed in order to be consistent with NUREG-1433. During the development of NUREG-1433, certain wording preferences or English language conventions were adopted. The proposed changes to this TS section are administrative in nature and do not impact initiators of analyzed events. They also do not impact the assumed mitigation of accidents or transient events. Therefore, the changes do not involve a significant 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 proposed changes do not involve a physical alteration of the plant or changes in methods governing normal plant operation. The proposed changes will not impose any new or different requirements or eliminate any existing requirements. Therefore, the 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.

The changes are administrative in nature and will not involve any technical changes. The proposed changes will not reduce a margin of safety because they have no impact on any safety analysis assumptions. In addition, because the changes are administrative in nature, no question of safety is involved. Therefore, 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 request involves no significant hazards consideration.

Local Public Document Room: 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: Mohan C. Thadani, Acting

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: August 19, 1994

Description of amendment request: This change would reduce the minimum setpoints and allowable values for the Steam Generator Level-Low-Low and Low reactor protection system signals. The bases would also be modified to expand the description of the relationship between setpoints, allowable values and the plant safety analysis.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The Steam Generator Water Level-Low-Low signal and the Low Steam Generator Level coincident with Steam Flow/Feed Flow Mismatch signal are designed to mitigate design basis transients involving significant reductions of steam generator inventory (e.g., Loss of Normal Feedwater, Turbine Trip, Loss of Offsite Power, Feedwater Line Break). The setpoints and allowable values for these protection signals are prescribed by Technical Specifications such that performance of the signals is consistent with the plant safety analyses, considering the effects of channel uncertainties. The proposed reductions to the setpoints and allowable values for the low-low and low steam generator level signals would not affect the probability of any transient that the protection signals are designed to mitigate. The changes would reduce the probability of unnecessary reactor trips and Auxiliary Feedwater (AFW) system actuations by providing greater operating margin for plant evolutions involving steam generator level changes (e.g., plant startup). Therefore, the proposed changes do not involve any

increase in probability of an accident previously evaluated.

The changes to the Steam Generator Water Level-Low-Low signal would not result in any increase in consequences of a previously analyzed accident because the proposed setpoint and allowable value would continue to ensure the safety analysis assumptions remain valid. As described in the accompanying changes to the Technical Specifications Bases, the channel uncertainty calculations performed to establish the relationships between the setpoints, allowable values and safety analyses are consistent with NRC Regulatory Guide 1.105, Revision 2. Low Steam Generator Level coincident with Steam Flow/Feed Flow Mismatch signal is not credited in the UFSAR Chapter 15 safety analyses. The proposed changes to the low steam generator level setpoint and allowable value would continue to provide reliable backup to the low-low level trip signal, consistent with IEEE-279-1971. Therefore, the proposed changes would not involve an increase in consequences of any previously analyzed accident.

2) do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes would continue to ensure the appropriate reactor protection system functions (reactor trip and AFW initiation) are initiated in the event that steam generator water level decreases to the value used in the plant safety analyses. The proposed changes would not involve any changes in protection system logic or function, and do not involve any plant configurations that could adversely affect the initiation or progression of any accident sequence. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3) do not involve a significant reduction in a margin of safety.

The proposed setpoints and allowable values would continue to ensure that the assumptions in the safety analyses remain valid, with appropriate consideration of protection system channel uncertainties. Therefore, the proposed 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: 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: Mohan C. Thadani, Acting

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50-395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Date of amendment request: July 20, 1994

Description of amendment request: The proposed change would modify the Virgil C. Summer Nuclear Station (VCSNS) Technical Specification (TS) Tables 2.2-1, "Reactor Trip System Instrumentation Setpoints," and 3.3-4, "Engineered Safety Features Actuation System Instrumentation Trip Setpoints," and several associated bases. The proposed change would remove three columns from the Tables. The columns contain specific rack and sensor allowable drift values.

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 VCSNS in accordance with the proposed license amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

This change does not alter or delete any setpoints or Allowable Values, and as such, has no effect on any assumptions used for accident analysis. No hardware or software changes are involved, so no common mode or common cause failures can occur as a result of this change. This change has no impact on the daily operation of VCSNS. The performance of periodic calibrations and channel checks will assure the setpoints remain within tolerance. Since this amendment request affects only information that is no longer used in the daily operation of the plant and has no impact on accident analysis, the probability or consequences of an accident previously evaluated are not increased.

2. The proposed license amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

This change revises two TS tables which contain both setpoints and Allowable Values as well as other information for safety trip functions. However, the revision only deletes three columns of data that were used in determining the operability of one channel of the safety function. These values are also used in determining the setpoints and are based on measured or published tolerances and uncertainties. Although these columns are being deleted, no changes to any hardware, software, or setpoints will occur. Since these changes do not have any plant impact, no new failure mechanisms are introduced. Only the information not used on a daily basis is being removed from these tables; this will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed license amendment does not involve a significant reduction in a margin of safety.

This change revises the format of TS Tables 2.2-1 and 3.3-4 which list the setpoint and Allowable Values for safety trip functions. The data that is being removed from these tables was used to establish clear reportability requirements for any portion of one channel of any of the listed safety trip functions. Since the reporting requirements have changed and an LER is not required if one coincident channel is inoperable, this data is no longer used in daily operations. The margin of safety was established when setpoints and Allowable Values were determined, and no changes to these values are involved. There is no reduction in a margin of safety that could affect the plant, SCE&G employees, or the public.

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: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180

Attorney for licensee: Randolph R. Mahan, South Carolina Electric & Gas Company, Post Office Box 764, Columbia, South Carolina 29218

NRC Project Director: David B. Matthews

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50-395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Date of amendment request: July 20, 1994

Description of amendment request: The proposed change would modify the Virgil C. Summer Nuclear Station, Unit 1, (VCSNS) Technical Specifications (TS) to allow alternative, equivalent testing of diesel fuel used in the emergency diesel generators (EDG). These alternative methods are necessary due to recent changes in Environmental Protection Agency (EPA) regulations that are designed to limit the use of high sulfur fuels.

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 probability or consequences of an accident previously evaluated is not significantly increased.

The change in testing methods for the EDG fuel oil has no impact on the probability or consequences of any design basis accident.

These tests have been determined to be equivalent to the previously approved testing methods and are needed due to changes in the EPA's regulations regarding sulfur in motor vehicle fuels. The dye used to identify high sulfur fuels will have no adverse effect on the performance of the EDG's. The proposed testing assures a continued high level of quality of the diesel fuel received and stored on site.

The change in revision level of a reference in TS section 6.9.1.11 has no impact on the probability of occurrence or consequences of any design basis accident. All design and performance criteria will continue to be met and no new single failure mechanisms will be created. The change in revision level for WCAP-10216-P-A does not involve any alterations to plant equipment or procedures which could affect any operational modes or accident precursors. This change only incorporates by reference, the methodology for determining the penalty to be used in calculating Core Operating Limits. This methodology allows the penalty to be cycle specific and is primarily affected by the core configuration. This penalty is used for normal operation and provides more conservatism to the core operation for the cycle.

2. [The proposed license amendment does not] create the possibility of a new or different kind of accident from any accident previously evaluated.

The change in testing methods for the EDG fuel oil will not create the possibility of a new or different kind of accident from any accident previously evaluated. These tests have been determined by the EPA and other organizations to be equivalent to the previously approved testing methods. The effect of the blue dye, used to identify high sulfur fuels, on the performance of the EDG's has been evaluated and determined to be insignificant. The testing proposed assures a continued high level of quality for the diesel fuel received and stored on site.

The change of revision level of a reference in TS section 6.9.1.11 has no impact on the probability of occurrence or consequences of any design basis accident. All design and performance criteria will continue to be met and no new single failure mechanisms will be created. The change in revision level for WCAP-10216-P-A does not involve any alterations to plant equipment or procedures which could affect any operational modes or accident precursors. This change only incorporates, by reference, the methodology for determining the penalty to be used in calculating Core Operating Limits. This methodology allows the penalty to be cycle specific and is primarily affected by the core configuration. This penalty is used for normal operation and provides more conservatism to the core operation for the cycle.

3. [The proposed license amendment does not] involve a significant reduction in a margin of safety.

The change in testing methods for the EDG fuel oil will not involve a significant reduction in a margin of safety. The proposed testing methods have been determined to be equivalent to the previously approved testing methods. The test for sulfur assures that the

sulfur content is within the allowable range for weight-percent. The test for color and clarity assures that the fuel is relatively free of water and particulate contaminants. The proposed tests provide at least an equivalent level of quality and repeatability for the fuel oil analysis, thus assuring that the margin of safety is not reduced.

The change in revision level of a reference in TS section 6.9.1.11 does not change the proposed reload design or safety analysis limits for each cycle reload core. The associated change to WCAP-10216-P-A due to the revision will be specifically evaluated using approved reload design methods. The larger penalty actually provides for an increase in margin during certain burnup ranges. Since the safety analysis limits are unaffected, and the cycle specific analysis will show that the analysis limits are met, the change proposed will have no adverse impact on 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:
Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180

Attorney for licensee: Randolph R. Mahan, South Carolina Electric & Gas Company, Post Office Box 764, Columbia, South Carolina 29218
NRC Project Director: David B. Matthews

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment request: August 19, 1994 (TS 93-09)

Description of amendment request:
The proposed change would revise the implementation schedule for Amendment Nos. 182 and 174 from that stated in the amendments when they were approved by the Commission by letter dated May 24, 1994. As issued, the amendments reflected the licensee's plans to implement the changes during the Unit 2 Cycle 6 refueling outage. However, the licensee has determined that implementation would be more appropriate following the refueling outage when both units are operating in 1995. No changes to the technical specification pages other than those approved when the amendments were issued are needed.

Basis for proposed no significant hazards consideration determination:
As required by 10 CFR 50.91(a), the licensee has determined that the no significant hazards consideration exists. This analysis was provided in the

original submittal for the amendment from the licensee dated October 1, 1993, and was used in the preparation of the amendments. The licensee has determined that this analysis remains valid for the proposed revision to the implementation dates and that the changes do not constitute a significant hazard. The staff previously issued the proposed finding in the Federal Register (59 FR 4947) and there were no public comments on the finding. This analysis is reproduced as follows:

TVA has evaluated the proposed technical specification (TS) change and has determined that it does not represent a significant hazards consideration based on criteria established in 10 CFR 50.92(c). Operation of Sequoyah Nuclear Plant (SQN) in accordance with the proposed amendment will not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed revision supports the implementation of design logic and setpoint changes to the loss-of-power relaying. This relaying is designed to ensure adequate voltage is available to safety-related loads in order to enhance their operability and support accident mitigation functions and to provide for auxiliary feedwater (AFW) pump starts. The design changes alter relay logic and delete unnecessary relaying, but do not change the diesel generator (D/G) start and load-shedding actuations that result from loss-of-power conditions. Therefore, no new actuations or functions have been created; and because the existing and proposed functions provide for accident mitigation considerations that are not the source of an accident, the probability of an accident is not increased. The deletion of the 6.9-kilovolt shutdown board normal-feeder undervoltage relays actually reduces the potential for inadvertent shutdown board blackouts as a result of short-duration voltage transients or instrument failures.

The setpoints and time delays for loss-of-power functions have been modified based on the guidelines developed by the Electrical Distribution System Clearinghouse as evaluated and determined through detailed analysis by TVA. This design is documented in TVA Calculations SQN-EEB-MS-T106-0008, 27DAT, and DS-1-2 and is available for NRC review at the SQN site. The assigned values are conservative settings that will ensure adequate voltage is supplied to safety-related loads for accident mitigation and safety functions under normal, degraded, and loss-of-offsite-power voltage conditions with appropriate time delays to prevent damage to electrical loads and minimize premature or unnecessary actuations. The identification of loss-of-voltage conditions is enhanced by the design changes to ensure the timely sequencing of loads onto the D/G and the initiation of AFW pump starts for accident mitigation. Because there are no reductions in safety functions resulting from the design logic, setpoint, and time-delay changes to the loss-of-power instrumentation and offsite dose levels for postulated accidents will not be increased, the consequences of an accident are not increased.

The applicable mode addition, TS 3.0.4 exclusion deletion, and response time measurement clarification incorporated in the proposed change do not affect plant functions. These changes reflect the requirements that SQN has been maintaining and serve to clarify the requirements to provide consistency of application and easier understanding. The AFW footnote addition and bases revision only clarify operability conditions that are consistent with the plant design for the AFW pump and loss-of-power instrumentation. Because there are no changes to plant functions or operations, these revisions have no impact on accident probabilities or consequences.

2. Create the possibility of a new or different kind of accident from any previously analyzed.

As described above, the loss-of-power instrumentation ensures adequate voltage to safety-related loads by initiating D/G starts and load shedding and provides for AFW pump starting, but is not considered to be the source of an accident. Although the design logic, setpoint, and time-delay actuation criteria have changed, the output functions to various plant systems that actuate for load shedding and D/G starts remain the same. Therefore, actuation criteria have been affected, but not safety functions, and the TVA evaluation has confirmed that the new design enhances the ability to maintain adequate voltage to support safety functions. Since safety functions have not changed and the new loss-of-power instrumentation design continues to support operability of safety-related equipment, no new or different accident is created.

The applicable mode addition, TS 3.0.4 exclusion deletion, and response time measurement clarification, as well as the AFW operability clarifications, do not affect plant functions and will not create a new accident.

3. Involve a significant reduction in a margin of safety.

The proposed loss-of-power TS changes support design logic, setpoint, and time-delay requirements that have been verified by TVA analysis to provide acceptable voltage levels for safety-related components. In determining the acceptability of these voltage levels, the minimum voltage for operation as well as detrimental component heating resulting from sustained degraded voltage conditions were considered. This design ensures that safety-related loads will be available and operable for normal and accident plant conditions. The applicable mode addition, TS 3.0.4 exclusion deletion, response time measurement clarification, and AFW operability clarifications provide enhancements to TS requirements and do not affect plant functions. Therefore, no safety functions are reduced by these changes and there is no reduction in the margin of safety.

The NRC 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:
Chattanooga-Hamilton County Library,

1101 Broad Street, Chattanooga, Tennessee 37402

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 11H, Knoxville, Tennessee 37902

NRC Project Director: Frederick J. Hebdon

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.

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 amendment request: June 23, 1993

Brief description of amendment request: The amendments would revise the licenses and the technical specifications to change the maximum core power limit from 3293 MWt to 3458 MWt. Date of publication of individual notice in *Federal Register*: August 29, 1994 (59 FR 44432) Expiration date of individual notice: September 28, 1994

Local Public Document Room: Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Wisconsin Electric Power Company, Docket Nos. 50-266 and 50-301, Point Beach Nuclear Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of amendments request: August 9, 1994

Brief description of amendments request: These amendments revise the Technical Specifications (TS) 5.3.4, "Steam and Power Conversion Systems," and 15.3.7, "Auxiliary Electrical Systems," to increase the allowed outage times for one motor driven auxiliary feedwater pump and for the standby emergency power for the Unit 1, Train B4160 Volt safeguards bus (A06) from 7 to 12 days. The proposed amendments would also modify TS 15.3.3, "Emergency Core Cooling System, Auxiliary Cooling Systems, Air Recirculation Fan Coolers, and Contained Spray," to provide the clarification that the service water pump (P-32E) operating with power supplied by the Alternative Shutdown System is operable from offsite power. The changes are one-time extensions of specific allowed outage times. Date of publication of individual notice in the *Federal Register*: August 19, 1994 (59 FR 42870).

Local Public Document Room: Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin 54241.

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 Nos. 50-317 and 50-318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of application for amendments: November 3, 1993

Brief description of amendments: The amendments revise the Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Technical Specifications (TSs) by removing the TSs that are applicable to the incore instrument (ICI) system. The limitations on the use of the ICI system will be relocated to the Updated Final Safety Analysis Report. The core power distribution limits, which the ICI system is used to verify, remain in the TSs which is consistent with 10 CFR 50.36. Date of issuance: August 24, 1994. Effective date: As of the date of issuance to be implemented within 30 days.

Amendment Nos.: 191 and 168
Facility Operating License Nos.: DPR-53 and DPR-69: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: December 8, 1993 (58 FR 64601) The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated August 24, 1994. No significant hazards consideration comments received: No

Local Public Document Room: 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: November 3, 1993

Brief description of amendments: The amendments modify the surveillance requirements to reflect the removal of the auto-closure interlock from the shutdown cooling system and revises the setpoint for the open permissive interlock.

Date of issuance: August 24, 1994
Effective date: As of the date of issuance to be implemented within 30 days.

Amendment Nos.: 192 and 169

Facility Operating License Nos. DPR-53 and DPR-69: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: December 8, 1993 (58 FR 64600) The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated August 24, 1994. No significant hazards consideration comments received: No
Local Public Document Room: 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: May 27, 1994

Brief description of amendments: The amendments revise the Technical Specification surveillance test intervals from monthly to quarterly for several channel functional tests for the Reactor Protection System and the Engineered Safety Feature Actuation System. In addition, an administrative change was made to remove an out-of-date footnote concerning the Emergency Diesel Generator logic circuit modifications.

Date of issuance: August 24, 1994
Effective date: As of the date of issuance to be implemented within 30 days.

Amendment Nos.: 193 and 170
Facility Operating License Nos. DPR-53 and DPR-69: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: July 20, 1994 (59 FR 37062) The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated August 24, 1994. No significant hazards consideration comments received: No

Local Public Document Room: 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: November 5, 1993, as supplemented March 11, 1994

Brief description of amendments: The amendments consist of two related changes. The first change revises the containment penetration Technical Specifications (TSs) to resemble the containment penetration TSs in NUREG-1432, "Standard Technical Specifications for Combustion Engineering Pressurized Water Reactors." The second revises the TSs to allow the containment personnel airlock to be open during fuel movement and

core alterations. The TS Bases have also been revised to reflect the changes as the result of issuing these amendments.

Date of issuance: August 31, 1994
Effective date: As of the date of issuance to be implemented within 30 days.

Amendment Nos.: 194 and 171
Facility Operating License Nos. DPR-53 and DPR-69: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: December 8, 1993 (58 FR 64602) The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated August 31, 1994. No significant hazards consideration comments received: No
Local Public Document Room: Calvert County Library, Prince Frederick, Maryland 20678.

Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut

Date of application for amendment: June 16, 1994

Brief description of amendment: The amendment removes from Technical Specification 3/4.8.3, "Onsite Power Distribution," a footnote applicable for Cycle 18 only, and adds surveillance requirement 4.8.3.1.2, to test the MCC-5 automatic bus transfer feature once per refueling.

Date of Issuance: August 23, 1994
Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 176
Facility Operating License No. DPR-61. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: July 20, 1994 (59 FR 37067) The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated August 23, 1994. No significant hazards consideration comments received: No.

Local Public Document Room: Russell Library, 123 Broad Street, Middletown, Connecticut 06457.

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, Units 1 and 2, Matagorda County, Texas

Date of amendment request: April 28, 1994

Brief description of amendments: The amendments revised Technical Specification 4.6.1.3.e to add an option that will allow the personnel airlock pneumatic system leak test to be

completed in 8 hours with a pressure drop of 0.50 psi.

Date of issuance: August 29, 1994
Effective date: August 29, 1994
Amendment Nos.: Unit 1 - Amendment No. 64; Unit 2 - Amendment No. 53

Facility Operating License Nos. NPF-76 and NPF-80. The amendments revised the Technical Specifications.

Date of initial notice in Federal Register: May 25, 1994 (59 FR 27057) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 29, 1994. No significant hazards consideration comments received: No

Local Public Document Room: Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton, Texas 77488

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: November 15, 1993

Brief description of amendments: The amendment revises the Technical Specifications to extend the surveillance interval for the chemical analysis, inventory, and flow area of the ice condenser from 9 to 18 months.

Date of issuance: August 23, 1994
Effective date: August 23, 1994
Amendment Nos.: 180 & 164
Facility Operating License Nos. DPR-58 and DPR-74. Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: December 22, 1993 (58 FR 67849) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 23, 1994. No significant hazards consideration comments received: No.

Local Public Document Room: Maud Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

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: September 24, 1992 and supplemented March 2, 1994.

Brief description of amendments: The amendment removes the list of containment isolation valves and associated references to the list from the Technical Specifications.

Date of issuance: August 29, 1994
Effective date: August 29, 1994
Amendment Nos.: 181 and 165
Facility Operating License Nos. DPR-58 and DPR-74. Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: February 17, 1993 (58 FR 8773) The March 2, 1994, letter provided supplemental information that was not outside the scope of this initial notice. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 29, 1994. No significant hazards consideration comments received: No.

Local Public Document Room: Maud Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Niagara Mohawk Power Corporation, Docket No. 50-410, Nine Mile Point Nuclear Station, Unit 2, Oswego County, New York

Date of application for amendment: July 1, 1994

Brief description of amendment: The amendment revises the secondary containment drawdown time testing requirement of Technical Specification (TS) 4.6.5.1.c.1 and the secondary containment inleakage testing requirement of TS 4.6.5.1.c.2. The amendment supports a revised design basis radiological analysis which supports an increase in secondary containment drawdown time from 6 to 60 minutes by taking credit for fission product scrubbing and retention in the suppression pool which were not assumed in the original radiological analysis but are currently assumed in the NRC's Standard Review Plan (NUREG-0800). The revised analysis also takes credit for additional mixing of primary containment and engineered safety feature system leakage with 50 percent of the secondary containment free air volume prior to the release of radioactivity to the environment. The revised radiological evaluation has determined that the radiological doses remain below 10 CFR Part 100 guideline values and General Design Criterion 19 criteria.

Date of issuance: August 30, 1994
Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 56
Facility Operating License No. NPF-69: Amendment revises the Technical Specifications.

Date of initial notice in Federal Register: July 20, 1994 (59 FR 37074) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 30, 1994. No significant hazards consideration comments received: No.

Local Public Document Room: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Northern States Power Company, Docket No. 50-263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Dates of application for amendment: November 30, 1993 and June 30, 1994.

Brief description of amendment: The proposed amendment would delete the requirements for a chlorine detection system from the following sections of Technical Specifications: 3.2.I, 3.17.A, 4.17.A, tables 4.2.1 and Technical Bases 3.2 and 3.17.A. Due to design changes at the Monticello Nuclear Generating Plant, chlorine is no longer stored onsite as a liquified gas and regulations requiring early warning of an onsite chlorine release do not apply.

Date of issuance: August 25, 1994

Effective date: August 25, 1994

Amendment No.: 89

Facility Operating License No. DPR-22. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: March 2, 1994 (59 FR 10010) The June 30, 1994, letter provided documents cited in the amendment application and did not affect the staff's initial no significant hazards determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 25, 1994. No significant hazards consideration comments received: No.

Local Public Document Room: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Omaha Public Power District, Docket No. 50-285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: May 21, 1993, as supplemented by letters dated September 10, 1993, and May 25, 1994

Brief description of amendment: The amendment changed the Technical specifications to reflect the relocation of the old 10 CFR 20.106 requirements to the new 10 CFR 20.1302, and to implement administrative changes.

Date of issuance: August 24, 1994

Effective date: August 24, 1994

Amendment No.: 164

Facility Operating License No. DPR-40. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: July 7, 1993 (58 FR 36442) The additional information contained in the supplemental letters dated September 10, 1993, and May 25, 1994, was clarifying in nature and thus, within the scope of the initial notice and did not affect the staff's proposed no significant hazards consideration determination. The Commission's related evaluation of

the amendment is contained in a Safety Evaluation dated August 24, 1994. No significant hazards consideration comments received: No.

Local Public Document Room: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102

Omaha Public Power District, Docket No. 50-285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: February 12, 1993, as supplemented by letters dated August 20, 1993, and June 6, 1994

Brief description of amendment: This amendment revised Technical Specification 2.1.4, "Reactor Coolant System Leakage Limits," to implement the reactor coolant system leak-before-break methodology detection criteria. Additionally, administrative changes were made.

Date of issuance: August 25, 1994

Effective date: August 25, 1994

Amendment No.: 165

Facility Operating License No. DPR-40. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: July 20, 1994 (59 FR 37076) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 25, 1994. No significant hazards consideration comments received: No.

Local Public Document Room: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102.

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: December 8, 1993 (Ref. LAR 93-07)

Brief description of amendments: The amendments revise the combined Technical Specifications (TS) for the Diablo Canyon Power Plant Unit Nos. 1 and 2 to revise TS 3/4.8.1, "A.C. Sources" to increase the required quantity of emergency diesel generator (EDG) fuel oil stored in the engine-mounted tank (day tank) from 200 gallons to 250 gallons. The amendment also revises TS 3/4.7.11, "Area Temperature Monitoring," and 3/4.8.1 to remove references to a five EDG configuration, based on the installation of a sixth EDG.

Date of issuance: August 23, 1994

Effective date: August 23, 1994

Amendment Nos.: 93 and 92

Facility Operating License Nos. DPR-80 and DPR-82: The amendments revised the Technical Specifications.

Date of initial notice in Federal Register: February 16, 1994 (59 FR

7694) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 23, 1994. No significant hazards consideration comments received: No.

Local Public Document Room: California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Philadelphia Electric Company, Docket No. 50-352, Limerick Generating Station, Unit 1, Montgomery County, Pennsylvania

Date of application for amendment: June 6, 1994

Brief description of amendment: This amendment removes the controls for a remote shutdown system control valve and deletes the isolation signal for certain primary containment isolation valves from TS Tables 3.3.7.4-1 and 3.6.3-1 respectively, as a result of eliminating the steam condensing mode of the Residual Heat Removal system.

Date of issuance: August 23, 1994

Effective date: August 23, 1994

Amendment Nos. 74

Facility Operating License No. NPF-39: The amendment revised the Technical Specifications.

Date of initial notice in Federal Register: July 20, 1994 (59 FR 37076) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 23, 1994. No significant hazards consideration comments received: No.

Local Public Document Room: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Philadelphia Electric Company, Docket Nos. 50-352 and 50-353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of application for amendments: January 10, 1994, as supplemented by letter dated July 20, 1994

Brief description of amendments: The amendments 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, Section 3.7.4.

Date of issuance: August 29, 1994

Effective date: August 29, 1994

Amendment Nos. 75 and 36

Facility Operating License Nos. NPF-39 and NPF-85: The amendments revised the Technical Specifications.

Date of initial notice in Federal Register: March 16, 1994 (59 FR 12364) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 29, 1994. No

significant hazards consideration comments received: No

Local Public Document Room: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Docket Nos. 50-277 and 50-278, Peach Bottom Atomic Power Station, Unit Nos. 2 and 3, York County, Pennsylvania

Date of application for amendments: March 28, 1994, as supplemented on June 27, 1994 and July 8, 1994

Brief description of amendments: These amendments relocate the fire protection requirements from the Technical Specifications to the Updated Final Safety Analysis Report in accordance with the guidance in Generic Letter (GL) 86-10, "Implementation of Fire Protection Requirements," and GL 88-12, "Removal of Fire Protection Requirements from Technical Specifications."

Date of issuance: August 24, 1994

Effective date: August 24, 1994

Amendments Nos. 194 and 198

Facility Operating License Nos. DPR-44 and DPR-56: Amendments revised the Technical Specifications and the licenses.

Date of initial notice in Federal Register: April 28, 1994 (59 FR 22012) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 24, 1994. No significant hazards consideration comments received: No

Local Public Document Room: 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. 50-286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of application for amendment: February 3, 1994

Brief description of amendment: 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 has been shut down since February 1993 for a "Performance Improvement 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 following

Engineered Safety Features (ESF) instrument calibration intervals have been extended:

- (1) Reactor coolant temperature instrument channels (specified in TS Table 4.1-1)
 - (2) Steam generator level instrument channels (specified in TS Table 4.1-1)
 - (3) Containment pressure instrument channels (specified in TS Table 4.1-1)
 - (4) Steam line pressure instrument channels (specified in TS Table 4.1-1)
 - (5) Turbine first stage pressure instrument channels (specified in TS Table 4.1-1)
 - (6) Turbine trip low auto stop oil pressure instrument channels (specified in TS Table 4.1-1)
 - (7) 480V bus undervoltage and alarm relays (specified in TS Table 4.1-1)
- These changes followed the guidance provided in Generic Letter 91-04, "Changes in Technical Specification Surveillance Intervals to Accommodate a 24-Month Fuel Cycle," as applicable. Additionally, the following changes were also incorporated:

(8) A limiting conditions for operation requirement for a wide range containment pressure variable was added to TS Table 3.5-5 to ensure consistency with Regulatory Guide 1.97 commitments and the IP3 Emergency Operating Procedures (EOPs).

(9) A quarterly functional test surveillance requirement for the low average temperature actuation circuits of the reactor coolant temperature channels was added to Item 4 of TS Table 4.1-1.

(10) Item 14 of TS Table 4.1-1 was expanded to specify surveillance requirements for the wide range containment pressure instrumentation channels.

(11) Item 20 of TS Table 4.1-1 was revised to clarify that both the reactor trip and the ESF actuation relay logic channels are functionally tested.

Date of issuance: September 1, 1994
Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 150

Facility Operating License No. DPR-64: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: March 30, 1994 (59 FR 14894) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 1, 1994. No significant hazards consideration comments received: No

Local Public Document Room: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

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: June 17, 1993, as supplemented February 24, 1994, and June 13, 1994

Brief description of amendment: The amendment adds Section 3/4.2.J., "Remote Shutdown Capability," and associated Table 3.2-10, "Remote Shutdown Capability Instrumentation and Controls," to the Technical Specifications (TSs) to provide Limiting Conditions for Operation and surveillance requirements for the remote/alternate shutdown equipment. The amendment also adds an associated Bases section to the TSs. These additions to the TSs were based on NUREG-1433, "Standard Technical Specifications - General Electric Boiling Water Reactors (BWR/4)." Several administrative changes were also made to accommodate the additions to the TSs.

Date of issuance: August 31, 1994

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 216

Facility Operating License No. DPR-59: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: August 4, 1993 (58 FR 41511) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 31, 1994. No significant hazards consideration comments received: No

Local Public Document Room: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

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 application for amendments: March 4, 1994, as supplemented on June 14, 1994 and by phone on July 22, 1994

Brief description of amendments: These amendments modify Section 5.3.1 of the Technical Specifications (TS) to allow the use of Westinghouse Vantage+ fuel with ZIRLO cladding. The previous TS required the fuel cladding to be Zircaloy-4, which is used in the Westinghouse Standard and Vantage 5H fuel designs.

Date of issuance: August 22, 1994

Effective date: August 22, 1994

Amendment Nos.: 154 and 134

Facility Operating License Nos. DPR-70 and DPR-75: These amendments revised the Technical Specifications.

Date of initial notice in Federal Register: March 30, 1994 (59 FR 14896) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 22, 1994. No significant hazards consideration comments received: No

Local Public Document Room: Salem Free Public Library, 112 West Broadway, Salem, New Jersey 08079

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50-395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Date of application for amendment: December 13, 1993, as supplemented February 2, 1994, and March 11, 1994.

Brief description of amendment: The amendment changes the Technical Specifications to allow for the storage of fuel with an enrichment not to exceed a nominal 5.0 weight percent (w/o) U-235 in the VCSNS new (fresh) and spent fuel storage racks. The changes would also allow UO₂ with a maximum nominal enrichment up to 5.0 w/o U-235 to be used as fuel in the VCSNS core.

Date of issuance: August 23, 1994

Effective date: August 23, 1994

Amendment No.: 116

Facility Operating License No. NPF-12: Amendment revises the Technical Specifications.

Date of initial notice in Federal Register: March 16, 1994 (59 FR 12365) The March 11, 1994, letter provided clarifying information that did not change the initial determination of no significant hazards consideration as published in the **Federal Register**. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 23, 1994. No significant hazards consideration comments received: No

Local Public Document Room: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180.

Vermont Yankee Nuclear Power Corporation, Docket No. 50-271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of application for amendment: May 20, 1994

Brief description of amendment: The proposed amendment would remove Core Spray High Sparger Instrumentation from the Vermont Yankee Technical Specifications for Emergency Core Cooling System Actuation Instrumentation. In addition, an unrelated administrative change is also made.

Date of issuance: August 22, 1994

Effective date: August 22, 1994

Amendment No.: 140

Facility Operating License No. DPR-28: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: July 6, 1994 (59 FR 34669) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 22, 1994. No significant hazards consideration comments received: No

Local Public Document Room: Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301.

Virginia Electric and Power Company, et al., Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of application for amendments: June 9, 1994

Brief description of amendments: These amendments revise the NA-1&2 Technical Specifications (TS) by removing the Reactor Trip System and the Engineered Safety Features Actuation System response times from the TS to station-controlled documents.

Date of issuance: August 24, 1994

Effective date: August 24, 1994

Amendment Nos.: 187 and 168

Facility Operating License Nos. NPF-4 and NPF-7: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: July 20, 1994 (59 FR 37088) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 24, 1994. No significant hazards consideration comments received: No

Local Public Document Room: The Alderman Library, Special Collections Department, University of Virginia, Charlottesville, Virginia 22903-2498.

Washington Public Power Supply System, Docket No. 50-397, Nuclear Project No. 2, Benton County, Washington

Date of application for amendment: January 6, 1994

Brief description of amendment: This amendment relocates the requirements related to seismic monitoring instrumentation from the Technical Specifications (TS) to the Final Safety Analysis Report (FSAR) and plant procedures. The existing requirements will be maintained and controlled in accordance with the requirements of 10 CFR 50.59 and TS 6.8.1.

Date of issuance: August 22, 1994

Effective date: August 22, 1994, to be implemented within 30 days of issuance

Amendment No.: 131

Facility Operating License No. NPF-21: The amendment revised the Technical Specifications.

Date of initial notice in Federal Register: March 30, 1994 (59 FR 14902)
The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 22, 1994. No significant hazards consideration comments received: No.

Local Public Document Room:
Richland Public Library, 955 Northgate Street, Richland, Washington 99352.

Wisconsin Electric Power Company, Docket Nos. 50-266 and 50-301, Point Beach Nuclear Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of application for amendments: September 29, 1993.

Brief description of amendments: The amendments changed the inservice test frequency of the safety injection pumps, residual heat removal pumps, and containment spray pumps from monthly to quarterly. Also, the amendments added the administration of the inservice testing program to TS 15.4.2. The amendments added requirements to verify the containment sump suction is not blocked and to verify on a monthly basis, valve alignments of the emergency core cooling system and containment cooling systems.

Date of issuance: August 25, 1994

Effective date: Date of issuance to be implemented within 45 days

Amendment Nos.: 150 and 154

Facility Operating License Nos. DPR-24 and DPR-27. Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: February 2, 1994 (59 FR 4949)
The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 25, 1994. No significant hazards consideration comments received: No.

Local Public Document Room: Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin 54241.

Wisconsin Electric Power Company, Docket Nos. 50-266 and 50-301, Point Beach Nuclear Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of application for amendments: October 6, 1992

Brief description of amendments: The amendments changed all references of rod position in the Technical Specifications to units of steps rather than inches. The amendments also changed Figure 15.3.10-1 by referencing rod position in units of steps instead of percent withdrawn. Further, the amendments revised the basis for Section 15.3.10 by clarifying the definition of "fully withdrawn" as it concerns Rod Cluster Control

Assemblies, and modified the basis for Section 15.3.10 to be consistent with the above changes.

Date of issuance: August 26, 1994

Effective date: Immediately, to be implemented within 45 days.

Amendment Nos.: 151 and 155

Facility Operating License Nos. DPR-24 and DPR-27. Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: March 25, 1993 (58 FR 16234)
The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 26, 1994. No significant hazards consideration comments received: No.

Local Public Document Room: Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin 54241.

Wolf Creek Nuclear Operating Corporation, Docket No. 50-482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: June 7, 1994

Brief description of amendment: The amendment revises Technical Specification Table 2.2-1, "Reactor Trip System Instrumentation Setpoints," to change the over-temperature-delta-temperature (OTDT) axial flux difference (AFD) limits to reflect the results of the Cycle 8 core maneuvering analysis.

Date of issuance: August 25, 1994

Effective date: August 25, 1994

Amendment No.: 79

Facility Operating License No. NPF-42. The amendment revised the Technical Specifications.

Date of initial notice in Federal Register: July 6, 1994 (59 FR 34672)
The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 25, 1994. No significant hazards consideration comments received: No.

Local Public Document Room

Locations: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621.

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 October 14, 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).

Boston Edison Company, Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of application for amendment: June 9, 1994, as supplemented August 10, 1994

Brief description of amendment: This amendment increases the allowed out-of-service time from 7 days to 14 days for the automatic depressurization system, the high pressure coolant injection system, and the reactor core isolation cooling system. A change is

also made to Section 4.5.H, "Maintenance of Filled Discharge Pipe" to reflect Amendment 149 issued September 28, 1993.

Date of issuance: August 22, 1994

Effective date: August 22, 1994

Amendment No.: 156

Facility Operating License No. DPR-35: Amendment revised the Technical Specifications. Public comments requested as to proposed no significant hazards consideration: No. The Commission's related evaluation of the amendment, consultation with the State, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated

Local Public Document Room:

Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360.

Attorney for licensee: W. S. Stowe, Esquire, Boston Edison Company, 800 Boylston Street, 36th Floor, Boston, Massachusetts 02199.

NRC Project Director: Walter R. Butler

Duquesne Light Company, et al., Docket No. 50-412, Beaver Valley Power Station, Unit 2, Shippingport, Pennsylvania

Date of application for amendment: August 17, 1994

Brief description of amendment: The amendment changes the Technical Specifications (TS) by revising Surveillance Requirement (SR) 4.6.2.2.d of Limiting Condition For Operation (LCO) 3.6.2.2, entitled "Containment Recirculation Spray System," by adding a new footnote number (1) pertaining to 2RSS*P21A pump performance requirements. In addition, SR 4.6.2.2.e.2 is revised by deleting the footnote, denoted by a single asterisk, which pertains to an extension to the 18-month surveillance interval for first fuel cycle.

Date of issuance: August 22, 1994

Effective date: As of the date of issuance.

Amendment No.: 62

Facility Operating License No. NPF-73. Amendment revised the Technical Specifications. Public comments requested as to proposed no significant hazards consideration: No. On August 17, 1994, the staff issued enforcement discretion, which was immediately effective and remained in effect until the staff's review of this amendment was completed.

The Commission's related evaluation of the amendment, finding of emergency circumstances, consultation with the Commonwealth of Pennsylvania and final no significant hazards considerations determination are contained in a Safety Evaluation dated August 22, 1994.

Local Public Document Room: B. F. Jones Memorial Library, 663 Franklin

Avenue, Aliquippa, Pennsylvania 15001.

Dated at Rockville, Maryland, this 7th day of September 1994.

For The Nuclear Regulatory Commission

Jack W. Roe,

Director, Division of Reactor Projects - III/IV, Office of Nuclear Reactor Regulation

[Doc. 94-22593 Filed 9-13-94; 8:45 am]

BILLING CODE 7590-01-F

[Docket No. 70-1257]

Finding of No Significant Impact and Notice of Opportunity for a Hearing Amendment of Materials License SNM-1227, Siemen's Power Corporation Richland, WA

The U.S. Nuclear Regulatory Commission is considering the amendment of Special Nuclear License SNM-1227 for the Siemen's Power Corporation (SPC) facility located in Richland, Washington, to authorize the release of hydrofluoric (HF) acid containing less than 3 picocuries per milliliter (pCi/ml) of uranium for unrestricted use.

Summary of the Environmental Assessment

Identification of the Proposed Action: The proposed action is to amend SPC's license to allow the sale of hydrofluoric (HF) acid containing less than 3 pCi/ml of enriched uranium for use in the metal treating and chemical compounding industries. The acid is a co-product of the dry conversion process used by SPC to convert uranium hexafluoride (UF₆) to uranium dioxide (UO₂) for the fabrication of nuclear fuel. This amendment and assessment address only the sale of the HF acid co-product.

SPC is planning a major expansion of the dry conversion process and expects to increase the generation of HF acid as a result of this future expansion. SPC will apply for an amendment to expand the dry conversion process in the near future. This expansion amendment will be the subject of a future environmental assessment.

Need for the Proposed Action: SPC is authorized to store liquid process wastes in on-site lagoons and to dispose of the treated liquid wastes via the sanitary sewer to the Richland Wastewater Treatment facility. SPC currently discharges 45-50 metric tons of fluoride annually to the sewer, generated from the currently-operating ammonium diuranate (ADU) conversion lines and the prototype dry conversion line. SPC plans to expand the dry conversion process capacity and to shut down most of the ADU conversion process. This expanded dry conversion

process will generate HF acid as a co-product. Sale and reuse of the HF acid from the expanded dry conversion facility will allow SPC to reduce significantly the amount of fluoride sent to the sewer.

Environmental Impacts of the Proposed Action: SPC performed a pathway analysis to estimate the total doses to an individual resulting from the sale and reuse of the HF acid and to demonstrate that these doses will not exceed the standards for protection against radiation set forth in 10 CFR Part 20 and that they are as low as reasonably achievable.

SPC estimated radiation doses to a maximally exposed individual, identified as a worker handling the HF acid in processes, including chemical milling and passivating, and in the manufacturer of cleaning solutions. The analysis considers that HF acid is highly toxic and corrosive. Doses to members of the public will be much lower than doses to individuals working with the material in an occupational capacity. The results of the analyses demonstrate that doses to a maximally exposed individual are less than 0.4 millirem per year internal dose and less than 0.02 millirem per year external dose.

The potential for public exposure to radiation from transportation accidents was also considered. The HF acid will be transported by truck in 320-gallon tanks from the Richland facility to a buyer, following Department of Transportation regulations (49 CFR Parts 173 and 176) for the transport of HF acid. In the event of a transportation accident involving the spill or release of the acid, fumes could be released. In that case, radiation exposures, to an individual member of the public could occur. However, the exposures would be of short duration, because of the toxicity and corrosivity of the HF acid, and would be considerably less than the worker dose estimate analyzed above. Emergency response actions would be carried out based upon the chemical hazards of the materials, not the radiological hazards.

Following start-up of the expanded dry conversion facility, approximately 90 percent of the liquid wastes currently being generated by the manufacturing facility will be eliminated as the dry conversion process is brought on-line and the ADU conversion process for UF₆ is closed down.

Conclusion: The dose assessment performed for the proposed action demonstrates that the doses received by members of the critical group and the exposed general population are well below the dose limits of 100 mrem/year and 25 mrem/year, as specified in 10

CFR Part 20 and 40 CFR Part 190, respectively, and are as low as reasonably achievable. To ensure that these dose limits are not exceeded, the staff recommends that the uranium concentration in the HF acid not exceed 3 pCi/ml in any batch of 20,000 liters.

Consultations with other agencies and interested persons have demonstrated that approval of this amendment will not violate any other federal, state, or local laws or regulations.

The staff concludes that there will be no significant environmental impact associated with the licensee's sale of the co-product HF acid.

Alternatives to the Proposed Action:

The alternative to the proposed action is for NRC not to amend the license to allow the sale of HF acid. If the amendment is not approved, SPC would not be able to sell the HF acid co-product. In that case, SPC would continue to discharge fluoride to the Richland sewer. While this would eliminate any potential risk to human health and safety, due to the trace amount of uranium in the HF acid, there would be a continued burden on the environment because of the disposal of the fluoride via the sewer, and it would delay SPC's schedule for ultimate closure of the on-site lagoons.

SPC could use alternative management methods for the HF acid, including storage, treatment, and/or disposal. However, due to its corrosive liquid nature, the acid is not suitable for disposal without treatment. If the HF acid was considered to be a waste product, it would be a dangerous waste as defined by the Washington Dangerous Waste Regulations. However, HF acid is a commercial chemical product, and the HF acid co-product from SPC's dry conversion process is suitable for reuse as a substitute for virgin HF acid.

Agencies and Persons Consulted:

- Washington Department of Ecology, Nuclear and Mixed Waste Programs, Water Quality Section, and Shorelands Program
- Washington Department of Health, Division of Radiation Protection
- Washington Department of Fish and Wildlife
- U.S. Environmental Protection Agency, Region X
- Benton Franklin Counties Clean Air Authority
- City of Richland, Department of Water and Waste Utilities
- Yakima Indian Nation

Other sources used in the preparation of the EA include the following:

1. Amendment application and supplement from Siemens Power

Corporation dated June 28 and July 7, 1994, respectively.

2. 10 CFR Part 70, Domestic Licensing of Special Nuclear Material.

3. 10 CFR Part 51, Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions.

4. 10 CFR Part 20, Standards for Protection Against Radiation.

NIOSH Pocket Guide to Chemical Hazards, U.S. Department of Health and Human Services, Public Health Service, Centers for Disease Control, National Institute for Occupational Safety and Health, 1985.

6. Threshold Limit Values and Biological Exposure Indices for 1989–1990, American Conference of Governmental Industrial Hygienists, 1989.

7. 49 CFR Part 173, Shippers—General Requirements for Shipments and Packaging.

8. 49 CFR Part 178, Specifications for Packaging.

9. Limiting Values of Radionuclide Intake and Air Concentration and Dose Conversion Factors for Inhalation, Submersion, and Ingestion, U.S. EPA Federal Guidance Report No. 11, 1988.

Finding of No Significant Impact: The NRC has prepared an Environmental Assessment related to the amendment of Special Nuclear Material License SNM-1227 to allow the sale of HF acid meeting the 3 pCi/ml limit. On the basis of this assessment, NRC has concluded that environmental impacts that would result from the proposed licensing action would not be significant and do not warrant the preparation of an Environmentally Impact Statement. Accordingly, it has been determined that a Finding of No Significant Impact is appropriate.

The Environmental Assessment and the documents related to this proposed action are available for public inspection and copying at NRC's Public Document Room at the Gelman Building, 2120 L Street NW, Washington, DC.

Opportunity for a Hearing: Any person whose interest may be affected by the issuance of this amendment may file a request for a hearing. Any request for a 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 20852-0130) and on the licensee (Siemens Power Corporation, 2101 Horn Rapids Road, Richland, Washington, 99352-0130);

and must comply with the requirements for requesting a hearing set forth in NRC's regulation, 10 CFR Part 2, Subpart L, "Informal Hearing Procedures for Adjudications in Materials Licensing Proceedings."

These requirements, which the requestor must address in detail, are:

1. The interest of the requestor in the proceeding;
2. How that interest may be affected by the results of the proceeding, including why the requestor should be permitted a hearing;
3. The requestor's area of concern about the licensing activity that is the subject matter of the proceeding; and
4. The circumstances establishing that the request for hearing is timely, that is, filed with 30 days of the date of this notice.

In addressing how the requestor's interest may be affected by the proceeding, the request should describe the nature of the requestor's right under the Atomic Energy Act of 1954, as amended, to be made a party to the proceeding; the nature and extent of the requestor's property, financial, or other (i.e., health and safety) interest in the proceeding; and the possible effect of any order that may be entered in the proceeding upon the requestor's interest.

Dated at Rockville, Maryland, this 6th day of September 1994.

For the Nuclear Regulatory Commission,

Robert C. Pierson,

Chief, Licensing Branch, Division of Fuel Cycle, Safety and Safeguards, NMSS.

[FR Doc. 94-22684 Filed 9-13-94; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review by Office of Management and Budget

Acting Agency Clearance Officer: David T. Copenhafer, (202) 942-8800

Upon written request copy available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

Extensions:

Form N-8b-3—File No. 270-179

Form N-8b-4—File No. 270-180

Form ADV-W, Rule 203-2—File No. 270-40

Notice is hereby given pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), that the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget

approval for extensions on the following previously approved rule and forms:

Form N-8b-3 is used by unincorporated management investment companies currently issuing periodic payment plan certificates to register under the Investment Company Act of 1940 ("1940 Act"). It is estimated that two respondents will incur a total annual burden of 340 hours.

Form N-8b-4 is the registration statement used by face-amount certificate companies to register as investment companies under the 1940 Act. It is estimated that one respondent will incur a total annual burden of 170 hours.

Form ADV-W and Rule 203-2 governs withdrawal from registration under the Investment Advisers Act of 1940. It is estimated that 2,200 respondents will incur a total annual burden of 2,200 hours.

Direct general comments to the Desk Officer for the Securities and Exchange Commission at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with the Commission rules and forms to David T. Copenhafer, Acting Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549 and Desk Officer for the Securities and Exchange Commission, (Project Numbers 3235-0166, 3235-0247, and 3235-0313), Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: August 30, 1994.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 94-22661 Filed 9-13-94; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-34644; File No. SR-NYSE-94-30]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by New York Stock Exchange, Inc., Relating to Permanent Approval of Revisions to the Exchange's Allocation Policy and Procedures

September 7, 1994.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 12, 1994, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The

Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of the Exchange's request for permanent approval of revisions to its Allocation Policy and Procedures that were implemented on a one year pilot basis.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The intent of the Allocation Policy and Procedure (the "Policy") is to ensure that each security listed on the Exchange is allocated in the fairest manner possible to the best specialist unit for that security. In its continuing efforts to enhance allocation decisions, the Exchange conducts periodic reviews of the allocation process.¹ As the result of one such review, the Exchange filed proposed revisions with the Commission on June 17, 1992 (see SR-NYSE-92-15). At the request of the Commission, the Exchange requested that the proposed rule changes take effect on a one year pilot basis. The Commission approved the filing on October 29, 1993 (see Release No. 34-33121). The Exchange fully integrated the changes to the Policy in February 1994. The Exchange is now seeking permanent approval of the proposed rule change. The changes to the Policy are summarized below.

The revisions to the Policy:

- Limit, to no more than one-third, the weight that the Specialist Performance Evaluation Questionnaire

¹ Subsequent to implementation of the pilot program discussed below, the Exchange conducted another comprehensive review of the allocation process and filed further revisions to the Policy (see SR-NYSE-94-18).

("SPEQ") may be afforded in the allocation decision making process.

- Require that SPEQ performance data be presented to the Allocation Committee in four tiers, with units listed alphabetically in each comparable group.

- Require information about a specialist unit's contracts during the prior six and 12 month periods with listed companies and Exchange member organizations to be included in the Allocation Application.

- Require the allocation panel to consist of a core group of experienced, senior professionals.

- Eliminate specialist representation on the Allocation Committee.

- Require that the Allocation Committee list be kept confidential and prohibit Exchange members and investment bankers from initiating contact with Allocation committee members regarding pending allocations.

- State that the Exchange will honor the request of a listing company that it not be allocated to its former specialist unit, or the specialist in the parent or related company.

- Permit current Allocation Committee members, including outgoing members, to vote for an incoming Committee chairman.

- Delete, as obsolete, the objective performance measure pertaining to the Opening Automated Report Service contained in the policy.

- Discontinue the practice of distributing a summary of reasons for each allocation decision to Exchange Floor members.

- Delete the reference to specific aspects of trading foreign issues on the Exchange Floor.

- Standardize the agenda used to educate Allocation Committee chairman and members.

The Exchange has reviewed the changes to the Policy as they have impacted on the allocation process and it believes that there has been a beneficial effect in terms of the way in which stocks are allocated. The Exchange continues to subject this vital function to rigorous scrutiny, looking to refine the process, as is evidenced by the filing of further changes to the Policy cited earlier.

2. Statutory Basis

The Exchange believes that the basis under the Act for the proposed rule change is the requirement under Section 6(b)(5) that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and

the public interest. The proposed rule changes are consistent with these objectives in that they enable the Exchange to further enhance the process by which stocks are allocated to ensure fairness and equal opportunity in the process.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the *Federal Register* or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) By order approve the proposed rule change, or
- (B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions

should refer to File No. SR-NYSE-94-30 and should be submitted by October 5, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94-22660 Filed 9-13-94; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-3647; International Series Release No. 712; File No. SR-PSE-94-15]

Self-Regulatory Organizations; Order Approving and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 3 to a Proposed Rule Change by the Pacific Stock Exchange, Inc., Relating to the Listing of Options and Long-Term Options on the Telegraph Ltd. Israel Index

September 8, 1994.

I. Introduction

On June 13, 1994, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to provide for the listing and trading of index options on the Telegraph Ltd. Israel Index ("Israel Index" or "Index").³ The Exchange filed Amendment No. 1 to the proposed rule change on June 27, 1994, and Amendment No. 2 on June 28, 1994.⁴ Notice of the proposal and of

¹ 15 U.S.C. 78s(b)(1) (1988).

² 17 CFR 240.19b-4 (1992).

³ The name of the Index, as originally proposed, was the "PSE Israel Index." See Amendment No. 3, *infra* note 6.

⁴ In Amendment No. 1, the Exchange proposed to: (1) reconfigure the Index so that it is initially composed of 12 components; (2) provide that the Index will be equal dollar-weighted instead of capitalization-weighted, as originally proposed; and (3) provide that any security added to the Index must be a security that is traded in the United States either on a securities exchange or as a National Market security traded through Nasdaq. See Letter from Michael Pierson, Senior Attorney, PSE, to Brad Ritter, Attorney, Office of Market Supervision ("OMS"), Division of Market Regulation ("Division"), Commission, dated June 24, 1994. In Amendment No. 2, the PSE proposed: (1) to maintain the Index so that at least 85% of the Index, by weight, and at least 80% of the number of components of the Index are eligible for standardized options trading pursuant to PSE Rule 3.6; (2) to clarify that any replacement securities will be securities representing Israeli companies; and (3) to consider the market capitalization, liquidity, volatility, and name recognition of proposed replacement securities for the Index. See Letter from Michael Pierson, Senior Attorney, PSE, to Brad Ritter, Attorney, OMS, Division, Commission, dated June 28, 1994.

Amendment Nos. 1 and 2 appeared in the *Federal Register* on July 26, 1994.⁵ On September 6, 1994, the Exchange filed Amendment No. 3 to the proposed rule change.⁶ No comment letters were received on the proposed rule change. This order approves the Exchange's proposal, as amended.

II. Description of Proposal

A. General

The PSE proposes to list for trading options on the Israel Index, a new securities index developed by the PSE and based on Israeli stocks and ADRs⁷ that are traded on the American Stock Exchange ("Amex"), the New York Stock Exchange ("NYSE"), or are National Market ("NM") securities traded through Nasdaq. The PSE also proposes to list long-term options on the full-value Index ("Israel LEAPS" or "Index LEAPS").⁸ Israel LEAPS will trade independent of and in addition to regular Israel Index options traded on the Exchange,⁹ however, as discussed below, position and exercise limits of Index LEAPS and regular Index options will be aggregated.

B. Composition of the Index

The Index was designed by the Exchange and is presently based on securities representing 12 Israeli companies that the Exchange believes are representative of the Israeli

⁵ See Securities Exchange Act Release No. 34410 (July 20, 1994), 59 FR 38007 (July 26, 1994).

⁶ In Amendment No. 3, the PSE proposes to: (1) change the name of the Index to the "Telegraph Ltd. Israel Index;" (2) clarify that all present and future components of the Index will be subject to last sale reporting pursuant to Rule 11Aa3-1 of the Act; (3) provide that the Index will be initialized at a level of 150 as of the close of trading on May 31, 1994, rather than at 200 as originally proposed; and (4) change the Index cycle from the January cycle to the March cycle. See Letter from Michael Pierson, Senior Attorney, Market Regulation, PSE, to Brad Ritter, Attorney, Office of Market Supervision, Division of Market Regulation, Commission, dated September 6, 1994 ("Amendment No. 3").

⁷ An ADR is a negotiable receipt which is issued by a depository, generally a bank, representing shares of a foreign issuer that have been deposited and are held, on behalf of holders of the ADRs, at a custodian bank in the foreign issuer's home country. See discussion of standards for ADR components, *infra* notes 10 and 27.

⁸ LEAPS are long-term index option series that expire from twelve to thirty-six months from their date of issuance. See PSE Rule 6.4(d).

⁹ According to the PSE, the Israel Index represents a segment of the U.S. equity market that is not currently represented in the derivative markets and, as such, the PSE concludes, should offer investors a low-cost means of achieving diversification of their portfolios toward or away from Israeli securities. The PSE believes the Index will provide retail and institutional investors with a means of benefitting from their forecasts of the performance of Israeli securities. Options on the Index also can be utilized by portfolio managers and investors as a means of hedging the risks of investing in Israeli securities.

economy, all of which trade in the U.S. as either stocks or ADRs. Ten of these securities currently trade through Nasdaq as NM securities, one trades on the NYSE, and one trades on the Amex. The Index is equal dollar-weighted and will be calculated on a real-time basis using last sale prices.

As of May 31, 1994, the market capitalizations of the individual securities in the Index ranged from a high of \$1.22 billion to a low of \$59.03 million, with an average capitalization of \$386 million. The market capitalization of all the securities in the Index was \$4.63 billion. The total number of shares outstanding for the securities in the Index ranged from a high of 60.74 million shares to a low of 9.37 million shares. The average monthly trading volume in the U.S. of the securities in the Index, for the six-month period between December 1, 1993, and May 31, 1994, ranged from a high of 9.98 million shares per month to a low of 726,667 shares per month. Lastly, because the Index is equal dollar-weighted, each component accounts for 8.33% of the Index's total value and thus, no five components accounted for more than 41.65% of the total weight of the Index.

C. Maintenance

The Index will be maintained by the PSE. The PSE may change the composition of the Index at any time, subject to compliance with the maintenance criteria discussed herein, to reflect the conditions in the market for Israeli securities. If it becomes necessary to replace an Index component, the Exchange represents that it will only add new Israeli component securities that are traded in the U.S. securities markets and will take into account a security's capitalization, liquidity, volatility, and name recognition of the proposed replacement. Further, Index components may be replaced in the event of certain corporate events, such as takeovers or mergers, that change the nature of the security. If, however, the Exchange determines to increase the number of Index component securities to greater than 16 or reduce the number of Index component securities to fewer than nine, the proposal provides that the PSE will submit a rule filing with the Commission pursuant to Section 19(b) of the Act. In addition, in choosing replacement securities for the Index, the PSE will be required to ensure that at least 85% of the weight of the Index and at least 80% of the number of components continues to be made up of securities that are eligible for

standardized options trading.¹⁰ Finally, the PSE will be required to ensure that each component of the Index is subject to last sale reporting pursuant to Rule 11Aa3-1 of the Act.¹¹

D. Applicability of PSE Rules Regarding Index Options

Except as modified by this order, PSE Rules 6 and 7 will be applicable to Israel Index options and Index LEAPS. Those rules address, among other things, the applicable position and exercise limits, policies regarding trading halts and suspensions, and margin treatment for narrow-based index options.

E. Calculation of the Index

The Israel Index is an equal dollar-weighted index and reflects changes in the prices of the Index component securities relative to the Index's base date of May 31, 1994.

The Index will be calculated using an "equal dollar-weighting" methodology designed to ensure that each of the component securities are represented in approximately "equal" dollar amounts in the Index. In calculating the initial "equal dollar-weighting" of component securities, the PSE, using closing prices on May 31, 1994, calculated the number of shares that would represent an investment of \$83,333 in each of the securities contained in the Index (to the nearest whole share). The value of the Index equals the current market value (*i.e.*, based on U.S. primary market prices) of the assigned number of shares of each of the securities in the Index portfolio divided by the current Index divisor. The Index divisor was initially

¹⁰ The PSE's options listing standards, which are uniform among the options exchanges, provide that a security underlying an option must, among other things, meet the following requirements: (1) the public float must be at least 7,000,000 shares; (2) there must be a minimum of 2,000 stockholders; (3) trading volume in the U.S. must have been at least 2.4 million over the preceding twelve months; and (4) the U.S. market price must have been at least \$7.50 for a majority of the business days during the preceding three calendar months. See PSE Rule 3.6. With respect to ADRs, in addition to the above standards: (1) the Exchange must have in place a comprehensive surveillance agreement with the primary exchange in the home country where the security underlying the ADR is traded; or (2) the trading volume for the three month period preceding the date of listing in the U.S. markets for ADRs overlying any class of the foreign issuer's common stock (on a share-equivalent basis) is at least 50% of the sum of the (i) combined worldwide trading volume for all classes of the foreign issuer's common stock, and (ii) combined trading volume for all ADRs overlying any of these classes of stock; or (3) the SEC must otherwise authorize the listing. In addition, the percentage of the worldwide trading volume for the security underlying an ADR that occurs in the U.S. ADR market must meet a maintenance standard of 30% or more in order for options on that particular ADR to continue to be traded.

¹¹ See Amendment No. 3, *supra* note 6.

calculated to yield a benchmark value of 150 at the close of trading on May 31, 1994.¹² Each quarter thereafter, following the close of trading on the third Friday of January, April, July and October, the Index portfolio is adjusted by changing the number of shares of each component security so that each company is again represented in \$83,333 "equal" dollar amounts. If necessary, a divisor adjustment is made to ensure continuity of the Index's value. The newly adjusted portfolio becomes the basis for the Index's value on the first trading day following the quarterly adjustment.

The Exchange does not believe that there will be investor confusion regarding the adjustments because they will be done on a regular and timely basis, with adequate advance notice given. An information circular will be distributed to all Exchange members notifying them of the quarterly changes. This circular will also be sent by facsimile to the Exchange's contacts at the major options firms, mailed to recipients of the Exchange's options-related information circulars, and made available to subscribers of the Options News Network. In addition, the Exchange will include in its promotional and marketing materials for the Index a description of the equal dollar-weighting methodology.

The number of shares of each component security in the Index portfolio will remain fixed between quarterly reviews except in the event of certain types of corporate actions, such as the payment of a dividend, other than an ordinary cash dividend, stock distributions, stock splits, reverse stock splits, rights offerings, or a distribution, reorganization, recapitalization, or some such similar event with respect to an Index component security. The number of shares will also be adjusted in the event of a merger, consolidation, dissolution or liquidation of an issuer of a component security. When the Index is adjusted between quarterly reviews, the number of shares of the relevant security in the portfolio will be adjusted, to the nearest whole share, to maintain the component's relative weight in the Index at the level immediately prior to the corporate action. In the event of a component security replacement, the average dollar value of the remaining portfolio components will be calculated and that amount invested in the new component security to the nearest whole share. In both cases, the divisor will be adjusted, if necessary, to ensure Index continuity.

¹² *Id.*

The Index value for purposes of settling outstanding regular Index options and Index LEAPS contracts upon expiration will be calculated based upon the regular way opening sale prices for each of the Index's component securities in their primary market on the last trading day prior to expiration. In the case of securities traded through Nasdaq, the first reported sale price will be used. Once all of the component securities have opened, the value of the Index will be determined and that value will be used as the final settlement value for expiring Index options contracts. If any of the component securities do not open for trading on the last trading day before expiration, then the prior trading day's (*i.e.*, normally Thursday's) last sale price will be used in the Index calculation. In this regard, before deciding to use Thursday's closing value of a component security for purposes of determining the settlement value of the Index, the PSE will wait until the end of the trading day on expiration Friday.

F. Contract Specifications

The proposed options on the Index will be cash-settled, European-style options.¹³ Standard options trading hours (9:30 a.m. to 4:15 p.m. Eastern Standard time) will apply to the contracts. The Index multiplier will be 100. The strike price interval will be \$2.50 for Index options with a duration of one year or less to expiration. If, however, the value of the Index rises to 200 or greater, the Exchange will use strike prices at \$5.00 intervals. In addition, pursuant to PSE Rule 6.4, there may be up to six expiration months outstanding at any given time. Specifically, there may be up to three expiration months from the March, June, September, and December cycle¹⁴ plus up to three additional near-term months so that the two nearest term months will always be available.

Furthermore, the options on the Index will expire on the Saturday following the third Friday of the expiration month ("Expiration Friday"). Accordingly, since options on the Index will settle based upon opening prices of the component securities on the last trading day before expiration (normally a Friday), the last trading day for an expiring Index option series will normally be the second to the last business day before expiration (normally a Thursday).

Finally, the proposal also provides that the Exchange may list long-term Index options that expire from 12 to 36 months from listing based on the full-value Israeli Index. Exchange rules regarding strike price intervals bid/ask differentials, and continuity shall not apply to such series until the time to expiration is less than 12 months.¹⁵

G. Position and Exercise Limits, Margin Requirements, and Trading Halts

Exchange rules that are applicable to the trading of options on narrow-based indexes will apply to the trading of Israel Index options and Israel Index LEAPS. Specifically, Exchange rules governing margin requirements,¹⁶ position and exercise limits,¹⁷ and trading halt procedures¹⁸ that are applicable to the trading of narrow-based index options will apply to options traded on the Index.

H. Surveillance

Surveillance procedures currently used to monitor trading in each of the Exchange's other index options will also be used to monitor trading in regular Index options and in Index LEAPS. These procedures include complete access to trading activity in the underlying securities. Further, the Intermarket Surveillance Group Agreement, dated July 14, 1983, as amended on January 29, 1990, will be applicable to the trading of options on the Index.¹⁹

¹³ See PSE Rule 6.4(d).

¹⁶ Pursuant to PSE Rule 7.16, the margin requirements for the Index options will be: (1) for short options positions, 100% of the current market value of the options contract plus 20% of the underlying aggregate Index value, less any out-of-the-money amount, with a minimum requirement of the options premium plus 10% of the underlying Index value; and (2) for long options positions, 100% of the options premium paid.

¹⁷ Pursuant to PSE Rules 7.6 and 7.7, respectively, the position and exercise limits for the Index options will be 7,500 contracts, unless the Exchange determines, pursuant to Rules 7.6 and 7.7, that a lower limit is warranted.

¹⁸ Pursuant to PSE Rule 7.11, the trading on the PSE of Index options may be halted or suspended whenever trading in underlying securities whose weighted value represents more than 20% of the Index value are halted or suspended.

¹⁹ The Intermarket Surveillance Group ("ISG") was formed on July 14, 1983 to, among other things, coordinate more effectively surveillance and investigative information sharing arrangements in the stock and options markets. See Intermarket Surveillance Group Agreement, July 14, 1983. The most recent amendment to the ISG Agreement, which incorporates the original agreement and all amendments made thereafter, was signed by ISG members on January 29, 1990. See Second Amendment to the Intermarket Surveillance Group Agreement, January 29, 1990. The members of the ISG are: the Amex; the Boston Stock Exchange, Inc.; the Chicago Board Options Exchange, Inc.; the Chicago Stock Exchange, Inc.; the National Association of Securities Dealers, Inc. ("NASD"); the NYSE; the PSI; and the Philadelphia Stock

III. Findings and Conclusions

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5).²⁰ Specifically, the Commission finds that the trading of Israeli Index options, including Index LEAPS, will serve to promote the public interest and help to remove impediments to a free and open securities market by providing investors with a means of hedging exposure to market risk associated with Israeli securities.²¹

The trading of options on the Israel Index, including Index LEAPS, however, raises several concerns, namely issues related to index design, customer protection, surveillance, and market impact. The Commission believes, for the reasons discussed below, that the PSE adequately has addressed these concerns.

A. Index Design and Structure

The Commission finds that the Israeli Index is a narrow-based index. The Israel Index is composed of only 12 securities, all of which represent Israeli companies. Accordingly, in light of the limited number of securities in the Index, the Commission believes it is proper to classify the Israeli Index as narrow-based and apply PSE's rules governing narrow-based index options to trading in the Index options.²²

The Commission also finds that the large capitalizations, liquid markets, and relative weightings of the Index's component securities significantly minimize the potential for manipulation of the Index. First, the overwhelming

Exchange, Inc. Because of potential opportunities for trading abuses involving stock index futures, stock options, and the underlying stock and the need for greater sharing of surveillance information for these potential intermarket trading abuses, the major stock index futures exchanges (*e.g.*, the Chicago Mercantile Exchange and the Chicago Board of Trade) joined the ISG as affiliate members in 1990.

²⁰ 15 U.S.C. 78f(b)(5) (1988).

²¹ Pursuant to Section 6(b)(5) of the Act, the Commission must predicate approval of any new option proposal upon a finding that the introduction of such new derivative instrument is in the public interest. Such a finding would be difficult for a derivative instrument that served no hedging or other economic function, because any benefits that might be derived by market participants likely would be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns. In this regard, the trading of listed Index options and Index LEAPS will provide investors with a hedging vehicle that should reflect the overall movement of Israeli securities in the U.S. securities markets.

²² See *supra* notes 16 through 18, and accompanying text.

¹³ A European-style option can be exercised only during a specified period before the option expires.

¹⁴ See Amendment No. 3, *supra* note 6.

majority of the components that comprise the Index are actively traded, with an average monthly trading volume for the period from December 1, 1993 through May 31, 1994, ranging from a high of 9.98 million shares per month to a low of 726,667 shares per month. Secondly, the market capitalizations of the securities in the Index are very large, ranging from a high of \$1.22 billion to a low of \$59.03 million as of May 31, 1994, with an average capitalization of \$386 million. Third, although the Index is only composed of 12 component securities, no one particular security or group of securities dominates the Index. Specifically, because the Index is equal dollar-weighted, each component security accounts for only 8.33% of the total weight of the Index. Fourth, at least 85% of the securities in the Index, by weight, and at least 80% of the number of components of the Index, must be eligible for standardized options trading. This proposed maintenance requirement will ensure that the Index is substantially comprised of options eligible securities. Fifth, if the PSE increases the number of component securities to more than 16 or decreases that number to less than nine, the PSE will be required to seek Commission approval pursuant to Section 19(b)(2) of the Act before listing new strike price or expiration month series of Israeli Index options and Index LEAPS. This will help protect against material changes in the composition and design of the Index that might adversely affect the PSE's obligations to protect investors and to maintain fair and orderly markets in Israeli Index options and Index LEAPS. Sixth, the PSE will be required to ensure that each component of the Index is subject to last sale reporting pursuant to Rule 11Aa3-1 of the Act.²³ This will further reduce the potential for manipulation of the value of the Index. Finally, the Commission believes that the expense of attempting to manipulate the value of the Israeli Index in any significant way through trading in component stocks, ADRs, or securities underlying ADRs (or options on those securities) coupled with, as discussed below, existing mechanisms to monitor trading activity in those securities, will help deter such illegal activity.

In addition, the Commission does not believe that the fact that the Index is equal dollar-weighted instead of market-weighted or price-weighted results in the Index being readily susceptible to manipulation. Because the use of an equal dollar-weighting method could give securities with relatively small floats or prices a greater weight in the

Index than if the Index were capitalization weighted or price weighted, the Commission is concerned that this calculation method could make the Index more readily susceptible to manipulation. The PSE, however, has developed several composition and maintenance criteria for the Index that the Commission believes will minimize the possibility that the Index could be manipulated through trading in less actively traded securities or securities with smaller prices or floats. First, after each quarterly rebalancing, the PSE proposal requires that 85% of the weighting of the Index and 80% of the number of components of the Index be accounted for by securities that are eligible for standardized options trading. The Commission believes that this requirement will ensure that the Index will be almost entirely made up of securities with large public floats that are actively traded, thus reducing the likelihood that the Index could be manipulated by abusive trading in the smaller securities contained in the Index. Secondly, the Commission believes that the quarterly rebalancing of the Index will further serve to reduce the susceptibility of the Index to manipulation. Through the quarterly rebalancing, any "overweight" component security²⁴ will be brought back into line with the other securities, thus ensuring that less capitalized securities do not become excessively weighted. Third, because the Index is narrow-based, the applicable position and exercise limits and margin requirements will further reduce the susceptibility of the Index to manipulation. Lastly, the PSE will only add new component securities to the Index that are representative of the Israeli economy, are traded in the U.S., are subject to last sale reporting pursuant to Rule 11Aa3-1 of the Act, and, as discussed above, the PSE will take into account a security's capitalization, liquidity, and volatility before adding the security to the Index.

B. Customer Protection

The Commission believes that a regulatory system designed to protect public customers must be in place before the trading of sophisticated financial instruments, such as Israeli Index options (including Israel LEAPS), can commence on a national securities exchange. The Commission notes that

²⁴ A security would be "overweight" if its weight in the Index were greater than the average weight of all of the securities in the Index. This would occur, for example, if the price of a component security significantly increased relative to the other securities in the Index during a particular quarter and prior to the rebalancing.

the trading of standardized exchange-traded options occurs in an environment that is designed to ensure, among other things, that: (1) The special risk of options are disclosed to public customers; (2) only investors capable of evaluating and bearing the risks of options trading are engaged in such trading; and (3) special compliance procedures are applicable to options accounts. Accordingly, because the Index options and Index LEAPS will be subject to the same regulatory regime as the other standardized options currently traded on the PSE, the Commission believes that adequate safeguards are in place to ensure the protection of investors in Israeli Index options and Israel Index LEAPS.

The Commission also has some concern that the quarterly rebalancing of the Index could result in investor confusion because the number of shares of each component security in the Index could fluctuate each quarter. Such fluctuation, among other things, could make it difficult for investors to maintain any corresponding cash positions in the securities underlying the Index. The Commission, however, does not believe that the quarterly rebalancing will result in dramatic changes in the weightings of the component securities. Moreover, the Commission believes the benefits to be derived from using a quarterly rebalancing will more than offset the potential confusion for investors. Specifically, the Commission believes the quarterly rebalancing will ensure that no security or group of securities will have a disproportionate impact on the Index. Additionally, the Commission has approved several indexes that use an equal dollar-weighting system and has not been made aware of any problems with respect to investor confusion arising from the use of this weighting method.²⁵

Finally, the PSE has developed procedures to ensure that investors are adequately notified of any changes due to the quarterly rebalancing of the Index. In particular, the PSE represents that it will send informational circulars to its members notifying them of any changes to the Index as a result of the quarterly rebalancing prior to the implementation of those changes. In addition, the PSE has stated that it will include a description of the equal dollar-weighting methodology in all its promotional and marketing materials for

²⁵ See, e.g., Securities Exchange Act Release Nos. 31245 (September 28, 1992), 57 FR 45844 (October 5, 1992) (options on the Amex Biotechnology Index); and 33720 (March 7, 1994), 59 FR 11630 (March 11, 1994) (options on the Amex Natural Gas Index).

²³ See Amendment No. 3, *supra* note 6.

the Index. The Commission believes these procedures should help to avoid any investor confusion, while providing important information about the special characteristics of the Index.

C. Surveillance

The Commission believes that a surveillance sharing agreement between an exchange proposing to list a security index derivative product and the exchange(s) trading the securities underlying the derivative product is an important measure for surveillance of the derivative and underlying securities markets. Such agreements ensure the availability of information necessary to detect and deter potential manipulations and other trading abuses, thereby making the security index product less readily susceptible to manipulation.²⁶ In this regard, the PSE, NYSE, Amex, and NASD are all members of the ISG, which provides for the exchange of all necessary surveillance information.²⁷ Further, as to present and future ADR components of the Index,²⁸ either the Exchange will have comprehensive surveillance sharing agreements with the primary foreign markets for the securities underlying the ADRs or the U.S. will be the relevant market for surveillance purposes.²⁹

D. Market Impact

The Commission believes that the listing and trading of Israel Index options, including Index LEAPS, on the PSE will not adversely impact the

underlying securities markets.³⁰ First, as described above, for the most part, no one security or group of securities dominates the Index. Second, because at least 85 of the numerical value of the Index and at least 80% of the components of the Index must be accounted for by securities that meet the Exchange's options listing standards, and because each of the component securities must be subject to last sale reporting pursuant to Rule 11Aa3-1 of the Act, the component securities generally will be actively-traded, highly-capitalized securities. Third, the 7,500 contract position and exercise limits applicable to Index options and Index LEAPS will serve to minimize potential manipulation and market impact concerns.

Lastly, the Commission believes that settling expiring Israeli Index options (including Index LEAPS) based on the opening prices of component securities is consistent with the Act. As noted in other contexts, valuing options for exercise settlement on expiration based on opening prices rather than closing prices may help reduce adverse effects on markets for securities underlying options on the Index.³¹

The Commission finds good cause for approving Amendment No. 3 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register** in order to allow the Exchange to list without delay options on the Index. Specifically, the Commission believes that the proposal changing the name of the Index to the Telegraph Ltd. Israel Index, initializing the value of the Index at a level of 150, and changing the Index cycle to the March cycle, are non-substantive changes that will not alter the terms of the Index options, as discussed herein, and will not cause investor confusion because the changes are being made prior to the beginning of dissemination of the Index value and prior to trading of the Index options and Index LEAPS. Additionally, the clarification that all components of the Index must be subject to last sale reporting pursuant to Rule 11Aa3-1 of the Act should help to

³⁰In addition, the PSE has represented that the PSE and the OPRA have the necessary systems capacity to support those new series of index options that would result from the introduction of Index options and Index LEAPS. See Letter from Michael Pierson, Senior Attorney, Market Regulation, from Michael Pierson, Senior Attorney, Market Regulation, PSE, to Brad Ritter, Attorney, OMS, Division, Commission, dated August 10, 1994; and Memorandum from Joe Corrigan, Executive Director, OPRA, to Kim Koppien, PSE, dated August 5, 1994.

³¹See Securities Exchange Act Release No. 30944 (July 21, 1992), 57 FR 33376 (July 28, 1992).

ensure that current pricing information regarding the components of the Index will be available, thereby minimizing any potential for manipulation of the Index. Accordingly the Commission believes that good cause exists for approving Amendment No. 3 to the proposed rule change on an accelerated basis.

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 3. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the PSE. All submissions should refer to the File Number SR-PSE-94-15 and should be submitted by [insert date 21 days after the date of this publication].

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,³² that the proposed rule change (SR-PSE-94-15), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.³³

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94-22731 Filed 9-13-94; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-20541; File No. 812-9048]

Chubb Life Insurance Company of America, et al.

September 8, 1994.

AGENCY: Securities and Exchange Commission (the "SEC" or the "Commission").

ACTION: Notice of application for an order under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: Chubb Life Insurance Company of America ("Chubb Life"), for

³² 15 U.S.C. 78s(b)(2) (1988).

³³ 17 CFR 200.30-3(a)(12) (1993).

²⁶ Securities Exchange Act Release No. 31243 (September 28, 1992), 57 FR 45849 (October 5, 1992).

²⁷ See note 19, *supra*. If the prices of the ADR components, or the composition of the Index, should change so that greater than 20% of the weight of the Index would be represented by ADRs whose underlying securities were not the subject of a comprehensive surveillance sharing agreement with the CBOE, then it would be difficult for the Commission to reach the conclusions reached in this order and the Commission would have to determine whether it would be suitable for the Exchange to continue to trade options on this Index. The CBOE should, accordingly, notify the Commission immediately if more than 20% of the numerical value of the Index is represented by ADRs whose underlying securities are not subject to a comprehensive surveillance sharing agreement. Such a change in the current relative weights of the Index or in the composition of the Index may warrant the submission of a rule filing pursuant to Section 19 of the Act. In determining whether a particular ADR is subject to a comprehensive surveillance sharing agreement see, e.g., Securities Exchange Act Release Nos. 31531 (November 27, 1992), 57 FR 57250 (December 3, 1992); and 33554 (January 31, 1994), 59 FR 5622 (February 7, 1994).

²⁸ Presently, Teva Pharmaceuticals is the only ADR component of the Index.

²⁹ See Securities Exchange Act Release Nos. 31530 (November 27, 1992) 57 FR 57262 (December 3, 1992); and 33551 (January 31, 1994), 59 FR 5631 (February 7, 1994).

itself and on behalf of its Chubb Separate Account VA-1 ("Chubb Separate Account"), The Colonial Life Insurance Company of America ("Colonial Life"), for itself and on behalf of its Colonial Separate Account VA-2 ("Colonial Separate Account"), and Chubb Securities Corporation ("Chubb Securities"). (Chubb Life, Chubb Separate Account, Colonial Life, Colonial Separate Account and Chubb Securities shall be referred to herein collectively as the "Applicants.")

RELEVANT 1940 ACT SECTIONS: Order requested under Section 6(c) of the 1940 Act, for exemptions from Sections 26(a)(2)(C) and 27(c)(2) thereunder.

SUMMARY OF APPLICATION: The Applicants seek an order to the extent necessary to permit the issuance and sale of certain individual flexible payment deferred variable annuity contracts (the "Contracts") with the deduction of a mortality risk charge and an expense risk charge.

FILING DATE: The application was filed initially on June 7, 1994. An amended and restated application was filed on September 1, 1994.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing on the application by writing to the Secretary of the Commission and serving the Applicants with a copy of the request, either personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on October 3, 1994, and should be accompanied by proof of service on the Applicants in the form of an affidavit or, for lawyers, by certificate. Hearing requests should state the nature of the interest, the reason for the request, and the issues contested. Persons may request notification of the date of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549. Applicants, One Granite Place, Concord, NH, 03301.

FOR FURTHER INFORMATION CONTACT: Patrice M. Pitts, Attorney, Office of Insurance Products, Division of Investment Management, at (202) 942-0670.

SUPPLEMENTARY INFORMATION: The following is a summary of the Application. The complete Application is available for a fee from the Commission's Public Reference Branch.

Applicants' Representations

1. Chubb Life is a stock life insurance company chartered in 1903 under the

laws of Tennessee, and redomesticated under the laws of New Hampshire on July 1, 1991. Chubb Life is a wholly-owned subsidiary of the The Chubb Corporation, a New Jersey corporation, and is licensed to do business in all states except New York, as well as in Puerto Rico, the U.S. Virgin Islands, Guam and the District of Columbia. The Chubb Separate Account is a separate account of Chubb Life established under the laws of New Hampshire for the purpose of funding variable annuity contracts.

2. Colonial Life, a wholly-owned subsidiary of Chubb Life, is a stock life insurance company chartered in New Jersey in 1897. Colonial Life is licensed to do business in all fifty states, as well as in Puerto Rico, the U.S. Virgin Islands, and the District of Columbia. The Colonial Separate Account is a separate account of Colonial Life established under the laws of New Jersey for the purpose of funding variable annuity contracts.

3. The Chubb Separate Account and the Colonial Separate Account (collectively, the "Separate Accounts") are registered with the Commission as unit investment trust series investment companies under the 1940 Act.¹ Each of the separate Accounts will maintain a separate series of units for seven subaccounts (the "Divisions"), each of which will invest its assets, without sales charge, in a corresponding investment series of the UST Master Variable Series, Inc. (the "Fund").

4. The Contracts are individual flexible payment deferred variable annuity contracts. The Contracts may be purchased on a nontax-qualified basis or purchased and used in connection with certain plans entitled to special income tax treatment under Section 408 of the Internal Revenue Code. The Contracts will provide for the accumulation of capital on a variable basis only; no fixed account investment option is offered prior to the annuity date. Payment of annuity benefits will be available on a fixed or a variable basis, or a combination of both.

5. Chubb Life and Colonial Life (collectively, the "Insurers") will deduct from the Separate Accounts an Administration Charge which will be an amount computed and deducted daily, and equal on an annual basis to 0.05% of the total assets of the Separate

¹ Contemporaneous with the filing of this application, Chubb Life and Colonial Life each filed a notice of registration of Form N-8A and a registration statement on Form N-4 on behalf of the Chubb Separate Account and the Colonial Separate Account, respectively. The Contracts will be registered under the Securities Act of 1933 by such Forms N-4.

Accounts. The Administration Charge will be imposed prior to the annuity date and, with respect to reserves held for variable annuity payments, on and after the annuity date. The deduction of the Administration Charge is designed to reimburse the Insurers for the cost of administrative and related expenses, and is not expected to be a source of profit. Although administrative expenses may rise in the future, the Insurers guarantee that they will not increase the amount of the Administration Charge for outstanding Contracts.

6. Although the first twelve transfers in a Contract year will be free of charge, the Insurers will assess a charge of \$75 for the thirteenth and each subsequent transfer in a given Contract year. The Insurers reserve the right to reduce to eight the number of free transfers each Contract year.

7. The transfer charge is designed to compensate the Insurers for the administrative costs associated with processing excessive transfer requests. The transfer charge is guaranteed not to increase for outstanding Contracts. The Insurers reserve the right to modify such charge, however, but such modification shall apply only with respect to Contracts established after the effective date of such modification.

8. The Applicants proposed to rely on Rules 26a-1 and 6c-8(c) under the 1940 Act for the exemptive relief necessary to permit the assessment of the Administration Charge and the transfer charge. The Insurers do not expect to recover from these charges any amount in excess of the respective Insurer's accumulated expenses in connection with the administrative activities for which the charges will be assessed.

9. No sales charge will be deducted from the purchase payments as they are made to the Contracts. Instead, a contingent deferred sales charge (the "Withdrawal Charge") will be assessed in some circumstances when a partial withdrawal is made from a Contract or when a Contract is surrendered before the annuity date. The Withdrawal Charge is designed as partial compensation to the Insurers for the costs of selling and distributing the Contracts.

10. For up to four withdrawals per Contract year, the Insurers will waive the Withdrawal Charge, if any, on an amount (the "Free Withdrawal Amount") up to 10% of the Contract value as of the valuation date that a partial withdrawal or surrender request is received, less any previous withdrawals during the same Contract year for which Withdrawal Charges are waived. Any unused portion of the Free

Withdrawal Amount is noncumulative and will not apply to partial withdrawals or a surrender made in subsequent Contract years.

11. The Withdrawal Charge will be deducted as a percentage of amounts withdrawn in a Contract year in excess of any Free Withdrawal Amount. The applicable percentage will depend upon when the purchase payments to which the partial withdrawal or surrender is deemed attributable is made, as indicated in the following schedule:

| Number of complete years from date of purchase payment | Charge as a percentage of purchase payments withdrawn |
|--|---|
| 0 to 1 | 3.0 |
| 1+ to 2 | 3.0 |
| 2+ to 3 | 2.0 |
| 3+ to 4 | 1.0 |
| 4+ | 0.0 |

The oldest previously unliquidated purchase payment will be deemed to have been liquidated first, then the next oldest purchase payment, and so forth. Once all purchase payments have been liquidated, additional amounts surrendered or withdrawn will not be subject to a Withdrawal Charge.

Withdrawal Charges will never exceed 3.0% of total purchase payments made.

12. No Withdrawal Charge will be imposed if an annuity option is chosen or for amounts withdrawn in connection with a systematic withdrawal program. The Withdrawal Charge also may be eliminated when the Contracts are issued to an officer, director, employee or retired officer, director or employee of the Insurers, Chubb Securities or United States Trust Company of New York, the investment adviser of the Fund, or affiliates of such companies.

13. The Applicants propose to rely on Rule 6c-8(b) under the 1940 Act for the exemptive relief necessary to permit imposition of the Withdrawal Charge.

14. The Insurers will deduct any premium taxes or similar state or local tax attributable to a Contract. The Applicants proposed to rely on Rule 26a-2(d) under the 1940 Act to permit deduction of any premium taxes from the assets of the Separate Accounts. The Insurers reserve the right to assess a charge for any effect which the income, assets, or existence of the Contracts, the Separate Accounts, or the Divisions may have upon the Insurers' federal income tax, should such taxes be incurred by the Insurers in connection with the operation of the Separate Accounts.

15. The Insurers will compute and deduct daily, as part of the net investment factor used to determine that

value of the accumulation units and annuity units from one valuation period to the next, a Mortality Risk Charge equal on an annual basis to 0.55% of the total assets of the Separate Accounts. The Mortality Risk Charge will be assessed prior to the annuity date and, with respect to reserves held for variable annuity payment options, on and after the annuity date. The Mortality Risk Charge is guaranteed not to increase.

16. The mortality risk arises from each Insurer's guarantee that it will make annuity payments in accordance with annuity rate provisions established at the time the Contract is issued, for the life of the Contract owner or annuitant (or in accordance with the annuity option selected), no matter how long the annuitant lives and no matter how long all annuitants as a class live.

17. The Insurers also will deduct an Expense Risk Charge which is calculated by taking the Contract value (or, on and after the annuity date, the variable annuity reserve amount) as of the first day of each Contract month (or on the next valuation date if the first day of the Contract month is not a valuation date), and multiplying such Contract value (or reserve amount) by a monthly factor equal on an annual basis to the following percentages:

| Contract value as of contract month anniversary | Expense risk charge percentage |
|---|--------------------------------|
| Less than \$250,000 | 0.30 |
| \$250,000 but less than \$1,000,000 | 0.20 |
| \$1,000,000 or greater | 0.05 |

The lower Expense Risk Charge "breakpoints" for larger Contract values reflect the less significant expense risks associated with larger Contracts because of lower administrative expenses on a per Contract basis. Before the annuity date, the Expense Risk Charge is deducted by canceling accumulation units (or fractions thereof) from each Division in the same proportion that the value in each Division bears to the total Contract value. On and after the annuity date, the Expense Risk Charge is deducted from any variable annuity payments at the time such payment are made.² The Expense Risk Charge is guaranteed not to increase.

² Applicants propose to impose the Expense Risk Charge as a monthly redemption of units from individual Contracts and as a deduction from Variable Annuity payments because to reflect the "breakpoint" variations described above through the unit value calculation is not administratively feasible. By deducting the Expense Risk Charge as a Contract-level charge the Insurers will avoid having to maintain three sets of unit values for each of the seven Divisions (i.e., one set for each

18. The Applicants recognize that deducting an expense risk charge on a monthly basis, at the contract level, as a redemption of units, differs from typical industry practice for variable annuities.³ To assure that the less frequent deduction of the Expense Risk Charge does not result in such charges being effectively larger for Contract owners than a solely daily charge at annual rates of 0.36%, 0.29% and 0.05%, these charges will be administered monthly using monthly factors of 0.000249656, 0.0001666514 and 0.000041657, respectively, which, when annualized equates to 29.99989%, 19.99999% and 4.99999%, respectively.

19. The expense risk assumed by each of the insurers is that the costs of administering the Contracts and the Separate Accounts will exceed the amount received from the Administration Charge.

20. The Applicants submit that if the Mortality Risk Charge and the Expense Risk Charge are insufficient to cover the actual cost of the mortality and expense risks assumed, the Insurers will bear the loss. Conversely, if the Mortality Risk Charge and the Expense Risk Charge prove more than sufficient, the excess will be profit to the Insurers and will be available for any proper corporate purpose including, among other things, payment of distribution expenses.

Applicants' Legal Analysis and Conditions

1. The Applicants request exemptions from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act to the extent necessary to permit the issuance and sale of the Contracts with the deduction of a Mortality Risk Charge and an Expense Risk Charge from the assets of the Separate Accounts which serve as funding media for the Contracts.

2. Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act, as herein pertinent, require that all payments received under a periodic payment plan certificate sold by a registered unit investment trust, any depositor thereof or underwriter thereof, be held by a qualified bank as trustee or custodian, under arrangements which prohibit any

"breakpoint"). The Insurers' computer systems are not currently capable of administering 21 distinct unit value calculations without extensive modifications, the cost of which would otherwise be passed to the Contract owners.

³ The Applicants note that the Commission recently granted exemptive relief to a variable annuity issuer proposing to deduct a portion of its mortality and expense risk charge as a monthly, contract-level charge, in a manner similar to that proposed herein by the Applicants. The Manufacturers Life Insurance Company of America, et al., Investment Company Act Release No. 20275 (May 5, 1994) (order); Investment Company Act Release No. 20202 (Apr. 7, 1994) (notice).

payment to the depositor or principal underwriter expect for the payment of a fee, not exceeding such reasonable amount as the Commission may prescribe, for bookkeeping and other administrative services.

3. The Applicants submit that the Insurers are entitled to reasonable compensation for their assumption of mortality and expense risks, and represent that the daily Mortality Risk Charge of 0.55% per annum and the maximum monthly Expense Risk Charge of 0.30% per annum is within the range of industry practice for comparable annuity products. The Applicants state that this representation is based upon an analysis of publicly available information about selected comparable variable annuity contracts currently being offered in the insurance industry, taking into consideration such factors as current charge levels, the manner in which the charges are assessed, the presence of charge level or annuity rate guarantees, and the markets in which the Contracts will be offered. The Applicants represent that the Insurers will maintain at their respective home offices, and will make available to the Commission upon request, a memorandum outlining the methodology relied upon in their respective analyses.

4. The Applicants acknowledge that the Withdrawal Charge under the Contracts is expected to be insufficient to cover all costs relating to the distribution of the Contracts. If a profit is realized from the Mortality Risk Charge and from the Expense Risk Charge, all or a portion of such profit may be offset by distribution expenses not reimbursed by the Withdrawal Charge. In such circumstances, a portion of the Mortality Risk Charge and the Expense Risk Charge might be viewed as providing for a portion of the costs relating to distribution of the Contracts. Notwithstanding the foregoing, the Insurers have concluded that there is a reasonable likelihood that the proposed distribution financing arrangements made with respect to the Contracts will benefit the Separate Accounts and the Contract Owners. The basis for such conclusion is set forth in a memorandum which will be maintained by each of the Insurers at its respective home office and will be available to the Commission upon request.

5. The Applicants represent that the Separate Accounts will invest only in underlying mutual funds which have undertaken to have a board of directors/trustees, a majority of the members of which are not "interested persons" of such funds, formulate and approve any plan to finance distribution expenses in

accordance with Rule 12b-1 under the 1940 Act.

6. The Applicants agree to the following conditions if the requested order is granted: (i) fee tables (including examples) will reflect all applicable charges and will permit comparison with other contracts on the same basis as if the Expense Risk Charge were deducted in the same manner as the Mortality Risk Charge and the Administration Charge; (ii) all advertisements of the performance of the Divisions of the Separate Accounts will reflect the impact of the Expense Risk Charge, and changes in accumulation unit values will not be advertised without so reflecting the maximum Expense Risk Charge; and (iii) if the size of the Expense Risk Charge is discussed in advertisements or sales literature, it will be presented in conjunction with the Mortality Risk Charge and the Administration Charge as a total asset charge, with disclosure that the Expense Risk Charge is deducted monthly as a contract-level charge while the Mortality Risk Charge and the Administration Charge are asset-based charges deducted daily.

Conclusion

The Applicants submit that for the reasons and upon the facts set forth above, the requested exemptions from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act to permit the deduction of the Mortality Risk Charge and the Expense Risk Charge under the Contracts meet the applicable statutory standards in Section 6(c) of the 1940 Act. The applicants assert that the requested exemptions are necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Maragaret H. McFarland,

Deputy Secretary.

[FR Doc. 94-22732 Filed 9-13-94; 8:45am]

BILLING CODE 8010-01-M

[Rel. No. IC-20542; 812-8634]

Iowa Business Development Finance Corporation; Notice of Application

September 8, 1994.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for exemption under the Investment Company Act of 1940 (the "Act").

APPLICANT: Iowa Business Development Finance Corporation.

RELEVANT ACT SECTIONS: Order requested under section 6(c) for an exemption from all provisions of the Act.

SUMMARY OF APPLICATION: Applicant is a business and industrial development corporation organized under Iowa law. Applicant was organized to foster economic development in the State of Iowa by making loans to and investments in small developing companies. Applicant seeks an exemption from all provisions of the Act.

FILING DATES: The application was filed on October 18, 1993 and amended on August 3, 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 October 3, 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 who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549. Applicant, 200 East Grand Avenue, Des Moines, Iowa 50309.

FOR FURTHER INFORMATION CONTACT: Marc Duffy, Senior Attorney, at (202) 942-0565, or C. David Messman, Branch Chief, at (202) 942-0564 (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 from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant was incorporated under the laws of Iowa on April 3, 1989 for the purpose of promoting the business prosperity of the State of Iowa and its citizens. Applicant provides financial and management assistance to businesses that may not otherwise qualify for conventional financial assistance from the commercial banking industry. In rendering financial assistance to businesses, applicant may purchase debt and equity securities from such businesses.

2. Applicant is authorized by and regulated under the Iowa Business Development Finance Act of 1988 (the

"Iowa Act"). As required by the Iowa Act, applicant's board of directors consists of twelve directors, seven of whom are public officials. Among applicant's public directors are the Superintendent of Banking and the Commissioner of Insurance. Applicant's president is appointed by the Director of the Iowa Department of Economic Development (the "Department") from the division within the Department that administers business financial assistance programs. The Iowa Act mandates operational control of applicant by the Department.

3. The Iowa Act requires applicant to submit annual reports of its operations and condition to the Iowa Governor and the Iowa Legislature. The Iowa Act also gives the Department authority to request the Iowa Superintendent of Banking to examine applicant and submit a report to the Department, with copies to the Governor and Iowa Legislature.

4. Currently, two employees of the Department are the only officers of applicant. MABSCO Capital, Inc. ("MABSCO"), applicant's investment adviser, assists applicant's officers in selecting investments in Iowa businesses. MABSCO is registered as an investment adviser under the Investment Advisers Act of 1940. MABSCO recommends investments to a five-member Investment Committee composed of members of applicant's board of directors. The Investment Committee and applicant's president must approve each investment.

5. The Iowa Legislature appropriated \$4,650,000 to applicant as a grant to encourage private investment in applicant. In 1989, applicant undertook a private offering of its securities under Rule 506 of Regulation D under the Securities Act of 1933. Applicant's securities were offered only to "accredited investors" (as defined in rule 501(a) of Regulation D) in the State of Iowa. At the conclusion of the private offering, 174 shareholders had invested \$6,660,500 in applicant. Every investor is a financial institution, except for three insurance companies and one public utility.

6. Applicant does not have any present intention to make a public offering of its common stock or other securities. Any subsequent offering of its common stock or other securities will be made in compliance with the provisions of the Securities Act of 1933 or applicable exemptions therefrom. In any public offering registered under the Securities Act of 1933, applicant will implement reasonable procedures designed to limit purchasers in such offering, and purchasers in any

secondary trading market which might develop, to those persons who would be deemed to be sophisticated investors capable of understanding and assuming the risks involved in an investment in applicant's securities.

7. Applicant has made investments in 18 Iowa companies since 1989. The nature of the investments ranges from debt obligations, in essence commercial loans, to common and preferred stock. There is no public market for any of these investments.

8. It had been contemplated by applicant's organizers that applicant might be an investment company subject to the Act if its shares were sold to more than 100 shareholders. The organizers were advised that if applicant qualified as an investment company, it could take advantage of certain tax benefits under Subchapter M of the Internal Revenue Code. In light of the potential advantage of Subchapter M, applicant registered under the Act in August 1989, rather than seek an exemption from the provisions of the Act. In its almost four years of operations, however, applicant has not earned a profit and has been taxed as a "C" corporation, not under Subchapter M.

Applicant's Legal Analysis

1. Section 3(a)(3) of the Act defines the term "investment company" to include any issuer that "is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 per centum of the value of such issuer's total assets (exclusive of Government securities and cash items) on an unconsolidated basis." Applicant concedes that its holdings of investment securities may exceed the 40% test set forth in section 3(a)(3).

2. Section 6(c) of the Act provides that the SEC may exempt any person or transaction from any and all provisions of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

3. Applicant believes that because of the state regulation to which it is subject, and the public purposes for which it is organized, it is not necessary or appropriate for it to be subject to the provisions of the Act or the rules thereunder. In addition, applicant asserts that it is organized under a state statute designed to produce economic development initiatives on a local basis, and is supervised and examined by the

relevant state authority. Thus, applicant believes that it is not the type of investment company that the Act was designed to regulate. Accordingly, applicant asserts that it meets the section 6(c) standards for an exemption.

4. Applicant is subject to regulation under the Act and the Iowa Act. Both regulatory measures provide safeguards for applicant's investors. The two regulatory schemes impose disparate requirements, however, the sum total of which is an onerous burden upon applicant. For example, section 16(a) of the Act requires that directors of a registered investment company be elected by shareholders. Applicant cannot meet this requirement, however, because many of its directors are specified by the Iowa Act.

5. While it is not possible to know the reasons each investor purchased stock in applicant, in light of the purpose of the Iowa Act and the financial stake every investor has in the development of Iowa's economy, it is reasonable to conclude that economic development, not profit, was the reason those accredited investors purchased stock in applicant.

6. Upon the SEC's granting of an order on this application, applicant will file an application for an order under section 8(f) of the Act declaring that it has ceased to be an investment company.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 94-22733 Filed 9-13-94; 8:45 am]
BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 09/09-5338]

Charterway Investment Corporation

Notice is hereby given of the filing of a request by Charterway Investment Corporation (CIC), a Small Business Investment Company, of 624 South Grand Avenue, Suite 1600, Los Angeles, California 90017 for an exemption to CFR 13, section 107.903(b) of the Small Business Investment Companies Regulations, which prohibit a licensee from directly or indirectly financing an associate.

SBA has requested that CIC divest its interest in New Park Center, Inc., Baldwin Park Professional Building, Ltd., and Western General Enterprises, Inc. (the Real Estate), because these investments are prohibited real estate investments under section 107.901(c). The exemption requested concerns the

sale of the Real Estate to Messrs. Hiram W. Kwan, Tien H. Chen, Harold Chuang, Philip Chuang, and Edmund C. Lau, the current shareholders and associates of CIC, to be partially financed by CIC. CIC has been unsuccessful in its attempts to sell the Real Estate to unrelated third parties.

The proposed terms of the sale of the Real Estate include: (1) A sale price of \$1.2 million which is at CIC's book value; (2) a 30 percent cash down payment, and (3) a 15-year amortized note at 7 percent, due and fully payable in three years. The Real Estate has been appraised at \$1.069 million as of July 27, 1994 by an independent appraiser.

Notice is hereby given that any person may, not later than 30 days from the date of publication of this Notice, submit written comments on the proposed transaction to the Associate Administrator for Investment, Small Business Administration, 409 3rd Street, S.W., Washington, D.C. 20416.

A copy of this Notice will be published in a newspaper of general circulation in Los Angeles, California.

Dated: September 7, 1994.

(Catalog of Federal Domestic Assistance Programs No. 59.011, Small Business Investment Companies)

Robert D. Stillman,

Associate Administrator for Investment.

[FR Doc. 94-22679 Filed 9-13-94; 8:45 am]

BILLING CODE 8025-01-M

[Application No. 99000129]

Novus Ventures, L.P.; Filing of an Application for a License To Operate as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to Section 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1994)) by Novus Ventures, L.P., 20111 Stevens Creek Boulevard, Suite 130, Cupertino, California 95014 for a license to operate as a small business investment company (SBIC) under the Small Business Investment Act of 1958, as amended, (15 U.S.C. et. seq.), and the Rules and Regulations promulgated thereunder. Novus Ventures, L.P. is a limited partnership formed under Delaware law. Its principal area of operation is in the San Francisco Bay area cities such as, San Francisco, Palo Alto, Mountain View, Sunnyvale, Cupertino, Santa Clara, San Jose, Milpitas, and Fremont. The Applicant also expects to explore business opportunities in Southern California, and may occasionally make

investments outside the state of California. Novus Ventures, L.P. will be managed by DT Associates, a Delaware limited partnership, located at 20111 Stevens Creek Boulevard, Suite 130, Cupertino, California 95014. The following limited partners will own 10 percent or more of the proposed SBIC:

| Name | Percentage of ownership |
|-------------------------------|-------------------------|
| Dan Tompkins | 29.8 |
| Stephen Sheafor/Cindy Lindsay | 10.9 |

The Applicant will begin operations with an initial capitalization of approximately \$5.1 million. The Applicant will make investments in the field of information technology. Most investments will be in relatively early stage companies. The Applicant may occasionally finance start-up businesses, but generally will look for companies that have completed the development of a product and are engaged in the early marketing phase of the product. The Applicant will typically be involved in the company's first round of formal venture capital financing and will obtain a major voice in issues such as financing terms and the makeup of the company's Board of Directors. The Applicant will usually co-invest with other venture capital funds.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new SBIC under their management, including profitability and financial soundness in accordance with the Act and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Associate Administrator for Investment, Small Business Administration, 409 3rd Street, S.W., Washington, DC 20416.

A copy of this Notice will be published in a newspaper of general circulation in San Francisco Bay Area of California.

(Catalog of Federal Domestic Assistance Programs No. 59.011, Small Business Investment Companies)

Dated: September 7, 1994.

Robert D. Stillman,

Associate Administrator for Investment.

[FR Doc. 94-22678 Filed 9-13-94; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice 2074]

Shipping Coordinating Committee; Subcommittee on Safety of Life at Sea and Associated Bodies, Working Group on Stability and Load Lines, and on Fishing Vessels Safety; Meeting

The Working Group on Stability and Load Lines and on Fishing Vessels Safety of the Subcommittee on Safety of Life at Sea (SOLAS) will conduct an open meeting at 9 a.m. on Friday, September 30, 1994, in room 6319, at U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593-0001. This meeting will discuss preparations for the 39th Session of the Subcommittee on Stability and Load Lines and on Fishing Vessels Safety (SLF) and associated bodies of the International Maritime Organization (IMO) which is scheduled for March 13-17, 1995, at the IMO Headquarters in London. The purpose of the meeting is to discuss the papers received and the draft U.S. positions for the upcoming meeting.

Among other things, the items of particular interest are:

- The role of human factors in design and operations.
- Harmonization of probabilistic damage stability provisions for all ship types.
- Technical revisions to the 1966 Load Line Convention.
- Probabilistic oil outflow.

Members of the public may attend this meeting up to the seating capacity of the room. Interested persons may seek information by writing: H. P. Cojeen or W. M. Hayden, U.S. Coast Guard Headquarters, Commandant (G-MTH-3), Room 1308, 2100 Second Street, SW., Washington, DC 20593-0001 or by calling: (202) 267-2988.

Dated: August 30, 1994.

Stephen Miller,

Acting Executive Secretary, Shipping Coordinating Committee.

[FR Doc. 94-22657 Filed 9-13-94; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee Meeting on Air Carrier Operations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the

Federal Aviation Administration
Aviation Rulemaking Advisory
Committee to discuss air carrier
operations issues.

DATES: The meeting will be held on
September 27, 1994 at 9:00 a.m.

ADDRESSES: The meeting will be held at
the Nassif Building, Headquarters,
Department of Transportation, Room
4236, 400 7th Street SW., Washington,
DC 20590.

FOR FURTHER INFORMATION CONTACT: Mrs.
Marlene Vermillion, Flight Standards
Service, Air Transportation Division
(AFS-200), 800 Independence Avenue
SW., Washington, DC 20591, telephone
(202) 267-8166.

SUPPLEMENTARY INFORMATION: Pursuant
to section 10(a)(2) of the Federal
Advisory Committee Act (Pub. L. 92-
463, 5 U.S.C. App II), notice is hereby
given of a meeting of the Aviation
Rulemaking Advisory Committee to be
held on September 27, 1994, at the
Nassif Building, Headquarters,
Department of Transportation, Room
4236, 400 7th Street SW., Washington,
DC 20590. The agenda for this meeting
will include the initiation of two new
working groups. The first group will
examine "All Weather Harmonization
Issues;" the second will examine
"Single Engine Passenger Carrying
Operations in Instrument
Meteorological Conditions under Part
135." Attendance is open to the
interested public but may be limited to
the space available. The public must
make arrangements in advance to
present oral statements at the meeting or
may present written statements to the
committee at any time. Arrangements
may be made by contacting the person
listed under the heading **FOR FURTHER
INFORMATION CONTACT**.

Sign and oral interpretation can be
made available at the meeting, as well
as an assistive listening device, if
requested 10 calendar days before the
meeting.

Quentin J. Smith,

Assistant Executive Director for Air Carrier
Operations, Aviation Rulemaking Advisory
Committee.

[FR Doc. 94-22623 Filed 9-13-94; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

[FHWA Docket No. MC-94-22]

Safety Fitness Procedure; Safety Ratings

AGENCY: Federal Highway
Administration (FHWA), DOT.

ACTION: Notice and request for
comments.

SUMMARY: In March and December 1993
the FHWA modified its Safety Fitness
Rating Methodology (SFRM) used to rate
a motor carrier's compliance with the
Federal Motor Carrier Safety
Regulations (FMCSRs), applicable
Hazardous Materials Regulations
(HMRs), and to assess its operational
safety. These modifications
incorporated more performance-based
information into the SFRM. Vehicle out-
of-service (OOS) rates are now used as
a first indicator to evaluate a motor
carrier's compliance with the
Inspection, Repair, and Maintenance
regulations found in part 396 of the
FMCSRs. A second modification gave
more weight to violations of the safety
regulations which are acute or critical.
These modifications enable the SFRM to
reflect more accurately the regulatory
scheme set forth in 49 CFR part 385 to
determine the safety rating of motor
carriers.

Beginning October 1, 1994, violations
of the safety regulations which are acute
or critical will be used to rate each of
the five regulatory factors when
performing a compliance review (CR).
On the same date the FHWA will
discontinue use of the safety review
(SR). Experience has demonstrated that
the CR is a more objective tool for
measuring a motor carrier's compliance.
Although the SR will no longer be used,
the education and technical assistance
aspect of the SR will continue to be an
important part of the overall motor
carrier safety program.

This notice explains the 1993 SFRM
changes as well as the changes to be
implemented on October 1, 1994. This
notice also solicits comments
concerning the forthcoming rating
methodology changes, and the direction
that future modifications should take.

DATES: Comments must be received on
or before November 14, 1994.

ADDRESSES: Submit written, signed
comments to FHWA Docket No. MC-
94-22, room 4232, HCC-10, Office of
Chief Counsel, Federal Highway
Administration, 400 Seventh Street,
SW., Washington, DC 20590. All
comments received will be available for
examination at the above address from
8:30 a.m. to 3:30 p.m. e.t., Monday
through Friday, except Federal holidays.
Those persons desiring notification of
receipt of comments must include a self-
addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr.
William C. Hill, Federal Programs
Division, Office of Motor Carrier Field
Operations (202) 366-1795, or Mr.
Charles Medalen, Office of Chief
Counsel, (202) 366-1354, 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 holidays.

SUPPLEMENTARY INFORMATION:

Information Regarding the Safety Rating Process

Section 215 of the Motor Carrier
Safety Act of 1984 (49 U.S.C. 31144,
formerly 49 U.S.C. App. 2512) directed
the Secretary of Transportation, in
cooperation with the Interstate
Commerce Commission (ICC), to
establish a procedure to determine the
safety fitness of owners and operators of
commercial motor vehicles (CMVs)
operating in interstate commerce. The
Secretary's responsibility was delegated
to the FHWA.

The FHWA promulgated a regulation
entitled "Safety Fitness Procedures," 49
CFR part 385, which established a
"safety fitness standard" that a motor
carrier must meet in order to obtain a
"Satisfactory" safety rating.

To meet the "safety fitness standard,"
a motor carrier must demonstrate that it
has adequate safety management
controls in place which function
effectively to ensure acceptable
compliance with the applicable safety
requirements. The rule also sets forth
the factors that will be considered in
determining a motor carrier's safety
fitness.

The FHWA developed an SFRM
which uses data from SRs or CRs, to
evaluate a motor carrier's safety fitness
and to assign one of three possible
safety ratings (Satisfactory, Conditional
or Unsatisfactory) to carriers operating
in interstate commerce. This process is
based on 49 CFR 385.5, Safety fitness
standard, and § 385.7, Factors to be
considered in determining a safety
rating. The process also identifies motor
carriers needing improvement in their
compliance with the FMCSRs and
applicable HMRs. The safety rating
process is used to focus the FHWA's
limited resources on examining the
operations of these motor carriers to
promote compliance with applicable
regulations, which reduces the risk of
highway accidents and hazardous
materials incidents. Motor carriers rated
as "Unsatisfactory," especially those
transporting passengers and hazardous
materials, customarily receive a higher
priority in the FHWA's on-site
compliance and enforcement efforts. In
addition, the Motor Carrier Act of 1990
(49 U.S.C. 5113, formerly 49 U.S.C.
App. 1814) prohibits all motor carriers
which receive "Unsatisfactory" safety
ratings from the FHWA from operating
CMVs to transport placardable

quantities of hazardous materials or more than 15 passengers, including the driver. This prohibition becomes effective 45 days after the motor carrier receives an "Unsatisfactory" safety rating and remains in effect until the carrier is issued a "Conditional" or "Satisfactory" rating.

Gathering Information

The rating process used by the FHWA is built upon two operational tools, the SR and the CR. Although the SR will be eliminated after October 1, 1994, it is currently an integral part of the SFRM.

The SR is an assessment of "unrated" motor carriers conducted by Federal and State safety specialists. The SR generally requires 4 to 6 hours to complete, depending upon the size of the motor carrier. The safety specialist interviews management officials and inspects samples of the records required to be maintained by the FMCSRs and applicable HMRs at a motor carrier's principal place of business.

The SR document, which is completed during the on-site visit, contains 70 questions. The SFRM assigns values to each of these questions in the SR document depending on the carrier's compliance or non-compliance with the subject matter of the question. The questions are answered either "yes" or "no" based upon the safety specialist's observations of the motor carrier's operations, records, management controls, and the information provided by its representatives.

The CR is a more in-depth examination of a motor carrier's operations and is used: (1) To conduct a follow-up investigation on motor carriers that were rated "Unsatisfactory" or "Conditional" as a result of a previous SR or CR, or were the subjects of previous enforcement actions, (2) to investigate complaints, or (3) to respond to a request by a motor carrier to reevaluate its safety rating. Documents such as those contained in driver qualification files, records of duty status and vehicle maintenance records are thoroughly examined for compliance with the FMCSRs and applicable HMRs. Violations are recorded on the CR document. Performance-based information, when available, is utilized to evaluate the carrier's compliance with the FMCSRs' vehicle regulations. Recordable/preventable accident information is collected and used by the FHWA in the rating process. It consists of the motor carrier's accident history for the 365-day period prior to the SR or CR. If the accidents meet the FHWA's recording criteria provided in the definition of an accident in § 390.5 of

the FMCSRs, and are determined by the safety specialist to have been preventable (could have been avoided by driver/carrier action), they are divided by vehicle miles travelled (VMT) to produce an accident rate.

Transforming the Information into a Safety Rating

Upon completion of the CR, the same 70 questions used in the SR document are answered by the safety specialist to initiate the safety rating process. The safety specialists receive guidance and training on how to complete this form. They identify areas of noncompliance with regulations that are considered acute, where noncompliance is so severe to require immediate corrective actions, or critical, where noncompliance relates to management and/or operational controls. Specific regulations are linked to specific questions. If noncompliance with an acute regulation, as it relates to a specific question, is discovered, the safety specialist marks that question "No." Questions that are linked to critical regulations are marked "No" only after a pattern of noncompliance is discovered. Patterns are used to demonstrate more than isolated instances of noncompliance. When large numbers of documents are reviewed, the number of violations required to establish a pattern is equal to at least 10 percent of those records examined.

The FHWA has developed a computerized algorithm, which is an integral part of the SFRM, for assessing the information obtained from the SR or CR document and assigning a safety rating. Those requirements of the FMCSRs and applicable HMRs that have similar characteristics are combined into five regulatory areas called "rating factors." The five regulatory factors are: (1) Parts 387 and 390; (2) parts 383 and 391; (3) parts 392 and 395; (4) parts 393 and 396; and (5) parts 397 and 177. A sixth factor is included in the process to address the accident history of the motor carrier. Each of the six factors is equally weighted, and a rating for each factor is determined by computing the results of the responses to the applicable questions. The results for each of the six factors are then entered into a rating table which establishes the motor carrier's overall safety rating.

Review of the Safety Rating

Section 385.15 provides motor carriers that believe their safety ratings are erroneous because of unresolved factual or procedural disputes the opportunity to petition for a review of their ratings. Section 385.17 provides motor carriers the right to request

another review after corrective action has been taken.

Changes to the SFRM in 1993

In March 1993, two SFRM changes were implemented which affected the way motor carrier safety ratings were computed when a CR is performed. The first involved evaluation of a motor carrier's compliance with the vehicle factor (Parts 393 and 396). Prior to this change, the vehicle factor was evaluated on the basis of the recordkeeping requirements in Part 396 and on the number of Out-Of-Service (OOS) defects discovered when vehicles were inspected during a CR. The change made the vehicle factor entirely performance-based when a combination of three or more vehicle inspections were either reported in the Motor Carrier Management Information System (MCMIS) in the 24 months prior to the CR or performed at the time of the review. The vehicle factor was rated "Satisfactory" if the vehicle OOS rate was less than 17 percent, "Conditional" if it fell between 17 and 33 percent, and "Unsatisfactory" if greater than 33 percent. More than 1.6 million vehicles are inspected on the roadside each year by State and Federal officials. The results of these inspections are maintained in the MCMIS. The data base is now sufficiently comprehensive to make it a reliable source of information on carrier compliance for a period of several years. This information is central to the FHWA's rating of motor carriers. It also enables motor carriers to gauge the success of their maintenance program and ultimately to reduce OOS rates during roadside inspections.

The second modification related to all the regulatory factors. When a pattern of noncompliance with a critical regulation or a single instance of noncompliance with an acute regulation resulted in an enforcement action (i.e., a notice of claim for a civil penalty, or a criminal proceeding), the rating for that factor was "Unsatisfactory." Noncompliance with acute regulations and patterns of noncompliance with critical regulations have been demonstrated through data analysis to be linked to inadequate safety management controls and higher than average rates of recordable/preventable accidents.

In December 1993 these two changes were refined in the SFRM. The December refinements were the result of experience following the adoption of the March 1993, SFRM changes, which had placed greater emphasis upon performance-oriented motor carrier evaluation than did the previous SFRM. It was decided to place more emphasis

upon the part 396 requirements to evaluate the vehicle factor because it had become apparent that vehicle roadside inspections were not truly random and that inspectors were targeting vehicles and drivers either because of previous noncompliance or because the violations were evident to the inspectors. Experience also indicated that a factor rating in which noncompliance with an acute regulation resulted in an enforcement action was more appropriately rated no higher than "Conditional," as a violation of an acute regulation by itself was not representative of compliance with the entire factor.

With the first refinement, the vehicle factor is now rated on a performance basis if a combination of three or more inspections have been recorded in the MCMIS in the twelve months (rather than 24 months) prior to the carrier review or performed at the time of the review. Moreover, because OOS rates were higher than would otherwise be the case because of the non-randomness of the roadside inspections, a new two category system was adopted: OOS rates of 34 percent or higher create an initial factor rating of "Conditional," while those below that figure create an initial factor rating of "Satisfactory." The carrier's compliance with the inspection, repair and maintenance requirements (Part 396) is examined during each review. The results could lower the initial "Satisfactory" factor rating to "Conditional", and the initial "Conditional" factor rating to "Unsatisfactory" if noncompliance with an acute regulation and/or a pattern of noncompliance with a critical regulation is discovered. If the examination of the part 396 requirements discloses no such problems with the systems the motor carrier is required to maintain for compliance, the vehicle factor remains "Satisfactory" and "Conditional," respectively. The second refinement in December 1993 required that when an enforcement case is initiated based upon noncompliance with an acute regulation, the pertinent regulatory factor will not be rated higher than "Conditional." If the enforcement case is based upon noncompliance with two or more acute regulations within the same factor, that factor will be rated "Unsatisfactory."

There was no change in the treatment of a pattern of noncompliance with a critical regulation resulting in an enforcement action; the pertinent factor rating remains "Unsatisfactory."

Additional Information on the Current SFRM

Anyone interested in obtaining a more comprehensive printed explanation of the current Safety Rating process should contact the Regional Director, Office of Motor Carriers (See 49 CFR 390.27 for the appropriate address), or the Office of Motor Carrier Field Operations, Room 3421, Attn: HFO-10, 400 7th Street SW., Washington, DC 20590. A copy of that printed explanation has been placed in the docket for public review.

The March and December 1993 changes to the SFRM were not published in the *Federal Register* or codified in the FMCSRs because the SFRM simply sets forth the FHWA's rules of procedure and practice for implementing Part 385, Safety Fitness Procedures. The SFRM is not a separate regulatory standard.

October 1, 1994, Changes to the SFRM

Analysis of the SFRM confirms the reasonableness of emphasizing noncompliance with acute regulations or patterns of noncompliance with critical regulations to measure a motor carrier's overall compliance with the FMCSRs and applicable HMRs. The modifications direct the attention of motor carriers to the regulations shown to have the greatest impact upon safety improvement. They simplify the rating process, since only noncompliance with acute regulations or patterns of noncompliance with critical regulations will be used for evaluating the regulatory factors. It should be noted that a "Satisfactory" rating is only a passing grade and only full compliance with all of the safety regulations will assure that motor carriers meet the provisions of part 385, Safety fitness standard.

Beginning October 1, 1994, a further modification will be initiated to emphasize the importance of compliance with part 395. Studies have shown that driver error is a significant factor in the majority of accidents. A large component of driver error is fatigue or loss of alertness. Part 395 regulations are an extremely important part of a motor carrier's safety fitness rating.

Compliance with the regulatory factors, (1) Parts 387 and 390; (2) parts 383 and 391; (3) parts 392 and 395; (4) parts 393 and 396, when there are less than 3 vehicle inspections in the last 12 months to evaluate; and (5) parts 397 and 177, will thereafter be evaluated as follows: For each instance of noncompliance with an acute regulation or each pattern of noncompliance with a critical regulation discovered during a

CR, one point will be assessed. However, each pattern of noncompliance with a critical regulation relative to Part 395, Hours of Service of Drivers, will be assessed two points. By increasing the point value for patterns of noncompliance with critical regulations relating to part 395, motor carriers with significant hours of service problems will receive no higher than an overall "Conditional" safety rating. The assignment of the points for the three ratings are a result of an October 1993 work-group's analysis of data on noncompliance with acute regulations and patterns of noncompliance with critical regulations.

The FHWA regulatory factor ratings will be derived as follows:

Satisfactory—if the critical and/or acutes=0 points
 Conditional—if the critical and/or acutes=1 point
 Unsatisfactory—if the critical and/or acutes=2 points

When there are a combination of three or more inspections recorded in the MCMIS in the twelve months prior to the carrier review or performed at the time of the review, the Vehicle factor (parts 393 and 396) will be evaluated on the basis of OOS rates and noncompliance with acute regulations and/or a pattern of noncompliance with a critical regulation.

The accident factor (recordable/preventable accident rate) will be modified to exclude the accident rates for all motor carriers that have only one recordable/preventable accident in the twelve months prior to the review. This change is being made to reflect the variability of accident rates for small motor carriers from one year to the next.

The formula for assigning a safety rating is not being modified. Each of the six factors will continue to be equally weighted, with the results of each factor rating being entered into a rating table which establishes the motor carrier's overall safety rating.

The FHWA is soliciting comments concerning the October 1, 1994, rating methodology changes; the direction that should be taken when future modifications to the SFRM are made; and suggestions on how to get information to the industry on new regulations or changes, and FHWA programs to encourage "voluntary compliance."

(49 U.S.C. 31144 (1994); 49 CFR 1.48)

Issued on: September 7, 1994.

Rodney E. Slater,

Federal Highway Administrator,

[FR Doc. 94-22662 Filed 9-13-94; 8:45 am]

BILLING CODE 4910-22-P

Federal Railroad Administration

Petition for Waivers of Compliance

In accordance with 49 CFR §§ 211.9, 211.41 and 211.45, notice is hereby given that the Federal Railroad Administration (FRA) has received a request for a waiver of compliance with certain requirements of the Federal safety laws and regulations. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested and the petitioner's arguments in favor of relief.

Southern California Regional Rail Authority (SCAX); National Passenger Railroad Corporation (Amtrak); Southern Pacific Transportation Company (SPT); SPCSL Corporation (SPCSL); Renfe Talgo of America, Incorporated (RTAX)

[Docket Numbers RSGM-94-2 and SA-94-1]

RTAX was granted conditional waivers of compliance for the Talgo trainset on March 25, 1994. The trainset is comprised of 12 Talgo Pendular cars which include 1 head-end power car which will not carry passengers, 8 passenger coach cars, 1 cafeteria car, 1 dining car and 1 rear-end service car which will not carry passengers. The Talgo train has a total weight of approximately 400,000 pounds. With a locomotive, the total length of the train is approximately 575 feet.

Docket Number RSGM-94-2 granted a conditional waiver from the Railroad Glazing Standards, (49 CFR 223.15(b)), which requires that all side facing glazing on passenger cars must meet the FRA Type II testing criteria. RTAX provided the specifications for the side facing glazing of the Talgo train, which may in fact meet the FRA requirements for FRA Type II, but it has not been subjected to the test specified in the regulation. The International Union of Railways (UIC) requires the use of tempered or safety glass in side windows on European passenger trains. Safety glass is defined as glass that when broken, breaks into small pieces that do not have sharp edges, and this performance requirement is similar to that of automobile safety glazing. The UIC has no specific strength requirements for passenger car windows. The windows in the sides of the Talgo cars are double glazed with tempered safety glass and are in compliance with safety requirements imposed by the UIC. Each layer is 6 mm (.24 inches) thick with an air space in between the two layers. RTAX did submit the test criteria that was used for

the glazing material in the side windows. *TECHNICAL SPECIFICATION ET-139* defines the basic characteristics of quality control for the security templates for Talgo railroad cars. The mechanical characteristics section of *ET-139* provides the criteria for impact testing of the glazing template using a 500 gram steel ball.

Docket Number SA-94-1 granted a waiver from compliance of the Railroad Safety Appliance Standards, (49 CFR 231.14) and Sections 2 and 4 of the Safety Appliance Act (45 U.S.C. Sections 2 and 4), which requires that each passenger car must be equipped with side handholds, end handholds and uncoupling levers. The passenger cars have side handholds at the doors for the assistance of passengers, but there are no side handholds or end handholds which the rules contemplate for use in switching operations or coupling and uncoupling. The 12 cars in the Talgo train constitute a single unit, in that the cars will not be uncoupled from one another, except at specified maintenance facilities. The individual cars are joined by swivel type traction couplers which will not uncouple in normal operations and because of this configuration there is no need for uncoupling levers. Standard AAR Type E couplers will be installed at the ends of the front and rear service cars.

The waivers permitted the operation of the Talgo train to be operated (1) in non-revenue demonstration runs and (2) in revenue service as part of a regularly scheduled service operated by National Railroad Passenger Corporation (Amtrak) in the Pacific Northwest High Speed Rail Corridor between Seattle, Washington, and Portland, Oregon. The waiver also permitted the return of the Talgo train to the Port of Baltimore for disassembly and return to Spain after the revenue service contract expired in September, 1994.

SCAX petitioned the FRA on August 25, 1994, to amend and expand the RTAX waivers. SCAX proposes to sponsor three revenue service runs tentatively planned for October 4, 5 and 6. The train is scheduled to run between Los Angeles—Lancaster, Los Angeles—San Diego, and Los Angeles—San Bernardino, California. The SPT will move the Talgo train to Los Angeles, where it will be operated by Amtrak, on SCAX's Metrolink system. After completion of the revenue runs, SPT will move the TALGO train to Oakland, California, and turn it over to Amtrak.

Amtrak petitioned the FRA on August 24, 1994, to modify the existing waiver and permit the movement of the Talgo train over any trackage in the United States for display and demonstration

purposes. This request is made on behalf of RTAX, who decided to take this equipment on a national tour before returning it to Spain. According to the RTAX representative, the States of Illinois, Ohio, Wisconsin and Maine have expressed interest in display and publicity runs of the Talgo trainset. The exact dates and routing for the proposed display of the Talgo train are not known at this time. Once all obligations have been completed, the Talgo trainset will be routed to the Port of Baltimore for shipment back to Spain.

SPT petitioned the FRA on August 26, 1994, for an extension of the current RTAX waiver to conduct non-revenue test runs for the purpose of experiencing the efficiency of the passive tilt system incorporated in the Talgo train. The train would be operated from Portland to Los Angeles, including Sacramento and Stockton, California, and over the SPT trackage rights over the Union Pacific Railroad Company between Niles and Tracy, California, during the approximate period of September 30 through October 9, 1994 period, except for the proposed revenue service runs operated by Amtrak for SCAX over Metrolink. The non-revenue moves would be restricted to SPT, Amtrak, RTAX and governmental officials.

SPT on August 26, 1994, also petitioned, on behalf of the SPCSL, for an extension of the current waiver in order to permit the State of Illinois to conduct some non-revenue test runs for the purpose of experiencing the efficiency of the passive tilt system on the Talgo train. Amtrak, the Illinois Department of Transportation (IDOT) operator, would conduct the non-revenue runs on SPCSL's Chicago-St. Louis route. IDOT has arranged for the Talgo train to be tested for one or two days during the second week in October, based upon current equipment availability. These testing non-revenue moves would be restricted to SPCSL, Amtrak, RTAX and IDOT staff personnel.

Southern California Regional Rail Authority (SCAX); SPCSL Corporation (SPCSL)

Docket Number RST-94-2

To accomplish the revenue demonstration runs described above in Southern California, SCAX petitioned the FRA on August 25, 1994 to temporarily waive 49 CFR 213.57(b), "Curves; elevations and speed limitations," to allow operation at up to 6 inches of cant deficiency. SCAX requests the waiver in order to demonstrate the advantages of the Talgo tilt technology in negotiating curves at higher speeds. SCAX expects to power

the trainset with an EMD F59PH or F40 locomotive owned by SCAX.

SPT on behalf of the SPCSL petitioned the FRA on August 26, 1994 to temporarily waive 49 CFR 213.57(b) to allow operation at 5½ inches of cant deficiency between milepost 224 and milepost 237 on the route between St. Louis, Missouri and Chicago, Illinois to conduct testing and non-revenue demonstration runs. SPT states that this waiver would allow 76 mph speeds on 2 degree curves that are presently restricted to 60 mph due to superelevation set at 2½ inches.

The Talgo trainset was tested at up to 8 inches of cant deficiency in Amtrak's Northeast Corridor (New England Coast Route) during 1988.

The track safety standards in 49 CFR 213.57(b) prescribe a speed limit, not distinguishing between freight and passenger rolling stock, at which trains may operate over curved track as a function of curve radius (curvature) and installed superelevation.

In the general case, for any combination of curvature and superelevation, there is a specific ("balanced") speed at which the effect of centrifugal force is canceled, resulting in passenger insensitivity to actual curve negotiation. This is an ideal outcome for passenger trains that usually operate considerably faster than freight trains and consequently would demand greater superelevation to produce the balanced effect. The track standards permit the operation of trains on curves at speeds producing a conservative underbalance ("cant deficiency") in line with historic industry practice. (A more detailed discussion of cant deficiency can be found in 52 FR 38035, October 13, 1987).

Interested parties are invited to participate in this proceeding by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with this proceeding since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number SA-94-1) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

Communications received before September 29, 1994, will be considered

by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.-5 p.m.) in Room 8201, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

Issued in Washington, D.C. on September 9, 1994.

Phil Olekszyk,

Acting Deputy Associate Administrator for Safety Compliance and Program Implementation.

[FR Doc. 94-22848 Filed 9-13-94; 8:45 am]

BILLING CODE 4910-06-P

National Highway Traffic Safety Administration

[Docket No. 94-50; Notice 2]

Decision That Nonconforming 1991 BMW 750iL Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of decision by NHTSA that nonconforming 1991 BMW 750iL passenger cars are eligible for importation.

SUMMARY: This notice announces the decision by NHTSA that 1991 BMW 750iL passenger cars not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to a vehicle originally manufactured for importation into and sale in the United States and certified by its manufacturer as complying with the safety standards (the U.S.-certified version of the 1991 BMW 750iL), and they are capable of being readily altered to conform to the standards.

DATES: This decision is effective as of the date of its publication in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Ted Bayler, Office of Vehicle Safety Compliance, NHTSA (202-366-5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A) (formerly section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act)), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor

vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115 (formerly section 114 of the Act), and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the Federal Register of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the Federal Register.

G&K Automotive Conversion, Inc. of Santa Ana, California (Registered Importer R-90-007) petitioned NHTSA to decide whether 1991 BMW 750iL passenger cars are eligible for importation into the United States. NHTSA published notice of the petition on June 29, 1994 (59 FR 33572) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition. No comments were received in response to the notice. Based on its review of the information submitted by the petitioner, NHTSA has decided to grant the petition.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final decision must indicate on the form HS-7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP 81 is the vehicle eligibility number assigned to vehicles admissible under this decision.

Final Decision

Accordingly, on the basis of the foregoing, NHTSA hereby decides that a 1991 BMW 750iL not originally manufactured to comply with all applicable Federal motor vehicle safety standards is substantially similar to a 1991 BMW 750iL originally manufactured for importation into and sale in the United States and certified under 49 U.S.C. 30115, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Authority: 49 U.S.C. 30141 (a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on September 8, 1994.

William A. Boehly,

Associate Administrator for Enforcement.

[FR Doc. 94-22692 Filed 9-13-94; 8:45 am]

BILLING CODE 4910-59-M

Decision That Nonconforming 1971 Lancia Fulvia Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of decision by NHTSA that nonconforming 1971 Lancia Fulvia passenger cars are eligible for importation.

SUMMARY: This notice announces the decision by NHTSA that 1971 Lancia Fulvia passenger cars not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to a vehicle originally manufactured for importation into and sale in the United States and certified by its manufacturer as complying with the safety standards (the U.S.-certified version of the 1971 Lancia Fulvia), and they are capable of being readily altered to conform to the standards.

DATES: This decision is effective as of the date of its publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT:

Ted Bayler, Office of Vehicle Safety Compliance, NHTSA (202-366-5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A) (formerly section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act)), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115 (formerly section 114 of the Act), and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Liphardt & Associates, Inc. of Ronkonkoma, New York (Registered Importer R-90-004) petitioned NHTSA to decide whether 1971 Lancia Fulvia passenger cars are eligible for importation into the United States.

NHTSA published notice of the petition on July 18, 1994 (59 FR 36481) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition. No comments were received in response to the notice. Based on its review of the information submitted by the petitioner, NHTSA has decided to grant the petition.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final decision must indicate on the form HS-7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP 82 is the vehicle eligibility number assigned to vehicles admissible under this decision.

Final Decision

Accordingly, on the basis of the foregoing, NHTSA hereby decides that a 1971 Lancia Fulvia not originally manufactured to comply with all applicable Federal motor vehicle safety standards is substantially similar to a 1971 Lancia Fulvia originally manufactured for importation into and sale in the United States and certified under 49 U.S.C. 30115, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on September 8, 1994.

William A. Boehly,

Associate Administrator for Enforcement.

[FR Doc. 94-22693 Filed 9-13-94; 8:45 am]

BILLING CODE 4910-59-M

Sunshine Act Meetings

Federal Register

Vol. 59, No. 177

Wednesday, September 14, 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).

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10:00 a.m., Wednesday, September 14, 1994.

PLACE: 6th Floor, 1730 K Street, NW., Washington, DC

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Steel Branch Mining*, Docket No. WEVA 92-953. (Issues include whether the judge correctly concluded that Steel Branch Mining violated 30 C.F.R. § 77.404(a), and that the violation was significant and substantial, and whether the judge assessed an appropriate civil penalty.)

Any person intending to attend this meeting who requires special

accessibility features and/or auxillary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 C.F.R. § 2706.150(a)(3) and § 2706.160(d).

No earlier announcement of the meeting was possible.

CONTACT PERSON FOR MORE INFO: Jean Ellen (202) 653-5629/(202) 708-9300 for TDD Relay/1-800-877-8339 for toll free was possible.

Dated: September 9, 1994.

Jean H. Ellen,

Chief Docket Clerk.

[FR Doc. 94-22831 Filed 9-12-94; 11:35 am]

BILLING CODE 6735-01-M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 1.00 a.m., Monday, September 19, 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: September 9, 1994.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 94-22823 Filed 9-12-94; 10:45 am]

BILLING CODE 6210-01-P

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

**SECURITIES AND EXCHANGE
COMMISSION**

[Release No. 34-34500; International Series
Release No. 697; File No. SR-Amex-94-20]

**Self-Regulatory Organizations;
American Stock Exchange, Inc.; Order
Granting Accelerated Approval of a
Proposed Rule Change and
Amendment Nos. 2 and 3, and Filing
and Order Granting Accelerated
Approval of Amendment No. 4 to the
Proposed Rule Change Relating to the
Listing and Trading of Options on the
Mexico Index**

Correction

In notice document 94-19743 beginning on page 41534 in the issue of Friday, August 12, 1994, the "International Series Release No." is corrected to read as set forth above.

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. 26242, Notice No. 94-28]

RIN 2120-AF30

**Suspension of Certain Aircraft
Operations From the Transponder With
Automatic Pressure Altitude Reporting
Capability Requirement**

Correction

In proposed rule document 94-20830 beginning on page 43994 in the issue of Thursday, August 25, 1994, make the following correction:

On page 43997, in the second column, in the first full paragraph, in the eighth line, "TAC" should read "ATC".

BILLING CODE 1505-01-D

federal register

Wednesday
September 14, 1994

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Parts 13 and 14
Importation, Exportation, and
Transportation of Wildlife; Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 13 and 14

RIN 1018-AB49

Importation, Exportation, and Transportation of Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise the U.S. Fish and Wildlife Service (Service) regulations providing for uniform rules and procedures for the importation, exportation, and transportation of wildlife. Several definitions are proposed for inclusion, and several errors in reference are corrected. The Service's exception to the designated port of entry requirement for wildlife products or manufactured articles worn as articles of clothing or contained in accompanying personal baggage is revised. The exceptions to the import declaration requirements and export declaration requirements are also revised.

The Service minimum age requirement for certain antique articles, other than scrimshaw, imported into the United States is revised. The Service is also revising its clearance requirements and its refusal of clearance requirements. The Service's import declaration filing requirements are also revised.

Changes are also proposed in the marking requirements for containers. Further changes are proposed in the import and export license requirements and fee schedules and the exceptions to license requirements. In addition to the above changes, the non-standard fee schedule in Part 13 for an import/export license is amended.

DATES: Comments must be submitted on or before November 14, 1994.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Director, U.S. Fish and Wildlife Service, P.O. Box 3247, Arlington, Virginia 22203-3247. Comments and materials may be hand-delivered to the U.S. Fish and Wildlife Service, Division of Law Enforcement, 4401 N. Fairfax Drive, Room 500, Arlington, Virginia, between the hours of 8 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Frank Shoemaker, Special Agent in Charge, Branch of Investigations, Division of Law Enforcement, Fish and Wildlife Service, U.S. Department of Interior, Washington, DC 20240, Telephone Number (703) 358-1949.

SUPPLEMENTARY INFORMATION:

Background

The Fish and Wildlife Service (Service) has oversight responsibilities under statutory and regulatory authority to regulate the importation, exportation, and transportation of wildlife. The Service, consistent with this authority, has established an inspection program to properly oversee the importation, exportation, and transportation of wildlife and wildlife products. The Service, in support of its program activities, has promulgated regulations, subject to exemptions and permitted exceptions, restricting the importation and exportation of wildlife and wildlife products to certain designated ports, border ports, and special ports enumerated within the Code of Federal Regulations. Service regulations governing the importation, exportation, and transportation of wildlife are codified in 50 CFR 14 and are implemented through the cooperative efforts of the U.S. Fish and Wildlife Service, Special Agents and Wildlife Inspectors and with the essential support, cooperation and assistance of the U.S. Customs Service (Customs) and the Animal and Plant Health Inspection Service and other cooperative agencies.

The Service proposes to make the following changes to the Importation, Exportation, and Transportation of Wildlife regulations in Part 14. A new Section 14.4, entitled "Definitions" is proposed to include several new definitions. In proposing these new definitions, the Service hopes that greater uniformity in the interpretation of Part 14 will be achieved. This section will also include a definition for the term "commercial" indicating when the commercial intent of a shipment becomes presumptive. This definition is intended to delineate when an import/export license will be required for a wildlife shipper and when other requirements applicable to commercial wildlife enterprises will ensue. A definition is also proposed for the term "export" to delineate when the filing of an export declaration will be required. The term "accompanying personal baggage" is also newly defined to remove any confusion as to when hand-carried items and checked baggage will be regarded by the Service as an export or import respectively. The meaning of the term "domesticated animal" has been defined to distinguish such animals from wildlife. In addition to the above changes, the term "worn" in § 14.15 has been removed and replaced with the term "used" in order to clearly define when wildlife products will be included within the personal baggage

and household effects exception to the designated port requirements.

The Service has made several administrative corrections within the text of the regulations. Corrections have been made changing the erroneous references to § 14.93(d) in § 14.82(a)(2) and the erroneous reference to § 14.93(d)(1) in § 14.93(c)(5) to read § 14.93(c) and § 14.93(c)(1) respectively. These cite reference the requisite record requirements applicable to holders of an import/export license.

A reference to the permit requirements of Part 23 is included within several sections of Part 14. The requirements of Part 23 implement the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). The following provisions are being revised to include references to Part 23: at § 14.21, the exception to the Service's license requirements for shellfish and fishery products; at § 14.55, the exceptions to Service wildlife clearance requirements stating when wildlife and wildlife products may be imported without clearance; at § 14.62(a), the exceptions to the import declaration requirements stating when a Service import declaration (Form 3-177) is not required; at § 14.64(a), the exceptions to export declaration requirements stating when a Service export declaration (Form 3-177) is not required; and at § 14.92 the exceptions to license requirements stating when wildlife may be imported or exported without the procurement of a Service import/export license.

The Service is proposing to change the age minimum in § 14.22 for certain antique articles for consistency with changes in the Endangered Species Act. The Service is also adding in § 14.21(a)(2) an exception to the designated port requirements for marine invertebrates of the Class Pelycopoda; species commonly known as oysters, clams, mussels, and scallops; and the eggs, larvae, or juvenile forms thereof exported for purposes of propagation, or research related to propagation, and for pearls imported for commercial purposes. The requirements for the clearance of wildlife, at § 14.52, and the refusal of clearance of wildlife at § 14.53 are being revised to show the applicability of these sections to both exported and imported wildlife. The provisions of § 14.52 have been revised to specifically state, in both import and export situations, the requirements of presentation of wildlife for clearance and the requirement of clearance of wildlife by a Service officer prior to export or prior to U.S. Custom Service release of an importation.

The Service's refusal of clearance provisions at § 14.53 are also revised to require the identification of wildlife by species or subspecies name. This change is intended to alleviate the confusion often caused by the use of common names. This section has also been revised to include as an additional basis for the refusal of clearance in § 14.53 the failure to pay an assessed penalty levied upon an importer or exporter under Part 11. Another significant change being made to § 24.53 is the establishment of a formal detention process, similar to that of the Customs Service, within the section. This detention procedure is necessary to provide for the Service's detention of wildlife, to identify or determine applicable state or foreign sovereign law, in order to establish probable cause to seize the wildlife in question.

In order to ensure humane and expeditious inspection and handling of shipments of wildlife, the Service is revising § 14.54 to include a provision requiring that the Service be notified at least 48 hours prior to the "estimated time of arrival" of live or perishable shipments of wildlife or wildlife products. The Service is to be similarly notified when wildlife inspection is requested to be accomplished upon arrival and when wildlife is required to be inspected prior to export.

The regulations concerning the requirements of the Service Form 3-177, Declaration for Importation or Exportation of Fish or Wildlife, in § 14.61 are being revised to include changes brought about by the U.S. Customs Automated Commercial System (ACS) and the Automated Broker Interface (ABI) electronic entry system and to clarify the requirement of filing an import declaration. Changes in the U.S. Customs entry system allow entry documents to be filed electronically by an authorized Customs broker using the electronic entry system.

The Service's exceptions to import requirements in § 14.62 are revised to exclude, in addition to articles intended for sale, articles or samples used as exhibits to solicit sales. This section is to be further revised to remove an erroneous reference to an obsolete U.S. Customs Service form. In § 14.64(a) the Service is adding an additional exception to the export declaration requirements for marine invertebrates of the Class Pelycopoda; species commonly known as oysters, clams, mussels, and scallops; and the eggs, larvae, or juvenile forms thereof exported for the purposes of propagation, or research related to propagation. The Service is also restating the exceptions to the export

declaration requirements under § 14.64(b)(1) and § 14.64(b)(2) by excluding, in addition to wildlife articles intended for sale, articles or samples used as exhibits to solicit sales.

Changes are proposed in the marking requirements of § 14.81, and the alternatives and exceptions to the marking requirements in § 14.82, to add provisions requiring the conspicuous marking of containers or packages to indicate when the contents are venomous species. In making this proposal, the Service hopes to prevent injuries. In accordance with § 14.81, the Service will also require that wildlife shipments be accompanied with an accurate and legible list of the contents by scientific species name and the number of each species.

The provision of § 14.91(c) establishes that persons engaged in certain enumerated activities are required to hold an import/export license. The provisions of this section have been revised and amended to be more clearly worded and to require persons who commercially import or export wildlife in the form of food products taken from populations of non-domesticated animals to be licensed. Sections 14.92(a)(5) and 14.92(a)(6) are being added to include within the exceptions to license requirements provisions providing an exception for marine invertebrates of the Class Pelycopoda; species commonly known as oysters, clams, mussels, and scallops; and the eggs, larvae, or juvenile forms thereof exported for purposes of propagation, or research related to propagation, and for pearls imported for commercial purposes. Sections 14.92(b)(1) and 14.92(b)(2) have been amended to allow for an exception to the import/export license requirement for common carriers and custom house brokers, only in instances where they are acting in their respective function as transporters or agents and not as the importer or exporter of record.

Inspectors working at designated ports of entry are vested with the authority by statute and regulation to undertake the physical inspection and identification of wildlife shipments and to examine all associated wildlife shipment documentation for sufficiency. Generally, these inspection procedures are uniformly required and equivalent in their demands upon work-units of the Service, with some exceptions, for all shipments of wildlife regardless of value, size of shipment, or the variety of regulated wildlife species. Because of the nature of the inspection and the administrative support required, a direct correlation between the value of a wildlife shipment and the operating

costs incurred by the Service in inspection of wildlife cannot be made. The Service, therefore, has historically assessed user fees according to standardized schedules codified in the Code of Federal Regulations and has avoided as impracticable the levying of fees based solely upon the value of wildlife shipped.

Service uniform import/export user fee schedules have been set out and promulgated at 50 CFR 14. A review of available user fee information shows that since 1988 there have been four studies of the Service's import/export user fee policies: a 1988 report prepared by the Service, Division of Finance, of findings and recommendations on review of Law Enforcement Management Information System and Import/Export Fee Billing and Collection System, a 1988 user charges and collection report by the Department of the Interior, Office of the Inspector General; a 1991 Law Enforcement Functional Analysis Review prepared by a Fish and Wildlife Service Functional Analysis Review Team; and finally a 1992 draft of the CITES Implementation Study, prepared by Traffic, U.S.A.

One recommendation consistently made in these studies is that the Service should revise its user fee policies and rates to recover the full cost of services provided to individuals and businesses. The recommendation was also made that the Service license and charge user fees to all commercial importers and exporters of wildlife and wildlife products. The Service is therefore proposing to adjust its fees for certain activities in order to recover the actual costs of the services provided for all commercial import/export activities as proposed herein.

Inspection Fees

All commercial importers and exporters of wildlife and wildlife products are charged an inspection fee for actual inspection time at a designated hourly rate (including salary and travel costs) with a 2 hour minimum for shipments imported or exported through any port other than one of the ports designated in § 14.12. The current rate is \$25 per hour. Where an inspection occurs on a holiday or a Sunday, the hourly rate is doubled. In addition, there is an administrative fee charged to all importers/exporters at non-designated ports to cover the costs of processing and filing the paperwork and the entry of data into the Service's computer system. The current administrative fee charged to all importers/exporters at non-designated ports is \$25.

Import/Export Licenses

Pursuant to its authority the Service requires persons engaged in business as importers and exporters of wildlife and wildlife products to obtain a wildlife import/export license and to comply with all administrative reporting and documentation requirements. The Service currently charges \$125 per license annually. Holders of import/export licenses must pay a user fee for each shipment that is imported or exported at a designated port of entry listed in § 14.12. The current fee is \$25 for each shipment imported or exported at a designated port. In addition, overtime costs are charged to the importer or exporter at the rate of \$25 per hour or a fractional increment thereof. However, non-commercial shipments and shipments imported or exported by persons or businesses exempt from the license requirements are not charged an inspection fee at designated ports, but may be charged overtime costs where such inspections are incurred at the specific request of the importer or exporter.

An analysis of import/export data for the three most recent years for which complete data is available from the Law Enforcement Management Information System database shows that the Service is only recouping about \$2 million annually of the total wildlife inspection budget of \$4.35 million. Thus, only approximately 45 percent of the total cost of the Service's wildlife inspection program is recovered through the current user fees rates.

Consequently, the Service is proposing to adjust its fee schedules in § 14.93 in order to recoup the full cost of the import/export inspection program. First, the Service is proposing to require all commercial importers and exporters of wildlife and wildlife products to obtain an import/export license without regard to the total value of wildlife or wildlife products imported or exported each year. This would eliminate the yearly value exception in § 14.92(b)(6). This is a change from the current system where only commercial importers/exporters who import or export more than \$25,000 in wildlife products annually were required to obtain a license. Second, the Service is proposing to adjust the cost of issuing an import/export license by reducing the cost of a license from the present rate of \$125 per year to \$50 per year. Third, the Service is proposing to increase the fees charged at designated ports in order to cover the full cost of the inspection services provided. The present inspection fee has been \$25 since 1986. The Service's analysis

indicates that the average cost to the Service to process a shipment is \$55 per shipment. Therefore, the Service is proposing to increase the cost of this fee to \$55 per shipment in order to more realistically recover costs. Fourth, the Service is proposing to increase the administrative fee charged at non-designated ports from \$25 to \$55, in addition to the inspection fee, to recover its actual costs and to make this fee consistent with the proposed increase in the designated port inspection fee. The Service believes these adjustments in the fee rates and applications are reasonable and fair in light of the actual demands upon limited Service resources.

The Service will propose substantive changes to Title 50 CFR Part 13 at a later time. The Service is, however, revising the non-standard fee schedule in § 13.11(d)(4) to be consistent with the proposed changes to Part 14.

Summary of Comments and Information Received

On Thursday, November 14, 1991, the Service published, in the *Federal Register*, (56 FR 57873), a Notice of Intent to Review Title 50 CFR Parts 13 and 14. The Service, in this notice, requested that all interested parties submit written comments. In response to this request, the Service received comments from a total of 66 individuals and organizations.

Specifically, written comments were received from 36 individuals, 11 Government agencies, 8 sportsman associations, 1 American Indian tribe, 3 scientific associations, and 7 wildlife management and conservation associations. The Service has carefully considered all comments received in response to the Notice in proposing these changes to Parts 13 and 14.

Comments Pertaining to 50 CFR 14.12 Through 14.18

Several comments recommended the addition of the port of Detroit, Michigan to the list of "Designated Ports" in § 14.12. The Service has carefully considered this request, but has decided not to list Detroit as a designated port at this time. The Service believes that designated port status is not warranted at this time because of the close proximity of Detroit to the designated port of Chicago, a major commercial airport hub for air cargo. Although Detroit has a growing air cargo sector, it is modest in comparison to Chicago. Detroit does have international air passenger service and a land border with Canada; however, the workload does not warrant designated port status at this time.

Several commenters recommended that the Service revise the words "not intended for sale" in § 14.15 to include items being imported or exported for the stated purpose of display in order to solicit sales. Another specific change recommended to § 14.15 favored the establishment of a limitation on the value or number of items of personal baggage and household effects that may be imported or exported pursuant to the designated port exception in § 14.15 for accompanying personal baggage and household effects. The commenter further recommended that the Service make any exceeding of the proposed personal baggage and household effects limitation evidence of intent to sell. The Service agrees that the misuse of this designated port exception has become a concern.

The Service believes this problem is best addressed in two ways. First, greater cooperation with Customs officials is needed when quantities of wildlife items in excess of those allowed by Customs are clearly evident. Second, the Service is proposing to more clearly define the terms "commercial" and "accompanying personal baggage" to clearly distinguish commercial importations and exportations and effectively prevent the misuse of the designated port exception.

Several commenters expressed the concerns of the scientific community. One commenter requested that the Service provide a special designated port of entry exemption similar to those provided for personally owned birds, marine mammals, and personal effects in § 14.15, § 14.17, and § 14.18 so that scientific specimens or wildlife intended for scientific use can be imported at any customs port of entry. This proposal, as noted by the commenter, would eliminate excessive paperwork and allow for unforeseen and uncontrollable circumstances.

The Service is sympathetic to the concerns of the scientific community. However, no changes are anticipated at this time. The Service notes in making this determination that the exemptions referred to by the commenter were personal exemptions. Scientific collections, however, are distinguishable in that they are not considered personal exemptions by the Service. The Service continues to recognize the need to carefully monitor the importation of scientific wildlife specimens.

Comments Pertaining to Section 14.22: Certain Antique Articles

Another commenter recommended that the limitation date specified in § 14.22 for "Certain Antique Articles"

be changed from the year "1830" to the phrase "100 years old." The Service agrees with the opinion expressed by the commenter and has proposed this change.

Comments Pertaining to Section 14.31: Permits to Import or Export Wildlife at Non-Designated Port for Scientific Purposes

A few commenters recommended that application procedures in § 14.31(b)(2) be revised to alleviate unnecessary procedural delays imposed upon foreign researchers. These delays were said to be incurred in instances where scientific specimens are sent out on loan and later returned. Delays are said to occur because of the required listing of all species being sent out of the country and because of the additional time lost in waiting for written approval prior to shipping.

Another recommendation was that blanket permits be issued for terms of at least 4 years for movement of preserved specimens between that was termed "bona fide" research institutions. One comment requested that "bona fide" non-profit research institutions that maintain voucher specimens for research on biological diversity and ecology be provided an exemption from the requirement of completing an import/export declaration under § 14.62 for specimens on loan between scientific institutions. One commenter from the scientific community noted that there should be no need to inform the Service of the contents of loan packages prior to sending or receiving and opening loaned specimen shipments. In the opinion of the commenter, the importation and exportation of specimens for scientific research should be among the very least of the Service's concerns for wildlife. The concerns expressed by the commenters have been duly noted. The Service is concerned about any delays encountered during permit functions. The Service, however, must process the requests of all members of the public fairly and equitably without regard to status. The Service does not believe that the issuance of what was described as "blanket permit" would serve any useful regulatory purpose. The Service would have difficulty in implementing this proposal. For example, how would the terms "bona fide research institution" and "scientist" be realistically defined? This would require a subjective determination that the Service is not prepared to make.

In regards to the required submission of the Fish or Wildlife Declaration Form 3-177, current regulations at § 14.62(c) allow 180 days for the submission of

this form. The Service believes this provision provides adequate time for compliance.

Comments Pertaining to Section 14.51: Inspection of Wildlife

Other recommendations concerned the provisions governing Subpart E, the "Inspection and clearance of wildlife." A specific recommendation was that the regulations state clearly that any shipment must obtain Service clearance prior to release of that shipment by Customs. One commenter recommended that Service Policy #16, entitled "Species Exempt from Law Enforcement Management Information System" (LEMIS), which is found in the Service Import/Export Manual and which relates to exemption from import/export license requirements, be incorporated into Part 14. The Service acknowledges these recommendations and has attempted to clarify its regulations and incorporate policy #16 in this revision.

Comments Pertaining to 50 CFR 14.61 and 14.62: Import Declaration Requirements, Exceptions to Import Declaration Requirement

Several commenters recommended that the Service establish in § 14.61 procedural requirements for the entry of imported commodities electronically through the Customs Automated Commercial System (ACS), including discussions on statement processing and collection of user and license fees, pre-filing, when physical documentation would be required, and participant cargo clearance responsibilities. The Service concurs and has included references to the U.S. Customs electronic entry system in this revision. The Service is hesitant to codify entry procedures at this point in time because of the evolving nature of ACS.

Another commenter noted that the port of entry exemption at § 14.21 for shellfish and fishery products, which allow recreational catches to enter from Canada, and the exemptions to import declaration requirements in § 14.62(a) have been beneficial to the sports fishing community and should be continued. The Service is proposing a change to § 14.62(a) to include a reference to the permit requirements of Part 23 within the text of the section. The regulations in Part 23 essentially implement the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Under CITES, additional import/export wildlife permit requirements may be imposed. CITES, therefore, is also a necessary consideration for anyone importing shellfish and fishery products. The

Service hopes in making this change to re-emphasize the already existing permit requirements of Part 23 by this reference in § 14.21.

One commenter requested that an amnesty program be set up for trophy hunters who have inadvertently imported wildlife specimens that, as the commenter noted, "these individuals should have not imported." The Service does not concur and believes the suggested amnesty would logically tend to circumvent the deterrent effect of its regulations.

Comments Pertaining to 50 CFR 14.91 Through 14.93 License Requirements, Exceptions to License Requirement; License Application Procedure, Conditions, and Duration

Numerous comments were received recommending changes to import/export license requirements, exceptions to license requirements, license application procedures, conditions, and duration. Several comments recommended that the Service eliminate the \$25,000 import/export minimum required in § 14.92(b)(6) because it has required the maintenance of cumbersome manual files.

One recommendation was to revise the regulations in § 14.93(f)(2) to provide for the licensing of all commercial importers or exporters of wildlife, with the additional requirement that an inspection fee be levied for each shipment inspected. Another commenter similarly recommended that all commercial importers or exporters of wildlife be licensed and an inspection fee charged for each shipment.

One commenter recommended that the Service provide for the charging of an inspection fee in situations where a license is not required, but inspection is still necessary. This is particularly true, the commenter noted, in the case of certain designated captive-bred animals otherwise exempt under the exception to license requirement in § 14.92(a)(3). The commenter further noted that "these animals whether or not they are born in captivity still require a Service inspection of the shipment." Recommendations were also made to increase license and inspection fees in § 14.93(f)(1) and § 14.93(f)(2) and to eliminate license requirements for first-time individual importations.

The Service agrees with many of the comments made and has proposed several changes in the import and export license requirements, to fee schedules, and in the exceptions to Service import/export license requirements. The Service is proposing to require all commercial importers and

exporters of wildlife and wildlife products to obtain an import/export license without regard to the total value of wildlife or wildlife products imported or exported each year. Such a change would eliminate the yearly value exception in § 14.92(b)(6). This is a change from the current system, where only commercial importers/exporters who import or export more than \$25,000 in wildlife products annually were required to obtain a license. The Service believes that this change is more equitable in the assessment of costs among importers and exporters and that it will alleviate unnecessary and burdensome record-keeping.

The Service is also proposing to adjust the cost of a wildlife import/export license. The Service is proposing to reduce the cost of a license from \$125 per year to \$50 per year. The Service believes that this change, together with the requirement that all commercial importers and exporters of wildlife and wildlife products obtain an import/export license, will assist the Service in recovering its actual costs through the equitable assessment of license fees.

The Service is also proposing to adjust the inspection fee charged to licensees at designated ports. The Service is proposing an increase in fees in order to cover the full costs of the inspection services provided. The present inspection fee is set at the rate of \$25 per shipment. However, the Service's analysis indicates that the average cost to the Service to process a shipment is \$55. The Service is therefore proposing to increase the cost of this fee to \$55 per shipment in order to more fully recover costs.

The Service is also proposing to adjust the administrative fee charged for each wildlife shipment cleared at a non-designated port. This change is consistent with the increase proposed for the designated port inspection fee and would assist the Service in recouping its actual costs.

One recommendation was to reduce by one half, the time limit for submission of the report required by § 14.93(c)(5). The Service response is that any reduction in the time limit for the submission of the report required by § 14.93(c)(5) would unfairly increase existing record reporting requirements set out in § 14.93(c). Another recommendation was that the Service correct the erroneous identification of "(d)(1)," to correctly read "(c)(1)" in § 14.93(c)(4) and § 14.93(c)(5). The recommendation was made to include a citation referencing "Part 23," in § 14.16(c), § 14.21, § 14.55, § 14.62(a), and § 14.64(a) where the citation is currently omitted from the text of the

regulations. The Service acknowledges the need to make the recommended corrections and has made efforts in several of the suggested sections to do so in this revision.

Need for Proposed Rulemaking

The Fish and Wildlife Service is updating the regulations for the importation, exportation, and transportation of wildlife. Definitions have been added and several errors and missing references have been corrected. Several ambiguities in the text have been restated for clarity. Changes were necessary in several sections for the purposes of identification of wildlife, to provide uniformity with the Customs Service, to more clearly articulate requirements, to circumscribe exceptions to requirements, and to provide for the safety of inspectors.

Changes in the Service import/export user fees policies and rates were made in order to recover the full costs of license and inspection services to require all commercial importers and exporters of wildlife and wildlife products to obtain an import/export license, to adjust the cost of a wildlife import/export license, to adjust the inspection fee charged to licensees at designated ports, and to adjust the administrative fee charged for each wildlife shipment cleared at a non-designated port.

Required Determinations

This rule was not subject to review by the Office of Management and Budget (OMB) under Executive Order 12866. The Department of the Interior (Department) has determined that this proposed 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 action is not expected to have significant taking implications, as per Executive Order 12630.

This proposed rule does not contain any additional information collection requirements, beyond those already approved under OMB Approval Number 1018-0012, which would require approval by the Office of Management and Budget under the Paperwork Reduction Act, 4 U.S.C. 3501 *et seq.* This action does not contain any federalism impacts as described in Executive Order 12612.

These proposed changes in the regulations in Parts 13 and 14 are regulatory and enforcement actions which are covered by a categorical exclusion from National Environmental Policy Act procedures under 516 Department Manual and an Environmental Action Memorandum is

on file at the Service's office in Arlington, Virginia. A determination has been made pursuant to Section 7 of the Endangered Species Act that the proposed revision of Part 14 will not effect federally listed species. The Department has certified to OMB that these regulations meet the applicable standards provided in Sections 2(a) and 2(b)(2) of Executive Order 12778.

Authorship

The originator of this proposed rule is Law Enforcement Specialist Paul McGowan, Division of Law Enforcement, U.S. Fish and Wildlife Service, Washington, DC.

List of Subjects

50 CFR Part 13

Administrative practice and procedure, Exports, Fish, Imports, Plants, Reporting and recordkeeping requirements, Transportation, Wildlife.

50 CFR Part 14

Animal welfare, Exports, Fish, Imports, Labeling, Reporting and recordkeeping requirements, Transportation, Wildlife.

Regulation Promulgation

For the Reasons set out in the preamble, Title 50, Chapter I, Subchapter B of the Code of Federal Regulations is proposed to be amended as set forth below:

PART 13—GENERAL PERMIT PROCEDURES

1. The authority citation for Part 13 is revised to read as follows:

Authority: 16 U.S.C. 668a, 704, 712, 742j-1, 1382, 1538(d), 1539, 1540(f), 3374, 4901-4916; 18 U.S.C. 42; 19 U.S.C. 1202; E.O. 11911, 41 FR 15683; 31 U.S.C. 9701.

Subpart B—Applications for Permits

2. Section 13.11 is amended by revising the table in (d)(4) to read as follows:

§ 13.11 Application procedures.

* * * * *

(d) * * *

(4) * * *

| Type of permit | Fee |
|---|------|
| Import/Export License (§ 14.93) | \$50 |
| Marine Mammal (§ 18.31) | 100 |
| Migratory Bird-Banding or marking (§ 21.22) | None |
| Bald or Golden Eagles (Part 22) | None |

* * * * *

**PART 14—IMPORTATION,
EXPORTATION, AND
TRANSPORTATION OF WILDLIFE**

1. The authority citation for Part 14 continues to read as follows:

Authority: 16 U.S.C. 704, 712, 1382, 1538 (d)–(f), 1540(f), 3371–3378, 4223–4244, and 4901–4916; 18 U.S.C. 42; 31 U.S.C. 483(a).

2. A new § 14.4 entitled "Definitions" is added to Subpart A to read as follows:

§ 14.4 Definitions.

In addition to definitions contained in Part 10 of this subchapter, the following terms shall be construed to mean and include:

(a) *Commercial* means the offering for sale or resale, purchase, trade, barter, or the actual or intended transfer in the pursuit of gain or profit, of any item of wildlife and includes the use of any wildlife article as an exhibit for the purpose of soliciting sales, without regard to quantity or weight. There is a presumption that eight or more similar unused items (except for antiques, collectibles or curios) are for commercial use. This presumption may be rebutted by the importer/exporter/owner or by the Service based upon the particular facts and circumstances of each case.

(b) *Export* means to depart from, to send from, to ship from, or to carry out of, or attempt to depart from, to send from, the ship from, or to carry out of any place subject to the jurisdiction of the United States, whether or not such departure, sending or carrying or shipping constitutes an exportation within the meaning of the Customs laws of the United States.

(c) *Accompanying personal baggage* includes all hand-carried items and all checked baggage of a person entering into or departing from the United States. When a passenger leaving the jurisdiction of the United States enters the designated international area of embarkation of an airport, all accompanying personal hand-carried items and checked baggage will be regarded as exports.

(d) *Domesticated animals* includes, but is not limited to, the following domesticated animals which are exempted from the requirements of this subchapter B (except for species obtained from wild populations).

Mammals

Aplaca—*Lama alpaca*; Chamel—*Camelus dromedarius*; Camel (Boghdi)—*Camelus bactrianus*; Cat (domestic)—*Felis domesticus*; Cattle—*Bos taurus*; Dog (domestic)—*Canis familiaris*; European rabbit—*Oryctolagus cuniculus*; Ferret (domestic)—*Mustela putorius*; Goat—*Capra hircus*; Horse—*Equus caballus*; Llama—*Lama glama*; Pig—*Sus*

scrofa; Sheep—*Ovis aries*; Water buffalo—*Bubalus bubalus*; White lab mice—*Mus musculus*; White lab rat—*Rattus norvegicus*.

Fish (For Export Purposes only)

Carp (koi)—*Cyprinus carpio*; Goldfish—*Carassius auratus*;

Birds

Chicken—*Gallus domesticus*; Ducks & geese—domesticated varieties, Guinea fowl—*Numida meleagris*; Peafowl—*Pavo cristatus*; Pigeons (domestic)—*Columba livia domestica*; Turkey—*Meleagris gallopavo*; Domesticated or Barnyard Mallards include: Pekin; Aylesbury; Boven; Cayuga; Gray Call; White Call, East Indian; Crested; Swedish; Buff Orpington; Indian Runner; Campbell; Duclair; Merchtem; Termonde; Magpie, Chinese, Khaki Campbell.

Insects

Crickets, mealworms, and similar insects that are routinely farm raised.

Invertebrates

Earthworms and similar invertebrates that are routinely farm raised.

3. Section 14.15 is amended by revising paragraph (a) to read as follows:

§ 14.15 Personal baggage and household effects.

(a) Wildlife products or manufactured articles which are not intended for sale or exhibit for sale and are used as clothing or contained in accompanying personal baggage may be imported into or exported from the United States at any Customs port. However, this exception to the designated port requirement does not apply to any raw or dressed fur; raw, salted, or crusted hide or skin; game trophy; or to wildlife requiring a permit pursuant to Part 16, 17, 18, 21, or 23 of this Subchapter B.

4. Section 14.21 is revised to read as follows:

§ 14.21 Shellfish and fishery products.

(a)(1) *General.* Except for wildlife requiring a permit pursuant to Part 17 and/or 23 of this subchapter, shellfish and fishery products thereof (as defined by § 10.12) imported or exported for purposes of human or animal consumption or taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes may be imported or exported at any Customs port.

(2) Except for wildlife requiring a permit pursuant to Part 17 and/or Part 23 of this subchapter, marine invertebrates of the Class Pelycopoda: species commonly known as oysters, clams, mussels, and scallops; and the eggs, larvae, or juvenile forms thereof may be exported for purposes of propagation, or research related to propagation, at any Customs port.

(b) *Pearls.* Except for wildlife requiring a permit pursuant to Part 17 and/23 of this subchapter, pearls imported for commercial purposes, may enter the United States at any Customs port of entry and for the purposes of this Part all references to the term shellfish and fishery products shall include pearls.

5. Section 14.22 is revised to read as follows:

§ 14.22 Certain antique articles.

Any person may import at any U.S. Customs Service port any article (other than scrimshaw, which is defined in 16 U.S.C. 1539(f)(1)(B) and 50 CFR 217.12, as any art form which involves the etching or engraving of designs upon, or the carving of figures, patterns, or designs from, any bone or tooth of any marine mammal of the order Cetacea) that is at least 100 years old, is composed in whole or in part of any endangered or threatened species listed under § 17.11 or § 17.12 of this subchapter and has not been repaired or modified with any part of any endangered or threatened species on or after December 28, 1973.

6. Section 14.32 is amended by revising paragraph (c)(2) to read as follows:

§ 14.32 Permits to import or export wildlife at nondesignated port to minimize deterioration or loss.

* * * * *

(c) * * *
(2) Permittee shall pay fees in accordance with § 14.94.

* * * * *

7. Section 14.33 is amended by revising paragraph (c)(2) to read as follows:

§ 14.33 Permits to import or export wildlife at nondesignated port to alleviate undue economic hardship.

* * * * *

(c) * * *
(2) Permittee shall pay fees in accordance with § 14.94.

* * * * *

8. Section 14.52 is amended by revising paragraphs (a), (b), the introductory text of paragraph (c), paragraphs (c)(3), and (c)(4) and by adding paragraph (c)(5) to read as follows:

§ 14.52 Clearance of wildlife.

(a) Except as otherwise provided by this subpart, all wildlife imported into the United States must be presented for clearance and cleared by a Service officer prior to release from detention by Customs officers. All wildlife to be exported from the United States must be

presented for clearance, in a condition suitable for clearance, and cleared by a Service officer prior to the physical loading of the merchandise on a vehicle, aircraft, or the containerization or pelletizing of such merchandise for export, unless expressly authorized otherwise. Such clearance does not constitute a certification of the legality of an importation or exportation under the laws or regulations of the United States.

(b) Clearance by a Service officer may be obtained only at designated ports (§ 14.12), at border ports (§ 14.16), at special ports (§ 14.19), or at a port where importation or exportation is authorized by a permit issued under Subpart C of this Part. Any wildlife released without a Service officer's clearance or clearance by Customs for the Service under authority of § 14.54 must be returned forthwith to a port where clearance may be obtained pursuant to this subpart.

(c) To obtain clearance, the importer, exporter, or the importer's or exporter's agent, shall make available to a Service officer or a Customs officer acting under § 14.54:

(3) All permits or other documents required by the laws or regulations of any foreign country;

(4) The wildlife being imported or exported; and

(5) Any documents and permits required by the country of natal origin of the wildlife.

9. Section 14.53 is revised to read as follows:

§ 14.53 Detention and Refusal of clearance.

(a) *Detention.* Any Service officer, or Customs officer acting under § 14.54, may detain imported wildlife. As soon as practicable following the importation and decision to detain, the Service shall mail a notice of detention by registered or certified mail, return receipt requested, to the importer or consignee, if known or easily ascertainable. Such notice shall describe the detained wildlife or other property, indicate the reason for the detention, describe the general nature of the tests or inquiries to be conducted, and indicate that if the releasability of the wildlife has not been determined within 30 days after the date of the notice, or a longer period if specifically stated, that the wildlife shall be deemed to be seized and no further notification of seizure will be issued.

(b) *Refusal of Clearance.* Any Service officer may refuse clearance of imported or exported wildlife and any Customs officer acting under § 14.54 may refuse clearance of imported wildlife when

there are reasonable grounds to believe that:

(1) A Federal law or regulation has been violated;

(2) The correct identity and country of origin of the wildlife has not been established (in such cases, the burden is upon the owner, importer, exporter, consignor, or consignee to establish such identity by scientific name to the species level or, if any subspecies is protected by the laws of this country or the country of origin, to the subspecies level);

(3) Any permit, license or other documentation required for clearance of such wildlife is not available, is not currently valid or has been suspended or notice of revocation made; or, is not authentic;

(4) The importer, exporter, or the importer's or exporter's agent has filed an incorrect or incomplete declaration for importation or exportation as provided in § 14.61 or § 14.63; or

(5) Any fee or portion of balance due for inspection fees required by § 14.93 or assessed penalties against the importer or exporter under Part 11 of this chapter has not been paid.

10. Section 14.54 is amended by revising paragraph (a), and adding paragraph (f) to read as follows:

§ 14.54 Unavailability of Service officers.

(a) *Designated ports.* All wildlife arriving at a designated port must be cleared by a Service officer prior to Customs clearance and release. When live or perishable shipments of wildlife or wildlife products are expected or when inspection is requested at the time of arrival, the Service must be notified at least 48 hours prior to the estimated time of arrival. However, where a Service officer is not available within a reasonable time, live or perishable wildlife may be cleared by Customs officers subject to post-clearance inspection and investigation by the Service.

(f) *Exports.* The Service shall be notified and the shipment made available for inspection at least 48 hours prior to the estimated time of exportation of any wildlife.

11. Section 14.55 is amended by revising the introductory text of the section to read as follows:

§ 14.55 Exceptions to clearance requirements.

Except for wildlife requiring a permit pursuant to Part 17 and/or 23 of this Subchapter B, clearance is not required for the importation of the following wildlife.

12. Section 14.61 is revised to read as follows:

§ 14.61 Import declaration requirements.

Except as otherwise provided by the regulations of this subpart, either a completed Declaration for Importation or Exportation of Fish or Wildlife (Form 3-177) signed by the importer or the importer's agency or an electronic Form 3-177, filed through the United States Customs Service Automated Commercial System (ACS) by an authorized Customs broker using the Automated Broker Interface (ABI), shall be filed with the Service upon the importation of any wildlife at the place where Service clearance under § 14.52 is requested. However, wildlife may be transhipped under bond to a different port for release from custody by Customs Service officers under 19 U.S.C. 1499. For certain antique articles as specified in § 14.22, a Form 3-177 shall be filed with the District Director of Customs at the port of entry prior to release from Customs custody. All applicable information requested on the Form 3-177 shall be furnished and the importer, or the importer's agent, shall certify that the information furnished is true and complete to the best of his/her knowledge and belief.

13. Section 14.62 is amended by revising paragraph (a), by removing paragraph (b)(2) and by redesignating existing paragraphs (b)(3) and (b)(4) as paragraphs (b)(2) and (b)(3) respectively and revising them to read as follows:

§ 14.62 Exceptions to import declaration requirements.

(a) Except for wildlife requiring a permit pursuant to Part 17 and/or Part 23 of this Subchapter B, a Declaration for Importation or Exportation of Fish or Wildlife (Form 3-177) does not have to be filed for importation of shellfish and fishery products imported for purposes of human or animal consumption, or taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes;

(b) * * *

(2) Wildlife products or manufactured articles which are not intended for sale or exhibit for sale and are used as clothing or contained in accompanying personal baggage, except that a Form 3-177 must be filed for raw or dressed furs, for raw, salted, or crusted hides or skins; and for game or game trophies; and

(3) Wildlife products or manufactured articles which are not intended for sale or exhibit for sale and are a part of a shipment of the household effects or persons moving their residence to the United States, except that declaration

must be filed for raw or dressed furs, and for raw, salted, or crusted hides or skins.

* * * * *

14. Section 14.64 is amended by revising paragraphs (a), (b)(1), and (b)(2) to read as follows:

§ 14.64 Exceptions to export declaration requirements.

(a) Except for wildlife requiring a permit pursuant to Part 17 and/or Part 23 of this subchapter B, a Declaration for Importation or Exportation of Fish or Wildlife (Form 3-177) does not have to be filed for the exportation of shellfish and fishery products exported for purposes of human or animal consumption or taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes, and does not have to be filed for the exportation of marine invertebrates of the Class Pelycopoda; species commonly known as oysters, clams, mussels, and scallops; and the eggs, larvae, or juvenile forms thereof exported for purposes of propagation, or research related to propagation.

(b) * * *

(1) Wildlife which is not intended for sale or exhibit for sale where the value of such wildlife is under \$250; and

(2) Wildlife products or manufactured articles, including game trophies, which are not intended for sale or exhibit for sale and are used as clothing or contained in accompanying personal baggage or are part of a shipment of the household effects of persons moving their residence from the United States.

15. Section 14.81 is revised to read as follows:

§ 14.81 Marking requirement.

Except as otherwise provided in this subpart, no person may import, export, or transport in interstate commerce any container or package containing any fish or wildlife (including shellfish and fishery products) unless each container or package is conspicuously marked on the outside with both the name and address of the shipper and consignee. The entire shipment shall be accompanied by an accurate and legible list of its contents by scientific species name and the number of each species and whether or not the listed species are venomous.

16. Section 14.82 is amended by revising paragraphs (a)(1)(ii)(A), (a)(2), and (a)(3) to read as follows:

§ 14.82 Alternatives and exceptions to the marking requirement.

- (a) * * *
- (1) * * *
- (ii) * * *

(A) The common name that identifies the species [examples include: chinook (or king) salmon; bluefin tuna; and whitetail deer] and whether or not the listed species is venomous; and

* * * * *

(2) Affixing the shipper's wildlife import/export license number preceded by the three letters "FWS" on the outside of each container or package containing fish or wildlife, if the shipper has a valid wildlife import/export license issued under authority of 50 CFR Part 14. For each shipment marked in accordance with this paragraph, the records maintained under § 14.93(c) must include a copy of the invoice, packing list, bill of lading, or other similar document which accurately states the information required by paragraph (a)(1)(ii) of this section.

(3) In the case of subcontainers or packages within a larger packing container, only the outermost container must be marked in accordance with this section. *Provided*, that for live fish or wildlife that are packed in subcontainers within a larger packing container, if the subcontainers are numbered or labeled, the packing list, invoice, bill of lading, or other similar document, must reflect that number or label. However, each subcontainer containing a venomous species must be clearly marked as venomous.

* * * * *

17. Section 14.91 is amended by revising paragraphs (a) and (c) to read as follows:

§ 14.91 License requirement.

(a) *Prohibition.* Except as otherwise provided in this subpart, it is unlawful for any person to engage in business as an importer or exporter of wildlife without first having obtained a valid import/export license from the Director.

* * * * *

(c) *Certain persons required to be licensed.* The definition in paragraph (b) of this section includes, but is not limited to, persons who import or export wildlife for commercial purposes:

- (1) For trade, sale, or resale, such as animal dealers, animal brokers, pet dealers, pet suppliers, and laboratory research suppliers;
- (2) In the form of fur for tanning, manufacture, or sale, such as fur trappers, fur dealers, fur brokers, and fur manufacturers;
- (3) In the form of hides and skins for tanning, manufacture, or sale, such as hide, skin and leather dealers, brokers, manufacturers and processors;
- (4) In the form of products (such as garments, bags, shoes, boots, jewelry,

rugs, or curios) for sale, such as wholesalers, retailers, distributors, and brokers;

(5) As taxidermists importing and exporting wildlife in connection with the mounting, processing, or storage of trophies or specimens; and

(6) As freight forwarders.

(7) In the form of food products taken from populations of non-domesticated animals.

18. Section 14.92 is amended by revising paragraphs (a)(1), (a)(2), (a)(3), (a)(4) and by adding (a)(5) and (a)(6), and by revising (b)(1), (b)(2), (b)(4), and (b)(5) and by removing paragraph (b)(6) to read as follows:

§ 14.92 Exceptions to license requirement.

(a) * * *

(1) Shellfish and fishery products which do not require a permit under Part 17 and/or Part 23 of this Subchapter B and which are imported or exported for purposes of human or animal consumption;

(2) Shellfish and fishery products which do not require a permit under Part 17 and/or Part 23 of this Subchapter B and which are taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes;

(3) Fox, nutria, rabbit, mink, chinchilla, marten, fisher, muskrat, and karakul or their products if the animals have been bred and born in captivity;

(4) Live farm-raised fish and farm-raised eggs of species not requiring a permit under Parts 17 or 23 of this subchapter B which are being exported;

(5) Marine invertebrates of the Class Pelycopoda; species commonly known as oysters, clams, mussels, and scallops; and the eggs, larvae, or juvenile forms thereof exported for purposes of propagation, or research related to propagation; and

(6) Pearls imported for commercial purposes.

(b) * * *

(1) Common carriers when engaged as a transporter and not as the importer or exporter of record;

(2) Custom house brokers when engaged as an agent and not as the importer or exporter of record;

* * * * *

(4) Federal, State, or municipal agencies; or

(5) Circuses importing or exporting wildlife for exhibition purposes only and not for purchase, sale, barter, or transfer of such wildlife.

19. Section 14.93 is amended by revising paragraphs (c)(4) and (c)(5) to read as set forth below, and by removing paragraph (f).

§ 14.93 License application procedure, conditions, and duration.

* * * * *

(c) * * *

(4) Subject to applicable limitations of law, duly authorized Service officers at all reasonable times shall, upon notice, be afforded access to the licensee's places of business, be afforded an opportunity to examine the licensee's inventory of imported wildlife and the records required to be kept under paragraph (c)(1) of this section, and an opportunity to copy such records;

(5) Licensees shall, upon written request by the Director, submit within 30 days of such request a report containing the information required to be maintained by paragraph (c)(1) of this section, and

* * * * *

20. Section 14.94 is added to subpart I to read as follows:

§ 14.94 Fees.

(a) *Overtime Fees.* Importers or exporters of wildlife may be charged a fee for overtime in addition to the inspection fee for inspections which begin before normal working hours, which extend beyond normal working hours, or are on a holiday, Saturday, or Sunday if the following conditions are met:

(1) The wildlife being imported or exported is part of a commercial shipment; and

(2) The importer/exporter requested that the inspection be performed outside normal work hours. If a live or perishable shipment is presented for inspection during normal work hours but the inspection cannot be performed during normal work hours on that day, the importer/exporter will be given the option of selecting to have the inspection performed later during normal work hours or being charged for overtime. The Service's ability to perform inspections during overtime hours for non-perishable shipments will depend on the availability of Service personnel.

(b) *Overtime Fee Parameters.* The following parameters shall be followed when calculating fees to be collected for overtime:

(1) Inspection time commences when a Service officer departs their residence or official duty station en route to the inspection site and terminates when they return to the point of departure or official duty station.

(2) For an inspection beginning less than 1 hour before normal work hours, 1 hour of time will be charged, at an hourly rate of 1½ times the average hourly rate of a journeyman level Wildlife Inspector. For all other inspections performed outside of normal work hours or on a Saturday, a minimum of 2 hours of time will be charged, at an hourly rate of 1½ times

the average hourly rate of a journeyman level Wildlife Inspector.

(3) Any inspection which continues in excess of the 2-hour minimum will be charged in quarter hour increments. Inspection time of 10 minutes or more will be rounded up to the next quarter hour and any time less than 10 minutes will be disregarded.

(4) Inspections performed on a holiday or a Sunday will be charged a minimum of 2 hours at twice the average hourly rate of a journeyman level Wildlife Inspector.

(c) *Nondesignated Port Fees.* Fees for inspections performed at non-designated ports shall be a minimum of 2 hours at 1½ times the average hourly rate of a journeyman level Wildlife Inspector plus the administrative fee in accordance with 50 CFR 14.32(c)(2) and 14.33(c)(2).

(d)(1) *Schedule.*

GENERAL FEES

| | |
|----------------|---|
| License fee | \$50 per year. |
| Inspection fee | Each licensee shall pay an inspection fee of \$55 per shipment for each wildlife shipment imported into or exported from the United States. |

(2) *General Calculation of Inspection Fees.*

INSPECTION FEE SCHEDULE

| | |
|---|--|
| Inspections at Designated port beginning before normal work hours: | |
| Administrative fee | \$55. |
| Up to 1 hour before normal work hours | 30.00 |
| More than 1 hour before normal work hours | 2 hour minimum at \$30.00 an hour. |
| Inspections at Designated port Outside normal work hours (including Saturdays): | |
| Administrative fee | 55. |
| Less than 2 hours | 2 hour minimum at \$30.00 an hour. |
| Exceeds 2 hours | Quarter hour multiples (\$7.50 per quarter hour). Service time. 10 minutes or more rounded to the next quarter hour, less than 10 minutes is disregarded. Plus 2 hour minimum. |
| Inspections at all ports during Sundays and Holidays | 2 hour minimum, at the rate of \$40.00 per hour. |
| Administrative fee | 55. |
| Inspections at Non-Designated ports, border and special ports | 2 hour minimum at the rate of \$30.00 per hour. |
| Administrative fee | 55. |

(3) No fee or any portion of any license or inspection fee shall be refundable or payment of fee excused

because importation or clearance of wildlife shipment is refused for any reason.

Dated: August 19, 1994.
 George T. Frampton, Jr.,
 Assistant Secretary for Fish and Wildlife and Parks.
 [FR Doc. 94-22542 Filed 9-13-94; 8:45 am]
 BILLING CODE 4310-55-M

Federal Register

Wednesday
September 14, 1994

Part III

**Department of
Housing and Urban
Development**

Office of the Assistant Secretary for
Public and Indian Housing

Public and Indian Housing Youth
Apprenticeship Program; Notice of
Demonstration; Notice

**DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT**

**Office of the Assistant Secretary for
Public and Indian Housing**

[Docket No. N-94-3800; FR-3649-N-03]

**Public and Indian Housing Youth
Apprenticeship Program; Notice of
Demonstration**

AGENCY: Office of the Assistant
Secretary for Public and Indian
Housing, HUD.

ACTION: Notice of demonstration
program.

SUMMARY: This Notice announces the Department's intention to contribute up to \$1.5 million from the Youth Apprenticeship Program to the Philadelphia Housing Authority to demonstrate ways of promoting, through Youth Corps and a joint labor/management/community consortium, the long-term welfare of youths living in public and assisted housing. This demonstration will provide Youth Corps and joint labor/management/community consortium initiatives designed to focus on job training and ensured employment opportunities that lead to self-sufficiency. The Department advised in a Notice of Funding Availability published on August 18, 1994, that it would be publishing a notice of this demonstration. This notice provides guidelines for the use of these funds and invites comments on the proposed demonstration.

DATES: Comments due date: October 14, 1994.

ADDRESSES: Interested persons are invited to submit comments regarding this notice 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. 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: Paula Blunt, Office of Resident Initiatives, Department of Housing and Urban Development, 451 Seventh Street SW., Room 4112, Washington, DC 20410, Telephone Number (202) 708-4214 (This is not a toll free number). Hearing- or speech-impaired persons may use the Telecommunications Devices for the Deaf (TDD) by contacting the Federal Information Relay Service

on (202) 708-9300 or 1-800-877-8339 for information on the program.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The information collection requirements contained in this notice have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1990 (44 U.S.C. 3501-3520), and assigned OMB control number 2577-0199.

Authority

The Youth Apprenticeship Program is funded under the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act for 1994 (Pub.L. 103-124, approved October 28, 1993) (the 1994 Appropriations Act).

On August 18, 1994 (59 FR 42740), the Department published a Notice of Funding Availability (NOFA) announcing the first competition for grant funds under the program. In the August 18, 1994 NOFA, the Department stated as follows:

The Department intends to use \$1.5 million for purposes of demonstrating ways of promoting, through Youth Corps and a joint labor/management community consortium, the long-term welfare of youths living in public and assisted housing. The funding will be awarded to a HOPE VI grantee with a distressed public housing community undergoing a concentrated effort of local revitalization to train public and assisted housing residents to participate in the rehabilitation of distressed and vacant public housing units with guaranteed employment in construction jobs. The Department expects that this funding will demonstrate the importance of job training, followed by assured employment, in contributing to the local neighborhood revitalization. FR-3649-N-01 (August 18, 1994, 59 FR 42741).

In accordance with the requirements of section 470(a) of the Housing and Urban-Rural Recovery Act of 1983 (42 U.S.C. 3542), this notice describes the proposed demonstration and invites public comment. Any changes made in this demonstration as a result of the Department's consideration of public comments, and any extension of time for the commitment of funds that may be necessary because of these changes, also will be published in the **Federal Register**.

The Department will not commit funds for the proposed demonstration until after the latest of: (1) the date the Department has considered any comments received in response to this notice; (2) November 14, 1994, which is 60 days after today's publication date; and (3) the date the Department has received and approved an application

that meets the requirements set forth in this notice and any subsequent notice announcing changes in the demonstration.

Background of Demonstration

The City of Philadelphia is experiencing a serious housing crisis with an estimated sixty thousand (60,000) families in need of housing assistance. The city's biggest landlord—the Philadelphia Housing Authority—currently has fifteen thousand (15,000) families on its conventional public housing waiting list, and has closed its waiting list to future applicants.

Further compounding this housing crisis is the dual designation of the Philadelphia Housing Authority as a "troubled housing authority" and a "troubled modernization authority," which suggests among other things an inability to repair and modernize its units. In fact, the housing authority has several thousand units that are vacant and in need of major repair and rehabilitation. The scope of the needed rehabilitation project is substantial; many of the vacant units are abandoned shells, or otherwise unfit for human habitation. Repairing or renovating these units can play an important role in abating the housing crisis in Philadelphia, perhaps even enabling the Philadelphia Housing Authority to re-open its waiting list to new applicants who seek decent and affordable public housing.

Through a labor/management/community consortium involving the Philadelphia Housing Authority, the Laborers' International Union of North America ("LIUNA"), the Housing Association of Delaware Valley, Youth Corps through the National Association of Service and Conservation Corp (NASCC), and experienced construction contractors, a demonstration project will be developed involving the rehabilitation of one thousand (1,000) distressed and vacant public housing units of the Philadelphia Housing Authority. An important element of this demonstration will be the recruitment, training, mentoring and job placement of public and assisted housing residents in the rehabilitation of these public housing units.

For purposes of this demonstration, the Department will make up to \$1.5 million available to the Philadelphia Housing Authority for use in establishing a Youth Apprenticeship Program in Philadelphia. The funding will be used in accordance with the statutory requirements of the Youth Apprenticeship program for youth apprenticeship training activities for joint labor-management organizations in

HOPE VI communities. This demonstration will bring together the skills needed for the successful operation of a program that will restore distressed units to the housing inventory in a cost-effective manner, while providing skills training and work opportunities to public and assisted housing residents.

Under this demonstration, LIUNA will have responsibility for coordinating manpower needs for the project and providing skills training; management expertise will be provided through experienced construction contractors; community participation, and outreach and training for public and assisted housing residents will be coordinated by the Housing Association of Delaware Valley; life and work skills development along with training and community service will be provided through Youth Corps; and the housing authority will have major responsibility in the area of community relations and recruitment of public and assisted housing residents for the training programs implemented as part of the demonstration.

This demonstration will be a new and innovative approach to solving long-standing problems in the public housing system. The demonstration combines the construction talents of LIUNA's existing membership with the union's social commitment to recruiting, training and placing women, minorities,

public and assisted housing residents, and other disadvantaged persons in construction jobs. By joining forces with experienced construction management and established community leaders, this initiative will serve as a model for accomplishing solid results in housing rehabilitation (returning currently vacant, uninhabitable public housing units to the inventory of usable housing in a timely, efficient and cost effective manner) while also promoting the long-term welfare of public and assisted housing residents.

Following initial basic skills training under this program, program participants will be enrolled in an apprenticeship program for construction laborers. LIUNA will provide the facilities of the Philadelphia regional training center and its tools and equipment as an in-kind contribution to this project. It will also supply journeymen laborers to contractors who will be engaged to perform the rehabilitation work. They also will work in close coordination with other building trades organizations that are deemed necessary for the rehabilitation project. LIUNA laborers and apprentices will perform work traditionally performed by construction craft laborers, including demolition, lead paint abatement and asbestos removal work. They also will perform any other work that is deemed necessary for the

successful completion of the rehabilitation project.

The Department will allocate up to \$1.5 million to the Philadelphia Housing Authority to carry out this demonstration, pending receipt and approval of an application that is consistent with program and submission requirements as established in this notice and any subsequent notice issued after the comment period has closed.

Applicable Requirements

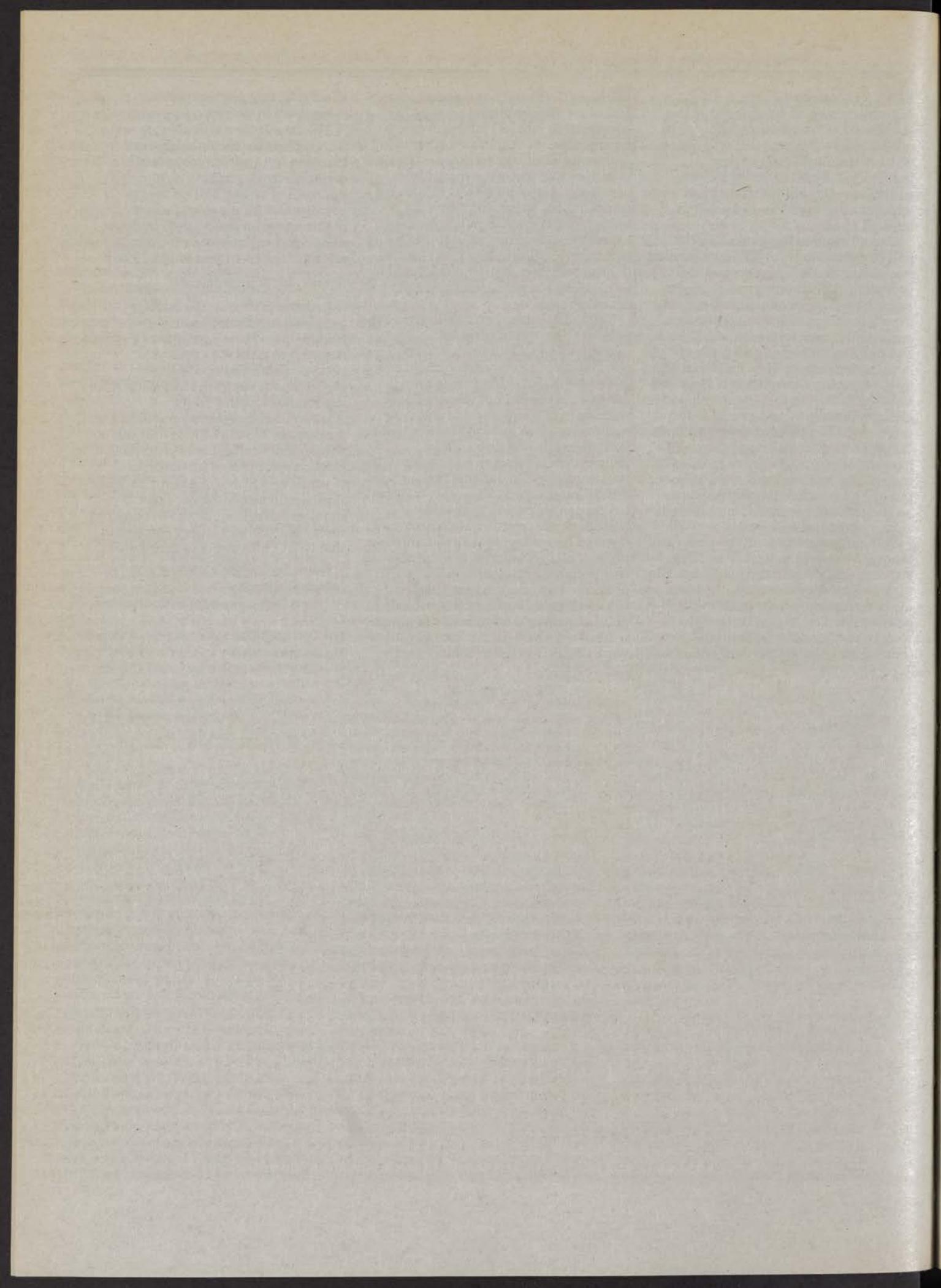
In order to receive the funding proposed in this notice, the Philadelphia Housing Authority will be required to meet the applicable programmatic and application requirements set forth in the NOFA for the Public Housing Youth Apprenticeship Program published on August 18, 1994 (59 FR 42740) and any subsequent notice that is published after the comment period has closed.

When applicable, the certifications, findings, determinations, and requirements listed by the Department under the "Other Matters" section of that NOFA also apply to this notice.

Dated: September 7, 1994.

Joseph Shuldiner,
Assistant Secretary for Public and Indian Housing.

[FR Doc. 94-22682 Filed 9-13-94; 8:45 am]
BILLING CODE 4210-33-P



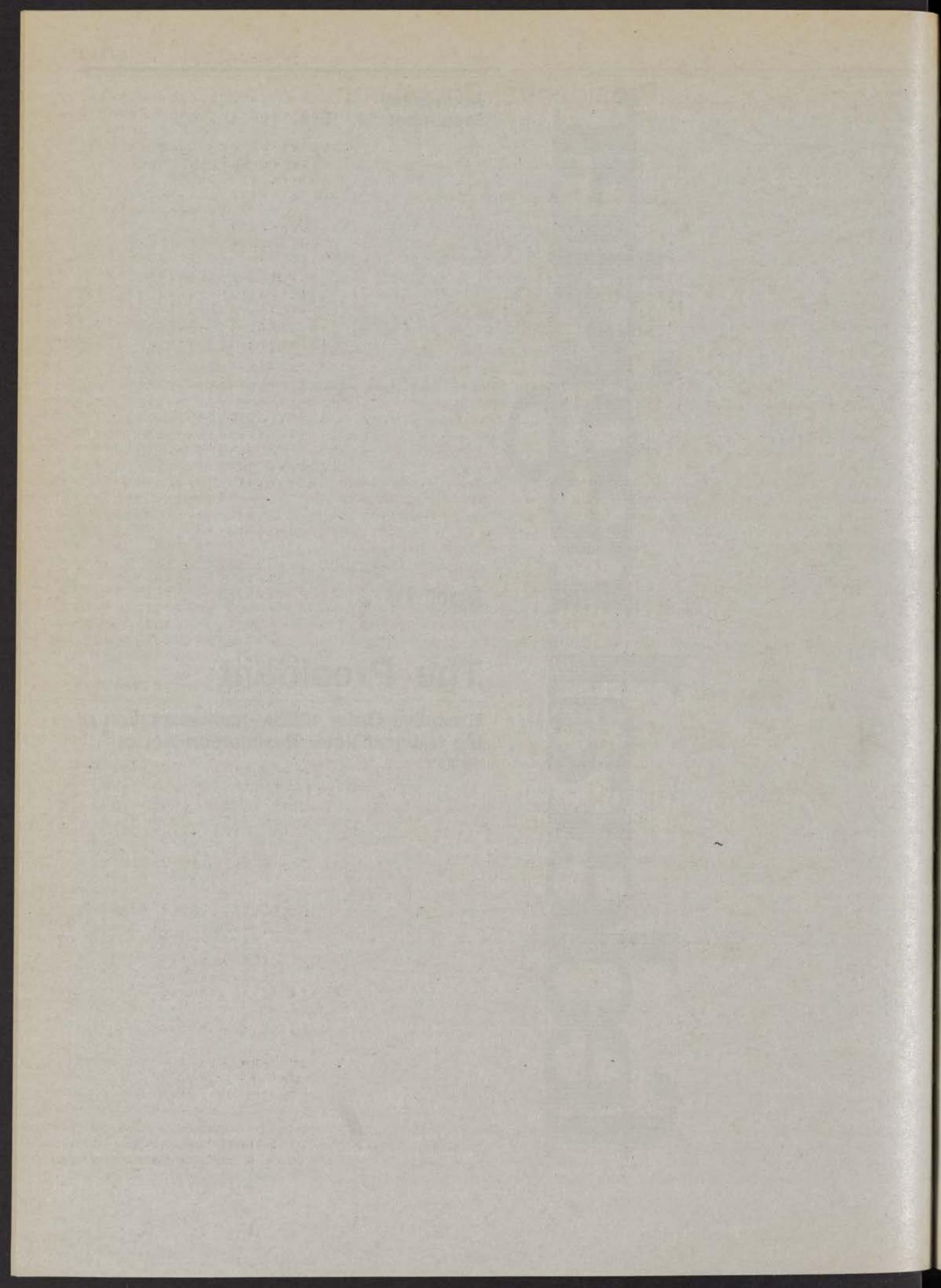
Federal Register

Wednesday
September 14, 1994

Part IV

The President

Executive Order 12926—Implementation of
the National Voter Registration Act of
1993



Presidential Documents

Title 3—

Executive Order 12926 of September 12, 1994

The President

Implementation of the National Voter Registration Act of 1993

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, and in order to ensure, as required by section 7(b) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg) ("the Act"), that departments, agencies, and other entities of the executive branch of the Federal Government cooperate with the States in carrying out the Act's requirements, it is hereby ordered as follows:

Section 1. Assistance to States. To the greatest extent practicable, departments, agencies, and other entities of the executive branch of the Federal Government that provide, in whole or in part, funding, grants, or assistance for, or with respect to the administration of, any program of public assistance or services to persons with disabilities within the meaning of section 7(a) of the Act shall: (a) provide, to State agencies administering any such program, guidance for the implementation of the requirements of section 7 of the Act, including guidance for use and distribution of voter registration forms in connection with applications for service;

(b) assist each such State agency administering any such program with the costs of implementation of the Act, consistent with legal authority and the availability of funds, and promptly indicate to each State agency the extent to which such assistance will be made available; and

(c) designate an office or staff to be available to provide technical assistance to such State agencies.

Sec. 2. Armed Forces Recruitment Offices. The Secretary of Defense is directed to work with the appropriate State elections authorities in each State to develop procedures for persons to apply to register to vote at Armed Forces recruitment offices as required by section 7(c) of the Act.

Sec. 3. Acceptance of Designation. To the greatest extent practicable, departments, agencies, or other entities of the executive branch of the Federal Government, if requested to be designated as a voter registration agency pursuant to section 7(a)(3)(B)(ii) of the Act, shall: (a) agree to such a designation if agreement is consistent with the department's, agency's, or entity's legal authority and availability of funds; and

(b) ensure that all of its offices that are located in a particular State will have available to the public at least one of the national voter registration forms that are required under the Act to be available in that State.

William Clinton

THE WHITE HOUSE,
September 12, 1994.

[FR Doc. 94-22969

Filed 9-13-94; 11:21 am]

Billing code 3195-01-P

Editorial note: For the President's statement on this implementation, see issue 37 of the *Weekly Compilation of Presidential Documents*.

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H.R. 2947/P.L. 103-321

To amend the Commemorative Works Act, and for other purposes. (Aug.

26, 1994; 108 Stat. 1793; 3 pages)

H.R. 3355/P.L. 103-322

Violent Crime Control and Law Enforcement Act of 1994 (Sept. 13, 1994; 108 Stat. 1796; 356 pages)

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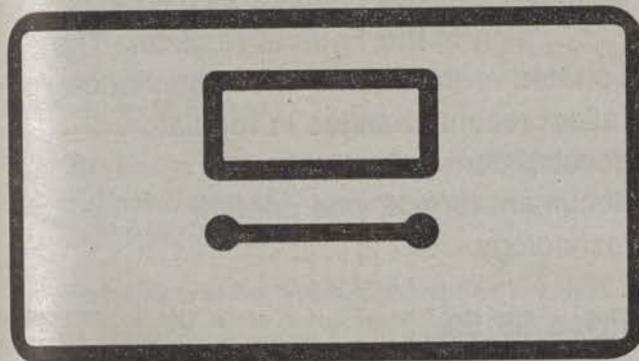
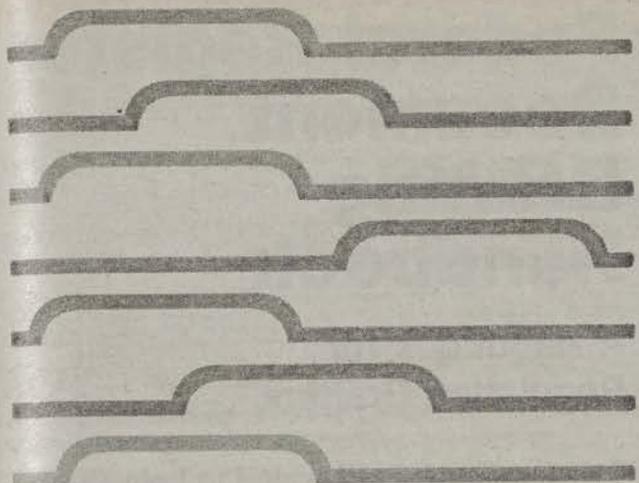
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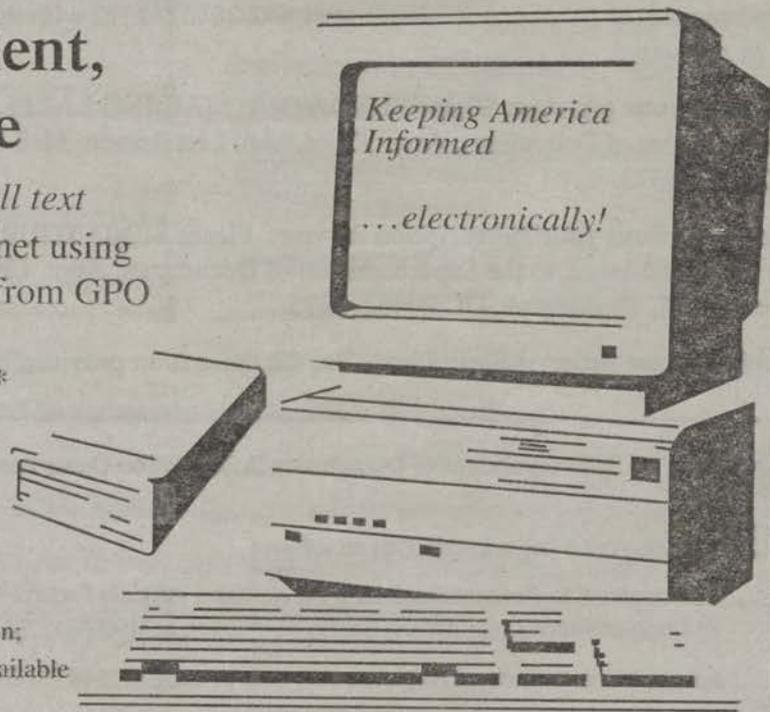
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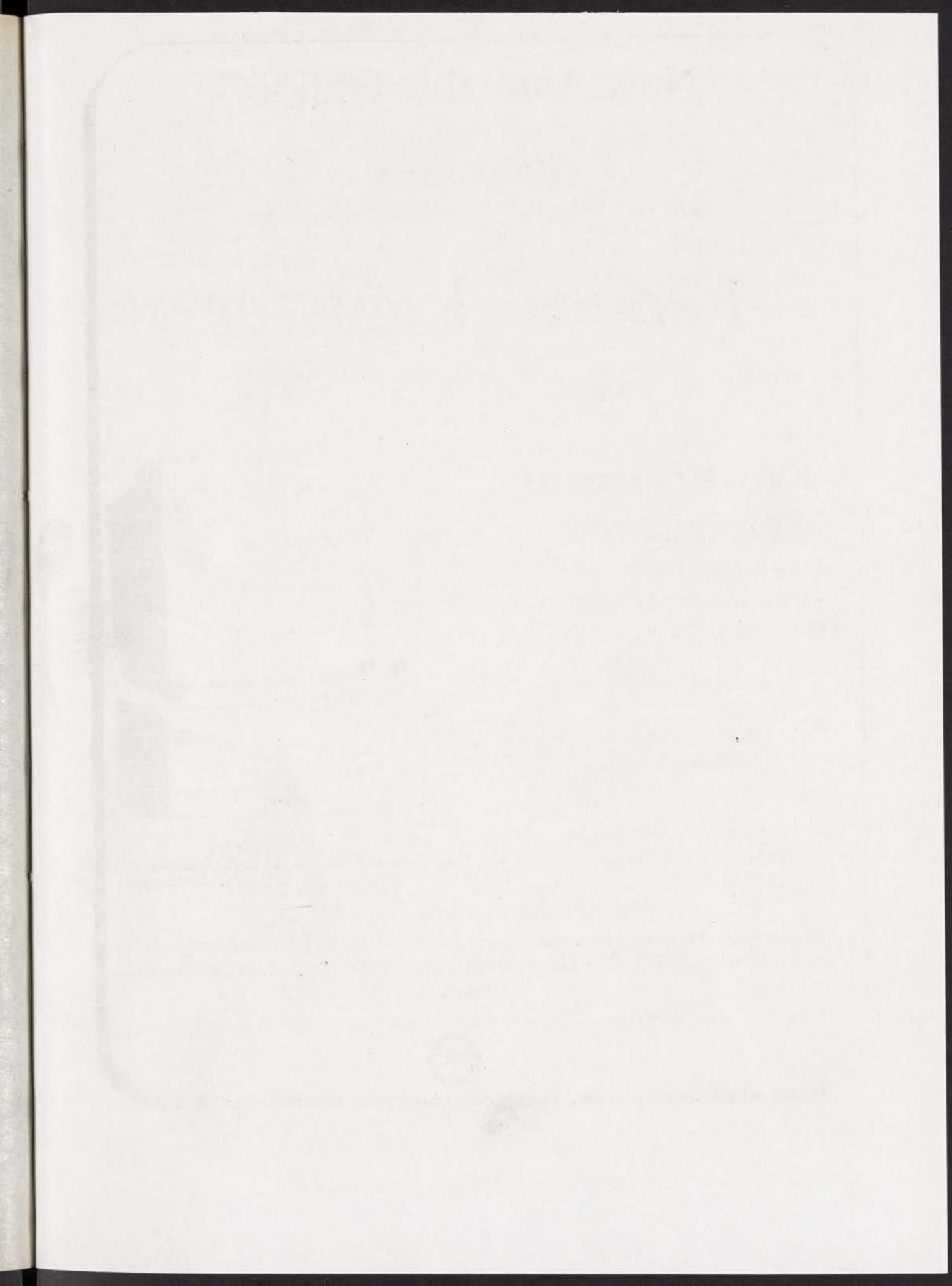
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