
Wednesday
March 1, 1995

Federal Register

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

WASHINGTON, DC (TWO BRIEFINGS)

WHEN: March 23 at 9:00 am and 1:30 pm
WHERE: Office of the Federal Register Conference Room, 800 North Capitol Street NW., Washington, DC (3 blocks north of Union Station Metro)
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DALLAS, TX

WHEN: March 30 at 9:00 am
WHERE: Conference Room 7A23 Earle Cabell Federal Building and Courthouse 1100 Commerce Street Dallas, TX 75242
RESERVATIONS: 1-800-366-2998



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documents on public inspection is available on 202–275–
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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 362

RIN 3206-AG17

Presidential Management Intern Program

AGENCY: Office of Personnel Management.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of Personnel Management (OPM) is issuing interim regulations governing selection and employment procedures for Presidential Management Intern positions as part of the implementation of Federal Personnel Manual (FPM) sunset. The regulations incorporate certain requirements that existed in the provisionally retained FPM and were abolished on December 31, 1994.

DATES: Effective Date: March 1, 1995. Comments on the interim regulations must be received on or before May 1, 1995.

ADDRESSES: Send or deliver written comments to Assistant Director, Office of Training Operations, HRDG, Suite 800, 1400 Wilson Boulevard, Arlington, VA 22209.

FOR FURTHER INFORMATION CONTACT: Ardrey Harris at 703-807-0321.

SUPPLEMENTARY INFORMATION: These regulations affect selection and appointment to Presidential Management Intern positions. One of the recommendations of the September 1993 Report of the National Performance Review was that the Federal Personnel Manual (FPM) should be "sunset." Following consultation with agencies and other interested parties, the Director of the OPM issued a memorandum abolishing the FPM as of December 31, 1993. Portions of the FPM and FPM supplements, however, were provisionally retained until

December 31, 1994. Decisions on what to include in the regulations were based on whether the requirement or authority was necessary to assure uniformity in Presidential Management Intern Program (PMIP) operations, and/or to protect employee rights.

Under section 553(b)(3)(B) of title 5 of the United States Code, the Director finds that good cause exists for waiving the general notice of proposed rulemaking. The notice is being waived because the regulations continue certain requirements and authorities that are currently in the provisionally retained FPM material and that went out of existence as of December 31, 1994, because they are not specified in existing regulations or law. No new requirements would be imposed on agencies under the regulations.

Executive Order 12866, Regulatory Review

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

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it affects only certain Federal employees.

List of Subjects in 5 CFR Part 362

Administrative practice and procedure, Government employees. U.S. Office of Personnel Management.

Lorraine A. Green,
Deputy Director.

Accordingly, OPM is adding part 362 of title 5, Code of Federal Regulations as follows:

PART 362—PRESIDENTIAL MANAGEMENT INTERN PROGRAM

Subpart A—Purpose, Definitions

Sec.

362.101 Purpose.

362.102 Definitions.

Subpart B—Program Administration

Sec.

362.201 Appointment.

362.202 Eligibility.

362.203 Extensions and Conversions of Presidential Management Internships.

362.204 Termination.

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362.206 Movement of interns between Agencies.

362.207 Career development.

362.208 Agency duties.

Authority: E.O. 12364

Subpart A—Purpose, Definitions

§ 362.101 Purpose.

The Presidential Management Intern Program (PMIP), established by Executive Order 12008 on August 25, 1977, and reconstituted by Executive Order 12346 on May 24, 1982, is designed to attract to Federal service outstanding men and women from a variety of academic disciplines who have a clear interest in, and commitment to, a career in the analysis and management of public policies and programs.

§ 362.102 Definitions.

Presidential Management Interns are individuals appointed in the excepted service, under § 213.3102(ii) of this chapter, in an executive agency or department. Such an individual must be a United States citizen who has completed a graduate course of study at a qualifying college or university, received the nomination of the dean or academic program director, passed on OPM-administered screening process, and been selected by an agency for a 2-year Presidential Management Internship.

Qualifying colleges or universities are accredited United States academic institutions with a graduate program applicable to the management or analysis of public programs and policies.

Subpart B—Program Administration

§ 362.201 Appointment.

(a) The appointment authority for Presidential Management Interns is § 213.3102(ii) of this chapter. Appointments under this authority cannot exceed 2 years unless extended by the Federal department or agency, with the concurrence of the U.S. Office of Personnel Management, for up to one additional year.

(b) Agencies need to assure that all graduate degree requirements have been met at the time of appointment. Interns may not be appointed prior to the *completion of all graduate degree requirements*. Exceptions may be made on an individual basis, but in no case will an intern be allowed to remain in the program if all degree requirements are not completed by August 31 of the year in which interns were selected as finalists.

(c) Finalists in the PMIP may be appointed following official announcement of their selection as finalists. *Appointments must be made no later than December 31 of the year in which the terms were selected as finalists.* Exceptions may be granted on a case by case basis upon request to the PMIP office no later than December 15.

(d) Initial appointments must be made at the grade GS-9, Step 1 level of the General Schedule. If an intern has had prior higher level Federal Government experience, that individual may be placed at higher step within grade GS-9 of the General Schedule. The appointment authority, § 213.3102(ii) of this chapter, authorizes Presidential Management Intern positions only at grades GS-9 and GS-11 of the General Schedule. Therefore, promotions above grade GS-11 can occur only on or after the date of conversion of the competitive service.

§ 362.202 Eligibility.

(a) *General.* Those eligible to be nominated for the Program are United States citizens completing or expecting to complete an advanced degree focusing on or applicable to the analysis or management of public policies and programs from an accredited United States college or university during the current *academic* year.

(b) *Nomination procedure.* (1) Students must be nominated by their school deans or academic program directors. Individuals who wish to be nominated must be rated by their schools as either qualified or not qualified for nomination and should be notified of their status by their schools. The school is obligated to devise a competitive nomination process which ensures that selection is determined on the basis of relative ability, knowledge and skills after fair and open competition which assures that all receive equal opportunity. All honorably discharged veterans with Federal veterans' preference entitlement who are in the qualified group must be nominated. Schools will need to determine which of the qualified individuals have Federal veterans' preference entitlement in order to ensure their nomination. These individuals must submit verification of their Federal veterans' preference entitlement along with their application to the PMIP Review Committee. Veterans who believe they meet their school's qualification requirements, but who are not nominated, have the right to appeal their non-nomination to the U.S. Office of Personnel Management.

(2) Selection of Program finalists is made by the Presidential Management

Intern Selection Committee based on selection process results.

§ 362.203 Extensions and Conversions of Presidential Management Internships.

(a) Federal agencies may request OPM approval for an extension of an internship for up to a 3rd and final year. The primary reason for extending an internship is to provide the intern with additional training and developmental activities.

(b) A written request to extend an internship should be submitted to the PMIP, no later than 60 days prior to the end of the initial 2-year period. This request must be sent to: U.S. Office of Personnel Management; Presidential Management Intern Program; 1400 Wilson Boulevard; Suite 1200, Arlington, VA 22209.

(c) *Eligibility for conversion.* Employees who have completed Presidential Management Internships are to be converted non-competitively to a career or career-conditional appointment for which they are qualified if all the following criteria are met:

(1) The employee has successfully completed a Presidential Management Internship at the time of conversion;

(2) The employee is recommended for conversion at least 90 calendar days before the completion of the internship. The agency decides whether or not to convert the employee. No recommendation is made to OPM. Agencies are asked to inform the PMIP, U.S. Office of Personnel Management, when an individual will not be converted.

(d) *Effective date.* Conversions will be effective on the date when the 2-year service requirement is met unless the internship is extended by the Federal department or agency, with the concurrence of the U.S. Office of Personnel Management, for up to one additional year.

(e)(1) *Tenure acquired.* Upon conversion, the employee becomes a career employee if the service requirements in § 315.708 of this chapter are met; otherwise, the employee becomes a career-conditional employee.

(2) *The time-after-competitive-appointment restriction.* This restriction, § 330.501 of this chapter, does not apply to conversions under Executive Order 12364.

(f) *Probationary period.* Employees converted under this section do *not* have to serve a probationary period. Successful completion of the Presidential Management Internship is regarded as completion of the probationary period.

§ 362.204 Termination.

The appointment of a Presidential Management Intern under § 213.3102(ii) of this chapter expires at the end of the 2-year internship period. At that time, the employing agency may, with no break in service, convert the intern to the competitive service or extend the internship with prior approval from OPM. If neither of those actions is taken, the Presidential Management Intern appointment terminates.

§ 362.205 Resignation.

Interns who resign during their internship do not have reinstatement eligibility for competitive service positions and cannot be reinstated to the PMIP.

§ 362.206 Movement of interns between agencies.

If an intern wishes to change his or her employing agency during the internship, it is necessary to resign from the current agency and be rehired by the new employing agency under the PMIP appointment authority without a break in service.

§ 362.207 Career development.

(a) The U.S. Office of Personnel Management will provide career development and training programs for interns during the 2-year internship. The career development component of the PMIP includes an initial orientation seminar, conferences, seminars, periodic opportunities for special briefings and workshops, and a program at the end of the internship.

(b) Interns must participate fully in the PMIP orientation and educational programs, as well as seminars, workshops, and other programs throughout the 2-year internship.

§ 362.208 Agency duties.

Agencies must provide—

(1) An orientation for interns which includes discussion of the agency's plans for interns, provides specific information on the functions and mission of the agency, and makes explicit the agency's expectations of interns;

(2) Individual development planning to ensure the intern gains professional and technical skills to qualify for a target upon conversion;

(3) A series of core assignments targeted to a functional area into which the intern is most likely to be converted.

[FR Doc. 95-4918 Filed 2-28-95;8:45am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Rural Housing and Community Development Service; Rural Business and Cooperative Development Service; Rural Utilities Service; Consolidated Farm Service Agency

7 CFR Part 1942

RIN 0575-AB82

Community Facility Loans and Grants

AGENCIES: Rural Housing and Community Development Service, Rural Business and Cooperative Development Service, Rural Utilities Service, Consolidated Farm Service Agency, USDA.

ACTION: Final rule.

SUMMARY: The regulations utilized to administer Community Facility Loans and Grants are being amended. This action changes the security requirements for solid waste disposal loans. The change affects the security requirements for loans secured primarily by revenue and the funds used to construct or improve solid waste facilities in rural communities. The effect of changing the security requirements for solid waste facilities is to provide better service to communities seeking to resolve solid waste disposal problems on a regional level.

EFFECTIVE DATE: March 1, 1995.

FOR FURTHER INFORMATION CONTACT: Jerry W. Cooper, Loan Specialist, Water and Waste Disposal Division, Rural Utilities Service, USDA, South Agriculture Building, Room 6328, Washington, DC 20250, telephone: (202) 720-9589.

SUPPLEMENTARY INFORMATION:

Classification

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

Intergovernmental Review

The programs are listed in the Catalog of Federal Domestic Assistance under number 10.760, Water and Waste Disposal Systems For Rural Communities, and are subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Environmental Impact Statement

This action has been reviewed in accordance with FmHA Instruction 1940-G, "Environmental Program." It has been determined that this action does not constitute a major Federal

action significantly affecting the quality of the human environment, and, in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190, an Environmental Impact Statement is not required.

Compliance with Executive Order 12778

The regulation has been reviewed in light of Executive Order 12778 and meets the applicable standards provided in sections 2(a) and (2)(b)(2) of that Order. Provisions within this part which are inconsistent with State law are controlling. All administrative remedies pursuant to 7 CFR part 1900 Subpart B must be exhausted prior to filing suit.

Paperwork Reduction Act

The information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB control number 0575-0015 in accordance with the Paperwork Reduction Act (44 U.S.C. 3507). This final rule does not revise or impose any new information collection requirement from those approved by OMB.

Background

A change is needed in the security requirements for loans made for construction or improvements to solid waste facilities. The requirements of the Environmental Protection Agency Subtitle D regulations have increased the capital needs of rural communities for disposal of solid waste. The current security requirements for loans on solid waste facilities are too stringent, and this final action will add flexibility that is needed to improve the program. Currently, additional security is required when revenue is the primary security for loans involving solid waste facilities. This change will remove the requirement for additional security.

Comments on Proposed Rule

The Farmers Home Administration published a proposed rule in the **Federal Register** on August 19, 1994, (59 FR 42783) and asked for written comments on or before October 18, 1994. Ten comments were received from the public review process. All ten of the comments received were in relation to the proposed change to incorporate into Community Programs loan and grant regulations the provision contained in Rural Electrification Administration Loan Restructuring Act of 1993, (REA Act). No comments were received regarding the proposed change in the security requirements for loans made for

solid waste disposal facilities. Certain provisions of the REA Act prohibits a recipient of the programs from imposing certain conditions on the users of the service provided. The REA Act requires that appropriate measures and sanctions be implemented against any person violating or attempting to violate this prohibition. Based on the comments received, the proposed change relating to the REA Act will not be included in this final rule. Eight of the comments made stated that the proposed rule did not go far enough in implementing the provisions of the REA Act. Another rule will be issued in the future to comply with provisions of the REA Act relating to all the Department's rural development programs.

List of Subjects in 7 CFR Part 1942

Community development, Community facilities, Loan programs—Housing and community development, Loan security, Rural areas, Waste treatment and disposal—Domestic, Water supply—Domestic.

Therefore, Chapter XVIII, title 7, Code of Federal Regulations is amended as follows:

PART 1942—ASSOCIATIONS

1. The authority citation for part 1942 continues to read as follows:

Authority: 7 U.S.C. 1989; 16 U.S.C. 1005; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—Community Facility Loans

2. Section 1942.17 is amended by revising paragraphs (g)(2)(ii) and (g)(3)(ii) to read as follows:

§ 1942.17 Community facilities.

* * * * *

(g) * * *

(2) * * *

(ii) *Solid waste systems.* The type of security required will be based on State law and what is determined adequate to protect the interest of the United States during the repayment period of the loan.

* * * * *

(3) * * *

(ii) *Solid waste systems.* The type of security required will be based on State law and what is determined adequate to protect the interest of the United States during the repayment period of the loan.

* * * * *

3. Section 1942.50 is revised to read as follows:

§ 1942.50 OMB control number.

The reporting and recordkeeping requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) and have been assigned OMB

control number 0575-0015. Public reporting burden for this collection of information is estimated to vary from five minutes to 15 hours per response, with an average of 2.7 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to the Department of Agriculture, Clearance Officer, OIRM, Ag Box 7630, Washington, D.C. 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB #0575-0015), Washington, D.C. 20503.

Dated: January 26, 1995.

Bob J. Nash,

Under Secretary, Rural Economic and Community Development.

[FR Doc. 95-4954 Filed 2-28-95; 8:45 am]

BILLING CODE 3410-32-U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93-NM-207-AD; Amendment 39-9143; AD 95-03-06]

Airworthiness Directives; Canadair Model CL-600-1A11, -2A12, and -2B16 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Canadair Model CL-600-1A11, -2A12, and -2B16 series airplanes, that requires a functional check and a test of the idle stop function of the engine throttle quadrant; repair or replacement, if necessary; and eventual replacement of the engine throttle quadrant with a new model. This amendment is prompted by reports of unintentional engine shutdown on certain of these airplanes due to problems associated with operation of the engine throttle quadrant. The actions specified by this AD are intended to ensure the proper operation of the throttle quadrant so as to prevent inadvertent shutdown of an engine while the airplane is taxiing or in flight.

DATES: Effective March 31, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director

of the Federal Register as of March 31, 1995.

ADDRESSES: The service information referenced in this AD may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station A, Montreal, Quebec H3C 3G9, Canada. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Raymond J. O'Neill, Aerospace Engineer, Propulsion Branch, ANE-174, FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256-7421; fax (516) 568-2716.

SUPPLEMENTARY INFORMATION: A

proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Canadair Model CL-600-1A11, -2A12, and -2B16 series airplanes was published as a supplemental notice of proposed rulemaking (NPRM) in the **Federal Register** on October 19, 1994 (59 FR 52720). That action proposed to require a functional check and a test of the idle stop function of the engine throttle quadrant; repair or replacement, if necessary; and eventual replacement of the engine throttle quadrant.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

As a result of recent communications with the Air Transport Association (ATA) of America, the FAA has learned that, in general, some operators may misunderstand the legal effect of AD's on airplanes that are identified in the applicability provision of the AD, but that have been altered or repaired in the area addressed by the AD. The FAA points out that all airplanes identified in the applicability provision of an AD are legally subject to the AD. If an airplane has been altered or repaired in the affected area in such a way as to affect compliance with the AD, the owner or operator is required to obtain FAA approval for an alternative method of compliance with the AD, in accordance with the paragraph of each AD that

provides for such approvals. A note has been added to this final rule to clarify this requirement.

Additionally, the FAA has recently reviewed the figures it has used over the past several years in calculating the economic impact of AD activity. In order to account for various inflationary costs in the airline industry, the FAA has determined that it is necessary to increase the labor rate used in these calculations from \$55 per work hour to \$60 per work hour. The economic impact information, below, has been revised to reflect this increase in the specified hourly labor rate.

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

The FAA estimates that 150 airplanes of U.S. registry will be affected by this AD.

The side-loads test of the engine throttle quadrant will take approximately 17 work hours per airplane to accomplish, at an average labor rate of \$60 per work hour. Based on these figures, the total cost impact of the side-loads test requirements of this AD on U.S. operators is estimated to be \$153,000, or \$1,020 per airplane.

The abrupt-movement check of the idle stop function of the throttle quadrant will take approximately 1 work hour per airplane to accomplish, at an average labor rate of \$60 per work hour. Based on these figures, the total cost impact of the functional check requirements of this AD on U.S. operators is estimated to be \$9,000, or \$60 per airplane.

The installation of a modified throttle quadrant will take approximately 10 work hours per airplane to accomplish, at an average labor rate of \$60 per work hour. Required parts will be provided by the manufacturer at no cost to operators. Based on these figures, the total cost impact of the installation requirement of this AD on U.S. operators is estimated to be \$90,000, or \$600 per airplane.

Based on the figures discussed above, the total cost impact of this AD on U.S. operators is estimated to be \$252,000, or \$1,680 per airplane. This cost impact figure is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 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:

95-03-06 Canadair: Amendment 39-9143. Docket 93-NM-207-AD.

Applicability: Model CL-600-1A11 series airplanes, serial numbers 1004 through 1085, inclusive, equipped with throttle quadrant part numbers 600-90601-69, -71, -73, -75, -77, and -79; Model CL-600-2A12 series airplanes, serial numbers 3001 through 3066, inclusive, equipped with throttle quadrant part numbers 600-90601-983, -987, -989, -1013, -1015, -1017, -1019, -1021, -1023, 1025, and -1027; and Model CL-600-2B16 series airplanes, serial numbers 5001 through 5139, inclusive, equipped with throttle

quadrant part numbers 600-90601-983, -987, -989, -1013, -1015, -1017, -1019, -1021, -1023, -1025, and 1027; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (f) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent inadvertent shutdown of an engine while the airplane is taxiing or in flight, accomplish the following:

(a) Within 50 hours time-in-service after the effective date of this AD, perform a test of the engine throttle quadrant to determine if the throttle levers bypass the idle stop into the shut-off position, in accordance with Canadair Alert Service Bulletin A600-0615, dated June 10, 1992 (for Model CL-600-1A11 series airplanes); or Canadair Alert Service Bulletin A601-0374, Revision 1, dated September 30, 1992 (for Models CL-600-2A12 and CL-600-2B16 series airplanes), as applicable.

Note 2: Canadair Alert Service Bulletins A600-0615 and A601-0374 reference Sargent Aerospace Service Bulletins 43058-76-03 (for Model CL-600-1A11 series airplanes) and 43068-76-05 (for Model CL-600-2A12 and -2B16 series airplanes), both dated April 13, 1992, for additional service information.

(b) If the test required by paragraph (a) of this AD indicates that either throttle lever bypasses the idle stop into the shut-off position, prior to further flight, replace the throttle quadrant in accordance with Part B of the Accomplishment Instructions of Canadair Challenger Service Bulletin 600-0629, dated November 1, 1993 (for Model CL-600-1A11 series airplanes); or Canadair Challenger Service Bulletin 601-0410, dated November 1, 1993 (for Models CL-600-2A12 and -2B16 series airplanes); as applicable.

(c) Within 150 hours time-in-service after the effective date of this AD, perform a functional check of the idle stop function of the throttle quadrant in accordance with Part A of the Accomplishment Instructions of Canadair Challenger Service Bulletin 600-0629, dated November 1, 1993 (for Model CL-600-1A11 series airplanes); or Canadair Challenger Service Bulletin 601-0410, dated November 1, 1993 (for Models CL-600-2A12 and -2B16 series airplanes); as applicable.

Note 3: Canadair Challenger Service Bulletins A600-0629 and A601-0410 reference Sargent Aerospace Service

Bulletins 43058-76-04 (for Model CL-600-1A11 series airplanes) and 43068-76-06 (for Model CL-600-2A12 and -2B16 series airplanes), both dated March 24, 1993, for additional service information.

(d) If the functional check required by paragraph (c) of this AD indicates that the idle stop function of the throttle quadrant fails, prior to further flight, replace the throttle quadrant in accordance with Part B of the Accomplishment Instructions of Canadair Challenger Service Bulletin 600-0629 or 601-0410, both dated November 1, 1993, as applicable.

(e) Within 4,500 hours time-in-service after the effective date of this AD, replace the throttle quadrant in accordance with Part B of the Accomplishment Instructions of Canadair Challenger Service Bulletin 600-0629, dated November 1, 1993 (for Model CL-600-1A11 series airplanes); or Canadair Challenger Service Bulletin 601-0410, dated November 1, 1993 (for Models CL-600-2A12 and CL-600-2B16 series airplanes); as applicable. Such replacement constitutes terminating action for the requirements of this AD.

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

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

(g) 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.

(h) The replacements and check shall be done in accordance with Canadair Challenger Service Bulletin 600-0629, dated November 1, 1993; or Canadair Challenger Service Bulletin 601-0410, dated November 1, 1993; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station A, Montreal, Quebec H3C 3G9, Canada. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(i) This amendment becomes effective on March 31, 1995.

Issued in Renton, Washington, on February 3, 1995.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.
[FR Doc. 95-3246 Filed 2-28-95; 8:45 am]

BILLING CODE 4910-13-U

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1241

Contract Appeals

AGENCY: National Aeronautics and Space Administration, (NASA).

ACTION: Final rule.

SUMMARY: NASA is amending Title 14 of the Code of Federal Regulations (CFR) by removing Part 1241, "Contract Appeals." The NASA Board of Contract Appeals no longer exists as a separate entity at NASA and its functions were assumed by the Armed Services Board of Contract Appeals. Section 18-33.211 of the NASA Federal Acquisition Regulation (FAR) Supplement adequately advises contracting officers and contractors that the Armed Services Board of Contract Appeals (ASBCA) is now NASA's authorized contract dispute forum.

EFFECTIVE DATE: February 9, 1995.

FOR FURTHER INFORMATION CONTACT:

David P. Forbes, 202 358-2440.

SUPPLEMENTARY INFORMATION:

List of Subjects in 14 CFR Part 1241

Board of Contract Appeals,
Administrative practice and procedure,
Government contracts.

Under the authority, 42 U.S.C. 2473, 14 CFR Part 1241 is amended as follows:

PART 1241—[REMOVED AND RESERVED]

14 CFR Part 1241, consisting of §§ 1241.10 through 1241.234, is removed and reserved.

Edward A. Frankle,

General Counsel.

[FR Doc. 95-5044 Filed 2-28-95; 8:45 am]

BILLING CODE 7510-01-M

DEPARTMENT OF THE TREASURY

Office of the Under Secretary for Domestic Finance

17 CFR Parts 400, 401, 402, 403, 404, 405, and 450

RIN 1505-AA44

Amendments to Regulations for the Government Securities Act of 1986

AGENCY: Office of the Under Secretary for Domestic Finance, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury ("Department") is publishing, as a final rule, amendments to the financial responsibility rules in part 402 and a conforming amendment to a recordkeeping requirement in part 404 of the regulations issued under the Government Securities Act of 1986 ("GSA"). The amendments raise the minimum capital requirements for all government securities brokers and dealers subject to the requirements of § 402.2 and establish a written notification requirement for certain withdrawals of capital. The amendments parallel the Securities and Exchange Commission's ("SEC") final and proposed amendments to the minimum net capital requirements for brokers and dealers subject to the requirements of 17 CFR 240.15c3-1 (Rule 15c3-1) and final rules regarding the withdrawal of capital. The Department is adopting the amendments unchanged from their proposed form.

DATES: Effective date: March 31, 1995. Further dates: see § 402.2e (Appendix E to § 402.2) for the phase-in schedule for the increased minimum capital levels.

FOR FURTHER INFORMATION CONTACT: Don Hammond (Assistant Director) or Kerry Lanham (Government Securities Specialist) at 202-219-3632. (TDD for the hearing impaired: 202-219-3988.)

SUPPLEMENTARY INFORMATION:

I. Background

The amendments to the Department's financial responsibility rules in part 402 raise the minimum capital requirements and establish written notification requirements for certain capital withdrawals for those government securities brokers and dealers subject to the provisions of § 402.2. Additionally, the Department is making a conforming change to the recordkeeping requirements of part 404 which is necessitated by the revisions to the minimum capital levels. The amendments parallel rule amendments adopted or proposed by the SEC. The

Department's amendments will increase investor confidence in the financial responsibility of government securities brokers and dealers without overburdening the government securities market.

The SEC published its final capital withdrawal regulations on March 5, 1991,¹ finalized its first change in minimum capital levels on November 24, 1992,² but has not yet finalized its second proposal³ on minimum capital levels for certain introducing firms. It is Treasury's objective, where practical, to have consistency with the SEC capital standard⁴ and, ultimately, develop a uniform capital rule for all government securities brokers and dealers registered with the SEC.⁵

The Department first published these amendments in proposed form on June 22, 1994,⁶ and the comment period closed on August 22, 1994. In addition, the National Association of Securities Dealers distributed the proposed changes to its potentially affected members. Treasury received no comments in response to the proposal.

II. Analysis

A. Minimum Capital Requirements

The SEC has either increased or proposed increasing the minimum net capital requirements for most brokers and dealers subject to Rule 15c3-1 to an amount ranging up to \$250,000, depending on the type of business conducted by the broker or dealer. The Treasury minimum dollar capital levels are based on liquid capital after deducting haircuts, which is comparable to the SEC's calculation of net capital. The Treasury capital rule⁷ currently has a \$5,000 minimum liquid capital requirement for introducing brokers⁸ and a \$25,000 minimum liquid capital requirement for all other government securities brokers and dealers⁹ subject to the rule. The Department believes that increasing the minimum levels is appropriate in order to provide better protection to investors

¹ Securities Exchange Act Release No. 28927 (February 20, 1991), 56 FR 9124 (March 5, 1991).

² Securities Exchange Act Release No. 31511 (November 24, 1992), 57 FR 56973 (December 2, 1992).

³ Securities Exchange Act Release No. 31512 (November 24, 1992), 57 FR 57027 (December 2, 1992).

⁴ 17 CFR 240.15c3-1.

⁵ The Treasury would have acted sooner on these amendments but its rulemaking authority under the GSA expired on October 1, 1991, and was not reauthorized until December 17, 1993. (107 Stat. 2344, Pub. L. 103-202).

⁶ 59 FR 32155 (June 22, 1994).

⁷ 17 CFR 402.2.

⁸ 17 CFR 402.2(c).

⁹ 17 CFR 402.2(b).

in the event of a government securities broker's or dealer's insolvency and to reflect the current realities of the government securities market. Accordingly, the Department is increasing the minimum capital requirements for all government securities brokers and dealers subject to the provisions of § 402.2. The other capital requirement—that liquid capital be equal to at least 120% of haircuts¹⁰—is unaffected by this action.

The increases are implemented by creating four minimum capital standards from the two current requirements, reflecting a better differentiation of the risks related to a government securities broker's or dealer's operations based on the type of government securities business it conducts. The four minimum capital requirements being adopted are as follows: (1) Government securities brokers and dealers that carry customer or broker-dealer accounts are subject to a minimum level of \$250,000; (2) government securities brokers and dealers that carry customer accounts but that operate under the exemption provided by Rule 15c3-3(k)(2)(i)¹¹ have a minimum requirement of \$100,000; (3) government securities brokers that introduce accounts on a fully disclosed basis and receive but do not hold customer securities are subject to a minimum requirement of \$50,000; and (4) introducing firms that never handle customer funds or securities are subject to a minimum requirement of \$25,000.

These changes represent increases from the current minimum levels of between \$20,000 and \$225,000, depending on the type of business conducted by the government securities broker or dealer. The Department is establishing fewer levels than the SEC has proposed since the operations of registered government securities brokers and dealers do not encompass all the activities available to diversified brokers or dealers. The increases that the Department is adopting are modest relative to the size and complexity of the government securities market and the operations of government securities brokers and dealers.

An analysis of the government securities brokers and dealers subject to the provisions of § 402.2 indicates that, as of September 30, 1994, only four, out of a total of 32, would not be in compliance with the fully phased-in

minimum capital levels. One of these firms would not be in compliance with the new requirements for introducing firms, two would be out of compliance with the \$100,000 requirement and one would not meet the \$250,000 level. The aggregate capital shortfall of these four firms is less than \$150,000. To ease the compliance burden and to provide a period for the affected government securities brokers and dealers to raise additional capital, if necessary, the Department is adding an Appendix E to § 402.2 which phases in the increases over approximately an 18-month time frame from the effective date. This corresponds to the phase-in time frames that were used by the SEC.

B. Capital Withdrawal Requirements

The SEC promulgated final rules regarding the withdrawal of capital by brokers and dealers.¹² These rules require written notification to the SEC and the broker's or dealer's designated examining authority of certain capital withdrawals, add a restriction on the withdrawal of capital based on the ratio of net capital to securities haircuts, provide additional definitions, and permit the SEC, by order, to prohibit the withdrawal of capital in certain described circumstances. The Department is amending its capital withdrawal provisions¹³ to include the notification requirements and certain definitions but has determined not to adopt the other two requirements for the reasons described in the preamble to the proposed rule.

The notification provisions require post-withdrawal notification of certain significant capital withdrawals as well as prior notification for larger withdrawals. The timing of the notification is determined by the aggregate size of total withdrawals relative to the government securities broker's or dealer's excess liquid capital¹⁴ over a 30 calendar day period. Once aggregate withdrawals have exceeded 20 percent of a government securities broker's or dealer's excess liquid capital in a 30 calendar day period, the government securities broker or dealer has two business days thereafter in which to file notification of the withdrawals. Aggregate withdrawals that would result in a government securities broker or dealer exceeding in the aggregate 30 percent of excess liquid capital in any 30 calendar day period require notification two business days

prior to such withdrawal.¹⁵ A government securities broker or dealer may use the level of excess liquid capital calculated in its most recent Form G-405, "Report on Finances and Operations of Government Securities Brokers and Dealers (FOGS)" filing,¹⁶ provided the firm assures itself that this amount has not materially changed since that time. A government securities broker or dealer is not required to provide notice to the Department, but instead notice is to be sent to the SEC and to the broker's or dealer's designated examining authority.

Net withdrawals that, in the aggregate, are less than \$500,000 in any 30 calendar day period or those that represent securities or commodities transactions between affiliates are excluded from the reporting requirement. The exclusion for securities and commodities transactions requires that the transactions be conducted in the ordinary course of business and settled no later than two business days after the date of the transaction. Forward settling transactions between affiliates are not eligible for this exclusion. Therefore, net losses on forward contracts or net payments on swap agreements, if due an affiliate, could trigger the notice requirement. The Department specifically requested comment about the limitations on this exception. As stated earlier, no comments were received on any aspect of the rule and, therefore, the Department is adopting this provision and the rule as proposed.

The SEC's capital withdrawal rule has a provision giving the SEC authority to prohibit a withdrawal of capital by a broker or dealer, for up to 20 business days, if the withdrawal would exceed 30 percent of excess net capital and is deemed detrimental to the financial integrity of the broker or dealer or may unduly jeopardize the broker's or dealer's ability to repay its creditors.¹⁷ The SEC intends that this provision be used in emergency situations and the rule provides for an expeditious review of the SEC's action. For the reasons discussed in the preamble to the proposed rule and after receiving no comments to the contrary, the Department has determined that a similar provision will not be incorporated in the Treasury capital rule.

The Department's decision not to enact a corresponding order provision is

¹⁰ The Treasury capital rule requires that a government securities broker or dealer maintain a capital level of the greater of (i) 120% of total haircuts; or (ii) the minimum dollar capital amounts, computed by deducting total haircuts from liquid capital, applicable to its business.

¹¹ 17 CFR 240.15c3-3(k)(2)(i).

¹² See *Supra* note 1.

¹³ 17 CFR 402.2(i).

¹⁴ Excess liquid capital is that amount of liquid capital which exceeds the greater of the amount of capital required under (i) § 402.2(a); or (ii) § 402.2 (b) or (c) as applicable.

¹⁵ If prior notification is required, the post-withdrawal notification must also be filed.

¹⁶ 17 CFR 405.2 requires certain government securities brokers and dealers to file monthly and quarterly financial reports.

¹⁷ 17 CFR 240.15c3-1(e)(3).

supported by the fact that the SEC has existing temporary cease and desist authority. A temporary cease and desist order, while different from a capital withdrawal order, serves a similar purpose. Both are emergency remedies that can be expeditiously applied. Prior to issuing a temporary cease and desist order, the SEC must provide notice and opportunity for a hearing unless the SEC “* * * determines that notice and hearing prior to entry would be impracticable or contrary to the public interest.”¹⁸

The more limited scope of the temporary cease and desist order is not problematic to the Department because the authority provides the SEC with the ability to issue such an order not only if a rule violation has occurred but also if one is threatened. Because the SEC is the appropriate regulatory agency for government securities brokers or dealers subject to § 402.2, an impending violation of a § 402.2 requirement could be cause for the issuance of a temporary cease and desist order. As discussed more fully in the preamble to the proposed rule, the Department believes that, in lieu of developing a separate capital withdrawal order provision, it should rely on the SEC’s existing cease and desist order authority.

Consistent with this approach, the Department also is excluding this provision of Rule 15c3–1 from the compliance requirements for those government securities brokers and dealers registered under Section 15C of the Securities Exchange Act of 1934 (15 U.S.C. 78o–5) that are subject to the SEC capital rule (i.e., interdealer brokers operating under § 402.1(e) and futures commission merchants).

In adopting the withdrawal provisions, the Department has restructured certain related definitions of terms into a Miscellaneous Provisions paragraph (i)(3) and has added a description of what constitutes an advance or loan of liquid capital, which is one component of the restricted activities.

C. Conforming Change

Due to the revisions of the minimum capital requirements under both the SEC and Treasury capital rules, a conforming change is required in the recordkeeping provisions of part 404. Specifically, paragraph 404.2(a)(4) contains references to the minimum dollar capital amounts required of government securities clearing brokers and dealers. The Department is revising these references in accordance with the fully

phased-in minimum capital level of \$250,000 required of clearing firms.

III. Special Analyses

It has been determined that these amendments are not a “significant regulatory action” as defined in Executive Order 12866. Therefore, a Regulatory Assessment is not required.

In the preamble to the proposed rules, pursuant to the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*), the Department certified that these amendments, if adopted, would not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis was not prepared. In reviewing the final rules being adopted herein and in light of the fact that no comments were received, the Department has concluded that there is no reason to alter the previous certification.

The collections of information contained in the final regulations have been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3504(h)) under control number 1535–0089.

Estimated total annual reporting burden: 5 hours.

Estimated average annual burden per respondent: 1 hour.

Estimated number of respondents: 5.

Estimated annual frequency of response: Twice.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Forms Management Branch, Bureau of the Public Debt, Department of the Treasury, Parkersburg, West Virginia 26106–1328; and to the Office of Management and Budget, Paperwork Reduction Project 1535–0089, Attention: Desk Officer for Department of the Treasury, Washington, DC 20503.

List of Subjects

17 CFR Part 402

Brokers, Government securities.

17 CFR Part 404

Banks, banking, Brokers, Government securities, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, 17 CFR chapter IV is amended as follows:

PART 402—FINANCIAL RESPONSIBILITY

1. The authority citation for part 402 is revised to read as follows:

Authority: 15 U.S.C. 78o–5(b)(1)(A), (b)(4).

2. Section 402.1 is amended by revising paragraphs (d) and (e)(1) to read as follows:

§ 402.1 Application of part to registered brokers and dealers and financial institutions; special rules for futures commission merchants and government securities interdealer brokers; effective date.

* * * * *

(d) *Futures commission merchants.* A futures commission merchant subject to § 1.17 of this title that is a government securities broker or dealer but is not a registered broker or dealer shall not be subject to the limitations of § 402.2 but rather to the capital requirement of § 1.17 or § 240.15c3–1, except paragraph (e)(3) thereof, of this title, whichever is greater.

(e) *Government securities interdealer broker.* (1) A government securities interdealer broker, as defined in paragraph (e)(2) of this section, may, with the prior written consent of the Secretary, elect not to be subject to the limitations of § 402.2 but rather to be subject to the requirements of § 240.15c3–1 of this title (SEC Rule 15c3–1), except paragraphs (c)(2)(ix) and (e)(3) thereof, and paragraphs (e)(3) through (8) of this section by filing such election in writing with its designated examining authority. A government securities interdealer broker may not revoke such election without the written consent of its designated examining authority.

* * * * *

3. Section 402.2 is amended by revising paragraphs (b), (c) and (i), and by adding an OMB parenthetical at the end of the section to read as follows:

§ 402.2 Capital requirements for registered government securities brokers or dealers.

* * * * *

(b)(1) *Minimum liquid capital for brokers or dealers that carry customer accounts.* Notwithstanding the provisions of paragraph (a) of this section, a government securities broker or dealer that carries customer or broker or dealer accounts and receives or holds funds or securities for those persons within the meaning of § 240.15c3–1(a)(2)(i) of this title, shall have and maintain liquid capital in an amount not less than \$250,000 (see paragraph (a) of Appendix E to this section, § 402.2e, for temporary minimum requirements), after deducting total haircuts as defined in paragraph (g) of this section.

(2) *Minimum liquid capital for brokers or dealers that carry customer accounts, but do not generally hold customer funds or securities.* Notwithstanding the provisions of

¹⁸ 15 U.S.C. 78u–3(c)(1).

paragraphs (a) and (b)(1) of this section, a government securities broker or dealer that carries customer or broker or dealer accounts and is exempt from the provisions of § 240.15c3-3 of this title, as made applicable to government securities brokers and dealers by § 403.4 of this chapter, pursuant to paragraph (k)(2)(i) thereof (17 CFR 240.15c3-3(k)(2)(i)), shall have and maintain liquid capital in an amount not less than \$100,000 (see paragraph (b) of Appendix E to this section, § 402.2(e), for temporary minimum requirements), after deducting total haircuts as defined in paragraph (g) of this section.

(c)(1) *Minimum liquid capital for introducing brokers that receive securities.* Notwithstanding the provisions of paragraphs (a) and (b) of this section, a government securities broker or dealer that introduces on a fully disclosed basis transactions and accounts of customers to another registered or noticed government securities broker or dealer but does not receive, directly or indirectly, funds from or for, or owe funds to, customers, and does not carry the accounts of, or for, customers shall have and maintain liquid capital in an amount not less than \$50,000 (see paragraph (c) of Appendix E to this section, § 402.2(e), for temporary minimum requirements), after deducting total haircuts as defined in paragraph (g) of this section. A government securities broker or dealer operating pursuant to this paragraph (c)(1) may receive, but shall not hold customer or other broker or dealer securities.

(2) *Minimum liquid capital for introducing brokers that do not receive or handle customer funds or securities.* Notwithstanding the provisions of paragraphs (a), (b) and (c)(1) of this section, a government securities broker or dealer that does not receive, directly or indirectly, or hold funds or securities for, or owe funds or securities to, customers, and does not carry accounts of, or for, customers and that effects ten or fewer transactions in securities in any one calendar year for its own investment account shall have and maintain liquid capital in an amount not less than \$25,000 (see paragraph (d) of Appendix E to this section, § 402.2(e), for temporary minimum requirements), after deducting total haircuts as defined in paragraph (g) of this section.

* * * * *

(i) *Provisions relating to the withdrawal of equity capital.*

(1) *Notice Provisions.* No equity capital of the government securities broker or dealer or a subsidiary or affiliate consolidated pursuant to

Appendix C to this section, § 402.2c, may be withdrawn by action of a stockholder or partner, or by redemption or repurchase of shares of stock by any of the consolidated entities or through the payment of dividends or any similar distribution, nor may any unsecured advance or loan be made to a stockholder, partner, sole proprietor, employee or affiliate without providing written notice, given in accordance with paragraph (i)(1)(iv) of this section, when specified in paragraphs (i)(1) (i) and (ii) of this section:

(i) Two business days prior to any withdrawals, advances or loans if those withdrawals, advances or loans on a net basis exceed in the aggregate in any 30 calendar day period, 30 percent of the government securities broker's or dealer's excess liquid capital. A government securities broker or dealer, in an emergency situation, may make withdrawals, advances or loans that on a net basis exceed 30 percent of the government securities broker's or dealer's excess liquid capital in any 30 calendar day period without giving the advance notice required by this paragraph, with the prior approval of its designated examining authority. When a government securities broker or dealer makes a withdrawal with the consent of its designated examining authority, it shall in any event comply with paragraph (i)(1)(ii) of this section; and

(ii) Two business days after any withdrawals, advances or loans if those withdrawals, advances or loans on a net basis exceed in the aggregate in any 30 calendar day period, 20 percent of the government securities broker's or dealer's excess liquid capital.

(iii) This paragraph (i)(1) of this section does not apply to:

(A) Securities or commodities transactions in the ordinary course of business between a government securities broker or dealer and an affiliate where the government securities broker or dealer makes payment to or on behalf of such affiliate for such transaction and then receives payment from such affiliate for the securities or commodities transaction within two business days from the date of the transaction; or

(B) Withdrawals, advances or loans which in the aggregate in any such 30 calendar day period, on a net basis, equal \$500,000 or less.

(iv) Each required notice shall be effective when received by the Commission in Washington, DC, the regional or district office of the Commission for the area in which the government securities broker or dealer has its principal place of business, and

the government securities broker's or dealer's designated examining authority.

(2) *Withdrawal Limitations.* No equity capital of the government securities broker or dealer or a subsidiary or affiliate consolidated pursuant to Appendix C to this section, § 402.2c, may be withdrawn by action of a stockholder or a partner, or by redemption or repurchase of shares of stock by any of the consolidated entities or through the payment of dividends or any similar distribution, nor may any unsecured advance or loan be made to a stockholder, partner, sole proprietor, employee or affiliate if, after giving effect thereto and to any other such withdrawals, advances or loans and any Payments of Payment Obligations (as defined in § 240.15c3-1d of this title, Appendix D to SEC Rule 15c3-1, modified as provided in Appendix D to this section, § 402.2d) under satisfactory subordination agreements which are scheduled to occur within 180 calendar days following such withdrawal, advance or loan, either:

(i) The ratio of liquid capital to total haircuts, determined as provided in § 402.2, would be less than 150 percent; or

(ii) Liquid capital minus total haircuts would be less than 120 percent of the minimum capital required by § 402.2(b) or § 402.2(c) as applicable; or

(iii) In the case of any government securities broker or dealer included in such consolidation, the total outstanding principal amounts of satisfactory subordination agreements of the government securities broker or dealer (other than such agreements which qualify as equity under § 240.15c3-1(d) of this title) would exceed 70% of the debt-equity total as defined in § 240.15c3-1(d).

(3) *Miscellaneous Provisions.* (i) Excess liquid capital is that amount in excess of the amount required by the greater of § 402.2(a) or, §§ 402.2 (b) or (c), as applicable. For the purposes of paragraphs (i)(1) and (i)(2) of this section, a government securities broker or dealer may use the amount of excess liquid capital, liquid capital and total haircuts reported in its most recently required filed Form G-405 for the purposes of calculating the effect of a projected withdrawal, advance or loan relative to excess liquid capital or total haircuts. The government securities broker or dealer must assure itself that the excess liquid capital, liquid capital or the total haircuts reported on the most recently required filed Form G-405 have not materially changed since the time such report was filed.

(ii) The term equity capital includes capital contributions by partners, par or

stated value of capital stock, paid-in capital in excess of par, retained earnings or other capital accounts. The term equity capital does not include securities in the securities accounts of partners and balances in limited partners' capital accounts in excess of their stated capital contributions.

(iii) Paragraphs (i)(1) and (i)(2) of this section shall not preclude a government securities broker or dealer from making required tax payments or preclude the payment to partners of reasonable compensation, and such payments shall not be included in the calculation of withdrawals, advances or loans for purposes of paragraphs (i)(1) and (i)(2) of this section.

(iv) For the purposes of this subsection (i), any transaction between a government securities broker or dealer and a stockholder, partner, sole proprietor, employee or affiliate that results in a diminution of the government securities broker's or dealer's liquid capital shall be deemed to be an advance or loan of liquid capital.

* * * * *

(Approved by the Office of Management and Budget under control number 1535-0089)

4. By adding § 402.2e (Appendix E) as follows:

§ 402.2e Appendix E—Temporary Minimum Requirements.

(a) A government securities broker or dealer that falls within the provisions of paragraph (b)(1) of § 402.2 shall maintain not less than the greater of:

(1) The amount of liquid capital required under paragraph (a) of § 402.2(a); or

(2) The amount of liquid capital, after deducting total haircuts, of:

(i) \$25,000 through June 30, 1995;

(ii) \$100,000 from July 1, 1995 through December 31, 1995;

(iii) \$175,000 from January 1, 1996 through June 30, 1996; and

(iv) \$250,000 from July 1, 1996 and thereafter.

(b) A government securities broker or dealer that falls within the provisions of paragraph (b)(2) of § 402.2 shall maintain not less than the greater of:

(1) The amount of liquid capital required under paragraph (a) of § 402.2; or

(2) The amount of liquid capital, after deducting total haircuts, of:

(i) \$25,000 through June 30, 1995;

(ii) \$50,000 from July 1, 1995 through December 31, 1995;

(iii) \$75,000 from January 1, 1996 through June 30, 1996; and

(iv) \$100,000 from July 1, 1996 and thereafter.

(c) A government securities broker that falls within the provisions of

paragraph (c)(1) of § 402.2 shall maintain not less than the greater of:

(1) The amount of liquid capital required under paragraph (a) of § 402.2; or

(2) The amount of liquid capital, after deducting total haircuts, of:

(i) \$5,000 through June 30, 1995;

(ii) \$20,000 from July 1, 1995 through December 31, 1995;

(iii) \$35,000 from January 1, 1996 through June 30, 1996; and

(iv) \$50,000 from July 1, 1996 and thereafter.

(d) A government securities broker that falls within the provisions of paragraph (c)(2) of § 402.2 shall maintain not less than the greater of:

(1) The amount of liquid capital required under paragraph (a) of § 402.2; or

(2) The amount of liquid capital, after deducting total haircuts, of:

(i) \$5,000 through June 30, 1995;

(ii) \$11,000 from July 1, 1995 through December 31, 1995;

(iii) \$18,000 from January 1, 1996 through June 30, 1996; and

(iv) \$25,000 from July 1, 1996 and thereafter.

* * * * *

PART 404—RECORDKEEPING AND PRESERVATION OF RECORDS

5. The authority citation for Part 404 is revised to read as follows:

Authority: 15 U.S.C. 78o-5(b)(1)(B), (b)(1)(C), (b)(4).

6. Section 404.2 is amended by revising paragraph (a)(4) to read as follows:

§ 404.2 Records to be made and kept current by registered government securities brokers and dealers; records of non-resident registered government securities brokers and dealers.

(a) * * *

(4) Paragraph 240.17a-3(b)(1) is modified to read as follows:

“(1) This section shall not be deemed to require a government securities broker or dealer registered pursuant to Section 15C(a)(1)(A) of the Act (15 U.S.C. 78o-5(a)(1)(A)) to make or keep such records of transactions cleared for such government securities broker or dealer as are customarily made and kept by a clearing broker or dealer pursuant to the requirements of §§ 240.17a-3 and 240.17a-4: *Provided*, that the clearing broker or dealer has and maintains net capital of not less than \$250,000 (or, in the case of a clearing broker or dealer that is a registered government securities broker or dealer, liquid capital less total haircuts, determined as provided in § 402.2 of this title, of not

less than \$250,000) and is otherwise in compliance with § 240.15c3-1, § 402.2 of this title, or the capital rules of the exchange of which such clearing broker or dealer is a member if the members of such exchange are exempt from § 240.15c3-1 by paragraph (b)(2) thereof.”.

* * * * *

§§ 400.4, 400.5, 401.9, 403.5, 404.2, 404.3, 404.4, 404.5, 405.2, and 450.4 [Amended]

7. For each section indicated in the list above, remove the Office of Management and Budget control number from the parenthetical statement at the end of each section, and add in its place “1535-0089”:

Dated: February 15, 1995.

Frank N. Newman,

Deputy Secretary.

[FR Doc. 95-4941 Filed 2-28-95; 8:45 am]

BILLING CODE 4810-39-W

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 450

[Docket No. 94N-0302]

Antibiotic Drugs; Bleomycin Sulfate; Stay of Regulation

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; stay of regulation.

SUMMARY: The Food and Drug Administration (FDA) is staying a regulation that established standards for an antibiotic drug, bleomycin sulfate bulk drug substance. This action is being taken in response to a petition for stay of action.

EFFECTIVE DATE: November 9, 1994.

FOR FURTHER INFORMATION CONTACT: Tamar S. Nordenberg, Center for Drug Evaluation and Research (HFD-366), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-594-2041.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 4, 1994 (59 FR 50484), FDA published, as a final rule to become effective on November 3, 1994, a new antibiotic regulation setting forth standards for a bleomycin sulfate bulk drug substance (21 CFR 450.10). This new regulation differed from the monograph standards for sterile bleomycin sulfate bulk drug, set forth in 21 CFR 450.10a, in two respects: The new regulation did not require sterility at the bulk stage, and the new regulation

did not require testing for pyrogens at the bulk stage.

Bristol-Myers Squibb Co., the manufacturer of the innovator product, filed a petition for stay of action pursuant to 21 CFR 10.35, objecting to FDA's decision to promulgate the new regulation without notice and a prior opportunity for public comment. On November 9, 1994, FDA agreed to stay the effective date of the monograph for bleomycin sulfate bulk drug substance in order to reconsider the manner in which the agency promulgated the new monograph. A copy of FDA's letter notifying Bristol-Myers Squibb Co. of the stay is on file in the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 450 is amended as follows:

List of Subjects in 21 CFR Part 450 Antibiotics.

PART 450—ANTITUMOR ANTIBIOTIC DRUGS

1. The authority citation for 21 CFR part 450 continues to read as follows:

Authority: Sec. 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357).

§ 450.10 [Stayed]

2. Section 450.10 *Bleomycin sulfate* is stayed effective November 9, 1994.

Dated: February 15, 1995.

Murray M. Lumpkin,

Deputy Director, Center for Drug Evaluation and Research.

[FR Doc. 95-5058 Filed 2-28-95; 8:45 am]

BILLING CODE 4160-01-F

21 CFR Parts 510 and 558

Animal Drugs, Feeds, and Related Products; Change of Sponsor

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor for nine new animal drug applications (NADA's) from Agri-Bio Corp. to Hoffman-LaRoche, Inc. This document also corrects an inadvertent error in the animal drug regulations.

EFFECTIVE DATE: March 1, 1995.

FOR FURTHER INFORMATION CONTACT:

Benjamin A. Puyot, Center for Veterinary Medicine (HFV-130), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-594-1646.

SUPPLEMENTARY INFORMATION: Agri-Bio Corp., 966 Dorsey St., Gainesville, GA 30501, has informed FDA that it has transferred the ownership of, and all rights and interests in, the following approved NADA's to Hoffmann-La Roche, Inc., 340 Kingsland St., Nutley, NJ 07110-1199:

NADA No.	Ingredient(s)	Trade name(s)
128-686 ...	Salinomycin	Bio-Cox.
132-447 ...	Salinomycin and Roxarsone	Bio-Cox and 3-Nitro.
134-284 ...	Salinomycin and Bambermycins	Bio-Cox and Flavomycins.
134-185 ...	Salinomycin and Roxarsone and Bambermycins	Bio-Cox and 3-Nitro Flavomycin.
135-321 ...	Salinomycin and Roxarsone and Bacitracin-MD	Bio-Cox and 3-Nitro and BMD.
135-746 ...	Salinomycin and Bacitracin-MD	Bio-Cox and BMD.
137-536 ...	Salinomycin and Roxarsone and Bacitracin Zn	Bio-Cox and 3-Nitro and Albac.
137-537 ...	Salinomycin and Lincomycin	Bio-Cox and Lincomix.
140-581 ...	Salinomycin and Roxarsone and Lincomycin	Bio-Cox and 3-Nitro and Lincomix.

Accordingly, the agency is amending the regulations in 21 CFR 510.600(c)(1) and (c)(2) and 558.95(b)(1)(xi)(b) and (b)(1)(xii)(b) to reflect the change of sponsor.

In the **Federal Register** of January 13, 1995 (60 FR 3079 at 3080), FDA amended § 558.550; this amendment inadvertently failed to reflect a previous amendment published in the **Federal Register** of December 29, 1994 (59 FR 67185). The December 29, 1994, document amended § 558.550(a)(1) and (a)(2) to provide for specific levels of Type A articles approved for use for the specified sponsors. The January 13, 1995, document amended § 558.550(a)(2) to add approved referenced uses as stated in § 558.550(b). This document corrects the inadvertent error made in the final rule of January 13, 1995.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling,

Reporting and recordkeeping requirements.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510 and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 512, 701, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e).

§ 510.600 [Amended]

2. Section 510.600 is amended in the table in paragraph (c)(1) by removing the entry for "Agri-Bio Corp." and in the table in paragraph (c)(2) by removing the entry for "042835".

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

3. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

§ 558.95 [Amended]

4. Section 558.95 *Bambermycins* is amended in paragraphs (b)(1)(xi)(b) and (b)(1)(xii)(b) by removing "042835" and adding in its place "000004".

5. Section 558.550 is amended in paragraph (a)(1) by removing the number "042835" and adding in its place "000004", and by revising paragraph (a)(2) to read as follows:

§ 558.550 Salinomycin.

(a) * * *

(2) To 012799 for use of 30 and 60 grams per pound as in paragraphs (b)(1)(i), (b)(1)(iii) through (b)(1)(xvi),

and (b)(3)(i) through (b)(3)(iii) of this section.

* * * * *

Dated: February 9, 1995.

Robert C. Livingston,

*Director, Office of New Animal Drug
Evaluation, Center for Veterinary Medicine.*

[FR Doc. 95-4912 Filed 2-28-95; 8:45 am]

BILLING CODE 4160-01-F

21 CFR Part 558

Animal Drugs, Feeds, and Related Products; Melengestrol Acetate and Tylosin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by The Upjohn Co. The supplemental NADA provides for use of single ingredient Type A medicated articles containing melengestrol acetate (MGA) and tylosin to manufacture certain combination drug Type B and Type C medicated feeds for heifers fed in confinement for slaughter. The supplement provides for use of a dry MGA Type A article to make a dry Type B or Type C medicated feed.

EFFECTIVE DATE: March 1, 1995.

FOR FURTHER INFORMATION CONTACT: Jack Caldwell, Center for Veterinary Medicine (HFV-126), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-594-1638.

SUPPLEMENTARY INFORMATION: The Upjohn Co., Kalamazoo, MI 49001, filed supplemental NADA 138-995, MGA with Tylan (MGA with tylosin), which provides for use of approved MGA and tylosin Type A medicated articles to make Type B and Type C medicated feeds for heifers being fed in confinement for slaughter. The supplement removes the requirement for making dry pelleted Type B or C medicated feed. Therefore, dry MGA and tylosin Type A articles may be used to make a dry Type B or C medicated feed containing MGA and tylosin.

This supplement is approved as of January 13, 1995. Accordingly, 21 CFR 558.342(c)(4)(ii)(C) is amended by removing the existing reference to a pelleted medicated feed to reflect this approval.

This is a manufacturing supplement to an approved NADA. Approval of this supplement does not require added safety or efficacy data or information. Therefore, a freedom of information summary as provided in part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)) is not required.

Under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(iii)), this supplement for food-producing animals does not qualify for marketing exclusivity because the supplement does not contain new clinical or field investigations (other than bioequivalence or residue studies) and new human food safety studies (other than bioequivalence or residue studies) essential to the approval and conducted or sponsored by the applicant.

The agency has determined under 21 CFR 25.24(d)(1)(iii) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

§ 558.342 [Amended]

2. Section 558.342 *Melengestrol acetate* is amended in paragraph (c)(4)(ii)(C) by removing the word "pelleted".

Dated: February 9, 1995.

Robert C. Livingston,

*Director, Office of New Animal Drug
Evaluation, Center for Veterinary Medicine.*

[FR Doc. 95-4913 Filed 2-28-95; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8578]

RIN 1545-AP23

Election Out of Subchapter K for Producers of Natural Gas; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

SUMMARY: This document contains a correction to final regulations [TD 8578] which was published in the **Federal Register** for Friday, December 23, 1994 (59 FR 66181). The final regulations provide that the co-producers under a joint operating agreement must use one of two permissible methods described in the regulations in reporting income from gas sales and certain related deductions and credits.

EFFECTIVE DATE: January 1, 1995.

FOR FURTHER INFORMATION CONTACT: Grace Kim, (202) 622-3060 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this correction are under section 761 of the Internal Revenue Code.

Need for Correction

As published, TD 8578 contains a typographical error that is in need of correction.

Correction of Publication

Accordingly, the publication of the final regulations which is the subject of FR Doc. 94-31291, is corrected as follows:

On page 66183, column 2, § 1.761-2, paragraph (d)(2)(i), ninth line from the bottom of the paragraph, regulation section "§ 1.4461(e)(3)" is corrected to read "§ 1.446-1(e)(3)".

Cynthia E. Grigsby,

*Chief, Regulations Unit, Assistant Chief
Counsel (Corporate).*

[FR Doc. 95-4902 Filed 2-28-95; 8:45 am]

BILLING CODE 4830-01-P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 63**

[FRL-5130-5]

State of Tennessee, Metropolitan Government of Nashville and Davidson County; Request for Approval of Section 112(l) Authority for Hazardous Air Pollutants; Perchloroethylene Air Emission Standards From Dry Cleaning Facilities**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

SUMMARY: The State of Tennessee, Metropolitan Government of Nashville and Davidson County has applied for approval of its Regulation No. 4, Section 4-10, Regulations for Hazardous Air Pollutants; Perchloroethylene Air Emission Standards From Dry Cleaning Facilities under section 112(l) of the Clean Air Act (CAA). The Environmental Protection Agency (EPA) has reviewed the application and has made the decision that it satisfies all of the requirements necessary to qualify as a complete submittal. Thus, the Metropolitan Government of Nashville and Davidson County's Regulation No. 4, Section 4-10, should be implemented and enforced in place of EPA's 40 CFR part 63, subpart M.

DATES: This action will be effective on April 17, 1995, unless adverse or critical comments are received by March 31, 1995. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be sent concurrently to Douglas Neeley, Region 4 EPA, Air Programs Branch, 345 Courtland St. NE., Atlanta, GA 30365, Phone: (404) 347-3555 and to Mr. Paul Bontrager, Bureau of Environmental Health Services, Metropolitan Government of Nashville and Davidson County, 311 23rd Avenue, North, Nashville, Tennessee 37203, Phone: (615) 340-5653. Copies of Metropolitan Government of Nashville and Davidson County's submittal are available during normal business hours at the following addresses for inspection and copying:

Bureau of Environmental Health Services
Metropolitan Government of Nashville and Davidson County, 311 23rd Avenue, North, Nashville, Tennessee;

U.S. EPA Headquarters Library, PM 211A, 401 M Street, SW., Washington, DC 20460, Phone: 202/382-5926; and

U.S. EPA Region 4, Regional Library, 345 Courtland St. NE., Atlanta, GA 30365, Phone number: (404) 347-3555, X6050.

FOR FURTHER INFORMATION CONTACT:

Anthony Toney, Region 4 EPA, Air Programs Branch, 345 Courtland St. NE., Atlanta, GA 30365, Phone: (404) 347-3555, ext. 4200.

SUPPLEMENTARY INFORMATION:**A. Background**

Section 112(l) of the Clean Air Act as amended in 1990, enables the EPA to approve state air toxic programs or rules to operate in place of the Federal air toxic program. Approval is granted by the EPA if the Agency finds that the state program or rule: (1) Is "no less stringent" than the corresponding Federal rule or program, (2) provides adequate authority and resources, (3) schedule for implementation and compliance is sufficiently expeditious, and (4) is otherwise in compliance with Federal guidance.

B. This is an initial request for delegation under the provisions of 40 CFR part 63, subpart E. No previous delegation of rules or regulations pursuant to title III of the Clean Air Act has been approved.

The changes from the federal rule, 40 CFR part 63, subpart M, are: (1) The lowering of a required emission rate; (2) An increase in the frequency of required monitoring; and (3) A decrease in the amount of time allowed for a source to come into compliance. These changes occur in subsections 4-10(b)(23); 4-10(c)(10); and 4-10(a) of the Metropolitan Government of Nashville and Davidson County's Regulation No. 4.

EPA is approving the Metropolitan Government of Nashville and Davidson County's air toxics Regulation No. 4, Section 4-10, as a direct final rule without prior proposal because the Agency views this as a noncontroversial delegation request and anticipates no adverse comments. If no adverse comments are received in response to this direct final rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent action. Any parties interested in commenting on this action should do so at this time.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Incorporation by reference, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of Title III of the Clean Air Act as amended, 42 U.S.C. 2399.

Patrick M. Tobin,*Acting Regional Administrator.*

[FR Doc. 95-5024 Filed 2-28-95; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 180**[PP1F3989, 1F3995/R2109; FRL-4938-3]****RIN 2070-AB78****Pesticide Tolerances for Fenbuconazole****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

SUMMARY: This regulation establishes time-limited tolerances for combined residues of the fungicide fenbuconazole [*alpha*-[2-(4-chlorophenyl)-ethyl]-*alpha*-phenyl-3-(1*H*-1,2,4-triazole)-1-propanenitrile] and its metabolites, *cis*-5-(4-chlorophenyl)-dihydro-3-phenyl-3-(1*H*-1,2,4-triazole-1-ylmethyl-2-3*H*-furanone and *trans*-5-(4-chlorophenyl)dihydro-3-phenyl-3-(1*H*-1,2,4-triazole-1-ylmethyl-2-3*H*-furanone, expressed as fenbuconazole, in or on the raw agricultural commodities pecans at 0.1 part per million (ppm) and stone fruit crop group (except plums and prunes) at 2.0 ppm. Rohm & Haas Co. submitted petitions requesting this regulation to establish maximum permissible levels for residues of the fungicide.

EFFECTIVE DATE: This regulation becomes effective on March 1, 1995.

ADDRESSES: Written objections and hearing requests, identified by the document control number, [PP 1F3989, 1F3995/R2109], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. A copy of any objections and hearing request filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Resources Branch Field Operations Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington DC 20450. In person, bring copy of objections and hearing request to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Fees accompanying objections shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations

Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251.

FOR FURTHER INFORMATION CONTACT: By mail: Cynthia Giles-Parker, Product Manager (PM) 22, Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 229, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-5540.

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of December 13, 1991 (56 FR 65080), which announced that Rohm and Haas, Agricultural Chemicals, Independence Mall West, Philadelphia, PA 19105, had submitted pesticide petition (PP) 1F3989 to EPA requesting that the Administrator, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), amend 40 CFR part 180 by establishing a regulation to permit residues of fenbuconazole (*alpha*-(2-(4-chlorophenyl)-ethyl)-*alpha*-phenyl-3-(1*H*-1,2,4-triazole)-1-propanenitrile) in or on stone fruit crop group and dried prunes at 2.0 ppm. In the **Federal Register** of March 2, 1994 (59 FR 9985), EPA announced that Rohm and Haas had amended the petition to propose amending 40 CFR part 180 to establish a tolerance of 2.0 ppm in or on stone fruit crop group for fenbuconazole, (*alpha*-(2-(4-chlorophenyl)-ethyl)-*alpha*-phenyl-3-(1*H*-1,2,4-triazole)-1-propanenitrile), and its metabolites *cis*-5-(4-chlorophenyl)-dihydro-3-phenyl-3-(1*H*-1,2,4-triazole-1-ylmethyl-2-3*H*-furanone and *trans*-5-(4-chlorophenyl)-dihydro-3-phenyl-3-(1*H*-1,2,4-triazole-1-ylmethyl-2-3*H*-furanone).

EPA issued a notice, published in the **Federal Register** of December 13, 1991 (56 FR 65081), which announced that Rohm and Haas had filed pesticide petition (PP) 1F3995 to EPA requesting that the Administrator, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), amend 40 CFR part 180 by establishing a regulation to permit residues of fenbuconazole (*alpha*-(2-(4-chlorophenyl)-ethyl)-*alpha*-phenyl-3-(1*H*-1,2,4-triazole)-1-propanenitrile) in or on pecans at 0.1 ppm. In the **Federal Register** of March 2, 1994 (59 FR 9985), EPA announced that Rohm and Haas had amended the petition to propose amending 40 CFR part 180 to establish a tolerance of 0.1 ppm in or on pecans for fenbuconazole (*alpha*-(2-(4-chlorophenyl)-ethyl)-*alpha*-phenyl-3-(1*H*-1,2,4-triazole)-1-propanenitrile), and its metabolites *cis*-5-(4-chlorophenyl)-dihydro-3-phenyl-3-(1*H*-

1,2,4-triazole-1-ylmethyl-2-3*H*-furanone and *trans*-5-(4-chlorophenyl)-dihydro-3-phenyl-3-(1*H*-1,2,4-triazole-1-ylmethyl-2-3*H*-furanone, and *alpha*-[2-(4-chlorophenyl)-2-oxoethyl]-*alpha*-phenyl-1*H*-1,2,4-triazole-1-propanenitrile. Rohm and Haas subsequently amended the petition to limit the stone fruit tolerances to stone fruit crop group (except plums and prunes). The Agency is editorially correcting the tolerance expression to read: combined residues of the fungicide, fenbuconazole [*alpha*-[2-(4-chlorophenyl)-ethyl]-*alpha*-phenyl-3-(1*H*-1,2,4-triazole)-1-propanenitrile] and its metabolites, *cis*-5-(4-chlorophenyl)-dihydro-3-phenyl-3-(1*H*-1,2,4-triazole-1-ylmethyl-2-3*H*-furanone and *trans*-5-(4-chlorophenyl)-dihydro-3-phenyl-3-(1*H*-1,2,4-triazole-1-ylmethyl-2-3*H*-furanone, expressed as fenbuconazole, in or on the raw agricultural commodities pecans at 0.1 part per million (ppm) and stone fruit crop group (except plums and prunes) at 2.0 ppm.

There were no comments or requests for referral to an advisory committee received in response to these notices of filing.

The scientific data submitted in the petitions and all other relevant material have been evaluated. The toxicology data considered in support of the tolerances include:

1. A rat acute oral study with an LD₅₀ greater than 2 grams (g)/kilogram (kg).

2. A 13-week rat feeding study with a no-observed-effect-level (NOEL) of 20 ppm (1.3 milligrams(mg)/kg/day males and 1.5 mg/kg/day females) and a lowest-observed-effect-level (LOEL) of 80 ppm (5.1 mg/kg/day males and 6.3 mg/kg/day females), based on hepatotoxicity.

3. A 3-month mouse feeding study with a NOEL of 20 ppm (3.8 mg/kg/day males and 5.7 mg/kg/day females) and a LOEL of 60 ppm (11.1 mg/kg/day males and 17.6 mg/kg/day females) based on hepatotoxicity.

4. A 3-month dog feeding study with a NOEL of 100 ppm (3.3 mg/kg/day males and 3.5 mg/kg/day females) and LOEL of 400 ppm (13.3 mg/kg/day males and 14.0 mg/kg/day females), based on hepatocellular hypertrophy.

5. A 21-day rabbit dermal study with a NOEL greater than 1,000 mg/kg/day (limit dose).

6. A 78-week dietary carcinogenicity study in mice with a NOEL of 1.43 mg/kg/day and a LOEL of 28.6 mg/kg/day (males) and 92.9 mg/kg/day (females) based on hepatocellular enlargement and a greater incidence and severity of hepatocellular vacuolation. There was evidence of carcinogenicity based on the occurrence of increased trend for

malignant liver tumors in males and an increase in benign and malignant liver tumors in females. The carcinogenic effects observed are discussed below.

7. A 24-month rat chronic feeding/carcinogenicity study with a NOEL of 40 ppm (3.03 mg/kg/day for females and 4.02 mg/kg/day for males) for systemic effects and a LEL of 800 ppm (30.62 mg/kg/day for males and 43.07 mg/kg/day for females) based on decreases in body weight gains and hepatocellular enlargement and vacuolization in females, and thyroid weight and histopathological changes in both sexes. There was evidence of carcinogenicity based on the increased occurrence of thyroid follicular cell benign and malignant tumors in males. The carcinogenic effects observed are discussed below.

8. A 24-month male rat chronic feeding/carcinogenicity study with a NOEL of 800 ppm (30.41 mg/kg/day) and a LEL of 1,600 ppm (63.94 mg/kg/day) based on increased liver and thyroid weights and lesions. There was evidence of carcinogenicity based on the increased occurrence of thyroid follicular cell benign and malignant tumors. The carcinogenic effects observed are discussed below.

9. A 1-year dog chronic feeding study with a NOEL of 150 ppm (3.75 mg/kg/day) and the LOEL, based on decreases in body weight gain and increased liver weight, of 1,200 ppm (30 mg/kg/day).

10. A two generation reproduction study in rats with a parental and reproductive NOEL of 4 mg/kg/day (80 ppm) and a LOEL of 40 mg/kg/day (800 ppm), based on decreased body weight and food consumption, increased number of dams not delivering viable or delivering nonviable offspring, and increases in adrenal and thyroid/parathyroid weights.

11. A developmental toxicity study in rabbits with a maternal NOEL of 10 mg/kg/day, and a developmental NOEL of 30 mg/kg/day, and a maternal LOEL of 60 mg/kg/day due to only 1/19 (5%) of the pregnant does producing a viable fetus and no developmental LOEL (greater than 30 mg/kg/day).

12. A developmental toxicity study in rats with a maternal NOEL and developmental NOEL of 30 mg/kg/day and an LEL of 75 mg/kg/day due to decrease in maternal body weight compared to controls and increase in early and late resorption with a decrease in number of live fetuses per dam.

13. No evidence of gene mutation was observed in a test for induction of gene mutation at the HGPRT locus in Chinese hamster ovary cells. No increase in the number of cells with aberrations or observations per cell were noted in an

in vivo cytogenetics assay using bone marrow from treated rats. No increase in unscheduled DNA synthesis in rat primary hepatocyte study was observed.

14. A rat metabolism study showed that radiolabeled fenbuconazole is rapidly absorbed, distributed, and excreted following oral administration in rats. Biliary excretion data indicated that systemic absorption of fenbuconazole was high for all dosing groups. The feces was the major route of excretion. Tissue distribution and bioaccumulation of fenbuconazole appeared to be minimal.

The Health Effects Division Carcinogenicity Peer Review Committee has concluded that the available data provide limited evidence of the carcinogenicity of fenbuconazole in mice and rats and has classified fenbuconazole as a Group C (possible human carcinogen with limited evidence of carcinogenicity in animals) in accordance with Agency guidelines, published in the **Federal Register** in 1986 (51 FR 33992, Sept. 24, 1986) and recommended that for the purpose of risk characterization a low-dose extrapolation model applied to the experimental animal tumor data should be used for quantification for human risk (Q1*). This decision was based on the induction of thyroid follicular cell adenomas and/or combined adenomas-carcinomas in male rats in two studies, both by pair-wise comparison with controls and by trend analysis. The studies were combined for the purpose of deriving the Q1*. The Q1* for fenbuconazole is 1.65×10^{-2} (mg/kg/day)⁻¹ in human equivalents.

Based on assumptions that 100 percent of the pecan crop is treated and that residues are at the tolerance level, the upper-bound limit of the dietary carcinogenic risk for pecans is calculated in the range of 1 incidence in 100 million (9.0×10^{-9}). Based on assumption that stone fruit residues (except plums and prunes) are at the tolerance level and the limitation of production of the only fenbuconazole product registered under the Federal Insecticide Fungicide and Rodenticide Act (FIFRA) for use on stone fruit to 28,500 pounds of active ingredient per year (calculated to be equivalent to treating 12.8% of the total U.S. acreage of apricots, cherries, nectarines, and peaches per year), the upper-bound limit of the dietary carcinogenic risk for stone fruit group except plums and prunes is calculated in the range of 1 incidence in 1 million (1×10^{-6}).

Processing studies for pecans and stone fruit other than plums and prunes are not required. Therefore, food/feed

additive tolerances are not needed in conjunction with these uses.

Using the NOEL of 3.0 mg/kg/day from the most sensitive species in the rat chronic feeding study with a 100-fold safety factor, the Reference Dose (RfD) for systemic effects is 0.03 mg/kg/day. The theoretical maximum residue contribution (TMRC) from the proposed tolerances is 0.000604 mg/kg/day and utilizes 2 percent of the RfD for the overall U. S. population. For exposure of the most highly exposed subgroups in the population, nonnursing infants (less than 1 year old), the TMRC is 0.00516 mg/kg/day and utilizes 17 percent of the RfD.

The metabolism of fenbuconazole in plants is adequately understood. Due to a chemistry data gap for storage stability of fenbuconazole in other raw agricultural commodities [GLN 171-4(e)], EPA believes it is inappropriate to establish permanent tolerances for the uses of fenbuconazole at this time. However, based on apparent storage stability, EPA believes that the existing data support time-limited tolerances to December 31, 1998.

The nature of the residue in plants is adequately understood for the purposes of these time-limited tolerances. An analytical method, gas-liquid chromatography with a thermionic-specific detector with nitrogen selectivity, is available for enforcement purposes. The enforcement methodology has been submitted to the Food and Drug Administration for publication in the Pesticide Analytical Manual, Vol. II (PAM II). Because of the long lead time for publication of the method in PAM II, the analytical methodology is being made available in the interim to anyone interested in pesticide enforcement when requested from: Calvin Furlow, Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703-305-5232).

There is no reasonable expectation that secondary residues will occur in milk, eggs, or meat of livestock and poultry since there are no livestock feed items associated with this action. The pesticide is considered useful for the purpose for which the tolerance is sought. Based on the information and data considered, the Agency has determined that the time-limited tolerance established by amending 40 CFR part 180 will protect the public health. Therefore, the tolerances are established as set forth below.

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

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

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

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

List of Subjects in 40 CFR Part 180

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

Dated: February 15, 1995.

Daniel M. Barolo,

Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

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

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

b. By adding § 180.480, to read as follows:

§ 180.480 Fenbuconazole; tolerances for residues.

(a) Time-limited tolerances, to expire on December 31, 1998, are established for combined residues of the fungicide fenbuconazole [*alpha*-[2-(4-chlorophenyl)-ethyl]-*alpha*-phenyl-3-(1*H*-1,2,4-triazole)-1-propanenitrile] and its metabolites, *cis*-5-(4-chlorophenyl)-dihydro-3-phenyl-3-(1*H*-1,2,4-triazole-1-ylmethyl)-2-3*H*-furanone and *trans*-5-(4-chlorophenyl)dihydro-3-phenyl-3-(1*H*-1,2,4-triazole-1-ylmethyl)-2-3*H*-furanone, expressed as fenbuconazole, in or on the following raw agricultural commodities:

Commodity	Parts per million
Pecans	0.1
Stone fruit crop group (except plums and prunes)	2.0

(b) Residues in these commodities not in excess of the established tolerance resulting from the uses described in paragraph (a) of this section remaining after expiration of the time-limited tolerance will not be considered to be actionable if the fungicide is applied during the term of and in accordance

with the provisions of the above regulation.

[FR Doc. 95-5019 Filed 2-28-95; 8:45 am]

BILLING CODE 6560-50-F

40 CFR Part 180

[PP 4F4351/R2108; FRL-4938-1]

RIN 2070-AB78

Candida Oleophila Isolate I-182; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes an exemption from the requirement of a tolerance for residues of the post-harvest biological fungicide *Candida oleophila* isolate I-182. Ecogen, Inc., requested this tolerance exemption.

EFFECTIVE DATE: This regulation becomes effective on March 1, 1995.

ADDRESSES: Written objections and hearing requests, identified by the document control number, [PP 4F4351/R2108], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing request to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Fees accompanying objections shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251.

FOR FURTHER INFORMATION CONTACT: By mail: Denise Greenway, Biopesticides and Pollution Prevention Division (7501W), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: CS51L6, CS #1, 2800 Crystal Drive, Arlington, VA 22202, (703)-308-8263.

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of September 28, 1994 (59 FR 49396), which announced that Ecogen, Inc., 2005 Cabot Blvd. West, Langhorne, PA 19047, had submitted pesticide petition (PP) 4F4351 to EPA

requesting that the Administrator, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), establish an exemption from the requirement of a tolerance for residues of *Candida oleophila* isolate I-182 in or on all raw agricultural commodities. Errors in the September 28, 1994 notice of filing were corrected in the **Federal Register** of November 2, 1994 (59 FR 54911), to specify that *C. oleophila* isolate I-182 is a biological fungicide, not an insecticide, and that the area of title 40 of the Code of Federal Regulations (CFR) to be amended is 40 CFR part 180, not 40 CFR 180.1001(c) and (d).

There were no comments received in response to these notices of filing. The data submitted in the petition and all other relevant material have been evaluated. The toxicological data considered in support of the exemption from the requirement of a tolerance are summarized as follows:

Rats have been challenged with high doses of the pure preparations of *C. oleophila* by the oral, pulmonary, and interperitoneal routes of exposure. In each of these tests, the test animals survived to the end of the study without visible signs of toxicity or pathogenicity from the presence of *C. oleophila*. The test microbe was not isolated from any organs or tissues on day 3 in the oral and pulmonary studies and on day 7 in the interperitoneal injection study. These findings indicate that the test microbe was recognized by the immune system and cleared from the rats by the normal routes. In addition, the end-product formulation of *C. oleophila* was tested for dermal toxicity/irritation, eye irritation, and acute oral toxicity and showed no mortality or significant signs of toxicity.

Candida oleophila isolate I-182 is a microbial pesticide as defined by 40 CFR 158.65. The toxicity studies provided are sufficient to show that there are no foreseeable human or domestic health hazards likely to arise from the use of the product to control post-harvest decay in citrus and pome fruit.

Acceptable daily intake (ADI) and maximum permissible intake (MPI) considerations are not relevant to this petition. Enforcement actions based on the level of residue found in a commodity are not expected. Therefore, the requirement for an analytical method for enforcement purposes is not applicable to this exemption request. *Candida oleophila* isolate I-182 is considered useful for the purposes for which the exemption from tolerance is sought. Based on the information and data considered, the Agency concludes

that the establishment of a tolerance is not necessary to protect the public health. Therefore, the exemption from requirement of a tolerance is established as set forth below.

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

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

mandates, the President's priorities, or the principles set forth in this Executive Order.

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

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

List of Subjects in 40 CFR Part 180

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

Dated: February 14, 1995.

Daniel M. Barolo,

Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

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

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

2. In subpart D, by adding new § 180.1144, to read as follows:

§ 180.1144 *Candida oleophila* isolate I-182; exemption from the requirement of a tolerance.

Candida oleophila isolate I-182, when used as a post-harvest biological fungicide, is exempted from the requirement of a tolerance in or on all raw agricultural commodities.

[FR Doc. 95-4599 Filed 2-28-95; 8:45 am]

BILLING CODE 6560-50-F

40 CFR Part 721

[OPPTS-50620; FRL-4868-4]

RIN 2070-AB27

Significant New Uses of Certain Chemical Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is promulgating significant new use rules (SNURs) under section 5(a)(2) of the Toxic Substances

Control Act (TSCA) for certain chemical substances which were the subject of premanufacture notices (PMNs) and subject to TSCA section 5(e) consent orders issued by EPA. Today's action requires persons who intend to manufacture, import, or process these substances for a significant new use to notify EPA at least 90 days before commencing the manufacturing or processing of the substance for a use designated by this SNUR as a significant new use. The required notice will provide EPA with the opportunity to evaluate the intended use, and if necessary, to prohibit or limit that activity before it occurs. EPA is promulgating this SNUR using direct final procedures.

DATES: The effective date of this rule is May 1, 1995. This rule shall be promulgated for purposes of judicial review at 1 p.m. Eastern Standard Time on March 15, 1995. If EPA receives notice before March 31, 1995 that someone wishes to submit adverse or critical comments on EPA's action in establishing a SNUR for one or more of the chemical substances subject to this rule, EPA will withdraw the SNUR for the substance for which the notice of intent to comment is received and will issue a proposed SNUR providing a 30-day period for public comment.

ADDRESSES: Each comment or notice of intent to submit adverse or critical comment must bear the docket control number OPPTS-50620 and the name(s) of the chemical substance(s) subject to the comment. All comments should be sent in triplicate to: Environmental Protection Agency, OPPT Document Receipt Officer (7407), 401 M St., SW., Rm. E-G099, Washington, DC 20460. All comments which are claimed confidential must be clearly marked as such. Three additional sanitized copies of any comments containing confidential business information (CBI) must also be submitted. Nonconfidential versions of comments on this rule will be placed in the rulemaking record and will be available for public inspection.

FOR FURTHER INFORMATION CONTACT:

James B. Willis, Acting Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E-543B, 401 M St., SW., Washington, DC 20460, Telephone: (202) 554-1404, TDD: (202) 554-0551.

SUPPLEMENTARY INFORMATION: This SNUR will require persons to notify EPA at least 90 days before commencing manufacturing or processing a substance for any activity designated by this SNUR as a significant new use. The supporting rationale and background to this rule are

more fully set out in the preamble to EPA's first direct final SNURs published in the **Federal Register** of April 24, 1990 (55 FR 17376). Consult that preamble for further information on the objectives, rationale, and procedures for the rules and on the basis for significant new use designations including provisions for developing test data.

I. Authority

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a "significant new use." EPA must make this determination by rule after considering all relevant factors, including those listed in section 5(a)(2). Once EPA determines that a use of a chemical substance is a significant new use, section 5(a)(1)(B) of TSCA requires persons to submit a notice to EPA at least 90 days before they manufacture, import, or process the substance for that use. The mechanism for reporting under this requirement is established under 40 CFR 721.10.

II. Applicability of General Provisions

General provisions for SNURs appear under subpart A of 40 CFR part 721. These provisions describe persons subject to the rule, recordkeeping requirements, exemptions to reporting requirements, and applicability of the rule to uses occurring before the effective date of the final rule. Provisions relating to user fees appear at 40 CFR part 700. Persons subject to this SNUR must comply with the same notice requirements and EPA regulatory procedures as submitters of PMNs under section 5(a)(1)(A) of TSCA. In particular, these requirements include the information submission requirements of section 5(b) and 5(d)(1), the exemptions authorized by section 5(h)(1), (2), (3), and (5), and the regulations at 40 CFR part 720. Once EPA receives a SNUR notice, EPA may take regulatory action under section 5(e), 5(f), 6, or 7 to control the activities on which it has received the SNUR notice. If EPA does not take action, EPA is required under section 5(g) to explain in the **Federal Register** its reasons for not taking action.

Persons who intend to export a substance identified in a proposed or final SNUR are subject to the export notification provisions of TSCA section 12(b). The regulations that interpret section 12(b) appear at 40 CFR part 707. Persons who intend to import a chemical substance identified in a final SNUR are subject to the TSCA section 13 import certification requirements, which are codified at 19 CFR 12.118 through 12.127 and 127.28. Such persons must certify that they are in

compliance with the SNUR requirements. The EPA policy in support of the import certification appears at 40 CFR part 707.

III. Substances Subject to This Rule

EPA is establishing significant new use and recordkeeping requirements for the following chemical substances under 40 CFR part 721 subpart E. In this unit, EPA provides a brief description for each substance, including its PMN number, chemical name (generic name if the specific name is claimed as CBI), CAS number (if assigned), basis for the action taken by EPA in the section 5(e) consent order or as a non-section 5(e) SNUR for the substance (including the statutory citation and specific finding), toxicity concern, and the CFR citation assigned in the regulatory text section of this rule. The specific uses which are designated as significant new uses are cited in the regulatory text section of this document by reference to 40 CFR part 721, subpart B where the significant new uses are described in detail. Certain new uses, including production limits and other uses designated in the rule are claimed as CBI. The procedure for obtaining confidential information is set out in Unit VII. of this preamble.

Where the underlying section 5(e) order prohibits the PMN submitter from exceeding a specified production limit without performing specific tests to determine the health or environmental effects of a substance, the tests are described in this unit. As explained further in Unit VI. of this preamble, the SNUR for such substances contains the same production limit, and exceeding the production limit is defined as a significant new use. Persons who intend to exceed the production limit must notify the Agency by submitting a significant new use notice (SNUN) at least 90 days in advance. In addition, this unit describes tests that are recommended by EPA to provide sufficient information to evaluate the substance, but for which no production limit has been established in the section 5(e) order. Descriptions of recommended tests are provided for informational purposes.

Data on potential exposures or releases of the substances, testing other than that specified in the section 5(e) order for the substances, or studies on analogous substances, which may demonstrate that the significant new uses being reported do not present an unreasonable risk, may be included with significant new use notification. Persons submitting a SNUN must comply with the same notice requirements and EPA regulatory procedures as submitters of PMNs, as

stated in 40 CFR 721.1(c), including submission of test data on health and environmental effects as described in 40 CFR 720.50.

EPA is not publishing SNURs for two PMN substances, P-93-1096 and P-94-138, which are subject to a final 5(e) consent order. The 5(e) consent orders for these substances are derived from an exposure finding based solely on substantial production volume and significant or substantial human exposure and/or release to the environment of substantial quantities. For these cases there were limited or no toxicity data available for the PMN substances. In such cases, EPA regulates the new chemical substances under section 5(e) by requiring certain toxicity tests. For instance, chemical substances with potentially substantial releases to surface waters would be subject to toxicity testing of aquatic organisms and chemicals with potentially substantial human exposures would be subject to health effects testing for mutagenicity, acute effects, and subchronic effects. However, for these substances, the short-term toxicity testing required by the 5(e) order is usually completed within 1 to 2 years of notice of commencement. EPA's experience with exposure-based SNURs requiring short-term testing is that the SNUR is often revoked within 1 to 2 years when the test results are received. Rather than issue and revoke SNURs in such a short span of time, EPA will defer publication of exposure-based SNURs until either a Notice of Commencement (NOC) or data demonstrating risk are received unless the toxicity testing required is long-term. EPA is issuing this explanation and notification as required in 40 CFR 721.160(a)(2) as it has determined that SNURs are not needed at this time for these substances which are subject to a final 5(e) consent order under TSCA.

PMN Number P-93-193

Chemical name: Propanol, [2-(1,1-dimethyl-ethoxy)methylethoxy]-.

CAS number: 132739-31-2.

Effective date of section 5(e) consent order: May 7, 1994.

Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and (ii)(II) of TSCA based on a finding that this substance is expected to be produced in substantial quantities and there may be substantial human exposures and environmental release.

Recommended testing: EPA has determined that the results of an Ames assay (with and without activation)(40 CFR 798.5265), an in vivo mouse micronucleus assay by the intraperitoneal route (40 CFR 798.5395),

a one-specie (oral) developmental toxicity test (40 CFR 798.4900), and a 90-day subchronic oral toxicity with functional observation battery (FOB) study, neuropathology, and motor activity (NTIS PB-91-145617 neurotoxicity guideline) would help characterize possible health effects of the substance. EPA has also determined that an inherent biodegradability in soil test (40 CFR 796.3400), a semicontinuous activated sludge test (40 CFR 796.3340), and a soil thin layer chromatography (40 CFR 796.2700) or sediment and soil adsorption isotherm test (40 CFR 796.2750) would help characterize possible environmental effects of the substance. The PMN submitter has agreed not to exceed the production volume limit without performing these tests.
CFR citation: 40 CFR 721.8170.

PMN Numbers P-93-313 through 316

Chemical name: (generic) Carboxylic acids, (C6-C9) branched and linear.
CAS number: Not available.
Effective date of section 5(e) consent order: April 16, 1994.
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to the environment.
Toxicity concern: Toxicity testing of the PMN substances demonstrated potential chronic toxicity to fish and aquatic organisms.
Recommended testing: The Agency recommends a daphnid chronic toxicity study (40 CFR 797.1330) for P-93-313 and P-93-316 and a fish early life stage toxicity study (40 CFR 797.1600) for P-93-316 to characterize potential environmental effects.
CFR citation: 40 CFR 721.2088.

PMN Number P-93-339

Chemical name: (generic) Methacrylic ester.
CAS number: Not available.
Effective date of section 5(e) consent order: November 4, 1994.
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concern: The substance may cause cancer based on toxicity data for similar acrylates which have been shown to cause cancer in test animals.
Recommended testing: EPA has determined that the results of a two-species rodent bioassay (40 CFR 798.3300) would help characterize the carcinogenic effects of the PMN

substance. Toxicity data on representative members of the acrylate/methacrylate class of chemical substances being developed by certain acrylate and methacrylate manufacturers may also be useful in evaluating the risk posed by the PMN substance.

CFR citation: 40 CFR 721.3028.

PMN Numbers P-93-374 and P-93-375

Chemical name: (generic) Substituted benzotriazole derivatives.
CAS number: Not available.
Effective date of section 5(e) consent order: January 14, 1994.
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that these substances may present an unreasonable risk of injury to health.
Toxicity concern: Based on analogy to similar chemicals, the PMN substances may cause systemic or reproductive effects in test animals.
Recommended testing: The Agency has determined that the results of a 90-day subchronic toxicity gavage study in rats (40 CFR 798.1650) would help characterize possible human health effects.
CFR citation: 40 CFR 721.1760.

PMN Number P-93-578

Chemical name: Methylenabisbenzotriazole.
CAS number: Not available.
Effective date of section 5(e) consent order: February 4, 1993.
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to human health.
Toxicity concern: Similar chemicals have been shown to cause systemic and reproductive toxicity in test animals.
Recommended testing: A 90-day gavage study in rats (40 CFR 798.2650) would help characterize systemic and reproductive effects. The PMN submitter has agreed not to exceed the production volume limit without performing this test.
CFR citation: 40 CFR 721.1755.

PMN Number P-93-721

Chemical name: Furan, 2-(ethoxymethyl)tetrahydro-.
CAS number: Not available.
Effective date of section 5(e) consent order: May 7, 1994.
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and (ii)(II) of TSCA based on a finding that this substance is expected to be produced in substantial

quantities and there may be substantial human exposures and environmental release.

Recommended testing: EPA has determined that an activated sludge test and an aerobic aquatic biodegradation study (40 CFR 796.3100) would help characterize possible environmental effects of the substance. EPA has determined that the results of an acute oral study (40 CFR 798.1175), an Ames assay (40 CFR 798.5265), a mouse micronucleus assay by the intraperitoneal route (40 CFR 798.5395), and a 28-day repeated dose oral study in rats (OECD Guideline No. 407) would help characterize possible health effects of the substance. The consent order contains two production volume triggers. The PMN submitter has agreed not to exceed the first production volume limit without performing the environmental effects tests. The PMN submitter has agreed not to exceed the second production volume limit without performing the health effects tests.
CFR citation: 40 CFR 721.3815.

PMN Number P-93-1043

Chemical name: (generic) Polysulfide mixture.
CAS number: Not available.
Effective date of section 5(e) consent order: April 15, 1994.
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i), (ii)(I), and (ii)(II) of TSCA based on a finding that this substance may present an unreasonable risk of injury to the environment and that this substance is expected to be produced in substantial quantities and that there may be significant or substantial human exposure.
Toxicity concern: Structurally similar chemicals have been shown to cause toxicity to aquatic organisms.
Recommended testing: EPA has determined that an Ames assay (with and without activation) (40 CFR 798.5265); an in vivo mouse micronucleus test (intraperitoneal) (40 CFR 798.5395); an oral LD50 study in rats (40 CFR 798.1175); a 28-day repeated dose oral study in rats (OECD Guideline No. 407), with the following modifications: (a) for all test doses, a neurotoxicity functional observational battery (NTIS:PB 91-154617), and (b) for the highest test dose group only, histopathologic examination extended to include the testes/ovaries and lungs, plus neuropathology (NTIS:PB 91-154617); and developmental toxicity testing (40 CFR 798.4900; oral route; one species) would better characterize the potential human health effects. The PMN submitter has agreed not to exceed

the production volume limit without performing these tests. EPA has determined that a 96-hour bioassay in algae (40 CFR 797.1050); a 48-hour LC50 test in daphnia (40 CFR 797.1300); a 96-hour test in fish (40 CFR 797.1400); a SCAS test (40 CFR 797.3340); an aerobic aquatic biodegradation (40 CFR 797.3100); and an indirect photolysis test (40 CFR 796.3765), would better characterize the potential environmental effects. These tests would be required to evaluate the potential environmental and fate effects which may be caused by the PMN substance if the substance were to be released into the waters of the United States.

CFR citation: 40 CFR 721.9540.

PMN Number P-93-1111

Chemical name: Butanamide, 2,2'-[3,3'-di-chloro[1,1'-biphenyl]-4,4'-diyl]bisazobis[N-2,3-dihydro-2-oxo-1H-benzimidazol-5-yl]-3-oxo-.

CAS number: 78245-94-0.

Effective date of section 5(e) consent order: May 27, 1994.

Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to human health and the environment.

Toxicity concern: Structurally similar chemicals have been shown to cause carcinogenicity and mutagenicity in test animals and toxicity to aquatic organisms.

Recommended testing: The following data are recommended to help characterize the PMN substance's potential to cause human health and environmental effects: Monitoring data to detect the presence of dichlorobenzidine (DCB) under actual conditions of use; monitoring data to detect airborne concentrations of DCB; monitoring data on releases of DCB to surface waters. (See Agency for guidelines and information on performing monitoring studies.) Also recommended to help determine the PMN substance's potential to cause environmental effects: An anaerobic biodegradation (40 CFR 797.3140).

CFR citation: 40 CFR 721.1907.

PMN Number P-93-1308

Chemical name: (generic) Dialkyl ether.

CAS number: Not available.

Basis for action: The PMN substance will be used as described in the PMN. Based on analogy to neutral organic compounds, EPA is concerned that toxicity to aquatic organisms may occur at concentrations as low as 180 parts per billion (ppb) of the PMN substance in surface waters. EPA determined that use of the substance as described in the

PMN did not present an unreasonable risk because the substance would not be released to surface waters resulting in concentrations above 180 ppb. EPA has determined that other uses of the substance may result in releases to surface water at concentrations above 180 ppb. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that a fish acute toxicity study (40 CFR 797.1400), a daphnid acute toxicity study (40 CFR 797.1300), and an algal acute toxicity study (40 CFR 797.1050) would help characterize environmental effects of the PMN substance.

CFR citation: 40 CFR 721.3437.

PMN Numbers P-93-1423 through 1426

Chemical name: (generic) Silanes substituted macrocycle polyethyl.

CAS number: Not available.

Basis for action: The PMN substances will be used as intermediates. Based on analogy to alkoxysilanes, EPA is concerned that toxicity to aquatic organisms may occur at concentrations as low as 20 ppb of the PMN substances in surface waters. EPA determined that use of the substances as described in the PMN did not present an unreasonable risk because the substances would not be released to surface waters. EPA has determined that other uses of the substances may result in releases to surface waters which exceed the concern concentration. Based on this information, the PMN substances meet the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that a fish acute toxicity study (40 CFR 797.1400), a daphnid acute toxicity study (40 CFR 797.1300), and an algal acute toxicity study (40 CFR 797.1050) would help characterize the environmental effects of the PMN substances.

CFR citation: 40 CFR 721.9505.

PMN Number P-93-1447

Chemical name: (generic)

Bis(imidoethylene) benzene.

CAS number: Not available.

Basis for action: The PMN substance will be used as a rubber additive. Based on submitted toxicity testing of the substance, EPA is concerned that toxicity to aquatic organisms may occur at concentrations as low as 2 ppb of the PMN substance in surface waters and that general systemic effects may occur to exposed workers. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because the substance

would not be released to surface waters and significant worker exposure would not occur because the substance was not manufactured domestically. EPA has determined that other uses of the substance may result in releases to surface waters which exceed the concern concentration and significant worker exposure. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(i) and (b)(3)(i).

Recommended testing: EPA has determined that a fish acute toxicity study (40 CFR 797.1400), a daphnid acute toxicity study (40 CFR 797.1300), and an algal acute toxicity study (40 CFR 797.1050) would help characterize the environmental effects of the PMN substance. EPA has determined that a 90-day subchronic study (40 CFR 798.2650) would help characterize the health effects of the PMN substance.

CFR citation: 40 CFR 721.1187.

PMN Number P-93-1471

Chemical name: (generic)

Allyloxysubstituted heterocycle.

CAS number: Not available.

Basis for action: The PMN substance will be used as an intermediate. Based on analogy to aliphatic amines, EPA is concerned that toxicity to aquatic organisms may occur at concentrations as low as 70 ppb of the PMN substance in surface waters. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because the substance would not be released to surface waters resulting in concentrations above 70 ppb. EPA has determined that other uses of the substance may result in releases to surface water at concentrations above 70 ppb. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that a fish acute toxicity study (40 CFR 797.1400), a daphnid acute toxicity study (40 CFR 797.1300), and an algal acute toxicity study (40 CFR 797.1050) would help characterize the environmental effects of the PMN substance.

CFR citation: 40 CFR 721.4110.

PMN Number P-94-34

Chemical name: 2,4-Imidazolidinedione, bromochloro-5,5-dimethyl-.

CAS number: Not available.

Basis for action: The PMN substance will be used as described in the PMN. Based on analogy to a structurally similar compound, EPA is concerned that toxicity to aquatic organisms may occur at concentrations as low as 7 ppb of the PMN substance in surface waters.

EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because the substance will be used as a solid and would not be released to surface waters resulting in concentrations above 10 ppb. EPA has determined that other uses of the substance may result in releases to surface water at concentrations above 10 ppb. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii). *Recommended testing:* EPA has determined that a fish acute toxicity study (40 CFR 797.1400), a daphnid acute toxicity study (40 CFR 797.1300), and an algal acute toxicity study (40 CFR 797.1050) would help characterize the environmental effects of the PMN substance.

CFR citation: 40 CFR 721.4470.

PMN Numbers P-94-322 and P-94-323

Chemical name: (generic) Polyfluorocarboxylates.

CAS number: Not available.

Basis for action: The substances will be used as intermediates. Based on analogy to similar chemicals, EPA expects the substances to cause developmental toxicity, systemic toxicity, and acute toxicity as well as toxicity to aquatic organisms at a concentration of 5 ppb of the substances in surface waters. EPA determined that use of the substances as described in the PMN did not present an unreasonable risk because the substances would not be released to surface waters and the substances would be used as an intermediate which would not result in exposure to workers. EPA has determined that manufacture, processing, and use of the substances other than as a site-limited intermediate could result in releases to surface waters and exposures to workers. Based on this information, the substances meet the concern criteria at § 721.170(b)(4)(ii) and (b)(3)(ii).

Recommended testing: EPA has determined a chronic 60-day fish early life stage toxicity test in rainbow trout (40 CFR 797.1600) and a 21-day chronic daphnid toxicity test (40 CFR 797.1350) would help characterize the environmental effects of the substance. EPA has also determined that a 90-day subchronic study (40 CFR 798.2650) and a two-species developmental toxicity study (40 CFR 798.4900) would help characterize the health effects of the substances.

CFR citation: 40 CFR 721.3790.

PMN Numbers P-94-325 through 327

Chemical name: (generic) Alkoxyated alkyldiethylenetriamine, alkyl sulfate salts.

CAS number: Not available.

Basis for action: The PMN substances will be used as cellulose softeners. Based on analogy of the substances to cationic surfactants, EPA is concerned that toxicity to aquatic organisms may occur at concentrations as low as 4 ppb of the PMN substances in surface waters. EPA determined that use of the substances as described in the PMN did not present an unreasonable risk because the substances would not be released to surface waters. EPA has determined that consumer uses of the substances may result in releases to surface waters which exceed the concern concentration. Based on this information, the PMN substances meet the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that a fish acute toxicity study (40 CFR 797.1400), a daphnid acute toxicity study (40 CFR 797.1300), and an algal acute toxicity study (40 CFR 797.1050) would help characterize the environmental effects of the PMN substance.

CFR citation: 40 CFR 721.2410.

PMN Number P-94-422

Chemical name: (generic) Branched synthetic fatty acid.

CAS number: Not available.

Basis for action: The PMN substance will be used as an industrial lubricant raw material. Based on analogy to 2-ethylhexanoic acid and valproic acid, the PMN substance may cause liver toxicity and developmental toxicity. EPA has determined that persons exposed to the PMN substance dermally and by inhalation may be at risk for these effects. EPA determined that importation of the substance as an industrial lubricant raw material did not present an unreasonable risk because there were no significant dermal or inhalation exposures. EPA has determined that domestic manufacture, use other than as an intermediate, or nonindustrial use may result in significant dermal and inhalation exposures. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(3)(ii).

Recommended testing: EPA has determined that an oral developmental toxicity study in two species (40 CFR 798.4900) and an oral 90-day subchronic study (40 CFR 798.2650) would help characterize the health effects of the PMN substance.

CFR citation: 40 CFR 721.3627.

PMN Number P-94-499

Chemical name: (generic) Substituted azo metal complex dye.

CAS number: Not available.

Basis for action: The PMN substance will be used as a textile dye. Based on analogy to similar substances, the PMN substance may cause cancer. Based on submitted test data and analogy to similar substances, the PMN substance is toxic to aquatic organisms. EPA has determined that exposed workers may be at risk for cancer and water releases may be toxic to aquatic organisms. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because there were no significant environmental releases or worker exposures. EPA has determined that environmental releases or water releases during manufacturing may result in significant human or environmental exposures as described in § 721.170(c)(2)(ii). Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(1)(i)(C) and (b)(4)(i).

Recommended testing: EPA has determined that a 2-year two-species oral bioassay (40 CFR 798.3300) or other testing to address the bioavailability of metabolites of concern will help characterize the health effects of the PMN substance. EPA has also determined that a daphnid acute toxicity study (40 CFR 797.1300) and an algal acute toxicity study (40 CFR 797.1050) would help characterize the environmental effects of the PMN substance.

CFR citation: 40 CFR 721.4594.

PMN Number P-94-682

Chemical name: (generic) Hydroxyalkyl-quinoline dioxindan dialkylcarboxamide.

CAS number: Not available.

Basis for action: The PMN substance will be used as a color component. Based on analogy to phenols, EPA is concerned that chronic toxicity to aquatic organisms may occur at concentrations as low as 1 ppb of the PMN substance in surface waters. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because the substance would not be released to surface waters. EPA has determined that other uses of the substance may result in releases to surface waters at concentrations above 1 ppb. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined a chronic 60-day fish early life stage toxicity test in rainbow trout (40 CFR 797.1600), and a 21-day chronic daphnid toxicity test (40 CFR 797.1350) would help characterize the environmental effects of the substance. *CFR citation:* 40 CFR 721.2085.

PMN Number P-94-982

Chemical name: (generic) Methylamine esters.

CAS number: Not available.

Basis for action: The PMN substances will be used as an intermediate. Based on analogy to aliphatic amines, EPA is concerned that toxicity to aquatic organisms may occur at concentrations as low as 1 ppb of the PMN substances in surface waters. EPA determined that use of the substances as described in the PMN did not present an unreasonable risk because the substances would be used as an intermediate limiting release to surface waters. EPA has determined that other uses of the substances may result in releases to surface water at concentrations above 1 ppb. Based on this information, the PMN substances meet the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that a fish acute toxicity study (40 CFR 797.1400), a fish acute toxicity study modified with humic acid (40 CFR 797.1400), a daphnid acute toxicity study (40 CFR 797.1300), and an algal acute toxicity study (40 CFR 797.1050) would help characterize the environmental effects of the PMN substances.

CFR citation: 40 CFR 721.3034.

PMN Number P-94-1009

Chemical name: (generic) Trifunctional aliphatic blocked urethane cross-linker.

CAS number: Not available.

Basis for action: The PMN substance will be used as a coating. Based on analogy to aliphatic amines, EPA is concerned that toxicity to aquatic organisms may occur at concentrations as low as 1 ppb of the PMN substance in surface waters. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because the substance would not be released to surface waters resulting in concentrations above 1 ppb. EPA has determined that other uses of the substance may result in releases to surface water at concentrations above 1 ppb. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that a fish acute toxicity study (40 CFR 797.1400), a fish acute toxicity study modified with humic acid (40 CFR 797.1400), a daphnid acute toxicity study (40 CFR 797.1300), and an algal acute toxicity study (40 CFR 797.1050) would help characterize the environmental effects of the PMN substance.

CFR citation: 40 CFR 721.9962.

PMN Number P-94-1039

Chemical name: (generic) Diazo substituted carbomonocyclic metal complex.

CAS number: Not available.

Basis for action: The PMN substance will be used as a leather dye. Based on analogy to similar substances, the PMN substance may cause cancer, developmental toxicity, reproductive toxicity, chronic toxicity to the liver, kidneys, and blood, and environmental toxicity to aquatic organisms. EPA has determined that persons exposed to the PMN substance through inhalation and aquatic organisms exposed to the substance in surface waters may be at risk for these toxic effects. EPA has determined that use of the substance as described in the PMN did not present an unreasonable risk because there were no significant environmental releases or worker exposures from manufacturing. EPA has determined that environmental releases and worker exposures during manufacturing may result in significant exposures. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(3)(ii) and (b)(4)(ii).

Recommended testing: EPA has determined that a 90-day oral subchronic study (40 CFR 798.2650), a two-generation reproduction study (40 CFR 798.4700), a developmental toxicity study (40 CFR 708.4900), a 2-year two-species oral bioassay (40 CFR 798.3300), and a chronic 60-day fish early life stage toxicity test in rainbow trout (40 CFR 797.1600), would help characterize the toxicity effects of the PMN substance.

CFR citation: 40 CFR 721.4596.

PMN Number P-94-1129

Chemical name: (generic) Alkylcyano substituted pyridazo benzoate.

CAS number: Not available.

Basis for action: The PMN substance will be used as a color component. Based on analogy to esters and neutral organic compounds, EPA is concerned that toxicity to aquatic organisms may occur at concentrations as low as 10 ppb of the PMN substance in surface waters. EPA determined that use of the substances as described in the PMN did not present an unreasonable risk because the substance would not be released to surface waters. EPA has determined that other uses of the substance may result in releases to surface waters which exceed the concern concentration. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that a fish acute toxicity

study (40 CFR 797.1400), a daphnid acute toxicity study (40 CFR 797.1300), and an algal acute toxicity study (40 CFR 797.1050) would help characterize the environmental effects of the PMN substance.

CFR citation: 40 CFR 721.8670.

PMN Numbers P-94-1238, 1239, 1241, 1242, and 1243

Chemical name: Propanenitrile, 3-[amino, *N*-tallowalkyl] dipropylene-tri- and tripropylene-tri- and propanenitrile, 3-[amino, (C₁₄₋₁₈ and C₁₆₋₁₈ unsaturated alkyl)] trimethylenedi-, dipropylene-tri-, and tripropylenetetra-.

CAS number: Not available.

Basis for action: The PMN substances will be used as intermediates. Based on analogy to aliphatic amines, EPA is concerned that toxicity to aquatic organisms may occur at concentrations as low as 1 ppb of the PMN substances in surface waters. EPA determined that use of the substances as described in the PMN did not present an unreasonable risk because the substances would not be released to surface waters. EPA has determined that other uses of the substances may result in releases to surface waters which exceed the concern concentration. Based on this information, the PMN substances meet the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that a fish acute toxicity study (40 CFR 797.1400), a daphnid acute toxicity study (40 CFR 797.1300) and an algal acute toxicity study (40 CFR 797.1050) would help characterize the environmental effects of the PMN substances.

CFR citation: 40 CFR 721.8155.

PMN Numbers P-94-1244 through 1246

Chemical name: Amines, *N*-(C₁₄₋₁₈ and C₁₆₋₁₈ unsaturated alkyl)] dipropylene-tri-, tripropylenetetra-, and tetrapropylenepenta-.

CAS number: Not available.

Basis for action: The PMN substances will be used as an asphalt emulsion. Based on analogy to aliphatic amines, EPA is concerned that toxicity to aquatic organisms may occur at concentrations as low as 1 ppb of the PMN substances in surface waters. EPA determined that use of the substances as described in the PMN did not present an unreasonable risk because the substances would not be released to surface waters. EPA has determined that other uses of the substances may result in releases to surface waters which exceed the concern concentration. Based on this information, the PMN

substances meet the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that a fish acute toxicity study (40 CFR 797.1400), a daphnid acute toxicity study (40 CFR 797.1300), and an algal acute toxicity study (40 CFR 797.1050) would help characterize the environmental effects of the PMN substances.

CFR citation: 40 CFR 721.642.

IV. Objectives and Rationale of the Rule

During review of the PMNs submitted for the chemical substances that are subject to this SNUR, EPA concluded that, for 12 of the substances, regulation was warranted under section 5(e) of TSCA, pending the development of information sufficient to make reasoned evaluations of the health or environmental effects of the substances. The basis for such findings is outlined in Unit III. of this preamble. Based on these findings, section 5(e) consent orders requiring the use of appropriate controls were negotiated with the PMN submitters; the SNUR provisions for these substances designated herein are consistent with the provisions of the section 5(e) orders.

In the other 28 cases for which the proposed uses are not regulated under a section 5(e) order, EPA determined that one or more of the criteria of concern established at 40 CFR 721.170 were met.

EPA is issuing this SNUR for specific chemical substances which have undergone premanufacture review to ensure that: EPA will receive notice of any company's intent to manufacture, import, or process a listed chemical substance for a significant new use before that activity begins; EPA will have an opportunity to review and evaluate data submitted in a SNUR notice before the notice submitter begins manufacturing, importing, or processing a listed chemical substance for a significant new use; when necessary to prevent unreasonable risks, EPA will be able to regulate prospective manufacturers, importers, or processors of a listed chemical substance before a significant new use of that substance occurs; and all manufacturers, importers, and processors of the same chemical substance which is subject to a section 5(e) order are subject to similar requirements. Issuance of a SNUR for a chemical substance does not signify that the substance is listed on the TSCA Inventory. Manufacturers, importers, and processors are responsible for ensuring that a new chemical substance subject to a final SNUR is listed on the TSCA Inventory.

V. Direct Final Procedures

EPA is issuing these SNURs as direct final rules, as described in 40 CFR 721.160(c)(3) and 721.170(d)(4). In accordance with 40 CFR 721.160(c)(3)(ii), this rule will be effective on May 1, 1995, unless EPA receives a written notice by March 31, 1995 that someone wishes to make adverse or critical comments on EPA's action. If EPA receives such a notice, EPA will publish a notice to withdraw the direct final SNUR for the specific substance to which the adverse or critical comments apply. EPA will then propose a SNUR for the specific substance providing a 30-day comment period. This action establishes SNURs for a number of chemical substances. Any person who submits a notice of intent to submit adverse or critical comments must identify the substance and the new use to which it applies. EPA will not withdraw a SNUR for a substance not identified in a notice.

VI. Test Data and Other Information

EPA recognizes that section 5 of TSCA does not require developing any particular test data before submission of a SNUN. Persons are required only to submit test data in their possession or control and to describe any other data known to or reasonably ascertainable by them. In cases where a section 5(e) order requires or recommends certain testing, Unit III. of this preamble lists those recommended tests. However, EPA has established production limits in the section 5(e) orders for several of the substances regulated under this rule, in view of the lack of data on the potential health and environmental risks that may be posed by the significant new uses or increased exposure to the substances. These production limits cannot be exceeded unless the PMN submitter first submits the results of toxicity tests that would permit a reasoned evaluation of the potential risks posed by these substances. Under recent consent orders, each PMN submitter is required to submit each study at least 14 weeks (earlier orders required submissions at least 12 weeks) before reaching the specified production limit. Listings of the tests specified in the section 5(e) orders are included in Unit III. of this preamble. The SNURs contain the same production volume limits as the consent orders. Exceeding these production limits is defined as a significant new use. The recommended studies may not be the only means of addressing the potential risks of the substance. However, SNUNs submitted for significant new uses without any test data may increase the likelihood that

EPA will take action under section 5(e), particularly if satisfactory test results have not been obtained from a prior submitter. EPA recommends that potential SNUN submitters contact EPA early enough so that they will be able to conduct the appropriate tests. SNUN submitters should be aware that EPA will be better able to evaluate SNUNs which provide detailed information on:

(1) Human exposure and environmental release that may result from the significant new use of the chemical substances.

(2) Potential benefits of the substances.

(3) Information on risks posed by the substances compared to risks posed by potential substitutes.

VII. Procedural Determinations

EPA is establishing through this rule some significant new uses which have been claimed as CBI. EPA is required to keep this information confidential to protect the CBI of the original PMN submitter. EPA promulgated a procedure to deal with the situation where a specific significant new use is CBI. This procedure appears in 40 CFR 721.1725(b)(1) and is similar to that in § 721.11 for situations where the chemical identity of the substance subject to a SNUR is CBI. This procedure is cross-referenced in each of these SNURs.

A manufacturer or importer may request EPA to determine whether a proposed use would be a significant new use under this rule. Under the procedure incorporated from § 721.1725(b)(1), a manufacturer or importer must show that it has a *bona fide* intent to manufacture or import the substance and must identify the specific use for which it intends to manufacture or import the substance. If EPA concludes that the person has shown a *bona fide* intent to manufacture or import the substance, EPA will tell the person whether the use identified in the *bona fide* submission would be a significant new use under the rule. Since most of the chemical identities of the substances subject to these SNURs are also CBI, manufacturers and processors can combine the *bona fide* submission under the procedure in § 721.1725(b)(1) with that under § 721.11 into a single step.

If a manufacturer or importer is told that the production volume identified in the *bona fide* submission would not be a significant new use, i.e. it is below the level that would be a significant new use, that person can manufacture or import the substance as long as the aggregate amount does not exceed that identified in the *bona fide* submission to

EPA. If the person later intends to exceed that volume, a new *bona fide* submission would be necessary to determine whether that higher volume would be a significant new use. EPA is considering whether to adopt a special procedure for use when CBI production volume is designated as a significant new use. Under such a procedure, a person showing a *bona fide* intent to manufacture or import the substance, under the procedure described in § 721.11, would automatically be informed of the production volume that would be a significant new use. Thus the person would not have to make multiple *bona fide* submissions to EPA for the same substance to remain in compliance with the SNUR, as could be the case under the procedures in § 721.1725(b)(1).

VIII. Applicability of Rule to Uses Occurring Before Effective Date of the Final Rule

To establish a significant "new" use, EPA must determine that the use is not ongoing. The chemical substances subject to this rule have recently undergone premanufacture review. Section 5(e) orders have been issued for 12 substances and notice submitters are prohibited by the section 5(e) orders from undertaking activities which EPA is designating as significant new uses. In cases where EPA has not received a Notice of Commencement (NOC) and the substance has not been added to the Inventory, no other person may commence such activities without first submitting a PMN. For substances for which an NOC has not been submitted at this time, EPA has concluded that the uses are not ongoing. However, EPA recognizes in cases when chemical substances identified in this SNUR are added to the Inventory prior to the effective date of the rule, the substances may be manufactured, imported, or processed by other persons for a significant new use as defined in this rule before the effective date of the rule. However, 27 of the 40 substances contained in this rule have CBI chemical identities, and since EPA has received a limited number of post-PMN *bona fide* submissions, the Agency believes that it is highly unlikely that any of the significant new uses described in the following regulatory text are ongoing. As discussed in the **Federal Register** of April 24, 1990 (55 FR 17376), EPA has decided that the intent of section 5(a)(1)(B) is best served by designating a use as a significant new use as of the date of publication of the final rule rather than as of the effective date of the rule. Thus, persons who begin commercial manufacture, import,

or processing of the substances regulated through this SNUR will have to cease any such activity before the effective date of this rule. To resume their activities, these persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires.

EPA has promulgated provisions to allow persons to comply with this SNUR before the effective date. If a person were to meet the conditions of advance compliance under § 721.45(h), the person would be considered to have met the requirements of the final SNUR for those activities. If persons who begin commercial manufacture, import, or processing of the substance between publication and the effective date of the SNUR do not meet the conditions of advance compliance, they must cease that activity before the effective date of the rule. To resume their activities, these persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires.

IX. Economic Analysis

EPA has evaluated the potential costs of establishing significant new use notice requirements for potential manufacturers, importers, and processors of the chemical substances subject to this rule. EPA's complete economic analysis is available in the public record for this rule (OPPTS-50620).

X. Rulemaking Record

EPA has established a record for this rulemaking (docket control number OPPTS-50620). The record includes information considered by EPA in developing this rule. A public version of the record without any CBI is available in the TSCA Nonconfidential Information Center (NCIC) from 12 noon to 4 p.m., Monday through Friday, except legal holidays. The TSCA NCIC is located in Rm. NE-B607, 401 M St., SW., Washington, DC 20460.

XI. Regulatory Assessment Requirements

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to all the requirements of the Executive Order (i.e., Regulatory Impact Analysis, review by the Office of Management and Budget (OMB)). Under section 3(f), the order defines a "significant regulatory action" as an

action likely to lead to a rule (1) Having an annual effect on the economy of \$100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities ("also referred to as economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order. Pursuant to the terms of this Executive Order, it has been determined that this rule is not "significant" and is therefore not subject to OMB review.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 605(b)), EPA has determined that this rule would not have a significant impact on a substantial number of small businesses. EPA has determined that approximately 10 percent of the parties affected by this rule could be small businesses. However, EPA expects to receive few SNUNs for these substances. Therefore, EPA believes that the number of small businesses affected by this rule will not be substantial, even if all of the SNUR notice submitters were small firms.

C. Paperwork Reduction Act

OMB has approved the information collection requirements contained in this rule under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), and has assigned OMB control number 2070-0012. Public reporting burden for this collection of information is estimated to vary from 30 to 170 hours per response, with an average of 100 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch (2131), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; and to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked "Attention: Desk Officer for EPA." The final rule will respond to any OMB or

public comments on the information requirements contained in this proposal.

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous materials, Reporting and recordkeeping requirements, Significant new uses.

Dated: February 16, 1995.

Susan B. Hazen,

Acting Director, Office of Pollution Prevention and Toxics.

Therefore, 40 CFR part 721 is amended as follows:

PART 721—[AMENDED]

1. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

2. By adding new § 721.642 to subpart E to read as follows:

§ 721.642 Amines, *N*-(C₁₄₋₁₈ and C₁₆₋₁₈ unsaturated alkyl)] dipropylene-tri-, tripropylenetetra-, and tetrapropylenepenta-

(a) *Chemical substances and significant new uses subject to reporting.*

(1) The chemical substances amines, *N*-(C₁₄₋₁₈ and C₁₆₋₁₈ unsaturated alkyl)] dipropylenetri-, (PMN P-94-1244), tripropylenetetra- (PMN P-94-1245), and tetrapropylenepenta- (PMN P-94-1246) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Recordkeeping requirements specified in § 721.125(a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

3. By adding new § 721.1187 to subpart E to read as follows:

§ 721.1187 Bis(imidoethylene) benzene.

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance bis(imidoethylene)benzene (PMN P-93-1447) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f).

(ii) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Recordkeeping requirements specified in § 721.125(a), (b), (c), (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

4. By adding new § 721.1755 to subpart E to read as follows:

§ 721.1755 Methylenebisbenzotriazole.

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance methylenebisbenzotriazole (P-93-578) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* During both manufacture and use of the substance, requirements as specified in § 721.63(a)(4), (a)(6)(i), (b) (concentration set at 1.0 percent) and (c). During manufacture of the PMN substance § 721.63(a)(5)(i); during use of the PMN substance § 721.63(a)(5)(iii), (a)(5)(iv), (a)(5)(v), (a)(5)(vi), and (a)(5)(vii).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 1.0 percent), (f), (g)(1)(iv), (g)(1)(vi), (g)(2)(iii), (g)(2)(iv), and (g)(5).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(l) and (q).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Recordkeeping requirements specified in § 721.125 (a), (b), (c), (d), (f), (g), (h), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to this section.

5. By adding new § 721.1760 to subpart E to read as follows:

§ 721.1760 Substituted benzotriazole derivatives.

(a) *Chemical substances and significant new uses subject to reporting.*

(1) The chemical substances identified generically as substituted benzotriazole derivatives (PMNs P-93-374 and P-93-375) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (b) (concentration set at 1.0 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 1.0 percent), (f), (g)(1)(i), (g)(1)(iv), (g)(1)(vi), (g)(2)(i), (g)(2)(v), and (g)(5).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(g), (v)(1), (w)(1), and (x)(1).

(iv) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Recordkeeping requirements specified in § 721.125(a), (b), (c), (d), (f), (g), (h), (i), and (k) are applicable to manufacturers, importers, and processors of these substances.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

6. By adding new § 721.1907 to subpart E to read as follows:

§ 721.1907 Butanamide, 2,2'-[3,3'-dichloro [1,1'-biphenyl]-4,4'-diyl]bisazobis[*N*-2,3-dihydro-2-oxo-1*H*-benzimidazol-5-yl]-3-oxo-

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance butanamide, 2,2'-[3,3'-dichloro[1,1'-biphenyl]-4,4'-diyl]bisazobis[*N*-2,3-dihydro-2-oxo-1*H*-benzimidazol-5-yl]-3-oxo- (PMN P-93-1111) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (g)(1)(vii), (g)(2)(i), (g)(2)(ii), (g)(2)(iii), (g)(3)(i), (g)(3)(ii), (g)(4)(iii), and (g)(5).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f) and processing or use at temperatures above 280 °C.

(iii) *Release to water.* Requirements as specified in § 721.90(b)(1) and (c)(1). When the substance is processed, or used as a colorant for dyeing plastics, this section does not apply.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Recordkeeping requirements specified in § 721.125(a), (b), (c), (f), (g), (h), (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

7. By adding new § 721.2085 to subpart E to read as follows:

§ 721.2085 Hydroxyalkylquinoline dioxindandialkylcarboxamide.

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as a hydroxyalkylquinoline dioxindandialkylcarboxamide (PMN P-94-682) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Recordkeeping requirements specified in § 721.125(a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

8. By adding new § 721.2088 to subpart E to read as follows:

§ 721.2088 Carboxylic acids, (C6-C9) branched and linear.

(a) *Chemical substances and significant new uses subject to reporting.*

(1) The chemical substances identified generically as carboxylic acids, (C6-C9) branched and linear (PMNs P-93-313, 314, 315, and 316) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (f), (g)(3)(i), (g)(3)(ii), (g)(4)(iii) and (g)(5).

(ii) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (where N = 300 ppb for P-93-313, 314, and 315 and N = 50 ppb for P-93-316).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Recordkeeping requirements specified in § 721.125(a), (b), (c), (f), (g), (h), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

9. By adding new § 721.2410 to subpart E to read as follows:

§ 721.2410 Alkoxyated alkyl diethylenetriamine, alkyl sulfate salts.

(a) *Chemical substances and significant new uses subject to reporting.*

(1) The chemical substances identified generically as alkoxyated alkyl diethylenetriamine, alkyl sulfate salts (PMN P-94-325, 326, and 327) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Recordkeeping requirements specified in § 721.125(a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

10. By adding new § 721.3028 to subpart E to read as follows:

§ 721.3028 Methacrylic ester.

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as a methacrylic ester (PMN P-93-339) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (a)(6)(v), (b)

(concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e)

(concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(vi), (h)(2)(i)(B), (h)(2)(i)(C), and (h)(2)(i)(D).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Recordkeeping requirements specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

11. By adding new § 721.3034 to subpart E to read as follows:

§ 721.3034 Methylamine esters.

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as methylamine esters (PMN P-94-982) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(g).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Recordkeeping requirements specified in § 721.125(a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

12. By adding new § 721.3437 to subpart E to read as follows:

§ 721.3437 Dialkyl ether.

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as dialkyl ether (PMN P-93-1308) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (where N = 180 ppb).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Recordkeeping requirements specified in § 721.125(a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

13. By adding new § 721.3627 to subpart E to read as follows:

§ 721.3627 Branched synthetic fatty acid.

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as a branched synthetic fatty acid (PMN P-94-422) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f), (g), and (l).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Recordkeeping requirements specified in § 721.125(a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

14. By adding new § 721.3790 to subpart E to read as follows:

§ 721.3790 Polyfluorocarboxylates.

(a) *Chemical substances and significant new uses subject to reporting.*

(1) The chemical substances identified generically as polyfluorocarboxylates (PMNs P-94-322 and P-94-323) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(g).

(ii) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Recordkeeping requirements specified in § 721.125(a), (b), (c), (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

15. By adding new § 721.3815 to subpart E to read as follows:

§ 721.3815 Furan, 2-(ethoxymethyl)-tetrahydro-.

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance furan, 2-(ethoxymethyl) tetrahydro- (P-93-721) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Hazard communication program.* A significant new use of this substance is any manner or method of manufacture, import, or processing associated with any use of this substance without providing risk notification as follows:

(A) If, as a result of the test data required under the section 5(e) consent order for this substance, the employer becomes aware that this substance may present a risk of injury to human health or the environment, the employer must incorporate this new information, and any information on methods for protecting against such risk, into a Material Safety Data Sheet (MSDS) as described in § 721.72(c) within 90 days from the time the employer becomes aware of the new information. If this substance is not being manufactured, imported, processed, or used in the employer's workplace, the employer must add the new information to an MSDS before the substance is reintroduced into the workplace.

(B) The employer must ensure that persons who will receive, or who have received this substance from the employer within 5 years from the date the employer becomes aware of the new information described in paragraph (a)(2)(i)(A) of this section, are provided an MSDS as described in § 721.72(c) containing the information required under paragraph (a)(2)(i)(A) of this section within 90 days from the time the employer becomes aware of the new information.

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Recordkeeping requirements as

specified in § 721.125(a), (h), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to this section.

16. By adding new § 721.4110 to subpart E to read as follows:

§ 721.4110 Allyloxysubstituted heterocycle.

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as an allyloxysubstituted heterocycle (PMN P-93-1471) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (where N = 70 ppb).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Recordkeeping requirements specified in § 721.125(a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

17. By adding new § 721.4470 to subpart E to read as follows:

§ 721.4470 2,4-Imidazolidinedione, bromochloro-5,5-dimethyl-.

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance 2,4-imidazolidinedione, bromochloro-5,5-dimethyl- (PMN P-94-34) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(v)(3), (w)(3), and (x)(3).

(ii) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (where N = 10 ppb).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Recordkeeping requirements specified in § 721.125(a), (b), (c), (i), and (k) are

applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

18. By adding new § 721.4594 to subpart E to read as follows:

§ 721.4594 Substituted azo metal complex dye.

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as a substituted azo metal complex dye (PMN P-94-499) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Recordkeeping requirements specified in § 721.125(a) and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

19. By adding new § 721.4596 to subpart E to read as follows:

§ 721.4596 Diazo substituted carbomonocyclic metal complex.

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as a diazo substituted carbomonocyclic metal complex (PMN P-94-1039) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Recordkeeping requirements specified in § 721.125(a) and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

20. By adding new § 721.8155 to subpart E to read as follows:

§ 721.8155 Propanenitrile, 3-[amino, *N*-tallowalkyl] dipropylene- and tripropylene- and propanenitrile, 3-[amino, (C₁₄₋₁₈ and C₁₆₋₁₈ unsaturated alkyl)] trimethylenedi-, dipropylene-, and tripropylene-.

(a) *Chemical substances and significant new uses subject to reporting.*

(1) The chemical substances identified as propanenitrile, 3-[amino, *N*-tallowalkyl] dipropylene- (PMN P-94-1238), propanenitrile, 3-[amino, *N*-tallowalkyl] tripropylene- (PMN P-94-1239), propanenitrile, 3-[amino, (C₁₄₋₁₈ and C₁₆₋₁₈ unsaturated alkyl)] trimethylenedi- (PMN P-94-1241), propanenitrile, 3-[amino, (C₁₄₋₁₈ and C₁₆₋₁₈ unsaturated alkyl)] dipropylene- (PMN P-94-1242), and propanenitrile, 3-[amino, (C₁₄₋₁₈ and C₁₆₋₁₈ unsaturated alkyl)] tripropylene- (PMN P-94-1243) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Recordkeeping requirements specified in § 721.125(a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

21. By adding new § 721.8170 to subpart E to read as follows:

§ 721.8170 Propanol, [2-(1,1-dimethylethoxy)methylethoxy]-.

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance propanol, [2-(1,1-dimethylethoxy)methylethoxy]- (CAS no. 132739-31-2) (P-93-193) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Hazard communication program.* A significant new use of this substance is any manner or method of manufacture, import, or processing associated with any use of this substance without providing risk notification as follows:

(A) If, as a result of the test data required under the section 5(e) consent order for this substance, the employer becomes aware that this substance may

present a risk of injury to human health or the environment, the employer must incorporate this new information, and any information on methods for protecting against such risk, into a Material Safety Data Sheet (MSDS) as described in § 721.72(c) within 90 days from the time the employer becomes aware of the new information. If this substance is not being manufactured, imported, processed, or used in the employer's workplace, the employer must add the new information to an MSDS before the substance is reintroduced into the workplace.

(B) The employer must ensure that persons who will receive, or who have received this substance from the employer within 5 years from the date the employer becomes aware of the new information described in paragraph (a)(2)(i)(A) of this section, are provided an MSDS as described in § 721.72(c) containing the information required under paragraph (a)(2)(i)(A) of this section within 90 days from the time the employer becomes aware of the new information.

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Recordkeeping requirements as specified in § 721.125(a), (h), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to this section.

22. By adding new § 721.8670 to subpart E to read as follows:

§ 721.8670 Alkylcyano substituted pyridazo benzoate.

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as an alkylcyano substituted pyridazo benzoate (PMN P-94-1129) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Recordkeeping requirements specified in § 721.125(a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

23. By adding new § 721.9505 to subpart E to read as follows:

§ 721.9505 Silanes substituted macrocycle polyethyl.

(a) *Chemical substances and significant new uses subject to reporting.*

(1) The chemical substances identified generically as silanes substituted macrocycle polyethyl (PMNs P-93-1423, 1424, 1425, and 1426) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Recordkeeping requirements specified in § 721.125(a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of these substances.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

24. By adding new § 721.9540 to subpart E to read as follows:

§ 721.9540 Polysulfide mixture.

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as a polysulfide mixture (PMN P-93-1043) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Hazard communication program.* A significant new use of this substance is any manner or method of manufacture, import, or processing associated with any use of this substance without providing risk notification as follows:

(A) If, as a result of the test data required under the section 5(e) consent order for this substance, the employer becomes aware that this substance may present a risk of injury to human health, or the environment, the employer must incorporate this new information, and any information on methods for protecting against such risk, into the

applicable Material Safety Data Sheet (MSDS) as described in § 721.72(c) within 90 days from the time the employer becomes aware of the new information. If this substance is not being manufactured, imported, processed, or used in the employer's workplace, the employer must add the new information to an MSDS before the substance is reintroduced into the workplace.

(B) The employer must ensure that persons who will receive, or who have received this substance from the employer within 5 years from the date the employer becomes aware of the new information described in paragraph (a)(2)(i)(A) of this section, are provided an MSDS as described in § 721.72(c) containing the information required under paragraph (a)(2)(i)(A) of this section within 90 days from the time the Company becomes aware of the new information. Requirements as specified in § 721.72(a), (b), (c), (d), (f), and (g)(4)(iii).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(p) (153,000 kg).

(iii) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Recordkeeping requirements specified in § 721.125(a), (b), (c), (f), (g), (h), (i), (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

25. By adding new § 721.9962 to subpart E to read as follows:

§ 721.9962 Trifunctional aliphatic blocked urethane cross-linker.

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as a trifunctional aliphatic blocked urethane cross-linker (PMN P-94-1009) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (where N = 1 ppb).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Recordkeeping requirements specified in § 721.125(a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

[FR Doc. 95-5017 Filed 2-28-95; 8:45 am]

BILLING CODE 6560-50-F

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 7117

[CO-930-1430-01; COC-48691]

Withdrawal of National Forest System Lands for Vail Ski Area; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws an additional 4,870 acres of National Forest System lands from mining for protection of recreational resources and facilities at the Vail Ski Area. This withdrawal will protect the lands until 2009, the date the original withdrawal expires. The lands have been and remain open to such forms of disposition as may by law be made of National Forest System lands and to mineral leasing.

EFFECTIVE DATE: March 1, 1995.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, BLM Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215-7076, 303-239-3706.

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. Subject to valid existing rights, the following described National Forest System lands are hereby withdrawn from location and entry under the United States mining laws (30 U.S.C. Ch. 2 (1988)), for protection of facilities at the Vail Ski Area:

Sixth Principal Meridian

White River National Forest

T. 5 S., R. 80 W.,
 Sec. 25, SW $\frac{1}{4}$ and W $\frac{1}{2}$ W $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 26, S $\frac{1}{2}$;
 Sec. 28, S $\frac{1}{2}$;
 Sec. 29, S $\frac{1}{2}$;
 Sec. 30, SE $\frac{1}{4}$ NE $\frac{1}{4}$;
 Sec. 32, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$,
 E $\frac{1}{2}$ SE $\frac{1}{4}$, and N $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 33;
 Sec. 34;

Sec. 35;

Sec. 36, W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, and NW $\frac{1}{4}$ SE $\frac{1}{4}$.

T. 6 S., R. 80 W.,

Sec. 3, lots 5 to 10, inclusive;

Sec. 4, lots 5 to 12, inclusive, and S $\frac{1}{2}$ N $\frac{1}{2}$;

Sec. 5, lots, 5, 6, 11, and 12, and S $\frac{1}{2}$ NE $\frac{1}{4}$.

The area described aggregates approximately 4,870 acres in Eagle County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of National Forest System lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire July 5, 2009, unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land and Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1988), the Secretary determines that the withdrawal shall be extended.

Dated: February 16, 1995.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 95-4921 Filed 2-28-95; 8:45 am]

BILLING CODE 4310-JB-P

43-CFR Public Land Order 7118

[CO-932-1430-01; COC-016678; COC-024153]

Revocation of Public Land Order Nos. 1278, 2018, and 2602; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes three public land orders, which withdrew lands for the National Park Service. The lands were later transferred to the Forest Service by special legislation for management, and the National Park Service withdrawals are no longer appropriate. This order affects approximately 9,970 acres of lands within the Arapaho National Recreation Area. The Forest Service has requested this action to allow for better management of the Recreation Area.

EFFECTIVE DATE: March 31, 1995.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, BLM, Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215-7076, 303-239-3706.

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. Public Land Order Nos. 1278, 2018, and 2602, which withdrew lands for the

National Park Service for the Shadow Mountain Recreation Area, are hereby revoked in their entirety.

This revocation will affect lands located in the Arapaho National Recreation Area, Arapaho National Forest, Sixth Principal Meridian, in Tps. 2 and 3 N., Rs. 75 and 76 W.

The areas described aggregate approximately 9,970 acres of land and reserved minerals in Grand County.

2. At 9:00 a.m. on March 31, 1995 the lands described in the public land orders listed in paragraph 1 will be open to such forms of disposition as may by law be made within the Arapaho National Recreation Area.

Dated: February 16, 1995.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 95-4920 Filed 2-28-95; 8:45 am]

BILLING CODE 4310-JB-P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

[OST Docket No 1; Amdt. 1-266]

Organization and Delegation of Powers and Duties Delegation to the Assistant Secretary for Aviation and International Affairs

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: This rule delegates to the Assistant Secretary for Aviation and International Affairs the Secretary of Transportation's authority under the Federal Aviation Administration Authorization Act of 1994, concerning the resolution of airport fee disputes between airport owners or operators and air carriers. The rule is necessary to reflect the delegation in the Code of Federal Regulations.

EFFECTIVE DATE: February 22, 1995.

FOR FURTHER INFORMATION CONTACT: Steven B. Farbman, Office of the Assistant General Counsel for Regulation and Enforcement (202) 366-9306, United States Department of Transportation, 400 7th Street SW, Washington, DC 20590.

SUPPLEMENTARY INFORMATION: Section 113 of the Federal Aviation Administration Authorization Act of 1994 (Act) pertains to the resolution of airport-air carrier disputes concerning the imposition of airport fees. Procedural regulations under which these disputes are to be resolved and a policy statement regarding airport rates and charges, both required by section

113(b), were published in the **Federal Register** on February 3, 1995 (60 FR 6905-6930).

Section 113(a) of the Act requires the Secretary of Transportation to issue a determination as to whether a fee imposed upon one or more air carriers by the owner or operator of an airport is reasonable if the Secretary receives: (a) a written request for a determination from the owner or operator; or (b) a written complaint from an affected air carrier within 60 days after the carrier receives written notice of the establishment or increase of the fee. Section 113(c) of the Act contains deadlines for certain decisions that the Secretary must make after an air carrier has filed a written complaint. Section 113(d) concerns the payment of fee increases by the complainant to the airport under protest; it also requires an airport to obtain and provide to the Secretary a letter of credit, surety bond, or other suitable credit facility in order to assure the timely repayment, with interest, of amounts in dispute determined not to be reasonable by the Secretary. That section also provides a guarantee of air carrier access to airport facilities pending the Secretary's issuance of a final order. This rule delegates the Secretary's authority under section 113 of the Act to the Assistant Secretary for Aviation and International Affairs.

Since this rule relates to departmental management, organization, procedure, and practice, notice and public comment are unnecessary. For the same reason, good cause exists for not publishing this rule at least 30 days before its effective date, as is ordinarily required by 5 U.S.C. 553(d). Therefore, this rule is effective February 22, 1995.

List of Subjects in 49 CFR Part 1

Authority delegations (Government agencies), Organizations and functions (Government agencies).

PART 1—[AMENDED]

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

Authority: 49 U.S.C. 322; Pub. L. 101-552, 28 U.S.C. 2672, 31 U.S.C. 3711(a)(2).

2. Section 1.56a is amended by adding a new paragraph (i) to read as follows:

§1.56a Delegation to the Assistant Secretary for Aviation and International Affairs.

* * * * *

(i) Carry out the functions of the Secretary pertaining to a determination of whether a fee imposed upon one or more air carriers by the owner or

operator of an airport is reasonable under section 113 of the Federal Aviation Administration Authorization Act of 1994 (August 23, 1994; Pub. L. 103-305; 108 Stat. 1577-1579).

Issued at Washington, DC this 22nd day of February, 1995.

Federico Peña,

Secretary of Transportation.

[FR Doc. 95-4984 Filed 2-28-95; 8:45 am]

BILLING CODE 4910-62-P

Federal Railroad Administration

49 CFR Part 218

[FRA Docket Number RSOR-11, Notice No. 4]

RIN 2130-AA77

Protection of Utility Employees Response to Petitions to Reconsider

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Final rule amendments with request for comments.

SUMMARY: On August 16, 1993, FRA published safety standards for utility employees working as temporary members of train and yard crews. FRA now amends a definition, responds to the concerns raised in petitions to reconsider the final rule, issues an amendment on a subject addressed earlier in this rulemaking, and makes technical corrections. The amendment will permit single-person crews to work within the protections provided for train and yard crews.

DATES: These amendments will become effective May 15, 1995. Comments on the amendments must be received by May 1, 1995.

ADDRESSES: Comments on the amendments should be submitted to the Docket Clerk, Office of Chief Counsel, RCC-30, Federal Railroad Administration, 400 Seventh Street, SW., Room 8201, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: James T. Schultz, Chief, Operating Practices Division, Office of Safety, FRA, RRS-11, Washington, DC 20590 (telephone: 202-366-9252), or Kyle M. Mulhall, Trial Attorney, Office of Chief Counsel, FRA, Washington, DC 20590 (telephone: 202-366-0443).

SUPPLEMENTARY INFORMATION: On August 16, 1993 FRA published a regulation allowing utility crew members to be excluded from the blue signal protection requirements of part 218 while the employee works as a temporary member

of a train or yard crew. 58 FR 43287. FRA believed this rule, which provides new protections for utility employees, would allow more efficient use of railroad personnel without compromising the level of safety provided by the pre-amendment regulations.

In response to this regulatory revision, FRA received several petitions for reconsideration of the new rule, including its rationale and specific provisions of its preamble and text.

Basis for the Rule

The preamble to the Final Rule explained the agency's rationale for issuing this regulation. Several petitioners continue to object to the rule, arguing that expanding the original train and yard crew exclusion to cover utility employees will create safety risks because the new rule does not provide adequate protection for temporary crew members.

The petitions FRA received from rail labor question the safety data on which FRA partially relied in this rulemaking. One petitioner cites two specific occurrences in 1987 and anecdotal information regarding similar mishaps involving operating crews that the petitioner argues were preventable had there been no exclusion for train and yard crews. (That exclusion, of course, was in FRA's original rule and directly tracked the statutory provision that required the rule.) FRA does not agree that these limited incidents outweigh the remaining safety data. Our conclusion continues to be that utility employees can function safely without blue signal protection under properly structured Federal regulations and railroad operating rules requiring adequate communication and understanding of the work to be performed. FRA notes that the rule does not prevent railroads from enacting more stringent procedures to address isolated safety problems. The agency continues to believe that according a utility employee the same level of protection historically provided to train and yard crews would not risk the employee's safety. Accordingly, FRA will not withdraw the final rule.

FRA has no evidence on which to conclude that crews are currently experiencing a material risk ascribable to unexpected train movements. FRA believes, however, there may be reason to conduct a future rulemaking on protection for all train and yard crew members, given the issues raised in this rulemaking. Many of the issues raised by participants in this rulemaking were beyond the scope of this proceeding and

would be more appropriately addressed in separate agency actions.

Preamble and Text of Final Rule

FRA received petitions from rail labor and management questioning specific portions of the preamble and rule. FRA responds below to each primary objection.

1. *One-Member Crews.* FRA's notice of proposed rulemaking requested comment on the protection needed for a single locomotive engineer performing helper or hostler service. The notice stated:

FRA is also concerned that protection provided for one-person assignments (i.e., hostlers or other unaccompanied engineers) be consistent with safety and efficiency. FRA specifically invites comments on the circumstances under which these engineers acting alone might be permitted to perform functions outside of the area under control of the mechanical forces without complete blue signal protection as provided under §§ 218.25 (main track) or 218.27 (other than main track).

57 FR 41457.

Protecting one-member crews was therefore within the scope of the notice. FRA chose not to address the subject in rule text because no comments were received. In the preamble to the final rule, however, FRA expressed discomfort with one-member crews. It was stated that a lone engineer could not take advantage of the exclusion from blue signal protection unless joined by a utility employee to ensure that the locomotive cab was always occupied. 58 FR 43287.

The Association of American Railroads (AAR) objected to that preamble statement, arguing that the language of the rule did not seem to bar the use of one-person crews. FRA agrees that the rule does not impose such a prohibition on one-member crews. FRA therefore grants this portion of AAR's request.

Although AAR is correct that the utility employee rule did not, on its face, preclude its application to one-member crews, application of utility protection to such crews would not be logical. The utility employee rule presumes the presence of a permanent crew to which the utility crew member becomes temporarily attached for specific purposes. One-person crews either do not join larger crews or do so to perform duties distinct from those assigned a utility employee. FRA remains concerned with the unique risk faced by lone engineers despite the current lack of evidence of a substantial injury record for one-member crews. An

engineer assigned to helper or hostler service must frequently perform work, such as placing rear end markers or making connections between locomotives, that puts that employee in danger, particularly when this work is performed in congested terminals and rail yards. FRA believes that if single-engineer assignments are not carefully controlled, the industry may risk an entirely avoidable safety problem. Safety can be assured only by providing protection against unexpected movement of equipment equivalent to a crew member occupying the cab. AAR, in its joint submission with the United Transportation Union (UTU) dated March 5, 1993, agreed that crews need to have complete control over the equipment on which they are working. FRA believes this can be achieved and therefore issues a new § 218.24 as an amendment that prohibits an engineer working alone from going on, under, or between rolling equipment to perform inspections, tests, repairs, or servicing without blue signal protection unless all of the following conditions are met:

(1) Each locomotive in the locomotive engineer's charge is either (i) coupled to the train or other railroad rolling equipment to be assisted or (ii) stopped a sufficient distance from the train or rolling equipment to ensure a separation of at least 50 feet; and,

(2) Before a controlling locomotive is left unattended, the one-member crew shall secure the locomotive as follows:

- (i) The throttle is in the IDLE position;
- (ii) The generator field switch is in the OFF position;
- (iii) The reverser handle is removed (if so equipped);
- (iv) The isolation switch is in the ISOLATE position;
- (v) The locomotive independent (engine) brake valve is fully applied;
- (vi) The hand brake on the controlling locomotive is fully applied (if so equipped); and
- (vii) A bright orange engineer's tag (a tag that is a minimum of three by eight inches with the words ASSIGNED LOCOMOTIVE—DO NOT OPERATE) is displayed on the control stand of the controlling locomotive.

If the single-engineer crew is working in helper service, safety must also be assured by effective communication between engineers of controlling locomotives to prevent unexpected movement. Single-engineer helper service crews are most commonly found in heavy grade territory on main track routes, where additional locomotives are added to trains to push or pull trains on steep grades.

FRA believes the single engineer is particularly vulnerable while attaching

his or her locomotive to, or detaching it from, the train to be assisted. FRA provides protection by requiring that communication be established between engineers of controlling locomotives on a common track or working a common train, and these engineers reach an understanding of the work to be performed before taking advantage of the exclusion for train and yard crews. FRA proposes the following language to achieve that purpose:

When assisting another train or yard crew with the equipment the other crew was assigned to operate, a single engineer must communicate directly, either by radio in compliance with Part 220 of this chapter or by oral telecommunication of equivalent integrity, with the crew of the train to be assisted. The crews of both trains must notify each other in advance of all moves to be made by their respective equipment. Prior to attachment or detachment of the assisting locomotive(s), the crew of the train to be assisted must inform the single engineer that the train is secured against movement. The crew of the train to be assisted must not move the train or permit the train to move until authorized by the single engineer.

Use of single-person crews is a relatively recent practice. FRA gave notice in the NPRM of its intent to consider the safety of such crews, but only addressed the issue in the preamble to the final rule. While FRA is not obliged to provide further opportunity to comment, it has decided that soliciting comment is the better course. FRA therefore invites comment on this amendment before it takes effect. FRA will provide a 60-day comment period from the date of publication. At the close of this period, FRA will review the materials received and make necessary adjustments to the amendment.

FRA notes that the contemplated requirements are nearly identical to operating rules of several railroads that currently use single-member crews.

2. Ranking Crew Member. Section 218.5 of the Final Rule defined "ranking crew member" as the assigned locomotive engineer, if the person in general charge of the train was not named by the railroad's operating rules. The UTU argued that the definition dilutes the traditional authority of railroad conductors at the expense of safety. In response to these comments, the final rule is modified to permit the designation of the crew member responsible for coordination with the utility employee only by the railroad's operating rules. Accordingly, the last sentence of the definition of "ranking crew member" is deleted, and the term is changed to "designated crew member."

3. Occupied Locomotive Cab. Rail management argued that the requirement in § 218.22(b)(2), which requires the locomotive engineer, or another crew member, to be present in the cab of the controlling locomotive in order for the crew to make use of a utility employee, was overly restrictive. FRA believes that a crew member in the controlling locomotive who is aware that others are working on the train can prevent equipment movement that would endanger the crew. This crew member's presence in the cab serves to prevent such events as unexpected couplings when crew members are in jeopardy and is, therefore, an essential element of the exclusion.

4. Craft lines. In the Final Rule, at § 218.22(b)(5), FRA clarified the agency's intention not to expand the type of work that could be performed by crews without blue signal protection. In order to accomplish this goal, FRA listed the duties that a utility employee is allowed to perform within the exclusion. This list was intended to be inclusive of all essential and routine duties traditionally performed by crews. Several petitioners objected that the list was incomplete, preventing carriers from making full use of utility employees. FRA disagrees. FRA has, in letters to each petitioner, addressed the duties each has raised. The few specific duties which the petitioners identified as not on the list are in truth parts of jobs listed or jobs which do not require blue signal protection. FRA will not, therefore, amend the list.

A labor union petitioner, the Brotherhood of Railway Carmen (BRC), objected that the list contained duties beyond those traditionally performed by train and yard crews. BRC did not identify the duties to which it objected. The petitioner asserts that the agency therefore acted beyond the scope provided by the notice of proposed rulemaking. FRA disagrees. The Final Rule merely permits utility employees to work like other crew members under specific conditions, which was the expressed intent of the proposed rule.

Rail labor also objected to the preamble explanation that if non-crewmember supervisors perform duties that constitute inspecting, testing, repairing, or servicing, and that cause them to go on, under, or between the equipment, they are not excused from blue signal requirements by virtue of their supervisory occupation. This example illustrated FRA's position that blue signal requirements are based on function and not craft. Any title could be used in place of "supervisors." It was not a suggestion that supervisors replace other employees who currently perform

these jobs, as the petitioner seems to fear.

In addition, it should be understood that this rule does not replace existing collective bargaining agreements with respect to assignments of duties. This rule simply defines the limits of the duties a utility employee may perform without traditional blue signal protection. The existence of this rule, however, does not mean that these duties must be assigned to utility employees. But it should be noted that a utility employee must not be assigned responsibilities beyond those listed, without full blue signal protection, regardless of existing labor and management agreements.

5. *Radio Communication.* The rule provides a process for utility employees to join and quit a crew. Integral to this process is communication among crew members, most likely by radio as provided in § 218.22(e). One petitioner, Mr. Alan Thompson, objected to the reliance on radios because of the possibility that radios could malfunction. FRA, however, does not believe it is necessary to amend the communication provisions. A utility employee must not be excluded from blue signal protection unless effective communication is established. If a radio malfunction prevents the required crew notice, then the utility employee must be protected by blue signals unless required communication is achieved by talking in person or other equivalent forms of telecommunications.

6. *Adequate Recordkeeping.* FRA rejects the argument that additional recordkeeping requirements are needed to make the rule enforceable. As noted in the preamble to the Final Rule, railroads are required to maintain hours of service records, accident reports, records of attendance at railroad operating rules classes, and alcohol and drug testing records for all operating personnel, including utility employees. The agency believes these records are sufficient to determine an employee's status for enforcement purposes.

7. *Appendix Examples.* Rail management argued that the examples published in Appendix A to the rule should not include train and yard crews. FRA chose to include all operating employees, as well as utility employees, in the last four examples to highlight the extent of the blue signal regulation. FRA has found that railroads have occasionally utilized operating employees instead of maintenance-of-equipment employees to perform work which requires blue signal protection, under the mistaken impression that the exclusion from blue signal protection

for train and yard crews extends to all work assigned to these employees.

The examples contain no new requirements, but simply illustrate existing law. They are therefore not beyond the scope of this proceeding.

8. *Economic Analysis.* One petitioner, BRC, questioned the amount of the economic benefit FRA stated the rule should create. BRC argued that time spent completing required brake tests was improperly counted as time spent installing and removing end-of-train devices. BRC concluded, therefore, that the time FRA believed would be saved by using utility employees would still be spent performing brake tests. BRC argued, therefore, that there would be less cost savings created by the rule than FRA had estimated, because there would not be an improvement in time preparing a train for departure.

FRA based its savings calculations on the best information available to this agency. No participant, including BRC, provided contrary data. Moreover, contrary to BRC's assertion, FRA's economic analysis did not consider time spent on brake tests as an area where benefits could be created. FRA believes that its cost and benefit calculations accurately reflect the true impact of the final rule.

9. *Penalty Amounts.* One petitioner argued that the penalty amounts contained in an appendix to the rule were inadequate to encourage compliance. The penalty amounts are consistent with the civil penalties levied for other violations of federal railroad safety regulations. FRA does not believe that the penalties are insufficient to promote compliance. The penalty schedule makes clear that FRA has the authority to assess even higher amounts where the facts of a particular violation warrant.

FRA's monitoring of industry application of this rule over the next year will provide evidence of carrier compliance. If safety risks are created by the repeated failure to comply with the rule, FRA has other enforcement options, including compliance or emergency orders.

10. *Technical Correction.* The definition of "locomotive servicing track area" was unintentionally deleted from the Final Rule. That definition is now added to the list of definitions provided in § 218.5.

Regulatory Impact Analysis

This amendment to the final rule has been evaluated in accordance with existing policies and procedures and is considered "nonsignificant" under Executive Order 12866. It is not considered to be significant under

Department of Transportation policies and procedures. See 44 FR 11034. The amendment does not materially affect the benefit/cost analysis provided in the final rule.

The Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by Government regulations. This amendment will have no new direct or indirect economic impact on small units of government, business, or other organizations.

Federalism Implications

This amendment will not have a substantial effect 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, preparation of a Federalism Assessment is not warranted.

Paperwork Reduction Act

There are no new information collection requirements associated with this amendment. Therefore, no estimate of a public reporting burden is required.

Environmental Impact

This amendment will not have any identifiable environmental impact.

List of Subjects in 49 CFR Part 218

Occupational safety and health, Penalties, Railroad employees, Railroad safety, Reporting and recordkeeping requirements.

The Rule

In consideration of the foregoing, FRA amends Part 218 of Title 49, Code of Federal Regulations as follows:

PART 218—[AMENDED]

1. The authority for Part 218 is revised to read as follows:

Authority: 49 U.S.C. 20101 *et seq.*; and 49 CFR 1.49(m).

2. By amending § 218.5 to remove the definition "Ranking crew member" and to add the following definitions in alphabetical order to read as follows:

§ 218.5 Definitions.

* * * * *

Designated crew member means an individual designated under the railroad's operating rules as the point of contact between a train or yard crew

and a utility employee working with that crew.

* * * * *

Locomotive servicing track area means one or more tracks, within an area in which the testing, servicing, repair, inspection, or rebuilding of locomotives is under the exclusive control of mechanical department personnel.

* * * * *

3. By amending § 218.22 to remove the word "ranking" and add, in its place, the word "designated" in the following places:

- Section 218.22(c)(3);
- Section 218.22(c)(4);
- Section 218.22(d); and
- Section 218.22(e).

4. Add a new § 218.24 to read as follows:

§ 218.24 One-person crew.

(a) An engineer working alone as a one-person crew shall not perform duties on, under, or between rolling equipment, without blue signal protection that complies with § 218.27 or § 218.29, unless the duties to be performed are listed in § 218.22(c)(5) and the following protections are provided:

(1) Each locomotive in the locomotive engineer's charge is either:

(i) Coupled to the train or other railroad rolling equipment to be assisted; or

(ii) Stopped a sufficient distance from the train or rolling equipment to ensure a separation of at least 50 feet; and

(2) Before a controlling locomotive is left unattended, the one-member crew shall secure the locomotive as follows:

(i) The throttle is in the IDLE position;

(ii) The generator field switch is in the OFF position;

(iii) The reverser handle is removed (if so equipped);

(iv) The isolation switch is in the ISOLATE position;

(v) The locomotive independent (engine) brake valve is fully applied;

(vi) The hand brake on the controlling locomotive is fully applied (if so equipped); and

(vii) A bright orange engineer's tag (a tag that is a minimum of three by eight inches with the words ASSIGNED LOCOMOTIVE—DO NOT OPERATE) is displayed on the control stand of the controlling locomotive.

(b) When assisting another train or yard crew with the equipment the other crew was assigned to operate, a single engineer must communicate directly, either by radio in compliance with Part 220 of this chapter or by oral telecommunication of equivalent integrity, with the crew of the train to

be assisted. The crews of both trains must notify each other in advance of all moves to be made by their respective equipment. Prior to attachment or detachment of the assisting locomotive(s), the crew of the train to be assisted must inform the single engineer that the train is secured against movement. The crew of the train to be assisted must not move the train or permit the train to move until authorized by the single engineer.

Appendix A to Part 218 [Amended]

5. In Appendix A to Part 218—Schedule of Civil Penalties, a new entry is added in numerical order under Subpart B to the penalty schedule to read as follows:

Section	Viola- tion	Willful viola- tion
Subpart B—Blue signal protection of workers:		
* * *	*	*
218.24 One-person crew:		
(a)(1) equipment not coupled or insufficiently separated	\$2,000	\$4,000
(a)(2) unoccupied locomotive cab not secured	5,000	7,500
(b) helper service	2,000	4,000
* * *	*	*

Issued in Washington, DC, on February 15, 1995.

Jolene M. Molitoris,

Federal Railroad Administrator.

[FR Doc. 95-4761 Filed 2-28-95; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 204

[Docket No. 950203036-5036-01; I.D. 012495B]

OMB Control Numbers for NOAA Information Collection Requirements; Revision of Table

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

ACTION: Final rule, technical amendment.

SUMMARY: NMFS corrects and updates the table containing Office of Management and Budget (OMB) control numbers for NOAA information collection requirements. The intent is to comply with the requirement of the Paperwork Reduction Act (PRA) that

agencies display current OMB control numbers for each agency information collection requirement, and to make this information available to the public.

EFFECTIVE DATE: March 1, 1995.

FOR FURTHER INFORMATION CONTACT:

George H. Darcy, NMFS, 301/713-2344.

SUPPLEMENTARY INFORMATION: Part 204 of title 50 CFR displays control numbers assigned to NMFS information collection requirements by OMB, pursuant to the PRA, for the public's information. Part 204 fulfills the requirements of sec. 3507(f) of the PRA, which requires that agencies display a current control number, assigned by the Director of OMB, for each agency information collection requirement.

This final rule, technical amendment, brings part 204 up to date and corrects omissions and errors by revising the table in § 204.1(b) to reflect the most current list of OMB control numbers associated with NMFS information collection requirements contained in regulations appearing in title 50. All of the collection-of-information requirements displayed in § 204.1(b) have previously been submitted to OMB for approval during implementation of regulations appearing in the individual parts of title 50; this final rule does not involve any new reporting or recordkeeping requirements.

Classification

Because this rule only corrects omissions and other errors and brings an existing table up to date for the purposes of public information, it is strictly administrative in nature; no useful purpose would be served by providing prior notice and opportunity for comment on this rule. Accordingly, under 5 U.S.C. 553(b)(B), it is unnecessary to provide such notice and opportunity for comment. Also, because this rule is only administrative in nature and imposes no new requirements or restrictions on the public, NMFS finds good cause to make it immediately effective under 5 U.S.C. 553(d).

This rule is exempt from review under E.O. 12866.

List of Subjects in 50 CFR Part 204

Reporting and recordkeeping requirements.

Dated: February 23, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 204 is amended as follows:

**PART 204—OMB CONTROL NUMBERS
FOR NOAA INFORMATION
COLLECTION REQUIREMENTS****Authority:** Paperwork Reduction Act, 44
U.S.C. 3501 *et seq.***§ 204.1** OMB control numbers assigned
pursuant to the Paperwork Reduction Act.

* * * * *

(b) * * *

1. The authority citation for part 204
is revised to read as follows:

2. In § 204.1, the table in paragraph (b)
is revised to read as follows:

50 CFR part or section where the information collection requirement is located	Current OMB control number (all numbers begin with 0648—)
§ 216.22	—0178.
§ 216.23	—0179.
§ 216.24(b)	—0083.
§ 216.24(c)	—0083.
§ 216.24(d)	—0083, —0084, —0099 and —0217.
§ 216.24(e)	—0040.
§ 216.31	—0084.
§ 216.33	—0084.
§ 216.45	—0084.
§ 222.11–2	—0078.
§ 222.11–8	—0079.
§ 222.12–7	—0078.
§ 222.12–8	—0078.
§ 222.22	—0230.
§ 222.23	—0084.
§ 227.72	—0230 and —0267.
§ 228.4	—0151.
§ 228.6	—0151.
§ 228.14	—0151.
§ 228.25	—0151.
§ 228.37	—0151.
§ 228.55	—0151.
§ 229.5	—0224.
§ 229.6	—0225.
§ 229.7	—0225.
§ 255.4	—0012.
§ 259.30	—0090.
§ 259.35	—0041.
§ 260.103	—0266.
§ 270.3	—0215.
§ 270.8	—0215.
§ 270.11	—0215.
§ 270.12	—0215.
§ 270.13	—0215.
§ 270.19	—0215.
§ 280.10	—0148.
§ 280.50	—0202.
§ 280.51	—0239.
§ 280.53	—0040.
§ 282.3	—0218.
§ 282.5	—0218.
§ 285.7	—0202.
§ 285.8	—0202.
§ 285.21	—0202.
§ 285.28	—0202.
§ 285.29	—0239.
§ 285.53	—0168.
§ 285.54	—0168.
§ 285.151	—0239.
§ 285.202	—0040.
§ 296.5	—0082.
§ 299.3	—0228.
§ 299.4	—0228.
§ 299.5	—0228.
§ 380.4	—0194.
§ 380.5	—0194.
§ 380.6	—0194.
§ 380.8	—0194.
§ 380.20	—0194.
§ 380.24	—0194.
§ 380.28	—0194.
§ 601.37	—0192.
§ 611.3	—0089.
§ 611.4	—0075.

50 CFR part or section where the information collection requirement is located	Current OMB control number (all numbers begin with 0648-)
§ 611.6	-0075.
§ 611.8	-0075.
§ 611.9	-0075.
§ 611.12	-0075.
§ 611.50	-0075.
§ 611.61	-0075.
§ 611.70	-0075.
§ 611.80	-0075.
§ 611.81	-0075.
§ 611.82	-0075.
§ 611.90	-0075.
§ 611.92	-0075.
§ 611.93	-0075.
§ 611.94	-0075.
§ 625.4	-0202.
§ 625.5	-0202.
§ 625.6	-0018, -0212 and -0229.
§ 625.20	-0202.
§ 625.27	-0202.
§ 628.4	-0202.
§ 630.4	-0205.
§ 630.5	-0013 and -0016.
§ 630.10	-0016.
§ 630.31	-0277.
§ 638.4	-0205.
§ 638.5	-0016.
§ 638.27	-0016.
§ 640.4	-0205.
§ 641.4	-0205.
§ 641.5	-0013 and -0016.
§ 642.4	-0205.
§ 642.5	-0013 and -0016.
§ 644.24	-0216.
§ 645.4	-0205.
§ 645.6	-0205.
§ 646.4	-0205.
§ 646.5	-0013 and -0016.
§ 646.6	-0205.
§ 646.10	-0262.
§ 649.4	-0202.
§ 649.5	-0202.
§ 649.6	-0202.
§ 650.4	-0202.
§ 650.5	-0202.
§ 650.6	-0202.
§ 650.7	-0018, -0212 and -0229.
§ 650.24	-0202.
§ 650.25	-0202.
§ 650.26	-0202.
§ 650.28	-0202.
§ 651.4	-0202.
§ 651.5	-0202.
§ 651.6	-0202.
§ 651.7	-0018, -0212 and -0229.
§ 651.20	-0202.
§ 651.21	-0202.
§ 651.22	-0202.
§ 651.28	-0202.
§ 651.29	-0202.
§ 652.4	-0202.
§ 652.5	-0202.
§ 652.6	-0212 and -0229.
§ 652.9	-0202.
§ 652.20	-0238.
§ 652.24	-0240.
§ 653.5	-0013.
§ 655.4	-0202.
§ 658.5	-0013.
§ 661.4	-0222.

50 CFR part or section where the information collection requirement is located	Current OMB control number (all numbers begin with 0648-)
§ 661.20	-0222.
§ 663.4	-0271.
§ 663.10	-0203.
§ 663.11	-0203.
§ 663.33	-0203.
§ 669.6	-0205.
§ 672.4	-0206.
§ 672.5	-0213.
§ 672.6	-0206.
§ 674.4	-0206.
§ 675.4	-0206.
§ 675.5	-0213.
§ 675.6	-0206.
§ 675.27	-0269.
§ 676.13	-0272.
§ 676.14	-0272.
§ 676.17	-0272.
§ 676.20	-0272.
§ 676.21	-0272.
§ 676.25	-0269.
§ 677.4	-0206.
§ 677.6	-0280.
§ 677.10	-0280.
§ 678.4	-0205.
§ 678.5	-0013, -0016 and -0229.
§ 678.10	-0016.
§ 680.4	-0204.
§ 680.5	-0214.
§ 680.10	-0204.
§ 681.4	-0204.
§ 681.5	-0214.
§ 681.10	-0214.
§ 681.24	-0214.
§ 681.25	-0214.
§ 681.30	-0204.
§ 683.4	-0214.
§ 683.9	-0204 and -0214.
§ 683.21	-0204.
§ 683.25	-0204.
§ 683.27	-0214.
§ 683.29	-0214.
§ 685.4	-0214.
§ 685.9	-0204.
§ 685.11	-0214.
§ 685.13	-0214.
§ 685.14	-0214.
§ 685.15	-0204.
§ 685.24	-0214.
§ 695.4	-0205.
§ 695.5	-0016.

[FR Doc. 95-5033 Filed 2-28-95; 8:45 am].

BILLING CODE 3510-22-W

50 CFR Part 673

[Docket No. 950223058-5058-01; I.D. 022395A]

RIN 0648-AH93

Scallop Fishery Off Alaska; Closure of Federal Waters To Protect Scallop Stocks

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

ACTION: Emergency interim rule; request for comments.

SUMMARY: NMFS is closing the exclusive economic zone (EEZ) off Alaska to fishing for scallops in response to resource conservation concerns that result from unanticipated fishing for scallops in the EEZ by vessels outside the jurisdiction of Alaska State regulations governing the scallop fishery. This action is necessary to prevent localized overfishing of scallop stocks. This emergency closure is intended to control an unregulated scallop fishery in the EEZ until a Federal fishery management plan (FMP) can be implemented.

DATES: Effective February 23, 1995, through May 30, 1995. Comments must be submitted by March 10, 1995.

ADDRESSES: Comments may be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802, Attention: Lori Gravel. Copies of the Environmental Assessment prepared for the emergency rule may be obtained from the same address.

FOR FURTHER INFORMATION CONTACT: Susan Salvesson, 907-586-7228.

SUPPLEMENTARY INFORMATION:

Background

Fishing for scallops by U.S. vessels off Alaska is managed by the State of Alaska under regulations implemented by the Alaska Department of Fish and Game (ADF&G) at 5 AAC 38.076. These regulations establish guideline harvest levels for different scallop registration areas, fishing seasons, open and closed fishing areas, observer coverage requirements, gear restrictions, and measures to control the processing efficiency of undersized scallops that include a ban on the use of mechanical shucking machines and a limitation on vessel crew size.

Section 306(a)(3) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) (Magnuson Act) provides that a state may not directly or indirectly regulate a fishing vessel in Federal waters unless the vessel is registered under the law of that state. As a result, regulations implemented by the State of Alaska to manage the scallop fishery only apply in the EEZ off Alaska to vessels registered under the laws of the State. Until now, all vessels fishing in the EEZ have been registered with the State and have been subject to ADF&G fishing regulations at 5 AAC 38.076.

The ADF&G recently became aware of a vessel fishing for scallops in the EEZ that is not registered under the laws of the State. The vessel is fishing for scallops in waters closed to Alaska registered vessels by the ADF&G. The State does not have authority to stop this activity because the vessel is not registered with the State and does not fall under its jurisdiction.

Section 305(c) of the Magnuson Act authorizes NMFS to implement emergency regulations necessary to respond to fishery conservation and management problems that cannot be addressed within the time frame of the normal procedures provided by the Magnuson Act. These emergency regulations may remain in effect for not more than 90 days after publication in the **Federal Register**, with a possible 90-day extension.

The North Pacific Fishery Management Council (Council) convened an emergency teleconference meeting on February 17, 1995, to address the situation of unregistered vessels fishing for scallops in the EEZ outside the management jurisdiction of the State of Alaska. The Council requested NMFS to implement emergency rulemaking to close the EEZ to fishing for scallops to prevent further unregulated and uncontrolled fishing for scallops in Federal waters. Continued fishing for scallops by vessels not registered with the State poses significant conservation and management concerns that can be effectively addressed in a timely manner only through emergency closure of the EEZ. A brief discussion of the State's management program for scallops and the Council's concerns and justification for emergency rule action follow.

Alaska State's Scallop Management Program

The primary pectinid harvested off Alaska is the weathervane scallop (*Patinopecten caurinus*). Since the early 1980's, between 4 and 20 vessels annually have participated in the Alaska

scallop fishery. Gross earnings experienced by the fleet during this same period of time has ranged from almost \$.9 million in 1983 to over \$7 million in 1992.

The ADF&G initiated development of a management plan for the scallop fishery in response to overfishing concerns resulting from recent changes in the weathervane scallop fishery off Alaska. Weathervane scallops possess biological traits (e.g., longevity, low natural mortality rate, and variable recruitment) that render them vulnerable to overfishing. Record landings occurred in the late 1960's (about 1.8 million lbs (816.47 mt) shucked scallop meat), followed by a significant decline in catch through the 1970's and 1980's when landed catch ranged between 0.2 (90.72 mt) and 0.9 million lbs (408.23 mt). The ADF&G believes this decline was due, in part, to reduced abundance of scallop stocks. Landings since 1989 have increased to near record levels. Since 1989, the number of vessels fishing for scallops has not increased (about 10-15 vessels annually), although an increase in fishing power is evidenced by a substantial increase in average vessel length (from 84 ft (25.6 m) registered length in 1981 to 110 ft (33.5 m) in 1991) a predominance of full-time scallop vessels, and an increased number of deliveries. Until 1993, the State did not have a data collection program, although some indication exists that overfishing, or at least localized depletion, may have occurred. Data voluntarily submitted by participants in the scallop fishery during the early 1990's showed that an increase in meat counts per pound has occurred, indicating that smaller scallops now account for a greater proportion of the harvest. These data also suggest that catch-per-unit-of-effort in traditional fishing grounds has decreased.

Limited age data suggest that the scallop stock historically exploited off west Kodiak Island experienced an age-structure shift from predominately age 7 and older scallops in the late 1960's to an age structure predominated by scallops less than age 6 during the early 1970's. This shift indicated that harvest amounts had exceeded sustainable levels. Changes in fleet distribution from historical fishing grounds primarily in State waters to previously unfished grounds in the EEZ compounded management concerns.

In response to these concerns, the ADF&G implemented a management plan for the scallop fishery in 1993 that established a total of eight fishery registration areas corresponding to the

Southeastern, Yakutat, Prince William Sound, Cook Inlet, Kodiak, Alaska Peninsula, Dutch Harbor, and Bering Sea portions of the State. To prevent overfishing and maintain reproductive potential of scallop stocks, ADF&G established a guideline harvest range (GHR) for each of the traditional weathervane scallop fishing areas. In the absence of biomass estimates needed to implement an exploitation rate harvest strategy, the upper limit of the GHRs is specified as the long-term productivity (catch) from each of the traditional harvest areas. The ADF&G may adjust GHRs based on changes in stock status, such as shifts in population size/age structure coupled to changes in area-specific catch-per-unit-effort.

If a GHR for a registration area is not specified, ADF&G may authorize fishing for weathervane or other scallop species under special use permits that generally include location and duration of harvests, gear limitations and other harvest procedures, periodic reporting or logbook requirements, requirements for on board observers, and scallop catch or crab bycatch limits.

The ADF&G also has implemented king and Tanner crab bycatch limits to constrain the mortality of Tanner crab and king crab incidentally taken by scallop dredge gear. Generally, crab limits are set at 1 percent of total crab population for those management areas where crab stocks are healthy enough to support a commercial fishery. In areas closed to commercial fishing for crab, the crab bycatch limits for the scallop fishery are set at 0.5 percent of the total crab population.

Specified waters are closed to fishing for scallops to prevent scallop dredging in biologically critical habitat areas, such as locations of high bycatch of crab or nursery areas for young fish and shellfish. State regulations also require each vessel to carry an observer at all times to provide timely data for monitoring scallop catches relative to GHRs and for monitoring crab bycatch. Observers also collect scientific data on scallop catch rates, size distribution and age composition. This information is required by ADF&G for potential adjustment of GHRs based on changes in stock in stock status and productivity.

ADF&G regulations establish gear specifications to minimize the catch of undersized scallops and efficiency controls to reduce the economic feasibility of harvesting scallops much smaller than sizes associated with optimum yield. Current efficiency controls include a ban on automatic shucking machines and a crew limit of 12 persons.

The ADF&G has closed all registration areas to fishing for scallops because either the 1995 scallop GHR has been reached or the scallop fishing season has yet to open (Table 1). The fishing vessel currently fishing for scallops in the EEZ outside State jurisdiction is operating in the Yakutat and Prince William Sound registration areas, which the State closed because the GHR for these areas has been harvested. In 1994, vessels fished for scallops in the Bering Sea and Alaska Peninsula registration areas under special-use permits. These areas were closed in late summer due to crab bycatch. The 1994 scallop fisheries in other registration areas generally were closed based on the attainment of the GHR (Table 1).

TABLE 1.—ALASKA STATE SCALLOP REGISTRATION AREAS, UPPER LIMIT OF GHRs (LBS SHUCKED MEAT), 1995 TANNER (TAN) AND KING CRAB BYCATCH LIMITS (NUMBER OF CRAB), 1994 AND 1995 SCALLOP AND CRAB CATCH AMOUNTS (IN PARENTHESIS) AND SEASON OPENING AND CLOSURE DATES

Area	GHR (catch)	Crab limits ¹ (catch)	1995 season open—closed dates
Yakutat	250,000	No crab limit	1/10/95–2/14/95
1995 catch	² (245,000)		
1994 catch	(236,830)		
Prince William Sound	50,000	Tan—630	1/10/95–1/26/95
1995 catch	² (48,000)	² (69)	
No 1994 fishery			
Cook Inlet	20,000	King—138	8/15/95–
1994 catch	(20,431)	(42)	
		Tan—18,070	
		(13,300)	
Kodiak	400,000	King—283	7/1/95–
1994 catch	(381,850)	(157)	
		Tan—199,500	
		(69,274)	
Dutch Harbor	170,000	King—45	7/1/95–
1994 catch	(1,931)	(6)	
		Tan—50,500	
		(792)	
Alaska Peninsula	Permit	King—85	7/1/95–
1994 catch	(66,412)	(0)	
		Tan—52,530	
		(26,379)	
Bering Sea	Permit	King—17,000	7/1/95–
1994 catch	(505,439)	(55)	
		Tan—260,000	
		(262,500)	

¹ Crab bycatch limits for Prince William Sound and Cook Inlet are further divided into State management districts.

² Scallop catch and crab bycatch amounts do not include unreported amounts taken by the catcher/processor vessel fishing in the management area outside of State jurisdiction.

Continued fishing for scallops by vessels outside the jurisdiction of the

State will result in overharvest of the State's GHR's and potential localized

overfishing of scallop stocks. The catcher/processor vessel currently

fishing in the Prince William Sound registration area may have the potential to harvest nearly 65,000 lbs (29.48 mt) of shucked scallop meat per week based on 1995 ADF&G observer data collected from a similar vessel. At this rate of harvest, the Prince William Sound GHR could be overharvested by a significant amount since the fishery was closed on January 26, 1995. Although specific information on the vessel's harvesting activity is not available, the U.S. Coast Guard boarded the vessel on February 21, 1995, and was informed that 54,000 lbs (24.49 mt) of scallop meat was on board. This level of retained catch alone exceeds the Prince William Sound GHR by over 100 percent. The Council is concerned that this or other vessels fishing outside the jurisdiction of the State will continue to severely overharvest other GHRs and result in localized overfishing of scallop stocks.

For the reasons stated above, NMFS concurs with the Council's determination that unregulated and uncontrolled fishing for scallops by vessels outside the jurisdiction of Alaska State regulations poses a serious conservation concern that must be addressed as quickly as possible by emergency rulemaking. Although weathervane scallop is the primary species of commercial interest, NMFS' concern about localized depletion and overfishing extends to all scallop species that may be harvested in the EEZ by unregulated vessels. NMFS further concurs in the Council's determination that immediate closure of the EEZ off Alaska to fishing for scallops is an appropriate action to address the scallop management void in the EEZ and concerns of localized overfishing of scallop stocks.

The Council is considering options for a Federal FMP for scallops. Given the time necessary for the preparation of an FMP and the statutory review and implementation schedule for FMPs set out under sections 303 and 304 of the Magnuson Act, the Council requested NMFS repromulgate the emergency closure of the EEZ for an additional 90 days as authorized under section 305(c)(3)(B) of the Magnuson Act. NMFS agrees that additional time may be necessary for the preparation and implementation of a Federal management program for scallops in Federal waters and will consider promulgating a second emergency rule under the Magnuson Act at the appropriate time.

There are many factors to be considered in determining whether to issue a second emergency rule in that such a rule could have an impact on

State-registered vessels that participate in this fishery under the laws of the State of Alaska. Vessels that participate in the Yakutat and Prince William Sound scallop fisheries will not be affected because ADF&G has closed these management areas for the remainder of the year, since the GHR has been harvested. The Cook Inlet fishery is conducted primarily in State waters and will be available to State-registered vessels when the fishery opens in mid-August (Table 1). Scallop fishermen wishing to participate in the westward area scallop fisheries (Kodiak, Dutch Harbor, Alaska Peninsula, and Bering Sea registrations area) when these fisheries open July 1 would be restricted to fishing in State waters under ADF&G management regulations if a second 90-day emergency rule is promulgated in the same form as this emergency rule. If a second emergency rule is issued, ADF&G would make a downward adjustment of the GHRs specified for the westward area to compensate for a scallop fishery constrained to State waters. Given that all the Bering Sea scallop harvest comes from Federal waters, as well as about 70 percent of the scallop harvest from other westward registration areas, and assuming an exvessel price of \$6.00 per lb, the potential foregone harvest and revenue could approach 820,574 lbs (372.21 mt) and nearly \$5 million. Based on 1994 data, about 12 vessels made landings of scallops harvested in a westward area fishery and could potentially be affected by a second emergency rule action.

Comments on this emergency rule will be accepted by NMFS through March 10, 1995. (See ADDRESSES.) NMFS also is soliciting comments on appropriate Federal management measures the Council should consider during its further development of an FMP for the Alaska scallop fishery.

Classification

The Assistant Administrator for Fisheries, NOAA (AA), has determined that this rule is necessary to respond to an emergency situation and that it is consistent with the Magnuson Act and other applicable laws.

This rule is exempt from the procedures of the Regulatory Flexibility Act, because it is not required to be issued with prior notice and opportunity for prior public comment.

This emergency interim rule has been determined to be not significant for purposes of E.O. 12866.

NMFS finds that the immediate need to prevent overfishing and localized depletion of scallops in the EEZ off

Alaska, as explained in the preamble to this rule, constitutes good cause to waive the requirement to provide prior notice and an opportunity for public comment pursuant to authority set forth at 5 U.S.C. 553(b)(B), such procedures would be contrary to the public interest. Similarly, the need to implement these measures in a timely manner to prevent localized overfishing of scallop stocks by vessels fishing outside the jurisdiction of Alaska State law constitutes good cause under authority contained in 5 U.S.C. 553(d)(3) to waive the requirement for a 30-day delay in effective date.

List of Subjects in 50 CFR Part 673

Fisheries.

Dated: February 23, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 673 is added as follows:

1. Part 673 is added to Chapter VI of 50 CFR to read as follows:

PART 673—SCALLOP FISHERY OFF ALASKA

Sec.

673.1 Purpose and scope.

673.2 Definitions.

673.3 Prohibitions.

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

§ 673.1 Purpose and scope.

(a) These regulations implement Federal authority under the Magnuson Act to manage the scallop fishery in the exclusive economic zone off Alaska.

(b) Regulations in this part govern commercial fishing for scallops in the exclusive economic zone off Alaska.

§ 673.2 Definitions.

In addition to the definitions in the Magnuson Act and in 50 CFR part 620, the terms in 50 CFR part 673 have the following meanings:

Exclusive Economic Zone (EEZ) (see § 620.2 of this chapter) *Scallop(s)* means any species of the family Pectinidae, including without limitation weathervane scallops (*Patinopecten caurinus*).

§ 673.3 Prohibitions.

In addition to the general prohibitions specified in § 620.7 of this chapter, it is unlawful for any person to take or retain any scallops in the EEZ seaward off Alaska.

[FR Doc. 95-4942 Filed 2-23-95; 5:04 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register

Vol. 60, No. 40

Wednesday, March 1, 1995

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.

FEDERAL LABOR RELATIONS AUTHORITY

5 CFR Ch. XIV

Processing Unfair Labor Practice Cases From the Filing of a Complaint to the Filing of Exceptions to an Administrative Law Judge's Decision

AGENCY: Federal Labor Relations Authority.

ACTION: Notice of opportunity to file recommendations on improving the manner in which unfair labor practice complaints are processed and modifications to the unfair labor practice regulations.

SUMMARY: The Federal Labor Relations Authority invites all agencies, unions and other interested persons to submit written recommendations concerning mechanisms to improve the manner in which unfair labor practice complaints are processed, including modifications to the related unfair labor practice regulations, and miscellaneous regulations.

The Federal Labor Relations Authority has established a Task Force which will study and evaluate the policies and procedures currently in effect concerning the processing of an unfair labor practice complaint from the issuance of a complaint through the filing of exceptions to an Administrative Law Judge's decision. They study will include an evaluation of whether corresponding modifications to the unfair labor practice regulations should be made. As part of this review, the Task Force intends to identify any portion of these regulations that could be rewritten so it can be more easily understood.

Proposed regulatory and other procedural changes which may result from the review will be published for comment at a later date.

DATES: Recommendations in response to this notice should be submitted by March 31, 1995.

ADDRESSES: Mail recommendations to Carol Waller Pope, Executive Assistant

to the General Counsel, Office of the General Counsel, 607 14th Street NW., suite 210, Washington, DC 20424.

FOR FURTHER INFORMATION CONTACT:

Carol Waller Pope, Executive Assistant to the General Counsel, Office of the General Counsel, 607 14th Street NW., Suite 210, Washington, DC 20424. Telephone: (202) 482-6600.

SUPPLEMENTARY INFORMATION: The Federal Labor Relations Authority intends to review and, where appropriate, implement mechanisms to improve the manner in which unfair labor practice complaints are processed and to revise the corresponding unfair labor practice regulations, and related miscellaneous regulations. The Federal Labor Relations Authority has established a Task Force to study this matter. This study pertains to the process beginning with the issuance of an unfair labor practice complaint and ending with the filing of exceptions to an Administrative Law Judge's decision. The unfair labor practice rules and related miscellaneous rules of practice and procedure were last reviewed in a study started in 1990 (55 FR 51115). Any recommendations that were submitted in response to the last notice will be considered along with responses to the current notice.

Part 2423 of chapter XIV of Title 5 of the Code of Federal Regulations (1994) contains, among other things, the current regulations which govern all matters relating to the process beginning with the issuance of an unfair labor practice complaint and ending with the filing of exceptions to an Administrative Law Judge's decision. Part 2429 contains related miscellaneous and general regulatory requirements which also govern these administrative procedures. All of these regulations and rules of practice in addition to other procedural matters and recommendations submitted by the public will be reviewed by the Task Force. The Task Force will make written recommendations to the Federal Labor Relations Authority who will, as determined appropriate, issue proposed amendments to the existing unfair labor practice and miscellaneous regulations. All agencies, unions, and interested persons will be afforded an opportunity to submit further comments on any proposed specific modifications to the existing regulations.

Recommendations which seek to overrule substantive interpretations of the Statute by the Authority and the circuit courts of appeals concerning the rights and obligations of agencies, unions and employees under the terms of the Statute will not be considered.

Format

All submissions should contain separate headings and citations for each section of the existing regulations. An original and (2) copies of each set of comments, with any enclosures, should be submitted only on 8½ by 11-inch paper.

List of Subjects in 5 CFR Ch. XIV

Administrative practice and procedure, Government employees, Labor-management relations.

Dated: February 23, 1995.

For the authority.

Solly Thomas,

Executive Director, for the General Counsel.

David L. Feder,

Deputy General Counsel.

[FR Doc. 95-5002 Filed 2-28-95; 8:45 am]

BILLING CODE 6267-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 94-ANM-52]

Proposed Amendment to Class E Airspace; Various Locations in the FAA Northwest Mountain Region

AGENCY: Federal Aviation Administration [FAA], DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend Class E airspace at various locations within the states of Colorado, Utah, and Wyoming. This proposal would provide controlled airspace for civil turbojet aircraft while holding at higher airspeeds, and would provide air traffic control with additional controlled airspace to provide radar vectors to arriving and departing aircraft. The revised airspace would be depicted on aeronautical charts to provide a reference for pilots operating under Visual Flight Rules (VFR).

DATES: Comments must be received on or before April 3, 1995.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, System Management Branch, ANM-530, Federal Aviation Administration, Docket No. 94-ANM-52, 1601 Lind Avenue SW., Renton, Washington 98055-4056. Telephone: (206) 227-2530.

The official docket may be examined at the Office of the Assistant Chief Counsel for the Northwest Mountain Region at the same address.

An informal docket may also be examined during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: Ted Melland, ANM-536, Federal Aviation Administration, Docket No. 94-ANM-52, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone: (206) 227-2536.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made:

"Comments to Airspace Docket No. 94-ANM-52." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal

Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-230, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-3484.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend Class E airspace areas at Alamosa, Colorado; Blue Mesa, Colorado; Cortez, Colorado; Denver, Colorado; Grand Junction, Colorado; Trinidad, Colorado; Blanding, Utah; Gillette, Wyoming; and Laramie, Wyoming. This proposal would provide controlled airspace for civil turbojet aircraft while holding at higher airspeeds, and would provide air traffic control with additional controlled airspace to provide radar vectors to arriving and departing aircraft. The areas would be depicted on appropriate aeronautical charts. The coordinates for this airspace docket are based on North American Datum 83. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9B dated July 18, 1994, and effective September 16, 1994, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—[AMENDED]

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

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

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9B, Airspace Designations and Reporting Points, dated July 18, 1994, and effective September 16, 1994, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth

* * * * *

ANM CO E5 Alamosa, CO [Revised]

Alamosa VORTAC

(Lat. 37°20'57" N, long. 105°48'56" W)

That airspace extending upward from 700 feet above the surface within 8.7 miles northeast and 10.5 miles southwest of Alamosa VORTAC 335° and 155° radials extending from 20.1 miles northwest to 10.5 miles southeast of the VORTAC, and within 1.8 miles northwest and 5.3 miles southeast of the Alamosa VORTAC 200° radial extending from the VORTAC to 14 miles southwest of the VORTAC; that airspace extending upward from 1,200 feet above the surface within 22 miles northeast and 10.5 miles southwest of the Alamosa VORTAC 335° and 155° radials extending from 40 miles northwest to 22 miles southeast of the VORTAC and within 4.3 miles each side of the Alamosa VORTAC 015° radial extending from the VORTAC to 39.2 miles northeast of the VORTAC, and within 4.3 miles each side of the Alamosa VORTAC 065° radial extending from the VORTAC to 32.2 miles northeast of the VORTAC, and within 4.3 miles each side of the Alamosa VORTAC 080° radial extending from the VORTAC to 48.8 miles east of the VORTAC, and within 4.3 miles each side of the Alamosa VORTAC 200° radial extending from the VORTAC to 32.2 miles southwest of the VORTAC; that airspace extending upward from 12,000 feet MSL within 4.3 miles each side of the Alamosa VORTAC 200° radial extending from 32.2 to 47 miles southwest of the VORTAC.

* * * * *

ANM CO E5 Blue Mesa, CO [Revised]

Blue Mesa VORTAC

(Lat. 38°27'08" N, long. 107°02'23" W)

That airspace extending upward from 700 feet above the surface within 8.3 miles northwest and 5.3 miles southeast of the Blue Mesa VORTAC 045° and 225° radials extending from 10.5 miles northeast 16.6 miles southwest of the VORTAC, and within the 14.4 mile radius of the VORTAC clockwise between the 264° and 294° radials; that airspace extending upward from 1,200 feet above the surface within 10.5 miles northwest and 8 miles southeast of the Blue Mesa VORTAC 045° and 225° radials extending from 10.5 miles northeast to 23 miles southwest of the VORTAC.

* * * * *

ANM CO E5 Cortez, CO [Revised]

Cortez-Montezuma County Airport, CO
(Lat. 37°18'11" N, long. 108°37'41" W)
Cortez VOR/DME
(Lat. 37°23'23" N, long. 108°33'42" W)
Dove Creek VORTAC
(Lat. 37°48'31" N, long. 108°55'53" W)

That airspace extending upward from 700 feet above the surface within a 6.1-mile radius of the Cortez-Montezuma County Airport, and within 3.1 miles each side of the Cortez VOR/DME 184° and 004° radials extending from the 6.1-mile radius to 10.1 miles north of the VOR/DME; that airspace extending upward from 1,200 feet above the surface beginning at:

Lat. 37°53'00" N, long. 108°05'00" W; to lat. 37°04'00" N, long. 108°05'00" W; to lat. 37°04'00" N, long. 108°58'00" W; to lat. 37°53'00" N, long. 108°58'00" W; to the point of beginning; excluding that airspace within the Durango, CO Class E airspace that airspace within the Farmington, NM Class E airspace, and that airspace within the Telluride, CO Class E airspace.

* * * * *

ANM CO E5 Denver, CO [Revised]

Denver International Airport, CO
(Lat. 39°51'38" N, long. 104°40'24" W)
Denver VOR
(Lat. 39°48'44" N, long. 104°39'36" W)
Centennial Airport, CO
(Lat. 39°34'13" N, long. 104°50'58" W)

That airspace extending upward from 700 feet above the surface within a 28-mile radius of the Denver VOR and within 3.5 miles west and 8.8 miles east of the 178° bearing from the Centennial Airport extending from the 28-mile radius to 17.8 miles south of the Centennial Airport; and that airspace extending upward from 1,200 feet above the surface on the north beginning at lat. 40°30'00" N, long. 106°00'00" W, thence east along lat. 40°30'00" N, thence north along V-85, thence east along lat 41°00'00" N, thence south along the Colorado-Nebraska State boundary, thence southwest along V-8, thence south along V-169, thence west along lat. 39°00'00" N, thence north along long. 106°00'00" W; to the point of beginning.

* * * * *

ANM CO E5 Grand Junction, CO [Revised]

Grand Junction, Walker Field, CO
(Lat. 39°07'21" N, long. 108°31'36" W)
Grand Junction VORTAC
(Lat. 39°03'34" N, long. 108°47'33" W)

That airspace extending upward from 700 feet above the surface within 7 miles northwest and 4.3 miles southeast of the Grand Junction VORTAC 247° and 067° radials extending from 11.4 miles southwest to 12.2 miles northeast of the VORTAC, and within 1.8 miles south and 8.7 miles north of the Grand Junction VORTAC 110° radial extending from the VORTAC to 19.2 miles southeast; that airspace extending upward from 1,200 feet above the surface within a 30.5-mile radius of the Grand Junction VORTAC, within 4.3 miles each side of the Grand Junction VORTAC 166° radial extending from the 30.5-mile radius to 33.1 miles south of the VORTAC, and within an area extending from the 30.5-mile radius to 49.5 miles northwest of the VORTAC clockwise between the 312° and 357° radials.

* * * * *

ANM CO E5 Trinidad, CO [Revised]

Trinidad, Perry Stokes Airport, Co
(Lat. 37°15'36" N, long. 104°20'24" W)
Trinidad NDB
(Lat. 37°18'22" N, long. 104°20'00" W)

That airspace extending upward from 700 feet above the surface within a 6.7-mile radius of the Perry Stokes Airport and within 3.1 miles each side of the 355° bearing from the Trinidad NDB extending from the 6.7-mile radius to 10 miles north of the NDB; that airspace extending upward from 1,200 feet above the surface within 22 miles west and 16.8 miles east of the 355° and 175° bearing from the Trinidad NDB extending from 28 miles north to 19.7 miles south of the NDB.

* * * * *

ANM UT E5 Blanding, UT [Revised]

Blanding Municipal Airport, UT
(Lat. 37°34'59" N, long. 109°28'59" W)
Blanding NDB
(Lat. 37°31'03" N, long. 109°29'34" W)
Dove Creek VORTAC
(Lat. 37°48'31" N, long. 108°55'53" W)

That airspace extending upward from 700 feet above the surface within a 5.3-mile radius of the Blanding Municipal Airport, and within 3.1 miles each side of the 188° bearing from the Blanding NDB extending from the 5.3-mile radius to 10.1 miles south of the NDB; that airspace extending upward from 1,200 feet above the surface within 12.5 miles east and 8 miles west of the 188° and 008° bearings from the Blanding NDB extending from 11 miles north to 23 miles south of the NDB, and within 4.3 miles each side of a direct line between the Blanding NDB and the Dove Creek VORTAC.

* * * * *

ANM WY E5 Gillette, WY [Revised]

Gillette-Campbell County Airport, WY
(Lat. 44°20'56" N, long. 105°32'20" W)
Gillette VOR/DME
(Lat. 44°20'52" N, long. 105°32'37" W)

That airspace extending upward from 700 feet above the surface within 6.1 miles east and 8.3 miles west of the Gillette VOR/DME 176° and 356° radials extending from 15.3 miles south to 16.1 miles north of the VOR/DME; that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at:

Lat. 44°47'00" N, long. 106°22'32" W; to lat. 44°30'00" N, long. 104°41'02" W; to lat. 43°30'00" N, long. 105°00'00" W; to lat. 43°30'00" N, long. 106°38'00" W; to lat. 44°09'44" N, long. 106°38'00" W; to lat. 44°16'15" N, long. 106°22'32" W; to the point of beginning; excluding that airspace within Casper, WY Class E airspace and that airspace within the Buffalo, WY Class E airspace.

* * * * *

ANM WY E5 Laramie, WY [Revised]

Laramie, General Brees Field, WY
(Lat. 41°18'45" N, long. 105°40'28" W)
Laramie VORTAC
(Lat. 41°20'16" N, long. 105°43'15" W)

That airspace extending upward from 700 feet above the surface within a 7.9-mile radius of the General Brees Field, and within 4.8 miles south and 8.3 miles north of Laramie VORTAC 301° radial extending from the 7.9-mile radius to 16.1 miles northwest of the VORTAC; and within 4.3 miles each side of the Laramie VORTAC 126° radial extending from the 7.9-mile radius to 18.3 miles southeast of the VORTAC; that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at

Lat. 41°53'00" N, long. 106°05'00" W; to lat. 41°53'00" N, long. 105°08'02" W; to lat. 41°00'00" N, long. 105°08'02" W; to lat. 41°00'00" N, long. 106°05'00" W; to the point of beginning; excluding that airspace within Cheyenne, WY Class E airspace.

* * * * *

Issued in Seattle, Washington, on February 14, 1995.

Richard E. Prang,

*Acting Manager, Air Traffic Division,
Northwest Mountain Region.*

[FR Doc. 95-4979 Filed 2-28-95; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[IA-42-93]

RIN 1545-AS93

Adjustments Required by Changes in Method of Accounting; Hearing Cancellation

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Cancellation of notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of cancellation of a public hearing on proposed regulations relating to the requirements for changes in a taxpayer's method of accounting.

DATES: The public hearing originally scheduled for March 10, 1995, beginning at 10:00 a.m. is cancelled.

FOR FURTHER INFORMATION CONTACT:

Christina Vasquez of the Regulations Unit, Assistant Chief Counsel (Corporate), (202) 622-6803 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 446(e) and 481 of the Internal Revenue Code. A notice of proposed rulemaking and notice of public hearing appearing in the **Federal Register** for Wednesday, December 28, 1994 (59 FR 66825), announced that a public hearing on the proposed regulations would be held on Friday, March 10, 1995, beginning at 10:00 a.m., in the IRS Auditorium, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC.

The public hearing scheduled for Friday, March 10, 1995, is cancelled.

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 95-5066 Filed 2-28-95; 8:45 am]

BILLING CODE 4830-01-P

26 CFR Part 1

[CO-993-71]

RIN 1545-AB21

Controlling Corporation's Basis Adjustment in Its Controlled Corporation's Stock Following a Triangular Reorganization; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to notice of proposed rulemaking.

SUMMARY: This document contains corrections to the notice of proposed rulemaking [CO-993-71], which was published in the **Federal Register** for Friday, December 23, 1994 (59 FR 66280). The proposed regulations provide rules for adjusting the basis of a controlling corporation in the stock of a controlled corporation as the result of certain triangular reorganizations involving the stock of the controlling corporation.

FOR FURTHER INFORMATION CONTACT:

Concerning the proposed regulations, Rose L. Williams, (202) 622-7550; concerning submissions and the hearing, Michael Slaughter, (202) 622-7190 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:**Background**

The proposed regulations that are the subject of these corrections are under sections 358, 1032, and 1502 of the Internal Revenue Code.

Need for Correction

As published, the notice of proposed rulemaking contains typographical errors that are in need of correction.

Correction of Publication

Accordingly, the publication of the notice of proposed rulemaking which is the subject of FR Doc. 94-31287, is corrected as follows:

1. On page 66282, column 2, in the preamble under the paragraph heading "*F. Proposed Effective Dates*", last paragraph in the column, lines 4 and 9, the language "December 23, 1994, in which P and S," is corrected to read "[THE DAY THE FINAL REGULATIONS ARE PUBLISHED IN THE **Federal Register**] in which P and S,".

2. On page 66285, column 2, § 1.1032-2, paragraph (a), line 3, the regulation section "§ 1.358-(6)(b)" is corrected to read "§ 1.358-6(b)".

3. On page 66285, column 2, § 1.1032-2, paragraph (d), paragraph (b) of *Example 1.*, line 5, the regulation section "§ 1.1032-(1)(a)" is corrected to read "§ 1.1032-1(a)".

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 95-5067 Filed 2-28-95; 8:45 am]

BILLING CODE 4830-01-P

26 CFR Part 1

[FI-42-94]

RIN 1545-AS85

Mark to Market for Dealers in Securities; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to notice of proposed rulemaking.

SUMMARY: This document contains corrections to the notice of proposed rulemaking [FI-42-94], which was published in the **Federal Register** for Wednesday, January 4, 1995 (60 FR 397). The proposed regulations relate to the mark-to-market method of accounting for securities that is required to be used by a dealer in securities.

FOR FURTHER INFORMATION CONTACT:

Concerning § 1.475(c)-2(a)(4), Carol A. Schwartz, (202) 622-3920; concerning other sections of the regulations, Robert B. Williams, (202) 622-3960, or JoLynn Ricks, (202) 622-3920; concerning submissions and the hearing, Michael Slaughter, (202) 622-7190 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:**Background**

The proposed regulations that are the subject of these corrections are under section 475 of the Internal Revenue Code.

Need for Correction

As published, the notice of proposed rulemaking contains typographical errors that are in need of correction.

Correction of Publication

Accordingly, the publication of the notice of proposed rulemaking which is the subject of FR Doc. 95-13, is corrected as follows:

1. On page 403, column 3, § 1.475(a)-1, paragraph (h), paragraph (ii) of *Example.*, line 7, the word "taxable" is corrected to read "X".

2. On page 405, column 2, § 1.475(c)-2, paragraph (a)(2), line 3, the regulation section "§ 1275-6(b)" is corrected to read "§ 1.1275-6(b)".

3. On page 405, column 3, § 1.475(c)-2, in the paragraph heading of paragraph (d), line 3, the regulation section "§ 11275-6" is corrected to read "§ 1.1275-6".

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 95-5068 Filed 2-28-95; 8:45 am]

BILLING CODE 4830-01-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 194

RIN 2060-AE30

[FRL-5162-9]

Criteria for the Certification and Determination of the Waste Isolation Pilot Plant's Compliance With Environmental Standards for the Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic Radioactive Wastes—Proposed Rule

AGENCY: Environmental Protection Agency.

ACTION: Notice of public hearings on proposed rule.

SUMMARY: As required by the Waste Isolation Pilot Plant (WIPP) Land Withdrawal Act of 1992 [Pub. L. 102-579], EPA has developed proposed criteria which will be used by the Agency in certifying whether or not the WIPP facility complies with 40 CFR part 191, "Environmental Standards for the Management and Disposal of Spent

Nuclear Fuel, High-Level and Transuranic Radioactive Wastes." These criteria were proposed at 60 FR 5766 and were published in Part II of the **Federal Register** on January 30, 1995. The Agency intends to issue final compliance criteria in February 1996, approximately one year after this proposal.

DATES: EPA will conduct public hearings on the Proposed Compliance Criteria Rule in Carlsbad, NM on March 21, 1995 from noon to 9:00 p.m. Public hearings will be held in Albuquerque, NM on March 22, from noon to 9:00 p.m. Public hearings will be held in Santa Fe, NM on Wednesday, March 23, from noon to 9:00 p.m. and on March 24 from 9:00 a.m. to 12:00 p.m. In all cases, there will be a dinner break from 5:00 p.m. to 6:30 p.m.

For speakers to receive scheduled times to testify, requests to testify must be received on or before March 14, 1995, in order to guarantee an opportunity to testify. Speakers not registered on or before March 14 may register at the door and will be scheduled to testify if time permits.

ADDRESSES: The Proposed Compliance Criteria Rule public hearings will be held March 21, 1995, at the Quality Inn (formerly the Park Inn International), 3706 National Parks Highway, Carlsbad, NM; March 22 at the Albuquerque Convention Center, 401 Second Street NW., Albuquerque, NM; and March 23 and 24 at the High Mesa Inn, 3347 Cerillos Road, Santa Fe, NM.

To register to testify telephone Kelly Rose or Ed Lyons of AST, Inc. at (301) 670-8344 or fax your request directly to AST at (301) 670-4099 to their attention. When registering by phone or fax, please provide the following information: Name, Address, Organizational Affiliation (only if testifying as spokesperson or official representative for the company), desired date, hearing location, times available to testify, and a daytime telephone number. Registrations must be made by March 14, 1995, in order to be guaranteed an opportunity to testify. Testifiers not registered on or before March 14 may register at the door and will be scheduled if time permits.

Individual speakers will be allocated 5 minutes and individuals testifying as the official representative or spokesperson on behalf of groups and organizations will be allocated 10 minutes for an oral presentation exclusive of any time consumed by

questions from the government panel and answers to these questions.

Information on EPA's proposed compliance criteria rule (40 CFR Part 194) is listed under Docket No. A-92-56 and is available for review at the following three EPA WIPP docket locations in New Mexico: in Carlsbad at the Municipal Library, Hours: Mon-Thu, 10-9, Fri-Sat, 10-6, and Sun 1-5; in Albuquerque at the Government Publications Department, Zimmerman Library, University of New Mexico, Hours: Mon-Thu, 8-9, Fri, 8-5, Sat-Sun, 1-5; and in Santa Fe at the Fogelson Library, College of Santa Fe, Hours: Mon-Thu, 8-12 Midnight, Fri, 8-5, Sat, 9-5, and Sun, 1-9. For purposes of judicial review, EPA's official docket for the compliance criteria rulemaking, Docket No. A-92-56, is located in Washington, DC in the Air Docket, Room M1500, Mailcode 6102, U.S. EPA, 401 M Street SW., Washington, DC 20460.

EPA also established separate official dockets for other rulemaking activities under the Waste Isolation Pilot Plant Land Withdrawal Act at the Washington, DC (WDC) location. The following is a list of EPA's radioactive waste dockets: Radioactive Waste (40 CFR Part 191)—Docket No. R-89-01; Compliance Criteria (40 CFR Part 194)—Docket No. A-92-56; Test and Retrieval Plans Review—Docket No. A-92-57; Compliance Determination—Docket No. A-93-02. [Note: The dockets in New Mexico only contain major items from the official docket (WDC) plus all those documents added to the official docket since October 1992 when the WIPP Land Withdrawal Act was enacted.]

As provided in 40 CFR part 2, a reasonable fee may be charged for photocopying docket materials.

FOR FURTHER INFORMATION CONTACT:

Rafaela Ferguson, Office of Radiation and Indoor Air, (202) 233-9362 or call EPA's 24-hour toll-free WIPP Information Line, 1-800-331-WIPP.

SUPPLEMENTARY INFORMATION: The U.S. Department of Energy is developing the Waste Isolation Pilot Plant (WIPP) near Carlsbad in southeastern New Mexico as a deep geologic repository for disposal of transuranic (TRU) radioactive waste. TRU wastes are materials containing elements having atomic numbers greater than 92 in concentrations greater than 100 nanocuries of alpha-emitting TRU isotopes, with half-lives greater than twenty years, per gram of waste. Most TRU wastes are items that have become associated with the production of

nuclear weapons; e.g., rags, equipment, tools, and contaminated organic and inorganic sludges.

On October 30, 1992, the Waste Isolation Pilot Plant Land Withdrawal Act (Pub. L. 102-579) was enacted. Among other things, the law specifies the terms and conditions for the DOE's activities at the WIPP and the regulatory requirements which apply throughout various stages of the repository's development including the requirement that before beginning disposal of radioactive wastes at the WIPP, DOE must demonstrate that the WIPP will comply with the Environmental Protection Agency's (EPA) radioactive wastes disposal standards, e.g., "Environmental Standards for the Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic Radioactive Wastes" (40 CFR part 191).

Under the Act, EPA is required to develop criteria for the Administrator's certification of compliance with the 40 CFR part 191 disposal standards. On February 11, 1993, EPA published an Advance Notice of Proposed Rulemaking, 58 FR 8029, in the **Federal Register** requesting information and comments pertinent to the development of the compliance criteria.

On January 11, 1995, EPA Administrator Carol Browner signed the proposed compliance criteria rule. The 90-day public comment period began on January 30, the date the proposed compliance criteria rule notice appeared at 60 FR 5766 in Part II of the **Federal Register**, and ends on May 1, 1995. EPA intends to issue final compliance criteria one year after proposal in the **Federal Register**. The WIPP Land Withdrawal Act requires the DOE to demonstrate compliance with EPA's disposal standards and to submit an application for certification of WIPP's compliance to the EPA Administrator. In submitting such an application, the DOE must meet the requirements of the EPA compliance criteria because EPA will use these criteria in certifying whether or not the WIPP complies with the disposal standards.

Dated: February 23, 1995.

Mary D. Nichols,

Assistant Administrator for Air and Radiation.

[FR Doc. 95-5026 Filed 2-28-95; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 663

[Docket No. 950209046-5051-02; I.D. 011295D]

RIN 0648-AG82

Pacific Coast Groundfish Fishery; Modification of Nontrawl Sablefish Season

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS is publishing proposed regulations that would establish a new season structure for the nontrawl sablefish component of the Pacific Coast Groundfish limited entry fishery. The new regular season for the limited entry fishery would begin at noon August 6, each year, and both the limited entry and open-access fisheries would be required to remove all nontrawl gear from the water 72 hours prior to the start of the regular season. This rule is intended to promote the goals and objectives of the Pacific Coast Groundfish Fishery Management Plan (FMP) by providing an equitable opportunity for different types of nontrawl gear to harvest the limited entry nontrawl allocation for sablefish, to enhance vessel safety by avoiding a winter opening, to keep the fishery within the annual management target, and to minimize gear conflicts.

DATES: Comments must be submitted in writing by April 17, 1995.

ADDRESSES: Comments may be mailed to William Stelle, Jr., Director, Northwest Region, NMFS, 7600 Sand Point Way NE., BIN C15700, Seattle, WA 98115-0070; or Hilda Diaz-Soltero, Director, Southwest Region, NMFS, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213. Information relevant to this proposed rule is available for public review during business hours at the Office of the Director, Northwest Region, NMFS, and at the Office of the Director, Southwest Region, NMFS. Copies of the Environmental Assessment/Regulatory Impact Review (EA/RIR) can be obtained from the Pacific Fishery Management Council (Council), 2000 SW First Avenue, Suite 420, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at 206-526-6140, or Rodney R. McInnis at 310-980-4030.

SUPPLEMENTARY INFORMATION: NMFS is proposing this rule based on a recommendation of the Council, under the authority of the FMP and the Magnuson Fishery Conservation and Management Act (Magnuson Act). At its October 1994 meeting in San Francisco, CA, the Council recommended changes to the management of this fishery that are implemented by this rule. The background and rationale for the Council's recommendations are summarized below. More detail appears in the EA/RIR prepared by the Council for this action.

Background

Sablefish is one of the most valuable species in the groundfish fishery off Washington, Oregon, and California (WOC). Since 1987, the annual sablefish harvest guideline has been allocated between the trawl-gear and nontrawl-gear fisheries. Historically, the trawl fishery has been managed with trip limits, which means the amount of fish that may be harvested during a fishing trip or set time period. Trip limits are imposed primarily in order to extend the fishery throughout most of the year. The nontrawl fishery, in contrast, has taken most of its allocation in an intense, open competition called the "regular season," during which it operates without trip limits, except for limits on small sablefish (in 1995, trip limits are applicable to sablefish less than 22 inches (56 cm) total length). For 72 hours before and after the regular season, it is illegal to take and retain, possess or land groundfish caught with nontrawl gear. In recent years, the nontrawl fleet has operated under very restrictive trip limits (250-500 lb (113-227 kg) per day) outside of the "regular season." The limited entry nontrawl fishery for sablefish involves two main gear types, pot (or trap) and longline, that compete for the nontrawl allocation. Although the pot and longline fisheries are operationally different, they do not have separate allocations.

The first problem addressed by the Council was the increasing competition in the fishery. The sablefish resource is believed to be stable and close to the level that produces maximum sustainable yield (MSY), however, fishing effort, and thus competition, are increasing. The season length off WOC has declined from almost 5 months in 1990 to about 3 weeks in 1993 and 1994, and the industry is concerned about an even shorter season in 1995. Implementation of the limited entry program for groundfish off WOC in 1994 has not diminished the problem of increasing effort, because more vessels

currently have limited entry permits than operated in the fishery in 1994. Also, in recent years fishermen have had to choose between concurrent fisheries off Alaska or off WOC. However, with the implementation of an Individual Fishing Quota (IFQ) system off Alaska in 1995, fishermen will be able to fish over a longer period in Alaska, and thus those with a limited entry permit for WOC will be able to operate in both the Alaska and WOC fisheries. Fishermen that operate more slowly than others, generally those with smaller vessels, or that do not also fish in Alaska, fear that they are losing opportunity during such short, intense seasons off WOC. In addition, in 1994, the nontrawl fishery exceeded its limited entry allocation by 28 percent, because of the difficulty of monitoring such an intense fishery during the season. If fishing effort increases as expected, it will be increasingly difficult to project landings accurately and keep them from exceeding the nontrawl allocation.

A second problem is the starting date of the regular season. Under the current regulations (50 CFR 663.23(b)(2)(i)) (temporarily suspended, through September 1, 1995), the opening of the WOC season is linked to the first nontrawl sablefish season opening in the Gulf of Alaska under 50 CFR part 672, which occurs in May. Under the new IFQ program, governed by 50 CFR part 676, the Alaska season could start as early as March 1, 1995, which would cause the WOC fishery to open on February 26, 1995, preceded by a 72-hour closure on February 23. (50 CFR part 672 is expected to be revised to clarify that the nontrawl sablefish opening date in the Gulf of Alaska is governed by part 676.) This early season is unacceptable to the industry for a number of reasons, particularly safety, but also because of price, quality of the fish, and alternative fishing opportunities. By separate rule, NMFS has temporarily amended 50 CFR 663.23(b)(2) to prevent the opening of the regular season in February, pending completion of this rulemaking to establish a new season structure.

A third problem results from competition within the nontrawl fishery, between fishermen using pot and longline gear. Approximately 21 pot vessels and 88 longline vessels operated in the limited entry sablefish fishery in 1994. The proportion of pot landings in the nontrawl sablefish fishery has varied widely in the last 12 years, from over 80 percent in 1983 to only 21 percent in 1992, and back up to about 40 percent in 1994. Increased production by the small pot fleet in recent years has been

caused at least in part by the way the current 72-hour closure before the regular season operates. The preseason closure affects the competing pot and longline operations in the following ways:

1. *Grounds preemption.* The current regulation at 50 CFR 663.23(b)(2)(ii) (temporarily suspended) prohibits taking and retaining, possessing, or landing sablefish during the 72-hour period before the start of the regular season, but does not prohibit leaving gear in the water. Most pot vessels cannot carry all their gear on board at one time without increasing safety risks. Consequently, pots often are stored unbaited in the water for long periods of time to avoid the cost and lost fishing time from making multiple trips to the fishing grounds to deploy gear. When the 72-hour closure was first recommended, the Council felt it was unreasonable to require pot fishermen to pull all their gear out of the water. However, this gave pot fishermen a distinct advantage, because longline gear cannot be set and left for several days without risking extreme tangling. This allowed pot fishermen to preempt the best grounds before longline gear could be deployed.

2. *"Fair Start."* A second issue is the different ability of the two gear types to start fishing before the beginning of the regular season. Baited pots can catch and hold live sablefish until the 72-hour closure has passed. This is legal under the current regulation as long as the pot has not been pulled and the fish retained. Hook-and-line gear, however, cannot be set much in advance of the regular season because sablefish caught with this gear are quickly attacked and destroyed by marine scavengers such as sand fleas. There is no simple solution without one gear type gaining an advantage over the other. According to the EA/RIR, pot vessels are slower in carrying and setting their gear, but thereafter have the potential to harvest more rapidly than most longline operations off WOC. If pot gear can be set and baited before the start of the regular season, however, the best grounds may be preempted and actual fishing started before longline gear can be deployed. If pot gear cannot be set before the start of the regular season, it may be preempted by longline gear that can be set more quickly.

3. *Enforceability.* In the past, the Council felt there was no point in prohibiting baiting gear during the 72-hour closure because there was inadequate at-sea presence to enforce such a restriction. Enforcement of the closure was further complicated by implementation of the limited entry

program in 1994, which exempted open-access nontrawl gear from the 72-hour closures. Limited entry vessels could circumvent the intent of the regulation by operating with nontrawl gear for which they had no limited entry endorsement (50 CFR 663.33(a)). Furthermore, enforcement agents could not easily discern by aerial surveillance which vessels and gear were open-access and which were limited entry.

The above-described problems prompted the Council to rethink its approach to nontrawl sablefish management. The Council's recommendations to resolve these problems, and rationale to the solutions are summarized below.

Delaying the Regular Season to August 6

The August 6 date was selected for reasons of safety, price of fish, and alternative fishing opportunities. It was selected primarily for the best weather along the coast (see the EA/RIR). Rough weather in late February makes fishing unsafe along much of the coast. The best time of year varies by location. According to the EA/RIR, late summer is the least windy period coastwide, and perhaps provides the safest fishing conditions. Initially the Council recommended August 15, and then shifted it 1 week earlier to avoid the August 1995 Council meeting. The Council did not select the first of the month in order to avoid gear conflicts with the deepwater trawl fishery (for sablefish, Dover sole, and thornyheads), because trawl effort may be greater at the beginning of that fishery's cumulative monthly period. This delay in the regular season would not reduce effort by vessels able to operate in both the Alaska and WOC fisheries. In fact, an August date may increase effort, because vessels previously discouraged by bad winter weather may be able to operate in the summer. Also, in August larger sablefish would be available to the fishery; larger sablefish generally yield a higher price and therefore are more desirable to the fleet. Neither a late February opening of the regular season during the winter spawning period, nor an opening at any other time of year, would have more than a negligible impact on recruitment of sablefish.

August is also the preferred month from the standpoint of maximizing various fishing opportunities off WOC. Sablefish pot vessels may also participate in the Dungeness crab fishery, which usually occurs from December into March, and the shrimp fishery, which generally begins in April off WOC, and continues at a high level through June or July. Hook-and-line

vessels also may participate in salmon fisheries. Salmon fisheries traditionally start in May and peak in June and July; the status of these fisheries in 1995 is not yet known. Albacore fishing, also conducted by hook-and-line vessels, peaks in summer as well, and may coincide with the August regular season. The Pacific halibut fishery, also conducted by hook-and-line vessels, occurs in June/July.

New Season Structure with a "Mop-up" Fishery

Because projecting landings accurately during the regular season will be extremely difficult, particularly if effort increases substantially as expected, the Council recommended that the regular season end when approximately 70 percent of the nontrawl gear allocation has been harvested. The remaining 30 percent would be set aside as a buffer to keep landings from exceeding the nontrawl allocation and the sablefish harvest guideline.

The Council also recommended that about 3 weeks after the end of the regular season, when the amount of the landed catch has been confirmed, the remainder of the nontrawl allocation be released for harvest in a "mop-up" fishery of 1 month or less, with all limited entry vessels subject to the same cumulative trip limit. By applying a cumulative limit, each vessel would have the opportunity to take the same amount and the mop-up fishery would occur at a more orderly and manageable pace. This would make it more likely that the nontrawl allocation would not be exceeded. It also would accommodate those fishermen who prefer to operate at a slower pace without the rush of the "first come, first serve" competition that defines the regular season. Establishing a mop-up fishery is particularly supported by those fishermen who prefer receiving a guaranteed equal share rather than the open competition of the regular season. The reserve could be less than 30 percent of the nontrawl allocation, or the mop-up fishery may not occur at all, if landings during the regular season are higher than expected. Sablefish landings before and after both the regular season and mop-up fishery would be expected to be negligible under the small trip limits recommended by the Council (300 lb or 136 kg per day north of 36°00' N. lat. and 350 lb or 159 kg per day south of 36°00' N. lat.) in 1995 (60 FR 2331, January 9, 1995).

The actual level of the cumulative trip limit during the mop-up fishery would be determined in-season by NMFS, in consultation with the Council's

Groundfish Management Team, primarily by dividing the remainder of the nontrawl allocation by the number of vessels expected to participate. The trip limit and season dates would be announced in the **Federal Register**.

Closed Periods Before and After the Regular Season

The Council and its subcommittees considered a wide range of options (described in the EA/RIR) before recommending the following changes to the closed period before the regular season. In recognition of pot gear's ability to hold live sablefish for the 72-hour period, and the difficulty of enforcing a closure if the open-access fishery deploys its gear during this period, the Council recommended that all groundfish nontrawl gear, limited entry and open-access, be out of the water 72 hours before the start of the regular season. Acknowledging the difficulty and cost of transporting and setting pot gear, the Council also recommended that pot gear could legally be deployed, and baited, 24 hours before the regular season. However, as in past years, no sablefish could be retained, possessed, or landed during the 72-hour closure.

The 1995 annual groundfish management measures establish trip limits for groundfish that are incidentally caught in the open-access fishery by vessels using trawl or pot gear to fish for pink shrimp, or spot and ridgeback prawns. These limits are 1,500 pounds (680 kg) of groundfish per day while fishing for pink shrimp (multiplied by the total number of days in the fishing trip), and 1,000 pounds (454 kg) of groundfish per trip while fishing for spot and ridgeback prawns. The proposed rule would prohibit setting nontrawl gear (sablefish pot gear) that is used to take and retain groundfish during a closed period preceding the beginning of the regular sablefish season. As applied to the pink shrimp and spot and ridgeback prawn fisheries, it would permit pot vessels to set their gear provided that no groundfish is retained or landed during the 72-hour period.

Under the new structure the States of Oregon and Washington are expected to continue the practice of inspecting vessel holds prior to the start of the regular season to prevent stockpiling of fish. The State of California would rely on shore inspections and at-sea boardings to accomplish the same, but would not require a hold inspection of all vessels before the regular season in 1995.

The Council also decided that a closed period is no longer needed at the

end of the regular season. Initially, it was thought that a 72-hour closure at the end of the season would be needed to tally catch data and to facilitate enforcement. However, experience has shown that catch data cannot be verified in only 72 hours, and the closure has not helped enforcement. Therefore, the end of the regular season would be marked by reimposition of small trip limits. The Council confirmed that, as in other groundfish fisheries, a vessel would have to initiate offloading its catch before the effective time of any closure or reduced trip limit.

The Council also recommended that the regular season end at noon rather than midnight, so that enforcement agents can more easily observe vessel activity and so that processing plants need not be open through the night. The Council was silent as to the starting times of the regular and mop-up fisheries, and the ending time of the mop-up fishery. NMFS has decided to propose noon as the effective time for all these events as well, for the same reasons.

Closed periods are probably not needed before the mop-up fishery, because there would be no particular disadvantage to the fleet if a vessel deployed gear before the fishery began. No vessel could land more than the small daily trip limit until the mop-up fishery started, and the amount that could be taken by each vessel during the mop-up fishery would be controlled by the cumulative trip limit. Grounds preemption by pot gear in the mop-up fishery would not be expected to any great extent, because much less gear would be deployed by high-capacity vessels under a cumulative trip limit. In addition, the grounds would become available as vessels complete their limit. The rush to the grounds should be less intense, because each vessel would have about a month to take its equal share.

Biological Impacts

Biological impacts would be expected to be negligible. The sablefish acceptable biological catch (ABC) and harvest guideline would not be affected by this action, except to the extent that catch overages are avoided. Also, a delay of the fishery until August would result in fewer fish being taken to attain the quota, and therefore an increased biomass over time.

Socio-Economic Impacts

The distribution of catch would be expected to shift somewhat from pot to longline landings, because the pot fishermen would get less of a head start on the fishery. Although most of the pot fishery originates in Oregon, Oregon

would not necessarily be hurt by this rule because longline fishermen along the coast, including Oregon, would be expected to benefit from the fair start. NMFS has considered costs to the limited entry and open-access fleets and believes that, while the cost is expected to be greatest for pot vessels, overall costs to the longline and pot fleets would be minimal.

Classification

The Assistant Administrator for Fisheries, NOAA, (AA) has initially determined that this action is consistent with the FMP and the national standards and other provisions of the Magnuson Act.

This proposed rule has been determined to be not significant for the purposes of E.O. 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The socio-economic impacts are discussed above and contained in the EA/RIR. In summary, NMFS has considered costs to the limited entry and open-access fleets and believes that, while the costs are expected to be somewhat greater for pot vessels, overall costs to the longline and pot fleets would be minimal. As a result, a regulatory flexibility analysis was not prepared.

List of Subjects in 50 CFR Part 663

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: February 23, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 663 is proposed to be amended as follows:

PART 663—PACIFIC COAST GROUND FISH FISHERY

1. The authority citation for part 663 continues to read as follows:

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

2. In § 663.23 paragraph (b)(2) is revised to read as follows:

§ 663.23 Catch restrictions.

* * * * *

(b) * * *

(2) *Nontrawl sablefish.* This paragraph (b)(2) applies to vessels using nontrawl gear in the limited entry fishery, except for paragraphs (b)(2)(i) and (v), which

also apply to vessels in the open-access fishery. All times are local times.

(i) *Pre-season closure—Open-access and limited entry fisheries.*

(A) Sablefish taken with nontrawl gear in the limited entry or open access fishery in the EEZ may not be retained or landed from noon August 3 through noon August 6.

(B) All nontrawl gear used to take and retain groundfish must be out of EEZ waters from noon August 3 through noon August 6, except that pot gear used to take and retain groundfish may be deployed and baited in the EEZ after noon on August 5.

(ii) *Regular season—Limited entry fishery.* The regular season for the limited entry nontrawl sablefish fishery begins at 1201 hours on August 6. During the regular season, the limited entry nontrawl sablefish fishery may be subject to trip limits to protect juvenile sablefish. The regular season will end when 70 percent of the limited entry

nontrawl allocation has been or is projected to be taken. The end of the regular season may be announced in the **Federal Register** either before or during the regular season.

(iii) *Mop-up season—Limited entry fishery.* A mop-up season to take the remainder of the limited entry nontrawl allocation will begin about 3 weeks after the end of the regular season, or as soon as practicable thereafter. During the mop-up fishery, cumulative trip limits will be imposed. The length of the mop-up season and amount of the cumulative trip limit, including the time period to which it applies, will be determined by the Regional Director in consultation with the Council or its Groundfish Management Team, and will be based primarily on the amount of fish remaining in the allocation and the number of participants anticipated. The Regional Director may determine that too little of the nontrawl allocation

remains to conduct an orderly or manageable fishery, in which case there will not be a mop-up season.

(iv) The dates that the regular season ends (and trip limits on sablefish of all sizes are resumed) and the mop-up season begins and ends, and the size of the trip limit for the mop-up fishery, will be announced in the **Federal Register**, and may be modified.

(v) Trip and/or frequency limits may be imposed in the limited entry fishery before and after the regular season, and after the mop-up season, under paragraph (c) of this section. Trip and/or size limits to protect juvenile sablefish in the limited entry or open-access fisheries also may be imposed at any time under paragraph (c) of this section. Trip limits may be imposed in the open-access fishery at any time under paragraph (c) of this section.

[FR Doc. 95-5034 Filed 2-28-95; 8:45 am]

BILLING CODE 3510-22-F

Notices

Federal Register

Vol. 60, No. 40

Wednesday, March 1, 1995

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

February 24, 1995.

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

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

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

Revision

- Agricultural Marketing Service Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida—Marketing Order No. 905 Business or other for-profit; Farms; 1099 responses; 195 hours Mark Hessel, (202) 720-3923
- Agricultural Marketing Service Report Forms Under Federal Milk Marketing Order Program (From Milk Handlers and Milk Marketing Cooperatives) DA-24 and DA-25 Business or other for-profit; 28,065 responses; 26,020 hours

William F. Newell, (202) 720-3869.

Larry K. Roberson,*Deputy Departmental Clearance Officer.*

[FR Doc. 95-5032 Filed 2-28-95; 8:45 am]

BILLING CODE 3410-01-M

Office of the Secretary

Types and Quantities of Agricultural Commodities Available for Donation Overseas Under Section 416(b) of the Agricultural Act of 1949, as Amended, in Fiscal Year 1995

AGENCY: Office of the Secretary, USDA.

ACTION: Notice.

SUMMARY: This Notice sets forth the determination that 5,000 metric tons of nonfortified nonfat dry milk is available for donation overseas under section 416(b) of the Agricultural Act of 1949, as amended, during fiscal year 1995.

FOR FURTHER INFORMATION CONTACT: Glenn D. Whiteman, Assistant Deputy Administrator, Export Credits, FAS, USDA, (202) 720-4274.

Determination

I have determined that a total of 5,000 metric tons of nonfortified nonfat dry milk will be available for donation overseas under Section 416(b) of the Agricultural Act of 1949, as amended, during fiscal year 1995.

Done at Washington, DC, this 17th day of February, 1995.

Richard E. Rominger,*Acting Secretary of Agriculture.*

[FR Doc. 95-4901 Filed 2-28-95; 8:45 am]

BILLING CODE 3410-10-M

Forest Service

Environmental Impact Statement, Bohemia Timber Sale, Tongass National Forest, AL

AGENCY: Forest Service, USDA.

ACTION: Revised notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service will issue a supplemental Draft and Final EIS for the Bohemia Timber Sale, hereafter referred to as the 95 Supplement. The 95 Supplement will reroute Road 6031 around LUD II lands; include additional analysis of Unit 541; and identify management objectives for sensitive

species in the Bohemia Project Area. This Notice of Intent (NOI) updates and replaces the March 2, 1992 Notice. The original NOI was published at 55 FR 2123-01 in the 1/22/90 **Federal Register**. The second NOI was published at 57 FR 7363-01 in the 3/2/92 **Federal Register**.

Other than rerouting Road 6031, the proposed action remains the same, to harvest 10-40 million board feet of commercial timber within the Bohemia area and construct the associated road system. The timber would be sold in one or more timber sales beginning in September 1995.

The purpose of this project is to meet the goals of the Forest Plan by providing 10 to 40 million board feet of timber for harvest. Current inventories show that the area could provide this much volume while meeting all existing standards and guidelines for timber harvest and road construction. The Tongass Timber Reform Act directed the Forest Service, through the Secretary of Agriculture, "to the extent consistent with providing for multiple use and sustained use of all renewable forest resources, seek to provide a supply of timber from the Tongass National Forest which (1) Meets the annual market demand for timber and (2) meets the market demand from such forest for each planning cycle." This project is part of a timber management program designed to meet that direction. A recent timber market assessment (Morse, K. 1994) confirms that there is available capacity and strong market demand for this timber volume.

The study area includes Value Comparison Units 424, 441.1, and 442 on Kupreanof Island in southeast Alaska. This area, encompassing approximately 68,000 acres, has been allocated by the Tongass Land Management Plan to Land Use Designations (LUDs) II and IV. LUD II areas are to be managed in a roadless state except for specifically authorized uses. LUD IV areas are to be managed to emphasize primarily commodity or market resources.

The decision to be made is whether to harvest 10-40 million board feet of timber from the Bohemia Study Area, construct the associated road system, and if so, in which locations and under what conditions. This decision will be made by Abigail R. Kimbell, the Stikine Area Forest Supervisor.

EFFECTIVE DATE: Public scoping began in January 1990 and has been ongoing since that time. Interested publics are invited to comment. The comment period on the supplemental Draft EIS will be 45 days from the date the Environmental Protection Agency's notice of availability appears in the **Federal Register**. The supplemental Draft EIS is scheduled for publication in March 1995 and the Final EIS in May 1995.

FOR FURTHER INFORMATION CONTACT: The Bohemia analysis is being conducted by the Petersburg Ranger District, Stikine Area of the Tongass National Forest. Questions and comments can be directed to Dave Helmick, Forest Service, P.O. Box 309, Petersburg, AK 99833, phone (907) 772-3841.

SUPPLEMENTARY INFORMATION: A public scoping letter was sent to all persons who indicated an interest in the project by responding to the Stikine Area Project Schedule, or who otherwise notified the Stikine Area that they were interested in the Bohemia Timber Sale(s).

Alternatives include the no-action alternative and four action alternatives that would harvest from 10 to 35 million board feet of timber from 339 to 1,381 acres and construct 0.4 to 28 miles of specified road.

The following issues were identified in the previous supplement and will be addressed in the 95 Supplement only to the extent that they are affected by the proposed modifications.

1. Water quality, fisheries, and soils.
2. Wildlife and wildlife habitat.
3. Subsistence resources and users.
4. Recreation resources and users.
5. Wilderness area and associated values.
6. Cultural resources.
7. Scenic quality.
8. Timber sale economics.
9. Transportation.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so it is meaningful and alerts an agency to the reviewer's position and contentions (*Vermont Yankee Nuclear Power Corp. v. NRDC*, 435 U.S. 519, 533 [1978]). Also, environmental objections that could have been raised at the Draft EIS stage may be waived or dismissed by the courts if not raised until after completing the Final EIS. (*City of Angoon v. Hodel*, 803 F.2d 1016, 1022

[9th Cir. 1986] and *Wisconsin Heritages, Inc. v. Harris*, 490 F. Supp. 1334, 1338 [E.D. Wis. 1980]). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is helpful if comments refer to specific pages or chapters of the draft environmental impact statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality regulations for implementing the procedural provisions of the National Environmental Policy Act in 40 CFR 1503.3 while addressing these points.

The responsible official for the decision is Abigail R. Kimbell, Forest Supervisor, Stikine Area of the Tongass National Forest, Alaska Region, Petersburg, Alaska.

Dated: February 14, 1995.

Abigail R. Kimbell,

Forest Supervisor.

[FR Doc. 95-4929 Filed 2-28-95; 8:45 am]

BILLING CODE 3410-11-M

Grain Inspection, Packers and Stockyards Administration

Designation for the Indianapolis (IN) Area

AGENCY: Grain Inspection, Packers and Stockyards Administration (GIPSA), USDA.

ACTION: Notice.

SUMMARY: GIPSA announces the designation of Indianapolis Grain Inspection and Weighing Service, Inc. (Indianapolis), to provide official services under the United States Grain Standards Act, as amended (Act).

EFFECTIVE DATE: April 1, 1995.

ADDRESSES: Janet M. Hart, Chief, Review Branch, Compliance Division, GIPSA, USDA, Room 1647 South Building, P.O. Box 96454, Washington, DC 20090-6454.

FOR FURTHER INFORMATION CONTACT: Janet M Hart, telephone 202-720-8525

SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512-1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the October 3, 1994, **Federal Register** (59 FR 45258), GIPSA asked persons interested in providing official services in the geographic area assigned to Indianapolis to submit an application for designation. Applications were due by November 1, 1994. Indianapolis, the only applicant, applied for designation in the entire area they are currently assigned.

GIPSA requested comments on the applicant in the December 2, 1994 **Federal Register** (59 FR 54427). Comments were due by December 30, 1994. GIPSA received no comments by the deadline.

GIPSA evaluated all available information regarding the designation criteria in Section 7(f)(1)(A) of the Act; and according to Section 7(f)(1)(B), determined that Indianapolis is able to provide official services in the geographic area for which they applied. Effective April 1, 1995, and ending March 31, 1998, Indianapolis is designated to provide official inspection services in the geographic area specified in the October 3, 1994, **Federal Register**.

Interested persons may obtain official services by contacting Indianapolis at 317-782-8938.

AUTHORITY: Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: February 15, 1995

Neil E. Porter

Director, Compliance Division

[FR Doc. 95-4884 Filed 2-28-95; 8:45 am]

BILLING CODE 3410-EN-F

Opportunity To Comment on the Applicant for the Enid (OK) Area

AGENCY: Grain Inspection, Packers and Stockyards Administration (GIPSA), USDA.

ACTION: Notice.

SUMMARY: GIPSA requests comments on the applicant for designation to provide official services in the geographic area currently assigned to Enid Grain Inspection Company, Inc. (Enid).

DATES: Comments must be postmarked, or sent by telecopier (FAX) or electronic mail by March 31, 1995.

ADDRESSES: Comments must be submitted in writing to Janet M. Hart, Chief, Review Branch, Compliance Division, GIPSA, USDA, Room 1647

South Building, P.O. Box 96454, Washington, DC 20090-6454. SprintMail users may respond to [A:ATTMAIL,O:USDA,ID:A36JHART]. ATTMAIL and FTS2000MAIL users may respond to !A36JHART. Telecopier (FAX) users may send comments to the automatic telecopier machine at 202-720-1015, attention: Janet M. Hart. All comments received will be made available for public inspection at the above address located at 1400 Independence Avenue, S.W., during regular business hours.

FOR FURTHER INFORMATION CONTACT: Janet M. Hart, telephone 202-720-8525.

SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512-1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the January 3, 1994, **Federal Register** (59 FR 61868), GIPSA asked persons interested in providing official services in the geographic area assigned to Enid to submit an application for designation. Enid, the only applicant, applied for designation to provide official inspection services in the entire area currently assigned to them.

GIPSA is publishing this notice to provide interested persons the opportunity to present comments concerning Enid. Commenters are encouraged to submit reasons and pertinent data for support or objection to the designation of Enid. All comments must be submitted to the Compliance Division at the above address. Comments and other available information will be considered in making a final decision. GIPSA will publish notice of the final decision in the **Federal Register**, and GIPSA will send the applicant written notification of the decision.

AUTHORITY: Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: February 15, 1995

Neil E. Porter

Director, Compliance Division

[FR Doc. 95-4885 Filed 2-28-95; 8:45 am]

BILLING CODE 3410-EN-F

Opportunity for Designation in the Fremont (NE) and Titus (IN) Areas

AGENCY: Grain Inspection, Packers and Stockyards Administration (GIPSA), USDA.

ACTION: Notice.

SUMMARY: The United States Grain Standards Act, as amended (Act),

provides that official agency designations shall end not later than triennially and may be renewed. The designations of Fremont Grain Inspection Department, Inc. (Fremont), and Titus Grain Inspection, Inc. (Titus), will end August 31, 1995, according to the Act, and GIPSA is asking persons interested in providing official services in the specified geographic areas to submit an application for designation.

DATES: Applications must be postmarked or sent by telecopier (FAX) on or before March 31, 1995.

ADDRESSES: Applications must be submitted to Janet M. Hart, Chief, Review Branch, Compliance Division, GIPSA, USDA, Room 1647 South Building, P.O. Box 96454, Washington, DC 20090-6454. Telecopier (FAX) users may send applications to the automatic telecopier machine at 202-720-1015, attention: Janet M. Hart. If an application is submitted by telecopier, GIPSA reserves the right to request an original application. All applications will be made available for public inspection at this address located at 1400 Independence Avenue, S.W., during regular business hours.

FOR FURTHER INFORMATION CONTACT: Janet M. Hart, telephone 202-720-8525.

SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512-1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

Section 7(f)(1) of the Act authorizes GIPSA' Administrator to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services.

GIPSA designated Fremont, main office located in Fremont, Nebraska, and Titus, main office located in West Lafayette, Indiana, to provide official inspection services under the Act on September 1, 1992.

Section 7(g)(1) of the Act provides that designations of official agencies shall end no later than triennially and may be renewed according to the criteria and procedures prescribed in Section 7(f) of the Act. The designations of Fremont and Titus end on August 31, 1995.

The geographic area presently assigned to Fremont, pursuant to Section 7(f)(2) of the Act, in the States of Iowa and Nebraska which will be assigned to the applicant selected for designation is as follows:

Carroll (west of U.S. Route 71); Clay (west of U.S. Route 71); Crawford; Dickinson (west of U.S. Route 71); Harrison (east of State Route 183); O'Brien (north of B24 and east of U.S. Route 59); Osceola (east of U.S. Route 59); and Shelby Counties, Iowa.

In Nebraska:

Bounded on the North by U.S. Route 20 east to the Pierce County line; the eastern Pierce County line; the northern Wayne, Cuming, and Burt County lines east to the Missouri River;

Bounded on the East by the Missouri River south-southeast to State Route 91; State Route 91 west to the Dodge County line; the eastern and southern Dodge County lines west to U.S. Route 77; U.S. Route 77 south to the Saunders County line;

Bounded on the South by the southern Saunders, Butler, and Polk County lines; and

Bounded on the West by the western Polk County line north to the Platte River; the Platte River northeast to the western Platte County line; the western and northern Platte County lines east to U.S. Route 81; U.S. Route 81 north to U.S. Route 20.

The following grain elevators, located outside of the above contiguous geographic area, are part of this geographic area assignment: Farmers Cooperative, and Krumel Grain and Storage, both in Wahoo, Saunders County, Nebraska (located inside Omaha Grain Inspection Service, Inc.'s, area).

Fremont's assigned geographic area does not include the following grain elevators inside Fremont's area which have been and will continue to be serviced by the following official agencies:

1. Hastings Grain Inspection, Inc.; Farmers Cooperative Grain Company, Columbus, Platte County, Nebraska; and
2. Omaha Grain Inspection Service, Inc.; Farmers Coop Business Assn., Rising City, Butler County, Nebraska; and Farmers Coop Business Assn. (2 elevators), Shelby, Polk County, Nebraska.

The geographic area presently assigned to Titus, pursuant to Section 7(f)(2) of the Act, in the State of Indiana which will be assigned to the applicant selected for designation is as follows:

Bounded on the North by the northern Pulaski County line; Bounded on the East by the eastern and southern Pulaski County lines; the eastern White County line; the eastern Carroll County line south to State Route 25; State Route 25 southwest to Tippecanoe County; the eastern Tippecanoe County line;

Bounded on the South by the southern Tippecanoe County line; the

eastern and southern Fountain County lines west to U.S. Route 41; and

Bounded on the West by U.S. Route 41 north to the northern Benton County line; the northern Benton County line east to State Route 55; State Route 55 north to U.S. Route 24; U.S. Route 24 east to the White County line; the western White and Pulaski County lines.

The following grain elevators, located outside of the above contiguous geographic area, are part of this geographic area assignment: Boswell Grain Company, Boswell, Benton County; Dunn Grain, Dunn, Benton County; York Richland Grain Elevator, Inc., Earl Park, Benton County; Raub Grain Company, Raub, Benton County (located inside Champaign-Danville Grain Inspection Departments, Inc.'s, area); and The Andersons, Delphi, Carroll County; Frick Grain, Leiters Ford, Fulton County; and Cargill, Inc., Linden, Montgomery County (located inside Frankfort Grain Inspection, Inc.'s, area).

Titus' assigned geographic area does not include the following grain elevators inside Titus' area which have been and will continue to be serviced by the following official agency: Schneider Inspection Service, Inc.: Central Soya, and Farmers Grain, both in Winamac, Pulaski County.

Interested persons, including Fremont and Titus, are hereby given the opportunity to apply for designation to provide official services in the geographic areas specified above under the provisions of Section 7(f) of the Act and section 800.196(d) of the regulations issued thereunder. Designation in the specified geographic areas is for the period beginning September 1, 1995, and ending no later than August 31, 1998. Persons wishing to apply for designation should contact the Compliance Division at the address listed above for forms and information.

Applications and other available information will be considered in determining which applicant will be designated.

AUTHORITY: Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: February 15, 1995

Neil E. Porter

Director, Compliance Division

[FR Doc. 95-4883 Filed 2-28-95; 8:45 am]

BILLING CODE 3410-EN-F

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 6-95]

Foreign-Trade Zone 98—Birmingham, AL; Application for Subzone, Mercedes-Benz Project, Inc., Plant (Multi-Purpose Vehicles), Tuscaloosa, Alabama

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the City of Birmingham, Alabama, grantee of FTZ 98, requesting special-purpose subzone status for the vehicle manufacturing plant of the Mercedes-Benz Project, Inc. (MBPI) (subsidiary of Daimler-Benz AG, Germany), located in Tuscaloosa County, Alabama. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on February 16, 1995.

The new Mercedes-Benz plant is located at the juncture of Interstate Highway 20/59, Will Walker Road, and U.S. Highway 11, about 10 miles east of the City of Tuscaloosa. The facility (900 acres, 1.67 million sq. ft.), currently under construction, will employ some 1,500 workers to produce up to 80,000 multi-purpose passenger vehicles annually. The application indicates that foreign-sourced parts and materials may represent up to 50 percent of the finished vehicles' material value, including: paint, hydraulic fluids, antifreeze, tires, brake components, mirrors, glass items, items of plastic/rubber, steel tubes/pipes/profiles and wire/cables, articles of aluminum, wiring harnesses, electrical switches, fasteners, steel springs, engines and transmissions (and parts), axles, parts of base metal, pumps, air conditioners, taps/cocks/valves, electric motors, batteries, bearings, lamps, audio equipment, radar detectors, vehicle bodies, fuel tanks, sunroofs, bumpers, electronic gauges, regulators, and instruments (duty rate range: 2.5-13.6%). The finished vehicles would be sold in the U.S. and exported.

Zone procedures would exempt MBPI from Customs duty payments on the foreign items used in production for export. On domestic sales, the company would be able to choose the duty rate that applies to finished passenger vehicles (2.5%) for the foreign material inputs noted above. The application indicates that the savings from zone procedures would help improve the plant's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been appointed examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and three copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is May 1, 1995. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to May 15, 1995).

A copy of the application and the accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce District Office, Medical Forum Building, 7th Floor, 950 22nd Street North, Birmingham, AL 35203.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th Street & Constitution Avenue, NW., Washington, DC 20230.

Dated: February 21, 1995.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 95-5052 Filed 2-28-95; 8:45 am]

BILLING CODE 3510-DS-P

International Trade Administration

[A-403-801]

Fresh and Chilled Atlantic Salmon From Norway; Amended Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of amended final results of antidumping duty administrative review.

SUMMARY: We are amending our final results of the administrative review of the antidumping duty order on fresh and chilled Atlantic salmon (Atlantic salmon) from Norway. The review covers the period October 3, 1990, through May 31, 1992. We are publishing these amended final results in accordance with 19 CFR 353.28(c).

EFFECTIVE DATE: March 1, 1995.

FOR FURTHER INFORMATION CONTACT: Todd Peterson or Thomas Futtner, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W.,

Washington, D.C. 20230; telephone (202) 482-4195 or 482-3814, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 12, 1991, the Department of Commerce (the Department) published the antidumping duty order on Atlantic salmon from Norway (56 FR 14920). The Department published final results of administrative review of the order on July 14, 1993 (58 FR 37912). The review covered one exporter, Skaarfish A/S, and the period October 3, 1990, through March 31, 1992.

In accordance with § 353.28(c), petitioner and respondent submitted allegations of clerical errors. We were unable to correct these errors and publish amended final results, however, because the petitioner filed a summons with the Court of International Trade (CIT) before we could correct these errors. Subsequently, the CIT granted the Department leave to correct these clerical errors.

Scope of the Review

The merchandise covered by this review is fresh and chilled Atlantic salmon. It encompasses the species of Atlantic salmon (*Salmo salar*) marketed as specified herein; the subject merchandise excludes all other species of salmon: Danube salmon; Chinook (also called "king" or "quinnat"); Coho (silver); Sockeye ("redfish" or "blueback"); Humpback (pink); and Chum (dog). Atlantic salmon is whole or nearly whole fish, typically (but not necessarily) marketed gutted, bled, and cleaned, with the head on. The subject merchandise is typically packed in fresh water ice (chilled). Excluded from the subject merchandise are fillets, steaks, and other cuts of Atlantic salmon. Also excluded are frozen, canned, smoked or otherwise processed Atlantic salmon. Fresh and chilled Atlantic salmon is currently provided for under Harmonized Tariff Schedule (HTS) subheading 0302.12.00.02.09. The HTS item number is provided for convenience and Customs purposes. The written description remains dispositive.

Amendment of Final Results

We have corrected three ministerial errors in Skaarfish's margin calculation for the period October 3, 1990, through March 31, 1992, as follows:

1. Petitioner argues that the Department erred in allocating general depreciation expenses to processing of Atlantic salmon on the basis of square meters. Furthermore, petitioner contends that the remaining amount for

general depreciation which was not allocated to processing of Atlantic salmon was unintentionally not included in the pool of general and administrative expenses.

The Department agrees with the petitioner in part. In its final results of review, the Department allocated depreciation expenses associated with production on the basis of the relative costs incurred for the various production lines. General depreciation was allocated on the basis of square meters. However, the Department erred in not including in the pool of general and administrative expenses those general depreciation expenses not allocated to production. This has been corrected for the amended final results review.

2. Petitioner contends that the Department erred by adding warranty expenses to net U.S. price in its computer program.

The Department agrees that warranty expenses should be subtracted from the net U.S. price, and has corrected its computer program for the amended final results of review.

3. Respondent contends that the Department erred by using a two-digit U.S. dollar/Norwegian kroner exchange rate rather than the six-digit rates used in the preliminary results.

The Department agrees that the six-digit dollar/kroner rate should be used, and has corrected its computer program for the amended final results of review.

Final Results of Review

Based on the corrections of the ministerial errors, the Department has amended our final results of review. The following margin exists for the period October 3, 1990, through March 31, 1992.

Skaarfish A/S; 2.15%

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between U.S. price and foreign market value may vary from the percentage stated above. The Department will issue appraisal instructions concerning all respondents directly to the U.S. Customs Service.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This amendment of final results of review and notice are in accordance with section 751(f) of the Tariff Act (19 U.S.C. 1673(d)) and 19 CFR 353.28(c).

Dated: February 22, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95-5053 Filed 2-28-95; 8:45 am]

BILLING CODE 3510-DS-M

Intent To Revoke Antidumping Duty Orders and Findings and To Terminate Suspended Investigations

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of intent to revoke antidumping duty orders and findings and to terminate suspended investigations.

SUMMARY: The Department of Commerce (the Department) is notifying the public of its intent to revoke the antidumping duty orders and findings and to terminate the suspended investigations listed below. Domestic interested parties who object to these revocations and terminations must submit their comments in writing no later than the last day of March 1995.

EFFECTIVE DATE: March 1, 1995.

FOR FURTHER INFORMATION CONTACT: Michael Panfeld or the analyst listed under Antidumping Proceeding at: Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230, telephone (202) 482-4737.

SUPPLEMENTARY INFORMATION:

Background

The Department may revoke an antidumping duty order or finding or terminate a suspended investigation if the Secretary of Commerce concludes that it is no longer of interest to interested parties. Accordingly, as required by § 353.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke the following antidumping duty orders and findings and to terminate the suspended investigations for which the Department has not received a request to conduct an administrative review for the most recent four consecutive annual anniversary months:

Antidumping Proceeding

Australia

Canned Bartlett Pears, A-602-039, 38 FR 7566, March 23, 1973, Contact:

Mathew Rosenbaum at (202) 482-4377

Chile

Standard Carnations, A-337-602, 52 FR 8939, March 20, 1987, Contact: Joe Fargo at (202) 482-5345

France

Brass Sheet & Strip, A-427-602, 52 FR 6995, March 6, 1987, Contact: Chip Hayes at (202) 482-5047

Italy

Brass Fire Protection Equipment, A-475-401, 50 FR 8354, March 1, 1985 Contact: Leon McNeill at (202) 482-4236

The People's Republic of China

Chloropicrin, A-570-002, 49 FR 10691, March 22, 1984, Contact: Andrea Chu at (202) 482-4733

If no interested party requests an administrative review in accordance with the Department's notice of opportunity to request administrative review, and no domestic interested party objects to the Department's intent to revoke or terminate pursuant to this notice, we shall conclude that the antidumping duty orders, findings, and suspended investigations are no longer of interest to interested parties and shall proceed with the revocation or termination.

Opportunity to Object

Domestic interested parties, as defined in § 353.2(k) (3), (4), (5), and (6) of the Department's regulations, may object to the Department's intent to revoke these antidumping duty orders and findings or to terminate the suspended investigations by the last day of March 1995. Any submission to the Department must contain the name and case number of the proceeding and a statement that explains how the objecting party qualifies as a domestic interested party under § 353.2(k) (3), (4), (5), and (6) of the Department's regulations.

Seven copies of such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room B-099, U.S. Department of Commerce, Washington, DC 20230. You must also include the pertinent certification(s) in accordance with § 353.31(g) and § 353.31(i) of the Department's regulations. In addition, the Department requests that a copy of the objection be sent to Michael F. Panfeld in Room 4203. This notice is in accordance with 19 CFR 353.25(d)(4)(i).

Dated: February 15, 1995.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.
[FR Doc. 95-5054 Filed 2-28-95; 8:45 am]

BILLING CODE 3510-DS-P

[C-614-503]

Lamb Meat From New Zealand; Preliminary Results of Countervailing Duty Administrative Review and Intent To Revoke the Countervailing Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of countervailing duty administrative review and intent to revoke countervailing duty order.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the countervailing duty order on lamb meat from New Zealand for the period April 1, 1992 through March 31, 1993. We preliminarily determine the total subsidy to be 0.0013 percent *ad valorem* for all firms for the review period. In accordance with 19 CFR 355.7, any rate less than 0.50 percent *ad valorem* is *de minimis*.

In addition, we preliminarily determine that the Government of New Zealand (GONZ) has met the requirements for revocation of the countervailing duty order, including undergoing administrative review for three consecutive years during which the Department has determined that there has been no net subsidy on lamb meat and all subsidies on lamb meat have been abolished. If these preliminary results are sustained in the final results of this review and the Department is satisfied that the GONZ is not likely to reinstate or substitute other subsidy programs on lamb meat, we will revoke the countervailing duty order pursuant to 19 CFR 355.25(a)(1). We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: March 1, 1995.

FOR FURTHER INFORMATION CONTACT:

Gayle Longest or Kelly Parkhill, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone: (202) 482-2786.

SUPPLEMENTARY INFORMATION:

Background

On September 7, 1993, the Department published a notice of "Opportunity to Request Administrative Review" (58 FR 47116) for the countervailing duty order on lamb meat from New Zealand (50 FR 37708; September 17, 1985). On September 30, 1993, we received a request for review from the New Zealand Meat Producers

Board. The GONZ also requested revocation of the countervailing duty order on lamb meat from New Zealand pursuant to 19 CFR 355.25(b) and certified that all countervailable programs for lamb meat had been eliminated and that it will not reinstate those countervailable programs or substitute other countervailable programs. We initiated the review, covering the period April 1, 1992 through March 31, 1993, on October 18, 1993 (58 FR 53710). The Department is conducting this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act). The review period is April 1, 1992, through March 31, 1993. The review involves nine companies and five programs.

Revocation of the Order

After carefully examining the September 30, 1993, request for revocation of the order, including the certification, the Department determined that certain modifications with respect to the revocation request were necessary. On May 12, 1994, the GONZ resubmitted its certification that met the minimum threshold requirements to be considered for revocation under 19 CFR 355.25(b).

According to 19 CFR 355.25(b), a government meets the minimum threshold requirement for revocation of an order if, in requesting the third consecutive administrative review of the order, the government submits a certification that the government has abolished all subsidy programs for the subject merchandise for a period of three consecutive years, and that the government will not reinstate the abolished programs or substitute other countervailable programs. Under 19 CFR 355.25(a)(1)(i), the Department must have also found that there was no net subsidy for lamb meat in the two consecutive administrative reviews prior to the year in which the government requests revocation, and in the third consecutive administrative review, the Department must also determine that there is no net subsidy. If the foregoing threshold requirements are met, and the Department determines in the review during which revocation has been requested that the GONZ has eliminated all subsidies on lamb meat for the third consecutive year, and is not likely to substitute or replace formerly countervailable programs with new subsidies, then the Department will revoke the order.

With respect to the countervailing duty order on lamb meat, the GONZ met the minimum threshold requirements for consideration of the order for revocation. The Department verified

that all programs that were determined to be countervailable in past administrative reviews of the order have been terminated. The Department has reviewed these programs in three consecutive administrative reviews of this order (including this review). In each of the past two reviews, the Department determined that all countervailable programs have been eliminated and there was no net subsidy on lamb meat. In this review, we preliminarily determine that all countervailable programs on lamb meat have been terminated and have not been replaced with other countervailable programs. We also preliminarily determine that it is not likely that in the future the GONZ will reinstate for lamb meat those programs or substitute other countervailable programs. In addition, we preliminarily determine that the net subsidy during the review period was *de minimis*. Therefore, if the final results of this review remain unchanged from these preliminary results, the Department intends to revoke the order pursuant to 19 CFR 355.25(a)(1).

Scope of Review

Imports covered by this review are shipments of lamb meat, other than prepared, preserved or processed, from New Zealand. This merchandise is currently classifiable under item numbers 0204.10.0000, 0204.22.2000, 0204.23.2000, 0204.30.0000, 0204.42.2000, and 0204.43.2000 of the Harmonized Tariff Schedule (HTS). The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

Verification

As required under 19 CFR 355.36(a)(ii) of the Department's regulations, we verified the elimination of programs that had been found countervailable in past administrative reviews and examined the countervailability of other programs that may have replaced these programs. We also selected several companies for verification to ensure that there were no net subsidies and that no residual benefits were being provided to lamb meat producers under the terminated programs.

Analysis of Programs

I. Program Preliminarily Determined to Confer Subsidies

(A) Livestock Incentive Scheme

The Livestock Incentive Scheme (LIS) was introduced in 1976 in order to encourage farmers to increase permanently their number of livestock.

Under the scheme, a farmer engaged in a stock increase program, for a minimum of one and a maximum of three years, could opt for one of two incentives: (1) An interest-free suspensory loan of NZ\$12 for each additional stock unit carried; or (2) a deduction of NZ\$24 from taxable income for each additional stock unit carried. If the livestock increase was met, farmers who elected to take out loans wrote the loans off as tax-free grants. For farmers electing the tax option, the provisional tax deduction could be applied toward tax liability in any of the three years after completion of the development program. Applications to participate in the LIS program were accepted until March 31, 1982. No new loans have been given under this program since 1983, and no tax credits have been authorized since the 1983/84 government fiscal year. The last loan was forgiven in 1988; these forgiven loans are treated by the Department as grants. During the 1991/92 government fiscal year (the review period), we verified that there were no outstanding loans that had not been converted to grants and no tax credits remaining to be claimed by lamb producers.

The Department has previously found this program to be countervailable because benefits under this program are available only to farmers with livestock herds, and, as such, are limited to a specific enterprise on industry, or group of enterprises or industries (See Preliminary Affirmative Countervailing Duty Determination; Lamb Meat From New Zealand (50 FR 28236, June 25, 1985 and Final Affirmative Countervailing Duty Determination and Countervailing Duty Order; Lamb Meat From New Zealand (50 FR 37708, September 17, 1985)). No new information or evidence of changed circumstances has been submitted to warrant reconsideration of this determination.

To calculate the benefit, we treated the loan amounts forgiven in prior years as grants and allocated those amounts over five years, the average useful life of breeding stock. This methodology is described in § 355.49(g) of Countervailing Duties; Notice of Proposed Rulemaking and Request for Public Comments (51 FR 23366, 23385; May 31, 1989). Because the 1988 grant under this program was allocated over five years, we find that a benefit was conferred during the review period; however, this is the last year of the five-year benefit stream and no further benefits will be provided under these forgiven LIS loans. The discount rate chosen was the average interest rate on

overdrafts during the year in which the loans were forgiven.

The methodology and discount rate are the same used in previous administrative reviews (see e.g. Lamb Meat from New Zealand; Preliminary Results of Countervailing Duty Administrative Review (56 FR 27243; June 13, 1991) and Lamb Meat from New Zealand; Final Results of Countervailing Duty Administrative Review (56 FR 38423; August 13, 1991). We added the value of the benefits from the grants and multiplied the results by a factor determined to represent the value of lamb meat as a percentage of the total value of all livestock production. We then divided that result by the total value of lamb meat production during the review period. On this basis, we preliminarily determine the benefit from this program to be 0.0013 percent *ad valorem* for all firms.

II. Programs Preliminarily Determined Not To Confer Subsidies

(A) Regional Development Suspensory Loan Scheme (RDSL)

The GONZ established the Regional Development Assistance Program to encourage utilization of resources in priority regions of New Zealand. Regions designated by the government as non-priority did not qualify for regional development assistance. The RDSL program, one of a variety of regional development programs administered by the Development Finance Corporation (DFC), provided interest-free loans which were later converted to grants if development objectives are met.

The Department previously found this program to be countervailable because it provided government-funded financing to specific regions in New Zealand on terms inconsistent with commercial considerations (See Final Affirmative Countervailing Duty Determination and Countervailing Duty Order; Lamb Meat from New Zealand (50 FR 37708, September 17, 1985)). The RDSL was terminated on April 21, 1986, by the GONZ and the Regional Development Investigation Grants Scheme (RDIGS) was established as its replacement (See Verification Report on Lamb Meat from New Zealand (Public Version) dated April 13, 1988).

In 1988, the Ministry of Commerce (MOC) became the administrator of the RDIGS, and the name of the program was changed to the Business Development Investigation Grant Scheme (BDIGS). Unlike its predecessor, the RDSL, under BDIGS, all New Zealand taxpayers from any region are

eligible to apply for this program. The criteria for eligible projects under the program are: (1) The project must be a lawful activity, and (2) the activity must be new to the region in that its technical feasibility and/or commercial viability has yet to be established in the region.

The BDIGS assists applicants in assessing the feasibility of a new activity by providing grants to cover expenses such as accountant fees, Ministry of Agriculture and Fisheries (MAF) soil studies, pilot plant costs, marketing consultant fees, and travel costs of visiting a similar operation in another country. These grants may cover up to 50 percent of the costs related to the project feasibility studies. We verified that as of June 1989, there are no regional distinctions made by this program or the government with respect to eligibility for these grants.

Although the lamb meat industry is not a new or unproven activity in any region in New Zealand, the introduction of an advanced technology to the lamb industry could be funded through this scheme. At verification, we examined the use of BDIGS and found that no producers or exporters of lamb meat used the program at any time between early 1991 to June 1994. We found that the program was available to all sectors of the economy and all regions within New Zealand. During the review period, we verified that this program was used in a wide variety of different economic sectors for the development of such projects as tree surgery products, a holiday home exchange program, a plastic bag holder, Mediterranean bread, and an intelligent radio modem and that these projects were conducted across all regions in New Zealand (See Verification of the Countervailing Duty Order on Lamb Meat from New Zealand (Public Version) dated December 13, 1994). Therefore, because this program is not limited to a specific enterprise or industry, or group of enterprises or to companies in specific regions, we find that it is not countervailable.

(B) Expert Assistance Grant Scheme (EAGS)

The EAGS is a program established in 1992 by the MOC to assist small businesses, those with 10 employees or less, in their efforts to become more competitive. Under the EAGS program, grants are provided to small firms in any industry throughout New Zealand. Grants are provided to firms that are hiring "experts" to help improve quality and provide expertise that is not available within the firm.

At verification, we examined the EAGS and found that no producers or exporters of lamb meat used the

program at any time between early 1991 to June 1994. We found that the program was available to all sectors of the economy and all regions within New Zealand. During the review period, we verified that this program was used in a wide variety of different economic sectors of the economy including foundries, data systems, and engineering projects and that companies using EAGS were located across all regions of New Zealand (See Verification of the Countervailing Duty Order on Lamb Meat from New Zealand (Public Version) dated December 13, 1994). Therefore, because this program is not limited to a specific enterprise or industry, or group of enterprises or to companies in specific regions, we find that it is not countervailable.

III. Programs Preliminarily Determined To Be Terminated

(A) The Export Market Development Taxation Incentive (EMDTI)

Under the EMDTI, established in the 1979 Amendment to the Income Tax Act of 1976, exporters have received tax credits for a certain percentage of their export market development expenditures. Qualifying expenditures included those incurred principally for seeking and developing new markets, retaining existing markets and obtaining market information. An exporter who took advantage of this tax credit could not deduct the qualifying expenditures as ordinary business expenses in calculating taxable income. Because the program was contingent upon exportation, the Department previously found this program to confer a countervailable grant or subsidy (See Lamb Meat From New Zealand; Preliminary Results of Countervailing Duty Administrative Review (56 FR 27243; June 13, 1991) and Lamb Meat From New Zealand; Final Results of Countervailing Duty Administrative Review (56 FR 38423; August 13, 1991).

Effective with the government fiscal year beginning April 1, 1990, the GONZ eliminated the EMDTI tax credit, and all formerly eligible expenditures are subject to the rules for ordinary business expenses in calculating taxable income. Because certain corporate fiscal years do not correspond with the GONZ's fiscal year, some residual benefits were still possible. However, according to the questionnaire response, no exporters of the subject merchandise claimed benefits under this program on their tax return during the review period. Moreover, at verification, we saw no evidence that EMDTI tax credits were given or that they existed during the review period. Furthermore, we verified

that there can be no residual benefits after our review period. Accordingly, we preliminarily determine that this program has been terminated and that there are no residual benefits to lamb meat producers or exporters.

(B) Export Suspensory Loan Scheme (ESLS)

The ESLS administered by the Department of Trade & Industry and the DFC, was established in the 1973 budget and modified by Cabinet decision in 1978. The purpose of the program is to provide loans to assist exporters in purchasing equipment needed to expand their production of export goods. The loans covered up to 40 percent of eligible expenditures and were converted to grants if pre-determined export targets were met. If the export targets were not met, the loans could be partially converted to grants or called in full at the DFC's long-term interest rates. The ESLS terminated on March 31, 1985; we have verified that no new loans under this program were granted after that date.

The Department has previously found this program to be countervailable because benefits under this program are contingent on export performance and the program provided loans that: (1) Could be at rates lower than those available from commercial sources, and (2) could be converted to grants (See Final Affirmative Countervailing Duty Determination and Countervailing Duty Order; Lamb Meat from New Zealand (50 FR 37708, September 17, 1985)).

At verification, we examined this program and found that there were no outstanding ESLS loans during the review period. The final payments on loans under this program were made during the 1990-91 New Zealand Government fiscal year. (See Verification of the Countervailing Duty Order on Lamb Meat from New Zealand (Public Version) dated December 13, 1994.) Furthermore, we saw no evidence that ESLS loans were used by lamb meat exporters during the review period. Accordingly, we preliminarily determine that this program has been terminated and that there are no residual benefits to lamb meat producers or exporters.

(C) Export Programme Grant Scheme (EPGS/Export Programme Suspensory Loan Scheme (EPSLS))

The EPGS was established in the 1979 Budget to encourage marketing research in targeted foreign markets. The grants, amounting to 64 percent of budgeted expenditures, were available for up to three years. In 1982, the grant program was converted to the EPSLS, a

suspensory loan program. Loans covering up to 40 percent of eligible expenditures were available to established exporters who increased their net foreign exchanged earnings through the marketing of specific goods or services in a designated foreign market. If a predetermined sales forecast was accomplished, the suspensory loan was converted into a grant; if the forecast was not met, the exporter repaid the loan with interest.

During our administrative review covering the period April 1, 1986, through March 31, 1987, the Department verified the EPSLS program and found that on May 23, 1985, the GONZ terminated the EPSLS. In addition, the GONZ announced that its commitments made under the program prior to that date would be met. (See Verification Report Concerning Lamb Meat From New Zealand (Public Version) dated April 13, 1988, which has been placed on the public record of this proceeding.) No lamb meat exporters were using this program at the time it was terminated. (See Verification Report Concerning Lamb Meat From New Zealand (Public Version) dated April 13, 1988; Lamb Meat From New Zealand; Preliminary Results of Countervailing Duty Administrative Review, (54 FR 1402; January 13, 1989) and Lamb Meat From New Zealand; Final Results of Countervailing Duty Administrative Review, (54 FR 19590; May 8, 1989).) Further, during this review period, we found no evidence that this program was used by lamb meat exporters. Accordingly, we preliminarily determine that this program has been terminated and that there are no residual benefits to lamb meat producers or exporters.

Preliminary Results of Review

As a result of our review, we preliminarily determine that total subsidy to be 0.0013 percent *ad valorem* for all firms during the period April 1, 1992, through March 31, 1993. In accordance with 19 CFR 355.7, any rate less than 0.50 percent is *de minimis* and will be disregarded.

Therefore, as provided for by section 751(a)(1) of the Act, the Department intends to instruct the Customs Service to liquidate, upon publication of the final results of this review in the **Federal Register**, without regard to countervailing duties, all shipments of the subject merchandise from New Zealand exported by all companies on or after April 1, 1992, and on or before March 31, 1993.

The Department also intends to instruct the Customs Service not to collect cash deposits of estimated

countervailing duties on any shipments of the subject merchandise from New Zealand entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

Parties to the proceeding may request disclosure of the calculation methodology and interested parties may request a hearing not later than 10 days after the date of publication of this notice. Pursuant to 19 CFR 355.38(c), interested parties may submit written arguments in case briefs on these preliminary results within 30 days of the date of publication. Rebuttal briefs, limited to arguments raised in case briefs, may be submitted seven days after the time limit for filing the case brief. Any hearing, if requested, will be held seven days after the scheduled date for submission of rebuttal briefs. Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with 19 CFR 355.38(e).

Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs are due.

The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any case or rebuttal brief or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: February 22, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95-5056 Filed 2-28-95; 8:45 am]

BILLING CODE 3510-DS-P

Intent To Revoke Countervailing Duty Orders and Terminate Suspended Countervailing Duty Investigation

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of intent to revoke countervailing duty orders.

SUMMARY: The Department of Commerce (the Department) is notifying the public of its intent to revoke the countervailing duty orders and terminate the suspended countervailing duty investigation listed below. Domestic interested parties who object to revocation of any of these orders or to termination of the suspended

investigation must submit their comments in writing not later than the last day of March 1995.

EFFECTIVE DATE: March 1, 1995.

FOR FURTHER INFORMATION CONTACT: Brian Albright or Megan Waters, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 482-2786.

SUPPLEMENTARY INFORMATION:

Background

The Department may revoke a countervailing duty order or terminate a suspended countervailing duty investigation if the Secretary of Commerce concludes that it is no longer of interest to interested parties. Accordingly, as required by the Department's regulations (at 19 CFR 355.25(d)(4)), we are notifying the public of our intent to revoke the countervailing duty orders and to terminate the suspended countervailing duty investigation listed below, for which the Department has not received a request to conduct an administrative review for the most recent four consecutive annual anniversary months.

In accordance with § 355.25(d)(4)(iii) of the Department's regulations, if no domestic interested party (as defined in §§ 355.2 (i)(3), (i)(4), (i)(5), and (i)(6) of the regulations) objects to the Department's intent to revoke these orders or terminate this suspended investigation pursuant to this notice, and no interested party (as defined in § 355.2(i) of the regulations) requests an administrative review in accordance with the Department's notice of opportunity to request administrative review, we shall conclude that the countervailing duty orders and suspended countervailing duty investigation are no longer of interest to interested parties and proceed with the revocations. However, if an interested party does request an administrative review in accordance with the Department's notice of opportunity to request administrative review, or a domestic interested party does object to the Department's intent to revoke or terminate pursuant to this notice, the Department will not revoke the order or terminate the suspended investigation.

Countervailing duty orders

Chile	Standard Carnations. (C-337-601)	03/19/87
Iran	Raw Pistachios.	52 FR 8635 03/11/86

Israel	(C-507-501) Oil Country Tubular Goods.	51 FR 8344 03/06/87
New Zealand	(C-508-601) Carbon Steel Wire Rod.	52 FR 6999 03/07/86
Turkey	(C-614-504) Welded Car- bon Steel Pipes and Tubes.	51 FR 7971 03/07/86
Turkey	(C-489-502) Welded Car- bon Steel Line Pipe.	51 FR 7984 03/07/86
France	(C-489-502) Brass Sheet and Strip.	51 FR 7984 03/06/87
Argentina	(C-427-603) Certain Tex- tile Mill Products.	52 FR 6996 03/12/85
Peru	(C-357-404) Apparel	48 FR 9846 03/12/85
Peru	(C-333-402) Certain Tex- tile Mill Products.	48 FR 9871 03/12/85
Sri Lanka	(C-333-402) Certain Tex- tile Mill Products.	48 FR 9871 03/12/85
	(C-542-401)	48 FR 9826
Suspended countervailing duty investigation		
Colombia	Certain Tex- tile Mill Products. (C-301-401)	03/12/85 50 FR 9863

Opportunity to Object

Not later than the last day of March 1995, domestic interested parties may object to the Department's intent to revoke these countervailing duty orders or to terminate this suspended investigation. Any submission objecting to the revocation or termination must contain the name and case number of the order or suspension agreement and a statement that explains how the objecting party qualifies as a domestic interested party under sections 355.2(i)(3), (i)(4), (i)(5), or (i)(6) of the Department's regulations.

A separate objection must be filed for each order or suspension agreement. In instances where two or more countervailing duty orders share the same case number (e.g., C-489-509 includes carbon steel pipes and tubes and carbon steel line pipe, C-333-402 includes both apparel and certain textile mill products), an objection must be submitted for each separate order, as listed above.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration,

Room B-099, U.S. Department of Commerce, 14th Street and Constitution Ave., N.W., Washington, D.C. 20230. This notice is in accordance with 19 CFR 355.25(d)(4)(i).

Dated: February 23, 1995.

Joseph A. Spetrini

Deputy Assistant Secretary for Compliance

[FR Doc. 95-5055 Filed 2-28-95; 8:45 am]

BILLING CODE 3510-DS-P

National Oceanic and Atmospheric Administration

[I.D. 022395B]

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will hold a public meeting via conference call of its Reef Fish Stock Assessment Panel on Wednesday, March 1, 1995, beginning at 10:00 a.m. eastern standard time (EST)/9:00 a.m. central standard time (CST) to review recreational and commercial landings information on red grouper. These data were prepared by NMFS and Council staff, and relate to a draft Regulatory Amendment to the Reef Fish Fishery Management Plan which addresses a change in the size limit for red grouper, and the resulting impacts on the stock and the recreational allocation. A listening phone will be established at NMFS Southeast Regional Office for interested persons to listen to the discussion and participate in the meeting.

ADDRESSES: The listening phone will be located at NMFS Southeast Regional Office, 9721 Executive Center Drive North, St., Petersburg, FL 33702; telephone: (813) 570-5301.

FOR FURTHER INFORMATION CONTACT: Steven M. Atran, Population Dynamics Statistician, at the Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Suite 331, Tampa, FL 33609; telephone: (813) 228-2815.

SUPPLEMENTARY INFORMATION: Additional public testimony on this issue will be received at the Council meeting at the Holiday Inn Downtown - Superdome, 330 Loyola Avenue, New Orleans, LA, on Wednesday, March 15, 1995, beginning at 8:45 a.m. Requests for sign language interpretation or other auxiliary aids should be directed to Julie Krebs at the above address.

Dated: February 23, 1995.

David S. Crestin,

Acting Director, Office of Fisheries

Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95-4940 Filed 2-28-95; 8:45 am]

BILLING CODE 3510-22-F

DEPARTMENT OF EDUCATION

Office of Administrative Law Judges

AGENCY: Department of Education.

ACTION: Notice of intent to compromise a claim.

SUMMARY: The U.S. Department of Education (the Department) intends to compromise a claim against the Washington State Board for Vocational Education (Washington) now pending before the Office of Administrative Law Judges (OALJ). Docket No. 93-42-R. (20 U.S.C. 1234a(j)).

DATES: Interested persons may comment on the proposed action by submitting written data, views, or arguments on or before April 17, 1995.

ADDRESSES: Comments should be addressed to Kathleen Ryan, Office of the General Counsel, U.S. Department of Education, 600 Independence Avenue SW. (Room 5335, FB 10B), Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Kathleen Ryan, Esq., Telephone: (202) 401-8292. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The claim in question arose from an audit of the financial affairs and operations of Washington for the fiscal year ending June 30, 1990. The audit was performed by the Washington State Auditor, to fulfill the requirements of Office of Management and Budget Circular A-128. The audit included the evaluation of the internal control systems, including applicable internal administrative controls, used in administering Federal financial assistance programs.

Among the systems examined were Washington's procedures for reviewing and approving applications from community colleges for funds awarded under section 201 of the Carl D. Perkins Vocational Education Act (Perkins Act), 20 U.S.C. 2331 (1988), for handicapped and disadvantaged vocational education students. Sections 201(c)(1) and (2) of the Perkins Act and the implementing regulations (34 CFR 401.52(a) and

401.53(a)(1)(1990)) provide that funds reserved for the handicapped and disadvantaged may only be used for the Federal share of the costs of providing "supplemental or additional staff, equipment, materials, and services not provided to other individuals in vocational education that are essential for [handicapped and disadvantaged] individuals to participate in vocational education." Under section 201(h)(1) of the Perkins Act (20 U.S.C. 2331(h)(1)) and the implementing regulations (34 CFR 401.58(a)(1)(1990)), these excess costs may include basic skills instruction for handicapped and disadvantaged individuals who are enrolled in vocational education programs.

During the course of the audit, the auditors found that Washington had approved applications from community colleges for unallowable activities under section 201, and that the colleges had improperly charged the costs of these activities to the handicapped and disadvantaged setasides under the Vocational Education Opportunities Program implemented at 34 CFR 401.51-401.58 (1990). The auditors found that the colleges used funds from the setasides to support the costs of services, activities and equipment for handicapped and disadvantaged students not enrolled in vocational education programs, including the provision of basic skills instruction to students not enrolled in vocational education programs. In addition, the auditors found that the colleges used setaside funds to support the costs of activities for students who were not handicapped or disadvantaged.

On March 31, 1993, the U.S. Department of Education's Assistant Secretary for Vocational and Adult Education (Assistant Secretary) issued a program determination letter (PDL) sustaining the auditors' findings and requiring Washington to repay \$135,248 in disallowed costs to the Department.

The State filed a timely request for review of the Assistant Secretary's determination with the OALJ. Thereafter, the Administrative Law Judge assigned to the appeal granted the parties' joint motion for a stay of this proceeding for purposes of mediation.

The Department proposes to compromise the \$135,248 claim for \$50,000. In mediation sessions before the Federal Mediation and Conciliation Service, Washington provided additional information and documentation concerning the numbers of handicapped and disadvantaged vocational education students being served and the types of services, activities and equipment involved.

Washington also submitted documentary evidence concerning the necessity of the services, activities and equipment to the participation of the handicapped and disadvantaged students in vocational education, and the non-availability of these services and activities for non-handicapped and non-disadvantaged vocational students.

Given the amount that would be repaid by Washington under the settlement agreement, the additional documentation submitted during mediation, and the litigation risks and costs of proceeding through the appeal process, the Department has determined that it would not be practical or in the public interest to continue this proceeding. Rather, under the authority provided in 20 U.S.C. 1234a(j)(1), the Department has determined that a compromise of this claim for \$50,000 would be appropriate.

The public is invited to comment on the Department's intent to compromise this claim. Additional information may be obtained by writing to Kathleen Ryan at the address given at the beginning of this notice.

Program Authority: 20 U.S.C. 1234a(j).

Dated: February 22, 1995.

Donald R. Wurtz,
Chief Financial Officer.

[FR Doc. 95-5039 Filed 2-28-95; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF ENERGY

Environmental Management Site Specific Advisory Board, Fernald Site

AGENCY: Department of Energy.

ACTION: Notice of Open Meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site Specific Advisory Board (EM SSAB), Fernald Site.

DATE AND TIME: Saturday, March 11, 1995: 8:30 a.m.-12:30 p.m. (public comment session, 11:45 p.m.-12:00 p.m.).

ADDRESSES: The Joint Information Center, 6025 Dixie Highway, Route 4, Fairfield, Ohio.

FOR FURTHER INFORMATION CONTACT: John S. Applegate, Chair of the Fernald Site, P.O. Box 544, Ross, Ohio 45061, or call the Fernald Site message line (513) 648-6478.

SUPPLEMENTARY INFORMATION: Purpose of the Board: The purpose of the Board is to make recommendations to DOE and

its regulators in the areas of future use, cleanup levels, waste disposition and cleanup priorities at the Fernald site.

Tentative Agenda:

8:30 a.m. Task Force Administration (Call to order Approval of Minutes Chair's Remarks)

8:50 a.m. Review of New Information, Budget Discussion

10:00 a.m. Break

10:15 a.m. Discussion and Draft Resolutions

11:45 p.m. Public Comment

12:00 p.m. Vote on Resolutions

12:15 p.m. Wrap Up

12:30 p.m. Adjourn

A final agenda will be available at the meeting, Saturday, March 11, 1995.

Public Participation: The meeting is open to the public. Written statements may be filed with the Task Force chair either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact the Task Force chair at the address or telephone number listed above. The Designated Federal Official, Kenneth Morgan, Public Affairs Officer, Ohio Field Office, U.S. Department of Energy, is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments. Due to programmatic issues that had to be resolved, the **Federal Register** notice is being published less than fifteen days before the date of the meeting.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4:00 p.m., Monday-Friday, except Federal holidays. Minutes will also be available by writing to John S. Applegate, Chair, the Fernald Site, P.O. Box 544, Ross, Ohio 45061 or by calling the Task Force message line at (513) 648-6478.

Issued at Washington, DC on February 24, 1995.

Rachel Murphy Samuel,

*Acting Deputy Advisory Committee
Management Officer.*

[FR Doc. 95-5063 Filed 2-28-95; 8:45 am]

BILLING CODE 6450-01-P

Environmental Management Site Specific Advisory Board, Hanford Site

AGENCY: Department of Energy.

ACTION: Notice of Open Meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770) notice

is hereby given of the following Advisory Committee meeting:
Environmental Management Site Specific Advisory Board (EM SSAB), Hanford Site.

DATE AND TIME: Thursday, March 2, 1995: 9:00 a.m.–5:30 p.m.

ADDRESSES: Executive Inn-Best Western, 200 Taylor North, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Jon Yerxa, Public Participation Coordinator, Department of Energy, Richland Operations Office, P.O. Box 550, Richland, WA 99352, (509) 376-9628.

SUPPLEMENTARY INFORMATION: Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

March Meeting Topics

The Hanford Advisory Board will receive information on and discuss issues related to: the DOE '96-'97 Budget Concepts, Issues, and Guiding Principles or Priorities and the Proposed Approach to 100 Areas Remediation. The Committee will also receive updates from various Subcommittees, including reports on: the Consortium for Environmental Risk Evaluation (CERE) Process, K Basin and Spent Fuel Update, Tank Safety and Emergency Response, and a report from members attending the National Site Specific Advisory Board Meeting.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Jon Yerxa's office at the address or telephone number listed above. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments. Due to programmatic issues that had to be resolved, the **Federal Register** notice is being published less than fifteen days before the date of the meeting.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available by writing to Jon Yerxa, Department of Energy, Richland Operations Office, P.O. Box 550, Richland, WA 99352, or by calling him at (509)-376-9628.

Issued at Washington, DC on February 24, 1995.

Rachel Murphy Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 95-5064 Filed 2-28-95; 8:45 am]

BILLING CODE 6450-01-P

Environmental Management Site Specific Advisory Board, Nevada Test Site

AGENCY: Department of Energy.

ACTION: Notice of Open Meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site Specific Advisory Board (EM SSAB), Nevada Test Site.

DATES: Wednesday, March 1, 1995: 5:30 p.m.–10:00 p.m.

ADDRESSES: Holiday Inn Crowne Plaza, 4255 South Paradise Road, Las Vegas, Nevada.

FOR FURTHER INFORMATION CONTACT: Don Beck, Public Participation Program Manager, Office of Public Accountability, EM-5, 1000 Independence Avenue, SW Washington, DC 20585, (202) 586-7633.

SUPPLEMENTARY INFORMATION: Purpose of the Committee: The EM SSAB provides input and recommendations to the Department of Energy on Environmental Management strategic decisions that impact future use, risk management, economic development, and budget prioritization activities.

Tentative Agenda:
Wednesday, March 1, 1995
7:00 p.m. Call to Order
Review Agenda
Minutes Acceptance
Financial Report
Correspondence
Reports from Committees, Delegates and Representatives
Unfinished Business
New Business
Evaluation of Board and Environmental Restoration and Waste Management Programs
Announcements
10:00 p.m. Adjournment

If needed, time will be allotted after public comments for old business, new business, items added to the agenda, and administrative details. A final agenda will be available at the meeting Wednesday, March 1, 1995.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals

who wish to make oral statements pertaining to agenda items should contact Don Beck's office at the address or telephone number listed above. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments. Due to programmatic issues that had to be resolved, the **Federal Register** notice is being published less than fifteen days before the date of the meeting.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday-Friday, except Federal holidays.

Issued at Washington, DC on February 24, 1995.

Rachel Murphy Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 95-5065 Filed 2-28-95; 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, Department of Energy.

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. 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 (the DOE component or Federal Energy Regulatory Commission (FERC)); (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 on or before March 31, 1995. 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: Requests for additional information or copies of the forms and instructions should be directed to Jay Casselberry, Office of Statistical Standards, (EI-73), Forrestal Building, U.S. Department of Energy, Washington, D.C. 20585. Mr. Casselberry may be telephoned at (202) 254-5348.

SUPPLEMENTARY INFORMATION: The energy information collection submitted to OMB for review was:

1. Energy Information Administration.
2. EIA-1605 and EIA-1605EZ.
3. N.A.
4. Voluntary Reporting of Greenhouse Gases.
5. New.
6. Annually.
7. Voluntary.
8. Individuals or households; Business or other for-profit, Not-for-profit institutions; Farms; Federal Government; State, Local or Tribal Government.

9. 1,000 respondents.
10. 1 response annually.
11. 18.4 hours per response.
12. 18,400 hours respondent burden.
13. EIA-1605 and EIA-1605EZ are designed to collect voluntarily reported data on greenhouse gas emissions, achieved reductions of these emissions, and carbon fixation. In addition to publishing an annual review of the reports submitted, EIA intends to establish a publicly available data base of information reported. Any U.S. legal

entity that has reduced greenhouse gas emissions, sequestered carbon, or made a commitment to do either of these may submit a report.

Statutory Authority

Sec. 2(a) of the Paperwork Reduction Act of 1980, (Pub. L. No. 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, D.C., February 17, 1995.

Yvonne M. Bishop, Ph.D.

Director Office of Statistical Standards Energy Information Administration.

[FR Doc. 95-5048 Filed 2-28-95; 8:45 am]

BILLING CODE 6450-01-P

Federal Energy Regulatory Commission

[Project No. 11163-000-ME]

Consolidated Hydro Maine, Inc.; Notice of Availability of Draft Environmental Assessment

February 23, 1995.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) Regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for an original license for the South Berwick Hydroelectric Project, located on the Salmon Falls River in the towns of South Berwick, Maine, and Rollinsford, New Hampshire, and has prepared a Draft Environmental Assessment (DEA) for the project. In the DEA, the Commission's staff has analyzed the potential environmental impacts of the existing, unlicensed project and has concluded that approval of the project, with appropriate environmental protection or enhancement measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the DEA are available for review in the Public Reference Branch, Room 3104, of the Commission's offices at 941 North Capitol Street, NE., Washington, DC 20426.

Any comments should be filed within 45 days from the date of this notice and should be addressed to Lois D. Cashell, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Please affix "South Berwick Hydroelectric Project No. 11163" to all comments. For further

information, please contact John Blair at (202) 219-2845.

Lois D. Cashell,

Secretary.

[FR Doc. 95-4949 Filed 2-28-95; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 9951-048]

Notice of Application

February 23, 1995.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. Type of Application: Transfer of License.

b. Project No: 9951-048.

c. Date Filed: February 15, 1995.

d. Applicant: Township of Van Buren, and STS French Landing.

e. Name of Project: French Landing.

f. Location: Huron River, Wayne County, Michigan.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Applicant Contact: M. Curtis Whittaker, Esq., Two Capital Plaza, P.O. Box 1500, Concord, NH 03302-1500, (603) 226-2600.

Mr. Stephen J. Sinclair, STS Hydropower, Ltd., 225 West Wacker Drive, Chicago, IL 60606, (312) 553-2131.

Mr. Michael Long, 46425 Tyler Road, Belleville, MI 48111-1299.

i. FERC Contact: Patricia Massie, (202) 219-2681.

j. Comment Date: March 9, 1995.

k. Description of Transfer: Transfer is from Township of Van Buren, Michigan and STS French Landing, Ltd. to Van Buren and STS Hydropower, Ltd.

1. This notice also consists of the following standard paragraphs: B, C1, and D2.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS",

"RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTESTS", or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's must also be sent to the Applicant's representatives.

Lois D. Cashell,
Secretary.

[FR Doc. 95-4950 Filed 2-28-95; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 11410-001 Utah]

**Soldier Creek Hydro Associates;
Notice of Surrender of Preliminary
Permit**

February 23, 1995.

Take notice that Soldier Creek Hydro Associates, Permittee for the Soldier Creek Project No. 11410, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 11410 was issued October 15, 1993, and would have expired September 30, 1996. The project would have been located on Soldier Creek, in Tooele County, Utah.

The Permittee filed the request on February 15, 1995, and the preliminary permit for Project No. 11410 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR part 4, may be filed on the next business day.

Lois D. Cashell,
Secretary.

[FR Doc. 95-4951 Filed 2-28-95; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-237-015]

**Alabama-Tennessee Natural Gas
Company; Notice of Proposed Change
in FERC Gas Tariff**

February 23, 1995.

Take notice that on February 21, 1995, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee), tendered for filing Eighth Revised Sheet No. 4, as part of its FERC Gas Tariff, Second Revised Volume No. 1, pursuant to the settlement approved by the Commission in its letter order issued on December 30, 1993 in this proceeding. Alabama-Tennessee proposes that the tariff sheet be made effective March 1, 1995.

Alabama-Tennessee has requested such waiver of the Commission's Regulations as may be necessary to accept and approve its filing as proposed.

Alabama-Tennessee states that copies of its filing were served upon the Company's jurisdictional customers and interested public bodies as well as all the parties shown on the Commission's official service list established in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before March 2, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Secretary.

[FR Doc. 95-4943 Filed 2-28-95; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP95-168-000]

**Alabama-Tennessee Natural Gas
Company; Notice of Proposed
Changes in FERC Gas Tariff**

February 23, 1995.

Take notice that on February 21, 1995, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee), filed pursuant to Section 33.2 of the General Terms and Conditions of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheet, with a proposed effective date of April 1, 1995: Sub. Third Revised Sheet No. 4B

According to Alabama-Tennessee, its filing provides for the recovery of a positive balance in its Account No. 191 as a result of certain refunds and credits made by Alabama-Tennessee to its sales customers. Alabama-Tennessee proposes to collect this balance through a direct bill to each affected customer and is seeking authorization to reflect the entire amount due in the bills to be rendered in May, 1995 for services provided in April, 1995.

In the event that the Commission does not accept and approve its filing, Alabama-Tennessee requests that it be permitted to revise its pre-636 purchased gas cost calculations to eliminate completely the effect of retainage on its PGA.

Alabama-Tennessee has requested that the Commission grant such waivers as may be necessary to accept and approve the filing as submitted.

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 Rule 211 or Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before March 2, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to the proceeding must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Secretary.

[FR Doc. 95-4944 Filed 2-28-95; 8:45 am]

BILLING CODE 6717-01-M

**[Docket Nos. ID-2868-000, ER94-1384-002,
ER95-78-000, and ER94-1369-000 (not
consolidated)]**

**Frederic V. Salerno, Morgan Stanley
Capital Group Inc., Mid-American
Resources, Inc., and Public Service
Electric and Gas Company; Extension
of Time**

February 23, 1995.

On February 10, 1995, the Commission issued a Notice of Filing in each of these proceedings as further described below. By this notice, the date for filing motions to intervene or protests is hereby extended to and including March 9, 1995, except for Docket No. ID-2868-000, which is extended to and including March 2, 1995.

1. Frederic V. Salerno

[Docket No. ID-2868-000]

Take notice that on February 3, 1995, Frederic V. Salerno (Applicant), tendered for filing an application under section 305(b) to hold the following positions: Director—Orange and Rockland Utilities, Inc.; Director—The Bear Sterns Companies Inc.

Comment date: March 2, 1995 in accordance with Standard Paragraph E at the end of this notice.

2. Morgan Stanley Capital Group

[Docket No. ER94-1384-002]

Take notice that on January 12, 1995, Morgan Stanley Capital Group Inc. tendered for filing a revised rate schedule in the above-referenced docket.

Comment date: March 9, 1995 in accordance with Standard Paragraph E at the end of this notice.

3. Mid-American Resources, Inc.

[Docket No. ER95-78-000]

Take notice that on January 24, 1995, Mid-American Resources, Inc. tendered for filing supplemental information to its October 27, 1994 filing in the above-referenced docket.

Comment date: March 9, 1995 in accordance with Standard Paragraph E at the end of this notice.

4. Public Service Electric and Gas Company

[Docket No. ER94-1369-000]

Take notice that on February 8, 1995, Public Service Electric and Gas Company tendered for filing an amendment in the above-referenced docket.

Comment date: March 9, 1995 in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph E

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before March 9, 1995. 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. 95-4969 Filed 2-28-95; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP95-167-000]

Indicated Shippers v. Sea Robin Pipeline Company; Notice of Complaint and Request for Initiation of Investigation of Transportation Rates of Sea Robin Pipeline Company

February 23, 1995.

Take notice that on February 16, 1995, Amoco Production Company, Amoco Energy Trading Corporation, Exxon Corporation, OXY USA Inc., Phillips Gas Marketing Company and Phillips Petroleum Company (Indicated Shippers) filed a complaint under Section 5 of the Natural Gas Act (NGA) 15 U.S.C. 717d (1988) and Section 5 of the Outer Continental Shelf Lands Act (OCSLA), 43 U.S.C. 1334 (1988) against Sea Robin Pipeline Company (Sea Robin) alleging that the maximum transportation rates currently being charged by Sea Robin are unjust, unreasonable or otherwise unlawful. The Indicated Shippers further request that the Commission immediately institute an investigation to determine whether Sea Robin's rates are unjust, unreasonable or otherwise unlawful, and to determine just and reasonable rates on a prospective basis.

Sea Robin's currently effective rates are based on the January 5, 1990 settlement in Sea Robin's last general Section 4 rate case in Docket No. RP88-181. This settlement was approved by the Commission on April 18, 1990 (51 FERC ¶ 61,046, reh'g. denied 51 FERC ¶ 61,315 (1990)). Since that time, the Indicated Shippers assert, Sea Robin's throughput has increased by approximately 52% and that in the 1991-1993 time period, Sea Robin's annual return on net plant has averaged approximately 50%. The Indicated Shippers estimate that Sea Robin's just and reasonable maximum rates, if based on current throughput and costs, would be at least 30% less than Sea Robin's currently effective rates.

Based largely on data taken from Sea Robin Form 2 reports, the Indicated Shippers claim that Sea Robin's just and reasonable maximum IT rate should not exceed 5.9¢/MMBtu. Consistent with Commission precedent in United Gas Pipe Line Company and ANR Storage Company, 47 FERC ¶ 61,285 (1989), the Commission is requested to order Sea Robin to file a cost and revenue study

and other schedules in accordance with 18 CFR 154.63(e)(2) and 154.63(f) as well as other documents sufficient to allow interested parties to fully evaluate Sea Robin's current cost-of-service and to permit the establishment of just and reasonable rates.

Any person desiring to be heard or to protest said complaint should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.214, 385.211. All such motions or protests should be filed on or before March 27, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. Answers to this complaint shall be due on or before March 27, 1995.

Lois D. Cashell,*Secretary.*

[FR Doc. 95-4948 Filed 2-28-95; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. MG91-5-002]

Overthrust Pipeline Co.; Notice of Filing

February 23, 1995.

Take notice that on February 14, 1995, Overthrust Pipeline Company (Overthrust) submitted revised standards of conduct under Order Nos. 497 *et seq.*¹ and Order Nos. 566 and 566-A.² Overthrust states that it is

¹ Order No. 497, 53 FR 22139 (June 14, 1988), III FERC Stats. & Regs. ¶ 30,820 (1988); Order No. 497-A, *order on rehearing*, 54 FR 52781 (December 22, 1989), III FERC Stats. & Regs. 30,868 (1989); Order No. 497-B, *order extending sunset date*, 55 FR 53291 (December 28, 1990), III FERC Stats. & Regs. ¶ 30,908 (1990); Order No. 497-C, *order extending sunset date*, 57 FR 9 (January 2, 1992), III FERC Stats. & Regs. ¶ 30,934 (1991), rehearing denied, 57 FR 5815 (February 18, 1992), 58 FERC ¶ 61,139 (1992); *Tenneco Gas v. FERC* (affirmed in part and remanded in part), 969 F.2d 1187 (D.C. Cir. 1992); Order No. 497-D, *order on remand and extending sunset date*, III FERC Stats. & Regs. ¶ 30,958 (December 4, 1992), 57 FR 58978 (December 14, 1992); Order No. 497-E, *order on rehearing and extending sunset date*, 59 FR 243 (January 4, 1994), 65 FERC ¶ 61,381 (December 23, 1993); Order No. 497-F, *order denying rehearing and granting clarification*, 59 FR 15336 (April 1, 1994), 66 FERC ¶ 61,347 (March 24, 1994); and Order No. 497-G, *order extending sunset date*, 59 FR 32884 (June 27, 1994), III FERC Stats. & Regs. ¶ 30,996 (June 17, 1994).

² Standards of Conduct and Reporting Requirements for Transportation and Affiliate

Continued

revising its standards to incorporate the changes required by the Commission's January 20, 1995 Order on Standards of Conduct.³

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 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions to intervene or protest should be filed on or before March 10, 1995. 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. 95-4945 Filed 2-28-95; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP95-166-000]

**Pan-Alberta Gas (U.S.) Inc.
Complainant v. Pacific Gas and
Electric Company and Pacific Gas
Transmission Company Respondents;
Notice of Complaint**

February 23, 1995.

Take notice that on February 16, 1995, Pan-Alberta Gas (U.S.) Inc. (PAG-US), submits for filing a complaint against Pacific Gas and Electric Company (PG&E) and Pacific Gas Transmission Company (PGT) (jointly, Respondents).

PAG-US complains that the terms on which PG&E recently offered to permanently release a "package" of two assignments of FTS-1 capacity on the PGT system (PGT Release Package) are unlawfully discriminatory and anti-competitive.

PAG-US argue that in its PGT Release Package, PG&E offered to permanently release (1) An unspecified quantity of capacity on the PGT System from Kingsgate, British Columbia to Malin, Oregon, and (2) a similarly unspecified quantity of separate, additional capacity

on the system from Stanfield, Oregon¹ to Malin. As a condition of the release, PG&E required that, for each unit of Kingsgate to Malin capacity sought by a bidder, that bidder would have to agree to take 3.5 units of additional Stanfield to Malin capacity.

PAG-US argue that PG&E's mandatory bundling of this unrelated PGT capacity (1) Constitutes an unlawful tying arrangement, (2) amount, in effect, to an unlawful attempt by PG&E to collect a rate in excess of the as billed rate for its Kingsgate to Malin capacity, and (3) violates the requirements of Order No. 636 and PGT's tariff that conditions imposed on capacity releases be reasonable and nondiscriminatory.

PAG-US states that the Commission should (1) Set aside any capacity releases that may actually have been consummated on the discriminatory and anti-competitive terms of PG&E's January PGT Release Package, (2) require that, if PG&E still desires to release Kingsgate to Malin and Stanfield to Mailin capacity, it must do so on an unbundled basis, with neither block being mandatorily tied to the other, and (3) provide any additional relief which is deems appropriate in the circumstances.

Any person desiring to be heard or to protest said complaint should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.214, 385.211. All such motions or protests should be filed on or before March 27, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. Answers to this complaint shall be due on or before March 27, 1995.

Lois D. Cashell,

Secretary.

[FR Doc. 95-4946 Filed 2-28-95; 8:45 am]

BILLING CODE 6717-01-M

Transactions, Order No. 566, 59 FR 32885 (June 27, 1994), III FERC Stats. & Regs. ¶ 30,997 (June 17, 1994); Order No. 566-A, *order on rehearing*, 59 FR 52896 (October 20, 1994), 69 FERC ¶ 61,044 (October 14, 1994); Order No. 566-B, *order on rehearing*, 59 FR 65707 (December 21, 1994); 69 FERC ¶ 61,334 (December 14, 1994); *appeal docketed sub nom. Conoco, Inc. v. FERC*, D.C. Cir. No. 94-1745 (December 13, 1994).

³ 70 FERC ¶ 61,054 (1995).

¹ Stanfield is an intermediary point on the PGT system approximately halfway between Kingsgate and Malin.

[Docket No. MG88-11-003]

Questar Pipeline Company; Notice of Filing

February 23, 1995.

Take notice that on February 14, 1995, Questar Pipeline Company (Questar) submitted revised standards of conduct under Order Nos. 497 *et seq.*¹ and Order Nos. 566 and 566-A.² Questar states that it is revising its standards to incorporate the changes required by the Commission's January 20, 1995 Order on Standards of Conduct.³

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 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions to intervene or protest should be filed on or before March 10, 1995. 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. 95-4947 Filed 2-28-95; 8:45 am]

BILLING CODE 6717-01-M

¹ Order No. 497, 53 FR 22139 (June 14, 1988), III FERC Stats. & Regs. ¶ 30,820 (1988); Order No. 497-A, *order on rehearing*, 54 FR 52781 (December 22, 1989), III FERC Stats. & Regs. 30,868 (1989); Order No. 497-B, *order extending sunset date*, 55 FR 53291 (December 28, 1990), III FERC Stats. & Regs. ¶ 30,908 (1990); Order No. 497-C, *order extending sunset date*, 57 FR 9 (January 2, 1992), III FERC Stats. & Regs. ¶ 30,934 (1991), rehearing denied, 57 FR 5815 (February 18, 1992), 58 FERC ¶ 61,139 (1992); *Tenneco Gas v. FERC* (affirmed in part and remanded in part), 969 F. 2d 1187 (D.C. Cir. 1992); Order No. 497-D, *order on remand and extending sunset date*, III FERC Stats. & Regs. ¶ 30,958 (December 4, 1992), 57 FR 58978 (December 14, 1992); Order No. 497-E, *order on rehearing and extending sunset date*, 59 FR 243 (January 4, 1994), 65 FERC ¶ 61,381 (December 23, 1993); Order No. 497-F, *order denying rehearing and granting clarification*, 59 FR 15336 (April 1, 1994), 66 FERC ¶ 61,347 (March 24, 1994); and Order No. 497-G, *order extending sunset date*, 59 FR 32884 (June 27, 1994), III FERC Stats. & Regs. ¶ 30,996 (June 17, 1994).

² Standards of Conduct and Reporting Requirements for Transportation and Affiliate Transactions, Order No. 566, 59 FR 32885 (June 27, 1994), III FERC Stats. & Regs. ¶ 30,997 (June 17, 1994); Order No. 566-A, *order on rehearing*, 59 FR 52896 (October 20, 1994), 69 FERC ¶ 61,044 (October 14, 1994); Order No. 566-B, *order on rehearing*, 59 FR 65707 (December 21, 1994); 69 FERC ¶ 61,334 (December 14, 1994); *appeal docketed sub nom. Conoco, Inc. v. FERC*, D.C. Cir. No. 94-1745 (December 13, 1994).

³ 70 FERC ¶ 61,054 (1995).

ENVIRONMENTAL PROTECTION AGENCY

[FRL-5161-8]

Agency Information Collection Activities Under OMB Review**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before March 31, 1995.

FOR FURTHER INFORMATION CONTACT:

For further information, or to obtain a copy of this ICR, contact Sandy Farmer at 202-260-2740.

SUPPLEMENTARY INFORMATION:**Office of Air and Radiation**

Title: Application Requirements under EPA's Building Air Quality Alliance (EPA No. 1742.01). This is a request for initial approval of an information collection.

Abstract: This information collection supports Title IV of the 1986 Superfund Amendments and Reauthorization Act (SARA), "The Radon Gas and Indoor Air Quality Research Act." Under this ICR, facilities voluntarily entering the Building Air Quality Alliance program must comply with certain reporting, monitoring and recordkeeping requirements.

Under this ICR, owners or operators of volunteer facilities must apply by submitting to EPA: (1) A Building Partner Statement of Commitment; and (2) a Building Partner Checklist. Upon acceptance, an updated version of the application material must be submitted annually. By submitting the Building Partner Statement of Commitment, the building volunteer attests that s/he will follow the Alliance's guiding principles and abide by other applicable provisions of the program. The Building Partner Checklist specifies in detail a set of areas that volunteers must inspect in their buildings, to properly implement indoor air quality procedures. In addition, Building Partner facilities must maintain records on the following: (1) Employees trained in indoor air quality maintenance; (2) indoor air

quality course curricula; (3) building information/drawings; (4) communication with tenants/occupants concerning indoor air quality; and (5) building operation procedures.

An estimated 100 facilities will voluntarily enter this program in the first year, 200 in the second year and 275 in the third, with an expected annual renewal rate of 90%. All volunteer facilities must maintain records related to compliance for the entire time that they are participants in this program.

Burden Statement: The annual estimated weighted public burden per facility for this ICR is 6 hours for reporting and 80 hours for recordkeeping. This estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete and review the collection of information.

Estimated No. of Recordkeepers: 100-540

Estimated Total Annual Burden on Recordkeepers: 8,000-37,451 hours.
Frequency of Collection: Upon initial application. If accepted, annually.

Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to: Ms. Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (2136), 401 M Street, SW., Washington, DC 20460 and

Mr. Chris Wolz, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street NW., Washington, DC 20503.

Dated: February 23, 1995.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 95-5025 Filed 2-28-95; 8:45 am]

BILLING CODE 6560-50-M

[FRL-5156-7]

Public Water System Supervision Program Revision for the State of Florida

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given that the State of Florida is revising its approved State Public Water System Supervision Primacy Program. Florida has adopted drinking water regulations for Volatile Organic Chemicals, Synthetic Organic Chemicals and Inorganic Chemicals (known as the

Phase V Rule of the National Primary Drinking Water Regulations). EPA has determined that the State program revisions are no less stringent than the corresponding federal regulations. Therefore, EPA has tentatively decided to approve the State program revisions.

All interested parties may request a public hearing. A request for a public hearing must be submitted March 31, 1995 to the Regional Administrator at the address shown below. Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator. However, if a substantial request for a public hearing is made March 31, 1995, a public hearing will be held. If no timely and appropriate request for a hearing is received and the Regional Administrator does not elect to hold a hearing on his/her own motion, this determination shall become final and effective thirty (30) days after publication in the **Federal Register**.

Any request for a public hearing shall include the following: (1) The name, address, and telephone number of the individual, organization, or other entity requesting a hearing; (2) a brief statement of the requesting person's interest in the Regional Administrator's determination and a brief statement of the information that the requesting person intends to submit at such hearing; and (3) the signature of the individual making the request, or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

ADDRESSES: All documents relating to this determination are available for inspection between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, at the following offices:

Department of Environmental Protection, Drinking Water Program, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.

Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365.

FOR FURTHER INFORMATION CONTACT:

Philip H. Vorsatz, EPA, Region IV, Drinking Water Section at the Atlanta address given above or telephone (404) 347-2913.

(Sec. 1413 of the Safe Drinking Water Act, as amended (1986), and 40 CFR parts 141 and 142 of the National Primary Drinking Water Regulations)

Dated: February 2, 1995.

Patrick M. Tobin,

Acting Regional Administrator, EPA, Region IV.

[FR Doc. 95-4466 Filed 2-28-95; 8:45 am]

BILLING CODE 6560-50-P

[FRL-5157-3]

Public Water System Supervision Program Revision for the State of South Carolina**AGENCY:** Environmental Protection Agency.**ACTION:** Notice.

SUMMARY: Notice is hereby given that the State of South Carolina is revising its approved State Public Water System Supervision Primacy Program. South Carolina has adopted drinking water regulations for Volatile Organic Chemicals, Synthetic Organic Chemicals and Inorganic Chemicals (known as the Phase V Rule of the National Primary Drinking Water Regulations). EPA has determined that the State program revisions are no less stringent than the corresponding federal regulations. Therefore, EPA has tentatively decided to approve the State program revisions.

All interested parties may request a public hearing. A request for a public hearing must be submitted March 31, 1995 to the Regional Administrator at the address shown below. Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator. However, if a substantial request for a public hearing is made March 31, 1995, a public hearing will be held. If no timely and appropriate request for a hearing is received and the Regional Administrator does not elect to hold a hearing on his/her own motion, this determination shall become final and effective thirty (30) days after publication in the **Federal Register**.

Any request for a public hearing shall include the following: (1) The name, address, and telephone number of the individual, organization, or other entity requesting a hearing; (2) a brief statement of the requesting person's interest in the Regional Administrator's determination and a brief statement of the information that the requesting person intends to submit at such hearing; and (3) the signature of the individual making the request, or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

ADDRESSES: All documents relating to this determination are available for inspection between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, at the following offices:

Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201.

Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365.

FOR FURTHER INFORMATION CONTACT: Philip H. Vorsatz, EPA, Region IV, Drinking Water Section at the Atlanta address given above or telephone (404) 347-2913.

(Sec. 1413 of the Safe Drinking Water Act, as amended (1986), and 40 CFR parts 141 and 142 of the National Primary Drinking Water Regulations)

Dated: February 2, 1995.

Patrick M. Tobin,

Acting Regional Administrator, EPA, Region IV.

[FR Doc. 95-4467 Filed 2-28-95; 8:45 am]

BILLING CODE 6560-50-P

[FRL-S162-5]

Proposed Settlement Under Section 122(h) of the Comprehensive Environmental Response, Compensation and Liability Act, as Amended, 42 U.S.C. 9622(h), Arkla Hunnewell Compressor Station, Hunnewell, Sumner County, KS

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed settlement and request for public comment.

SUMMARY: In accordance with Section 122(i) of the Comprehensive Environmental Response, Compensation and Liability Act, as amended by the Superfund Amendment and Reauthorization Act ("CERCLA"), notice is hereby given of a proposed settlement to resolve a claim against NorAm Energy Corporation, formerly Arkla, Inc. The proposed settlement concerns the federal government's past response costs at the Arkla Hunnewell Compressor Station Site, Hunnewell, Sumner County, Kansas. The settlement requires the settling party, NorAm Energy Corporation, to pay \$130,938.25 to the Hazardous Substance Superfund.

For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the settlement. The Agency's response to any comments received will be available for public inspection at the U.S. EPA Region VII office at 726 Minnesota Avenue, Kansas City, Kansas 66101. A copy of the proposed settlement may be obtained from Venessa Cobbs, Regional Hearing Clerk, EPA Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101, telephone number (913) 551-7630. Comments should reference the "Arkla Hunnewell Compressor Station Site" and EPA Docket No. VII-95-F-0006 and should

be addressed to Ms. Cobbs at the above address.

FOR FURTHER INFORMATION CONTACT:

Jonathan Kahn, Assistant Regional Counsel, EPA Region VII, Office of Regional Counsel, 726 Minnesota Avenue, Kansas City, Kansas 66101, telephone number (913) 551-7252.

Dated: February 1, 1995.

Dennis Grams,

Regional Administrator.

[FR Doc. 95-4894 Filed 2-28-95; 8:45 am]

BILLING CODE 6560-50-M

[FRL-5159-8]

Invitation for Proposals; Environmental Education and Training Program

I. Important Application Information

Eligible applicants: U.S. institutions of higher education or not-for-profit institutions or a consortia of such institutions.

Funding: One cooperative agreement of approximately \$1.8 million per year for a three year project period (for a total of approximately \$5.4 million), subject to performance and the availability of appropriations

Purpose: To operate the Environmental Education and Training Program

Application deadline: Applications (one original and four copies) must be POSTMARKED no later than Friday, April 28, 1995 and mailed to U.S. EPA, Environmental Education Division (1707), Environmental Education and Training Program, 401 M Street S.W., Washington, D.C. 20460

Award made: By September 29, 1995

II. Purpose of Notice

A. What is the purpose of this notice?

The purpose of this notice is to invite eligible institutions to submit proposals to operate the Environmental Education and Training Program as authorized under section 5 of the National Environmental Education Act of 1990 (the Act) (Pub.L. 101-619).

B. What is the relationship between the Environmental Education and Training Program and the Environmental Education Grants Program?

This notice applies only to the Environmental Education and Training Program as authorized under section 5 of the Act. This notice does not apply to the Environmental Education Grants Program authorized under section 6 of the Act in which EPA funds approximately 250 individual projects annually. To obtain information on the

grants program, please write to George Walker, U.S. EPA, Environmental Education Division (1707), Environmental Education Grants Program, 401 M Street, S.W., Washington, D.C. 20460, or call 202-260-8619.

III. Purpose of Environmental Education and Training Program

C. What is environmental education and training?

The long term goal of environmental education is to increase public awareness and knowledge about environmental issues as well as provide the public with the skills necessary to make informed decisions and the motivation to take responsible actions. Environmental education enhances critical-thinking, problem-solving, and effective decision-making skills. Environmental education engages and motivates individuals, and enables them to weigh various sides of an environmental issue to make informed and responsible decisions. Under this program, training refers to activities such as classes, workshops, or seminars which are designed to prepare education professionals to teach about the environment.

D. What is the goal of the Environmental Education and Training Program?

EPA's broad goal is to increase the public's ability to make responsible environmental decisions. To accomplish this, EPA believes that it is critical to train education professionals who can develop and deliver quality environmental education and training programs. EPA believes that such efforts should, at a minimum, include the following:

- (1) supporting and expanding existing quality training efforts;
- (2) identifying, evaluating, and disseminating information on "model" education materials, teaching methods, and programs; and
- (3) strengthening and expanding partnerships and networks.

E. Who should be targeted for training under this program?

The education professionals, in both formal and non-formal education and in pre-service and in-service programs, who may receive training under this program are:

- (1) Teachers, faculty, and administrators with local education agencies (e.g., schools and school districts, K-12th grades), colleges, and universities;
- (2) Employees of State, local, or tribal education, environmental protection, and natural resource departments; and

(3) Employees of not-for-profit organizations as well as businesses and their professional trade groups and associations who are involved in environmental education activities and issues.

Training efforts may include a "train-the-trainer" approach or may directly reach the education professionals identified above.

IV. Funding and Project Period

F. How much money is available to fund this program? When will the award be made?

To implement this program over the past three years, EPA awarded \$1.6 million in FY 1992, \$1.8 million in FY 1993, and \$2.0 million in FY 1994, for a total of \$5.4 million. EPA expects annual funding for this program to remain relatively constant. For planning purposes, EPA suggests applicants plan for approximately \$1.8 million per year for three years. However, funding for this program is subject to annual Congressional appropriations. EPA expects to announce the award by September 29, 1995.

G. How many awards will be made? What is the expected project period for the award?

EPA will award one cooperative agreement per year for a three year project period to the institution (or lead institution in a consortium) which is responsible for managing the implementation of the entire environmental education and training program. By law, EPA must award this cooperative agreement on an annual basis. However, EPA expects to award three consecutive cooperative agreements to the same institution (or the same lead institution in a consortium) over a three year project period, subject to the recipient's ability to meet the goals of the program and the availability of appropriations. Thus, EPA expects to fund this program over a three year project period from approximately October 1, 1995 through September 30, 1998.

H. What is a cooperative agreement? How is a cooperative agreement different from a grant?

Under the Federal Grant and Cooperative Agreement Act of 1977 (Pub. L. 95-224), both a grant and cooperative agreement are legal instruments in which the Federal government transfers money to a state or local government or other recipient for the benefit of the public. A grant is used when "no substantial involvement" is anticipated between the federal agency and the recipient during the performance of the project. By contrast, a cooperative agreement is used when

"substantial involvement" is anticipated between the federal agency and the recipient of the funds.

Because EPA will award a cooperative agreement to fund this training program, applicants should expect EPA to have "substantial involvement" in the recipient's overall implementation of this program to ensure that it meets the goals of this notice. EPA's involvement will include active participation in advisory committee and other planning meetings (in an ex-officio capacity), review and approval of yearly work plans, as well as review of products under development. Specific conditions regarding the relationship of EPA and the recipient will be identified in the award document.

I. If selected, when should proposed activities start and how much time will the selected institution have to complete its activities?

Proposed activities cannot begin before the funds are awarded. Therefore, start dates should not be scheduled to begin before October 1, 1995. Note that during the first quarter following the award, additional planning activities may need to take place along with the development of a final work plan for the first year. The selected institution will have a total of three years to complete the activities specified in three consecutive annual work plans, from about October 1, 1995 through September 30, 1998. Work plans must be submitted to and approved by EPA annually and activities for a given year must be completed before additional funds can be awarded.

J. How will funds be awarded in years two and three of the three year project period?

The institution which received funding for the first year of the program must submit a new application, work plan, and other required forms to obtain funding for each of the two subsequent years of the three year project period. The actual award of funds for years two and three will depend on the institution's ability to meet the goals of the program and the annual appropriation of funds by Congress.

K. Are matching funds required?

Yes, non-federal matching funds of at least 25% of the total cost of the program are required. The matching funds must be from a non-federal source. For planning purposes, you may wish to estimate a matching share of approximately \$600,000 per year or \$1.8 million for three years. The match may be provided in cash or by in-kind contributions.

L. What cannot be funded under this program?

As specified by the Act, no funds shall be used for the acquisition of real property (including buildings) or the construction or substantial modification of any building, the technical training of environmental management professionals, or the support of noneducational research and development.

V. Eligible Institutions

M. What types of institutions are eligible to apply to operate this program?

Only U.S. institutions of higher education or not-for-profit institutions (or a consortia of such institutions) may apply to operate the Environmental Education and Training Program as specified under the Act.

N. What type of institution has the best chance of being selected to operate this program?

EPA strongly encourages institutions to cooperate and, where appropriate, to form a consortium to operate this program. EPA believes that a consortium of institutions would be best suited to operate this training program. Under this scenario, EPA envisions that there would be a lead institution who is responsible for managing the overall implementation of the training program and for ensuring that the training program meets the goals of this notice. The lead institution would select other institutions as partners who would implement specific components of the training program under the overall direction and guidance of the lead institution. Thus, the lead institution and its partners would be working cooperatively to develop and deliver a cohesive training program which benefits both formal and non-formal education professionals in various geographic regions of the country.

EPA believes that a strong consortium must include both not-for-profit environmental and/or education institutions as well as institutions of higher education. Furthermore, EPA believes a strong consortium should include partners that have demonstrated experience in operating training programs, not just academic programs. Consortium partners may also include Federal, state, local, and tribal education, environmental protection, and natural resource agencies as well as private sector businesses and/or training institutions. EPA also strongly encourages cooperation which builds upon existing environmental education and training programs, such as those operated by the National Consortium for Environmental Education and Training (NCEET), the North American Association for Environmental

Education (NAAEE), and the Western Regional Environmental Education Council (WREEC) which sponsors Project Wild, Project Learning Tree, and Project WET.

EPA believes that a cooperative approach is important not only because partnerships can help leverage scarce resources, but also because working together can help improve effectiveness and avoid duplication of effort in a field which is highly fragmented.

Cooperation is also important to ensure that the program reaches a culturally diverse audience of both formal and non-formal educators in various geographic region of the country.

O. May an institution be part of or submit more than one application?

An educational or not-for-profit institution may appear in more than one application as a member of a consortium. However, an educational or not-for-profit institution may not apply as the sole applicant or as the lead institution in a consortium in more than one application.

P. How has this program been operated since the first award was made in 1992?

EPA awarded the first cooperative agreement in June 1992 to a consortia of institutions led by the University of Michigan. This program, called the National Consortium for Environmental Education and Training (NCEET), supports environmental education in grades K-12 through three primary mechanisms: teacher in-service training, information dissemination, and innovations and assessments. Subsequent cooperative agreements were awarded in 1993 and 1994.

NCEET has developed an "EE Toolbox" which includes workshop resource manuals for in-service teacher trainers, and "EE Link" which provides computerized access to environmental education information and instructional materials through the Internet. NCEET also supports "small experiments" which explore methods of teaching environmental education, and conducts assessments of student environmental literacy and the needs of teachers. For more information, contact: NCEET, School of Natural Resources and Environment, University of Michigan, 430 East University/Dana Building, Ann Arbor, MI 48109-1115, 313-998-6726.

VI. Program Activities

Q. What activities must be carried out under this program?

At a minimum, this program must include:

(1) Support for and dissemination of training for classroom teachers and other education professionals. The goal

of training is to ensure that formal and non-formal education professionals in various academic disciplines or curriculum areas and in diverse geographic, ethnic, and cultural regions of the country benefit from this program. Training activities may include classes, workshops, or seminars which prepare education professionals to better utilize new or existing education materials. Training activities should emphasize an investigative approach to learning and should use a "hands-on" process approach to learning that leads to the development of problem-solving and critical-thinking skills. Examples of training activities are:

- a. how to integrate environmental problem-solving into existing science, social science, and other curricula areas;
- b. how to effectively reach an urban and multicultural audience; and
- c. how to use specific methods or practices to teach about the environment.

Special emphasis should be placed on:

- d. using existing good quality training programs and networks;
- e. ensuring that the needs of diverse ethnic and cultural groups are met;
- f. designing classes, workshops, or seminars that can be broadly disseminated; and
- g. including opportunities for the international exchange of teachers and other education professionals between the U.S., Canada, and Mexico.

(2) Support for or the development and maintenance of an environmental education resource library. The goal of the resource library is to ensure that good quality education materials, teaching methods, and programs which have already been developed are utilized more fully. New materials, methods, and programs should be developed only if it is determined that they do not exist and are truly needed. Thus, success should be measured in terms of the effective dissemination of existing materials, methods, and programs, not the development of new ones. A process should be established for identifying, evaluating, and disseminating information on existing materials, methods, and programs to identify "model" materials, methods, and programs. An effective program should also use appropriate technology to widely disseminate this information through mechanisms that include hard copy and electronic distribution.

(3) Strengthen and expand existing partnerships and networks. The goal is to improve the effectiveness of the environmental education community by facilitating communication, sharing

information, and leveraging scarce resources. Specific activities may include the support for or sponsorship of national, regional, or multi-state leadership conferences or seminars for education professionals. These conferences or seminars should bring together education and environmental education professionals who represent the various sectors of society (e.g., federal agencies; state, local, and tribal governments; non-profit environmental and environmental education organizations; educational institutions such as schools, colleges, universities and their professional associations; as well as businesses and their professional trade groups and associations). Such activities should also emphasize the importance of strengthening the capacity of state governments to provide training programs for education professionals, and integrating environmental education into current education reform efforts in the sciences, social sciences, and other curricula areas. This may include the development of education standards, curriculum frameworks, and assessment strategies.

VII. The Application

R. What must be included in the application?

To qualify for review, the application must include the three components discussed below.

(1) Application for Federal Assistance (SF 424). This form, which requests basic information about proposals such as the name of the project and the amount of money requested, is required for all federal grants. A completed SF 424 must be submitted as part of the application. The SF 424 may be obtained by contacting EPA as discussed under Section VII.S. below.

(2) Budget Information: Non-Construction Programs (SF 424A). This form, which requests budget information by object class categories such as personnel, travel, and supplies, is also required for all federal grants. A completed SF 424A must also be submitted as part of the application. The SF 424A may be obtained by contacting EPA as discussed under Section VII.S. below. Note that additional budget information describing how the funds will be used for all major activities such as workshops or education materials evaluation is also required under the budget section of the work plan as discussed under Section VII.3.e.1. below.

(3) Work Plan. A detailed plan of no more than 20 pages (not including the appendices) which describes how the applicant proposes to design and

operate the training program. Note that the recipient of the cooperative agreement will have an opportunity to revise their work plan once the award is made. For example, EPA expects that the recipient may need to revise the implementation or evaluation plans to further clarify the relationship and responsibilities of the lead institution and its partners and to set up and hold advisory committee and other planning meetings. Thus, the recipient may wish to or be asked to submit a revised work plan to EPA at the end of the first quarter if it is determined that additional changes are needed.

Work plans must contain all four sections discussed below, in the format presented. Note that each section of the work plan includes a brief discussion of some of the factors that will be considered in reviewing and scoring applications.

a. Summary: A brief synopsis of no more than two pages stating:

1. the nature of the institution requesting funding and all major partners (if applicable);
2. the key activities of the proposed program and how it will be implemented;
3. the total number of education professionals to be reached and their demographics;
4. the expected results of the project by the end of years one, two, and three; and
5. how the funds will be used.

Scoring: The summary will be scored on its overall clarity and the extent to which all five of the elements identified above are addressed. Maximum Score: 5 points.

b. Mission Statement: A discussion of the goals and objectives of the program and how they will meet the requirements of this notice. Also include a discussion about the needs of the environmental education community and how these needs will be met.

This statement should include a discussion about both the short-term and the long-term goals and objectives of the program. (The short-term refers to the first three years of the program; the long-term refers to the period beyond the three-year project period of this notice. Although EPA funds may be available to support this program beyond the three-year project period, EPA considers funding for this program to be "seed money" to get the program "off-the-ground." All applicants should establish a long-term goal of self-sustainability and demonstrate, in their application, an effective method for achieving it).

Scoring: The mission statement will be scored based upon factors that include its overall clarity as well as the extent to which the applicant demonstrates their capability to meet the goals of the training program identified under Section III.D. and the stated needs of the environmental education community. Maximum Score: 20 points.

c. Management and Implementation Plan: A detailed plan of how the project will be managed and implemented (i.e., what steps will be taken to reach the goals of the program). The plan should identify the target audience as well as key activities and deliverables/products. It should also describe the major responsibilities of the Program Director, key staff, and various partners in the consortium (if applicable).

The plan must include a matrix or table identifying all key activities and deliverables/ products as well as a precise schedule for conducting these activities and completing these deliverables/products. The plan must also include an organizational chart which clearly shows the responsibilities and relationships of the Program Director, key staff, and various partners (if applicable).

Scoring: The management and implementation plan will be scored based upon factors that include its overall clarity as well as the extent to which the applicant demonstrates their capability to:

- deliver training to the broad range of education professionals identified under Section III.E.1–4;
- carry out the specific program activities identified under Section VI.Q.1–3; and
- effectively manage the program, including effectively managing the lead institution's relationship with various partners as discussed under Section V.N. Maximum Score: 20 points

d. Evaluation Plan: A detailed plan of how the effectiveness of the program will be evaluated (i.e., how the applicant will know whether the goals and objectives of the program are being met, the program meets the requirements of this notice, and the program meets the needs of the environmental education community). The evaluation plan must discuss the anticipated strengths and challenges expected in implementing the program.

The evaluation plan must also include a discussion on the approach, mechanisms, and amount of money that will be used to conduct annual evaluations of the program. This evaluation must be conducted by an

advisory committee established by the recipient to help guide the program. The advisory committee must include representatives from the various sectors involved in environmental education, including teachers, state and local education officials, institutions of higher education, nonprofit organizations, and the private sector. Advisory committee members may not include partners in the consortium (if applicable).

Scoring: The evaluation plan will be scored based upon factors that include its overall clarity as well as the extent to which the proposal demonstrates that an effective evaluation process will be used to strengthen the program and facilitate the realization of the program's goals. Maximum Score: 20 points

e. Appendices: Attachments to the work plan which contain information on the budget, key personnel, and letters of commitment from partners (if applicable).

1. Budget: A statement describing how funds will be used, including budget milestones for each major proposed activity and a timetable showing the month/year of completion. Estimates must include the allocation of funding for all major activities. Budget estimates are for planning and evaluation purposes only, recognizing that neither EPA nor the applicant can predict in advance exactly how much money will be appropriated by Congress for this program. Minor deviations from these amounts are expected. Include estimates of overhead and/or indirect costs as well as a statement on the relative economic effectiveness of the program in terms of the ratio of overhead costs to direct services. Note that additional budget information is also requested on the SF 424A which must be submitted as part of the application as discussed under Section VII.R.2. above.

Scoring: The budget will be scored on the extent to which the budget clearly and accurately shows how the funds will be used and whether the budget demonstrates the effective use of public funds. Maximum Score: 20 points

2. Key Personnel and Letters of Commitment: Include resumes of up to three pages for the Program Director as well as each of the key staff and key partners responsible for implementing the project. Resumes should describe the educational, administrative, management, and professional qualifications and experience of the Program Director, key staff, and key partners. Also include one page letters of commitment from each partner with a significant role in the proposed program (if partners will be used to

implement the program). Letters of endorsement from individuals or organizations who are not partners will not be considered in evaluating proposals.

Scoring: This section will be scored on the extent to which the Project Director, key staff, and key partners are qualified to manage and implement the program. In demonstrating the capability of key personnel, EPA strongly encourages applicants to provide examples of relevant experience in designing and operating similar programs. In addition, the score will reflect whether letters of commitment are included from key partners and whether a firm commitment is made (if applicable). Maximum Score: 15 points

S. Where may I obtain an application kit and how must the application be submitted?

Institutions may request an application kit by contacting U.S. EPA, Environmental Education Division (1707), Environmental Education and Training Program, 401 M Street, S.W., Washington, D.C., 20460, 202-260-3335. The applicant must submit one original and four copies of the application (a signed SF 424, SF 424A, and a work plan). The SF 424 must be signed by a person authorized to receive funds. Applications must be reproducible; do not submit bound copies of applications. They should be on white paper and stapled in the upper left hand corner, and include page numbers.

Work plans must be no more than 20 pages (not including the appendices). A "page" refers to one side of a single-spaced typed page. The pages must be letter sized (8½ × 11 inches), with normal type size (10 or 12 cpi) with at least 1 inch margins. To conserve paper, please provide double-sided copies of the work plan and appendices where possible.

T. When are applications due to EPA and where must they be submitted?

Applications (a signed original and four copies of the SF 424, SF 424A, and work plan) must be mailed to EPA **POSTMARKED no later than Friday, April 28, 1995**. Any application which is postmarked after April 28, 1995 will not be considered for funding. All applications must be mailed to U.S. EPA, Environmental Education Division (1707), Environmental Education and Training Program, 401 M Street, S.W., Washington, D.C. 20460. VIII.

VIII. Review and Selection Process

U. What will be the basis for selection and award?

As discussed above, applications will be evaluated on factors that include the

extent to which the proposed program meets the goals specified in this notice and the key personnel are qualified to successfully manage and implement the program. This means that applications will be evaluated not only on the strategic planning aspects of the proposal, but on project management, implementation, and evaluation aspects as well. Section VII.R.3 above identifies some of the specific factors which will be used to evaluate the proposals.

V. How will the applications be reviewed and the final selection made?

Applications will be reviewed in three primary phases by federal officials and external environmental education experts. First, EPA will assemble teams of federal environmental and education officials (from EPA and the Department of Education) to review applications and identify approximately ten of the top proposals which best meet the criteria in this notice. Second, EPA will select external reviewers from among the National Environmental Education Advisory Council to review and provide comments on the top proposals. Third, EPA will convene a federal panel with representatives from various federal agencies who implement environmental education programs to further review the top proposals, taking into account the comments provided during the first two phases of the review process. The federal panel will rank the top proposals and provide their recommendations for funding to EPA.

EPA expects to conduct site visits to a small number of the highest ranking proposals. The purpose of the site visits is to provide EPA with an opportunity to ask questions and to discuss the strengths and weaknesses of the proposals. The Administrator of EPA will then select the recipient from among the highest ranking proposals, taking into account the comments and recommendations of the federal panel and the Advisory Council as well as observations made during the site visits.

Section IX. Additional Information

W. Who can I contact to obtain additional information?

To clarify the information provided in this notice, please contact Kathleen MacKinnon at U.S. EPA, Environmental Education Division (1707), Environmental Education and Training Program, 401 M Street, S.W., Washington, D.C., 202-260-3335.

Dated: February 15, 1995.

Loretta M. Ucelli,

Associate Administrator, Office of Communications, Education, and Public Affairs.

[FR Doc. 95-5027 Filed 2-28-95; 8:45 am]

BILLING CODE 6560-50-P

[FRL-5163-1]

Ores and Minerals; Additional Data Available on Wastes From Extraction and Beneficiation

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability.

SUMMARY: This notice announces the availability of technical documents issued by the Agency concerning wastes from non-coal extraction and beneficiation. Focused on selected mineral sectors, these documents update and supplement the information contained in the Agency's December 1985, Report to Congress on Wastes from the Extraction and Beneficiation of Metallic Ores, Phosphate Rock, Asbestos, Overburden from Uranium Mining, and Oil Shale. The documents were developed over the past four years, and take into account public comments received during that time. Therefore, the Agency is not soliciting comments on the information described in this notice, and is not reopening the comment period on the Report to Congress.

ADDRESSES: This information is available on paper at the RCRA docket, EPA Headquarters, Washington, DC and all EPA Regional Libraries. Copies of the documents may also be purchased from the National Technical Information Service at (703) 487-4650 or (800) 553-NTIS.

The RCRA public docket room is located at EPA Headquarters, 401 M Street SW., Washington, D.C., Room M2616, 2nd floor, Waterside Mall and is available for viewing 9:00 a.m. to 4:00 p.m. Monday through Friday, excluding federal holidays. Public review of the docket materials is by appointment only. Call (202) 260-9327. The documents are located under docket number F-95-MTDA-FFFFF.

As part of an interagency "streamlining" initiative, EPA is making this notice and most of the supporting documents available electronically. They can be accessed in electronic format on the Internet System through:

EPA Public Access Gopher Server: Go to: gopher.epa.gov; From the main menu, choose "EPA Offices and Regions"; Next choose "Office of Solid Waste and Emergency Response

(OSWER)"; Finally choose "Office of Solid Waste/Other Wastes/Bevill Amendment-Mining Waste."

Through FTP: Go to: ftp.epa.gov; Login: anonymous; Password: Your Internet Address; Files are located in /pub/gopher. All OSW files are in directories beginning with OSW.

Through MOSAIC: Go to: <http://www.epa.gov>; Choose the EPA Public Access Gopher; From the main (Gopher) menu choose "EPA Office and Regions"; Next choose "Office of Solid Waste and Emergency Response (OSWER)"; Finally, choose "Office of Solid Waste/Other Wastes/Bevill Amendment-Mining Waste."

Through Dial-up Access: Dial 919-558-0334; Choose EPA Public Access Gopher; From the main (Gopher) menu choose "EPA Offices and Regions"; Next choose "Office of Solid Waste and Emergency Response (OSWER)"; Then choose "Office of Solid Waste/Other Wastes/Bevill Amendment-Mining Waste."

EPA is interested in learning whether people have obtained these documents electronically and what their experiences were in doing so. You are encouraged to provide feedback on the electronic availability of these documents by sending E-mail to OSW-Pilot@epamail.epa.gov.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA/Superfund Hotline at (800) 424-9346; for technical information contact Bonnie Robinson (5302W), U.S. Environmental Protection Agency SW., Washington, D.C. 20460, (703) 308-8429 or by sending an E-mail to: Robinson.Bonnie@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

A. Regulatory Activities

RCRA Section 3001(b)(3)(A)(i-iii) ("the Bevill Exemption") exempted among other things solid wastes from the "extraction, beneficiation, and processing of ores and minerals" 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 (f) and (p) of RCRA required 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 these wastes.

EPA published the Report to Congress on Wastes from the Extraction and Beneficiation of Metallic Ores, Phosphate Rock, Asbestos, Overburden

from Uranium Mining, and Oil Shale in December, 1985. This report addresses wastes from the extraction and beneficiation of metallic ores (with special emphasis on copper, gold, iron, lead, silver, and zinc), uranium overburden, and the nonmetals asbestos and phosphate rock. EPA selected these mining industry segments because they generate large quantities of wastes that are potentially hazardous.

On July 3, 1986 (51 FR 24496) EPA published a regulatory determination based on the findings of the Report to Congress. These findings concluded that non-coal extraction and beneficiation mining wastes should be regulated as solid wastes under RCRA Subtitle D, rather than as hazardous wastes under RCRA Subtitle C.

The Agency has also promulgated rules that identify mineral processing wastes that meet the exemption criteria of being high-volume and low-hazard¹. With the exception of 20 wastes, the majority of the mineral processing wastes do not meet this criteria and are subject to Subtitle C hazardous waste regulations². Today's notice focuses on the release of information concerning non-coal extraction and beneficiation wastes and references no new mineral processing information. For more information on Mineral Processing Wastes, consult the RCRA docket (#F-90-RMPA-FFFF).

B. Non-Regulatory Activities

Since 1985, the Agency has collected information on selected mineral sectors to update and supplement the 1985 Report to Congress. EPA has been working closely with States, public interest groups, and industry to solicit input on waste management approaches and to gather information. Since the Report to Congress on Wastes from the Extraction and Beneficiation of Metallic Ores, Phosphate Rock, Asbestos, Overburden from Uranium Mining, and Oil Shale was published in 1985, the Agency has conducted site visits and prepared case study reports on waste generation and management practices of operating mines. Additionally, the Agency has compiled reports on the selected mineral sectors and has provided research grants to support continued study of the environmental impacts of non-coal mining, as well as current waste management and engineering practices. This new information is described in today's notice.

¹ See 54 FR 36592 September 1, 1989 and 55 FR 2322 January 23, 1990.

² Final Regulatory Determination on Special Wastes from Mineral Processing (56 FR 27300 June 13, 1991).

II. Description of Information

A complete list of the information described below is available from the RCRA Docket at the address and telephone number listed above. The new data include:

Technical Resource Documents—Mineral Sectors

The Agency has prepared technical resource documents on extraction and beneficiation practices of various mineral sectors. Each of the following documents contains a summary of current literature on waste management practices in the sector and site visit reports of operating mines. These documents have been peer reviewed by state representatives, federal land management agencies, mining companies, and public interest groups. Where appropriate, the reviewers' comments have been incorporated into each document. These documents will be available in Spanish in May 1995: (1) TRD Vol.1: Lead-Zinc (NTIS PB94-170248); (2) TRD Vol.2: Gold (NTIS PB94-170305); (3) TRD Vol.3: Iron (NTIS PB94-195203); (4) TRD Vol.4: Copper (NTIS PB94-200979); (5) TRD Vol.5: Uranium (NTIS PB94-200987); (6) TRD Vol.6: Gold Placer (NTIS PB94-201811); and (7) TRD Vol.7: Phosphate & Molybdenum (NTIS PB94-201001).

Technical Reports—Mining Waste Management and Engineering Practices

These documents discuss current mining waste management and engineering practices. These documents have been peer reviewed by state representatives, federal land management agencies and mining companies. Where appropriate, the reviewers' comments have been incorporated into each document. Additionally, the WASTE database will be available in the RCRA docket and electronically, however, it will be unavailable at NTIS. These documents will be available in Spanish in May 1995: (1) Innovative Methods of Managing Environmental Releases at Mine Sites (NTIS PB94-170255); (2) Design and Evaluation of Tailings Dams (NTIS PB94-201845); (3) Treatment of Cyanide Heap Leaches & Tailings (NTIS PB94-201837); (4) Acid Mine Drainage Prediction (NTIS PB94-201829); and (5) WASTE: An Information Retrieval System for Mill Tailings References (NOT AT NTIS).

Other Mining Documents

The following documents provide historical context for EPA's mine waste activities. The Report to Congress and Strawman II documents are currently not available in electronic format but

will be made available at a later date: Report to Congress on Wastes from the Extraction and Beneficiation of Metallic Ores, Phosphate Rock, Asbestos, Overburden from Uranium Mining, and Oil Shale (NTIS PB88-162631); Strawman II (NTIS PB91-178418); U.S. EPA Mine Waste Policy Dialogue Committee Meeting Summaries and Supporting Material (NTIS PB95-122529).

The Agency is also developing additional technical reports on waste rock piles, subaqueous disposal of mine tailings, model mines, and phosphogypsum waste piles.

Dated: February 23, 1995.

Elizabeth A. Cotsworth,

Acting Director, Office of Solid Waste.

[FR Doc. 95-5023 Filed 2-28-95; 8:45 am]

BILLING CODE 6560-50-P

[OPP-30000/48F; FRL-4939-7]

Granular Carbofuran; Final Decision To Deny Reinstatement of the Corn and Sorghum Uses and To Grant Conditional Extension of Phase-Out Period for Use on Rice; Summary of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This Notice announces EPA's decision to deny reinstatement of the use of the granular insecticide carbofuran on corn and sorghum, and to grant a limited extension of use on rice. This Notice also summarizes the public comments received in response to the Agency's proposal of these actions (59 FR 17530, April 13, 1994).

FOR FURTHER INFORMATION CONTACT: By mail: Margaret Rice, Special Review and Reregistration Division (7508W), Office of Pesticide Programs, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Special Review Branch, Rm. WF32N4, Crystal Station #1, 2800 Crystal Drive, Arlington, Virginia, (703) 308-8039.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of April 13, 1994 (59 FR 17530), EPA proposed to deny reinstatement of the use of granular carbofuran on corn and sorghum, to extend the use on rice with restrictions, for a limited time period, and offered incentives for the registration of reduced risk alternatives to control rice water weevil. The Agency's proposal was in response to FMC Corporation and grower groups'

requests that the phase-out scheduled for these three uses be extended beyond the limits established in the negotiated settlement agreement that concluded the Special Review of granular carbofuran in 1991.

The Agency's April 1994 notice outlined the arguments put forth by FMC Corp in support of their request, as well as the rationale for EPA's proposed decision, and allowed 90 days for public comment. Readers are referred to the proposed decision (59 FR 17530, April 13, 1994) for a detailed summary of the regulatory history and legal background of the granular carbofuran Special Review and negotiated settlement agreement.

II. EPA's Findings

The following summarizes the Agency's findings regarding the risks and benefits resulting from the use of granular carbofuran. With regard to risks, the Agency finds:

1. Carbofuran is highly acutely toxic to birds.

2. One granule can kill a small bird.

3. Proper agricultural use of carbofuran results in granules available to birds.

4. Birds are directly exposed to carbofuran by picking up and ingesting granules. Predatory and scavenging birds are secondarily exposed when they eat the organisms that were directly exposed.

5. Many birds have been killed by proper use of granular carbofuran. This has been documented in 8 field studies and over 90 separate poisoning incidents, which demonstrate widespread and repeated mortality to many species, including migratory, threatened and endangered species. Incidents of both primary and secondary poisonings have been observed and documented in many different geographic areas, associated with many different use sites, times of year, and under varying environmental conditions.

6. The Agency continues to receive reports of bird kills from granular carbofuran. Twenty three additional wildlife kill incidents have been reported to EPA since the conclusion of the Special Review in 1991. Three were attributed to granular formulations; the other 20 incident reports did not specify which formulation was involved. Species killed include a bald eagle, Canada geese, red-tailed hawks, and numerous other species.

7. Based on available data, carbofuran presents a greater risk to birds than alternative chemical control methods.

8. It has not been demonstrated that there are any conditions under which

granular carbofuran can be used without presenting an extremely high risk to birds.

With regard to the benefits, the Agency finds:

1. Efficacious alternatives to granular carbofuran exist for use on corn and sorghum.

2. The absence of granular carbofuran will result in no short- or long-term increases in field corn production costs, nor will it cause significant output or yield losses, based on the current price and availability of pesticidal alternatives.

3. The absence of granular carbofuran for use on sorghum will result in some increased production costs due to the higher cost of alternatives and specialized application equipment, but will not cause significant reduction in yield.

4. No chemical alternatives are currently registered and no applications are pending for use on rice. Only limited data are available to characterize the effectiveness of non-chemical controls.

5. In the absence of granular carbofuran, significant reductions in rice yields may occur.

III. Summary of Public Comment

The complete text of all comments received in response to EPA's proposed decision (59 FR 17530), as well as a memorandum detailing EPA's responses to these comments can be found in the Office of Pesticide Program's public docket (OPP-30000/48E). See Unit VII, below, for more information and the location and hours of the OPP public docket.

EPA received few comments and no data in support of continued use of granular carbofuran on corn.

Several rice growers and rice growers' associations supported the Agency's proposed decision to extend the rice use. Several research institutions advised EPA of ongoing studies related to control of rice pests.

The Agency reviewed approximately 40 letters of a testimonial nature from sorghum growers, and numerous letters from Senators and Congressmen representing sorghum producing areas, supporting the continued use of granular carbofuran on sorghum. The National Grain Sorghum Producers provided some additional efficacy and yield data for carbofuran and its alternatives.

The U.S. Fish and Wildlife Service (FWS) and several environmental organizations commented that, in their opinion, no extensions of granular use were justified and that the Agency should also take action to eliminate use

of flowable carbofuran. The Sierra Club Legal Defense Fund, representing a group of environmental organizations, notified the Agency of its intention to sue EPA for violations of the Endangered Species Act and other statutes.

In response to EPA's call for safer alternatives in the April notice, one company, Solvay Duphar B.V., has indicated an interest in pursuing a registration for diflufenzuron on rice. Other companies have made preliminary inquiries.

IV. EPA's Final Decision and Rationale

A. Corn and Sorghum

EPA finds no justification in the comments it has received to alter the Agency's proposed decision not to reinstate the use of granular carbofuran on corn and sorghum. EPA confirms its previous decision that the risks of continued use of granular carbofuran on these sites outweigh the benefits. Therefore, these uses will not be reinstated.

While EPA received many comments related to the sorghum use, none contained persuasive evidence or new data to justify changing the proposed decision. Furthermore, new information supports the Agency's proposed decision. EPA has registered a new alternative pesticide, imidacloprid (trade name GAUCHO), for use on sorghum. The new compound is available as a seed treatment and therefore, is applied at rates much lower than carbofuran. Imidacloprid poses less risk both to pesticide handlers and to birds and wildlife than carbofuran and other alternatives, and the available information indicates that it is as effective as granular carbofuran in controlling moderate chinch bug infestations.

EPA has received additional comparative efficacy and yield data that confirm the Agency's previous determination that the available alternatives, aldicarb and flowable carbofuran, perform as well as granular carbofuran under conditions of high chinch bug infestation.

The state of Nebraska reports that they do currently have a special local needs registration for in-furrow application of flowable carbofuran, thereby reducing the Agency's previous concern that some growers in Nebraska might suffer economic impacts from the cancellation of the granular formulation. FMC has made available to sorghum growers a closed system for applying flowable carbofuran that they believe reduces potential exposure to pesticide handlers. The company is also offering

partial rebates to defray the cost to farmers of switching to the new application equipment.

EPA recognizes that there may not be sufficient imidacloprid treated sorghum seed available for the 1995 use season. The Agency also acknowledges that acquiring new application equipment may not be feasible for growers in certain circumstances. In these instances EPA will consider special local needs registrations, FIFRA section 24(c), submitted by states.

B. Rice

EPA has determined that the short-term benefits of using granular carbofuran on rice outweigh the short-term risks to birds, provided the use restrictions and conditions listed below are observed. Neither FMC nor other commenters has provided data to justify the long-term continued use of granular carbofuran on rice. Therefore, EPA is granting a maximum 2-year extension of this use for the sole purpose of providing an orderly transition to alternative controls.

In spite of the Agency's effort to encourage new registrations for alternatives to granular carbofuran for control of rice water weevil, none appears likely before the 1995 use season. EPA's decision to allow a limited extension on rice was also influenced by the Agency's concern that non-chemical control options, specifically draining fields and eliminating vegetation on levees and field edges (clean farming), could impede initiatives that conservation groups have implemented with rice growers to enhance wildlife habitat. EPA notes, however, that no data have been provided to the Agency that quantify the relative risks of continued carbofuran use compared to possible habitat losses from clean farming. Such data would be necessary to support any use of carbofuran on rice beyond that permitted by this Notice. See Unit VI, below.

FMC's granular carbofuran product registrations must be amended to include the following limitations and conditions:

1. The use of granular carbofuran on rice is subject to the overall sales limits as set forth below in Unit V.

2. No production and sales by FMC will be allowed for use on rice during the 1996 growing season if registration of an alternative to control rice water weevil appears imminent at the end of the 1995 growing season. On or before September 1, 1995, EPA will assess the prospect for registration of alternatives to control rice water weevil and advise FMC and other interested parties if

production and sales of granular carbofuran for use on rice will be allowed for the 1996 growing season. EPA assessment of the prospect for alternatives will include: the product's efficacy in controlling the rice water weevil; the completeness of the data base supporting the product's registration; and the Agency's finding that the product presents less risk to the environment and human health than carbofuran. If EPA determines that registration of an alternative appears imminent, FMC's registration for granular carbofuran use on rice will automatically expire on September 1, 1995, without order or hearing. Otherwise, FMC's registration for this use will expire automatically on September 1, 1996, without order or hearing.

3. The labels of granular carbofuran products sold by FMC in 1995 for use on rice must bear the following statements: "FMC will sell this product in conformity with volume limitations agreed to with EPA," "FMC will not sell or release for shipment this product for use on rice after 8/31/95," and "This product cannot be used on rice after 8/31/96."

4. If no alternatives are registered and the Agency allows sales during 1996, labels of granular carbofuran products sold by FMC for use on rice must bear the following statements: "FMC will sell this product in conformity with volume limitations agreed to with EPA," "FMC will not sell or release for shipment this product for use on rice after 8/31/96," and "This product cannot be used on rice after 8/31/97."

5. Granular carbofuran products sold by FMC in 1995 and 1996 for use on rice must bear the following restrictions to protect the bald eagle, a federally designated threatened species: "Aerial application is prohibited within 1 mile of active bald eagle nests and within 10 miles of eagles congregating in winter roosting or staging areas." "For ground application to unflooded fields, within 1 mile of active bald eagle nests and within 10 miles of eagles congregating in winter roosting or staging areas, granules must be incorporated immediately and flooding must begin within 4 hours unless application is followed by hazing to keep birds out of the fields. If hazing is used, the field must be flooded no longer than 24 hours after application."

In most rice growing areas, eagles vacate wintering areas prior to the time when granular carbofuran is applied to rice. However, the 10 mile restriction may apply to some counties in California from April 1st through April

15th, and to two counties in Texas from March 1st through March 31st.

6. Granular carbofuran products used on rice in California only, must bear labeling prohibiting use in areas occupied by the giant garter snake, a federally designated threatened species, unless FMC or other interested parties can provide data to EPA demonstrating that the toxicity of carbofuran to snakes is sufficiently low to eliminate concern or that the circumstances of use preclude exposure to this species.

Because toxicity data for reptiles in general and snakes in particular are lacking, EPA has used toxicity data for birds in their risk assessment. The Agency recognizes that data on a more closely related species such as the western aquatic garter snake (*Thamnophis couchii*) would be a better indicator of toxicity to the giant garter snake.

In the absence of such data, products must bear the following restriction: "This product may not be used in areas where adverse impact on the giant garter snake is likely. Prior to making applications, the user of this product must determine that no giant garter snakes are located in or immediately adjacent to the area to be treated. If the user is in doubt whether or not the giant garter snake may be affected, he or she should contact either the State Department of Fish and Game, the regional office of the FWS, or the county agricultural commissioner."

Based on the limited information currently available to the Agency, the area potentially affected by this restriction would be the Butte, Colusa, American, and Sutter basins, as well as the Willow Slough and Liberty Farm area of the Yolo basin.

7. In order to protect threatened and endangered aquatic species in California, labels must state: "Flood water must be held on carbofuran treated fields for 28 days following flooding or application before being released into streams, rivers or other surface water bodies." Listed species that potentially could be affected without this measure in California include the Delta smelt and the winter run of Chinook salmon.

In the South (Arkansas, Louisiana, Mississippi, Missouri, and Texas), labels must state: "Permanent flood waters may not be released until 42 days after application. Also, if the water level in flooded rice fields rises due to heavy rainfall, additional flashboards must be put in place to prevent carbofuran-treated water from spilling over levees into public waters." Listed species that potentially could be affected without

these measures in the South include numerous mussels.

8. In lieu of the measures specified on product labels to protect threatened and endangered species, growers have the option of developing "landowner agreements" with the appropriate state lead conservation agency. These agreements permit growers to tailor species protection measures to the specific conditions on their land.

9. Granular carbofuran products for use on rice must contain the following application recommendations: "Confine all granular carbofuran applications to field areas. Cut off application equipment to avoid treating adjacent roads, field drains, ditches, banks, and other non-target areas. Apply carbofuran only when weather conditions are calm to prevent misplacement of granules. Ground applications will provide more precise carbofuran placement."

10. Labels must contain the following recommendation for loading: "Ground application equipment should be loaded in areas which will be flooded; each refill should be in a different location in the field. To facilitate clean up, load material only on tarp-covered ground."

11. FMC must provide a toll-free phone number on their product labels to report bird and wildlife kill incidents. FMC must report all incidents reported to it which associate the use of carbofuran with wildlife injury or death to EPA and the appropriate wildlife management agencies within 24 hours, regardless of the circumstances of the incident.

Should substantial avian mortality or incidental take of threatened or endangered species occur, EPA will be forced to consider additional use restrictions.

EPA will make available through the public docket its assessment of the potential risk to the threatened and endangered species associated with the use of carbofuran in rice growing areas. The assessment contains, among other useful information, a listing of counties potentially subject to use restrictions due to nesting or wintering bald eagles.

The measures that EPA is requiring are based on previous Biological Opinions from the FWS. EPA believes that these measures will decrease, but not necessarily eliminate, the likelihood of incidental take of eagles.

V. Sales Limits

Domestic sales of the 2G, 3G, 5G, 10G, and 15G formulations by FMC will be limited to 250,000 pounds of active ingredient (ai) per year for the 1995 and 1996 use seasons for use only on rice and five minor use sites, spinach grown for seed, cucurbits, cranberries, pine

progeny, and bananas. Based on information received from the Puerto Rico Department of Agriculture, EPA acknowledges that Puerto Rico has an existing special local need registration for granular carbofuran use on bananas and plantains. This minor use will now be allowed in both Hawaii and Puerto Rico, subject to the overall sales limitations.

FMC must direct a minimum of 2,500 pounds/ai/year, out of the total 250,000 pounds, or more at their discretion, to areas where the five minor use crops are grown during the 1995 and 1996 use seasons.

For 1997 and subsequent years, sales by FMC will be limited to 2,500 pounds/ai/year for use only on the five minor use sites.

For the purpose of this action, the 1995 "use season" begins September 1, 1994 and ends August 31, 1995. Similarly, the 1996 use season begins September 1, 1995 and ends August 31, 1996.

Existing stocks of the 1995 production in the possession of dealers and growers may be sold, distributed or used until August 31, 1996. Existing stocks of 1996 production in the possession of dealers and growers may be sold, distributed, or used until August 31, 1997.

For each use season during which FMC sells granular carbofuran for domestic use, FMC must submit to EPA a report by October 15 containing FMC's 2G, 3G, 5G, 10G, and 15G carbofuran production and sales totals for domestic use for the immediately preceding use season. FMC must also provide EPA with batch and key numbers for granular carbofuran products produced for the 1995 and 1996 domestic use season.

The production and sales limits in this Notice do not include the 10CR formulation of carbofuran, which FMC markets only for use on canola under FIFRA section 24(c) registrations.

The canola use differs somewhat from other uses because of a lower application rate (0.25 lbs/ai/acre). The 10 CR formulation differs from other granular carbofuran formulations in the use of a corn cob carrier rather than a sand-core granule. The canola use was not included in the Special Review; the Agency is currently evaluating the risks and benefits of this use.

VI. Procedural Matters

In order to effectuate the extension on rice, FMC must submit applications for amended registrations and revised product labels. These amendments will not be accepted by EPA until all the limitations and conditions in this Notice have been satisfied.

The settlement agreement concluding the Special Review of granular carbofuran in 1991 provided for one opportunity for FMC Corp. to present additional information related to the risks and benefits of granular carbofuran use on corn, sorghum and rice. EPA has fulfilled that provision of the agreement. EPA will not consider any additional requests for extensions or reinstatement of use on any site under the provisions of the settlement agreement. By the terms of the amended registration, FMC's registration for use of granular carbofuran on rice will expire no later than September 1, 1996, without order or hearing.

In the settlement agreement with EPA, FMC waived any right it may have to challenge or appeal the Office Director's decision regarding the extension of use of granular carbofuran to an administrative law judge, the EPA Administrator, or the courts. Nothing in this Notice affects that waiver.

Any additional applications to amend any granular carbofuran registration which FMC may submit after the publication date of this Notice may be denied by EPA unless FMC has submitted substantial new evidence which materially changes the Agency's assessment of the risks and benefits of the use of carbofuran and which was not previously available to either EPA or FMC. For the rice use, for example, the new evidence would need to include, at a minimum, site-specific, scientifically sound, wildlife monitoring data, and a quantitative assessment of the relative effect on waterfowl and other wildlife of carbofuran use versus clean farming.

Consistent with the applicable provisions of FIFRA, EPA may consider, on a case-by-case basis, requests for emergency uses of granular carbofuran under FIFRA section 18 and special local needs registrations submitted by states under FIFRA section 24(c).

All provisions of the 1991 settlement agreement not specifically amended by this Notice remain in effect.

VII. Public Record

The Office of Pesticide Programs' public docket is located in room 1132, Crystal Mall 2, 1921 Jefferson Davis Highway, Arlington, Va. The carbofuran docket and index are available for inspection and copying from 8:00 a.m. to 4:30 p.m., Monday through Friday, except legal holidays.

The docket for carbofuran (OPP-30000/48E) contains: the complete text of all comments received in response to 59 FR 17530; a memorandum summarizing the comments and detailing EPA's responses to them; EPA's assessment of the potential risk to

threatened and endangered species associated with rice; and other documents and correspondence related to the granular carbofuran Special Review and negotiated settlement agreement.

List of Subjects

Environmental protection, pesticides and pest.

Dated: February 22, 1995.

Daniel M. Barolo,

Director, Office of Pesticide Programs.

[FR Doc. 95-5020 Filed 2-28-95; 8:45 am]

BILLING CODE 6560-50-F

[OPP-00403; FRL-4939-1]

Pesticide Products Used to Disinsect Aircraft; Notice of Availability of Draft Policy and Request for Comments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Agency has received information which raises questions concerning the potential human health risks associated with the use of insecticide spray products in occupied aircraft cabins. The United States has not required the spraying of aircraft since 1979 and the Agency believes that this policy has not encouraged the spread of any insectborne communicable diseases. EPA is soliciting comments on the Agency's draft Pesticide Regulation (PR) Notice which proposes strict measures to prevent human exposure to any pesticide product (insecticide) used for disinsecting aircraft. The proposed draft PR Notice is entitled, "Pesticide Products Used to Disinsect Aircraft." Interested parties may request a copy of the Agency's proposed policy as set forth in the ADDRESSES unit of this notice.

DATES: Written comments, identified by the docket number [OPP-00403], must be received on or before April 17, 1995.

ADDRESSES: The draft PR Notice is available from Rame' Cromwell, By mail: Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 6th Floor, Westfield Building, 2800 Crystal Drive, Arlington, VA, (703) 308-8377. Submit written comments to: By mail: Public Docket and Freedom of Information Section, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington,

DC 20460. In person bring comments to: Rm. 1128, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted and any comment(s) concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment(s) that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. Information on the proposed text and any written comments will be available for public inspection in Rm. 1128 at the Virginia address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Rame' Cromwell (7505W), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 6th Floor, Westfield Building, 2800 Crystal Drive, Arlington, VA, (703) 308-8377.

SUPPLEMENTARY INFORMATION: The draft PR Notice provides explicit label statements prohibiting the use of insecticide products in occupied cabins of aircraft. It also provides registrants with two choices to comply: (1) Registrants of disinsection products with labels that permit use in occupied cabins and who seek to continue that use must generate and submit data to demonstrate that the use in occupied aircraft cabins does not pose unreasonable adverse effects to human health, and (2) registrants of all other disinsection products for use in aircraft should revise their labels in accordance with the instructions contained in the draft PR Notice to clearly prohibit use of their products in occupied aircraft cabins. This **Federal Register** notice announces the availability of the draft PR Notice and solicits comment. If, after reviewing any comments, EPA determines that changes are warranted, the Agency will revise the draft PR Notice prior to release.

List of Subjects

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

Dated: February 21, 1995.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 95-5018 Filed 2-28-95; 8:45 am]

BILLING CODE 6560-50-F

[OPP-50806; FRL-4937-7]

Receipt of an Application for an Experimental Use Permit of a Transgenic Plant Pesticide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received an application (65247-EUP-R) from Calgene, Inc., of Davis, California, requesting an Experimental Use Permit (EUP) to conduct field testing of a transgenic plant pesticide. The first EUP for field testing of a genetically altered cotton plant having pesticidal properties was issued on April 10, 1992. EPA has determined that this permit may be of regional and national significance.

DATES: Written comments must be received on or before March 31, 1995.

ADDRESSES: Comments, in triplicate should bear the docket control number OPP-50806 and be submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm. 1128, Crystal Mall #2, 1921 Jefferson Davis Highway, Crystal City, VA 22202.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (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 to the submitter. Written comments will be available for public inspection in Rm. 1128 at the address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Janet L. Andersen, Acting Director, Biopesticides and Pollution Prevention Division (7501W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: CS1 5th floor, 2800 Crystal

Drive, Crystal City, VA 22202 (703-308-8712).

SUPPLEMENTARY INFORMATION: An application for an EUP pursuant to EPA's Statement of Policy entitled "Microbial Products Subject to the Federal Insecticide, Fungicide, and Rodenticide Act and the Toxic Substances Control Act", published in the **Federal Register** of June 26, 1986 (51 FR 23313), was received on January 17, 1995, from Calgene, Inc. of Davis, California (65247-EUP-R).

Calgene, Inc. proposes to experiment in the field for 1 year, beginning April 1, 1995, with a transgenic insect resistant cotton plant which expresses a *Bacillus thuringiensis* subsp. *kurstaki* (B.t.k.) cryIA(c) segment within the plant cells. *Bacillus thuringiensis* subsp. *kurstaki* protein will be present at no more than .001 percent of the total weight of the cottonseed. The cryIA(c) gene of *Bacillus thuringiensis* is transferred to cotton via the Ti plasmid of *Agrobacterium tumefaciens*, a vector system which has been used to stably transform many plant pesticides. All transgenic plants to be used in this field trial are upland cotton *Gossypium hirsutum*.

The 1995 Program as proposed by Calgene, Inc. will include four types of field trials. Target lepidopteran pests include: *Helicoverpa zea* (Cotton bollworm); *Pectinophora gossypiella* (Pink bollworm); *Heliothis virescens* (Tobacco budworm); *Spodoptera exigua* (Beet armyworm), *Spodoptera frugiperda* (Fall armyworm) and other lepidopteran insects pest of cotton. A total of 2,460 pounds of transgenic cottonseed will be planted on 0.5 to 20 acre sites for a total of 164 acres. The total amount of active ingredient used for 164 acres will be 11.3 grams, the amount of active ingredient to be tested per state is less than 1.5 gram. Testing will be conducted from April 1, 1995 to December 15, 1995, at research stations or seed production fields in the following states: Alabama, Arizona, Arkansas, California, Georgia, Louisiana, Mississippi, Missouri, North Carolina, South Carolina, Tennessee, and Texas.

A breeding nursery trial will be conducted to: (1) Evaluate and compare the efficacy of transgenic strains in control of lepidopteran target pests; (2) evaluate and select for agronomic performance of prospective strains for commercialization, and (3) evaluate production of purity blocks to minimize variability of seed within potential strains for commercialization. Strain trials will be conducted to compare advanced *Bacillus thuringiensis* cotton

strains to common commercial varieties for agronomic characteristics and fiber quality. There will be a maximum of 0.5 to 1 acre of transgenic planting per site. Research trials will be performed to: (1) Evaluate B.t. trait performance against target pests; (2) formulate plans for resistance management in B.t. cotton, and (3) provide recommendations for integrated pest management utilizing B.t. cotton. There will be a maximum of 0.5 to 2 acres of transgenic planting per site. Seed multiplication trials will be conducted for the purposes of ensuring seed purity for further research and development. There will be a maximum of 15 acres of transgenic planting per site.

Containment procedures will be employed to minimize dissemination via pollen transfer or seed dispersal. A non-transgenic border will be planted and maintained should cotton be present within 1,320 feet of the transgenic trial. Upon completion of the tests, all plants (transgenic, non-transgenic control lines, and non-transgenic buffer) will be destroyed via bush-hog, or shred and disk. Unused seed will be destroyed by incineration, autoclaving, plowed under, or returned to the designated seed company. Monitoring will occur through the next growing season. The occurrence of subsequent cotton volunteers will be destroyed by soil incorporation or herbicide application. Transgenic seed will be stored in marked bags. Equipment will be thoroughly cleaned before and after field trials.

The labeling proposed by Calgene, Inc. that would govern the conduct of the experiment states:

This package contains insect resistant cottonseed expressing a *Bacillus thuringiensis* subsp. *kurstaki* (B.t.k.) protein. B.t.k. protein is effective in controlling certain lepidopteran insects. For use only at an application site of a cooperator and in accordance with the terms and conditions of the Experimental Use Permit. This labeling must be in the possession of the user at the time of planting. Not for sale to any person other than a participant or cooperator of the EPA approved Experimental Use Permit Program. The contents may only be used according to the approved EUP program. Cooperators must have at least one copy of each applicable protocol prior to initiating any research with the contents.

Following the review of the Calgene, Inc. application and any comments received in response to this notice, EPA will decide whether to issue or deny the EUP request for this EUP program, and if issued, the conditions under which it is to be conducted. Any issuance of an EUP will be announced in the **Federal Register**.

List of Subjects

Environmental protection.
Dated: February 16, 1995.

Janet L. Andersen,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 95-4757 Filed 2-28-95; 8:45 am]

BILLING CODE 6560-50-F

EXECUTIVE OFFICE OF THE PRESIDENT

Open Meetings of Policy Dialog Advisory Committee To Assist in the Development of Measures to Significantly Reduce Greenhouse Gas Emissions From Personal Motor Vehicles

AGENCY: Executive Office of the President.

ACTION: Meetings of policy dialog advisory committee.

SUMMARY: The Executive Office of the President has established a Policy Dialog Advisory Committee to assist in the development of measures to significantly reduce greenhouse gas emissions from personal motor vehicles. The seventh meeting of this committee will be held on March 15 and 16, 1995. The eighth meeting will be held on April 12 and 13, 1995. The committee's meetings are open to the public without need for advance registration.

DATES: In March, the committee will meet on March 15, 1995 from 9:30 a.m. to 5:30 p.m., and on March 16, 1995 from 8:30 a.m. to 4:30 p.m. In April, the committee will meet on April 12, 1995 from 9:30 a.m. to 5:50 p.m., and on April 13, 1995 from 8:30 a.m. to 4:40 p.m.

ADDRESSES: Both sessions of both the March and April meetings will be held in Room 2230 at the United States Department of Transportation, 400 7th Street SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

For information pertaining to the substantive issues to be dealt with by the advisory committee, contact: Ellen Seidman, Special Assistant to the President for Economic Policy, Washington, D.C. 20500, phone (202) 456-2802, fax (202) 456-2223; Henry Kelly, Assistant Director for Technology, Office of Science and Technology Policy, phone (202) 456-6034, fax (202) 456-6023; Wesley Warren, Associate Director, Council on Environmental Quality, phone (202) 456-6224, fax (202) 456-2710; or Michael Toman, Senior Economist, Council of Economic Advisors, phone

(202) 395-5012, fax (202) 395-6853. For information pertaining to administrative matters contact: Deborah Dalton, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, phone (202) 260-5495.

Information about the Committee is also available on the Technology Transfer Network of the Office of Air Quality Planning & Standards of the Environmental Protection Agency, which can be accessed electronically by calling (919) 541-5742. Help in accessing the system can be obtained by calling (919) 541-5384 between 1:00 and 5:00 Eastern Standard Time. Neither of these numbers is a toll-free number. The Committee's toll-free information line—1-800-884-9190—provides recorded information about the Committee, including meeting dates and locations. (In the local Washington, DC area, call (202) 366-2373.)

Agenda For The Meetings

At the March meeting, the Committee will:

- Review the revised draft of the interim report, with a view toward agreement on the report so it can be submitted to the President by the March 28 due date;
- Adopt final committee protocols;
- Discuss assumptions in baseline scenarios with a goal of finalizing agreements;
- Hold meetings of ad hoc policy groups on vehicle miles travelled and alternative fuels to further develop policy options and begin analysis and receive reports from the ad hoc policy groups; and
- Discuss fuel economy policy mechanisms.

At the April meeting, the committee will continue policy development and analysis of policy options.

Dated: February 27, 1995.

W. Bowman Cutter,

Deputy Assistant to the President for Economic Policy.

John H. Gibbons,

Director, Office of Science and Technology Policy.

Kathleen A. McGinty,

Chair, Council on Environmental Quality.

[FR Doc. 95-5135 Filed 2-27-95; 11:14 am]

BILLING CODE 3195-01-M

FEDERAL RESERVE SYSTEM

Centura Banks, 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 March 25, 1995.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Centura Banks, Inc.*, Rocky Mount, North Carolina; to merge with First Southern Bancorp, Inc., Asheboro, North Carolina, and thereby indirectly acquire First Southern Savings Bank, Inc., Asheboro, North Carolina.

B. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Habersham Bancorp*, Cornelia, Georgia; to merge with Security Bancorp, Inc., Canton, Georgia; and thereby indirectly acquire Security State Bank, Canton, Georgia.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Chambers Bancshares, Inc.*, Danville, Arkansas; to acquire 82.9 percent of the voting shares of Bank of Atkins, Atkins, Arkansas.

Board of Governors of the Federal Reserve System, February 23, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95-4971 Filed 2-28-95; 8:45 am]

BILLING CODE 6210-01-F

Charles H. Deters; 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 March 15, 1995.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Charles H. Deters*, Walton, Kentucky; to acquire an additional 4.5 percent, for a total of 50 percent, of the voting shares of Commonwealth Trust Bancorp, Inc., Butler, Kentucky, and thereby indirectly acquire Farmers Bank, Butler, Kentucky.

Board of Governors of the Federal Reserve System, February 23, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95-4972 Filed 2-28-95; 8:45 am]

BILLING CODE 6210-01-F

Deutsche Bank AG, et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for

processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than March 15, 1995.

A. Federal Reserve Bank of New York (William L. Rutledge, Senior Vice President) 33 Liberty Street, New York, New York 10045:

1. *Deutsche Bank, AG*, Frankfurt, Federal Republic of Germany; to acquire ITT Business Services Corporation, Clayton, Missouri, and ITT Commercial Finance Corporation, Hato Rey, Puerto Rico, and thereby engage in making and servicing loans, pursuant to § 225.25(b)(1) of the Board's Regulation Y, and to provide data processing services, pursuant to § 225.25(b)(7) of the Board's Regulation Y.

B. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Castle BancGroup, Inc.*, DeKalb, Illinois; to acquire through a newly organized subsidiary, Castle Mortgage, Inc. DeKalb, Illinois, Premier Home Financing, Inc., Oak Brook, Illinois, with offices in Arlington, Heights, Illinois, Naperville, Illinois, and Merrillville, Indiana, and thereby engage in making and servicing loans, pursuant to § 225.25(b)(1) of the Board's Regulation Y; acting as principal, agent, or broker for credit insurance, pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y; performing appraisals of real estate and tangible and intangible personal property, pursuant to § 225.25(b)(13); and arranging commercial real estate equity financing, pursuant to § 225.25(b)(14) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, February 23, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95-4973 Filed 2-28-95; 8:45 am]

BILLING CODE 6210-01-F

Harrison Bankshares, 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 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 March 15, 1995.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Harrison Bankshares, Inc.*, Lost Creek, West Virginia; to engage *de novo* through Harrison Mortgages, Inc., Lost Creek, West Virginia; in originating

mortgage loans, pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, February 23, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95-4974 Filed 2-28-95; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 94D-0401]

Revised Bioequivalence Guideline; Draft; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guideline entitled "Bioequivalence Guideline (Draft) 1994" prepared by the Center for Veterinary Medicine (CVM). The draft guideline, which is a revision of the 1990 version, covers general considerations, blood level studies, pharmacologic end-points, clinical end-points, and human food safety. The draft guideline is intended to assist sponsors of new animal drug applications in the submission of data to support approval of these applications.

DATES: Written comments by May 30, 1995.

ADDRESSES: Submit written requests for single copies of the draft guideline entitled "Bioequivalence Guideline (Draft) 1994" to the Communications and Education Branch (HFV-12), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-594-1756. Send two self-addressed adhesive labels to assist that office in processing your requests. Submit written comments on the draft guideline to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857. Requests and comments should be identified with the docket number found in brackets in the heading of this document. A copy of the draft guideline 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: Melanie R. Berson, Center for Veterinary Medicine (HFV-135), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-594-1643.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of the draft guideline entitled "Bioequivalence Guideline (Draft) 1994." The draft is based on an April 1990 bioequivalence guideline and a consensus of reports from panel presentations at the 1993 Veterinary Drug Bioequivalence Workshop held in Rockville, MD. Major new topics addressed in the draft guideline include: Bioequivalence overdose studies, testing for multiple strength solid oral dosage forms, assay considerations, area under the curve and maximum blood concentration as pivotal parameters, and blood level studies with good laboratory practice tissue residue depletion for generic products for food animals.

Guidelines are generally issued under §§ 10.85(d) and 10.90(b) (21 CFR 10.85(d) and 10.90(b)), which provide for the use of guidelines to establish procedures or standards of general applicability that are not legal requirements but that are acceptable to FDA. The agency is now in the process of considering whether to revise §§ 10.85(d) and 10.90(b). Therefore, if the agency issues this guideline in final form, it would not be issued under the authority of §§ 10.85(d) and 10.90(b), and would not create or confer any rights, privileges, or benefits for or on any person, nor would it operate to bind FDA in any way. When a guideline states a requirement imposed by statute or regulation, however, the requirement is law and its force and effect are not changed in any way by virtue of its inclusion in the guideline.

Interested persons may, on or before May 30, 1995, submit to the Dockets Management Branch (address above) written comments on the draft guideline. 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. The draft guideline and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Received comments will be considered to determine whether further amendments to, or revisions of, the draft guideline are warranted.

Dated: February 23, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95-4962 Filed 2-28-95; 8:45 am]

BILLING CODE 4160-01-F

Request for Nominations for Representatives of Consumer and Industry Interests on Public Advisory Panels or Committees

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting nominations for consumer and industry representatives to serve on certain device panels of the Medical Devices Advisory Committee and on the National Mammography Quality Assurance Advisory Committee in the Center for Devices and Radiological Health. Nominations will be accepted for current vacancies and for those that

will or may occur through February 28, 1996.

FDA has a special interest in ensuring that women, minority groups, individuals with disabilities, and small businesses are adequately represented on advisory committees and, therefore, encourages nominations for appropriately qualified candidates from these groups, as well as nominations from small businesses that manufacture medical devices subject to the regulations.

DATES: Nominations should be received by May 1, 1995.

ADDRESSES: All nominations and curricula vitae for industry representatives shall be submitted in writing to Kathleen L. Walker (address below). All nominations and curricula vitae for consumer representatives shall

be submitted in writing to Martha F. Waugh (address below).

FOR FURTHER INFORMATION CONTACT:

Regarding industry representatives: Kathleen L. Walker, Center for Devices and Radiological Health (HFZ-17), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850, 301-443-6932.

Regarding consumer interests: Martha F. Waugh, Office of Consumer Affairs (HFE-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5006.

SUPPLEMENTARY INFORMATION: FDA is requesting nominations for members representing consumer and industry interests for the vacancies listed below:

Committee or Panel	Approximate Date Representative is Needed	
	Consumer	Industry
Clinical Chemistry and Clinical Toxicology Devices Panel	NV	February 28, 1996
Dental Products Panel:		
Drugs	NV	October 31, 1995
Cosmetics	NV	October 31, 1995
Ear, Nose, and Throat Devices Panel	October 31, 1995	NV
Gastroenterology and Urology Devices Panel	NV	December 31, 1995
General and Plastic Surgery Devices Panel	NV	August 31, 1995
Hematology and Pathology Devices Panel	February 28, 1996	February 28, 1996
Microbiology Devices Panel	NV	February 28, 1996
Orthopedic and Rehabilitation Devices Panel	August 31, 1995	NV
Radiological Devices Panel	January 31, 1996	NV
National Mammography Quality Assurance Advisory Committee	January 31, 1996	NA

NV = No vacancy
NA = Not applicable

Functions

Medical Device Panels

The functions of the panels are to: (1) Review and evaluate data on the safety and effectiveness of marketed and investigational devices and make recommendations for their regulation; (2) advise the Commissioner of Food and Drugs regarding recommended classification or reclassification of these devices into one of three regulatory categories; (3) advise on any possible risks to health associated with the use of devices; (4) advise on formulation of product development protocols; (5) review premarket approval applications for medical devices; (6) review guidelines and guidance documents; (7) recommend exemption to certain devices from the application of portions of the Federal Food, Drug, and Cosmetic Act; (8) advise on the necessity to ban a device; (9) respond to requests from the agency to review and make recommendations on specific issues or problems concerning the safety and effectiveness of devices; and (10) make

recommendations on the quality in the design of clinical studies regarding the safety and effectiveness of marketed and investigational devices.

The Dental Products Panel also functions at times as a dental drug panel. The functions of the drug panel are to: (1) Evaluate and recommend whether various prescription drug products should be changed to over-the-counter status; (2) evaluate data and make recommendations concerning the approval of new dental drug products for human use; (3) evaluate data and make recommendations concerning drug products that may also be cosmetics; and (4) using the Plaque Subcommittee, review and evaluate data concerning the safety and effectiveness of active ingredients, and combinations thereof, of various currently marketed dental drug products for human use, and the adequacy of their labeling. The subcommittee will advise on the promulgation of monographs establishing conditions under which

these drugs are generally recognized as safe and effective and not misbranded. *National Mammography Quality Assurance Advisory Committee*

The functions of the committee are to advise the Food and Drug Administration on: (1) Developing appropriate quality standards and regulations for mammography facilities; (2) developing appropriate standards and regulations for bodies accrediting mammography facilities under this program; (3) developing regulations with respect to sanctions; (4) developing procedures for monitoring compliance with standards; (5) establishing a mechanism to investigate consumer complaints; and (6) reporting new developments concerning breast imaging which should be considered in the oversight of mammography facilities.

The committee will also determine whether there exists a shortage of mammography facilities in rural and health professional shortage areas and the effects of personnel or other

requirements on access to the services of such facilities in such areas; and whether there will exist a sufficient number of medical physicists after October 1, 1999, and the costs and benefits of compliance with these requirements.

Consumer and Industry Representation

Medical Device Panels

Section 520(f)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360j(f)(3)), as amended by the Medical Device Amendments of 1976, provides that each medical device panel include as members one nonvoting representative of consumer interests and one nonvoting representative of interests of the medical device manufacturing industry.

National Mammography Quality Assurance Advisory Committee

Section 354n of the Public Health Service Act (42 U.S.C. 263b), as amended by the Mammography Quality Standards Act of 1992, provides that at least four of the individuals nominated for membership should be from among national breast cancer or consumer health organizations with expertise in mammography. The committee may include one technically qualified member who is identified with consumer interests.

Nomination Procedures

Consumer Representatives

Any interested person may nominate one or more qualified persons as a member of a particular advisory committee or panel to represent consumer interests as identified in this notice. Self-nominations are also accepted. To be eligible for selection, the applicant's experience and/or education will be evaluated against Federal civil service criteria for the position to which the person will be appointed.

Nominations shall include a complete curriculum vitae of each nominee and shall state that the nominee is aware of the nomination, is willing to serve as a member, and appears to have no conflict of interest that would preclude membership. FDA will ask the potential candidates to provide detailed information concerning such matters as financial holdings, employment, and research grants and/or contracts to permit evaluation of possible sources of conflict of interest. The nomination should state whether the nominee is interested only in a particular advisory committee or panel or in any advisory committee or panel. The term of office is up to 4 years, depending on the appointment date.

Industry Representatives

Any organization in the medical device manufacturing industry (industry interests) wishing to participate in the selection of an appropriate member of a particular panel may nominate one or more qualified persons to represent industry interests. Persons who nominate themselves as industrial representatives for the panels will not participate in the selection process. It is, therefore, recommended that all nominations be made by someone with an organization, trade association, or firm who is willing to participate in the selection process.

Nominees shall be full-time employees of firms that manufacture products that would come before the panel, or consulting firms that represent manufacturers. Nominations shall include a complete curriculum vitae of each nominee. The term of office is up to 4 years, depending on the appointment date.

Selection Procedures

Consumer Representatives

Selection of members representing consumer interests is conducted through procedures which include use of a consortium of consumer organizations which has the responsibility for recommending candidates for the agency's selection. Candidates should possess appropriate qualifications to understand and contribute to the committee's work.

Industry Representatives

Regarding nominations for members representing the interests of industry, a letter will be sent to each person that has made a nomination, and to those organizations indicating an interest in participating in the selection process, together with a complete list of all such organizations and the nominees. This letter will state that it is the responsibility of each nominator or organization indicating an interest in participating in the selection process to consult with the others in selecting a single member representing industry interests for the panel within 60 days after receipt of the letter. If no individual is selected within 60 days, the agency will select the nonvoting member representing industry interests.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14 relating to advisory committees.

Dated: February 21, 1995.

Linda A. Suydam,

Interim Deputy Commissioner for Operations.

[FR Doc. 95-4911 Filed 2-28-95; 8:45 am]

BILLING CODE 4160-01-F

Request for Nominations for Voting Members on Public Advisory Panels or Committees in the Center for Devices and Radiological Health

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting nominations for voting members to serve on certain device panels of the Medical Devices Advisory Committee and on the National Mammography Quality Assurance Advisory Committee in the Center for Devices and Radiological Health (CDRH). Nominations will be accepted for current vacancies and those vacancies that will or may occur through February 28, 1996.

FDA has a special interest in ensuring that women, minority groups, and individuals with disabilities are adequately represented on advisory committees and, therefore, encourages nominations of qualified candidates from these groups.

DATES: Because scheduled vacancies occur on various dates throughout each year, no cutoff date is established for the receipt of nominations. However, when possible, nominations should be received at least 6 months before the date of scheduled vacancies for each year, as indicated in this notice.

ADDRESSES: All nominations and curricula vitae for the panels should be sent to Nancy J. Pluhowski, Center for Devices and Radiological Health (HFZ-400), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850.

All nominations and curricula vitae for the National Mammography Quality Assurance Advisory Committee should be sent to Charles K. Showalter, Center for Devices and Radiological Health (HFZ-240), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850.

FOR FURTHER INFORMATION CONTACT: Kathleen L. Walker, Center for Devices and Radiological Health (HFZ-17), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850, 301-443-6932.

SUPPLEMENTARY INFORMATION: FDA is requesting nominations of voting members for the vacancies listed below.

1. *Anesthesiology and Respiratory Therapy Devices Panel:* One vacancy occurring November 30, 1995; general anesthesiologists, anesthesiologists specializing in regional anesthesia, physicians with expertise in ventilatory support, or nurse anesthetists.

2. *Circulatory System Devices Panel:* Three vacancies occurring June 30, 1995; interventional cardiologists, electrophysiologists, invasive (vascular) radiologists, vascular and cardiothoracic surgeons, and cardiologists with special interest in congestive heart failure.

3. *Clinical Chemistry and Clinical Toxicology Devices Panel:* Three vacancies occurring February 28, 1996; doctors of medicine or philosophy with experience in clinical chemistry, clinical toxicology, clinical pathology, clinical laboratory medicine, or oncology.

4. *Dental Products Panel:* Two vacancies occurring October 31, 1995; dentists who have experience with lasers, endosseous implants, and temporomandibular joint implants; or experts in bone physiology relative to the oral and maxillofacial area.

5. *Ear, Nose, and Throat Devices Panel:* One vacancy occurring October 31, 1995; audiologists, otolaryngologists, neurophysiologists, statisticians, or electrical or biomedical engineers.

6. *Gastroenterology and Urology Devices Panel:* Three vacancies occurring December 31, 1995; nephrologists, urologists, and gastroenterologists with expertise in diagnostic and therapeutic management of adult and pediatric patient populations.

7. *Hematology and Pathology Devices Panel:* One vacancy occurring February 28, 1996; cytopathologists and histopathologists; hematologists (blood banking, coagulation, and hemostasis); molecular biologists (nucleic acid amplification techniques), and hematopathologists (oncology).

8. *Immunology Devices Panel:* Two vacancies occurring February 28, 1996; medical or surgical oncologists experienced with tumor markers, or clinical immunologists.

9. *Microbiology Devices Panel:* One vacancy occurring February 28, 1996; infectious disease clinicians; clinical microbiologists with expertise in antimicrobial and antimycobacterial susceptibility testing and chemotherapy; clinical virologists with expertise in diagnosis and assays; clinical oncologists experienced with antitumor resistance and susceptibility; and molecular biologists.

10. *Neurological Devices Panel:* Two vacancies occurring November 30, 1995; neurologists, biomedical engineers, interventional neuroradiologists, neurosurgeons with interest in medical devices, or persons experienced with neurological devices with a strong background in biostatistics.

11. *Obstetrics and Gynecology Devices Panel:* One vacancy occurring January

31, 1996; experts in reproductive endocrinology, endoscopy, electrosurgery, laser surgery, assisted reproductive technologies, and contraception.

12. *Ophthalmic Devices Panel:* Two vacancies occurring October 31, 1995; ophthalmologists specializing in glaucoma, surgical pediatric ophthalmology (experienced in correction of aphakia), retinal diseases or corneal diseases; and optometrists with expertise in contact lenses.

13. *Orthopedic and Rehabilitation Devices Panel:* One vacancy occurring August 31, 1995; orthopedic surgeons experienced with prosthetic ligament devices, joint implants, or spinal instrumentation; physical therapists experienced in spinal cord injuries, neurophysiology, electrotherapy, and joint biomechanics; rheumatologists; or biomedical engineers.

14. *Radiological Devices Panel:* One vacancy occurring January 31, 1996; physicians and scientists with expertise in nuclear medicine, diagnostic or therapeutic radiology, mammography, thermography, transillumination, hyperthermia, bone densitometry, magnetic resonance, computed tomography, or ultrasound.

15. *National Mammography Quality Assurance Advisory Committee:* Four vacancies occurring January 31, 1996; physicians, practitioners, and other health professionals, whose clinical practice, research specialization, or professional expertise include a significant focus on mammography.

Functions

Medical Device Panels

The functions of the panels are to: (1) Review and evaluate data on the safety and effectiveness of marketed and investigational devices and make recommendations for their regulation; (2) advise the Commissioner of Food and Drugs regarding recommended classification or reclassification of these devices into one of three regulatory categories; (3) advise on any possible risks to health associated with the use of devices; (4) advise on formulation of product development protocols; (5) review premarket approval applications for medical devices; (6) review guidelines and guidance documents; (7) recommend exemption to certain devices from the application of portions of the Federal Food, Drug, and Cosmetic Act; (8) advise on the necessity to ban a device; (9) respond to requests from the agency to review and make recommendations on specific issues or problems concerning the safety and effectiveness of devices; and (10) make

recommendations on the quality in the design of clinical studies regarding the safety and effectiveness of marketed and investigational devices.

The Dental Products Panel also functions at times as a dental drug panel. The functions of the drug panel are to: (1) Evaluate and recommend whether various prescription drug products should be changed to over-the-counter status; (2) evaluate data and make recommendations concerning the approval of new dental drug products for human use; (3) evaluate data and make recommendations concerning drug products that may also be cosmetics; and (4) using a Plaque Subcommittee, review and evaluate data concerning the safety and effectiveness of active ingredients, and combinations thereof, of various currently marketed dental drug products for human use, and the adequacy of their labeling. The subcommittee will advise on the promulgation of monographs establishing conditions under which these drugs are generally recognized as safe and effective and not misbranded.

National Mammography Quality Assurance Advisory Committee

The functions of the committee are to advise FDA on: (1) Developing appropriate quality standards and regulations for mammography facilities; (2) developing appropriate standards and regulations for bodies accrediting mammography facilities under this program; (3) developing regulations with respect to sanctions; (4) developing procedures for monitoring compliance with standards; (5) establishing a mechanism to investigate consumer complaints; and (6) reporting new developments concerning breast imaging which should be considered in the oversight of mammography facilities.

The committee will also determine whether there exists a shortage of mammography facilities in rural and health professional shortage areas and the effects of personnel or other requirements on access to the services of such facilities in such areas; whether there will exist a sufficient number of medical physicists after October 1, 1999, and the costs and benefits of compliance with these requirements.

Qualifications

Medical Device Panels

Persons nominated for membership on the panels shall have adequately diversified experience appropriate to the work of the panel in such fields as clinical and administrative medicine, engineering, biological and physical

sciences, statistics, and other related professions. The nature of specialized training and experience necessary to qualify the nominee as an expert suitable for appointment may include experience in medical practice, teaching, and/or research relevant to the field of activity of the panel. The particular needs at this time for each panel are shown above. The term of office is up to 4 years, depending on the appointment date.

National Mammography Quality Assurance Advisory Committee

Persons nominated for membership should be physicians, practitioners, and other health professionals, whose clinical practices, research specializations, or professional expertise include a significant focus on mammography. Prior experience on Federal public advisory committees in the same or similar subject areas will also be considered relevant professional expertise. The particular needs for this committee are shown above. The term of office is up to 4 years, depending on the appointment date.

Nomination Procedures

Any interested person may nominate one or more qualified persons for membership on one or more of the advisory panels or the National Mammography Quality Assurance Advisory Committee. Self-nominations are also accepted. Nominations shall include a complete curriculum vitae of each nominee, current business address and telephone number, and shall state that the nominee is aware of the nomination, is willing to serve as a member, and appears to have no conflict of interest that would preclude membership. FDA will ask the potential candidates to provide detailed information concerning such matters as financial holdings, employment, and research grants and/or contracts to permit evaluation of possible sources of conflict of interest.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14, relating to advisory committees.

Dated: February 21, 1995.

Linda A. Suydam,

Interim Deputy Commissioner for Operations.
[FR Doc. 95-4910 Filed 2-28-95; 8:45 am]

BILLING CODE 4160-01-F

Health Resources and Services Administration

Program Announcement for Contracts for the Disadvantaged Health Professions Faculty Loan Repayment Program for Fiscal Year 1995

The Health Resources and Services Administration (HRSA) announces that applications for contracts for fiscal year (FY) 1995, for the Disadvantaged Health Professions Faculty Loan Repayment Program (FLRP) are now being accepted under section 738(a) of the Public Health Service Act (The Act).

In FY 1995, approximately \$823,000 is available for competing applications for the Disadvantaged Health Professions Faculty Loan Repayment Program. It is expected that 30 contracts averaging \$27,433 (\$13,717 per year for two years) will be supported with these funds.

Previous Funding Experience

Previous funding experience information is provided to assist potential applicants to make better informed decisions regarding submission of an application for this program. In fiscal years 1991, 1992, 1993 and 1994, HRSA entered into a total of 129 contracts under this program, averaging \$25,030 (\$12,515 per year for 2 years).

Purpose

The purpose of the Disadvantaged Health Professions Faculty Loan Repayment Program (FLRP) is to attract disadvantaged health professions faculty members for accredited health professions schools. The program provides a financial incentive for degree-trained health professions personnel from disadvantaged backgrounds who will serve as members of the faculties of those schools. The FLRP is directed at those individuals available to serve immediately or within a short time as "new" full-time faculty members. Loan repayment may be provided only for an individual who has not been a member of the faculty of any school at any time during the 18-month period preceding the date on which the Secretary receives the request of the individual for a repayment contract (i.e., "new" faculty).

Section 738(b) makes available grants and contracts with schools of medicine, osteopathic medicine, dentistry, veterinary medicine, optometry, podiatric medicine, pharmacy, public health, health administration, clinical psychology and other public or private nonprofit health or educational entities to assist in increasing the number of

underrepresented minority faculty. Section 738(b) will be implemented as a separate program.

Eligible Individuals

Individuals from disadvantaged backgrounds are eligible to compete for participation in the FLRP if they:

1. Have degrees in medicine, osteopathic medicine, dentistry, nursing, pharmacy, podiatric medicine, optometry, veterinary medicine, public health or clinical psychology; or
2. Are enrolled in an approved graduate training program in one of the health professions listed above; or
3. Are enrolled as full-time students in the final year of health professions training, leading to a degree from an eligible school.

Established faculty members are not eligible to apply for funds under the FLRP. Only individuals that have not taught in the last 18 (eighteen) months prior to application to the program will be considered.

Statutory Requirements

Prior to submitting an application for a contract for loan repayment, individuals must sign a contract with an eligible school, as prescribed by the Secretary, setting forth the terms and conditions of the FLRP. This contract with the school must require the individual to serve as a full-time member of the faculty, as determined by the school, for not less than 2 years, whereby the school agrees to pay, for each year, a sum (in addition to faculty salary) equal to that paid by the Secretary towards the repayment of principal due on the applicant's health professions educational loans. Additionally, the individual involved may not have been a member of the faculty of any school at any time during the last 18 months prior to application to the program.

Eligible Schools

Eligible schools are public or nonprofit private accredited schools of medicine, nursing, as defined in section 853 of the Act, osteopathic medicine, dentistry, pharmacy, podiatric medicine, optometry, veterinary medicine or public health, or schools that offer graduate programs in clinical psychology and which are located in States as provided in section 799 of the Act.

Provisions of the Loan Repayment Program

Section 738(a) authorizes repayment, for any year for which repayments are made, not to exceed 20 percent of the outstanding principal and interest on

the individual's educational loans. Of the repayment, the Secretary pays half, up to \$20,000. The school pays an equal amount, unless the Secretary determines that the repayment will impose an undue financial hardship on the school in which case, the Secretary may pay up to the entire 20 percent.

The school is required, for each such year, to make payments of principal and interest in an amount equal to the amount of payment made by the Secretary for that year. These payments must be in addition to the faculty salary the participant otherwise would receive.

Allowable educational loan repayment expenses include the following:

1. Tuition expenses;
2. All other reasonable educational expenses such as fees, books, supplies, educational equipment and materials required by the school, and incurred by the applicant;
3. Reasonable living expenses, as determined by the Secretary; and
4. Partial payments of the increased Federal income tax liability caused by the FLRP's payments and considered to be "other income," if the recipient requests such assistance.

Prior to entering into a contract for repayment of loans, the Secretary requires satisfactory evidence of the existence and reasonableness of the individual's educational loans, including a copy of the original written loan agreement establishing the outstanding educational loan.

Waiver Provision

In the event of undue financial hardship to a school, the school may obtain from the Secretary a waiver of its share of payments while the participant is serving under the terms of the contract. For purposes of this program, "undue financial hardship", as seen by the Secretary, is based on a school's particular financial status as influenced by such circumstances as budget cutbacks. Decisions will be made on a case-by-case basis, and must be supported by the school's documentation of comparative yearly financial allocation of funds; or the most current certified public accounting audit, including the Balance Sheet and Statement of Income and Expenses for the past several years.

If the Secretary waives the school's payment requirement, the amount of the Federal loan repayment may be up to the full 20 percent described above (regardless of the "equal amount" provision described above), but cannot exceed the \$20,000 repayment limit. The participant must pay that portion of loan payment due which is not covered.

The following Definitions, Program Requirements, Review Criteria and Funding Preference were established in FY 1991 after public comment dated October 2, 1991, at 56 FR 49896, and the Secretary is extending them in FY 1995.

Definitions

For purposes of the FLRP in FY 1995, an "Individual from a Disadvantaged Background" is defined as in 42 CFR 57.1804, as one who:

1. Comes from an environment that has inhibited the individual from obtaining the knowledge, skill, and abilities required to enroll in and graduate from a health professions school, or from a program providing education or training in an allied health profession; or

2. Comes from a family with an annual income below a level based on low income thresholds according to a family size published by the U.S. Bureau of the Census, adjusted annually for changes in the Consumer Price Index, and adjusted by the Secretary for use in health professions and nursing programs. The Secretary will periodically publish these income levels in the **Federal Register**. The following income figures determine what constitutes a low income family for purposes of the Faculty Loan Repayment Program for FY 1995.

Size of parents' family ¹	Income level ²
1	\$9,700
2	12,600
3	15,000
4	19,200
5	22,600
6 or more	25,400

¹ Includes only dependents listed on Federal income tax forms.

² Adjusted gross income for calendar year 1993 rounded to \$100.

The term "Living expenses" means the costs of room and board, transportation and commuting costs, and other costs incurred during an individual's attendance at a health professions school, as estimated each year by the school as part of the school's standard student budget. (National Health Service Corps Loan Repayment Program, 42 CFR part 62.22)

The term "Reasonable educational expenses and living expenses" means the costs of those educational and living expenses which are equal to or less than the sum of the school's estimated standard student budgets for educational and living expenses for the degree program and for the year(s) during which the Program participant is/was enrolled in the school. (National

Health Service Corps Loan Repayment Program, 42 CFR part 62.22)

The term "Unserviced Obligation Penalty" means the amount equal to the number of months of obligated service that were not completed by an individual, multiplied by \$1,000, except that in any case in which the individual fails to serve 1 year, the unserviced obligation penalty shall be equal to the full period of obligated service multiplied by \$1,000. (Section 338E of the Act) See "Breach of Contract" section below.

Program Requirements

The following requirements will be applied to the applicant and to the school.

The Applicant

The applicant will be required to do the following:

1. Submit a completed application, including the applicant's contract with an eligible school to serve as a full-time faculty member for not less than 2 years;

2. Provide evidence that the applicant has completely satisfied any other obligation for health professional service which is owed under an agreement with the Federal Government, State Government, or other entity prior to beginning the period of service under this program;

3. Certify that the United States does not hold a judgment against the applicant; and

4. Provide documentation to evidence the educational loans and to verify their status.

The School

The school will be required to do the following:

1. Enter into a contractual agreement with the applicant whereby the school is required, for each year for which the participant serves as a faculty member, to make payments of principal and interest in an amount equal to the amount of such quarterly payments made by the Secretary. These payments must be in addition to the faculty salary the participant otherwise would receive.

2. Verify the participant's continuous employment at intervals as prescribed by the Secretary.

The Secretary will pay participants in equal quarterly payments during the period of service.

Effective Date of Contract

After an applicant has been approved for participation in the FLRP, the Director, Division of Disadvantaged Assistance (DDA), will send the applicant a contract with the Secretary. The effective date is either the date

work begins at the school as a faculty member or the date the Director, DDA, signs the FLRP contract, whichever is later. Service should begin no later than September 30, 1995.

Breach of Contract

The following areas under Breach of Contract are addressed in the appended contract:

1. If the participant fails to serve his or her period of obligated faculty service (minimum of 2 years) as contracted with the school, he/she is then in breach of contract, and neither the Secretary nor the school is obligated to continue loan repayments as stated in the contract. The participant must then reimburse the Secretary and the participating school for all sums of principal and interest paid on his/her behalf as stated in the contract in addition to any income tax assistance he/she may have received.

2. Regardless of the length of the agreed period of obligated service (2, 3, or more years), a participant who serves less than the time period specified in his/her contract is liable for monetary damages to the United States amounting to the sum of the total of the amounts the Program paid him/her, plus an "unserved obligation penalty" of \$1,000 for each month unserved.

3. Any amount which the United States is entitled to recover because of a breach of the FLRP contract must be paid within 1 year from the day the Secretary determines that the participant is in breach of contract. If payment is not received by the payment date, additional interest, penalties and administrative charges will be assessed in accordance with Federal Law (45 CFR 30.13).

Review Criteria

The HRSA will review fiscal year 1995 applications taking into consideration the following criteria:

1. The extent to which the applicant meets the requirements of section 738 of the Act;

2. The completeness, accuracy, and validity of the applicant's responses to application requirements;

3. The submission of the signed contract with the school;

4. An applicant's earliest available date to begin service as a faculty member provided funding is available for that year; and

5. An applicant's availability to enter into a service contract for a longer period than the mandatory 2-year minimum.

Factors to assure equitable distribution (e.g. geographic, discipline) will be considered in determining the funding of completed applications.

National Health Objectives for the Year 2000

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity for setting priority areas. The Disadvantaged Health Professions Faculty Loan Repayment Program is related to the priority area of Educational and Community-Based Programs. Potential applicants may obtain a copy of *Healthy People 2000* (Full Report; Stock No. 017-001-00474-0) or *Healthy People 2000* (Summary Report; Stock No. 017-001-00473-1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402-9325 (Telephone (202) 783-3238).

Education and Service Linkage

As part of its long-range planning, HRSA will be targeting its efforts to strengthening linkages between U.S. Public Health Service education programs and programs which provide comprehensive primary care services to the underserved.

Smoke-Free Workplace

The Public Health Service strongly encourages all grant recipients to provide a smoke-free workplace and promote the nonuse of all tobacco products, and Public Law 103-227, the Pro-Children Act of 1994, prohibits smoking in certain education, library, day care, health care, and early childhood development services are provided to children.

Application Requests

Requests for application materials and questions regarding program information and business should be directed to: Lafayette Gilchrist, Division of Disadvantaged Assistance, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Room 8A-09, Rockville, Maryland 20857, Telephone: (301) 443-3680 FAX: (301) 443-5242.

Completed applications should be returned to the address listed above. The application deadline date is June 30, 1995. Applications shall be considered to be "on time" if they are either:

(1) Received on or before the established deadline date, or

(2) Sent on or before the established deadline date and received in time for orderly processing. (Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered

postmarks shall not be acceptable as proof of timely mailing.)

Late applications not accepted for processing will be returned to the applicant.

The application form and instructions for this program have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. The OMB clearance number is 0915-0150.

The Disadvantaged Health Professions Faculty Loan Repayment Program is listed at 93.923 in the *Catalog of Federal Domestic Assistance*. It is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100).

This program is not subject to the Public Health System Reporting Requirements.

Dated: February 23, 1995.

Ciro V. Sumaya,
Administrator.

Contract for the Disadvantaged Health Professions Faculty Loan Repayment Program With U.S. Department of Health and Human Services—Public Health Service; Health Resources and Services Administration; Bureau of Health Professions

Section 738 of the Public Health Service Act ("Act") [42 United States Code 293 et seq.], as added by Pub. L. 102-408, authorizes the Secretary of Health and Human Services ("Secretary") to repay the educational loans of applicants from disadvantaged backgrounds selected to be participants in the Loan Repayment Program Regarding Service on Faculties of Certain Health Professions Schools ("Faculty Loan Repayment Program"). In return for these loan repayments, applicants must agree to provide teaching faculty services at an approved accredited health professions school determined by the Secretary for a designated period of obligated service pursuant to section 738 of the Act.

Section 738(a)(5)&(7) of the Act require applicants to submit with their applications a signed contract with an accredited health professions school and a signed contract which states the terms and conditions of participation in the Faculty Loan Repayment Program. The Secretary shall sign only those contracts submitted by applicants who are selected for participation.

The terms and conditions of participating in the Faculty Loan Repayment Program are set forth below:

Section A—Obligations of the Secretary

Subject to the availability of funds appropriated by the Congress of the United States for the Faculty Loan Repayment Program, the Secretary agrees to:

1. Pay, in the amount provided in paragraph 2 of this section, the undersigned applicant's qualifying educational loans. Qualifying educational loans consist of the principal and interest on educational loans

received by the applicant for the following expenses of enrollment:

- a. tuition expenses;
- b. all other reasonable educational expenses such as fees, books, supplies, educational equipment and materials required by the school, and incurred by the applicant; or
- c. reasonable living expenses as determined by the Secretary.

2. If the applicant agrees to serve 2 or more years:

- a. Except as provided in subparagraph b. of this paragraph, pay up to \$20,000 of the outstanding principal and interest of a participant's non delinquent educational loans, but not more than half of the 20 percent of the qualified outstanding educational loans for such year for each year of eligible faculty service; or

b. The Secretary's liability will not exceed a cap of \$20,000 of principal and interest annually. This would include the 10 percent waived under Sec. 738(a) of the Act for the School's proportionate share of the loan repayment amounts. The applicant must pay that portion not covered.

3. Make loan repayments for a year of obligated service no later than the end of the fiscal year in which the applicant completes such year of service.

4. The effective date of the Contract will be the date it is signed by the Director, Division of Disadvantaged Assistance or the date employment begins as a faculty member of the contracting school whichever is later.

Section B—Obligations of the Participant

1. The applicant agrees to:

a. Continue loan repayments to lenders for the first quarter after which the Secretary will make delayed quarterly payments to applicant for the years stated in paragraph c of this section. Applicant must pay lender(s) these payments.

b. Serve his or her period of obligated faculty service as contracted with the school and as determined by the Secretary to be acceptable.

e. Serve in accordance with paragraph b. of this section for _____ years at _____. The applicant must serve a minimum of two years.

2. If the applicant's eligibility to participate in the Faculty Loan Repayment Program is based on section 738(a)(2) of the Act (i.e. based on his or her enrollment in an accredited health professions school), he or she also agrees to:

a. Maintain full-time enrollment, (as determined by the School), in good academic standing as determined by the School, in the final year of the course of study leading to a degree in medicine, osteopathic medicine, dentistry, pharmacy, podiatric medicine, optometry, veterinary medicine, nursing, or public health, or schools offering graduate programs in clinical psychology in which the applicant is currently enrolled, until completion of such course of study;

b. Enter into a contract with an accredited school described in subsection (a) of Section 738 to serve as a "new" member of the faculty of the school for not less than 2 years according to the requirements described in subsection (a)(5) of section 738.

c. Begin service obligation as contracted.

Section C—Breach of Written Loan Repayment Contract

1. If the participant fails to comply with section B.1.c. of this contract or is dismissed for disciplinary reasons or voluntarily terminates the contracts, neither the Secretary nor the School is obligated to continue loan repayments as stated in Sec. A of this Contract. The participant shall be liable to the United States and the School for the amounts specified in paragraph 2 of this section.

2. If the applicant agrees to serve as a full-time faculty member for two years or more and fails to serve the 2-year minimum requirement, he or she is liable to pay monetary damages to the United States amounting to the sum of (a) the total amounts specified in Section A.2 of this contract plus (b) an "unserved obligation penalty" of \$1,000 for each month unserved as set forth in paragraph 3 of this section plus (c) any tax assistance paid plus (d) interest, penalties and administrative charges for past due payments.

3. The "Unserved Obligation Penalty" means the amount equal to the number of months of obligated service that were not completed by an individual, multiplied by \$1,000 except that in any case in which the individual fails to serve 1 year, the unserved obligated penalty shall be equal to the full period of obligated service multiplied by \$1,000.

4. If the applicant agrees to serve more than the 2-year minimum service obligation and has completed the 2-year minimum he or she will be liable for such sums paid for any months that are not a full year beyond the 2-year minimum requirement as agreed to in Section B.1.c of this contract, plus an "unserved obligation penalty" of \$1,000 for each month unserved.

5. Any amount the United States is entitled to recover shall be paid within one year of the date the Secretary determines that the applicant is in breach of this written contract. Failure to pay by the due date will incur delinquent charges provided by Federal Law. (45 CFR 30.13).

Section D—Cancellation, Suspension, and Waiver of Obligation

Any service or payment obligation may be canceled, suspended, or waived under certain circumstances described below: (1) In the event of death or permanent and total disability, the Secretary will cancel obligations under this contract. To receive cancellation in the event of death, the executor of the estate must submit an official death certificate to the Secretary. To receive cancellation for permanent and total disability, applicant or his/her representative must apply to the Secretary, submitting medical evidence of my condition, and the Secretary may cancel this obligation in accordance with applicable Federal statutes and regulations; (2) Upon receipt of supporting documentation the Secretary may waive or suspend service or payment obligation under this contract if the Secretary determines that: (a) meeting the terms and conditions of the contract is impossible or

would involve extreme hardship; and (b) enforcement of the obligations would be unconscionable. (3) Deferment will be granted in the event of long term illness. Supporting documentation should be sent to: Division of Disadvantaged Assistance, Room 8A-09 Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

The Secretary or his/her authorized representative must sign this contract before it becomes effective.

Applicant Name (Please Print)

Applicant Signature * Date

Secretary of Health and Human Services or Designee

Date

* Before signing, be sure you have completed section B.1.c. on page 1 of this contract indicating the number of years of service you agree to perform.

[FR Doc. 95-4964 Filed 2-28-95; 8:45 am]

BILLING CODE 4160-15-P

National Practitioner Data Bank: Change in User Fee

The Health Resources and Services Administration (HRSA), Public Health Service (PHS), Department of Health and Human Services (DHHS), is announcing a change in the fee that is charged entities authorized to request information from the National Practitioner Data Bank (Data Bank).

The current user fee of \$6.00 for queries submitted by diskette or telecommunications network, with a \$4.00 surcharge added for queries submitted on paper, has been in effect since July 1, 1993. Those fees were announced in the **Federal Register** on June 1, 1993 (58 FR 31215). A subsequent change in the fee structure was announced in the **Federal Register** on July 14, 1994 (59 FR 35936), at which time a \$1.00 discount from the \$6.00 fee was offered for queries who would submit their queries over the telecommunications network and who would pay by credit card. That announcement also indicated that the fee charged for authorized queries for information concerning an individual physician, dentist, or other health care practitioner would be reviewed periodically and revised as necessary, based upon experience. Any further changes in the fee, and the effective date of the change, would be announced in the **Federal Register**.

The Data Bank is authorized by the Health Care Quality Improvement Act of 1986 (the Act), title IV of Public Law 99-660, as amended (42 U.S.C. 11101 *et seq.*). Section 427(b)(4) of the Act authorizes the establishment of fees for

the costs of processing requests for disclosure and of providing such information.

Final regulations at 45 CFR part 60 set forth the criteria and procedures for information to be reported to and disclosed by the Data Bank. Section 60.3 of these regulations should be consulted for the definition of terms used in this announcement.

A reassessment of the full operating costs related to processing requests for disclosure of Data Bank information, as required by the DHHS Appropriations Act of 1994 (title II of Pub. L. 103-112, dated October 21, 1993), as well as the comparative costs of the various methods for filing and paying for queries, has resulted in a decision to offer a further discount to users when they both query pay via the telecommunications network as well as

pay query fees by credit card, electronic funds transfer or such other electronic transfer options as may be offered in the future. The options to query and pay user fees by these means facilitate the querying process and make it less costly to both users and the Data Bank than all other available options.

Accordingly, the Department is adjusting the user fee to provide a \$2.00 discount from the basic \$6.00 fee per name per query submitted and paid via the method described above, with receipt by electronic method. This change is effective immediately.

The criteria set forth in § 60.12(b) of the regulations and allowable costs are required by the Appropriations Act of 1994 were used in determining the amount of this new fee. The criteria include such cost factors as: (1) Electronic data processing time,

equipment, materials, computer programmers and operators or other employees; and (2) preparation of reports—materials, photocopying, postage, and administrative personnel.

When a request is for information on one or more physician, dentist, or other health care practitioner, the appropriate total fee will be \$6.00 (minus a \$2.00 discount for submission and payment as described above; or, plus a \$4.00 surcharge for queries filed on paper forms) times the number of individuals about whom information is being requested. For examples, see the table below.

The fee charged will be reviewed periodically, and revised as necessary, based upon experience. Any changes in the fee, and the effective date of the change, will be announced in the **Federal Register**.

Query method	Fee per name in query, by method of payment	Examples
Paper	\$10.00 (irrespective of payment method)	10 names in query. 10×10=\$100.00.
Electronic (Diskette)	\$6.00 (irrespective of payment method)	10 names in query. 10×\$6=\$60.00.
Electronic (Telecom network)	\$6.00 (if not paid via credit card or other electronic means or if paper response received).	10 names in query. 10×\$6.00=\$60.00.
Electronic (Telecom network)	\$4.00 (if paid electronically via credit card or other electronic means and response received electronically).	10 names in query. 10×\$4=\$40.00.

Dated: February 23, 1995.

Ciro V. Symaya,

Administrator.

[FR Doc. 95-4963 Filed 2-28-95; 8:45 am]

BILLING CODE 4160-15-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Assistant Secretary of Health

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

National Nutrition Monitoring Advisory Council: Notice of Meeting

SUMMARY: The National Nutrition Monitoring Advisory Council will hold its sixth meeting on March 15 from 9 a.m. to 5 p.m. e.s.t., and March 16 from 9 a.m. to 1 p.m. e.s.t., at the Hotel Sofitel, 1914 Connecticut Avenue N.W., Washington, D.C. 20009. The meeting will be open to the public.

FOR FURTHER INFORMATION CONTACT:

Linda Meyers, HHS Co-Executive Secretary to the Council, U.S. Department of Health and Human Services, Office of the Assistant Secretary for Health, Office of Disease Prevention and Health Promotion, Room 2132, Switzer Building, 330 C Street

S.W., Washington, D.C. 20201, (202) 205-9007; or Debra Reed, USDA Co-Executive Secretary to the Council, U.S. Department of Agriculture, Agricultural Research Service, Building 005, Room 215, BARC West, Beltsville, Maryland 20705, (301) 504-6964.

SUPPLEMENTARY INFORMATION: The responsibilities of the National Nutrition Monitoring Advisory Council are to evaluate the scientific and technical quality of the Ten-Year Comprehensive Plan for the National Nutrition Monitoring and Related Research Program and the effectiveness of the coordinated program and to provide guidance to the Secretaries of USDA and HHS. This Council is also required by Public Law 101-445 to prepare annual reports to the Secretaries of USDA and HHS that include recommendations for strengthening the Program.

The Council is chaired by Shiriki K. Kumanyika, Pennsylvania State College of Medicine, Hershey Pennsylvania. Other members are Cutberto Garza, Cornell University, Ithaca, New York; Sue Greig, Manhattan, Kansas; Suzanne Harris, International Life Sciences Institute, Washington, D.C.; Shirley J. Humphrey, Department of Education, Cheyenne, Wyoming; Sheryl Lee, Arizona Department of Health Services,

Phoenix, Arizona; Kailash Mathur, South Carolina State University, Orangeburg, South Carolina; Suzanne P. Murphy, University of California, Berkeley, California; and Lynn Parker, Food Research and Action Center, Washington, D.C.

The Council meeting agenda will include updates on progress on the Ten-Year Comprehensive Plan for the National Nutrition Monitoring and Related Research Program, on data release and future plans for the Program's cornerstone surveys—the HHS National Health and Nutrition Examination Surveys and the USDA Continuing Survey of Food Intakes by Individuals, and on related ongoing nutrition monitoring projects.

The public may file statements with the Council before or after the meeting by addressing them to either of the contact persons listed above. Please call Linda Meyers (202/205-9007) by March 5 if you will require a sign language interpreter.

Done at Washington, D.C. this 22d day of February, 1995.

James A. Harrell,

Acting Director, Office of Disease Prevention and Health Promotion, U.S. Department of Health and Human Services.

[FR Doc. 95-4930 Filed 2-28-95; 8:45 am]

BILLING CODE 4150-04-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Food and Drug Administration**

[Docket No. 95D-0002]

Memorandum on the Use of an FDA Cleared or Approved Sterile Connecting Device in Blood Bank Practice; Availability**AGENCY:** Food and Drug Administration, HHS.**ACTION:** Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a memorandum dated August 5, 1994, to all registered blood establishments. In the August 5, 1994, memorandum, the Center for Biologics Evaluation and Research (CBER) recommends practices and procedures in the use of sterile connecting devices (STCD's). CBER also advises that certain uses of these devices may create a new product or significantly modify a regulated product, such that approval of a license application or an application supplement is required. This memorandum provides information to registered blood establishments on the use of STCD's.

DATES: Written comments may be submitted at any time.

ADDRESSES: Submit written requests for single copies of the memorandum to the Congressional and Consumer Affairs Branch (HFM-12), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852-1448. Send two self-addressed adhesive labels to assist that office in processing your requests. Persons with access to INTERNET may request this document from "Mem8—05—94@A1.cber.fda.gov". The document may also be obtained by calling CBER FAX Information System at 301-594-1939 from a FAX machine with a touch tone phone attached or built in. Submit written comments on the memorandum to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857. Two copies of any comments are to be submitted, except that individuals may submit one copy. Requests and comments should be identified with the docket number found in brackets in the heading of this document. The memorandum and received comments are available for public examination in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Betty J. Poindexter, Center for Biologics Evaluation and Research (HFM-335), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852-1448, 301-496-2577.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of a memorandum to all registered blood establishments on the use of an FDA cleared or approved STCD. STCD's produce sterile welds between two pieces of compatible tubing. This procedure permits sterile connection of a variety of containers and/or needles. This document describes recommended practices and procedures for the use of these devices.

The memorandum provides guidance on the common uses of STCD's as follows: (1) Adding a new or smaller needle to a blood collection set; (2) preparing components; (3) pooling blood products; (4) preparing an aliquot for pediatric use and divided units; (5) connecting additional saline or anticoagulant lines during an automated plasmapheresis procedure; (6) attaching processing solutions; (7) adding an FDA-cleared leukocyte reduction filter; and (8) removing samples from blood product containers for testing.

The memorandum also presents general guidance as well as specific information and examples concerning specifications for submission of applications and application supplements to FDA addressing the use of a STCD. It also includes an appendix with the currently approved dating periods for blood components and source plasma (21 CFR 610.53) and currently recommended dating periods for automated plateletpheresis products (see Revised Guideline for Collection of Platelets, Pheresis (54 FR 3852, January 26, 1989)).

As with other memoranda, FDA does not intend this document to be all-inclusive and cautions that not all information may be applicable to all situations. The memorandum is intended to provide information and does not set forth new requirements. The procedures cited in the memorandum are recommendations. FDA anticipates that blood establishments may develop alternative procedures and discuss them with FDA. FDA may find those alternative procedures acceptable. FDA recognizes that advances may continue in the use of STCD's and that this document may become outdated as those advances occur. The memorandum does not bind FDA and does not create or confer any

rights, privileges, or benefits on or for any private person, but is intended merely for guidance.

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

Received comments will be considered in determining whether further revisions to the memorandum are warranted.

Dated: February 17, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95-5061 Filed 2-28-95; 8:45 am]

BILLING CODE 4160-01-F

[Docket No. 95N-0051]

Solvay Pharmaceuticals, Inc., et al.; Withdrawal of Approval of 11 Abbreviated Antibiotic Applications and 11 Abbreviated New Drug Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of 11 abbreviated antibiotic applications (AADA's) and 11 abbreviated new drug applications (ANDA's). The holders of the applications notified the agency in writing that the drug products were no longer marketed and requested that the approval of the applications be withdrawn.

EFFECTIVE DATE: March 31, 1995.

FOR FURTHER INFORMATION CONTACT: Lola E. Batson, Center for Drug Evaluation and Research (HFD-360), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-594-1038.

SUPPLEMENTARY INFORMATION: The holders of the applications listed in the table in this document have informed FDA that these drug products are no longer marketed and have requested that FDA withdraw approval of the applications. The applicants have also, by their request, waived their opportunity for a hearing.

AADA No.	Drug	Applicant
60-128	Ampicillin Trihydrate	IBI, Giovanni Lorenzini S.p.A., 20139 Milano, Italy.
60-130	Ampicillin	Do.
61-659	Erythromycin Delayed-Release Tablets, U.S.P., 250 milligrams (mg)	Solvay Pharmaceuticals, Inc., 901 Sawyer Rd., Marietta, GA 30062.
61-818	Cephalexin Monohydrate	IBI.
61-923	Amoxicillin Trihydrate	Do.
62-052	Nystatin Ointment, U.S.P.	Lemmon Co., 650 Cathill Rd., Sellersville, PA 18960.
62-430	Bacitracin Zinc and Polymyxin B Sulfate Ophthalmic Ointment, U.S.P.	Pharmafair, Inc., 110 Kennedy Dr., Hauppauge, NY 11788.
62-449	Cephalothin Sodium	IBI.
62-666	Cephalothin Sodium for Injection, U.S.P., 1 gram (g) and 2 g	Fujisawa USA, Inc., Parkway North Center, Three Parkway North, Deerfield, IL 60015-2548
62-710	Cephalothin Sodium	IBI.
62-747	Clindamycin Phosphate Injection, U.S.P., 150 mg/milliliters (mL)	Fujisawa USA, Inc.
ANDA No.	Drug	Applicant
80-041	Trisulfapyrimidines Oral Suspension, U.S.P., 0.5 g/5 mL ..	Solvay Pharmaceuticals, Inc.
80-921	Vitamin A Capsules, U.S.P., 50,000 units	Lemmon Co.
83-993	Phendimetrazine Tartrate Tablets, U.S.P., 35 mg	Solvay Pharmaceuticals, Inc.
84-435	Meprobamate Tablets, U.S.P., 200 mg	Do.
85-897	Phendimetrazine Tartrate Capsules, U.S.P., 35 mg	Do.
87-074	Diatrizoate Meglumine and Diatrizoate Sodium Injectin, U.S.P.	Mallinckrodt Medical, Inc., P.O. Box 5840, St. Louis, MO 63134.
87-113	Triamcinolone Acetonide Cream, U.S.P. 0.1%	Solvay Pharmaceuticals, Inc.
87-210	Reserpine, Hydralazine Hydrochloride, and Hydrochlorothiazide Tablets, U.S.P., 0.1 mg/25 mg/15 mg	Do.
87-833	Prednisone Tablets, U.S.P., 25 mg	Roxane Laboratories, Inc., P.O. Box 16532, Columbus, OH 43216-6532
88-071	Dexamethasone Sodium Phosphate Ophthalmic Ointment, U.S.P., 0.05%	Pharmafair, Inc.
88-612	Phentermine Hydrochloride Capsules, U.S.P., 30 mg	Lemmon Co.

Therefore, under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) and under authority delegated to the Director, Center for Drug Evaluation and Research (21 CFR 5.82), approval of the applications listed above, and all amendments and supplements thereto, is hereby withdrawn, effective March 31, 1995.

Dated: February 16, 1995.

Janet Woodcock,

Director, Center for Drug Evaluation and Research.

[FR Doc. 95-5060 Filed 2-28-95; 8:45 am]

BILLING CODE 4160-01-F

[Docket No. 95N-0050]

Drug Export; Sandostatin (Octreotide Acetate) Lar® Injection; 10-Milligram (mg), 20-mg, and 30-mg Vials

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Sandoz Pharmaceuticals Corp. has

filed an application requesting conditional approval for the export of the human drug Sandostatin (octreotide acetate) Lar® Injection 10-mg, 20-mg, and 30-mg vials to Switzerland for further packaging and marketing.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human drugs under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: James E. Hamilton, Center for Drug Evaluation and Research (HFD-310), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-594-2073.

SUPPLEMENTARY INFORMATION: The drug export provisions in section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382) provide that FDA may approve applications for the export of drugs that are not currently

approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Sandoz Pharmaceuticals Corp., 59 Route 10, East Hanover, NJ 07936-1080, has filed an application requesting approval for the export of the human drug Sandostatin (octreotide acetate) Lar® Injection 10-mg, 20-mg, and 30-mg vials to Switzerland. This product is a new formulation of octreotide acetate manufactured by a different process which is indicated for arremegaly, malignant carcinoid syndrome, and vipoma. The firm does have approval for Sandostatin Injection. The

application was received and filed in the Center for Drug Evaluation and Research on December 27, 1994, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by March 13, 1995, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Drug Evaluation and Research (21 CFR 5.44).

Dated: February 9, 1995.

Edward Miracco,

Acting Deputy Director, Office of Compliance, Center for Drug Evaluation and Research.

[FR Doc. 95-5059 Filed 2-28-95; 8:45 am]

BILLING CODE 4160-01-F

[Docket No. 95N-0049]

Drug Export; Zyluprim (Allopurinol Sodium) for Injection Equivalent to 500 Milligrams Allopurinol Sterile Lyophilized Powder

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Burroughs Wellcome Co. has filed an application requesting approval for the export of the human drug Zyluprim (allopurinol sodium) for Injection equivalent to 500 milligrams (mg) allopurinol to Canada.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human drugs under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT:

James E. Hamilton, Center for Drug Evaluation and Research (HFD-310), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-594-2073.

SUPPLEMENTARY INFORMATION: The drug export provisions in section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382) provide that FDA may approve applications for the export of drugs that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Burroughs Wellcome Co., 3030 Cornwallis Rd., P.O. Box 12700, Research Triangle Park, NC 27709-2700, has filed an application requesting approval for the export of the human drug Zyluprim (allopurinol sodium) for Injection equivalent to 500 mg allopurinol to Canada. This product is primarily indicated for its prophylactic usage in patients with leukemia, lymphomas, or other malignancies, receiving antineoplastic treatment (radiation or cytotoxic drugs) which might induce increased uric acid levels. The firm does have new drug application approval for Zyluprim (allopurinol) Tablets in two dosage strengths. The application was received and filed in the Center for Drug Evaluation and Research on January 25, 1995, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by March 13, 1995, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate

consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Drug Evaluation and Research (21 CFR 5.44).

Dated: February 8, 1995.

Edward Miracco,

Acting Deputy Director, Office of Compliance, Center for Drug Evaluation and Research.

[FR Doc. 95-5062 Filed 2-28-95; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM-070-5101-G014; NMNM93652]

Notice of intent, and Notice of Scoping Meetings and Comment Period; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent, and notice of scoping meetings with a public comment period.

SUMMARY: In accordance with the National Environmental Policy Act, the Bureau of Land Management is directing the preparation of an environmental document for the construction, operation, and maintenance of a pipeline that would be 12 or 16 inches in diameter and approximately 400 miles in length. The proposed project is known as the Mid-American Pipeline Company Four Corners Loop Project. The environmental document is being prepared as an environmental assessment, but will be advanced to the environmental impact statement level if this is indicated by scoping or by a determination of significant impacts in the environmental assessment. Public meetings will be held for the proposed pipeline project with a public comment period.

DATES: Public scoping meetings are planned in Albuquerque, New Mexico at the Albuquerque Convention Center, San Miguel Room, 401 Second Street, NW., on March 15, 1995 at 3:00 p.m. to 9:00 p.m. and in Roswell, New Mexico at the Roswell Inn, Berrendo Room, 1815 North Main at 3:00 p.m. to 9:00 p.m. on March 16, 1995, respectively. The meeting agenda will be to conduct an open-house to receive interested parties from 3:00 p.m. to 5:30 p.m. with a formal presentation starting at 7:00 p.m., followed by a workshop to receive comments, and ending at 9:00 p.m.

Written comments on the proposed project accepted until March 31, 1995.

ADDRESSES: Any comments should be sent to the Bureau of Land Management, Farmington District Office, Attention: Jerry Crockford, 1235 LaPlata Highway, Farmington, NM 87401.

FOR FURTHER INFORMATION CONTACT: Jerry Crockford, (505) 599-6333.

SUPPLEMENTARY INFORMATION: Pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C.), as amended by the Act of November 16, 1973 (37 Stat. 567), the Mid-America Pipeline Company has applied for a right-of-way, serial number NMNM93652, for the construction, operation, and maintenance of a pipeline. The proposed project crosses Federal, State, Indian, and private land. The pipeline starts at the Chaco Pump Station approximately 12 miles south of Farmington, New Mexico and ends at the Mid-American Pipeline Company Hobbs Pump Station located in Texas southeast of Hobbs, New Mexico. The proposed project will parallel existing pipelines for most of its length except as dictated by resource conflicts. The pipeline is designed to transport 50,000 barrels of natural gas liquids per day. Maps of the Mid-America Pipeline Company proposed route are available for viewing at the Bureau of Land Management, Albuquerque District Office, 435 Montano NE., Albuquerque, New Mexico; Farmington District Office, 1235 LaPlata Highway, Farmington, New Mexico; Roswell District Office, 1717 West Second, Roswell, New Mexico; Carlsbad Resource Area Office, 620 East Greene, Carlsbad, New Mexico.

Dated: February 23, 1995.

Joel E. Farrell,

Assistant District Manager for Lands and Renewable Resources.

[FR Doc. 95-5046 Filed 2-28-95; 8:45 am]

BILLING CODE 4310-FB-M

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: S.O.S. Care, Escondido, CA, PRT-796422

The applicant requests a permit to import and reexport newborn-captive-born tigrina (*Felis tigrina*) from the Conservation Project at the Sao Paulo

Zoo, Sao Paulo, Brazil for medical treatment for the purpose of enhancement of survival of the species.

Applicant: Zoological Society of San Diego, San Diego, CA, PRT-799314

The applicant requests a permit to export DNA samples from captive-born lowland tapir (*Tapirus terrestris*), Turkmanian kulan (*Equus hemionus kulan*), Somali wild ass (*Equus africanus somalicus*) and Przewalski's wild horse (*Equus przewalskii*) for the purpose of scientific research.

Applicant: International Crane Foundation, Baraboo, WI, PRT-799313

The applicant requests a permit to export 8 captive-produced eggs of red-crowned crane (*Grus japonensis*) and 8 captive-produced eggs of white-naped crane (*Grus vipio*) to V.A. Andronov, Khinganski Nature Reserve, Amurskaja Reg., Russia for the purpose of enhancement and propagation of the species through rearing and reintroduction to the wild.

Applicant: International Crane Foundation, Baraboo, WI, PRT-799312

The applicant requests a permit to export up to 10 captive-produced eggs of Siberian crane (*Grus leucogeranus*) to Oka State Nature Reserve, Spasski Region, Rjazan Oblast, Russia for the purpose of enhancement and propagation of the species through rearing and reintroduction to the wild.

Applicant: International Fisheries, Inc., Hialeah, FL, PRT-798217

The applicant requests a permit to import up to 2,000 captive-bred Asian bonytongue (*Scleropages formosus*) from the Rainbow Aquarium in Singapore for the purpose of enhancement of survival of the species.

Applicant: National Zoological Park, Washington, D.C., PRT-700309

The applicant requests a permit to take, import, export, reexport and purchase in interstate and foreign commerce, blood, hair and other tissue samples, and salvaged carcasses from any endangered wildlife exotic to the United States for the purpose of scientific research to enhance the survival of endangered species in the wild. Tissues are to be obtained from animals in the wild and in zoos. Tissues collected from animals in the wild are to be collected opportunistically during immobilization of the animals by local wildlife management officials. Wild animals will be immobilized, but not harmed, for collection of tissues.

Written data or comments should be submitted to the Director, U.S. Fish and

Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 420(c), Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, 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 to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 420(c), Arlington, Virginia 22203. Phone: (703/358-2104); FAX: (703/358-2281).

Dated: February 24, 1995.

Caroline Anderson,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 95-5045 Filed 2-28-95; 8:45 am]

BILLING CODE 4310-55-P

National Park Service

Notice of Intent To Repatriate a Cultural Item in the Possession of the Field Museum of Natural History, Chicago, IL

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given under the Native American Graves Protection and Repatriation Act of 1990 of the intent to repatriate an item in the possession of the Field Museum of Natural History, Chicago, IL, under a compromise of repatriation claim.

The item is a wampum belt consisting of purple and white shell beads woven into a 32" long by 5" wide rectangular panel. The beads are placed to form a series of diamond-shaped figures inside oblongs. The belt is bound with buckskin with buckskin fringe attached at the ends. The belt was purchased by the Field Museum from Walter C. Wyman in December 1900 (FM# 68566). Museum records indicate that the belt was originally purchased by Wyman from the grandson of Chief Skenandoa on May 8, 1898, approximately one year after the chief's death.

Authorized representatives of the Oneida Indian Nation of New York and the Oneida Tribe of Indians of Wisconsin have been provided with copies of museum records and photographs of the belt. In a letter dated February 7, 1994, the Oneida Indian

Nation of New York has identified the belt as the Six Nations Council belt and has requested its repatriation as an object having ongoing importance central to the tribe itself which could not have been alienated, appropriated, or conveyed by any individual.

Based on the above mentioned information, officials of the Field Museum have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity which can be reasonably traced between this belt and the Oneida Indian Nation of New York. Officials of the Field Museum also recognize that the belt is of ongoing importance central to the Oneida Indian Nation but assert that the museum has right of possession of the belt. The Field Museum however, is willing to return the belt under a compromise of repatriation claim.

The Oneida Tribe of Indians of Wisconsin have also claimed this belt in a letter dated October 12, 1994. Representatives of any other Indian tribe that believes itself to be culturally affiliated with this object should contact Jonathan Haas, MacArthur Curator of North American Anthropology, The Field Museum of Natural History, Roosevelt Road at Lake Shore Drive, Chicago, IL 60605, telephone: (312) 922-9410, extension 641, before March 31, 1995.

Dated: February 23, 1995.

Francis P. McManamon,

*Departmental Consulting Archeologist,
Chief, Archeological Assistance Division.*

[FR Doc. 95-5043 Filed 2-28-95; 8:45 am]

BILLING CODE 4310-70-F

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701-TA-287 and 731-TA-378 (Final) (Remand)]

Certain Electrical Conductor Aluminum Redraw Rod From Venezuela

AGENCY: International Trade Commission.

ACTION: Notice of remand determination.

SUMMARY: The Commission hereby gives notice of a final court decision affirming its final negative determinations, made pursuant to court remand, in the above-identified antidumping and countervailing duty investigations.

FOR FURTHER INFORMATION CONTACT:

Andrea C. Casson, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, DC 20436; (202) 205-3105. Hearing-impaired individuals are advised that information on this matter

can be obtained by contacting the Commission's TDD terminal at (202) 205-1810.

SUPPLEMENTARY INFORMATION:

In August 1988, the Commission published its determinations that an industry of the United States was threatened with material injury by reason of imports of electrical conductor aluminum redraw rod ("EC rod") from Venezuela which the Department of Commerce ("Commerce") had determined are being subsidized and sold at less than fair value. 53 F.R. 31111 (Aug. 17, 1988); *Certain Electrical Conductor Aluminum Redraw Rod from Venezuela*, Invs. Nos. 701-TA-287 and 731-TA-378 (Final), USITC Pub. 2103 (Aug. 1988). *Suramerica de Aleaciones Laminadas, C.A.*, a Venezuelan exporter of EC rod, and others, sought review of those final determinations in the Court of International Trade (CIT).

On March 15, 1993, the CIT issued an opinion and order, finding that the Commission's final affirmative threat determinations were unsupported by substantial evidence and otherwise not in accordance with law. The CIT reversed and remanded the Commission's original determinations. *Suramerica de Aleaciones Laminadas, C.A. v. United States*, 818 F. Supp. 348 (CIT 1993). In compliance with the CIT's remand order, the Commission, on June 2, 1993, issued final remand determinations finding that an industry in the United States was not threatened with material injury by reason of imports of the subject EC rod. *Certain Electrical Conductor Aluminum Redraw Rod from Venezuela*, Invs. Nos. 701-TA-287 and 731-TA-378 (Final) (Remand), USITC Pub. 2860 (Feb. 1995).

The CIT sustained the remand determinations. *Suramerica de Aleaciones Laminadas, C.A. v. United States*, 841 F. Supp. 1220 (Aug. 4, 1993). Commerce published notice of the CIT's decision, pursuant to 19 U.S.C. 1516a(c)(1). 58 FR 52744 (Oct. 12, 1993). In accordance with *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990), Commerce stated that it would continue the suspension of liquidation of the subject merchandise. Commerce's notice also indicated that, if the CIT decision was affirmed on appeal, the antidumping and countervailing duty orders would be revoked effective August 14, 1993.

The Commission and petitioner Southwire, Inc. appealed the CIT's decision to the U.S. Court of Appeals for the Federal Circuit. On December 30, 1994, the Court of Appeals affirmed the CIT's final judgment upholding the Commission's negative remand

determinations. *Suramerica v. United States*, Nos. 93-1579 and 94-1021 (Fed. Cir. Dec. 30, 1994). Southwire filed in the Court of Appeals a petition for rehearing and suggestion for rehearing in banc. On February 13, 1995, the court denied Southwire's petition for rehearing and declined the suggestion for rehearing in banc. On February 17, 1995, the Court of Appeals issued its mandate. The judicial proceedings having ended and the final court decision having been issued, the Commission now, pursuant to 19 U.S.C. 1516a(e), publishes notice of the final court decision affirming its negative remand determinations.

By order of the Commission.

Issued: February 23, 1995.

Donna R. Koehnke,

Secretary.

[FR Doc. 95-5000 Filed 2-28-95; 8:45 am]

BILLING CODE 7020-02-P

[Investigations Nos. 701-TA-362 and 731-TA-707 through 709 (Final)]

Certain Seamless Carbon and Alloy Standard, Line, and Pressure Steel Pipe From Argentina, Brazil, Germany, and Italy

AGENCY: International Trade Commission.

ACTION: Institution and scheduling of final antidumping investigations and scheduling of the ongoing countervailing duty investigation.

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigations Nos. 731-TA-707 through 709 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of certain seamless carbon and alloy standard, line, and pressure steel pipe¹ from Argentina, Brazil, and Germany.² Such imports are

¹ The imports subject to investigation are seamless carbon and alloy (other than stainless) steel pipes, of circular cross-section, not more than 114.3mm (4.5 inches) in outside diameter, regardless of wall thickness, manufacturing process (hot-finished or cold-drawn), end finish (plain end, bevelled end, upset end, threaded, or threaded and coupled), or surface finish. The subject imports are further defined in the U.S. Department of Commerce's notices of preliminary determinations of sales at less than fair value (60 FR 5348, January 27, 1995).

² Because Commerce's preliminary antidumping duty determination regarding Italy was negative, the Commission is not instituting a final investigation for Italy (No. 731-TA-710) at this time.

provided for in subheadings 7304.10.10, 7304.10.50, 7304.31.60, 7304.39.00, 7304.51.50, 7304.59.60, and 7304.59.80 of the Harmonized Tariff Schedule of the United States. The Commission also gives notice of the schedule to be followed in these antidumping investigations and the ongoing countervailing duty investigation regarding imports of small diameter seamless carbon and alloy standard, line, and pressure steel pipe from Italy (Inv. No. 701-TA-362 (Final)), which the Commission instituted effective November 28, 1994 (60 FR 2984, January 12, 1995). The schedules for the subject investigations will be identical, pursuant to Commerce's alignment of its final subsidy and dumping determinations (59 FR 66296, December 23, 1994).

For further information concerning the conduct of these investigations, hearing procedures, and rules of general application, consult 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).

EFFECTIVE DATE: January 27, 1995.

FOR FURTHER INFORMATION CONTACT:

Diane J. Mazur (202-205-3184), 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:

Background

The subject antidumping investigations are being instituted as a result of affirmative preliminary determinations by the Department of Commerce (60 FR 5348, January 27, 1995) that imports of small diameter seamless carbon and alloy standard, line, and pressure steel pipe from Argentina, Brazil, and Germany are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). Commerce has also extended the date for its final determinations in the investigations from April 12, 1995 to June 12, 1995 (60 FR 9012, February 16, 1995). Therefore, the Commission's

schedule in these investigations conforms with Commerce's extended schedule.

The Commission instituted the countervailing duty investigation concerning Italy on November 28, 1994 (60 FR 2984, January 12, 1995). The investigations were requested in a petition filed on June 23, 1994, on behalf of the Gulf States Tube Division of Quanex Corp., Rosenberg, TX.

Participation in the Investigations and Public Service List

Any person having already filed an entry of appearance in the countervailing duty investigation is considered a party in the antidumping investigations. Any other persons wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, not later than twenty-one (21) days after publication of this notice in the **Federal Register**. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations upon the expiration of the period for filing entries of appearance.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these final investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made not later than twenty-one (21) days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff Report

The prehearing staff report in these investigations will be placed in the nonpublic record on June 7, 1995, and a public version will be issued thereafter, pursuant to section 207.21 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with these investigations beginning at 9:30 a.m. on June 20, 1995, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before June 11, 1995.

A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on June 13, 1995, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by §§ 201.6(b)(2), 201.13(f), and 207.23(b) of the Commission's rules. Parties are strongly encouraged to submit as early in the investigation as possible any requests to present a portion of their hearing testimony in camera.

Written Submissions

Each party is encouraged to submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.22 of the Commission's rules; the deadline for filing is June 14, 1995. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.23(b) of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.24 of the Commission's rules. The deadline for filing posthearing briefs is June 28, 1995; witness testimony must be filed no later than three (3) days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations on or before June 28, 1995. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority

These investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to section 207.20 of the Commission's rules.

By order of the Commission.

Issued: February 21, 1995.

Donna R. Koehnke,
Secretary.

[FR Doc. 95-5001 Filed 2-28-95; 8:45 am]

BILLING CODE 7020-02-P

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 32617]

CAGY Industries, Inc.—Continuance in Control Exemption—Redmont Railway Co., Inc.

CAGY Industries, Inc. (CAGY), a noncarrier, has filed a notice of exemption to continue in control of Redmont Railway Company, Inc. (Redmont), a wholly owned subsidiary of CAGY, upon Redmont becoming a class III rail carrier.¹

Redmont, a noncarrier, has concurrently filed a notice of exemption in Redmont Railway Company, Inc.—Lease and Operation Exemption—Certain Lines of Mississippi-Alabama Railroad Authority, Finance Docket No. 32616, to acquire by lease and to operate a 41.5-mile rail line segment owned by Norfolk Southern Railway Company (NS) between milepost IC-529.5 at Corinth, MS, and milepost IC-571.0 at Red Bay, AL.² Redmont will also acquire incidental trackage rights to operate over 2.2 miles of NS's track between NS milepost IC-529.5 at Corinth and NS milepost IC-527.3 at NS' Corinth Yard. The parties intended to consummate the proposed transaction on or after February 15, 1995.

CAGY controls two other nonconnecting class III rail carriers: Columbus and Greenville Railway Company (C&G), operating in

Mississippi, and the Chattooga & Chickamauga Railway Co. (CCKY), operating in Mississippi, Georgia, and Tennessee.³

CAGY states that: (1) Redmont will not connect with any of the other railroads in its corporate family; (2) the continuance in control is not a part of a series of anticipated transactions that would connect Redmont with any other railroad in its corporate family; and (3) the transaction does not involve a class I railroad. The transaction therefore is exempt from the prior approval requirements of 49 U.S.C. 11343. See 49 CFR 1180.2(d)(2).

As a condition to use of this exemption, any employees affected by the transaction will be protected by the conditions set forth in New York Dock Ry.—Control—Brooklyn Eastern Dist., 360 I.C.C. 60 (1979).

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Pleadings must be filed with the Commission and served on: Eric M. Hocky, 213 West Miner Street, P.O. Box 796, West Chester, PA 19381-0796.

Decided: February 17, 1995.

By the Commission, David M. Konschnik,
Director, Office of Proceedings.

Vernon A. Williams,
Secretary.

[FR Doc. 95-5041 Filed 2-28-95; 8:45 am]

BILLING CODE 7035-01-P

[Finance Docket No. 32615]

Mississippi-Alabama Railroad Authority—Acquisition Exemption— Norfolk Southern Railway Company

Mississippi-Alabama Railroad Authority (MARA), a noncarrier, has filed an amended notice of exemption¹ to acquire approximately 41.5 miles of rail line owned by Norfolk Southern Railway Company (NS) between milepost IC-529.5 at Corinth, MS, and milepost IC-571.0 at Red Bay, AL.²

³The control of these carriers was authorized in CAGY Industries, Inc.—Control Exemption—Chattooga & Chickamauga Railway Co., Finance Docket No. 31422 (ICC served June 12, 1989).

¹The notice of exemption was originally filed on November 15, 1994. MARA filed a letter, on December 5, 1994, requesting a delay in the publication of this and two related notices of exemption. MARA claimed that it needed to meet state requirements following enactment of enabling legislation by Alabama and Mississippi authorizing the creation of MARA. On February 8, 1995, MARA filed this amended notice of exemption.

²The 41.5-mile line segment is within a NS rail line that is the subject of a feeder line application in *Sunshine Mills, Inc.—Feeder Line Acquisition—Norfolk Southern Railway Company Line Between*

Redmont Railway Company, Inc. (Redmont), a noncarrier, concurrently filed a notice of exemption in *Redmont Railway Company, Inc.—Lease and Operation Exemption—Mississippi-Alabama Railroad Authority*, Finance Docket No. 32616, to operate the line under lease from MARA. Additionally, CAGY Industries, Inc., a noncarrier, concurrently filed a notice of exemption in *CAGY Industries, Inc.—Continuance in Control Exemption—Redmont Railway Company, Inc.*, Finance Docket No. 32617, to continue in control of Redmont and two other class III rail carriers, once Redmont becomes a rail carrier. The parties intended to consummate the transaction on or after February 15, 1995.

Any comments must be filed with the Commission and served on: William P. Jackson, Jr., Jackson & Jessup, P.C., P.O. Box 1240, 3426 North Washington Boulevard, Arlington, VA 22210.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: February 17, 1995.

By the Commission, David M. Konschnik,
Director, Office of Proceedings.

Vernon A. Williams,
Secretary.

[FR Doc. 95-5042 Filed 2-28-95; 8:45 am]

BILLING CODE 7035-01-P

[Finance Docket No. 32616]

Redmont Railway Company, Inc.— Lease and Operation Exemption— Certain Lines of Mississippi-Alabama Railroad Authority

Redmont Railway Company, Inc. (Redmont), a noncarrier, has filed a notice of exemption to acquire by lease and to operate a 41.5-mile rail line segment owned by Norfolk Southern Railway Company (NS) between milepost IC-529.5 at Corinth, MS, and milepost IC-571.0 at Red Bay, AL.¹

Corinth, MS and Haleyville, AL, Finance Docket No. 32337. MARA asserts that upon approval of this acquisition exemption, Sunshine Mills, Inc., the feeder line applicant and an active supporter of the instant acquisition, is expected to request dismissal of the pending application.

¹Redmont originally filed the notice of exemption on November 15, 1994. By letter filed December 5, 1994, the Mississippi-Alabama Railroad Authority (MARA) requested the Commission to suspend the processing of the notice and the concurrently filed related notices in Finance Docket Nos. 32615 and 32617. MARA states that counsel for Redmont concurred in the request. MARA claimed that it needed to meet State

¹CAGY originally filed the notice of exemption on November 15, 1994. By letter filed December 5, 1994, the Mississippi-Alabama Railroad Authority (MARA) requested the Commission to suspend the processing of the notice and the concurrently filed related notices in Finance Docket Nos. 32615 and 32616. MARA states that counsel for CAGY concurred in the request. MARA claimed that it needed to meet State requirements following enactment of enabling legislation by Alabama and Mississippi authorizing the creation of MARA which it states had not been completed at the time the original notice was filed. On February 8, 1995, CAGY filed an amended verified notice of exemption.

²In a related notice of exemption in *Mississippi-Alabama Railroad Authority—Acquisition Exemption—Norfolk Southern Railway Company*, Finance Docket No. 32615, MARA seeks to acquire from NS the 41.5-mile rail line segment. This 41.5-mile rail line segment is embraced within a feeder line application in *Sunshine Mills, Inc.—Feeder Line Acquisition—Norfolk Southern Railway Company Line Between Corinth, MS, and Haleyville, AL*, Finance Docket No. 32337. NS and MARA state that upon approval of the acquisition transaction, Sunshine is expected to request dismissal of the feeder line application.

Redmont will also acquire incidental trackage rights to operate over 2.2 miles of NS's track between NS milepost IC-529.5 at Corinth and NS milepost IC-527.3 at NS' Corinth Yard.

This proceeding is related to CAGY Industries, Inc.—Continuance in Control Exemption—Redmont Railway Company, Inc., Finance Docket No. 32617, wherein CAGY Industries, Inc. (CAGY) has concurrently filed a notice of exemption to continue in control of Redmont, a wholly owned subsidiary of CAGY, upon Redmont becoming a class III rail carrier.² The parties intended to consummate the proposed transaction on or after February 15, 1995.

Any comments must be filed with the Commission and served on: Eric M. Hocky, 213 West Miner Street, P.O. Box 796, West Chester, PA 19381-0796.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: February 17, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,
Secretary.

[FR Doc. 95-5040 Filed 2-28-95; 8:45 am]

BILLING CODE 7035-01-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

requirements following enactment of enabling legislation by Alabama and Mississippi authorizing the creation of MARA which it states had not been completed at the time the original notice was filed. On February 8, 1995, Redmont filed an amended verified notice of exemption.

In a related notice of exemption in Mississippi-Alabama Railroad Authority—Acquisition Exemption—Norfolk Southern Railway Company, Finance Docket No. 32615, MARA seeks to acquire from NS the 41.5-mile rail line segment. This 41.5-mile rail line segment is embraced within a feeder line application in Sunshine Mills, Inc.—Feeder Line Acquisition—Norfolk Southern Railway Company Line Between Corinth, MS, and Haleyville, AL, Finance Docket No. 32337. NS and MARA state that upon approval of the acquisition transaction, Sunshine is expected to request dismissal of the feeder line application.

² CAGY Industries, Inc., a noncarrier, owns the majority of the outstanding stock of Columbus and Greenville Railway Company (C&G) and all of the outstanding capital stock of Chattooga & Chickamauga Railway Co. (CCKY). The control of these carriers was authorized in CAGY Industries, Inc.—Control Exemption—Chattooga & Chickamauga Railway Co., Finance Docket No. 31422 (ICC served June 12, 1989).

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) Who will be asked or required to respond, as well as a brief abstract;
- (4) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;
- (5) An estimate of the total public burden (in hours) associated with the collection; and
- (6) 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) COPS FAST Community Policing and Budget Summary Form.
- (2) COPS 005/01. Office of Community Oriented Policing Services, United States Department of Justice.
- (3) Primary = State, Local or Tribal Government, Others = None. The COPS FAST Community Policing and Budget Summary form is to be used by COPS FAST grant recipients to supply information, including a community plan, hiring retention plan, and budget worksheets, relating to the hiring of new police officers to engage in community oriented policing.

- (4) 6,660 annual respondents at 4.33 hours per response.
- (5) 50,149.80 annual burden hours.
- (6) Not applicable under Section 3504(h) of Public Law 96-511.

Dated: February 23, 1995.

Public comment on this item is encouraged.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 95-4915 Filed 2-28-95; 8:45 am]

BILLING CODE 4410-21-M

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA")

Notice is hereby given that a proposed consent decree in *United States v. Allied-Signal, Inc. et al.*, (1:95 CV 085) was lodged on February 16, 1995, with the United States District Court for the Eastern District of Texas.

The United States brought a civil action against Allied-Signal, Inc.; Atlantic Richfield Company; Bridgestone/Firestone, Inc., formerly d/b/a/ Firestone Tire and Rubber Company, Inc.; The Dow Chemical Company; Goodyear Tire & Rubber Company; Mobil Oil Corporation; Olin Corporation; PPG Industries, Inc.; Union Oil Company of California, d/b/a Unocal; and Unocal Corporation pursuant to Sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), 42 U.S.C. 9606 and 9607. The Complaint, filed concurrently with the lodging of the Consent Decree, alleges that the defendants are liable for injunctive relief necessary to abate a threatened release of hazardous substances and for all costs of removal and/or remedial actions incurred by the United States in responding to releases or threatened releases of hazardous substances at the Bailey Waste Disposal Site. The Bailey Waste Disposal Site encompasses approximately 280 acres located 3 miles southwest of Bridge City in Orange County, Texas. Further, the Complaint alleges that each of the defendants, at times relevant to this action, by contract, agreement, or otherwise arranged for the disposal of hazardous substances at the Site. The Consent Decree provides for reimbursement to the Hazardous Substance Superfund ("the Fund") by the Settling Defendants of the greater of (1) 85.3 percent of 20 percent of those funds expended by the Bailey Task Force in completing its

remedial action, pursuant to a Consent Decree entered in a related action, *United States v. BFI, et al.*, Civil Action No. B-89-00859-CA1 (E.D. Tex.), or (2) \$2,600,000.00. If the claims submitted by the Bailey Task Force total less than \$2,600,000.00, then the Settling Defendants shall pay the United States 100 percent of the total claims submitted under the Mixed Funding Consent Decree.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States v. Allied-Signal, Inc. et al.*, DOJ Ref. #90-11-2-390A.

The proposed consent decree may be examined at the office of the United States Attorney, 305 Federal Building, 211 W. Ferguson Street, Tyler Texas 75702; the Region VI Office of the Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas Texas 75202; and at the Consent Decree Library, 1120 G Street NW., 4th Floor, Washington, DC 20005, (202) 624-0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street NW., 4th Floor, Washington, DC 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of \$9.00 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 95-4922 Filed 2-28-95; 8:45 am]

BILLING CODE 4410-01-M

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—The ATM Forum

Notice is hereby given that, on August 16, 1994, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), The ATM Forum (the "ATM Forum") filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages

under specified circumstances. Specifically, the identities of the new members of ATM Forum are: AU-System, Stockholm, SWEDEN; AdvanceNet Systems, Research Triangle Park, NC; CrossComm, Marlboro, MA; Unisource Business Networks, Stockholm, SWEDEN; ATM, Ltd., Cambridge, UNITED KINGDOM; Alantec, San Jose, CA; Cable & Wireless, London, UNITED KINGDOM; EXAR Corporation, San Jose, CA; Furukawa Elec Tech, Santa Clara, CA; General Instrument, Hatboro, PA; Honeywell, Richardson, TX; LANNET Data Communications, Tel-Aviv, ISRAEL; Phillips Semiconductor, Sunnyvale, CA; Raynet, Menlo Park, CA; The RAD Group, Tel Aviv, ISRAEL; Trillium Digital System, Los Angeles, CA; and TriQuint, Beaverton, OR.

No changes have been made in the planned activities of the ATM Forum. Membership remains open, and the members intend to file additional written notifications disclosing all changes in membership.

On April 19, 1993, ATM filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 2, 1993 (58 FR 31415).

The last notification was filed with the Department on June 3, 1994. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on September 26, 1994 (59 FR 49083).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95-4923 Filed 2-28-95; 8:45 am]

BILLING CODE 4410-01-M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Climatology and Simulation of Eddies Joint Industry Project

Notice is hereby given that, on December 19, 1994, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), the participants in the Exxon Production Research Company administered project, titled "Climatology and Simulation of Eddies Joint Industry Project" ("CASE"), has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing a change in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Specifically, the following additional party has become a member of CASE: Deepwater Production Systems, Inc., Houston, TX.

No other changes have been made in either the membership or planned activity of the CASE Project. Membership in this project remains open, and CASE intends to file additional written notification disclosing all changes in membership.

On August 14, 1990, Exxon Production Research Company filed its original notification pursuant to section 6(a) of the Act.

The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on September 18, 1990 (55 FR 38418).

The last notification was filed with the Department on August 11, 1994. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on September 22, 1994 (59 FR 48645-48646).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95-4925 Filed 2-28-95; 8:45 am]

BILLING CODE 4410-01-M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—the Development of the Face Gear Technology for Industrial and Aerospace Power Transmission Program Team

Notice is hereby given that, on September 21, 1994, pursuant to section 6(b) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), McDonnell Douglas Helicopter Company (doing business as McDonnell Douglas Helicopter Systems) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of a cooperative arrangement known as the "Development of Face Gear Technology for Industrial and Aerospace Power Transmission Team ("FG/ST")". The notifications were filed for the purpose of invoking the provisions of the Act limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties are McDonnell Douglas Helicopter Systems, Mesa, AZ; and Lucas Western Incorporated, Park City, UT. The purpose of FG/ST is to pursue a coordinated research and development effort which will support and stimulate advance research and lead to the development of "Face Gear Technology

for Industrial and Aerospace Power Transmission".

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95-4927 Filed 2-28-95; 8:45 am]

BILLING CODE 4410-01-M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Demonstration of Universal Electric Transportation Subsystems

Notice is hereby given that, on December 29, 1994, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301, *et seq.* ("the Act"), the participants in the Demonstration of Universal Electric Transportation Systems ("DUETS") filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties and the general area of planned activity are: NovaBus of America, Roswell, NM; Honeywell Incorporated, Minneapolis, MN; Kaman Electromagnetics Corporation, Hudson, MA; and Davis Technologies International, Inc., Dallas, TX.

The nature and objectives of the research program performed in accordance with DUETS is to conduct and exchange technology information regarding system engineering that insures regulatory and functional requirements of the transit bus market, to design an alternatively-fueled, hybrid-driven electric propulsion unit, to design a fault tolerant, fiber optic vehicle management system, and to develop an advanced technology, semi-active suspension system.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95-4924 Filed 2-28-95; 8:45 am]

BILLING CODE 4410-01-M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Petroleum Environmental Research Forum

Notice is hereby given that, on January 10, 1995, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), the

Petroleum Environmental Research Forum ("PERF") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing a change in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Specifically, Lockheed Corporation has terminated its membership with PERF.

No other changes have been made in either the membership or planned activity of PERF. Membership remains open, and PERF intends to file additional written notification disclosing all changes in membership.

On February 10, 1986, PERF filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on March 14, 1986 (51 FR 8903).

The last notification was filed with the Department on August 23, 1993. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on September 21, 1993 (58 FR 49059).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95-4928 Filed 2-28-95; 8:45 am]

BILLING CODE 4410-01-M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Titanium Matrix Composites Turbine Engine Component Consortium

Notice is hereby given that, on October 19, 1994, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), General Electric Company filed notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the Titanium Matrix Composites Turbine Engine Component Consortium ("TMCTECC"). The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties are: General Electric Company, acting by and through its GE Aircraft Engines, Cincinnati, OH; United Technologies Corporation, acting by and through its Pratt & Whitney Government Engines and Space Propulsion Division, West Palm Beach, FL; Textron Specialty Materials, a Division of AVCO

Corporation, Lowell, MA; Minnesota Mining & Manufacturing Company, St. Paul, MN; Howmet Corporation, Whitehall, MI; and Atlantic Research Corporation, Gainesville, VA. The TMCTECC was formed for the purpose to develop and qualify TMC reinforced parts and components and to establish low cost fibers, TMC's and component manufacturing processes for TMC implementation into production hardware. The TMCTECC shall seek to achieve this objective through development of cost-effective processes to produce TMC reinforced fan blades and frames.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95-4926 Filed 2-28-95; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

Importer of Controlled Substances; Registration

By Notice dated May 6, 1994, and published in the **Federal Register** on May 13, 1994 (59 FR 25126), Noramco of Delaware, Inc., Division of McNeilab, Inc., 500 Old Swedes Landing Road, Wilmington, Delaware 19801, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Opium, raw (9600)	II
Poppy Straw Concentrate (9670)	II

No comments or objections have been received. Therefore, pursuant to section 1008(a) of the Controlled Substances Import and Export Act 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: February 21, 1995.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 95-4936 Filed 2-28-95; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Application

Pursuant to § 1301.43(a) of title 21 of the Code of Federal Regulations (CFR), this is notice that on January 24, 1995, Organix Inc., 65 Cummings Park, Woburn, Massachusetts 01801, made application to the Drug Enforcement

Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Tetrahydrocannabinols (7370)	I
Morphine (9300)	II

The firm plans to manufacture Tetrahydrocannabinols and a derivative of Morphine for use in diagnostic kits.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than March 31, 1995.

Dated: February 17, 1995.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 95-4934 Filed 2-28-95; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Registration

By Notice dated April 25, 1994, and published in the **Federal Register** on May 4, 1994, (59 FR 23082), Penick Corporation, 158 Mount Olivet Avenue, Newark, New Jersey 07114, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Tetrahydrocannabinols (7370)	I
Dihydromorphine (9145)	I
Pholcodine (9314)	I
Alphacetylmethadol (9603)	I
Cocaine (9041)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Diphenoxylate (9170)	II
Benzoyllecgonine (9180)	II
Ethylmorphine (9190)	II
Hydrocodone (9193)	II
Meperidine (9230)	II
Methadone (9250)	II
Methadone-intermediate (9254) ...	II

Drug	Schedule
Dextropropoxyphene, bulk (non-dosage forms) (9273)	II
Morphine (9300)	II
Thebaine (9333)	II
Opium extracts (9610)	II
Opium fluid extract (9620)	II
Opium tincture (9630)	II
Opium powdered (9639)	II
Opium granulated (9640)	II
Oxymorphone (9652)	II
Phenazocine (9715)	II
Alfentanil (9737)	II
Sufentanil (9740)	II
Fentanyl (9801)	II

A written request for a hearing was not received, but a comment was filed by a registered manufacturer. The comment was considered, however, DEA determined that the application should be approved. Therefore, pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations, § 1301.54(e), Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: January 24, 1995.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 95-4937 Filed 2-28-95; 8:45 am]

BILLING CODE 4410-09-M

Importation of Controlled Substances; Application

Pursuant to section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with § 1311.42 of title 21, Code of Federal Regulations (CFR), notice is hereby given that on December 13, 1994, Lonza Riverside, 900 River Road, Conshohocken, Pennsylvania 19428, made application to the Drug Enforcement Administration to be registered as an importer of Phenylacetone (8501) a basic class of

controlled substance listed in Schedule II.

The firm is importing the Phenylacetone to manufacture Dextroamphetamine Sulfate.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than (30 days from publication).

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42 (b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745-46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42 (a), (b), (c), (d), (e), and (f) are satisfied.

Dated: February 17, 1995.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 95-4935 Filed 2-28-95; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-30,550]

Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

Grace Energy Corporation, Dallas, TX and Grace Petroleum Corporation Operating at the Following Locations: TA-W-30,550A Oklahoma, TA-W-30,550B Texas, TA-W-30,550C Alabama, TA-W-30,550D Colorado,

TA-W-30,550E Michigan, TA-W-30,550F Montana, TA-W-30,550G Mississippi, TA-W-30,550H New Mexico, TA-W-30,550I Wyoming and TA-W-30,550J Grace Drilling Company, Dallas, TX.

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a certification of Eligibility to Apply for Worker Adjustment Assistance on January 27, 1995, applicable to all workers of Grace Energy Corporation, Dallas, Texas, and Grace Petroleum Corporation operating in various locations in the United States. The notice was published in the **Federal Register** on February 14, 1995 (60 FR 8415).

At the request of the workers, the Department reviewed the certification for workers of Grace Energy Corporation and Grace Petroleum Corporation. The investigation findings show that workers of Grace Drilling Company, Dallas, Texas, a subsidiary of Grace Energy Corporation, were inadvertently excluded from the certification.

The intent of the Department's certification is to include all workers of Grace Energy Corporation, Grace Petroleum, and Grace Drilling Company adversely affected by imports.

The amended notice applicable to TA-W-30,550 is hereby issued as follows:

All workers of Grace Petroleum Corporation operating in the States of Oklahoma, Texas, Alabama, Colorado, Michigan, Montana, Mississippi, New Mexico and Wyoming who became totally or partially separated from employment on or after August 21, 1994; for workers of Grace Energy Corporation, Dallas, Texas who became totally or partially separated from employment on or after December 18, 1994; and for workers of Grace Drilling Company, Dallas, Texas who became totally or partially separated from employment on or after February 12, 1994 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of February 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95-5011 Filed 2-28-95; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-30,137]

Diamond Tool and Horseshoe Company, Duluth, Minnesota; Notice of Revised Determination on Reconsideration

On February 14, 1995, the Department issued an Affirmative Determination

Regarding Application for Reconsideration for the former workers of the subject firm. The notice will soon be published in the **Federal Register**.

The subject plant ceased operations in September, 1994 and all workers were laid off at that time.

U.S. imports of pliers, wrenches, horse and mule shoes increased in 1993 compared to 1992 and in the latest 12-month period ending in August 1994 compared to the same period ending in August 1993.

On reconsideration, the workers submitted a new list of customers who decreased their purchases from the subject firm in the relevant time periods. New findings on reconsideration show that customers accounting for a substantial portion of Diamond Tool's sales decline in 1993 and in the first six months of 1994 compared to their immediate earlier respective periods increased their purchases of imports in the same periods.

Conclusion

After careful consideration of the new facts obtained on reconsideration, it is concluded that the former workers of the Diamond Tool and Horseshoe Company in Duluth, Minnesota were adversely affected by increased imports of articles that are like or directly competitive with horseshoes, wrenches and pliers and related equipment.

In accordance with the provisions of the Act, I make the following revised determination for workers of the Diamond Tool and Horseshoe Company in Duluth, Minnesota.

"All workers and former workers of Diamond Tool and Horseshoe Company, Duluth, Minnesota who became totally or partially separated from employment on or after April 14, 1993 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

Signed at Washington, DC, this 17th day of February, 1995.

Victor J. Trunzo,

Program Director, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95-5003 Filed 2-28-95; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-29,895 Las Cruces, New Mexico; TA-W-29,895A EL Paso, Texas]

Keytronic A/K/A Honeywell Keyboard Division; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a

Certification of Eligibility to Apply for Worker Adjustment Assistance on October 13, 1994, applicable to all workers of the subject firm.

The Notice was published in the **Federal Register** on November 1, 1994 (59 FR 54632). The certification was amended on December 8, 1994 to include workers in El Paso, Texas. The amended notice was published in the **Federal Register** on December 16, 1994 (59 FR 65078-9).

At the request of the workers, the Department again reviewed the certification for workers of the subject firm. The investigation findings show that the Honeywell Keyboard Division was purchased by Keytronic in August, 1993. The Honeywell Keyboard Division meets all the criteria for a predecessor-in-interest firm. Many of the workers had unemployment insurance (UI) taxes paid under the former firm.

Accordingly, the Department is amending the certification to properly reflect this matter.

The amended notice applicable to TA-W-29,895 is hereby issued as follows:

"All workers of Keytronic, a/k/a Honeywell Keyboard Division in Las Cruces, New Mexico and El Paso, Texas who became totally or partially separated from employment on or May 7, 1993 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

Signed at Washington, D.C., this 17th day February 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services Office of Trade Adjustment Assistance.

[FR Doc. 95-5014 Filed 2-28-95; 8:45 am]

BILLING CODE 4510-30-41

[TA-W-30,444]

Martin Marietta Utica, NY; Notice of Negative Determination Regarding Application for Reconsideration

By an application dated January 22, 1995, the French Road Lodge 1669 of the International Association of Machinists (IAM) requested administrative reconsideration of the subject petition for trade adjustment assistance, TAA. The denial notice was issued on December 30, 1994 and published in the **Federal Register** on January 20, 1995 (60 FR 4194).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

Investigation findings show that the workers produce printed circuit boards.

The union claims that production is being transferred to Mexico. The union also claims that the production of GD 53s (radar assemblies for aircraft) was transferred to Taiwan.

The findings show that the subject firm has been outsourcing a specific type of circuit board production to Mexico since 1992. The workers affected by this shift of assembly work were certified as eligible to apply for TAA on December 4, 1993. The certification (TA-W-27,877) expired on December 4, 1994. No new production has been transferred to Mexico.

Other circuit board production at Utica has been affected by declines and delays in Defense contracts regulating from Defense spending cutbacks. The subject firm has not lost bids to foreign firms.

Also, a Taiwanese contract with the subject firm called for the Utica plant to co-produce with Taiwan and train Taiwanese workers on the production of the radar assemblies for the Taiwanese market. This contract actually had a positive employment affect at Utica. After a certain number of radar assemblies were produced, the production was transferred to Taiwan. There were no imports of the radar assemblies. Worker separations resulting from a loss of production or sales to the export market would not form a basis for a worker group certification.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 16th day of February 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95-5015 Filed 2-28-95; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-30,540]

National Ceramics, Inc. a/k/a Ceramic Fashions, Cunningham, KY; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on January 10, 1995, applicable to all workers of National Ceramics, Inc., in Cunningham, Kentucky. The certification notice was published in the **Federal Register** on February 10, 1995 (60 FR 8062).

At the request of the State Agency, the Department reviewed the certification for workers of the subject firm. The investigation findings show that some of the claimants' wages for National Ceramics are being reported under Ceramic Fashions.

Accordingly, the Department is amending the certification to properly reflect the correct worker group.

The intent of the Department's certification is to include all workers of National Ceramics in Cunningham, Kentucky irrespective to which account their unemployment insurance (UI) taxes are paid.

The amended notice applicable to TA-W-30,540 is hereby issued as follows:

"All workers of National Ceramics, Inc., a/k/a Ceramic Fashions, Cunningham, Kentucky who became totally or partially separated from employment on or after November 17, 1993 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

Signed at Washington, D.C., this 21st day of February 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95-5004 Filed 2-28-95; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-30,113]

Philips Lighting Richmond, KY; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on December 21, 1994, applicable to all workers of Philips Lighting in Richmond, Kentucky. The certification

notice was published in the **Federal Register** on January 4, 1994 (60 FR 481).

At the request of the workers, the Department reviewed the certification for workers of the subject firm. New findings show that some workers were laid off just prior to the July 8, 1993 impact date set in the certification. The Department can go back to April 1, 1993 in setting its impact date.

Accordingly, the Department is amending the certification by deleting the July 8, 1993 impact date and setting a new impact date of April 1, 1993.

The intent of the Department's certification is to include all workers who were adversely affected by increased imports.

The amended notice applicable to TA-W-30,113 is hereby issued as follows:

"All workers of Philips Lighting, Richmond, Kentucky who became totally or partially separated from employment on or after April 1, 1993 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

Signed in Washington, D.C., this 22nd day of February 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95-5008 Filed 2-28-95; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-30, 113]

Philips Lighting Company Richmond, KY; Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; Correction

This notice corrects the notice for petition TA-W-30-113 which was published in the **Federal Register** on August 8, 1994 (59 FR 40372) in FR Document 94-19240.

This revises the date received and the date of petition on the ninth line of the third and fourth columns in the appendix table on page 40372. The date received and the date of petition should both read "April 1, 1994" in the third and fourth columns on the ninth line of the appendix table.

Signed in Washington, D.C., this 22nd day of February, 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95-5010 Filed 2-28-95; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-30,468]

Pontiac Weaving Corporation, Cumberland, RI; Notice of Revised Determination on Reconsideration

On February 14, 1995, the Department issued an Affirmative Determination Regarding Application for Reconsideration for the former workers of the subject firm. The notice will soon be published in the **Federal Register**.

The subject plant ceased operations in September 1994 and all production workers were laid off at that time.

New findings on reconsideration show that Pontiac Weaving contracted for a manufacturer who owns a major share of Pontiac Weaving Corporation. The manufacturer increased its company imports in 1994 compared to 1993.

Conclusion

After careful consideration of the new facts obtained on reconsideration, it is concluded that the former workers of the Pontiac Weaving Corporation in Cumberland, Rhode Island were adversely affected by increased imports of articles that are like or directly competitive with those produced at the subject firm.

In accordance with the provisions of the Act, I make the following revised determination for the former workers of the Pontiac Weaving Corporation in Cumberland, Rhode Island.

"All workers and former workers of Pontiac Weaving Corporation in Cumberland, Rhode Island who became totally or partially separated from employment on or after September 21, 1993 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

Signed at Washington, DC, this 17th day of February 1995.

Victor J. Trunzo,

Program Director, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95-5007 Filed 2-28-95; 8:45 am]

BILLING CODE 4510-30-M

Employment and Training Administration

[TA-W-29,802]

Western Geophysical Company, A/K/A Halliburton Company, A/K/A Western Atlas International, Inc., Houston, TX and TA-W-29,802A Alvin, TX and TA-W-29,802B Offshore Marine Operations in the Gulf of Mexico; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance applicable to all workers of the subject firm.

The certification was issued on May 31, 1994 and published in the **Federal Register** on June 14, 1994 (59 FR 30618). The certification was amended on June 15, 1994; July 18, 1994 and on November 1, 1994 and the notices were published in the **Federal Register** on June 28, 1994 (59 FR 33306); July 26, 1994 (59 FR 37997); and on November 15, 1995 (59 FR 58859), respectively.

At the request of the company, the Department reviewed the certification for workers of the subject firm. New findings show that worker separations occurred offshore in the Gulf of Mexico.

Accordingly, the Department is amending the certification to properly reflect the correct worker group.

The intent of the Department's certification is to include all workers of the Western Geophysical Company, a/k/a Halliburton Company and Western Atlas International, Inc., Houston, Texas who were adversely affected by increased imports of crude oil.

The amended notice applicable to TA-W-29,802 is hereby issued as follows:

"All workers of Western Geophysical Company, Houston, Texas and Alvin, Texas and offshore in the Gulf of Mexico (the successor-in-interest firm to Halliburton Geophysical Services) who had wages reported under Western Atlas International, Inc., Houston, Texas for UI tax account purposes and who had become totally or partially separated from employment on or after April 25, 1993 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

Signed at Washington, D.C., this 17th day of February, 1994.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95-5012 Filed 2-28-95; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-30,328 Pratt & Whitney, North Haven, Connecticut; TA-W-30,329, Pratt & Whitney, Southington, Connecticut; TA-W-30,329A, Pratt & Whitney, East Hartford, Connecticut; TA-W-30,329B Pratt & Whitney, Middletown, Connecticut; TA-W-30,329C, Pratt & Whitney, Rocky Hill, Connecticut]

United Technologies Corp. Pratt and Whitney; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued an Amended Certification of Eligibility to Apply for Worker Adjustment Assistance on February 16, 1994, applicable to all workers at United Technologies Corporation, Pratt & Whitney with locations in North Haven, Southington, East Hartford, Middletown, and Rocky Hill, Connecticut. The notice will soon be published in the **Federal Register**.

It was not the Department's intent to change the termination date of the original certification, and therefore, the term "through two years from the date of certification" is deleted.

The amendment notice applicable to TA-W-30,328, TA-W-30,329, TA-W-30,329A, TA-W-30,329B, and TA-W-30,329C is hereby issued as follows:

"All workers of United Technologies Corporation, Pratt & Whitney, North Haven, Connecticut (TA-W-30,328); Southington, Connecticut (TA-W-30,329); East Hartford, Connecticut (TA-W-30,329A); Middletown, Connecticut (TA-W-30,329B); and Rocky Hill, Connecticut (TA-W-30,329C) engaged in employment related to the production of jet engine parts who became totally or partially separated from employment on or after September 7, 1993 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

Signed at Washington, DC, this 22nd day of February 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95-5009 Filed 2-28-95; 8:45 am]

BILLING CODE 4510-30-M

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA-W) issued during the period of February, 1995.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations For Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-30,643; *Uarco, Inc., Adrian, MI*
TA-W-30,553; *T.E. Dee, Inc., Allentown, PA*

TA-W-30,637; *Moonlight Mushrooms, Inc., Worthington, PA*

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

TA-W-30,595 & A; *Entergy Corp., Redfield, AR & Newark, AR*

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-30,548; *RTVCH Holding, Inc., Paterson, NJ*

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-30,547; *Yorx Electronics Corp., Totowa, NJ*

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-30,555; *Xerox Engineering System (XES, Inc), N/K/A Xerox Colorcraft System, Inc., Marlboro, MA*

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-30,551, TA-W-30,552; *Mac Tools, Inc., Washington Court House, OH and Sabina, OH*

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-30,651; *Elbit Ft Worth, Inc., (EFW, Inc), Fort Worth, TX*

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-30,618; *Electra-Sound, Inc., Parma, OH*

The investigation revealed that criterion (1) and criterion (2) have not been met. A significant number or proportion of the workers did not become totally or partially separated as required for certification. Sales or production did not decline during the relevant period as required for certification.

TA-W-30,664; *Automobile Specialty Co., North Jackson, OH*

The conversion activities formerly performed by workers of Automobile Specialty Co were provided to a signal customer, General Motors. General Motors decided to begin performing this process in-house after the conclusion of the 1994 model year. The Automobile Specialty Co was shutdown at the end of June 1994. Because of this decision, General Motors will perform the process in the United States.

TA-W-30,677; *Leland Electrosystems, Inc., Erie Div., Erie, PA*

U.S. imports of electric motors and generators for civil aircraft decreased in 1993 compared to 1992 and in the twelve month period ending October 1994 compared to the same period of time a year earlier.

TA-W-30,632; *IRM Corp, Beaumont, TX*

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-30,574; *101 Warehouse Corp., Medley, FL*

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-30,730; *The Genlyte Group/Lightolier, Model Shop, Secaucus, NJ*

The subject firm terminations in the Model Shop are attributed to a domestic transfer. The models are for internal use only. The subject firm does not import models.

TA-W-30,584; *Dorman Roth Foods, Inc., Neptune, NJ*

The workers' firm does not produce an article as required for certification

under Section 222 of the Trade Act of 1974.

Affirmative Determinations For Worker Adjustment Assistance

TA-W-30,568; *Eutectic Corp., Flushing, NY*

A certification was issued covering all workers separated on or after December 7, 1993.

TA-W-30,522; *Xerox Corp., US Customers Operations, Rochester, NY*

A certification was issued covering all workers separated on or after November 15, 1993.

TA-W-30,593; & A; *Pyke Manufacturing Co., Salt Lake City, UT & Manti, UT*

A certification was issued covering all workers separated on or after December 13, 1993.

TA-W-30,585; *MRC II Fashions, Inc., Paterson, NJ*

A certification was issued covering all workers separated on or after December 14, 1993.

TA-W-30,583; *Metalist Apparel, Sidney, OH & Operating in the Following Other Locations: A; Reading, PA, B; Hamburg, PA, C; Auburn, PA*

A certification was issued covering all workers separated on or after December 8, 1993.

TA-W-30,611; *Kane Industries, Morgantown, KY*

A certification was issued covering all workers separated on or after December 21, 1993.

TA-W-30,689; *Baker Hughes Integ, Houston, TX & Operating in the Following Other Locations: A; AK, B; AR, C; CA, D; CO, E; LA, F; MS, G; OK, H; TX, I; UT, J; Washington, DC.*

A certification was issued covering all workers separated on or after January 9, 1994.

TA-W-30,577; *Cannon Shoe Co., Hagerstown, MD*

TA-W-30,722; *Cannon Shoe Co./Thurmont Shoe Co., Thurmont, MD*

A certification was issued covering all workers separated on or after December 9, 1993.

TA-W-30,559; *VLSI Technology, Inc., Tempe, AZ*

A certification was issued covering all workers separated on or after November 17, 1993.

TA-W-30,582; *Tennessee Valley Steel Corp., Harriman/Rockwood, TN*

A certification was issued covering all workers separated on or after December 12, 1993.

TA-W-30,569; *Beloit Corp., Beloit Lenox Div., Lenox, MA*

A certification was issued covering all workers separated on or after November 22, 1993.

TA-W-30,560; *Asamera Minerals (US), Inc., Cannon Mine, Wenatchee, WA*

A certification was issued covering all workers separated on or after March 29, 1995 and before December 31, 1995.

TA-W-30,620; *Woodward Governor Co., Stevens Point, WI*

A certification was issued covering all workers separated on or after December 22, 1993.

TA-W-30,622; *E. L. Heacock Co., Inc., Gloversville, NY*

A certification was issued covering all workers separated on or after December 20, 1993.

TA-W-30,565; *H. Grabell & Sons, Inc., Paterson, NJ*

A certification was issued covering all workers separated on or after December 6, 1993.

TA-W-30,567; *AJ Dress, Inc., Laceyville, PA*

A certification was issued covering all workers separated on or after December 7, 1993.

TA-W-30,635; *Genicom Corp., Waynesboro, VA*

A certification was issued covering all workers separated on or after March 1, 1995.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (P.L. 103-182) concerning transitional adjustment assistance hereinafter called (NAFTA-TAA) and in accordance with Section 250(a) Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA-TAA issued during the months of February, 1995.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA-TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(A) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(B) That imports from Mexico or Canada of articles like or directly

competitive with articles produced by such firm or subdivision have increased.

(c) That the increase in imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(2) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA-TAA

NAFTA-TAA-00339; *J.K. Operating Corp., Kulpmont, PA*

The investigation revealed that criteria (3) and criteria (4) were not met. There was no shift in production from the subject facility to Mexico or Canada during the period under investigation, nor did J.K. Operating Corp import from Mexico or Canada any articles that are like or directly competitive with women's sleepwear are from countries other than Mexico or Canada.

NAFTA-TAA-00326; *Hecla Mining Co., Inc., Republic Unit, Republic, WA*

The investigation revealed that criteria (3) and criteria (4) were not met. There was no shift in production from the subject facility to Mexico or Canada during the period under investigation, nor did the company import gold and silver from Mexico or Canada. Survey results revealed that customer imports of gold and silver from Canada or Mexico did not have an important negative import furing the periods under investigation.

NAFTA-TAA-00327; *Digital Equipment Corp., Field Support Unit, Maynard, MA*

The investigation revealed that the workers of the subject firm do not produce an article within the meaning of Section 250(a) of the Trade Act, as amended.

Affirmative Determinations NAFTA-TAA

NAFTA-TAA-00322; *Kirkwood Industries, Kepco Manufacturing, Inc., Pittsboro, NC*

A certification was issued covering all workers at Kirkwood Industries, Kepco Manufacturing, Inc., Pittsboro, NC separated on or after December 28, 1993.

NAFTA-TAA-00324; *Eveready Battery Co., A.K.A., Energizer Power Systems, El Paso, TX*

A certification was issued covering all workers of the El Paso Design Center of Eveready Battery Co, a/k/a Energizer Power Systems, El Paso, TX separated on or after January 9, 1994.

NAFTA-TAA-00328; *Hubbell-Bell, Inc., Fogelsville, PA*

A certification was issued covering all workers engaged in employment related to the production of electrical fittings at Hubbell-Bell, Inc., Fogelsville, PA separated on or after January 12, 1994.

NAFTA-TAA-00335; *Mallinckrodt Medical, Inc., Mallinckrodt Anesthesiology, Argyle, NY*

A certification was issued covering all workers at Mallinckrodt Medical, Inc., Mallinckrodt Anesthesiology, Argyle, NY separated on or after January 16, 1994.

NAFTA-TAA-00332; *Fairchild Aircraft, San Antonio, TX*

A certification was issued covering all workers engaged in the production of electrical wire harnesses at Fairchild Aircraft, San Antonio, TX separated on or after January 10, 1994.

The foregoing determination does not apply to the other workers at the subject firm.

I hereby certify that the aforementioned determinations were issued during the months of February, 1995. Copies of these determinations are available for inspection in Room C-4318, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: February 21, 1995.

Victor J. Trunzo,

Program Manager, Policy & Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95-5031 Filed 2-28-95; 8:45 am]

BILLING CODE 4510-30-M

[NAFTA-00274]

EFR Corporation, Everett, WA; Notice of Negative Determination Regarding Application for Reconsideration

By an application dated January 9, 1995, a former company official requested administrative reconsideration of the subject petition for transitional adjustment assistance (NAFTA-TAA). The denial notice was issued on December 12, 1994 and published in the **Federal Register** on January 3, 1995 (60 FR 149).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake

in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The findings show that the subject company was set up in February 1994 and harvested logs. The partnership was dissolved in November, 1994.

In 1994 the company cleared land and sold the logs to one customer who did not import logs or lumber.

The Department's denial was based on the fact that there was no shift in production from the workers' firm to Mexico or Canada. The Department's survey also revealed that the customer did not import logs or lumber from Canada or Mexico.

The workers were also denied trade adjustment assistance on reconsideration under petition TA-W-30, 483.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, D.C., this 16th day of February, 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95-5013 Filed 2-28-95; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility To Apply for NAFTA Transitional Adjustment Assistance

Petitions for transitional adjustment assistance under the North American Free Trade Agreement-Transitional Adjustment Assistance Implementation Act (P.L. 103-182), hereinafter called (NAFTA-TAA), have been filed with State Governors under Section 250(a) of Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended, are identified in the Appendix to this notice. Upon notice from a Governor that a NAFTA-TAA petition has been received, the Director of the Office of Trade Adjustment Assistance (OTAA), Employment and Training Administration (ETA), Department of Labor (DOL), announces the filing of the petition and takes actions pursuant to paragraphs (c) and (e) of Section 250 of the Trade Act.

The purpose of the Governor's actions and the Labor Department's

investigations are to determine whether the workers separated from employment after December 8, 1993 (date of enactment of P.L. 103-182) are eligible to apply for NAFTA-TAA under Subchapter D of the Trade Act because of increased imports from or the shift in production to Mexico or Canada.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing with the Director of OTAA at the U.S. Department of Labor (DOL) in Washington, D.C. provided such request is filed in writing with the Director of OTAA not later than March 13, 1995.

Also, interested persons are invited to submit written comments regarding the subject matter of the petitions to the Director of OTAA at the address shown below not later than March 13, 1995.

Petitions filed with the Governors are available for inspection at the Office of the Director, OTAA, ETA, DOL, Room C-4318, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 22nd day of February, 1995.

Victor J. Trunzo,

Program Manager, Policy & Reemployment Services Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers/firm)	Location	Date received at Governor's office	Petition No.	Articles produced
Genlyte Group; Lightolier (LOL) (IBEW)	Secaucus, NJ	01/31/95	NAFTA-00354	Lamp fixtures; track system devices, fluorescent fixtures, lamp components.
Luken's Medical Corporation (Wkrs)	Rio Rendes, NM	01/17/95	NAFTA-00355	Surgical sutures and bone wax.
Digital Employee's Federal Credit Union; (DCU) (Wkrs)	Albuquerque, NM	02/01/95	NAFTA-00356	Financial services.
Hughes Aircraft; Microelectronics Div. (EST)	Newport Beach, CA	02/02/95	NAFTA-00357	Hybrid microelectronic circuits and assemblies.
Sun Apparel Inc.; Concepcion Plant (Co.)	El Paso, TX	02/02/95	NAFTA-00358	Jeans; men's, women's and junior's.
Contract Apparel (Wkrs)	El Paso, TX	02/02/95	NAFTA-00359	Clothing; baby and women's.
Nestaway; Division of Axia (UAW)	Beaver Dam, KY	02/03/95	NAFTA-00360	Dishwasher baskets.
MASKA U.S. Inc. (Wkrs)	Bradford, VT	02/06/95	NAFTA-00361	Hockey jerseys.
Burcliff Industries, Inc.; Wirekraft Ind., Inc. (Co.)	Marion, OH	02/09/95	NAFTA-00362	Electrical wiring harnesses for clothes dryers.
UDT Sensor, Inc. (Wkrs)	El Paso, TX	02/09/95	NAFTA-00363	Medical equipment.
Gioia Pasta Co.; Bordens (BCT)	Buffalo, NY	02/10/95	NAFTA-00364	Macaroni and noodles.
Nashua Cartridge (Wkrs)	Exeter, NH	02/13/95	NAFTA-00365	Toner cartridges.
Crown Cork & Seal Co., Inc.; Plant #494 (IAM)	Swedesboro, NJ	02/10/95	NAFTA-00366	Metal containers i.e., baby formula cans.
Escod Industries; Colorado Operations (Co.)	Canon City, CO	02/15/95	NAFTA-00367	Cable and wire harnesses for telecommunications equipment.
Essilor of America; Mfg. Div. (Wkrs)	St. Petersburg, FL	02/15/95	NAFTA-00368	Optical lenses.
Kennametal, Inc. (Wkrs)	El Paso, TX	02/16/95	NAFTA-00369	Metal working tools.
Washington South Sound Services; Independent Contractor (Co.)	Olympia, WA	02/16/95	NAFTA-00370	Logging and maintenance.
Fisher-Price; Mattel, Inc. (Wkrs)	Medina, NY	02/16/95	NAFTA-00371	Toys.
Thomas & Betts (IBEW)	Elizabeth, NJ	02/17/95	NAFTA-00372	Electrical conduit fittings; steel and malleable iron.

[FR Doc. 95-5030 Filed 2-28-95; 8:45 am]

BILLING CODE 4510-30-M

[NAFTA-00307]

**H. Grabell & Sons, Inc., Paterson, NJ;
Notice of Revised Determination on
Reopening**

On February 21, 1995, the Department, on its own motion, reopened its investigation for the former workers of the subject firm. The initial investigation resulted in a negative determination on January 20, 1995 because the "contributed importantly" test of the Group Eligibility Requirements of the Trade Act was not met and there was no shift in production to Mexico or Canada. The denial notice will soon be published in the **Federal Register**.

An investigation for trade adjustment assistance under petition TA-W-30,565 resulted in a certification for workers of H. Grabell & Sons, Inc., in Paterson, New Jersey. The certification was issued on February 11, 1995 and will soon be published in the **Federal Register**. The investigation revealed that the subject firm imported lamp shades and increased its reliance on imported lamp shades while discontinuing lamp shade production at Paterson, New Jersey.

Other findings show that sales and production decreased in the relevant periods and substantial worker separations occurred in 1994.

Conclusion

After careful consideration of the new facts obtained on reopening, it is concluded that increased imports of articles like or directly competitive with lamp shades produced by the subject firm contributed importantly to the decline in production and to the total or partial separation of workers at the subject firm. In accordance with the provisions of the Trade Act of 1974, I make the following revised determination:

All workers and former workers of H. Grabell & Sons, Inc., Paterson, New Jersey who became totally or partially separated from employment on or after December 8, 1993 are eligible to apply for NAFTA-TAA under Section 250 of the Trade Act of 1974.

Signed at Washington, DC, this 21st day of February 1995.

Victor J. Trunzo;

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95-5006 Filed 2-28-95; 8:45 am]

BILLING CODE 4510-30-M

**NAFTA-00302; Washington Public
Power Supply Systems Nuclear
Project; Amended Certification
Regarding Eligibility To Apply for
NAFTA Transitional Adjustment
Assistance**

NAFTA-00302 WPN-2 Richland,
Washington
NAFTA-00302A WPN-1 Richland,
Washington
NAFTA-00302B WPN-3 Satsop,
Washington

In accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 USC 2273), the Department of Labor issued a Certification for NAFTA Transitional Adjustment Assistance on January 13, 1995, applicable to all workers of the Washington Public Power System (WPN-2) in Richland, Washington. The notice will soon be published in the **Federal Register**.

At the request of the company and the workers the Department reviewed the certification for workers of the subject firm. New findings show that the worker group for the Washington Public Power Supply System Nuclear Project, WPN-2 plant, in Richland, Washington should include workers at the WPN-1 in Richland as well as the WPN-3 plant in Satsop, Washington. The workers are rotated among the three plants.

The investigation revealed that sales declined and significant worker separations occurred at all three plants. A Departmental survey of Washington Public Power's customers showed that the respondents decreased their purchases for Washington Public Power and increased their imports of electrical energy from Canada.

The intent of the Department's certification is to include all workers who were adversely affected by increased imports. Accordingly, the Department is amending the certification to include Washington Public Power's plants in Satsop, Washington and Richland, Washington.

The amended notice applicable to NAFTA-00302 is hereby issued as follows:

"All workers of the Washington Public Power Supply System Nuclear Project at the WPN-2 plant in Richland Washington; WPN-1 plant in Richland, Washington and the WPN-3 plant in Satsop, Washington who became totally or partially separated from employment on or after December 8, 1993 are eligible to apply for NAFTA-TAA under Section 250 of the Trade Act of 1974."

Signed at Washington, D.C., this 21st day of February 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95-5005 Filed 2-28-95; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL INSTITUTE FOR LITERACY**National Institute for Literacy Advisory
Board; Meeting**

AGENCY: National Institute for Literacy Advisory Board, National Institute for Literacy.

ACTION: Notice of meeting.

SUMMARY: This Notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Institute for Literacy Advisory Board (Board). This notice also describes the function of the Board. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend the meeting.

DATE AND TIME: March 14, 1995, 10:00 am to 4:00 pm.

ADDRESSES: National Institute for Literacy, 800 Connecticut Avenue NW., Suite 200, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Sharyn M. Abbott, Acting Executive Officer, National Institute for Literacy, 800 Connecticut Avenue NW., Suite 200, Washington, DC 20006. Telephone (202) 632-1500.

SUPPLEMENTARY INFORMATION: The Board is established under Section 384 of the Adult Education Act, as amended by Title I of Pub. L. 102-73, the National Literacy Act of 1991. The Board consists of ten individuals appointed by the President with the advice and consent of the Senate. The Board is established to advise and make recommendations to the Interagency Group, composed of the Secretaries of Education, Labor, and Health and Human Services, which administers the National Institute for Literacy (Institute). The Interagency Group considers the Board's recommendations in planning the goals of the Institute and in the implementation of any programs to achieve the goals of the Institute. Specifically, the Board performs the following functions: (a) makes recommendations concerning the appointment of the Director and the staff of the Institute; (b) provides independent advice on operation of the Institute; and (c) receives reports from

the Interagency Group and the Director of the Institute. In addition, the Institute consults with the Board on the award of fellowships.

The Board will meet in Washington, DC on March 14, 1995 from 10 am to 4 pm. The meeting of the Board is open to the public. The agenda includes a review of 1994 activities, preliminary discussions of potential 1995–1996 NIFL activities, and a discussion on the status of the reauthorization.

Records are kept of all Board proceedings and are available for public inspection at the National Institute for Literacy, 800 Connecticut Avenue NW., Suite 200, Washington, DC 20006 from 8:30 a.m. to 5:00 pm.

Andrew J. Hartman,

Executive Director, National Institute for Literacy.

[FR Doc. 95–4955 Filed 2–28–95; 8:45 am]

BILLING CODE 6055–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–213]

Connecticut Yankee Atomic Power Company; Haddam Neck Plant; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–61, issued to Connecticut Yankee Atomic Power Company (CYAPCO, the licensee), for operation of the Haddam Neck Plant, located in Middlesex County, Connecticut.

Environmental Assessment

Identification of the Proposed Action

By amendment request dated December 22, 1993, CYAPCO has proposed to revise Technical Specification (TS) 3/4.4.10, “Structural Integrity,” Surveillance Requirement 4.4.10. The licensee has proposed an alternate Reactor Coolant Pump (RCP) flywheel inspection frequency and examination methods. The staff has extended the RCP flywheel inspection frequency for RCPs 1 and 2 for one refueling outage until the staff can complete the review for a permanent change.

The Need for the Proposed Action

CYAPCO has determined that the existing RCP flywheel inspection program as discussed in Regulatory Guide (RG) 1.14, “Reactor Coolant Pump Flywheel Integrity,” can be optimized by revising the RCP flywheel

inspection frequency and examination methods. By optimizing the RCP flywheel inspection program, the licensee will alleviate current testing requirements that are overly restrictive for predicting RCP flywheel integrity and gain increased flexibility in utilizing personnel during subsequent RCP flywheel examinations. This TS change reflects the licensee’s proposed alternate RCP flywheel inspection frequency and examination methods. The staff has determined additional information is needed to complete this review, however, the staff has concluded that the request has sufficient merit to extend the TS required inspections for RCPs 1 and 2 for one Cycle.

Environmental Impacts of the Proposed Action

The Commission has reviewed the proposed revision to the TS. The staff has concluded that additional information regarding the proposed inservice examination methods, flaw acceptance criteria, and the supporting fracture mechanics analysis are needed to complete the review. However, the staff has concluded that the proposed TS change involving the changes in TS 3/4.4.10, “Structural Integrity,” Surveillance Requirement 4.4.10, can be implemented for Cycle 18 refueling outage as the change would only affect one of the five inspection criteria and two of the four RCPs. In particular, the ultrasonic volumetric inspection frequency for the areas of higher stress concentration for RCPs 1 and 2 be extended for one cycle until the staff can complete the review of the licensee’s proposed increased inspection frequency and alternative examination methods for the RCP flywheels. These changes will not affect the desired margins of safety for the two affected accidents: (1) RCP locked rotor event, and (2) adequacy of missile protection inside containment and, therefore, the extension of the inspection interval by one refueling cycle is acceptable. This conclusion is based on the flaw history of the RCP flywheels and the likelihood that the most recent inspections would have detected any flaws of structural significance.

The proposed TS change will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that there are no significant radiological environmental

impacts associated with this proposed TS amendment.

With regard to potential nonradiological impacts, the proposed amendment does involve features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Accordingly, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed amendment.

Accordingly, the Commission concludes that there are no significant radiological or nonradiological environmental impacts associated with the proposed amendment.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed amendment, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of resources not considered previously in the Final Environmental Statement for the Haddam Neck Plant.

Agencies and Persons Consulted

In accordance with its stated policy, the staff consulted with the Connecticut State official regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed amendment.

For further details with respect to this proposed action, see the licensee’s letter dated December 22, 1993, which is available for public inspection at the Commission’s Public document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Russell Library, 123 Broad Street, Middletown, Connecticut 06547.

Dated at Rockville, Maryland, this 22nd day of February 1995.

For the Nuclear Regulatory Commission.

Ronald W. Hernan,

*Acting Director, Project Directorate I-4,
Division of Reactor Projects—I/II, Office of
Nuclear Reactor Regulation.*

[FR Doc. 95-4975 Filed 2-28-95; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-413]

**Duke Power Company, et al., Catawba
Nuclear Station, Unit No. 1;
Environmental Assessment and
Finding of No Significant Impact**

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from certain requirements of 10 CFR Part 50, Appendix J, Paragraph III.D.1.(a), Type A Tests, to the Duke Power Company, et al. (the licensee), for operation of the Catawba Nuclear Station, Unit No. 1, located in York County, South Carolina, in accordance with Facility Operating License No. NFP-35.

Environmental Assessment

Identification of the Proposed Action

This Environmental Assessment has been prepared to address potential environmental issues related to the licensee's application of October 18, 1994, as supplemented on February 7, 1995. The proposed action would exempt the licensee from the requirements of 10 CFR Part 50, Appendix J, Paragraph III.D.1.(a), to the extent that a one-time schedular extension would permit rescheduling the third containment integrated leak rate test (ILRT) in the first 10-year service period from the end-of-Cycle 8 outage until the end-of-Cycle 9 outage. The requested exemption would also allow the decoupling of this third test from the endpoint of the first 10-year inservice inspection.

The Need for the Proposed Action

The current containment integrated leakage rate (ILRT) requirements for Catawba Units 1 and 2, pursuant to Appendix J, are that, after the preoperational leak rate test, a set of three Type A tests must be performed at approximately equal intervals during each 10-year period. Also, the third test of each set must be conducted when the plant is shut down for the 10-year plant inservice inspection. This is reflected in the Catawba Technical Specifications (TS) as a testing interval of once each 40 months plus or minus 10 months, for a frequency of three times in a 120-month

period. To date, for Catawba Unit 1, the preoperational and the first two periodic ILRTs have been conducted. The most recent ILRT was conducted in March 1991, approximately 47 months ago. Thus, in accordance with Appendix J and the current TS, and ILRT would have to be conducted during the refueling outage beginning in February 1995 (the end-of-cycle (EOC) 8 outage).

The licensee has requested an exemption from Appendix J and a corresponding change to the TS that would allow a one-time change to the interval for the Unit 1 ILRT from 40 plus or minus 10 months to 60 plus or minus 10 months (once each 5 years). This would allow the EOC-8 ILRT to be rescheduled for EOC-9. Therefore, the need for the licensee's proposed action is to allow a longer interval between the Catawba Unit 1 second and third periodic Type A ILRTs which will result in a cost savings to the licensee.

Environmental Impacts of the Proposed Action

The proposed one-time exemption would not increase the probability or consequences of accidents previously analyzed and the proposed one-time exemption would not affect facility radiation levels or facility radiological effluents. The licensee has analyzed the results of previous Type A tests performed at the Catawba Nuclear Station, Unit No. 1. The licensee has provided an acceptable basis for concluding that the proposed one-time extension of the Type A test interval would maintain the containment leakage rates within acceptable limits. Accordingly, the Commission has concluded that the one-time extension does not result in a significant increase in the amounts of any effluents that may be released nor does it result in a significant increase in individual or cumulative occupational radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed exemption.

With regard to potential nonradiological impacts, the proposed exemption only involves Type A testing on the containment. It does not affect nonradiological plant effluents and has no other environmental impact. Accordingly, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed exemption.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed

exemption, any alternatives with equal or greater environmental impact need not be evaluated. The principal alternative to this action would be to deny the request for exemption. Such action would not reduce the environmental impacts of plant operations.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in the "Final Environmental Statement Related to the Operation of Catawba Nuclear Station Unit No. 1," dated January 1983.

Agencies and Persons Consulted

In accordance with its stated policy, the NRC staff consulted with the South Carolina State official regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For further details with respect to this action, see the licensee's letter dated October 18, 1994, as supplemented February 7, 1995, which are available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the York County Library, 138 East Black Street, Rock Hill, South Carolina.

Dated at Rockville, Maryland, this 23rd day of February 1995.

For the Nuclear Regulatory Commission.

Herbert N. Berkow,

*Director, Project Directorate II-3, Division of
Reactor Projects—I/II, Office of Nuclear
Reactor Regulation.*

[FR Doc. 95-4976 Filed 2-28-95; 8:45 am]

BILLING CODE 7590-01-M

**Biweekly Notice; Applications and
Amendments to Facility Operating
Licenses Involving No Significant
Hazards Considerations**

I. Background

Pursuant to Public Law 97-415, the U.S. Nuclear Regulatory Commission (the Commission on 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 February 3, 1995, through February 16, 1995. The last biweekly notice was published on February 15, 1995 (60 FR 8739).

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. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By March 31, 1995, 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 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, 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 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 section, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Arizona Public Service Company, et al., Docket Nos. STN 50-528, STN 50-529, and STN 50-530, Palo Verde Nuclear Generating Station, Unit Nos. 1, 2, and 3, Maricopa County, Arizona

Date of amendment requests:
December 7, 1994.

Description of amendment requests:
The proposed amendment would revise the capacity of the ultimate heat sink (UHS) as described in the bases of Technical Specification 3/4.7.5, "Ultimate Heat Sink," from providing a 27-day cooling water supply to providing a 26-day cooling water supply. In addition, the reference to Regulatory Guide 1.27 in the bases of this TS would also be revised to reference the January 1976 revision rather than the March 1974 revision.

Basis for proposed no significant hazards consideration determination:
As required by 10 CFR 50.91(a), the licensees have provided their analysis about the issue of no significant hazards consideration, which is presented below:

Standard 1—Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

The Essential spray pond system and the UHS do not initiate any accidents in Chapters 6 or 15 of the UFSAR [Updated Final Safety Analysis Report]. The justification and basis for the time that the UHS is available is not changed and continues to be consistent with the guidance in Regulatory Guide 1.27. The existing Technical Specification requirements and those components to which they apply are not altered by this Technical Specification amendment. Therefore, the change to the bases for Technical Specification 3/4.7.5 does not increase the probability of occurrence or the consequences of any previously evaluated accident.

Standard 2—Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

The requirements for Technical Specification 3/4.7.5 are not changed. This amendment has no impact on plant maintenance, testing, shutdown equipment, or component qualification. Therefore, the possibility of a new or different kind of accident is not created by this amendment.

Standard 3—Does the proposed change involve a significant reduction in a margin of safety?

The change to the bases for Technical Specification 3/4.7.5 does not significantly alter existing Technical Specification requirements or those components to which they apply. The justification and basis for the time that the UHS is available without makeup is not changed and continues to be consistent with the guidance in Regulatory Guide 1.27. Regulatory Guide 1.27 states that "A capacity less than 30 days may be acceptable if it can be demonstrated that replenishment can be effected to ensure that continuous capability of the sink to perform its safety functions, taking into account the availability of replenishment equipment and limitations that may be imposed on "freedom of movement" following an accident." This change does not effect the continuous capability of the UHS to perform its safety function of providing decay heat removal

capability following an accident. The change updates the design basis of the UHS using more realistic conditions based on plant experience. Therefore, the change in the capacity of the UHS without makeup from 27 days to 26 days will not involve a significant reduction in margin of safety for the ultimate heat sink.

The NRC staff has reviewed the licensees' analysis and, based on that review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Phoenix Public Library, 12 East McDowell Road, Phoenix, Arizona 85004.

Attorney for licensees: Nancy C. Loftin, Esq., Corporation Secretary and Counsel, Arizona Public Service Company, P.O. Box 53999, Mail Station 9068, Phoenix, Arizona 85072-3999.
NRC Project Director: Theodore R. Quay.

Carolina Power & Light Company, Docket No. 50-261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of amendment request: June 18, 1992, as supplemented December 8, 1992, and revised February 3, 1995.

Description of amendment request:
The proposed Technical Specification (TS) amendment adds limiting conditions of operation and surveillance requirements for the pressurizer power-operated relief valves (PORVs) and their associated block valves whenever average temperature (Tavg) is above 350 degrees F or the reactor is critical. Specifications have also been added for low-temperature overpressure protection whenever Tavg is less than 350 degrees F and the reactor coolant system is not vented to the containment. The February 3, 1995, revision made editorial changes to previous TS pages and made changes to conform with an additional provision of the guidance for surveillance testing of the block valves associated with the pressurizer PORVs. In addition, the licensee has requested an editorial change to TS page 3.1-11 to revise the references to two figures that have been superseded.

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 requested revision does not involve a significant increase in the probability or consequences of an accident previously

evaluated. The proposed revision to our previous Technical Specification (TS) change request dated June 18, 1992, would help assure the availability of the block valves for accident mitigation. The availability of the block valves for accident mitigation has been found to outweigh any negative safety consequences associated with full cycle testing of a block valve isolating a pressurizer power-operated relief valves (PORV) with "excessive" seat leakage. There would be no significant increase in the probability or consequences of an accident previously evaluated since this event is fully bounded by the failing open of a single pressurizer code safety relief valve event which is analyzed in Chapter 15 of the Updated Final Safety Analysis Report. Accordingly, the requested revision will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The requested revision to our previous TS change request does not create the possibility of a new or different kind of accident from any accident previously evaluated. Periodic testing of the block valves in accordance with the requested revision is only intended to assure the functioning and capability of the block valves. The requested revision will only clarify the conditions when block valve surveillance testing is required. The performance of this testing is intended to improve block valve availability and thereby assure the capability of certain accident mitigation strategies identified within Abnormal and Emergency Operating Procedures. Therefore, the requested revision will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The requested revision to our previous TS change request does not involve a significant reduction in the margin of safety. The requested revision is intended to help assure block valve availability to support certain accident mitigation strategies. This additional assurance of block valve availability and functioning increases the margin of safety. Accordingly, the requested revision will not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Hartsville Memorial Library, 147 West College Avenue, Hartsville, South Carolina 29550.

Attorney for licensee: R. E. Jones, General Counsel, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602.

NRC Project Director: William H. Bateman.

Commonwealth Edison Company, Docket Nos. 50-373 and 50-374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Date of amendment request: December 14, 1994.

Description of amendment request: The proposed amendments would revise technical specifications related to allowed outage times (AOT) and surveillance test intervals (STI) for certain actuation instrumentation in the reactor protection system (RPS), primary containment isolation system (PCIS), emergency core cooling system (ECCS), recirculation pump trip, reactor core isolation cooling (RCIC), control rod withdrawal block, monitoring, and feedwater/main turbine trip systems. These changes are generally consistent with General Electric topical reports which have been reviewed and approved by the NRC. The changes also include revising the Feedwater/Main Turbine Trip LCO 3.3.8 action statement to achieve consistency with existing instrumentation LCOs; deleting the surveillance of the APRM Neutron Flux—High, Setdown functional unit in Operational Condition 1; revising the applicability of the provisions of Specification 4.0.4 to several Reactor Protection System and Control Rod Withdrawal Block Instrumentation surveillance requirements; adding the requirement to perform shiftily channel checks for applicable RPS, PCIS, ECCS, and RCIC instrumentation channels equipped with master trip units; and other changes to correct typographical errors and to delete cycle specific footnotes which are no longer applicable.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

It has been determined that the changes do not constitute a Significant Hazards Consideration. Based on the criteria for defining a significant hazards consideration established in 10 CFR 50.92, operation of LaSalle County Station Units 1 and 2 in accordance with the proposed amendment will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated because:

a. The proposed changes increase the STI and AOT for actuation instrumentation supporting RPS, ECCS, Isolation, CRBF, RCIC, ATWS-RPT, EOC-RPT, Monitoring, and Feedwater/Main Turbine Trip System Actuation functions. There are no changes in instrumentation configuration and function, and no instrumentation setpoints are changed. Because of this there is no change

in the probability of occurrence of an accident or the consequences of an accident or the consequences of malfunction of equipment. With respect to the probability of equipment malfunction, topical reports prepared by GE demonstrate that there is a reduction in scram frequency for the RPS, but in the case of the ECCS there is a small increase in the unavailability of the water injection function. This increase in unavailability was judged acceptable by GE. The NRC concurred with this conclusion in its review and approval of the topical reports. The proposed changes are consistent with the Safety Evaluation Reports issued for the topical reports.

b. The changes proposed for the Feedwater/Main Turbine Trip LCO action statements provide actions which are consistent with presently existing instrumentation LCOs. The design and function of the feedwater/main turbine trip instrumentation to trip the feedwater pumps and the main turbine upon detection of a Level 8 event is not altered. The probability and/or consequences of this moderate frequency transient are not increased.

c. The APRM Neutron Flux—High, Setdown scram setting provides adequate thermal margin between the setpoint and the safety limits for operation at low pressure and low flow during a plant startup. This function remains in effect until the mode switch is placed in the Run (Operational Condition 1) position, at which time it is bypassed. Deleting the requirement for the surveillance of the APRM Neutron Flux—High, Setdown functional unit in Operational Condition 1 is appropriate since its function is not applicable in this mode. This deletion serves to achieve consistency between Technical Specification Tables and the Bases section.

d. The changes associated with Specification 4.0.4 are administrative in nature and are intended to provide the plant operators with better guidance for its application. In cases where complete surveillances cannot be achieved, such as during a plant shutdown, then the required surveillances will be performed within 24 hours of entering the Mode or condition in which the surveillance is required. The stabilization of the plant will be of primary consideration. This change does not affect the evaluation for any accident presented in Chapter 15 of the UFSAR. The APRM Fixed Neutron Flux—High quarterly functional tests most of the APRM channel equipment associated with the APRM Neutron Flux—High, Setdown scram.

Additionally, the expected result of the functional tests associated with the SRMs, IRMs, and APRMs is to demonstrate the operability of the instrumentation. Therefore, 24 hours is a reasonable time to permit the surveillances to be performed upon entering the mode or condition in which the surveillance is required.

e. The proposal to include the performance of channel checks as requirements of technical specifications is administrative in nature. Presently, channel checks performed for the applicable analog instrumentation in reactor vessel water level applications is controlled solely by procedure. Adding this

requirement to the technical specifications provides for the appropriate controls of the surveillances, above and beyond that presently controlled by procedure.

f. The proposed administrative changes are offered to correct typographical errors and delete cycle specific footnotes which are no longer applicable. The nature of the changes precludes them from impacting previously analyzed accidents.

The proposed changes therefore do not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated because:

a. The proposed changes increase the STI and AOT for certain actuation instrumentation in the RPS, ECCS, Isolation, CRBF, RCIC, ATWS-RPT, EOC-RPT, Monitoring, and Feedwater/Main Turbine Trip systems. There are no changes in instrumentation configuration and function, and no instrumentation setpoints are changed.

b. The changes to the Feedwater/Main Turbine Trip LCO action statements allow the plant operators a maximum degree of operational flexibility, while maintaining the instrumentation and protection needed for terminating the feedwater controller failure transient. The single failure proof criterion of the level sensors is maintained, and the logic of the protective instrumentation is not compromised. The changes to the LCO action statements do not constitute a change to the facility or its operation as described in the Safety Analysis Report.

c. Deleting the requirement for surveilling the APRM Neutron Flux—High, Setdown functional unit in Operating Condition 1 does not degrade thermal margins. The margin accommodates the anticipated maneuvers associated with plant power ascension. During a plant shutdown, rod insertion maneuvers, recirculation flow reduction, and xenon build-in all contribute to negative reactivity insertion which precludes the degradation and violation of thermal margins. The functions of the APRMs required to be OPERABLE in Operational Condition 1 which are in effect remain to ensure that reactor core thermal margins are not compromised.

d. The conduct of neutron instrument functional tests in the plant mode or condition in which the trips are applicable eliminates unnecessary testing during normal plant operations. The expected result of the functional testing is to demonstrate the operability of the instruments. The failure of any single instrument channel will neither cause nor prevent either a reactor scram or a control rod block.

e. Including the performance of channel checks for the applicable analog instrumentation as part of the technical specifications transfers control of the required surveillances from procedure to the technical specifications, as appropriate. The administrative nature of this change does not alter the functions, setpoints, or configuration of the associated instrumentation.

f. The administrative nature of the changes prevents them from affecting the functions,

setpoints, or configuration of the associated instrumentation from being affected by the changes.

The proposed changes do not create the possibility for an accident or malfunction of a different type than any previously evaluated in the UFSAR.

(3) Involve a significant reduction in the margin of safety because:

a. Setpoints are based upon the drift occurring during an 18 month calibration interval. The bases in the Technical Specifications either do not discuss STI, or state “* * * one channel may be inoperable for brief intervals to conduct required surveillance.” The proposed changes are bounded by the analyses of the topical reports. These analyses, which were prepared by GE and approved by the NRC, examined the effects of extending STI and AOT and found that the proposed changes would not involve a significant reduction in the margin of safety.

b. The proposed changes to the turbine trip LCO action statements do not change any of the settings of the Level 8 setpoints. The single failure criteria of the multiple level sensors which sense and detect the Level 8 setpoint remains intact. The LCO maintains the requirement that no single instrument failure will prevent the feedwater pump turbines and main turbine trip on a valid Level 8 signal. Scram trip signals from the turbine retain the design feature that a single failure will neither initiate nor impede the initiation of a reactor scram (trip).

c. The setting, function, and conditional requirements of the APRM Neutron Flux—High, Setdown function are not altered. This change serves to achieve consistency between two Technical Specifications Tables. This eliminates the need for surveilling a function in a mode which is not applicable. The functions of the APRMs required to be OPERABLE in Operational Condition 1 remain to ensure that reactor core thermal margins are not compromised.

d. The reference to 4.0.4 applicability will assist to ensure consistent interpretation of the technical specifications by the plant operators. This assists in ensuring that the plant is operated within technical specification limitations. This change does not affect trip instrumentation setpoints, and the scram function of the RPS is assured by the weekly functional testing of the Manual Scram.

e. Including the instrumentation channel checks as part of technical specification requirements provides an appropriately regimented method of controlling the conduct of the surveillances. None of the functions, setpoints, or configuration of the associated analog instrumentation is affected by this administrative change.

f. The administrative nature of the changes serves to provide more concise guidance to the plant operating staff, and as such do not impact the safety margin.

The proposed changes do not significantly reduce the margin of safety as defined in the basis for any Technical Specification.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three

standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Local Public Document Room

location: Public Library of Illinois Valley Community College, Rural Route No. 1, Oglesby, Illinois 61348

Attorney for licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60690.

NRC Project Director: Robert A. Capra.

Commonwealth Edison Company, Docket Nos. 50-373 and 50-374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Date of amendment request: January 13, 1995.

Description of amendment request:

The proposed amendments would revise the pressure alarm setpoint allowable values for the emergency core cooling system (ECCS) and reactor core isolation cooling (RCIC) system “keep filled” pressure instrumentation channels. The purpose of the proposed change is to lower the setpoint allowable values for these parameters to more realistic values based upon calculations performed by the licensee reflecting design changes and system performance. Also, the term “setpoint” is being changed to “setpoint allowable value” to clarify the use of the values. Additionally, two administrative/editorial changes are included to delete technical specification footnotes which are no longer applicable.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Commonwealth Edison has evaluated the proposed Technical Specification Amendment and determined that it does not represent a significant hazards consideration. Based on the criteria for defining a significant hazards consideration established in 10 CFR 50.92, operation of LaSalle County Station Units 1 and 2 in accordance with the proposed amendment will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated because:

a. The proposed change in the technical specification allowable values for the ECCS and RCIC discharge line “keep filled” alarm instrument channels does not change the design bases or function of these systems as described in the technical specifications and UFSAR. An analysis performed by engineering demonstrates that the proposed allowable values are sufficient for verifying that the ECCS and RCIC pump discharge lines are full of water. In addition, setpoint

calculations have been performed to verify that sufficient margin exists between the recommended calibration setpoints and the analytical limits for these instrument channels to account for all applicable instrument errors. This provides high assurance that the trip setpoints of these instrument channels will not drop below the minimum required value. The "keep filled" instrumentation is not a factor in the assumptions of any accidents, thus, the probability of analyzed accidents is not increased.

b. The proposed technical specification amendment does not revise the configuration of the ECCS and RCIC discharge line "keep filled" instrument channels or sensing lines. The proposed setpoint allowable values and associated calibration setpoints are within the calibration ranges of the existing pressure switches. Thus, implementation of the proposed amendment does not involve any physical alterations to the plant except for the recalibration of the pressure switches to the new calibration setpoints.

c. The ECCS and RCIC discharge line "keep filled" instrument channels only perform a monitoring function. Other than ensuring system readiness they do not perform a function important to safety. Thus, the probability of a ECCS or RCIC failure is not increased since the operation and function of the ECCS and RCIC discharge line fill systems is not affected by this change.

d. The failure of a ECCS or RCIC discharge line fill system will not go undetected by the proposed change, since water leg pump trips are annunciated in the control room. In addition, quarterly surveillances are performed on these pumps to check for degradation.

e. The ECCS and RCIC discharge line fill systems are not used to mitigate the consequences of an accident or transient. These systems are not required after the ECCS and RCIC pumps are activated.

Therefore, the proposed change does not cause an increase in the probability or consequences of an accident previously evaluated.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated because: This technical specification amendment only lowers the trip setpoint allowable values for the ECCS and RCIC discharge line "keep filled" alarm instrumentation channels. As described above, the proposed setpoint allowable values are sufficient for verifying that the ECCS and RCIC discharge lines are full of water. Thus, the probability of a water hammer occurring during system activation for a surveillance test is not increased. In addition, each instrument channel is independent from the other channels so that a failure in one channel will not propagate to another channel. Therefore, the operation of the facility in accordance with the proposed amendment does not create the possibility of a new or different kind of accident.

(3) Involve a significant reduction in the margin of safety because: The margin of safety is not affected by this amendment, because this change involves monitoring instrumentation only. The purpose of the

ECCS and RCIC discharge line "keep filled" alarms is to alert the operators when a ECCS or RCIC system may not be operable due to empty or partially empty discharge lines. The proposed amendment does not alter or degrade this function, since the new setpoint allowable values are adequate for verifying that the discharge lines are full of water. Therefore the operation of the facility in accordance with the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Local Public Document Room location: Public Library of Illinois Valley Community College, Rural Route No. 1, Oglesby, Illinois 61348.

Attorney for licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60690.

NRC Project Director: Robert A. Capra.

Consumers Power Company, Docket No. 50-255, Palisades Plant, Van Buren County, Michigan

Date of amendment request: January 13, 1995

Description of amendment request:

The proposed amendment would modify the required settings, and allowable "as found" and "as left" tolerances for the primary and secondary safety valves. The proposed limits would allow installed primary and secondary valve settings to be within a 3% tolerance of their nominal settings, but would require returning the valve settings to within 1% of the nominal settings if the valves are removed from the piping for maintenance or testing.

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 evaluation supports the finding that operation of the facility in accordance with the proposed technical specification change would not:

1. *Involve a significant increase in the probability or consequences of an accident previously evaluated.*

The proposed change to the Technical Specifications increases the acceptable as found tolerance for the pressurizer safety valves. The most limiting overpressure event, loss of external load, has been analyzed to account for this change. The loss of external load analysis was performed using a conservative 25% steam generator tube

plugging and an initial pressurizer level of 67.8% (providing an approximate 10% conservative margin above programmed pressurizer level for full power). Primary and secondary safety valve accumulation was conservatively accounted for and the setpoint tolerance of +3% was assumed. Reactor trip on turbine trip was assumed to be disabled and the atmospheric dump valves were assumed unavailable. The results of the analysis demonstrated primary and secondary system pressures within 110% of design pressures. Therefore, the consequences of overpressurization events will not be significantly increased with a +3% tolerance on the primary safety valve setpoints. The proposed Technical Specifications change will not affect normal plant operation and will not increase the probability of an accident.

A review of all DNB [departure from nucleate boiling] analyses was performed to ensure that predicted pressurizer pressures for those analyses would not be affected by a -3% tolerance on the lowest setpoint valve. The DNB analyses for which significant primary system pressure increases were predicted do not result in pressures high enough to lift the pressurizer safety valves with the proposed tolerance. A conservative DNB analysis that bounds the consequences of inadvertent opening of a pressurizer safety valve has also been previously performed with predicted acceptable results. If a pressurizer safety valve were to stick open, the consequences would be bounded by the small break LOCA [loss-of-coolant accident] analysis. Therefore, the consequences due to a -3% tolerance on the primary safety valve setpoints will not increase the consequences or probability of an accident.

The proposed revision removes the requirement for one operable pressurizer safety valve to be installed whenever the reactor head is on the vessel. Instead, proposed Specification 3.1.7.1 requires all pressurizer safety valves to be operable above cold shutdown, and overpressure protection during cold shutdown is provided by existing Specification 3.1.8.2, Power Operated Relief Valves.

The proposed Technical Specifications change also lists the lift settings for each of the primary and secondary system safety valves. This change will not affect the operation or function of the valves. Therefore, the probability and consequences of previously evaluated accidents will not be increased.

2. *Create the possibility of a new or different kind of accident from any previously evaluated.*

The proposed changes to Technical Specifications will not affect the manner in which the plant operates. The proposed increase in pressurizer safety valve lift setting tolerance could change the pressure at which the valves open in an overpressurization event, but would not create the possibility of a new or different kind of accident. Since Technical Specification 3.1.8 addresses primary system overpressurization during cold shutdown, the proposed removal of the requirement for an operable pressurizer safety valve to be installed whenever the reactor head is on the vessel will not create

the possibility of a new overpressurization event during cold shutdown. The proposed change to list the lift settings for the individual primary and secondary safety valves will have no effect on the safety function of the valves. Therefore, the proposed changes will not create the possibility of a new or different kind of accident from any previously evaluated.

3. Involve a significant reduction in a margin of safety.

The proposed changes to Technical Specifications do not affect the DNB analyses that have been previously performed. The most limiting overpressurization event, loss of external load, has been conservatively analyzed accounting for the proposed changes and demonstrated that the primary and secondary system pressures remain within 110% of the design pressures. Overpressurization during cold shutdown is addressed by Technical Specification 3.1.8. Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Van Wylen Library, Hope College, Holland, Michigan 49423.

Attorney for licensee: Judd L. Bacon, Esquire, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Project Director: John N. Hannon.

Consumers Power Company, Docket No. 50-255, Palisades Plant, Van Buren County, Michigan.

Date of amendment request: February 10, 1995.

Description of amendment request: The proposed amendment would modify the Technical Specifications to allow a one time deferral of several 18-month interval surveillance tests until the upcoming scheduled refueling outage to avoid the necessity of imposing a plant shutdown solely for the sake of their performance.

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 evaluation supports the finding that operation of the facility in accordance with the proposed Technical Specifications (TS) would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

Deferring surveillance testing will introduce no new operating conditions, change no equipment operating procedures, and change no plant systems or equipment. Therefore, operation of the facility in accordance with the proposed TS would not result in a significant increase in the probability of an accident previously evaluated.

Deferring surveillance testing of snubbers and instrument channels could allow minor degradations of snubber condition or small changes in instrument setpoints or calibration to progress some amount beyond that point which would occur with a shorter surveillance interval. A review of the recent test history for the subject surveillance indicates that no significant snubber degradation or instrument drift was found. It is not expected that, even with the proposed surveillance deferral, snubber conditions or instrument settings will be found to exceed conditions allowable by the Technical Specifications. Therefore, operation of the facility in accordance with the proposed TS would not result in a significant increase in the consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any previously evaluated.

Deferring surveillance testing will introduce no new operating conditions, change no equipment operating procedures, and change no plant systems or equipment. Therefore, operation of the facility in accordance with the proposed TS would not create the possibility of a new or different kind of accident from any previously evaluated.

3. Involve a significant reduction in a margin of safety.

A review of past performance of the subject surveillance tests indicate that the requested deferral of testing would not have a significant effect on the results of the tests when they are performed prior to the startup for cycle 12. Most of the affected instrumentation is monitored each shift by channel checks, which would disclose major failures or significant drift. Therefore, operation of the facility in accordance with the proposed TS would not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Van Wylen Library, Hope College, Holland, Michigan 49423.

Attorney for licensee: Judd L. Bacon, Esquire, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Project Director: John N. Hannon.

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: November 2, 1994.

Description of amendment request: The proposed amendment would delete the content of the Appendix B, Environmental Protection Plan (EPP) and modify License Conditions 2.C.(2) to delete that portion which refers to the EPP. Specifically, the requirements for non-radiological environmental monitoring have been completed. The radiological environmental monitoring requirements have been incorporated into Appendix A (the Technical Specifications). There would be no impact on the continued safety of the McGuire station by deleting Appendix B.

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:

Deletion of the Environmental Protection Plan and modifying License Condition 2.C.(2) will have no impact on the probability or consequences of an accident previously evaluated because the changes will not have any impact upon the design or operation of any plant systems or components.

The proposed revision will not create the possibility of a new or different kind of accident from any previously evaluated because the revision is administrative in nature and will not change the types and amounts of effluent that will be released.

The proposed revision will not reduce a margin of safety because it is administrative in nature and will not effect the margin of safety as defined in the basis for any Technical Specifications.

Accordingly, this proposed changes does not involve a significant hazard.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223.

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: January 18, 1995.

Description of amendment request:

The proposed amendments would relocate the requirements for the seismic instrumentation, meteorological instrumentation, and loose-part detection system from the Technical Specifications to the Selected Licensee Commitment (SCL) Manual. This will allow future changes to these controls to be performed under the provisions of 10 CFR 50.59. No changes are being made to the technical content of the affected Technical Specification pages.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Criterion 1

The requested amendments will not involve a significant increase in the probability or consequences of an accident previously evaluated. Relocation of the affected TS sections to the SLC Manual will have no effect on the probability of any accident occurring. In addition, the consequences of an accident will not be impacted since the above instrumentation will continue to be utilized in the same manner as before. No impact on the plant response to accidents will be created.

Criterion 2

The requested amendments will not create the possibility of a new or different kind of accident from any accident previously evaluated. No new accident causal mechanisms will be created as a result of relocating the affected TS requirements to the SLC Manual. Plant operation will not be affected by the proposed amendments and no new failure modes will be created.

Criterion 3

The requested amendments will not involve a significant reduction in a margin of safety. No impact upon any plant safety margins will be created. Relocation of the affected TS requirements to the SLC Manual is consistent with the content of the Westinghouse RSTS [Revised Standard Technical Specifications], as the NRC did not require technical specification controls for the affected instrumentation in the RSTS. The proposed amendments are consistent with the NRC philosophy of encouraging utilities to propose amendments that are consistent with the content of the RSTS.

Based upon the preceding analyses, Duke Power Company concludes that the requested amendments do not involve a significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this

review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223.

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: January 18, 1995.

Description of amendment request:

The amendments would revise Technical Specification Table 4.3-3 to allow the analog channel operational test interval for radiation monitoring instrumentation to be increased from monthly to quarterly. The proposed amendment changes would be consistent with the guidance in Generic Letter 93-05, "Line-Item Technical Specifications Improvements to Reduce Surveillance Requirements for Testing During Power Operation."

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Criterion 1

The requested amendments will not involve a significant increase in the probability or consequences of an accident previously evaluated. Decreasing the frequency of the radiation monitor analog channel operational test from monthly to quarterly will have no impact upon the probability or any accident, since the radiation monitors are not accident initiating equipment. Analysis of the previous test data * * * shows that no significant degradation of performance is to be expected by the decrease in frequency. Therefore, the requested amendments will have no adverse impact upon the consequences of any accident.

Criterion 2

The requested amendments will not create the possibility of a new or different kind of accident from any accident previously evaluated. As stated above, the radiation monitors are not accident initiating equipment. No new failure modes can be created from an accident standpoint. The plant will not be operated in a different manner.

Criterion 3

The requested amendments will not involve a significant reduction in a margin of safety. Plant safety margins will be unaffected by the proposed changes. No safety equipment which is taken credit for in accident analyses will be affected by the requested amendments. The availability of the affected radiation monitors will be increased as a result of the proposed amendments because the monitors will not have to be made unavailable for testing as frequently. In addition, radiation monitor operating experience supports the proposed amendments. Finally, the proposed amendments are consistent with the NRC position and guidance set forth in NUREG-1366 and Generic Letter 93-05.

Based upon the preceding analyses, Duke Power Company concludes that the requested amendments do not involve a significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223.

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242.

NRC Project Director: Herbert N. Berkow.

Florida Power and Light Company, et al., Docket Nos. 50-335 and 50-389, St. Lucie Plant, Unit Nos. 1 and 2, St. Lucie County, Florida

Date of amendment request: January 20, 1995.

Description of amendment request:

The proposed amendments will relocate the operability requirements for the INCORE DETECTORS (TS 3/4.3.3.2) to the Updated Final Safety Analysis Report, and revise Linear Heat Rate surveillance 4.2.1.4, and Special Test Exceptions surveillances 4.10.2.2, 4.10.4.2 (Unit 2 only), and 4.10.5.2, accordingly.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes are administrative in nature in that the specifications for

operation and surveillance of the Incore Instrumentation (ICI) System will be relocated from the Technical Specifications to the Updated Final Safety Analysis Report for St. Lucie Unit 1 and Unit 2. Changes to the system will be controlled by 10 CFR 50.59, and the safety analysis report is required to be updated pursuant to 10 CFR 50.71(e). Relocation of these requirements to the UFSAR is consistent with the NRC "Final Policy Statement on Technical Specifications Improvements for Nuclear Power Reactors" published in the **Federal Register** (58 FR 39132) dated July 22, 1993.

Incore instrumentation is not an accident initiator nor a part of the success path(s) which function to mitigate accidents evaluated in the plant safety analyses. The proposed technical specification change does not involve any change to the configuration or method of operation of any plant equipment that is used to mitigate the consequences of an accident, nor do the changes alter any assumptions or conditions in any of the plant accident analyses. Therefore, operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed amendment to relocate the existing Technical Specification requirements for the Incore Instrumentation System to the Updated Final Safety Analysis Report will not change the physical plant or the modes of plant operation defined in the Facility License. The change does not involve the addition or modification of equipment nor does it alter the design or operation of plant systems. Therefore, operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) Operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety.

The proposed changes are administrative in nature in that operating and surveillance requirements for the Incore Instrumentation System will be relocated from the Technical Specifications to the Updated Final Safety Analysis Report for St. Lucie Unit 1 and Unit 2. The ICI system is not used to actuate safety-related equipment, provide interlocks, or otherwise perform automatic plant control functions. The system is used to monitor core power distribution parameters whose limits do involve a margin of safety; however, the ICI system itself makes no contribution to that margin of safety, and the power distribution limits will not be changed by the proposed amendment. Therefore, operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety.

Based on the above discussion and the supporting Evaluation of Technical Specification changes, FPL has determined that the proposed license amendment

involves no significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 34954-9003.

Attorney for licensee: Harold F. Reis, Esquire, Newman and Holtzinger, 1615 L Street, NW., Washington, DC 20036.

NRC Project Director: David B. Matthews.

Florida Power and Light Company, Docket Nos. 50-250 and 50-251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of amendment request: January 17, 1995.

Description of amendment request: The licensee proposes to revise the technical specifications to reference Topical Report NF-TR-95-01 as the documentation of the licensee's proficiency in performing certain reload design calculations once the NRC has evaluated and approved NR-TR-95-01.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Operation of the facility in accordance with the proposed amendments would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The addition of the reference to FPL [Florida Power and Light Company] topical report which demonstrates FPL's ability to perform certain reload design calculations for Turkey Point Units 3 and 4 is administrative in nature and has no impact on the probability or consequences of any Design Bases Event (DBE) occurrences previously evaluated. The reload design calculations will be performed using methodologies and computer codes approved by the NRC and poses no increase in the probability or consequences of any accident previously evaluated.

The Core Operating Limits Report (COLR) parameters will be evaluated every cycle to ensure proper compliance with the Updated Final Safety Analysis Report (UFSAR). These limits will be evaluated in accordance with 10 CFR [Section] 50.59, which ensures that the reload will not involve an increase in the probability of occurrences or consequences of an accident previously evaluated. Title 10 CFR [Section] 50.59 (2) states that a proposed change involves an unreviewed safety

question (i) if the probability of occurrence or the consequences of an accident or malfunction of equipment important to safety previously evaluated in the safety analysis report may be increased. Consequently, since any change to the reload core design analysis must be evaluated relative to the more restrictive evaluation criterion of 10 CFR [Section] 50.59, then operation of the facility in accordance with the proposed amendments would not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) Operation of the facility in accordance with the proposed amendments would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The addition of the reference to FPL topical report which demonstrates FPL's ability to perform certain reload design calculations for Turkey Point Units 3 and 4 is administrative in nature and has no impact, nor does it contribute in any way to the possibility of a new or different kind of accident from any accident previously evaluated. No new accident scenarios, failure mechanisms or limiting single failure events are introduced as a result of the proposed change.

The generation of the Axial Flux Difference, Rod Bank Insertion limits and K(Z) curve will be performed using NRC-approved methodology and are submitted to the NRC, as a revision to the COLR, to allow the NRC staff to trend. The Technical Specifications will continue to require operation within the core operating limits and appropriate actions will be taken if these limits are exceeded.

Title 10 CFR [Section] 50.59 permits a licensee to make changes in the facility as described in the safety analysis report without prior Commission approval, provided that the proposed changes does not involve an unreviewed safety question. 10 CFR [Section] 50.59 (2) states that a proposed change involves an unreviewed safety question (ii) if a possibility for an accident or malfunction of a different type than any evaluated previously in the safety analysis report may be created. Consequently, since any change to the reload core design analysis must be evaluated relative to the more restrictive evaluation criterion of 10 CFR [Section] 50.59, then operation of the facility in accordance with the proposed amendments would not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) Operation of the facility in accordance with the proposed amendments would not involve a significant reduction in a margin of safety.

The margin of safety is not affected by FPL performing the reload design calculations for Turkey Point Units 3 and 4. The supporting Technical Specification values are defined by the accident analyses which are performed to conservatively bound the operating conditions defined by the Technical Specifications. The development of the limits for future reloads will continue to conform to the methodology described in NRC approved documentation. In addition, each future reload will involve a 10 CFR [Section] 50.59

review to assure that operation of the units within the cycle specific limits will not involve a reduction in a margin of safety. 10 CFR [Section] 50.59 (2) states that a proposed change involves an unreviewed safety question (iii) if the margin of safety as defined in the basis for any technical specification is reduced. Consequently, since any change to the reload core design analysis must be evaluated relative to the more restrictive evaluation criterion of 10 CFR [Section] 50.59, then operation of the facility in accordance with the proposed amendments would not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration. The NRC staff, however, considers that the licensee's statements relative to 10 CFR Section 50.59 evaluations to be performed in the future are not relevant to the proposed no significant hazards determination.

Local Public Document Room location: Florida International University, University Park, Miami, Florida 33199.

Attorney for licensee: Harold F. Reis, Esquire, Newman and Holtzer, P.C., 1615 L Street, NW., Washington, DC 20036.

NRC Project Director: David B. Matthews.

IES Utilities Inc., Docket No. 50-331, Duane Arnold Energy Center, Linn County, Iowa

Date of amendment request: October 28, 1994.

Description of amendment request: The proposed amendment revises the Duane Arnold Energy Center (DAEC) Operating License by deleting a condition of the license that requires a "Plan for Integrating Scheduling of Plant Modifications for the Duane Arnold Energy Center" (the Plan).

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 provided below:

(1) The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated. No physical changes to the facility will occur as a result of this amendment. Work activities will continue to receive the appropriate level of review in accordance with DAEC procedures and practices. The organizational structure that controls and manages these activities remains unchanged and will assure that activities are prioritized and performed in a manner consistent with plant safety. The proposed

amendment removes an administrative burden that is no longer required.

(2) The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. No changes to the physical design and/or operation of the plant will occur as a result of this amendment. The processes by which activities are planned, prioritized, and controlled are not affected. The appropriate level of technical review and management oversight continue to be performed in accordance with existing procedures and practices to assure that activities are performed in a manner consistent with plant safety.

(3) The proposed amendment does not involve a significant reduction in a margin of safety. As stated earlier, no changes to the physical design and/or operation of any plant systems will occur as a result of this amendment. Work activities will continue to receive the appropriate technical review and management oversight to assure that activities are prioritized and performed in a manner consistent with plant safety. The amendment removes an administrative burden that is no longer required.

Based on the above, we have determined that the proposed amendment will not involve a significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Cedar Rapids Public Library, 500 First Street, S.E., Cedar Rapids, Iowa 52401.

Attorney for licensee: Jack Newman, Kathleen H. Shea, Morgan, Lewis & Bouckins, 1800 M Street NW., Washington, DC 20036.

NRC Project Director: Leif J. Norrholm.

Niagara Mohawk Power Corporation, Docket No. 50-220, Nine Mile Point Nuclear Station Unit No. 1, Oswego County, New York

Date of amendment request: January 24, 1995.

Description of amendment request: The proposed amendment would revise Technical Specification 3.4.1, "Leakage Rate," to reduce the allowable leakage rate of the reactor building from 2000 cubic feet per minute (cfm) to 1600 cfm.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The operation of Nine Mile Point Unit 1, in accordance with the proposed

amendment, will not involve a significant increase in the probability or consequences of an accident previously evaluated.

Secondary containment and RBEVS [Reactor Building Emergency Ventilation System] are not initiators or precursors to an accident. Secondary containment provides a pressure boundary, with limited in-leakage, for the purpose of preventing a ground level unfiltered release of radioactivity. RBEVS responds to accidents involving release of radioactivity to the secondary containment by maintaining a negative pressure inside secondary containment and by providing an elevated release. Therefore, a change to the Reactor Building leakage rate cannot affect the probability of an accident previously evaluated.

Although the proposed change reduces the Reactor Building leakage rate from 2000 cfm to 1600 cfm consistent with system design, there is no effect on the radiological consequences of any previously analyzed accident since the radiological analysis does not assume exfiltration. Therefore, the Technical Specification change does not significantly increase the consequences of a previously evaluated accident.

The operation of Nine Mile Point Unit 1, in accordance with the proposed amendment, will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change to the Reactor Building leakage rate from 2000 cfm to 1600 cfm does not involve any accident precursors or initiators. During an accident involving a release of radioactivity to the secondary containment, the RBEVS would be operable and provide filtration of containment atmosphere prior to release to the environment. This change does not involve any physical modifications to the system, thus the system will operate as designed. Therefore, the proposed Technical Specification change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The operation of Nine Mile Point Unit 1, in accordance with the proposed amendment, will not involve a significant reduction in a margin of safety.

The proposed change in Reactor Building in-leakage from 2000 cfm to 1600 cfm in Specification 3.4.1 and the associated basis is to be consistent with system design and reflect the leakage rate associated with approximately one building air volume change per day. The resulting accident analysis remains unchanged since the radiological analysis does not assume any exfiltration. Therefore, the proposed change will not involve a significant reduction in the margin of safety as defined in the basis for any Technical Specification.

Therefore, as determined by the above analysis, this proposed amendment involves no significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request

involves no significant hazards consideration.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Attorney for licensee: Mark J. Wetterhahn, Esquire, Winston & Strawn, 1400 L Street, NW., Washington, DC 20005-3502.

NRC Project Director: Ledyard B. Marsh.

Niagara Mohawk Power Corporation, Docket No. 50-220, Nine Mile Point Nuclear Station Unit No. 1, Oswego County, New York

Date of amendment request: February 1, 1995.

Description of amendment request: The proposed amendment would revise Technical Specification (TS) 3.6.13, "Remote Shutdown Panels." TS 3.6.13 currently requires that if the valve controls or monitoring instrumentation on the Remote Shutdown Panels are inoperable, they must be restored to an operable status within 24 hours or the plant shall be shut down. The proposed change would require inoperable valve control functions be restored to an operable status within 30 days or the plant shall be shut down. The proposed change would also specify that required inoperable monitoring instrumentation functions be restored to an operable status within 30 days or that an alternate method of monitoring the parameter be established within 30 days and the required function be restored to an operable status within 90 days or the plant shall be shut down.

The proposed amendment would also make minor editorial changes to TS Table 3.6.13-1 so that the table entries would be consistent with the proposed revisions to TS 3.6.13.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The operation of Nine Mile Point Unit 1, in accordance with the proposed amendment, will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The remote shutdown panel monitoring instruments and controls are not initiators or precursors to an accident. The remote shutdown panels provide the operator with sufficient monitoring instruments and controls to place and maintain the plant in a safe shutdown condition from a location other than the control room. Therefore, the proposed changes to Specification 3.6.13, "Remote Shutdown Panels," cannot affect

the probability of a previously evaluated accident.

The proposed changes, in part, require that one channel (on either panel) for each function be operable. This change could potentially avoid an unnecessary plant shutdown without affecting an operator's ability to cope with a control room evacuation. One channel of each function is adequate to assure a safe shutdown. The proposed changes would also allow 30 days to restore an inoperable function to an operable status. As indicated in the ITS [Improved Standard Technical Specifications], the allowed time of 30 days is acceptable based on operating experience and the low probability of an event that would require evacuation of the control room. With one or more monitoring instrument functions inoperable, the proposed change gives an operator an additional option. Specifically, the operator is allowed 30 days to establish an alternate method of monitoring the parameter and 90 days to restore the function to operable status. The use of an alternate method is acceptable since it will provide the operator with indication of the parameter of interest. The remote shutdown panels will not be required to be operable in hot shutdown because the plant is already subcritical and in a condition of reduced reactor coolant inventory energy. Because this Specification no longer applies to hot shutdown and to be consistent with the guidance provided in the ITS, Specification 3.6.13.d will require that the plant be brought to a hot shutdown condition (versus cold shutdown condition) in 12 hours. As indicated in the ITS, the 12-hour completion time is reasonable based on operating experience. The Bases Section to 3.6.13 and 4.6.13 was revised to be consistent with the proposed changes to the Specification. The Bases currently indicates that one remote shutdown panel is required to be operable. As explained above, one channel of each required function is required to maintain remote shutdown operability. In summary, the proposed changes will not affect the ability of the Remote Shutdown System to provide the operator with sufficient instrumentation and controls to place and maintain the plant in a safe shutdown condition from a location other than the control room. Therefore, the consequences of an event requiring a control room evacuation will not significantly increase.

Editorial changes were made to Table 3.6.13-1 to be consistent with the changes made to the Specification. Specifically, the word "INSTRUMENT" was changed to "FUNCTION" and the words "PANEL MONITORING" were changed to the words "PANELS FUNCTIONS." These changes make it clear that one channel of each function, on either panel is acceptable to maintain operability. The emergency condenser condensate return valve control and motor-operated steam supply valves control were relocated from Specification 3.6.13.b to Table 3.6.13-1 to be consistent with the proposed changes.

Based on the above, the consequences of an accident previously evaluated are not significantly increased.

The operation of Nine Mile Point Unit 1, in accordance with the proposed amendment, will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The changes do not introduce any new accident precursors and do not involve any alterations to plant configurations which could initiate a new or different kind of accident. The proposed changes require that one channel of each function be operable to assure the remote shutdown panels can meet their intended function. No changes have been made which will affect the operation of the remote shutdown panels in a way which would create a new or different kind of accident. Therefore, the proposed changes will not create the possibility of a new or different kind of accident from any previously evaluated.

The operation of Nine Mile Point Unit 1, in accordance with the proposed amendment, will not involve a significant reduction in a margin of safety.

The proposed changes will not affect the ability of the Remote Shutdown System to provide the operator with sufficient instrumentation and controls to place and maintain the plant in a safe shutdown condition from a location other than the control room. The ability to respond to a control room evacuation is maintained with one channel operable for each required function. The allowed outage time of 30 days is acceptable based on operating experience and the low probability of an event requiring control room evacuation. Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Attorney for licensee: Mark J. Wetterhahn, Esquire, Winston & Strawn, 1400 L Street, NW., Washington, DC 20005-3502.

NRC Project Director: Ledyard B. Marsh.

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: January 10, 1995.

Description of amendment request: The proposed amendment request would revise Technical Specifications by deleting the power range, neutron flux, high negative rate trip from Tables 2.2-1, 3.3-1, and 4.3-1, and delete the associated Bases Section 2.0.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration (SHC), which is presented below:

* * * The proposed changes would not involve an SHC because the changes would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The deletion of the power range, neutron flux, high negative rate trip will not adversely affect plant operations. As has been presented and accepted by the NRC Staff in previous docketed correspondence, the dropped RCCA [rod cluster control assembly] accident analysis does not rely on this trip to safely shut down the plant. The safety analysis of the plant is unaffected by the proposed changes. Since the safety analysis is unaffected, the calculated radiological releases associated with the analysis are not affected. Therefore, the proposed changes will not increase the probability or consequences of an accident previously evaluated.

The reactor trip system is used to mitigate accidents. There have been instances, during calibration of these units, where a single channel has generated a trip signal. Leaving this in place when it is not necessary could, therefore, cause a reactor trip. The deletion of one trip function will, therefore, slightly decrease, not increase, this probability.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The reactor trip system is used to mitigate accidents, and the only way that it can initiate an event is by causing the reactor to trip when it is unnecessary. This possibility of the generation of a false trip signal has already been evaluated in the safety analysis. This modification will physically remove or disable the power range, neutron flux trip and will therefore decrease the possibility for the generation of a false trip signal. Therefore, the proposed change cannot create a new or different kind of accident from any previously evaluated.

3. Involve a significant reduction in a margin of safety.

The proposed change which deletes the power range, neutron flux, high negative rate trip will have no impact on the margin of safety. The current safety analysis for Millstone Unit No. 3 does not credit this trip for any events; therefore, removal of this trip from the technical specifications will not affect the margin of safety for any analyzed events.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: 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: Phillip F. McKee.

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: January 23, 1995.

Description of amendment request: The proposed amendment would revise the Technical Specifications (TS) by 1) adding a new Section 3/4.5.5 which provides a limiting condition for operation, an action statement, a surveillance requirement, and a corresponding bases section, for the trisodium phosphate (TSP) baskets which will be installed in the next refueling outage; 2) deleting Section 3/4.6.2.3 and Bases 3/4.6.2.3 related to the spray additive system which are no longer needed since the chemical addition tank is being abandoned; and 3) updating Index Pages viii, ix, and xiv to reflect the above changes.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration (SHC), which is presented below:

* * * The proposed changes do not involve an SHC because the changes would not:

1. Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

The plant change affects the chemical composition of the QSS [quench spray system] flow and the method of sump pH control, which are important for containment heat removal/pressure mitigation (MSLB and LOCA) [main steamline break and loss-of-coolant accident] and fission product removal (LOCA). However, this change does not affect the probability of occurrence of these accidents. Since the TSP baskets are passive devices located inside the containment, they cannot initiate a transient or affect the probability of occurrence of any previously evaluated accident.

The design change will not adversely affect the radiological doses for the DBA [design basis accident] LOCA at the Exclusion Area Boundary, Low Population Zone, Millstone Unit No. 3 Control Room, Millstone Unit No. 2 Control Room, and the Millstone Technical Support Center. Also, the change will not adversely affect the calculated peak clad temperature (PCT) for the DBA LOCA.

2. Create the Possibility of a New or Different Kind of Accident from any Previously Analyzed.

The change does not create a malfunction that is different from those previously evaluated. The TSP baskets are passive devices that have minimal impact on any other systems except through water chemistry. The change in water chemistry does not adversely affect any safety systems. The installation of the TSP baskets and the abandonment of the CAT [chemical addition tank] will not change the probability of a malfunction of safety-related equipment.

Potential malfunctions relating to the TSP powder, the 12 baskets which hold the TSP powder, the QSS and other systems, and equipment credited in the safety analysis were evaluated and determined not to be adversely affected by the change. Additionally, the transient pH behavior of the spray flow will not adversely affect metals, coatings and elastomers in the containment, and the performance of associated safety functions is not affected.

Finally, the change in the chemical composition of the QSS solution will not affect the operability of this system or its ability for containment heat removal and pressure mitigation.

3. Involve a Significant Reduction in the Margin of Safety.

The design changes do not adversely affect the ability of the QSS to perform the function of containment heat removal, pressure mitigation and fission product (iodine) retention. The design changes do not adversely affect any equipment credited in the safety analysis. Also, the design changes do not increase the calculated peak clad temperature (PCT) or the offsite doses due to the design basis LOCA. Therefore, there is no impact on the margin of safety as specified in the technical specifications.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: 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: Phillip F. McKee.

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: January 24, 1995.

Description of amendment request:

The amendment request would revise the Technical Specification Section 3.2.3.1.a and Table 2.2-1 to decrease the acceptance criterion for measured reactor coolant system (RCS) flow rate from 387,480 gallons per minute (gpm) to 371,920 gpm.

*Basis for proposed no significant**hazards consideration determination:*

As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration (SHC), which is presented below:

* * * The proposed changes do not involve an SHC because the changes would not:

1. Involve a Significant Increase in the Probability or Consequence of an Accident Previously Evaluated.

An evaluation of the 4% decrease in the RCS total flow rate limit has shown that the change does not significantly impact the design basis analyses. Therefore, the change will not increase the consequences of an accident previously evaluated.

There are no actual plant changes that will result from this technical specification change. Instead, the technical specification requirement for minimum total RCS flow rate is being changed to provide operational benefit without compromising safety. Since there are no plant changes, there is no effect on the probability of occurrence of previously evaluated accidents.

The change will have a negligible impact on the small break loss of coolant accident (LOCA) and large break LOCA analyses. The PCT [peak cladding temperature] acceptance criteria will continue to be met with the assumption of a 4% reduction in RCS flow rate.

For the steam generator tube rupture event, both the FSAR [Final Safety Analysis Report] offsite dose analysis and the margin of steam generator (SG) overfill were evaluated. It was determined that the 4% reduction in RCS flow rate will not adversely affect the offsite doses or the margin to SG overfill and, therefore, the FSAR conclusions remain unchanged.

In the evaluation of non-LOCA transients, the DNB [departure from nucleate boiling] is the most affected parameter due to a change in flow rate. It was concluded that the 4% reduction in RCS flow was acceptable and there was margin to the DNB limit.

It is concluded that there is sufficient margin to the system pressure, PCT and DNB limits to offset the effect of the 4% flow rate decrease and the calculated radiological releases associated with the analysis are not affected. Therefore, there is no effect on the consequences of previously evaluated accidents.

2. Create the Possibility of a New or Different Kind of Accident from any Previously Analyzed.

The low loop flow trip setpoint specified in Technical Specification Table 2.2-1 is set as a fraction of total flow. The flow fraction is not being changed and no hardware changes are required due to the reduction in

minimum flow. Also, the reduction in minimum flow will not change the operation of any plant equipment and it does not modify plant operation.

Therefore, the reduction in minimum flow does not introduce any new failure modes or malfunctions and it does not create the potential for a new unanalyzed accident.

3. Involve a Significant Reduction in the Margin of Safety.

The proposed 4% decrease in the technical specification limit for total RCS flow rate will not adversely affect the results of the FSAR accident analysis, and it is concluded that this change is safe. The change does not adversely affect any equipment credited in the safety analysis, and it does not affect the probability of occurrence of any plant accident. Also, the change has a negligible impact on the PCT, and it does not increase the offsite doses or decrease the DNB below its acceptance limit.

Therefore, the change does not have any significant impact on the protective boundaries, and there is no reduction in the margin of safety as specified in the technical specifications.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: 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: Phillip F. McKee.

Omaha Public Power District, Docket No. 50-285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: January 9, 1995.

Description of amendment request:

The proposed amendment to the technical specifications (TSs) would delete requirements for the toxic gas monitoring system (TGMS) as contained in TS 2.22 and TS 3.1, Table 3-3, item 29.

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 previously evaluated accidents affected by this change are the on-site and off-site toxic chemical releases. These events have been re-evaluated for this proposed change and have been shown to meet the applicable regulatory screening criteria. The deterministic analyses performed show that the guidelines of Regulatory Guide 1.78 for control room habitability are met for on-site and most off-site chemicals. On-site chemical sources originally present when the toxic gas monitoring system was installed have been removed from site or determined not to exceed the deterministic analysis screening requirements. For those off-site chemical releases which did not meet the deterministic screening criteria a probabilistic analysis was performed. The probabilistic analysis performed in support of this proposed change shows that the probability of an off-site chemical release leading to 10 CFR 100 consequences is orders of magnitude less than the SRP [Standard Review Plan] 2.2.3 guidelines. These results show that there is no significant increase in the probability or consequences of any accident previously evaluated.

(2) The proposed changes do not create the possibility of a new or different kind of accident from any previously analyzed.

Only events involving chemicals for which the TGMS provides an automatic detection/isolation function are affected by this change. As stated above, the potential events involving these chemicals have been re-evaluated using the appropriate regulatory guidance and shown to satisfy either the deterministic screening criteria of RG [Regulatory Guide] 1.78, or to be probabilistically insignificant compared to the guidelines of SRP Section 2.2.3. These results show that the proposed change will not create the possibility of a new or different kind of accident from any previously evaluated. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously analyzed.

(3) The proposed changes do not involve a significant reduction in a margin of safety.

The margin of safety is defined by the regulatory basis for the existing TGMS, namely NUREG-0737, Item III.D.3.4. The analysis provided to support this proposed change follows the regulatory guidelines of RG 1.78 and SRP Section 2.2.3, as specified in NUREG-0737, Item III.D.3.4. The analysis shows that the applicable regulatory criteria are met and the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102.

Attorney for licensee: LeBoeuf, Lamb, Leiby, and MacRae, 1875 Connecticut

Avenue, NW., Washington, DC 20009–5728.

NRC Project Director: Theodore R. Quay.

Pacific Gas and Electric Company, Docket Nos. 50–275 and 50–323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of amendment requests:
February 6, 1995 (Reference LAR 95–01).

Description of amendment requests:
The proposed amendments would revise the combined Technical Specifications (TS) for the Diablo Canyon Power Plant, Unit Nos. 1 and 2, to change TS 3/4.9.14.1, “Spent Fuel Assembly Storage,” TS 3/4.9.14.2, “Spent Fuel Pool Boron Concentration,” TS 5.3.1, “Reactor Core—Fuel Assemblies,” and TS 5.6.1, “Fuel Storage—Criticality,” and add new TS 3/4.9.14.3, “Spent Fuel Assembly Storage—Spent Fuel Pool Region 1.” The specific TS changes proposed are as follows:

(1) The proposed changes to TS 3/4.9.14 are:

(a) TS 3.9.14.1 and Figure 3.9–2 would be revised to allow the storage of spent fuel assemblies with initial enrichments up to 5.0 weight percent uranium-235 (U-235) in Region 2 of the spent fuel pool (SFP). Fuel pellet diameter would be considered in combination with initial enrichment and cumulative burnup.

(b) Editorial corrections to the titles of TS 3/4.9.14.1 and 3/4.9.14.2 would be made for consistency with the TS format.

(2) New TS 3/4.9.14.3 would be added. The new TS would include:

(a) Requirements for acceptable fuel storage in Region 1 of the SFP.

(b) An action statement, similar to that for TS 3.9.14.1, requiring suspension of all fuel movement and crane operations except to move the noncomplying fuel assemblies into an acceptable pattern. The action statement also requires verification of SFP boron concentration at least once per 8 hours.

(c) A requirement, similar to that for TS 4.9.14.1, for an evaluation that considers enrichment, boron content, and cumulative burnup of each fuel assembly before storage in Region 1 of the SFP.

(d) New Figure 3.9–3 for use in determining the acceptability of storing fuel in Region 1 of the SFP.

(3) The proposed changes to TS 5.3.1 are:

(a) The number of fuel rods in each fuel assembly, nominal length of each

fuel rod, and maximum fuel enrichment would be removed.

(b) The current allowance for fuel rod substitutions as justified by analysis would be clarified to specify that the analysis be performed using NRC staff-approved methods.

(c) An allowance to use a limited number of lead test assemblies in nonlimiting core locations would be added.

(d) The current specification requiring Zircaloy-4 fuel cladding would be changed to allow Zircaloy-4 or ZIRLO cladding.

(4) The proposed changes to TS 5.6 are:

(a) TS 5.6.1.1 would be renumbered TS 5.6.1 and the word “borated” would be replaced with “unborated.”

(b) A new requirement would be added to specify the maximum fuel enrichment allowed to be stored in the fuel racks.

(c) TS 5.6.1.2 would be deleted.

(5) The associated Bases would also be appropriately revised.

Basis for proposed no significant hazards consideration determination:
As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

a. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

Analyses were performed to verify that an increase in enrichment of the fuel from 4.5 weight percent U-235 to 5.0 weight percent U-235 would not result in an inadvertent criticality event in the new fuel storage racks or the SFP. The analyses indicate that for the new fuel racks, the k_{eff} will remain below 0.95 if flooded with non-borated water, and below 0.98 if flooded with optimum-density aqueous foam. The analyses indicate that for the spent fuel racks, assuming credit for soluble boron in accident scenarios, the k_{eff} will remain below 0.95 as required.

The increase in the fuel enrichment from 4.5 weight percent U-235 to 5.0 weight percent U-235 does not change any of the external dimensional characteristics of the fuel element, the fuel storage racks, or the SFP itself. The accidents originally evaluated considered those events that could lead to fuel damage and release of radioactive material primarily from mechanical means, such as physical impact on the fuel or the SFP. Because the physical design and methods of operation are the same as previously evaluated, there is no change in the probability of occurrence of such events.

The maximum spent fuel gap activity and the resulting offsite dose consequences after a postulated fuel handling accident are primarily dependent on fuel burnup, and are not significantly affected by an increase in fuel enrichment. For up to 5.0 weight percent U-235 and 60,000 MWD/MTU burnup, NUREG/CR-5009 indicates that fuel handling

accident offsite doses could increase by a factor of 1.2, which indicates that doses would still remain within 10 CFR Part 100 limits.

The Generic Letter 90–02 Supplement 1 change to TS 5.3.1 clarifies the requirements associated with fuel reconstitution. It does not change the methodology that would be used to reconstitute fuel.

The use of ZIRLO cladding will not increase the probability or consequences of an accident, since it has improved mechanical properties such as a lower corrosion rate and reduced radiation-induced growth.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

b. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The physical and mechanical parameters associated with the fuel assemblies and spent fuel racks are the same as previously evaluated. Therefore, any malfunctions related to the physical aspects of fuel storage are the same as previously evaluated.

The conditions for fuel storage in the proposed new TS 3.9.14.3 provide new criteria for locations where a fuel assembly could be incorrectly placed. However, the incorrect placement of a fuel assembly has been analyzed, and would not cause an inadvertent criticality or any other accident.

The change to 5.0 weight percent U-235 does not result in physical alterations or changes to the operation of the plant, or change the method by which any safety-related system performs its function. The use of ZIRLO cladding does not result in a significant change to the plant.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

c. Does the change involve a significant reduction in a margin of safety?

The acceptance criteria of a k_{eff} of 0.95 (or 0.98 for the new fuel rack optimum moderation accident) provides the margin to criticality. Analyses were performed that conclude that the proposed changes to allow up to 5.0 weight percent U-235 in the new and spent fuel racks meet the acceptance criteria. The use of ZIRLO cladding will not reduce the protection of the public health or safety, as indicated in the NRC's revisions to 10 CFR 50.44 and 50.46 (57 FR 39355).

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 amendment requests involve no significant hazards consideration.

Local Public Document Room location: California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps

Department, San Luis Obispo, California 93407.

Attorney for licensee: Christopher J. Warner, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120.

NRC Project Director: Theodore R. Quay.

Pacific Gas and Electric Company, Docket No. 50-133, Humboldt Bay Power Plant, Unit 3, Humboldt County, California

Date of amendment request:
November 23, 1994.

Description of amendment request:
The proposed amendment would revise the Technical Specifications Section VI, "Waste Disposal Systems," regarding radioactive effluent limitations and the conditions for automatically pumping the contents of the reactor caisson sump to the outfall canal.

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. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed revisions to the HBPP Technical Specifications remove the ambiguity in the guidelines for directing caisson sump discharges to the outfall canal. Additionally, the proposed revisions will modify Section VI to be consistent with the guidance provided by NRC Draft Generic Letter for 10 CFR 20 Modification to Technical Specifications (58 FR 68171, dated December 23, 1993). These changes in effluent limits are not related to the probability or consequences of an accident.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed revisions to the HBPP Technical Specifications are administrative in nature and do not change the method by which any safety-related system performs its function.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the change involve a significant reduction in a margin of safety?

The proposed revisions to the HBPP Technical Specifications do not affect the margin of safety associated with parameters for any accident analysis.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the analysis of the licensee and, based on

this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Humboldt County Library, 636 F Street, Eureka, California 95501.

Attorney for licensee: Christopher J. Warner, Esquire, Pacific Gas & Electric Company, P.O. Box 7442, San Francisco, California 94120.

NRC Project Director: Seymour H. Weiss.

Pacific Gas and Electric Company, Docket No. 50-133, Humboldt Bay Power Plant, Unit 3, Humboldt County, California

Date of amendment request:
November 23, 1994.

Description of amendment request:
The proposed amendment would revise the Technical Specifications Section VII.C, Plant Staff, to decrease the minimum staff requirements for the shift operating organization from five to two persons.

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. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The probability or consequences of an accident previously evaluated will not be affected by the change in plant staffing. The plant staff manning requirements for the shift operating organization are being reduced to reflect the condition of the plant in a SAFSTOR mode. Previously evaluated accidents do not require operator actions to mitigate or reduce the consequences of occurrence. Consequently, the change will not affect the probability or consequences of an accident occurring.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed revisions to the HBPP Technical Specifications are administrative in nature. Further, there would not be any change in equipment or system function or operation.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the change involve a significant reduction in a margin of safety?

The proposed revisions to the HBPP Technical Specifications do not affect the margin of safety of any accident analysis

since they do not affect the parameters for any accident analysis, and they have no effect on the current operating methodologies or actions that govern plant performance.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the analysis of the licensee and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Humboldt County Library, 636 F Street, Eureka, California 95501.

Attorney for licensee: Christopher J. Warner, Esquire, Pacific Gas & Electric Company, P.O. Box 7442, San Francisco, California 94120.

NRC Project Director: Seymour H. Weiss.

PECO Energy Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Docket No. 50-278, Peach Bottom Atomic Power Station, Unit No. 3, York County, Pennsylvania

Date of application for amendment:
January 13, 1995.

Description of amendment request:
The proposed changes revise Tables 3.7.1 and 3.7.4 to reflect a reduction in the number of primary containment power operated outboard valves for the Traversing Incore Probe (TIP) probes, and a redesignation of the containment penetration numbers for the TIP ball, shear, and check valves. The proposed changes are a result of PBAPS Modification P00068.

Basis for proposed no significant hazards consideration determination:
As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The TIP system does not serve as an initiator or contributor to any accidents previously evaluated. The system provides a means of calibrating the Local Power Range Monitors and supports thermal limit calculations. The new system performs the same function as the old one. It will provide improved reliability and added redundancy by allowing a complete flux mapping if a detector or drive failure were to occur.

Installation of Modification P00068 and its operation will not degrade any active or passive equipment that responds to an accident. These changes do not decrease the

effectiveness of equipment relied upon to mitigate the previously evaluated accidents.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

The modification is considered an enhancement to the TIP system and does not serve as an initiator or contributor to any of the accidents previously evaluated. The proposed changes do not introduce a new mode of plant operation. The new system, like the old one, is designed to keep the ball valves closed upon reset of the Primary Containment Isolation System (PCIS) logic. The new TIP control console will respond to a PCIS isolation signal in the same manner as the old system.

Implementation of the proposed changes will not affect the design function or configuration of any component or introduce any new operating scenarios or failure modes or accident initiation.

Modification P00068 will not impair or prevent safety systems from performing their safety function. It will not make any changes to the design function of the TIP system. The classification of the TIP ball and shear valves and their control circuitry will not change as a result of this modification.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed changes do not involve a significant reduction in a margin of safety.

The TIP system does not serve as an initiator or contributor to any accidents evaluated in the SAR [safety analysis report]. Modification P00068 is considered an enhancement to the existing TIP system and does not change its design function. The reduction in the number of containment penetrations from five to three does not represent a reduction in a margin of safety because of additional indexers in the new system. The proposed changes do not adversely affect the assumptions or sequence of events used in any accident analysis.

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 location: Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Attorney for Licensee: J. W. Durham, Sr., Esquire, Sr. V.P. and General Counsel, PECO Energy Company, 2301 Market Street, Philadelphia, Pennsylvania 19101.

NRC Project Director: John F. Stolz.

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of amendment request: June 13, 1994.

Description of amendment request: The proposed change would remove license condition 2.E from the Facility Operating License. License Condition 2.E incorporated the requirements of U.S. Department of Interior publication "Environmental Criteria for Electric Transmission Systems"—1970, which applies to the construction cleanup, restoration, and maintenance of transmission lines.

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:

Operation of the FitzPatrick plant in accordance with the proposed Amendment would not involve a significant hazards consideration as defined in 10 CFR 50.92, since it would not:

(1) involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change will remove a license condition unrelated to nuclear safety. License condition 2.E incorporated into the Operating License the requirements of U.S. Department of Interior publication "Environmental Criteria for Electric Transmission Systems"—1970. The goal of this standard is to "safeguard aesthetic and environmental values within the constraints imposed by the current state of high-voltage transmission technology." License condition 2.E addresses the preservation of the environment and natural resources. Removing this condition from the Facility Operating License has no bearing on plant safety or the health and safety of the public considering its non-nuclear nature. The transmission line right-of-ways maintained by the [Power] Authority [of the State of New York] are subject to regulation by other State and Federal Agencies. Removal of this license condition will not affect operation of safety related structures, systems or components nor affect the quality assurance program at the FitzPatrick plant. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) create the possibility of a new or different kind of accident from any accident previously evaluated.

License condition 2.E of the James A. FitzPatrick Plant Operating License applies to the construction cleanup, restoration, and maintenance of transmission lines. The Authority's transmission lines are managed under guidelines based on the "Generic Transmission Line Right-of-Way Management" plan requirements. The

requirements imposed by the plan on the FitzPatrick transmission line right-of-ways exceed those of the U.S. Department of Interior publication referenced in license condition 2.E in both scope and details. Therefore, implementing the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) involve a significant reduction in a margin of safety.

License condition 2.E of the James A. FitzPatrick Plant Operating License applies to the construction cleanup, restoration, and maintenance of transmission lines. The requirements imposed by this license condition are unrelated to nuclear safety. Continued operation of the plant without Condition 2.E does not involve a significant reduction in any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Attorney for licensee: Mr. Charles M. Pratt, 1633 Broadway, New York, New York 10019.

NRC Project Director: Ledyard B. Marsh.

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment request: December 16, 1994; supplemented February 10, 1995 (TS 94-07).

Description of amendment request: The proposed change would reduce the maximum allowed power levels and more clearly specify the plant conditions allowed by the technical specifications for operation with one or more main steam safety valves inoperable. In addition, the Bases would be revised to reflect these changes and incorporate the revised methodology used to establish the neutron flux setpoints.

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:

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.

This change reduces the power level at which the reactor may be operated with one or more main steam safety valves (MSSVs) inoperable, to ensure that the secondary system is not overpressurized during the most severe pressurization transient of the secondary side. Additionally, this change will combine the TS action statements for 3- and 4-loop operation with one or more MSSVs inoperable, revise the mode requirements and times of Action Statement 3.7.1.1.a, and correct a reference in the bases section to Table 3.7-1. Reduction of the high neutron flux (HNF) trip setpoint will continue to be used as the means to ensure that the required reactor power level reductions are met. Mode 3 will be limited to application when the reactor trip breakers (RTB) are closed. Lack of NIS trip setpoint adjustments with the RTB open has no effect on the accident analysis. There is no change to the function of the MSSVs by the proposed change. This change will not alter any accident analysis assumptions or results for SQN. The proposed change will reduce the amount of relief capacity required to mitigate the consequences of the transient by reducing the total amount of energy in the primary system. Therefore, this change will not increase the probability of an accident.

This change is consistent with current SQN accident analysis assumptions for the MSSVs and does not change the containment response for any design basis event. Therefore, no change in the mitigation of an accident will result from this proposed change and no change will occur in the consequences of any accident currently analyzed.

2. Create the possibility of a new or different kind of accident from any previously analyzed.

Inadvertent opening of a MSSV is currently analyzed as an initiating event for accidental depressurization of the main steam system. The proposed change does not alter the valves or any other plant component. The valves will continue to perform as analyzed in current accident analyses. The proposed change will not create the possibility for any new or different kind of accident.

By retaining the use of the HNF trip setpoint reduction, no change is being proposed in the methodology used to ensure that power reductions are carried out; therefore, this will not create the possibility of placing the plant into any new unanalyzed condition. Not adjusting the Nuclear Instrumentation System trip setpoint with the RTBs open will not create an accident. The existing accident analysis is still bounding.

Combining the separate action statements for 3- and 4-loop operation into a single action does not create the possibility for a new or different kind of accident. Operation with 4 loops will continue to be required in Modes 1 and 2 by TS 3.4.1.1.

Operation with less than 4 loops will continue to be governed by TS 3.4.1.2 in Mode 3 and TS 3.4.1.3 in Mode 4. This

change will not place the plant in a configuration not currently bounded by existing accident analysis.

Revising the mode requirements and their associated times, consistent with the requirements in NUREG-1431, will continue to ensure that if the unit is unable to comply with the limiting condition for operation, the unit will begin an orderly shutdown until a mode is reached where the specification is not applicable.

3. Involve a significant reduction in a margin of safety.

The proposed change reduces the total energy of the reactor coolant system that will ensure the ability of the MSSVs to perform their intended function as assumed in current accident analyses. This change has been evaluated on a generic basis for Westinghouse Electric Corporation designed 4-loop nuclear steam supply systems. SQN plant specific features have been evaluated including power limit calculations and the interaction of the reactor protection system trip time delay and the anticipated transient without scram mitigating system actuation circuitry. Correcting this nonconservatism restores the margin of safety to what was originally envisioned. Therefore, the margin of safety assumed in the accident analysis is not reduced by this change.

Combining the separate action statements for 3- and 4-loop operation into a single action has no effect on the margin of safety for 4-loop operation with one or more MSSVs inoperable. Under the revised TS, 3-loop operation with one or more MSSVs inoperable would only be allowed in Mode 3, and 4-loop operation will be required in Modes 1 and 2 in accordance with current TSs 3.4.1.1 and 3.4.1.2.

Revising the mode requirements and their associated times, consistent with the requirements in NUREG-1431, will not reduce the safety margin since the new requirements will continue to place the unit in a mode where the TS is no longer applicable. The new completion times for mode changes are reasonable, based on operating experience, to reach the required unit conditions from full power conditions in an orderly manner without challenging unit systems.

The margin of safety is unaffected by modifying the limits of Mode 3 applicability to require the RTBs to be closed as the intended safety function is already completed when they are open.

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.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 11H, Knoxville, Tennessee 37902.

NRC Project Director: Frederick J. Hebdon.

Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of amendment request:

December 9, 1994, and January 27, 1995

Description of amendment request:

The proposed amendment would revise Technical Specification (TS) Surveillance Requirement 4.6.1.2.a and its associated Bases. The changes would defer the next scheduled containment integrated leak rate test (CILRT) for one outage, from Refuel 7 (March 1995) to Refuel 8 (scheduled for September 1996).

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 of occurrence or the consequences of an accident or malfunction of equipment important to safety previously evaluated in the Safety Analysis Report.

The Callaway CILRT history provides substantial justification for the proposed test schedule. Three CILRTs have been performed over a seven year period with successful results. The tests indicate that Callaway has a low leakage containment. There are no structural mechanisms which would adversely affect the structural capability of the containment and that would be a factor in extending the CILRT schedule by one refueling outage.

A risk impact assessment was performed, and a determination was made that there is insignificant risk impact as a result of changing the CILRT schedule. Containment leak rate testing is not an initiator of any accident, the proposed interval extension does not affect reactor operations or the accident analysis, and has no radiological consequences. There will be no changes to 10 CFR 100 dose limits or the control room dose limits. Extending the test interval will not, by itself, increase the probability of a malfunction of equipment important to safety. Therefore, the proposed change will not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any previously evaluated in the Safety Analysis Report.

There are no design changes being made that would create a new type of accident or malfunction. The proposed change will not alter the plant or the manner in which it is operated. The change revises the schedule for performing the periodic CILRT. The purpose of the test is to provide periodic verification of the leaktight integrity of the primary reactor containment, and systems and components which penetrate containment. The tests assure that leakage through containment and systems and components penetrating containment will not exceed the allowable leakage rate values associated with

conditions resulting from an accident. The change in schedule for performing the CILRT will not adversely affect the containment integrity in the event of an accident. Therefore, the proposed change will not create the possibility of a new or different type of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

The proposed change to the schedule for performing the periodic Type A test does not reduce the margin of safety assumed in the accident analysis for any release of radioactive materials or reduce any margin of safety preserved by the technical specifications. The methodology, acceptance criteria, and the technical specification leakage limits for the performance of the Type A tests will not change. The Type A tests will continue to be performed in accordance with 10 CFR 50, Appendix J and the Callaway Technical Specifications. Therefore, the proposed change will not involve a reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, N.W., Washington, DC 20037.

NRC Project Director: Leif J. Norrholm.

Wisconsin Electric Power Company, Docket Nos. 50-266 and 50-301, Point Beach Nuclear Power Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of amendment request: January 24, 1995.

Description of amendment request: The proposed amendment would modify Technical Specification (TS) Section 15.6.5, "Review and Audit," and TS Section 15.7.8, "Administrative Controls." The quality assurance audit frequencies would be removed, the section on emergency plan reviews would be removed, and the period for radioactive effluent reporting would be increased to annual. In addition, the references to "Semiannual Monitoring Report" would be changed to "Annual Monitoring Report" throughout TS Section 15.7.

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:

In accordance with the requirements of 10 CFR 50.91(a), Wisconsin Electric Power Company (Licensee) has evaluated the proposed changes against the standards of 10 CFR 50.92 and has determined that the operation of Point Beach Nuclear Plant, Units 1 and 2, in accordance with the proposed amendments, does not present a significant hazards consideration.

A proposed facility operating license amendment does not present a significant hazards consideration if operation of the facility in accordance with the proposed amendment will not:

1. Create a significant increase in the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Will not create a significant reduction in a margin of safety.

The proposed changes are administrative in nature. There is no physical change to the facility, its systems, or its operation. Since the changes will allow more flexibility in assigning resources to work on poor or weak performance areas, the plant safety will be enhanced. Operation of PBNP in accordance with the proposed amendments cannot create an increase in the probability or consequences of an accident previously evaluated, create a new or different kind of accident, or result in a significant reduction in a margin of safety. Therefore, the proposed changes do not present a significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin 54241.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Leif J. Norrholm.

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.

Duke Power Company, et al., Docket No. 50-413, Catawba Nuclear Station, Unit 1, York County, South Carolina

Date of amendment request: October 18, 1994.

Description of amendment request: The proposed amendment would change Technical Specification 3.6.1.2 to defer the next scheduled containment integrated leak rate test at Catawba Unit 1 for one outage, from the end-of-cycle (EOC) 8 refueling outage (scheduled for February 1995) to EOC 9 (scheduled for June 1996).

Date of publication of individual notice in Federal Register: February 6, 1995 (60 FR 7073).

Expiration date of individual notice: March 8, 1995.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina.

Duke Power Company, et al., Docket No. 50-413 Catawba Nuclear Station, Unit 1, York County, South Carolina

Date of amendment request: November 29, 1994, as supplemented January 12 and 27, 1995.

Description of amendment request: The proposed amendment requested renewal for Catawba Unit 1 Cycle 9 operation of the steam generator tube inspection bobbin probe voltage-based interim plugging criteria that had been previously approved for Cycle 8.

Date of publication of individual notice in Federal Register: February 9, 1995 (60 FR 7801).

Expiration date of individual notice: March 13, 1995.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina.

Georgia Power Company, et al., Docket Nos. 50-424 and 50-425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia,

Date of amendment request: January 20, 1995.

Description of amendment request: The proposed amendment would revise Technical Specification 6.4.1.2 to provide a more accurate description of the Plant Review Board composition.

Date of publication of individual notice in Federal Register: February 6, 1995 (60 FR 7077).

Expiration date of individual notice: March 8, 1995.

Local Public Document Room location: Burke County Public Library, 412 Fourth Street, Waynesboro, Georgia.

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: November 7, 1994, as supplemented by letters dated December 20, 1994, and January 23, 1995.

Brief description of amendment request: The proposed amendments would change the number of diesel generators (emergency power supply) required to be operable during Mode 6 with greater than or equal to 23 feet of water above the reactor vessel flange, from two to one. The amendments would also allow limited substitution of an alternate onsite emergency power source for one of the two required diesel generators, in Mode 5 and in Mode 6 with less than 23 feet of water. In addition, changes to certain system specifications that are affected by the changes for the emergency power supply were also proposed.

Date of individual notice in Federal Register: January 30, 1995 (60 FR 5739).

Expiration date of individual notice: March 1, 1995.

Local Public Document Room location: Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton, Texas 77488.

Illinois Power Company and Soyland Power Cooperative, Inc., Docket No. 50-461, Clinton Power Station, Unit No. 1, DeWitt County, Illinois

Date of amendment request: January 27, 1995.

Brief description of amendment request: The amendment modifies the technical specifications (TSs) by eliminating selected response time testing as described in the BWROG topical report NEDO-32291, "System Analyses for Elimination of Selected Response Time Testing Requirements." The affected TSs are TS 3.3.1.1, "Reactor Protection System (RPS) Instrumentation," TS 3.3.5.1, "Emergency Core Cooling System (ECCS) Instrumentation," TS 3.3.6.1, "Primary Containment and Drywell Isolation Instrumentation," and TS 3.5.1, "ECCS—Operating."

Date of publication of individual notice in Federal Register: February 3, 1995 (60 FR 6739).

Expiration date of individual notice: March 6, 1995.

Local Public Document Room location: Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727.

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, and at the local public document rooms for the particular facilities involved.

Arizona Public Service Company, et al., Docket Nos. STN 50-528, STN 50-529, and STN 50-530, Palo Verde Nuclear Generating Station, Units 1, 2, and 3, Maricopa County, Arizona

Date of application for amendments: October 31, 1994, as supplemented by letter dated December 28, 1994.

Brief description of amendments: The amendments revise the refueling

machine overload cutoff limit from less than or equal to 1556 pounds to less than or equal to 1600 pounds. The change was requested because design and fabrication improvements have increased the weight of the fuel assembly.

Date of issuance: February 9, 1995.

Effective date: February 9, 1995, to be implemented within 45 days of the date of issuance.

Amendment Nos.: 89, 76, and 60.

Facility Operating License Nos. NPF-41, NPF-51, and NPF-74: The amendments revised the Technical Specifications.

Date of initial notice in Federal

Register: January 6, 1995 (60 FR 2160). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 9, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Phoenix Public Library, 12 East McDowell Road, Phoenix, Arizona 85004.

Arizona Public Service Company, et al., Docket Nos. STN 50-528, STN 50-529, and STN 50-530, Palo Verde Nuclear Generating Station, Units 1, 2, and 3, Maricopa County, Arizona

Date of application for amendments: November 20, 1992, as supplemented by letters dated October 22, 1993, and November 30, 1994.

Brief description of amendments: The amendments would increase the allowable out-of-service time for the core operating limit supervisory system (COLSS) from 1 hour to 4 hours before the more restrictive limits based on the core protection calculators (CPCs) must be applied.

Date of issuance: February 14, 1995.

Effective date: February 14, 1995.

Amendment Nos.: 90, 77, and 61.

Facility Operating License Nos. NPF-41, NPF-51, and NPF-74: The amendments revised the Technical Specifications.

Date of initial notice in Federal

Register: January 6, 1993 (58 FR 591). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 14, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Phoenix Public Library, 12 East McDowell Road, Phoenix, Arizona 85004.

Boston Edison Company, Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of application for amendment: September 6, 1994.

Brief description of amendment: The amendment would remove Technical Specification Section 4.5.H.4 which requires the testing and calibration of pressure switches in certain emergency core cooling system lines.

Date of issuance: February 2, 1995.

Effective date: February 2, 1995.

Amendment No.: 157.

Facility Operating License No. DPR-35: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: October 26, 1994 (59 FR 53838). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 26, 1994 (59 FR 53838).

No significant hazards consideration comments received: No.

Local Public Document Room location: Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360.

Carolina Power & Light Company, et al., Docket Nos. 50-325 and 50-324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendments: March 25, 1994, as supplemented on July 29, 1994, and August 24, 1994.

Brief Description of amendments: The amendments change the Technical Specifications to correct several typographical errors, to incorporate material implicitly contained in a footnote to an applicability statement, to provide detailed labels for items listed in a table, to correct the citation of references, and to remove references to the Rod Sequence Control System that should have been included in a previous change.

Date of issuance: February 1, 1995.

Effective date: February 1, 1995.

Amendment Nos.: 174 and 205.

Facility Operating License Nos. DPR-71 and DPR-62: Amendments revise the Technical Specifications.

Date of initial notice in Federal Register: May 25, 1994 (59 FR 27050). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 1, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297.

Carolina Power & Light Company, Docket No. 50-261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of application for amendment: December 12, 1994.

Brief description of amendment: The amendment revises the containment spray (CS) nozzle surveillance interval from 5 to 10 years.

Date of issuance: February 10, 1995.

Effective date: February 10, 1995.

Amendment No.: 157.

Facility Operating License No. DPR-23: Amendment revises the Technical Specifications.

Date of initial notice in Federal Register: January 4, 1995 (60 FR 497).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 10, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Hartsville Memorial Library, 147 West College, Hartsville, South Carolina 29550.

Commonwealth Edison Company, Docket Nos. 50-295 and 50-304, Zion Nuclear Power Station, Units 1 and 2, Lake County, Illinois

Date of application for amendments: June 24, 1994.

Brief description of amendments: The amendments revise the Technical Specifications by deleting the containment recirculation sump level from Accident Monitoring Instrumentation Tables 3.8.9-1 and 4.8.9-1.

Date of issuance: February 9, 1995.

Effective date: February 9, 1995.

Amendment Nos.: 160 and 148.

Facility Operating License Nos. DPR-39 and DPR-48: The amendments revised the Technical Specifications.

Date of initial notice in Federal Register: July 20, 1994 (59 FR 37066).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 9, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085.

Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut, and Northeast Nuclear Energy Company, Docket Nos. 50-245, 50-336, and 50-423, Millstone Nuclear Power Station, Units 1, 2, and 3, New London County, Connecticut

Date of application for amendments: June 30, 1994, as supplemented November 18, 1994, and January 12, 1995.

Brief description of amendments: The amendments modify the Administrative Controls Section of the Technical Specifications by replacing the present Nuclear Review Board (NRB) for the Haddam Neck Plant, and the NRB and site Nuclear Review Board for Millstone Station with a Nuclear Safety Assessment Board which will serve Millstone Units 1, 2, and 3, and Haddam Neck.

Date of issuance: February 14, 1995.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment Nos.: 181, 79, 184, 104.

Facility Operating License Nos. DPR-61, DPR-21, DPR-65 AND NPF-49.

Amendments revised the Technical Specifications.

The November 18, 1994, and January 12, 1995, submittals provided clarifying information that did not change the initial proposed no significant hazards consideration determination.

Date of initial notice in Federal Register: August 31, 1994 (59 FR 45021).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 14, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Russell Library, 123 Broad Street, Middletown, CT 06457, for the Haddam Neck Plant, and Learning Resource Center, Three Rivers Community-Technical College, Thames Valley Campus, 574 New London Turnpike, Norwich, CT 06360, for Millstone 1, 2, and 3.

Duquesne Light Company, et al., Docket No. 50-334, Beaver Valley Power Station, Unit No. 1, Shippingport, Pennsylvania

Date of application for amendment: July 29, 1994, as supplemented in a letter dated December 13, 1994.

Brief description of amendment: This amendment revises Technical Specifications (TSs) 3/4.4.5 and 3.4.6.2 including associated Bases 3/4.4.5 and 3/4.4.6.2 to allow the implementation of

steam generator tube interim plugging criteria (IPC) for the tube support plate elevations during operating cycle 11. The current TSs require that tubes with imperfections exceeding 40 percent of the nominal tube wall thickness be removed from service. The IPC will allow a test voltage-based criterion of 1.0 volts as determined by a bobbin probe inspection of the tubes. Voltages greater than 1.0 volt will be further examined using a pancake coil probe. Tubes showing flaw indications with a bobbin voltage greater than 3.6 volts will be plugged or repaired.

Date of issuance: February 3, 1995.

Effective date: February 3, 1995.

Amendment No.: 184.

Facility Operating License No. DPR-66. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: August 17, 1994 (59 FR 42337). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 3, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Entergy Operations, Inc., Docket No. 50-313, Arkansas Nuclear One, Unit No. 1, Pope County, Arkansas

Date of amendment request: November 8, 1994.

Brief description of amendment: The amendment revised the technical specification section that describes the frequency for performing the containment integrated leak rate tests.

Date of issuance: February 6, 1995.

Effective date: February 6, 1995.

Amendment No.: 175.

Facility Operating License No. DPR-51. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: January 4, 1995, (60 FR 502). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 6, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801.

Florida Power and Light Company, et al., Docket No. 50-389, St. Lucie Plant, Unit No. 2, St. Lucie County, Florida

Date of application for amendment: July 25, 1994.

Brief description of amendment: This amendment will upgrade Technical

Specification 3/4.7.1.6 for the Main Feedwater Line Isolation Valves to be consistent with NUREG-1432, Standard Technical Specifications for Combustion Engineering Plants.

Date of Issuance: February 9, 1995.

Effective Date: February 9, 1995.

Amendment No.: 71.

Facility Operating License No. NPF-16: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: August 31, 1994 (59 FR 45024). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 9, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 34954-9003.

Florida Power and Light Company, et al., Docket Nos. 50-335 and 50-389, St. Lucie Plant, Unit Nos. 1 and 2, St. Lucie County, Florida

Date of application for amendments: July 25, 1994.

Brief description of amendments: These amendments implement GL 93-05 Items 5.8, 6.1, 7.1 and 7.5.

Date of Issuance: February 9, 1995.

Effective Date: February 9, 1995.

Amendment Nos.: 133 and 72.

Facility Operating License Nos. DPR-67 and NPF-16: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: August 31, 1994 (59 FR 45023). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 9, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 34954-9003.

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: November 7, 1994.

Brief description of amendments: The amendments permit both containment personnel airlock doors to be open while moving fuel during refueling operations.

Date of issuance: February 2, 1995.

Effective date: February 2, 1995, to be implemented within 30 days of issuance.

Amendment Nos.: Unit 1—Amendment No. 69; Unit 2—Amendment No. 58.

Facility Operating License Nos. NPF-76 and NPF-80. The amendments revised the Technical Specifications.

Date of initial notice in Federal Register: December 7, 1994 (59 FR 63123). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 9, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton, Texas 77488.

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: November 8, 1994.

Brief description of amendments: The amendments permit the substitution of an extended range neutron flux monitor for one of the source range neutron flux monitors during refueling operations.

Date of issuance: February 13, 1995.

Effective date: February 13, 1995.

Amendment Nos.: Unit 1—Amendment No. 70; Unit 2—Amendment No. 59.

Facility Operating License Nos. NPF-76 and NPF-80. The amendments revised the Technical Specifications.

Date of initial notice in Federal Register: December 7, 1994 (59 FR 63124). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 13, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton, Texas 77488.

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: June 6, 1994, as supplemented by letters dated November 17, 1994, and December 5, 1994.

Brief description of amendments: The amendments modify Technical

Specification 3/4.8.1.1, "A.C. Sources" by revising the action statements and surveillance requirements for testing of the standby diesel generators (SDGs). The amendments eliminate excessive and unnecessary testing of the SDGs consistent with the guidance provided in NUREG-1366, "Improvements to Technical Specifications Surveillance Requirements," NUREG-1431, "Standard Technical Specifications for Westinghouse Plants," Generic Letter 84-15, "Proposed Staff Actions to Improve and Maintain Diesel Generator Reliability," and Generic Letter 93-05, "Line-Item Technical Specifications Improvements to Reduce Surveillance Requirements for Testing During Power Operation." The changes include: (1) eliminating the requirement to demonstrate the operability of an operable SDG whenever an offsite AC power source is determined to be inoperable, or whenever a support system or an independently testable component of another SDG is inoperable, (2) eliminating the requirement to load the diesel in 10 minutes during testing, (3) replacing the minimum required loading for testing with a load band, (4) relocating some surveillance requirements to the Diesel Fuel Oil Testing Program, and (5) eliminating unnecessary loss-of-offsite power tests.

Date of issuance: February 2, 1995.

Effective date: February 2, 1995, to be implemented within 60 days of issuance.

Amendment Nos.: Unit 1—Amendment No. 68; Unit 2—Amendment No. 57.

Facility Operating License Nos. NPF-76 and NPF-80. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: July 20, 1994 (59 FR 37073). The November 17, 1994, and December 5, 1994, submittals provided clarifying information and did not change the original no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 2, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room Location: 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: August 3, 1994.

Brief description of amendments: The amendments relocate the Radiological Effluent Technical Specifications to other controlled documents consistent with NRC Generic Letter 89-01.

Date of issuance: February 10, 1995.

Effective date: February 10, 1995.

Amendment Nos.: 189 and 175.

Facility Operating License Nos. DPR-58 and DPR-74. Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: November 9, 1994 (59 FR 55873).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 10, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Maud Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Maine Yankee Atomic Power Company, Docket No. 50-309, Maine Yankee Atomic Power Station, Lincoln County, Maine

Date of application for amendment: October 24, 1994, as supplemented by letter dated December 16, 1994.

Brief description of amendment: This amendment modifies Technical Specifications Table 4.1-3 surveillance requirements for the new emergency feedwater flow instrumentation. Specifically, the currently installed analog feedwater flow transmitters are to be replaced by new, digital-type flow transmitters. The new digital flow emergency feedwater flow transmitters are continuously self-checking and have a recommended calibration interval of 9 years. The licensee will verify flow whenever the system operates and send one transmitter back to the manufacturer for recalibration every refueling outage.

Date of issuance: February 15, 1995.

Effective date: February 15, 1995.

Amendment No.: 147.

Facility Operating License No. DPR-36: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: December 7, 1994 (59 FR 63124). The December 16, 1994, letter provided clarifying information that did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 15, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Wiscasset Public Library, High Street, P.O. Box 367, Wiscasset, Maine 04578.

Maine Yankee Atomic Power Company, Docket No. 50-309, Maine Yankee Atomic Power Station, Lincoln County, Maine

Date of application for amendment: May 25, 1994, as supplemented September 1, 1994, and January 13, 1995.

Brief description of amendment: This amendment allows (1) entry through an operable personnel air lock hatch to perform surveillance testing, repair an inoperable hatch, or perform other necessary activities inside containment; (2) update plant Technical Specifications to reflect a previous change to the list of containment boundary valves; (3) add a new exception to allow quarterly surveillance testing of the excess flow check valves; (4) add a new exception to allow periodic preventive maintenance on control room ventilation lasting up to 30 minutes per calendar quarter, without a written report of such inoperability; and (5) make related administrative changes to reflect and clarify items 1 through 4 above.

Date of issuance: February 10, 1995.

Effective date: February 10, 1995.

Amendment No.: 146.

Facility Operating License No. DPR-36: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: June 22, 1994 (59 FR 32231). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 10, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Wiscasset Public Library, High Street, P.O. Box 367, Wiscasset, Maine 04578.

Niagara Mohawk Power Corporation, Docket No. 50-410, Nine Mile Point Nuclear Station, Unit 2, Oswego County, New York

Date of application for amendment: November 3, 1993.

Brief description of amendment: The amendment revises License Condition 2.C.(4), "Turbine System Maintenance Program," and deletes Technical Specification (TS) 3/4.3.8, "Turbine

Overspeed Protection System," and its associated Bases. The revision to License Condition 2.C.(4) indicates that the requirements of this license condition have been satisfied. The deletion of TS 3/4.3.8 and its associated Bases provides Niagara Mohawk Power Corporation the flexibility to implement the manufacturer's recommendations for turbine steam valve surveillance test requirements. These test requirements will be contained in the Updated Safety Analysis Report.

Date of issuance: February 14, 1995.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 63.

Facility Operating License No. NPF-69: Amendment revises the Technical Specifications.

Date of initial notice in Federal Register: December 8, 1993 (58 FR 64611). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 14, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Northeast Nuclear Energy Company, et al., Docket No. 50-336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut

Date of application for amendment: April 25, 1994.

Brief description of amendment: The amendment changes the Technical Specifications concerning four related issues: (1) power-operated relief valve and block valve reliability; (2) low-temperature overpressure protection; (3) boron dilution; and (4) shutdown risk management.

Date of issuance: February 15, 1995.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 185.

Facility Operating License No. DPR-65: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: May 25, 1994 (59 FR 27060). The September 21, 1994, letter provided clarifying information that did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 15, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resources Center, Thames Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360.

North Atlantic Energy Service Corporation, Docket No. 50-443, Seabrook Station, Unit No. 1, Rockingham County, New Hampshire

Date of amendment request: June 18, 1993, as supplemented by letter dated November 23, 1994.

Description of amendment request: The amendment revises the Appendix A Technical Specifications (TS) relating to the Independent Safety Engineering Group. Specifically, the amendment revises the title of TS 6.2.3 from Independent Safety Engineering Group to Independent Technical Reviews, and replaces the requirements for the five person Independent Safety Engineering Group with requirements relating to a technical review program to perform independent technical reviews.

Date of issuance: February 14, 1995.

Effective date: As of the date of issuance to be implemented within 60 days.

Amendment No.: 35.

Facility Operating License No. NPF-86: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: August 18, 1993 (58 FR 43927). The licensee's letter dated November 23, 1994, provided a minor revision to the application but does not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 14, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Exeter Public Library, 47 Front Street, Exeter, NH 03833.

Pennsylvania Power and Light Company, Docket Nos. 50-387 and 50-388 Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of application for amendments: October 21, 1994.

Brief description of amendments: These amendments add a test exception to allow reactor coolant temperatures up to 212 degrees F during hydrostatic or inservice leak testing while in OPERATIONAL CONDITION 4 without entering OPERATIONAL CONDITION 3.

Date of issuance: February 13, 1995.

Effective date: To be implemented within 30 days from the date of issuance.

Amendment Nos.: 142 and 112. *Facility Operating License Nos.* NPF-14 and NPF-22. The amendments revised the Technical Specifications.

Date of initial notice in Federal Register: December 22, 1994 (59 FR 66057). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 13, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Philadelphia Electric Company, Docket No. 50-353, Limerick Generating Station, Unit 2, Montgomery County, Pennsylvania

Date of application for amendment: December 9, 1993, as supplemented by letters dated July 5, September 9, October 19, November 15, and December 2, 1994, January 6 and January 23, 1995. The supplemental letters provided clarifying information that did not change the initial no significant hazards consideration determination.

Brief description of amendment: This amendment raises the authorized maximum power level from 3293 MWt to a new limit of 3458 MWt. The amendment also approves changes to the Technical Specifications to implement updated power operation.

Date of issuance: February 16, 1995.

Effective date: This license amendment is effective as of its date of issuance and is to be implemented prior to startup in Cycle 4.

Amendment No.: 51.

Facility Operating License No. NPF-85: This amendment revised the Technical Specifications and License.

Date of initial notice in Federal Register: February 16, 1994 (59 FR 7695). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 16, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Philadelphia Electric Company, Docket Nos. 50-352 and 50-353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of application for amendments: October 29, 1993.

Brief description of amendments: These amendments eliminate the main

steamline radiation monitoring system high radiation trip function for initiating (1) an automatic reactor scram and automatic closure of the main steamline isolation valves, and (2) automatic closure of the main steamline drain valves, main steam and reactor water sample line valves. The amendments also approve the relocation of portions of the information contained in the Bases section.

Date of issuance: February 16, 1995.

Effective date: February 16, 1995.

Amendment Nos. 89 and 52.

Facility Operating License Nos. NPF-39 and NPF-85. The amendments revised the Technical Specifications.

Date of initial notice in Federal Register: January 5, 1994 (59 FR 624). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 16, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room

location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Rochester Gas and Electric Corporation, Docket No. 50-244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

Date of application for amendment: May 13, 1994, as supplemented June 24 and September 27, 1994.

Brief description of amendment: The amendment proposes to amend Appendix A of Operating License DPR-18 to revise Section 6.0 "Administrative Controls" of the Ginna Technical Specifications (TSs) and would change the title of Senior Vice President, Production and Engineering, include a provision to allow future title changes without license amendment, and implement those changes in NUREG-1431 "Standard Technical Specification—Westinghouse Plants," dated September 1992, by relocating to licensee controlled documents those specifications controlled by regulations and the existing review and audit requirements. The remainder of this amendment request will be reviewed at a later date.

Date of issuance: February 6, 1995.

Effective date: February 6, 1995.

Amendment No.: 58.

Facility Operating License No. DPR-18: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: July 20, 1994 (59 FR 37084). The June 24, 1994, submittal provided information which did not change the initial no significant hazards consideration determination. The licensee's submittal of September 27, 1994, limited, but did not change, the

licensee's previously requested TS changes of May 13, 1994.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 6, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room

location: Rochester Public Library, 115 South Avenue, Rochester, New York 14610.

Southern California Edison Company, et al., Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

Date of application for amendments: December 30, 1993, as supplemented by letters dated June 3, 1994, August 25, 1994, and January 3, 19, and 30, 1995.

Brief description of amendments: These amendments will revise TS Table 3.3-1, "Reactor Protective Instrumentation," to allow the use of the source range neutron flux monitors in place of safety related excore monitors in Modes 3, 4, and 5, with the reactor trip circuit breakers open or the Control Element Assembly (CEA) Drive System not capable of CEA withdrawal, for the purpose of monitoring core reactive changes.

Date of issuance: February 13, 1995.

Effective date: February 13, 1995.

Amendment Nos.: 115 and 104.

Facility Operating License Nos. NPF-10 and NPF-15: The amendments revised the Technical Specifications.

Date of initial notice in Federal Register: September 28, 1994 (59 FR 49434). The additional information contained in the January 3, 19, and 30, 1995, letters were clarifying in nature, within the scope of the initial notice and did not affect the NRC staff's proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 13, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room

location: Main Library, University of California, P.O. Box 19557, Irvine, California 92713.

Southern California Edison Company, et al., Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

Date of application for amendments: July 28, 1994, as supplemented by letters dated January 30 and February 13, 1995.

Brief description of amendments: These amendments propose to revise Technical Specification (TS) 3.9.8.1 "Shutdown Cooling and Coolant Circulation—High Water Level," TS 3.9.8.2 "Shutdown Cooling and Coolant Circulation—Low Water Level," and their Bases to facilitate testing of low-pressure safety injection system components and permit additional flexibility in scheduling maintenance on the shutdown cooling system.

Date of issuance: February 15, 1995.

Effective date: February 15, 1995.

Amendment Nos.: 116 and 105.

Facility Operating License Nos. NPF-10 and NPF-15: The amendments revised the Technical Specifications on a one-time basis for each unit.

Date of initial notice in Federal Register: October 12, 1994 (59 FR 51627). The additional information contained in the supplemental letters dated January 30 and February 13, 1995, served to clarify the amendments, was within the scope of the initial notice, and did not affect the Commission's proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 15, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room

location: Main Library, University of California, P. O. Box 19557, Irvine, California 92713.

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: October 17, 1994, as supplemented January 30, 1995.

Brief description of amendment: The amendment changes the Technical Specifications to relocate the seismic monitoring instrumentation (SMI) Limiting Condition for Operation (LCO), Surveillance Requirements (SRs), and associated tables and bases contained in Technical Specifications (TS) sections 3.3.3.3 and 4.3.3.3 to the Final Safety Analysis Report (FSAR) or an equivalent controlled document.

Date of issuance: February 15, 1995.

Effective date: February 15, 1995.

Amendment No.: 122.

Facility Operating License No. NPF-12: Amendment revises the Technical Specifications.

Date of initial notice in Federal Register: November 8, 1994 (59 FR 55717). The January 30, 1995, supplement did not affect the staff's

finding of no significant hazards consideration.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 15, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Fairfield County Library, 300 Washington Street, Winnsboro, SC 29180.

Tennessee Valley Authority, Docket Nos. 50-259, 50-260, and 50-296, Browns Ferry Nuclear Plant, Units 1, 2, and 3, Limestone County, Alabama

Date of application for amendments: September 29, 1993.

Brief Description of amendment: The proposed changes revise standards for testing of charcoal used for removal of radioactive iodine in ventilation systems at the Browns Ferry Nuclear Plant.

Date of issuance: February 13, 1995.

Effective Date: February 13, 1995.

Amendment Nos.: 215, 231 and 188.

Facility Operating License Nos. DPR-33, DPR-52 and DPR-68: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: December 22, 1993 (58 FR 67862). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 13, 1995.

No significant hazards consideration comments received: None.

Local Public Document Room Location: Athens Public library, South Street, Athens, Alabama 35611.

Tennessee Valley Authority, Docket No. 50-296, Browns Ferry Nuclear Plant, Unit 3, Limestone County, Alabama

Date of application for amendment: March 29, 1994.

Brief Description of amendment: The amendment adds requirements for load shedding components being added to ensure that emergency diesel generators are not overloaded during design basis accidents.

Date of issuance: February 14, 1995.

Effective Date: February 14, 1995.

Amendment No.: 189.

Facility Operating License No. DPR-68: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: August 3, 1994 (59 FR 39597). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 14, 1995.

No significant hazards consideration comments received: None.

Local Public Document Room Location: Athens Public library, South Street, Athens, Alabama 35611.

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: December 16, 1994; supplemented January 19, 1995 (TS 94-16).

Brief description of amendments: The amendments remove the 900 rpm emergency diesel generator surveillance test criteria and a requirement that the plant be shutdown for performance of the interdependence diesel generator tests.

Date of issuance: February 9, 1995.

Effective date: February 9, 1995.

Amendment Nos.: 195 and 186.

Facility Operating License Nos. DPR-77 and DPR-79: Amendments revise the technical specifications.

Date of initial notice in Federal Register: December 29, 1994 (59 FR 67350). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 9, 1995.

No significant hazards consideration comments received: None.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1101 Broad Street, Chattanooga, Tennessee 37402.

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, 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 March 31, 1995, 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 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, 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).

Commonwealth Edison Company, Docket No. 50-374, LaSalle County Station, Unit 2, LaSalle County, Illinois

Date of application for amendment: January 30, 1995.

Brief description of amendment: The amendment adds a footnote to Technical Specification Table 4.3.1.1-1 to allow a one-time extension of the surveillance interval for the main steam line isolation valve (MSIV) closure reactor protection system channel functional test. This extension averts the need to perform the functional test prior to the start of the upcoming Unit 2 refueling outage.

Date of Issuance: February 15, 1995.

Effective date: Immediately and shall be implemented prior to 2:45 a.m. CST on February 15, 1995.

Amendment No.: 86.

Facility Operating License No. NPF-18: The amendment revised the Technical Specifications.

Press release issued requesting comments as to proposed no significant hazards consideration: Yes. February 6, 1995, *Morris Daily Herald*; *Ottawa Daily Times*; and *Streator Times-Press*.

Comments received: No. The Commission's related evaluation of the amendment, finding of exigent circumstances, consultation with the State of Illinois and final determination of no significant hazards consideration

are contained in a Safety Evaluation dated February 14, 1995.

Attorney for licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60690.

Local Public Document Room location: Public Library of Illinois Valley Community College, Rural Route No. 1, Oglesby, Illinois 61348.

NRC Project Director: Robert A. Capra.

Dated at Rockville, Maryland, this 21st day of February 1995.

For the Nuclear Regulatory Commission.

John N. Hannon,

Acting Director, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 95-4870 Filed 2-28-95; 8:45 am]

BILLING CODE 7590-01-P

[Docket Nos. 50-245, 50-336, 50-423]

Northeast Utilities; Issuance of Director's Decision Under 10 CFR 2.206

[Millstone Nuclear Power Station]
[License Nos. DPR-21, DPR-65, NPF-49]

Notice is hereby given that the Acting Director, Office of Enforcement, has issued a decision concerning the Petitions filed by Ms. Carmela V. Marien and Ms. Marianne W. Nericcio on August 21, 1993. The Petitions requested that the NRC initiate an investigation and accelerated enforcement action against Northeast Utilities (Licensee) for willful violation of the employee protection provisions of 10 CFR 50.7.

After due consideration of Petitioner's assertions, the Acting Director, Office of Enforcement, has denied the Petitions. The reasons for the denial are explained in the "Director's Decision under 10 CFR 2.206" (DD-95-04) which is available for public inspection in the Commission's Public Document Room at 2120 L Street NW., Washington, DC 20555.

A copy of this decision will be filed with the Secretary for the Commission's review in accordance with 10 CFR 2.206. As provided by this regulation, the decision will constitute the final action of the Commission 25 days after the date of issuance of the decision unless the Commission on its own motion institutes a review of the decision within that time.

Dated at Rockville, Maryland this 22nd day of February 1994.

For the Nuclear Regulatory Commission.

Joseph R. Gray,

Acting Director, Office of Enforcement.

[FR Doc. 95-4978 Filed 2-28-95; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-219]

GPU Nuclear Corporation; Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 177 to Facility Operating License No. NPF-16 issued to GPU Nuclear Corporation (the licensee), which revised the Technical Specifications for operation of the Oyster Creek Nuclear Generating Station located in Ocean County, New Jersey. The amendment is effective as of the date of issuance, to be implemented within 60 days of issuance.

The amendment revises Technical Specification 2.3.D to change the setpoints "Reactor High Pressure, Relief Valve Initiation" by increasing the setpoint value by 15 psig for each of the Electromatic Relief Valves in the Automatic Depressurization System.

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.

Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on July 5, 1994 (59 FR 34453). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to the action and has determined not to prepare an environmental impact statement. Based upon the environmental assessment, the Commission has concluded that the issuance of the amendment will not have a significant effect on the quality of the human environment (60 FR 9056).

For further details with respects to the action see (1) The application for amendment dated June 15, 1994, as supplemented September 23, and November 23, 1994, (2) Amendment No. 177 to License No. DPR-16, (3) the Commission's related Safety Evaluation, and (4) the Commission's Environmental Assessment. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC, and at the local public document room located at the Ocean County Library, Reference Department, 101 Washington Street, Toms River, NJ 08753.

Dated at Rockville, Maryland, this 21st day of February 1995.

For the Nuclear Regulatory Commission.

Alexander W. Dromerick, Sr.

Project Manager, Project Directorate I-4, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 95-4977 Filed 2-28-95; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-483]

Union Electric Company; Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-30, issued to Union Electric Company (the licensee), for operation of the Callaway plant, located in Callaway County, Missouri.

The proposed amendment would modify Technical Specification (TS) Section 3/4.9.1 to establish administrative controls to address a possible boron dilution event directly from the reactor makeup water (RMW) system. An unreviewed safety question was involved with the use of RMW to rinse items removed from the refueling pool and to spray down the refueling pool walls during the pool drain evolution. The use of RMW in prior refueling outages during these Mode 6 activities raised the possibility of a different type of accident than any previously evaluated in the Callaway Final Safety Analysis Report (FSAR).

FSAR Section 15.4.6.2 currently states that administrative controls during Mode 6, i.e., closing and locking dilution source manual valves, preclude an inadvertent dilution of the boron concentration of the primary system. Since these valve closures do not preclude the potential dilution scenario described above, different procedural controls are required to ensure that LCO 3.9.1 boron concentration limit of 2000 ppm is met.

NRC Generic Letter 85-05, "Inadvertent Boron Dilution Events," January 1985, and NSAC-183, "Risk of PWR Inadvertent Criticality During Shutdown and Refueling," dated December 1992, documents the technical justification for determining that boron dilution events are self-limiting. Based on the analyses provided in these documents, the staff's acceptance criteria remains valid for the different boron dilution transient (i.e., that gradual boron dilution events are

self-limiting due to inherent reactivity feedback mechanisms). Given the above, there will be no increase in the consequences of any accident or equipment malfunction.

In a letter dated September 8, 1994, the licensee submitted an application to amend their Technical specifications. In their submittal, the licensee confirmed the applicability of the analyses in GL 85-05 and NSAC-183 to the subject boron dilution event. Pursuant to 10 CFR 50.59(c)(2), the proposed amendment is required since changes are needed to procedural controls as described in the FSAR. These changes involve an unreviewed safety question which require Commission approval prior to implementation.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) The initiating events are presented in revised FSAR Section 15.4.6.2. The proposed changes affect only the procedural controls applicable for Mode 6.

Overall protection system performance will remain within the bounds of the accident analyses documented in FSAR Chapter 15, WCAP-10961-P, and WCAP-11883 since no hardware changes are proposed.

There will be no degradation in the performance of nor an increase in the number of challenges to equipment assumed to function during an accident situation.

This amendment application does not involve any hardware changes. There will be no change to normal plant operating parameters or accident mitigation capabilities. Therefore, there will be no increase in the probability of any accident previously evaluated.

The Technical Specification limits on Mode 6 boron concentration will be met. The conclusions of NRC Generic Letter 85-05 and NSAC-183 will remain valid (i.e., that gradual boron dilution events are self-limiting due to inherent reactivity feedback mechanisms). Given the above, there will be

no increase in the consequences of any accident previously evaluated.

(2) As discussed above, there are no hardware changes associated with these Technical Specification revisions nor are there any changes in the method by which any safety-related plant system performs its safety function.

Administrative controls will limit the volume of unborated water which can be added to the refueling pool for decontamination activities. Administrative controls will also limit the potential for an unborated layer of water from entering the core region during the draining evolution. Technical Specification 3.9.1. will continue to be met.

Given the above and the safety evaluation continued in Attachment 1 to the licensee's September 8, 1994, letter, the possibility of a new or different kind of accident from any previously evaluated is not created.

(3) The proposed administrative controls are sufficient to preclude diluting the boron concentration of the refueling pool below 2000 ppm. There will be no effect on the manner in which safety limits or limiting safety system settings are determined nor will there be any effect on those plant systems necessary to assure the accomplishment of protection function. There will be no impact on DNBR limits, F_Q , $F-\Delta H$, LOCA PCT, peak local power density, or any other margin of safety.

Based upon the preceding information, it has been determined that the proposed changes to the Technical Specifications do not involve a significant increase in the probability or consequences of an accident previously evaluated, create the possibility of a new or different kind of accident from any accident previously evaluated, or involve a significant reduction in a margin of safety. Therefore, it is concluded that the proposed changes meet the requirements of 10 CFR 50.92(c) and do not involve a significant hazards consideration.

Therefore, based on the above considerations, the Commission has made a proposed determination that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to room 6D22, Two White Flint, 11545 Rockville Pike, Rockville, Maryland,

from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC 20555.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By March 31, 1995, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, DC 20555 and at the local public document room located at the Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251.

If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR § 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspects(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the

first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the 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 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.

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. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, D.C. 20555, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1 (800) 248-5100 (in Missouri 1 (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Leif J. Norrholm: 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, D.C. 20555, and to Gerald Charnoff, Esq., Thomas A. Baxter, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N. Street, N.W., Washington, D.C. 20037, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition and/or request, should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated September 8, 1994, which is available for public inspection at the Commission's Public Document

Room, the Gelman Building, 2120 L Street, N.W. Washington, D.C. 20555, and at the local public document room located at Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251.

Dated at Rockville, Maryland, this 24th day of February 1995.

For the Nuclear Regulatory Commission.

L. Raynard Wharton,

Project Manager, Project Directorate III-3, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 95-5134 Filed 2-28-95; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-35411; File No. SR-Amex-95-08]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by American Stock Exchange, Inc. Relating to Membership Structure and Requirements

February 22, 1995.

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 February 17, 1995, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization.¹ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing certain revisions to its Constitution, Rules and Membership Lease Plan regarding membership structure and requirements. The text of the proposed rule change is available at the Office of the Secretary, the Amex, and at the Commission.

¹ This filing withdraws and replaces File No. SR-Amex-94-23, which was noticed for comment in Securities Exchange Act Release No. 34968 (November 10, 1994), 59 FR 59804 (November 18, 1994). The prior Amex proposal and the comments received in response thereto are available at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Section A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Background

The Exchange Member Ownership Issues Committee was established in June of 1992 to examine the need for changes and revisions in the Exchange's membership structure and requirements. Following an extensive review, the Committee recommended certain changes in order to update the membership structure and respond to the expressed needs of the membership. These changes, which have been approved by the Exchange's Board of Governors and membership, are described below.

Seat Ownership

Currently, each of the 661 regular memberships and 203 options principal memberships are held in the name of an individual member.² Member firms and member corporations may beneficially own these memberships by designating an individual (typically a general partner or employee of a member firm or an officer or employee of a member corporation) nominally to own the seat in their behalf. This is accomplished by either using a lease³ or an a-b-c agreement.⁴ In the case of a lease, a

member organization must also place the lease in the name of an individual nominee as lessor.

Individuals are not permitted to own more than one seat. Member organizations, on the other hand, may own multiple seats beneficially, but each seat must be nominally owned by an individual member.

The Exchange proposes to eliminate the requirement that seats be individually owned. The Amex believes that this requirement is outdated and not responsive to the needs of the member community. Several other exchanges permit organizations, as well as individuals, to own memberships (e.g., the Chicago Board Options Exchange ("CBOE"), the New York Futures Exchange and the Pacific Stock Exchange ("PSE")).

Under the proposal, an organization would be able to be both legal and beneficial owner of one or more memberships. The organization would be able to lease a seat to a lessee or to designate an individual as nominee to "operate" the seat. As a general matter, nominees (like lessees) would be deemed to be members of the Exchange and would be subject to all of the obligations and enjoy all the privileges of membership under the Exchange Constitution and Rules, except (1) for purposes of participating in any distribution of Exchange assets or funds upon liquidation, dissolution or winding up of the affairs of the Exchange and (2) ultimate control of the membership would rest with the organization owner.⁵ The a-b-c agreement would no longer be required. It would be replaced with another document to authorize the nominee to act on the member organization's behalf in all Exchange matters and to provide that the member organization is responsible for all the nominee's Exchange-related obligations.

The proposal also would permit both individuals and organizations to own multiple memberships. Individuals would be able to lease their additional seats, or to designate nominees to "operate" the seats and act as their employees.

A number of members have indicated that they would be interested in

membership. Upon termination of the a-b-c agreement, the individual must either (1) retain the membership and pay the member organization the amount necessary to purchase another membership; (2) sell the membership with the proceeds paid over to the member organization; or (3) transfer the membership to a person designated by the member organization.

⁵ As discussed below, *see infra* note 9 and accompanying text, the owner would retain the right to vote seats held by nominees and certain lessees.

acquiring more than one membership. The Exchange finds no compelling reason to continue to prohibit multiple memberships. In this regard, it should be noted that the CBOE, the PSE, the Philadelphia Stock Exchange ("Phlx") and virtually all commodities exchanges permit multiple ownership.

Leasing

Currently, both the lessor and the lessee of a leased seat must be individuals. Because, under the proposal, organizations would be permitted to own seats directly, as well as beneficially, the member organization may be the lessor. Such member organization would not be required to designate a nominee as the lessor on the seat.

Claims Procedure

Under the current rules, no member may sell or transfer his membership unless he does so pursuant to established Exchange procedures. All transfers must be posted on the Exchange Bulletin Board and published in the *Weekly Bulletin* for at least seven days. During this time, other members and member organizations must file their claims against the seat with the Exchange. The same procedures are used for intrafirm transfers. Before the seat can be transferred to another employee in the firm, the firm is required to satisfy any outstanding claims.

Basically, the same transfer and claims procedures would be utilized under the new membership structure. In addition, the designation of a nominee by a seat owner would be deemed to be a transfer, and the posting and claims procedures would apply.

Subordination of Membership to Trading Losses and Debts

Currently, all memberships are subordinated to (i.e., "stand behind") the trades of the member in whose name the seat is held. In the case of a leased seat, the lessor's seat is at risk for his lessee's trading losses and other debts incurred in connection with membership. In the case of seats held pursuant to a-b-c agreements, member organizations are responsible for obligations that their a-b-c seatholders incur.⁶

The above requirements would remain the same under the proposal. If an individual or organization owns multiple memberships that are held subject to one or more leases, only the

² Both regular members and options principal members are exchange members as defined in Section 3(a)(3) of the Act. A regular member may execute transactions in both equities and derivatives. In contrast, an options principal member is limited to trading as principal in options and other derivative products. For further discussion of types of memberships, *see* Art. IV, Sec. 1 of the Amex Constitution.

³ As noted below, the lease must be executed by the nominal seat owner, rather than the member organization with which such individual is associated and which is the beneficial owner of the membership.

⁴ An a-b-c agreement is an arrangement between the individual who nominally owns a seat and the member organization with which such individual is associated and which is the beneficial owner of the

⁶ A member organization is responsible even if its a-b-c seatholder's obligations exceed the value of the seat.

seat used by a given lessee's would stand behind that lessee trades. If, however, an individual or organization owns multiple memberships as to which nominees have been designated, all of the owner's seats would stand behind the trades of any nominee.

Fees

Currently, when a seat is sold, the initiation fee is \$2,500 for both a regular and options principal membership. The initiation fee on a nominal transfer (*i.e.*, within a firm pursuant to an a-b-c agreement)⁷ is \$2,500 for a regular membership and \$500 for an options principal membership. When a membership is transferred to a lessee, the initiation fee is \$1,500 for a regular membership and \$500 for an options principal membership. Dues for all members are \$750 per year. Floor facilities fees are \$1,400 per year for active members.

The Exchange is proposing to change the fee structure in order to equalize fees between regular and options principal memberships.⁸ The initiation fee of \$2,500 when a seat is sold would be retained for both regular and options principal memberships. However, all nominal transfers (*i.e.*, intra-firm) and leases would be subject to a \$1,500 initiation fee. Changes in nominees would be deemed to be nominal transfers. According to the Exchange, it does not appear to be necessary or appropriate to retain the disparity in initiation fees for nominal and lease transfers of regular and options principal memberships in view of the fact that the administrative expenses (*i.e.*, staff time and paperwork) attributable to the two types of membership are identical.

The Exchange, however, does not believe that it would be appropriate for the initiation fee requirement to deter members from taking advantage of the new alternatives that would be available in structuring ownership of Amex seats. Accordingly, for the ninety-day period, after these changes become effective, no initiation fee would be charged for changes in membership ownership, except for bona fide sales and bona fide changes in leases or nominees. A \$250 processing fee would be imposed on transfers where no initiation fee is charged.

Voting

Currently, members subject to an a-b-c agreement sign an irrevocable proxy giving their votes to their member

organizations. The organization then designates an individual (typically an employee) who is authorized to vote on behalf of the membership. In the case of leased seats, the vote is negotiable between the lessor and lessee.

Under the new rules, organizations would be entitled to vote all of the memberships that they own (and do not lease out) and would have to designate an individual who is authorized to vote on their behalf. Individuals who own more than one seat would be able to vote on behalf of the seat that they are actively using, as well as the seats of their nominees. With respect to leased seats, the vote would still be negotiable between lessor and lessee. There would be a specific box on the lease itself on which the parties would indicate who is authorized to vote.⁹

Gratuity Fund

Currently, the Exchange Gratuity Fund ("Fund") provides that only families of regular members¹⁰ receive the Gratuity Fund death benefit of \$100,000. To fund the death benefit, each regular member contributes \$152 to the Fund upon becoming a member and is assessed \$152 each time a fellow regular member dies (subject to reduction in the first assessment of the year to reflect income earned by the Fund in the previous year). In the case of leased seats, the lessor is considered the member for purposes of the Gratuity Fund.

A number of changes to the Gratuity Fund are proposed. These changes are intended to achieve two goals: To provide increased benefits and to close "loopholes" which could enable persons to become Participants in the Gratuity Fund under circumstances which would be inappropriate.

Under the proposal, the benefit would be increased to \$125,000. The amount of each assessment would fluctuate since, as discussed below, the number of Participants in the Fund would vary based on who is eligible at the time of a member's death and since the extent to which Participants were "phased-in" would vary.¹¹ As is currently the case, Participants would have to pay both an initial assessment upon becoming a Participant and an assessment each time an eligible individual dies. The first group of persons to become newly eligible for the Gratuity Fund upon the adoption of these changes would be required to pay an initial assessment of

\$300.¹² Thereafter, persons who become eligible would be required to pay an initial assessment based on the number of Participants in the Fund at that time.

Under the proposal, options principal members and both options principal and regular member lessees (and nominees) would be included in the Gratuity Fund,¹³ in addition to regular members and some lessors.¹⁴ In order for a lessor's beneficiaries to be eligible to receive a Gratuity Fund benefit, the lessor must have been "active" on the Floor for at least two continuous years during this career (but after June 10, 1993).¹⁵ "Active" is defined as meeting all Exchange requirements to be active on the Floor,¹⁶ including passing any necessary examinations and being registered as, or associated with, a broker-dealer. "Two continuous years" is defined as two calendar years, meaning a period from one date through the preceding date two years hence (*e.g.*, from May 1, 1995 through April 30, 1997). Lessees and nominees would have to be currently active for their beneficiaries to receive a benefit. Individuals who own seats either would have to be currently active on the Floor or would have to have been active for at least two continuous years during their career (but after June 10, 1993) in order for their beneficiaries to receive a Gratuity Fund benefit.

It should be noted that a person would not have to maintain the same status for the two-year period. For example, a person who is a lessee for one and a half years and who then buys the seat (or another seat) and remains on it for at least six months would satisfy the active requirement. In addition, a person may be off the seat for up to sixty consecutive days during the two-year period without being considered to have

¹² The Gratuity Fund currently maintains a reserve of \$200,000, the amount necessary to pay two death benefits. If the benefit is increased, the reserve would be increased accordingly. The initial assessment of \$300 on new Participants would allow the Fund to achieve this goal, and would place new Participants on a par with existing Participants who, of course, paid an initial assessment when they first became eligible to participate in the Fund.

¹³ Options principal members, lessees and nominees would also be eligible to become trustees of the Gratuity Fund.

¹⁴ Lessors (and owners of seats as to which nominees have been designated) could be included in the Gratuity Fund pursuant to the transition arrangements, *see infra* notes 24-28 and accompanying text, or based on their prior active status, *see infra* notes 15-17 and accompanying text.

¹⁵ As noted below, *see infra* note 28 and accompanying text, June 10, 1993 would be the cut-off date for eligibility for the transition arrangements.

¹⁶ *See* Para. 9176 of the Amex Guide ("Membership Requirements and Admissions Procedures").

⁷ *See supra*, note 4 and accompanying text.

⁸ This proposal would not affect any change to annual dues or other fees.

⁹ If no specification is made, the lessee would vote the seat.

¹⁰ *See supra*, note 2.

¹¹ For further discussion of the "phase-in" schedule for Gratuity Fund Participants, *see infra* note 18 and accompanying text.

interrupted that period. Individuals would lose their right to participate in the Gratuity Fund based on prior active status if there should be any five-year period in which the person is not a lessor, lessee, nominee or seat owner.¹⁷ Lessors who lose their prior active status would have to be active for another two continuous years in order to requalify for the Gratuity Fund. Members and nominees would either have to be currently active or active for another two continuous years in order to be eligible for the Gratuity Fund again.

Further, under the proposal, the Exchange would implement, for new Gratuity Fund Participants, a four year "phase-in" schedule based upon the length of time the individual in question had been a Participant.¹⁸ The "phase-in" would operate as follows:

Upon the death of a Participant, a payment would be made based upon the length of time such person had been a Participant, according to the following schedule:

- Less than one year—\$25,000 (20% "phase-in").
- One year or more but less than two years—\$50,000 (40% "phase-in").
- Two years or more but less than three years—\$75,000 (60% "phase-in").
- Three years or more but less than four years—\$100,000 (80% "phase-in").
- Four years or more—\$125,000 (100% "phase-in").

If a participant who was "phasing-in" ceases to be a Participant for a period of less than five years, and such individual thereafter again becomes a Participant, he would be able to aggregate his periods of participation for purposes of

the "phase-in." For example, if an individual is a Participant for one year and then ceases to be a Participant for four years, and if he were again to become a Participant, he would be credited with the amount of time he previously spent as a Participant for purposes of the "phase-in" schedule.

If an individual who was a Participant ceases to be a Participant for a period of five years or more, and such individual thereafter again becomes a Participant, he would not be able to aggregate his periods of participation for purposes of the "phase-in" described above (i.e., regardless of the length of time he had previously been a Participant, the "phase-in" schedule would be applied as if he had never been a Participant in the past).

Each membership would pay at least one assessment, regardless of whether the owner or a lessee or nominee qualifies for the Gratuity Fund.¹⁹ In some instances, there would be one assessment per seat and on others two (i.e., when both lessor and lessee are qualified). Gratuity Fund assessments would be based in all cases on the amount of the benefit payable and would be the same for all memberships assessed, regardless of whether or to what extent a particular Participant being assessed has already "phased-in" to full eligibility.

No member's beneficiaries would be entitled to receive more than one Gratuity Fund benefit upon the member's death by virtue of the deceased member's status as both lessor and lessee, or for any other reason. The family of a member who owns multiple memberships would be able to collect only one benefit. The member would be eligible on only one seat, and must designate that seat to the Exchange. The lessees or nominees of the other seats, of course, would be eligible on those seats.

The individuals who are nominee-lessors on behalf of member organizations would no longer be qualified for the Gratuity Fund under the proposed system (although, as discussed below, there would be a grandfather clause). This is because the member organization itself would be the lessor. Under the proposal, however, the individual who would have been named

as lessor most likely would not qualify for the Gratuity Fund anyway, since member organizations typically named an upstairs executive as lessor and such person would not be "active" and may not have been "active" in the past, at least within the last five years.

The trustees of the Gratuity Fund would have the authority to resolve disputes with respect to a person's eligibility to participate in the Fund.²⁰

Pension Trusts

Currently, the Exchange does not permit ownership of seats by trusts.²¹ The proposal would permit pension plans (generally comprised of trusts or custodial accounts, including Keoghs and Individual Retirement Accounts) of "active" members (as defined above) to acquire ownership of one or more seats for investment purposes, and either to lease the seat or to designate a nominee to operate it.²² The intent is to make this available only to pension trusts where the trust sponsor is an active member, or where the sponsor is a member organization and at least fifty percent (50%) of the pension trust beneficiaries are active members and/or Floor employees of the member organization. The trust itself would be the owner of the membership, and the trustee would have to become an approved person.²³ Only the nominee or lessee would be eligible for the Gratuity Fund, provided he or she is not already eligible for the Gratuity Fund with respect to another seat (e.g., as the owner of that seat). As is the case for other member organizations, the trust would be entitled to vote all of the seats that it owns (and does not lease out) and may designate who may vote on its behalf. If the seat is leased, the vote would be negotiable between the trust and the lessee.

Transition Arrangements

The proposal includes a grandfathering provision for the Gratuity Fund revisions.²⁴ All regular members and existing regular member lessors would be grandfathered with respect to the "active" requirement, that

¹⁷ This provision would apply to a person who had satisfied the active requirement and thus was eligible for the Gratuity Fund based on prior status and who thereafter disposed of his membership. If, within five years of leaving the Exchange, such person becomes a lessor or other inactive seat owner, he would retain his right to participate in the Gratuity Fund. If, however, more than five years pass, such person would lose his prior active status and would have to requalify for the Gratuity Fund. A person who leaves the Exchange would not be eligible for the Gratuity Fund benefit during any period when he is not a lessor, lessee, nominee or seat owner.

¹⁸ This schedule is similar to that used by the New York Stock Exchange ("NYSE") regarding payments from its Gratuity Fund. See Art. XV, Sec. 3 of the NYSE Constitution.

The Amex's proposed "phase-in" schedule would be applied only on a prospective basis and would not be applicable to persons who are already Gratuity Fund Participants or who become Gratuity Fund Participants by virtue of the proposed amendments (e.g., options, principal members and lessees) regardless of whether such persons have been Participants or members for four years or more. However, an existing options principal member or lessee who "opts out" of the Gratuity Fund and on some other basis later becomes eligible would at that time be subject to the "phase-in." See *infra* notes 26–27 and accompanying text.

¹⁹ The only exception to this would be in the case of an individual who is both the independent owner of and the user of a particular options principal membership and who "opts-out" of the Gratuity Fund under the transition provisions discussed below. For such a person's "opt-out" to be able to have any practical effect, his options principal seat would have to be exempt entirely from the obligation to pay assessments to the Gratuity Fund for so long as he remains the owner and user of that seat.

²⁰ For further discussion of rules governing trustees of the Gratuity Fund, see Art. IX of the Amex Constitution.

²¹ Both the Phlx and the Chicago Mercantile Exchange permit pension trusts to own seats.

²² The Exchange has been advised that the prohibited transaction provisions of the Employee Retirement Income Security Act and the Internal Revenue Code would preclude a member from being the nominee or lessee of the seat owned by his own pension trust.

²³ See Art. I, Sec. 3(g) of the Amex Constitution.

²⁴ For further discussion of the cut-off date for eligibility for the transition arrangements, see *infra* note 28 and accompanying text.

is, they would be deemed to have met it, even if they never were active for a two-year period. The grandfathering provision would include those lessors who are nominee-lessors on seats beneficially owned by an organization. A person grandfathered could lose his right to participate in the Gratuity Fund based on prior active status if there should be any five-year period in which he is not a lessor, lessee, nominee or seat owner.²⁵ As discussed above, for all non-grandfathered individuals, the "active" requirement must be satisfied after June 10, 1993.

Individuals who currently own options principal memberships would have a one-time opportunity to "opt-in" or "opt-out" of the Gratuity Fund. A decision to "opt-out" would be irrevocable for the rest of the person's life (unless the person subsequently buys a regular membership).²⁶ Options principal members who "opt-in" would be grandfathered with respect to the "active" requirement. Current lessees (both regular and options principal membership) would also have the right to "opt-out" of the Gratuity Fund, but such decisions would be effective only for the duration of their current lease, and new leases would require lessee participation in the Gratuity Fund. Lease renewals by the same two parties would not be considered to be new leases. Any new options principal member seat owner (other than an individual owner who previously chose to "opt-out" irrevocably as discussed above)²⁷ would be covered by the new rules.

With respect to the "phase-in" requirement, all those who are Participants in the Gratuity Fund on the date these proposals become effective, and all those who become Participants by virtue of these amendments (e.g., lessees and options principal members), would be deemed to be fully "phased-in," regardless of how long such persons have been Participants or Exchange members. All who become Participants thereafter would be subject to the "phase-in" requirements. If a lessee or options principal member "opted out" of the Gratuity Fund, as described above, and on some other basis later becomes a Participant, he would at that time be subject to the "phase-in."

While the foregoing grandfather provisions are appropriate in most cases, there was a concern that some people might attempt to rush through

the "loopholes" referred to earlier by becoming lessors prior to the date these proposals finally become effective. Accordingly, notwithstanding the above provisions, an individual who was not a regular member or a regular member lessor as of the date of the Board meeting at which these proposals were approved by the Exchange Board of Governors (June 10, 1993), and subsequently became a regular member lessor after June 10, 1993, would not be grandfathered with respect to the two-year active requirement.²⁸ Similarly, an individual who was not a regular or options principal member or a regular or options principal lessor as of June 10, 1993, and subsequently became an options principal lessor after June 10, 1993, would not be allowed to "opt-in" to the Gratuity Fund. Such individuals would be covered by the new rules.

Most of the above described changes in membership structure would expand the choices available to persons and organizations in structuring their relationships. However, the proposed changes would eliminate the existing a-b-c agreement, and certain individuals and organizations may find that disruptive. Accordingly, a member organization would be permitted to continue to utilize its existing a-b-c agreements for so long as the respective individual members remain on their seats.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of Sections 6(b)(3), 6(b)(4) and 6(b)(5) in particular in that it assures a fair representation of Exchange members in the administration of its affairs, provides for the equitable allocation of reasonable dues, fees and other charges among members, and is designed to prevent fraudulent and manipulative acts and practices.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, 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, NW., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR-Amex-95-08 and should be submitted by March 22, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,
Deputy Secretary.

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²⁵ See *supra*, note 17 and accompanying text.

²⁶ If that person subsequently buys a different options principal membership, the decision to "opt-out" would apply to that seat as well.

²⁷ See *supra*, note 26.

²⁸ However, in the event that such an individual dies during the period after June 10, 1993 but before the effective date of the changes, his beneficiaries would receive a Gratuity Fund benefit under existing requirements.

[Release No. 34-35410; File No. SR-PSE-95-04]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by Pacific Stock Exchange, Inc. Relating to Earlier Listing of Options on Securities Issued by Companies in Certain Corporate Restructuring Transactions

February 22, 1995.

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 February 15, 1995, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. On February 21, 1995, the Exchange submitted to the Commission Amendment No. 1 to the proposed rule change in order to make certain technical corrections to the text of the proposal.¹ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules to permit the earlier listing of options on securities issued by companies in connection with certain corporate restructuring transactions. The text of the proposed rule change is available at the Office of the Secretary, PSE, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its rules to permit the earlier listing of options on securities issued by companies in connection with certain corporate restructuring transactions ("New Securities"). Currently, certain of the Exchange's rule preclude the listing of options on any security until that security has been actively traded at or above a specific price level for a certain period of time. For example, under PSE Rule 3.6(a)(3), trading volume in an underlying security must be at least 2,400,000 shares during the preceding twelve months (the "Volume Test"). Further, under PSE Rule 3.6(a)(4), the market price for an underlying security must be at least \$7.50 for the majority of business days during the three calendar month period preceding the date the security is selected as an underlying security (the "Price Test").

The proposed rule change would facilitate the earlier listing of options on New Securities by permitting the Exchange to determine whether a New Security satisfies the Volume Test and Price Test by reference to the trading volume and market price history of an outstanding equity security (the "Original Security") previously issued by the issuer of the New Security (or an affiliate thereof). Specifically, if (a) the aggregate market value, assets or revenue attributable to a New Security is at least a stated percentage of the same measure attributable to the Original Security and if a stated minimum value of assets or revenues represented by the New Security, as applicable, is satisfied or (b) the aggregate market value of the New Security is not less than \$500 million,²

² The proposed rule change would apply to a New Security if at least one of the following conditions is met:

(1) Any one or more of (A) the aggregate market value of the New Security, (B) the aggregate book value of the assets attributed to the business represented by the New Security, or (C) the revenues attributed to the business represented by the New Security are at least 25% of the same measure determined with respect to the Original Security or the business represented by the Original Security, as applicable, calculated in a comparable manner on a basis that reflects the *inclusion* of the business represented by the New Security, provided that in the case of the qualification of a New Security under clause (B), the aggregate book value of the assets attributed to the business represented by the New Security is not less than \$50 million, and in the case of the qualification of a New Security under clause (C), the revenues to the business represented by the New Security are not less than \$50 million;

then the Exchange would be permitted to determine whether a New Security satisfied the Volume Test and Price Test by reference to the trading volume and market price history of the Original Security. Reference may be made to the trading volume and market price history of the Original Security only for trading days occurring prior to the ex-date for the transaction in which the New Security is issued³ and prior to any trading day for which these tests are determined to be satisfied by reference to the trading volume and market price history of the New Security. If reference is made to either the trading volume or market price history of the Original Security for this purpose for any period of time, then reference must be made to both such criteria in respect of the Original Security for that period.

In addition, if the New Security is to be listed on an exchange or in an automatic quotation system that has an initial listing requirement equivalent to the requirement of PSE Rule 3.6(a)(2) (number of shareholders must be at least 2,000), that requirement would be deemed to be satisfied. Finally, if at least 40 million shares of a New Security will be outstanding in a restructuring, the Exchange may assume that the New Security will satisfy the listing criteria of both PSE Rule 3.6(a)(1) (sufficient public float) and PSE Rule 3.6(a)(2). Before relying on either of the assumptions described above, the Exchange must make a reasonable investigation as to the number of shareholders and public float of the New Security and must not have determined that the requirements of PSE Rules 3.6(a)(1) and 3.6(a)(2) will, in fact, not be satisfied.

(2) Any one or more of (A) the aggregate market value of the New Security, (B) the aggregate book value of the assets attributed to the business represented by the New Security, or (C) the revenues attributed to the business represented by the New Security are at least 33 1/3% of the same measure determined with respect to the Original Security or the business represented by the Original Security, as applicable, calculated in a comparable manner on a basis that reflects the *exclusion* of the business represented by the New Security, provided that in the case of the qualification of a New Security under clause (B), the aggregate book value of the assets attributed to the business represented by the New Security is not less than \$50 million, and in the case of the qualification of a New Security under clause (C), the revenues attributed to the business represented by the New Security are not less than \$50 million; or

(3) The aggregate market value represented by the New Security is at least five hundred million dollars (\$500,000,000).

³ Under the proposed rule change, options contracts may not initially be listed for trading in respect of a New Security until such time as shares of the New Security are issued and outstanding and are the subject of trading that is not on a "when issued" basis or in any other way contingent on the issuance or distribution of the shares.

¹ See letter from Michael D. Pierson, Senior Attorney, Market Regulation, PSE, to Beth A. Stekler, Attorney, Division of Market Regulation, SEC, dated February 17, 1995 ("Amendment No. 1").

The proposed rule change also would revise one of the Exchange's guidelines relating to the withdrawal of approval of underlying securities. Currently, under PSE Rule 3.7, Commentaries .01.2 and .01.3, an underlying security will not be deemed to satisfy the Exchange's listing criteria if the trading volume of the underlying security in all markets was less than 1,800,000 shares in the preceding twelve months (the "Maintenance Volume Test") or if the market price of the underlying security closed below \$5 on a majority of business days during the preceding six months (the "Market Price Test"). Because New Securities have limited trading history, they may be unable to satisfy the Maintenance Volume Test or the Market Price Test at the time options on such securities are first listed for trading on the Exchange. Accordingly, the proposed rule change would add a new Commentary .01.4 to PSE Rule 3.7 to provide that the Exchange may determine whether a New Security satisfies the Maintenance Volume and Market Price Tests set forth in Commentaries .01.2 and .01.3 of Rule 3.7, as well as the comparable tests set forth in Rule 3.7, Commentary .04, by reference to the trading volume and price history of the Original Security prior to commencement of trading in the New Security, including "when issued" trading.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act, in general, and furthers the objectives of Section 6(b)(5) in particular, by removing impediments to a free and open market in options covering securities issued by companies engaged in corporate restructuring transactions.

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.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such longer

period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, 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. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the PSE. All submissions should refer to File No. SR-PSE-95-04 and should be submitted by March 22, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95-4932 Filed 2-28-95; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-35409; File No. SR-Phlx-95-12]

February 22, 1995.

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by Philadelphia Stock Exchange, Inc. Relating to Adoption of Listing Standards Applicable to Options on Securities Issued in Certain Corporate Restructuring Transactions

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 February 13, 1995, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed

rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. On February 21, 1995, the Exchange submitted to the Commission Amendment No. 1 to the proposed rule change in order to make certain technical corrections to the text of the proposal.¹ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx, pursuant to Rule 19b-4 of the Act, proposes to amend Exchange Rule 1009 in order to adopt listing standards applicable to options on securities issued in certain corporate restructuring transactions.² The text of the proposed rule change is available at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Items 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 Phlx proposes to amend Exchange Rule 1009 in order to permit the earlier listing of options on securities issued by companies in connection with certain corporate restructuring transactions ("New securities"). Currently, certain of the Exchange's rules preclude the listing of options on any security until that security has been actively traded at or above a specific price level for a certain period of time. For example, under Exchange Rule 1009, Commentary

¹ See letter from Michell R. Weisbaum, Associate General Counsel, Phlx, to Beth Stekler, Attorney, Division of Market Regulation, SEC, dated February 21, 1995 ("Amendment No. 1").

² This filing withdraws and replaces File No. SR-Phlx-94-43. See letter from Michelle R. Weisbaum, Associate General Counsel, Phlx, to Michael A. Walinskas, Branch Chief, Division of Market Regulation, SEC, dated February 17, 1995.

.01(3), trading volume in an underlying security must be at least 2,400,000 shares during the preceding twelve months ("volume test"). Further, under Exchange Rule 1009, Commentary .01(4), the market price for an underlying security must be at least \$7.50 for the majority of business days during the three calendar month period preceding the date the security is selected as an underlying security ("price test").

The proposed rule change would facilitate the earlier listing of options on New securities by permitting the Exchange to determine whether a New security satisfies the volume and price tests by reference to the trading volume and market price history of an outstanding equity security ("Old security") previously issued by the issuer (or an affiliate thereof) of the New security. Specifically, if (a) the aggregate market value, assets, or revenue attributable to a New security is at least a stated percentage of the same measure attributable to the Old security; or (b) the aggregate market value of the New security is not less than \$500 million,³ then the Exchange would be permitted to determine whether a New security satisfies the volume and price tests by

reference to the trading volume and market price history of the Old security. Reference may be made to the trading volume and market price history of the Old security only for trading days occurring prior to the ex-date for the transaction in which the New security is issued⁴ and prior to any trading day for which these tests are determined to be satisfied by reference to the trading volume and market price history of the New security. If reference is made to either the trading volume or market price history of the Old security for this purpose for any period of time, then reference must be made to both such criteria in respect of the Old security for that period.

Further, should the New security be listed on an exchange or in an automatic quotation system that has an initial listing requirement equivalent to the requirement of paragraph (2) of Commentary .01 under Exchange Rule 1009 (number of shareholders must be at least 2,000), that requirement would be deemed to be satisfied. Finally, if at least 40 million shares of a New security will be outstanding in a restructuring, the Exchange may assume that the New security will satisfy the listing criteria set forth in Exchange Rule 1009, Commentary .01(1) (sufficient public float) and .01(2) (minimum number of security holders). Before relying on either of the assumptions described above, the Exchange must make a reasonable investigation as to the number of shareholders and public float of the New security and must not have determined that the requirements of paragraphs (1) and (2) will, in fact, not be satisfied.

The proposed rule change also would revise one of the Exchange's guidelines relating to the withdrawal of approval of underlying securities. Currently, under Exchange Rule 1010, Commentary .01(3), an underlying security will not be deemed to satisfy the Exchange's listing criteria if the trading volume of the underlying security in all markets was less than 1,800,000 shares in the preceding twelve months ("maintenance volume test") or, under Commentary .01(4), if the market price of the underlying security closed below \$5 for a majority of the business days during the preceding six months ("market price test"). Because New securities have limited trading history, they may be unable to satisfy the maintenance

volume test or the market price test at the time options on such securities are first listed for trading on the Exchange. Accordingly, the proposed rule change would add a new Commentary .01(7) to Exchange Rule 1010 to provide that the Exchange may determine whether a New security satisfies the maintenance volume and market price tests, as well as the comparable tests set forth in Commentary .05 under Exchange Rule 1010, by reference to the trading volume and price history of the Old security prior to the first day of trading in the New security, including "when issued" trading.

2. Statutory Basis

The proposed rule change is consistent with Section 6 of the Act in general and, in particular, with Section 6(b)(5) in that it is designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and practices, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market, as well as to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing.

³ The proposed rule change would apply to a New security if at least one of the following conditions is met:

(1) Any one or more of (A) the aggregate market value of the New security, (B) the aggregate market value of the assets attributed to the business represented by the New security, or (C) the revenues attributed to the business represented by the New security are at least 25% of the same measure determined with respect to the Old security or the business represented by the Old security, as applicable, calculated in a comparable manner on a basis that reflects the *inclusion* of the business represented by the New security, provided that in the case of the qualification of a New security under clause (B), the aggregate book value of the assets attributed to the business represented by the New security is not less than \$50 million, and in the case of the qualification of a New security under clause (C), the revenues attributed to the business represented by the New security are not less than \$50 million;

(2) Any one or more of (A) the aggregate market value of the New security, (B) the aggregate book value of the assets attributed to the business represented by the New security, or (C) the revenues attributed to the business represented by the New security are at least 33⅓% of the same measure determined with respect to the Old security or the business represented by the Old security, as applicable, calculated in a comparable manner on a basis that reflects the *exclusion* of the business represented by the New security, provided that in the case of the qualification of a New security under clause (B), the aggregate book value of the assets attributed to the business represented by the New security is not less than \$50 million, and in the case of the qualification of a New security under clause (C), the revenue attributed to the business represented by the New security are not less than \$50 million; or

(3) The aggregate market value represented by the New security is at least five hundred million dollars (\$500,000,000).

⁴ Under the proposed rule change, options contracts may not initially be listed for trading in respect of a New security until such time as shares of the New security are issued and outstanding and are the subject of trading that is not on a "when issued" basis or in any other way contingent on the issuance or distribution of the shares.

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. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR-Phlx-95-12 and should be submitted by March 22, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 95-4933 Filed 2-28-95; 8:45 am]

BILLING CODE 8010-01-M

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Roadmaster Industries, Inc., Common Stock, \$0.01 Par Value, 8% Convertible Subordinated Debentures Due 2003) File No. 1-11996

February 23, 1995.

Roadmaster Industries, Inc. ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the above specified securities ("Securities") from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing the Securities from listing and registration include the following:

According to the Company, in addition to being listed on the Amex, the Securities are listed on the New York Stock Exchange, Inc. ("NYSE"). The Securities commenced trading on the NYSE at the opening of business on December 12, 1994 and concurrently therewith the Securities were suspended from trading on the Amex.

In making the decision to withdraw the Securities from listing on the Amex,

the Company considered the direct and indirect costs and expenses attendant on maintaining the dual listing of the Securities on the NYSE and on the Amex. The Company does not see any particular advantage in the dual trading of the Securities and believes that dual listing would fragment the market for the Securities.

Any interested person may, on or before March 16, 1995, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Amex and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 95-4995 Filed 2-28-95; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Declaration of Disaster Loan Area #2760; California

The above-numbered Declaration is hereby amended, effective February 21, 1995, to include El Dorado, Madera, and Solano Counties in the State of California as a disaster area due to damages resulting from winter storms causing flooding, landslides, mud and debris flows beginning on January 3, 1995, and continuing.

In addition, applications for economic injury loans from small businesses located in the contiguous counties of Mariposa, Mono, and Tuolumne in the State of California, and Douglas County in the State of Nevada may be filed until the specified date at the previously designated location.

All other information remains the same, i.e., the termination date for filing applications for physical damage is March 13, 1995, and for economic injury the deadline is October 10, 1995.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: February 23, 1995.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 95-4970 Filed 2-28-95; 8:45 am]

BILLING CODE 8025-01-M

TENNESSEE VALLEY AUTHORITY

Environmental Impact Statement: Land Between the Lakes Public Use Plan

AGENCY: Tennessee Valley Authority.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement (EIS).

SUMMARY: TVA will prepare an Environmental Impact Statement (EIS) on alternatives for public use at the Land Between The Lakes (LBL) national recreation area. A Public Use Plan will be developed to meet the future demands for outdoor recreation and environmental education uses and to strengthen the economic and environmental vitality of the LBL region. The EIS will analyze a range of alternatives that will include innovative financing and operating strategies, including partnership contracts with private and other public entities. Such strategies could be utilized to augment or replace congressional appropriated funding traditionally allocated for developing and managing federal public use areas, including LBL. One alternative will be identified as TVA's preferred alternative and will be described in a separate document which will serve as TVA's Draft Public Use Plan for LBL.

The LBL mission has remained essentially the same since its creation. It is, "To manage the resources of Land Between The Lakes for optimum yield of outdoor recreation and environmental education for the American people. In so doing, to utilize the demonstration assignment to research, test, and demonstrate innovative programs; to help stimulate the development of the surrounding region; and to extend the beneficial results as widely as possible."

The alternative approaches presented in the EIS will be developed through a NEPA scoping process in which the public can provide input on new public use guidelines. The guidelines will consider the balance of economic, environmental and social concerns and the feasibility of optional financing and operating strategies. It is envisioned that the EIS will analyze ways to achieve the mission with new funding and/or operating strategies.

DATES: Comments on the scope of the EIS must be received on or before April 17, 1995. Four public meetings will be

held in the LBL region to obtain comments on the scope of the EIS. Locations and times for these meetings are announced below. TVA encourages those wishing to provide comments to do so as early as possible.

ADDRESSES: Written comments should be sent to Dale V. Wilhelm, National Environmental Policy Act Liaison, Tennessee Valley Authority, WT 8C, 400 West Summit Hill Drive, Knoxville, Tennessee 37902-1499.

FOR FURTHER INFORMATION CONTACT: John L. Mechler or Tom Christensen at Land Between The Lakes, 100 Van Morgan Drive, Golden Pond, Kentucky 42211, telephone (502) 924-5602.

SUPPLEMENTARY INFORMATION: In 1963, President John F. Kennedy directed TVA to develop an area with limited natural resources into a national demonstration of outdoor recreation, environmental education and resource management that would stimulate economic growth of the western Kentucky and Tennessee region. LBL was envisioned as a site for multiple-use public benefits. It was not to be a national park, a national forest or a national wildlife refuge, but rather a combination of all of these concepts where natural resources would be managed and used for a wide variety of recreation and education purposes.

In 1964, TVA established Land Between The Lakes (LBL) as a 170,000-acre national recreation area bounded by Kentucky Lake to the west and Lake Barkley to the east. The original 10-year concept plan called for LBL to demonstrate ways national recreation providers could meet the mounting outdoor recreation demands of a changing society. The plan included strategies and methods to provide a unique outdoor classroom and laboratory for combining recreation and education. The plan was to be financed

principally through congressionally appropriated funding and it was estimated that up to 10 million visitors annually would be attracted. However, the subsequent level of appropriated funding provided for operations and capital projects was not sufficient to develop and support the program that would attract 10 million visitors.

In the next 10 years, from 1974 to 1984, the level of federal funding provided to TVA for developing and managing LBL allowed for constructing and expanding some facilities and enhancing some programs.

Since 1984, only one new facility was constructed while three were expanded and six closed. Most programs have continued, although at less intensive levels than in previous years.

Current federal funding for LBL is not sufficient to operate and maintain the existing public use facilities and programs which, in 1994, attracted 2.4 million visitors. Consequently, no major improvements or expansions can be considered that would require federal appropriated funding.

Proposed Issues to be Addressed

The proposed issues to be addressed in the EIS include elimination, reduction, expansion or retention of existing public uses; consideration of new public programs and facilities; and optional financing and operating strategies for public uses. Other issues include impacts of development and increased levels of visitation on socioeconomic conditions and natural and other resources (e.g. wetlands, cultural resources, aesthetics, endangered and threatened species and sensitive habitat, and water quality).

TVA is interested in exploring partnerships which would decrease TVA's dependency on federal appropriated funds and ensure the long-term viability of LBL's mission. TVA

will consider a wide range of options to federal support, including those utilized by other public land management agencies, such as contract partnership arrangements with corporations, agencies and individuals to fund and operate facilities and programs that would benefit the American public. It is envisioned that all partnership arrangements would fit within one or more of six activity categories. These are:

1. Outdoor recreation
2. Environmental education and interpretation
3. Historical and cultural interpretation
4. Visitor hospitality (food and lodging)
5. Information, promotion and visitor relations
6. Other categories that might be added later as appropriate

Scoping Process

TVA is interested in receiving comments on the scope of issues described above and on other suggestions received during scoping. TVA specifically requests comments on:

1. What current and possible new public uses are important to the public at LBL?
2. What alternative operating and financing options should TVA consider to provide public uses at LBL?
3. What environmental or socioeconomic issues, or other aspects of developing a Public Use Plan for LBL should TVA consider?

The scope of the EIS may be modified as a result of public scoping. The EIS will address reasonable public use alternatives and their associated economic, environmental, and social issues and impacts raised during public scoping. Scoping meetings will be held from 7 p.m. to 9:30 p.m. at the following dates and locations:

LBL PUBLIC USE PLAN MEETINGS

City, State	Location	Date
Murray, KY	Murray State University	Tuesday, March 14.
Paducah, KY	Information Age Park	Thursday, March 16.
Clarksville, TN	Austin Peay State University	Tuesday, March 21.
Hopkinsville, KY	Hopkinsville Community College	Thursday, March 23.

Persons interested in attending or receiving more information should call LBL at (502) 924-5602 prior to the meetings to confirm the time and location.

Based on scoping comments and a review of market research data, TVA will develop a range of alternatives for

managing public use at LBL. A draft EIS will then be prepared for public review and comment. Notice of the availability of this draft will be announced, comments on the draft solicited, and information about additional public meetings/hearings will be published at a future date.

Dated: February 22, 1995.

Kathryn J. Jackson,

Senior Vice President Resource Group.

[FR Doc. 95-5130 Filed 2-28-95; 8:45 am]

BILLING CODE 8120-01-M

DEPARTMENT OF TRANSPORTATION**Office of the Secretary****Reports, Forms, and Recordkeeping Requirements**

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Notice.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements imposed upon the public which were transmitted by the Department of Transportation to the Office of Management and Budget (OMB) for its approval in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

DATES: February 22, 1995.

ADDRESSES: Written comments on the DOT information collection requests should be forwarded, as quickly as possible, to Edward Clarke, Office of Management and Budget, New Executive Office Building, room 10202, Washington, DC 20503. If you anticipate submitting substantive comments, but find that more than 10 days from the date of publication are needed to prepare them, please notify the OMB official of your intent immediately.

FOR FURTHER INFORMATION CONTACT: Copies of the DOT information collection requests submitted to OMB may be obtained from Susan Pickrel or Annette Wilson, Information Management Division, M-32, Office of the Secretary of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-4735.

SUPPLEMENTARY INFORMATION: Section 3507 of Title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1980, requires that agencies prepare a notice for publication in the **Federal Register**, listing those information collection requests submitted to OMB for approval or renewal under that Act. OMB reviews and approves agency submissions in accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms and the reporting and recordkeeping requirements. OMB approval of an information collection requirement must be renewed at least once every three years.

Items Submitted to OMB for Review

The following information collection requests were submitted to OMB on February 22, 1995:

DOT No.: 4037.

OMB No.: 2120-0036.

Administration: Federal Aviation Administration.

Title: Notice of Landing Area Proposal.

Need for Information: Section 309 of the Federal Aviation Act of 1958, as amended and implemented in 14 CFR Part 157, provides that in order to assure conformity to plans and policies, and allocations of airspace by the FAA Administrator under Section 307 of the Act, no airport or landing area not involving expenditure of Federal funds shall be established or constructed, nor any runway layout substantially altered without providing notice to the FAA.

Proposed Use of Information: The information collected will be used to determine the effect of the proposal on existing airports and on the safe and efficient use of airspace by aircraft; to prescribe air traffic rules and regulations; to provide data for aeronautical charting; and to provide data for a national airport system plan.

Frequency: On occasion.

Burden Estimate: 2,900 hours.

Respondents: Anyone who intends to construct, activate, deactivate, or change the status of an airport, runway, or taxiway.

Form(s): FAA Form 7480-1.

Average Burden Hours Per Response: 45 minutes reporting.

DOT No.: 4038.

OMB No.: 2125-0526.

Administration: Federal Highway Administration.

Title: Accident Recordkeeping Requirement.

Need for Information: Title 49 CFR Part 390.15(b) requires interstate motor carriers to maintain an accident register for a period of one year after an accident.

Proposed Use of Information: The information will be used to determine if motor carriers are revealing all recent accidents upon request.

Frequency: Recordkeeping 1 year.

Burden Estimate: 2,900 hours.

Respondents: Motor carriers.

Form(s): None.

Average Burden Hours Per Response: 2 minutes.

DOT No.: 4039.

OMB No.: 2133-0010.

Administration: Maritime Administration.

Title: U.S. Merchant Marine Academy Application for Admission and Pre-Candidate Questionnaire.

Need for Information: Title 46 CFR Part 310.57(a) requires applicants to the U.S. Merchant Marine Academy (USMMA) to submit a pre-candidate questionnaire and an application for admission to the Academy's Admissions Office.

Proposed Use of Information: The information will be used by the USMMA admissions staff and its Candidate Evaluation Boards to select the best qualified candidates for admission.

Frequency: One time.

Burden Estimate: 12,500 hours.

Respondents: Applicants for the USMMA.

Form(s): KP 2-65.

Average Burden Hours Per Response: 5 hours reporting.

DOT No.: 4040.

OMB No.: 2133-0007.

Administration: Maritime Administration.

Title: Maintenance and Repair Cumulative Summary.

Need for Information: Title 46 CFR Part 272.22 requires subsidized ship operators to submit Form MA-140 (Maintenance and Repair Cumulative Summary) with attached invoices for review by the Maritime Administration to determine qualification for subsidy.

Proposed Use of Information: The information will be used to determine qualifications for maintenance and repair subsidy for subsidized carriers.

Frequency: Quarterly.

Burden Estimate: 3,000 hours.

Respondents: Subsidized ship operators.

Form(s): MA-140.

Average Burden Hours Per Response: 12 hours reporting.

DOT No.: 4041.

OMB No.: 2138-0018.

Administration: Research and Special Programs Administration.

Title: Report of Passengers Denied Confirmed Space.

Need for Information: Title 14 CFR Part 250 establishes minimum standards for the treatment of airline passengers holding confirmed reservations who are not accommodated because their flight has been oversold.

Proposed Use of Information: The information will be used to monitor air carrier compliance with the regulation and to publish the rate of denied boardings.

Frequency: Quarterly.

Burden Estimate: 2,358 hours.

Respondents: Large certificated air carriers and foreign air carriers.

Form(s): RSPA Form 251.

Average Burden Hours Per Response: 4 hours reporting.

DOT No.: 4042.

OMB No.: 2120-0022.

Administration: Federal Aviation Administration.

Title: Certification: Mechanics, Repairmen, Parachute Riggers—FAR 65.

Need for Information: The Federal Aviation Act of 1958, Section 602 (49

USC 1422) authorizes the issuance of airmen certificates. Title 14 CFR Part 65 prescribes requirements for mechanics, repairmen, parachute riggers, and inspection authorizations.

Proposed Use of Information: The information collected will be used for evaluation by FAA, which is necessary for issuing a certificate and/or rating. Certification is necessary to ensure qualifications of the applicant.

Frequency: On occasion.

Burden Estimate: 57,809 hours.

Respondents: Individuals.

Form(s): FAA Forms 8610-1 and 8610-2.

Average Burden Hours Per Response: 20 minutes reporting.

Issued in Washington, DC on February 22, 1995.

Paula R. Ewen,

Manager, IRM Strategies Division.

[FR Doc. 95-4985 Filed 2-28-95; 8:45 am]

BILLING CODE 4910-62-P

Federal Aviation Administration

Baltimore/Washington International Airport, Baltimore, Maryland; Noise Exposure Map Notice

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the revised noise exposure maps submitted by the Maryland Aviation Administration (MAA) for the Baltimore/Washington International Airport (BWI) under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193) and 14 CFR part 150 are in compliance with applicable requirements.

EFFECTIVE DATE: The effective date of the FAA's determination on the noise exposure maps is February 7, 1995.

FOR FURTHER INFORMATION CONTACT: Frank Squeglia, Environmental Specialist, FAA—Eastern Region Office, Airports Division, AEA-610, Fitzgerald Federal Building, JFK Int'l Airport, Jamaica, NY 11430, (718), 553-0798.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the revised noise exposure maps submitted for the BWI Airport are in compliance with applicable requirements of FAR part 150, effective February 7, 1995.

Under Section 103 of Title I of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator may

submit to the FAA noise exposure maps (or revisions thereto) which meet applicable regulations and which depict noncompatible land uses (or new noncompatible land uses) as of the date of submission of such maps, a description of projected aircraft operations, and the way in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies and persons using the airport.

The Maryland Aviation Administration submitted to the FAA on December 23, 1994, supplemental FAR part 150 documentation supporting a recent update of the Noise Exposure Maps (NEM's) at BWI. It was requested that the FAA review this material for compliance with part 150 regarding updates to noise exposure maps, as described in Section 103(a)(2) of the Act.

BWI received notification of FAA acceptance of its NEMs in December 1989, and approval of its Noise Compatibility Program in July 1990. A 1993 update of the BWI Airport Noise Zone has led to a revised set of noise contours. These revised contours also serve as the basis for revised Maps and the Volume V document, with appendices, constitutes supplemental information submitted by MAA to update the NEM's in accordance with FAR part 150 requirements. In addition to complying with requirements for NEM updates, MAA's request for FAA acceptance of the updated NEM's will insure an accurate depiction of noise sensitive land uses included in the NCP approved by the FAA in 1990.

The FAA has completed its review of the updated noise exposure maps and related documentation submitted by MAA in its December 1994 Volume V Supplemental document. The specific maps under consideration are the NEM's: Figure 2.1 Existing Conditions (1991) Noise Exposure Map (page 8) and Figure 2.2 Five Year Forecast (1998) Noise Exposure Map (page 9) of the Volume V Supplement.

The FAA has determined that these updated maps for BWI are in compliance with applicable requirements. This determination is effective on February 7, 1995. FAA's determination on an airport operator's noise exposure maps is limited to finding that the maps were developed in accordance with the procedures contained in Appendix A of FAR part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment for future approval of a

noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure maps submitted under Section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise maps to resolve questions concerning, for example, which properties should be covered by the provisions of Section 107 of the Act. These functions are inseparable from the ultimate land-use control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the maps depicting properties on the surface rests exclusively with the airport operator which submitted those maps or with those public agencies and planning agencies with which consultation is required under Section 103 of the Act. The FAA has relied on the certification by the airport operator under § 150.21 of FAR part 150, that the statutorily required consultation has been accomplished.

Copies of the updated NEM's associated evaluation material and the Supplemental Document comprising the submittal are available for review at the FAA office listed above and at the administrative offices of the BWI Airport.

Issued in Jamaica, New York, on February 22, 1995.

William DeGraaff,

Manager, Planning & Programming Branch.

[FR Doc. 95-4981 Filed 2-28-95; 8:45 am]

BILLING CODE 4910-13-M

Receipt of Revision to the Approved Noise Compatibility Program and Request for Review; San Diego International Airport—Lindbergh Field (SAN), San Diego, CA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces that it is reviewing a proposed revision to the approved Noise Compatibility Program that was submitted by the San Diego Unified Port District for San Diego International Airport—Lindbergh Field (SAN), San Diego, California, under the provisions of Title I of the Aviation

Safety and Noise Abatement Act of 1979 (Public Law 96-193) (hereinafter referred to as "the Act") and 14 CFR part 150. This revision was submitted subsequent to a determination by the FAA that associated Noise Exposure Maps, submitted under 14 CFR part 150, were in compliance with applicable requirements effective January 30, 1989. The proposed revision to the approved Noise Compatibility Program will be approved or disapproved on or before August 9, 1995.

EFFECTIVE DATE: The effective date of the start of the FAA's review of the revision to the approved Noise Compatibility Program is February 10, 1995. The public comment period ends April 11, 1995.

FOR FURTHER INFORMATION CONTACT: Charles B. Lieber, Airport Planner, Federal Aviation Administration, Western-Pacific Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009-2007, (310) 297-1621. Comments on the proposed Noise Compatibility Program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA is reviewing a proposed revision to the approved Noise Compatibility Program for San Diego International Airport—Lindbergh Field which will be approved or disapproved on or before August 9, 1995. This notice also announces the availability of the revision for public review and comment.

An airport operator who has submitted Noise Exposure Maps that are found by the FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) part 150, promulgated pursuant to Title I of the Act, may submit a Noise Compatibility Program for the FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The FAA has formally received the revision to the approved Noise Compatibility Program for San Diego International Airport—Lindbergh Field, effective on February 10, 1995. It was requested that the FAA review this material and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a Noise Compatibility Program under Section 104(b) of the Act. On June 5, 1991, the FAA approved the Noise Compatibility Program for the San Diego International Airport. An announcement of FAA's approval of the Noise Compatibility Program was published in the **Federal**

Register on June 19, 1991. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of Noise Compatibility Programs, but that further review will be necessary prior to approval or disapproval of the revision. The formal review period, limited by law to a maximum of 180 days, will be completed on or before August 9, 1995.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the Noise Exposure Maps, the FAA's evaluation of the maps, and the proposed revision to the approved Noise Compatibility Program are available for examination at the following locations:

Federal Aviation Administration, 800 Independence Avenue, SW., Room 615, Washington, DC 20591.

Federal Aviation Administration, Western-Pacific Region, AWP-600, P.O. Box 92007 WPC, Los Angeles, California 90009-2007.

Mr. Manuel I. Aceves, Deputy Port Director, Engineering & Development, Port of San Diego and Lindbergh Field Terminal, P.O. Box 488, San Diego, California 92112-0488.

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT**.

Issued in Hawthorne, California on February 10, 1995.

Ellsworth Chan,

Acting Manager, Airports Division.

[FR Doc. 95-4982 Filed 2-28-95; 8:45 am]

BILLING CODE 4910-13-M

Aviation Rulemaking Advisory Committee

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of Aviation Rulemaking Advisory Committee renewal.

SUMMARY: Notice is hereby given of the renewal of the Aviation Rulemaking

Advisory Committee. The Administrator is the sponsor of the committee, which consists of members appointed by the Administrator as representatives of a broad spectrum of the aviation community. The committee provides the aviation public a means by which to have its interests in aviation safety rulemaking taken into consideration in the development of regulatory actions. The committee provides the FAA with the benefit of obtaining the input of affected parties before a proposal is ever issued, thus enabling the agency to produce better documents. The functions of the committee are solely advisory.

The Secretary of Transportation has determined that the formation and use of the committee are necessary in the public interest in connection with the performance of duties imposed on the FAA by law. Meetings of the committee and executive committee will be open to the public except as authorized by section 10(d) of the Federal Advisory Committee Act.

FOR FURTHER INFORMATION CONTACT: Office of Rulemaking (ARM-1), 800 Independence Avenue, SW., Washington, DC 20591, telephone: 202-267-9677.

Issued in Washington, D.C., on February 21, 1995.

Chris A. Christie,

Executive Director, Aviation Rulemaking Advisory Committee.

[FR Doc. 95-4980 Filed 2-28-95; 8:45 am]

BILLING CODE 4910-13-M

National Highway Traffic Safety Administration

[Docket No. 95-005; Notice 1]

Notice of Receipt of Petition for Decision That Nonconforming 1992 BMW 520i 4-Door Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1992 BMW 520i 4-Door passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that a 1992 BMW 520i 4-Door passenger car that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally

manufactured for importation into and sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is March 31, 1995.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, room 5109, National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9:30 am to 4 pm]

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)(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 ("G&K") (Registered Importer 90-007) has petitioned NHTSA to decide whether 1992 BMW 520i 4-Door passenger cars are eligible for importation into the United States. The vehicle which G&K believes is substantially similar is the 1992 BMW 525i 4-Door that was manufactured for importation into, and sale in, the United States and certified

by its manufacturer, Bayerische Motoren-Werke A.G., as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared the non-U.S. certified 1992 BMW 520i 4-Door to its U.S. certified counterpart, and found the two vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

G&K submitted information with its petition intended to demonstrate that the 1992 BMW 520i 4-Door, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as its U.S. certified counterpart, or is capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that the 1992 BMW 520i 4-Door is identical to its U.S. certified counterpart with respect to compliance with Standards Nos. 102 Transmission Shift Lever Sequence * * *, 103 Defrosting and Defogging Systems, 104 Windshield Wiping and Washing Systems, 105 Hydraulic Brake Systems, 106 Brake Hoses, 107 Reflecting Surfaces, 109 New Pneumatic Tires, 113 Hood Latch Systems, 116 Brake Fluid, 124 Accelerator Control Systems, 201 Occupant Protection in Interior Impact, 202 Head Restraints, 203 Impact Protection for the Driver From the Steering Control System, 204 Steering Control Rearward Displacement, 205 Glazing Materials, 206 Door Locks and Door Retention Components, 207 Seating Systems, 209 Seat Belt Assemblies, 210 Seat Belt Assembly Anchorage, 211 Wheel Nuts, Wheel Discs and Hubcaps, 212 Windshield Retention, 216 Roof Crush Resistance, and 219 Windshield Zone Intrusion.

Petitioner also contends that the vehicle is capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 Controls and Displays: (a) Substitution of a lens marked "Brake" for a lens with an ECE symbol on the brake failure indicator lamp; (b) placement of a seat belt symbol on the seat belt warning lamp; (c) recalibration of the speedometer/odometer from kilometers to miles per hour.

Standard No. 108 Lamps, Reflective Devices and Associated Equipment: (a) Installation of U.S.-model headlamps and front sidemarkers; (b) installation of U.S.-model taillamp assemblies which incorporate rear sidemarkers; (c) installation of a high mounted stop lamp.

Standard No. 110 Tire Selection and Rims: Installation of a tire information placard.

Standard No. 111 Rearview Mirror: Replacement of the convex passenger side rearview mirror with a U.S.-model component.

Standard No. 114 Theft Protection: Installation of a warning buzzer microswitch and a warning buzzer in the steering lock assembly.

Standard No. 115 Vehicle Identification Number: Installation of a VIN plate that can be read from outside the left windshield pillar, and a VIN reference label on the edge of the door or latch post nearest the driver.

Standard No. 118 Power Window Systems: Rewiring of the power window system so that the window transport is inoperative when the ignition is switched off.

Standard No. 208 Occupant Crash Protection: (a) installation of a seat belt warning buzzer; (b) installation of a knee bolster to augment the vehicle's air bag based passive restraint system, which otherwise conforms to the standard.

Standard No. 214 Side Door Strength: Installation of reinforcing beams.

Standard No. 301 Fuel System Integrity: Installation of a rollover valve in the fuel tank vent line between the fuel tank and the evaporative emissions collection canister.

Standard No. 302 Flammability of Interior Materials: Treatment of cloth interior materials with a fire retardant spray.

Additionally, the petitioner states that the bumpers on the 1992 BMW 520i 4-Door must be reinforced to comply with the Bumper Standard found in 49 CFR Part 581.

The petitioner further states that before the vehicle can be entered into the United States, its VIN must be inscribed on fourteen specified parts and a theft prevention certification label must be installed for the vehicle to comply with the Theft Prevention Standard found in 49 CFR part 541.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street, SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent

possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

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: February 23, 1995.

William A. Boehly,

Associate Administrator for Enforcement.

[FR Doc. 95-4986 Filed 2-28-95; 8:45 am]

BILLING CODE 4910-59-M

Research of Special Programs Administration

Grants and Denials of Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: Notice of Grants and Denials of Applications for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's

Hazardous Materials Regulations (49 CFR part 107, subpart B), notice is hereby given of the exemptions granted in November 1993 Thru May 1994. The modes of transportation involved are identified by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

MODIFICATION AND PARTY TO EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
3216-X	DOT-E 3216	E.I. du Pont de Nemours & Company, Inc., Wilmington, DE.	49 CFR 173.341(c)	Authorizes the use of a proposed DOT Specification 110A300W tank car tank for transportation of certain compressed gases. (Modes 1, 3).
3630-P	DOT-E 3630	VWR Corporation, West Chester, PA.	49 CFR 173.839(a), 177.839(b).	To become a party to exemption 3630 (Mode 1).
4338-P	DOT-E 4338	Hoechst Celanese Corp, Charlotte, NC.	49 CFR 173.119(m), 173.245a, 173.247, 174.63(b).	To become a party to exemption 4338 (Modes 1, 2, 3).
4453-P	DOT-E 4453	Western Explosive Systems Company (WESCO), Salt Lake City, UT.	49 CFR 172.101, 173.114a(h)(3), 175.415, 176.83.	To become a party to exemption 4453 (Modes 1, 3).
4453-P	DOT-E 4453	Buckley Powder Company of Oklahoma, Inc., Mill Creek, OK.	49 CFR 172.101, 173.114a(h)(3), 176.415, 176.83.	To become a party to exemption 4453 (Modes 1, 3).
4803-P	DOT-E 4803	D-H Acquisition, Inc., Dallas, TX.	49 CFR 173.245, 173.248, 173.249, 173.263, 173.272, 173.289, 178.343-5.	To become a party to exemption 4803 (Mode 1).
4850-P	DOT-E 4850	Halliburton Energy Services, Houston, TX.	49 CFR 173.100(cc) 175.3.	To become a party to exemption 4850 (Modes 1, 2, 3, 4).
5206-P	DOT-E 5206	Vet's Explosives, Inc., Torrington, CT.	49 CFR 173.1114a	To become a party to exemption 5206 (Mode 1).
5206-P	DOT-E 5206	Ladshaw Explosives, Inc., New Braunfels, TX.	49 CFR 173.114a	To become a party to exemption 5206 (Mode 1).
5704-X	DOT-E 5704	U.S. Department of Defense, Falls Church, VA.	49 CFR 173.62, 173.93(e).	Authorizes the transport of certain Class A and Class B explosives in non-DOT specification steel drums. (Modes 1, 2, 3).
5951-P	DOT-E 5951	Rowell Chemical Corporation, Hinsdale, IL.	49 CFR 173.314(c)	To become a party to exemption 5951 (Modes 1,2).
6610-P	DOT-E 6610	Aztec Peroxides, Inc., Elyria, OH.	49 CFR 173.225(e)	To become a party to exemption 6610 (Mode 1).
6614-P	DOT-E 6614	Inter Valley Pool Supply, Azusa, CA.	49 CFR 173.245, 173.263(a)(28) and 173.277(a)(6).	To become a party to exemption 6614 (Mode 1).
6626-P	DOT-E 6626	Portland Welding Supply, Portland, ME.	49 CFR 173.34(e)(15)(i), 173.34(e)(15)(v), 175.3.	To become a party to exemption 6626 (Modes 1, 2, 3, 4, 5).
6691-P	DOT-E 6691	United States Welding, Inc., Denver, CO.	49 CFR 173.34(e)(15)(i), Part 107, Subpart B, Appendix B.	To become a party to exemption 6691 (Modes 1, 2, 3, 4).
6691-P	DOT-E 6691	Southern Welding Supply, Inc., Savannah, GA.	49 CFR 173.34(e)(15)(i), Part 107, Subpart B, Appendix B.	To become a party to exemption 6691 (Modes 1, 2, 3, 4).
6691-P	DOT-E 6691	Trinity Welding Supply, Inc., Dallas, TX.	49 CFR 173.34(e)(15)(i), Part 107, Subpart B, Appendix B.	To become a party to exemption 6691 (Modes 1, 2, 3, 4).
6691-P	DOT-E 6691	George W. Fowler Company, Stuart, FL.	49 CFR 173.34(e)(15)(i), Part 107, Subpart B, Appendix B.	To become a party to exemption 6691 (Modes 1, 2, 3, 4).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
6691-P	DOT-E 6691	IWECO, Inc., Houston, TX.	49 CFR 173.34(e)(15)(i), Part 107, Subpart B, Appendix B.	To become a party to exemption 6691 (Modes 1, 2, 3, 4).
6810-P	DOT-E 6810	ILL-MO Products Company, Jacksonville, IL.	49 CFR 173.302(a)(1), 173.314(c).	Authorizes the shipment of a nonliquefied, nonflammable compressed gas in seamless steel tanks (tubes) made in compliance with DOT Specification 107A except they are not mounted on a rail car. (Mode 1).
6971-P	DOT-E 6971	Protocol Analytical Supplies, Inc., Middlesex, NJ.	49 CFR Parts 100-199 ..	To become a party to exemption 6971 (Modes 1, 2, 3, 4).
6971-P	DOT-E 6971	SPI Supplies Division of Structure Probe, Inc., West Chester, PA.	49 CFR Parts 100-199 ..	To become a party to exemption 6971 (Modes 1, 2, 3, 4).
7041-P	DOT-E 7041	Albermarle Corporation, Baton Rouge, LA.	49 CFR 173.134(a)(6)	To become a party to exemption 7041 (Mode 1).
7616-P	DOT-E 7616	Canadian National Railways, Montreal, Quebec, CN.	49 CFR 172.200(a), 172.204(a), 172.204(d), 174.12, 174.24(a), 174.25(b)(2), 174.3.	To become a party to exemption 7616 (Mode 2).
7765-X	DOT-E 7765	Carleton Technologies, Inc., Orchard Park, NY.	49 CFR 173.302(a)(4), 175.3.	Authorizes the use of nonrefillable, non-DOT specification cylinders, for transportation of a nonflammable gas. (Modes 1, 2, 4).
7765-X	DOT-E 7765	Carleton Technologies, Inc., Orchard Park, NY.	49 CFR 173.302(a)(4), 175.3.	Authorizes the use of nonrefillable, non-DOT specification cylinders, for transportation of a nonflammable gas. (Modes 1, 2, 4).
7774-P	DOT-E 7774	Directional Wireline Services, Inc., Lake Charles, LA.	49 CFR 173.246, 175.3 ..	To become a party to exemption 7774 (Modes 1, 2, 4).
7835-X	DOT-E 7835	Air Products and Chemicals, Inc., Allentown, PA.	49 CFR 177.848, Part 107, Appendix (B)(1).	Authorizes the transport of compressed gas cylinders bearing the flammable gas label, the oxidizer label, or the poison gas label and tank car tanks bearing the poison gas label on the same vehicle. (Mode 1).
7879-P	DOT-E 7879	Halliburton Energy Services, Houston, TX.	49 CFR 173.246, 175.3, 178.42.	To become a party to exemption 7879 (Modes 1, 2, 3, 4).
7887-X	DOT-E 7887	AeroTech, Inc., Las Vegas, NV.	49 CFR 172.101, 173.111, 175.3, Part 107, Appendix B.	Authorizes the shipment of packages of toy propellant devices as an ORM-D material and excepted from labeling requirements. (Modes 1, 2, 3, 4).
7887-P	DOT-E 7887	North Coast Operations/ North Coast Rocketry, Inc., Salt Lake City, UT.	49 CFR 172.101, 173.111, 175.3, Part 107, Appendix B.	To become a party to exemption 7887 (Modes 1, 2, 3, 4).
7887-P	DOT-E 7887	MRED Industries, Inc., Petersburg, NY.	49 CFR 172.101, 173.111, 175.3, Part 107, Appendix B.	To become a party to exemption 7887 (Modes 1, 2, 3, 4).
7951-P	DOT-E 7951	H.P. Hood, Inc., Boston, MA..	49 CFR 173.306(b)(1), 175.3, 178.33.	To become a party to exemption 7951 (Modes 1, 2, 3, 4, 5).
7991-P	DOT-E 7991	Abbeville & Grimes Railroad, Panama City, FL.	49 CFR Parts 100-177 ..	To become a party to exemption 7991 (Mode 1).
7991-P	DOT-E 7991	Washington Central Railroad Company, Yakima, WA.	49 CFR Parts 100-177 ..	To become a party to exemption 7991 (Mode 1).
7991 P	DOT-E 7991	Southern California Regional Rail Authority, Los Angeles, CA.	49 CFR Parts 100-177 ..	To become a party to exemption 7991 (Mode 1).
8006-P	DOT-E 8006	Daisy Manufacturing Company, Rogers, AR.	49 CFR 172.400(a), 172.504 Table 2.	To become a party to exemption 8006 (Modes 1, 2, 3, 4).
8009-X	DOT-E 8009	CNG Technologies, Inc., Austin, TX.	49 CFR 173.301(d)(2), 173.302(a)(3).	To authorize use of DOT Specification 3AAX cylinders made of 4130X steel, for transportation of a compressed natural gas. (Mode 1).
8009-P	DOT-E 8009	KC Resources, Inc., Cardiff, CA.	49 CFR 173.301(d)(2), 173.302(a)(3).	To become a party to exemption 8009 (Mode1).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8009-X	DOT-E 8009	FIBA Compressed Gas Equipment, Westboro, MA.	49 CFR 173.301(d)(2), 173.302(a)(3).	Authorizes the use of DOT Specification 3AAX cylinders made of 4130X steel for transportation of a compressed natural gas. (Mode 1).
8196-P	DOT-E 8196	Elf Atochem North America, Inc., Philadelphia, PA.	49 CFR 173.119, 173.315(a), 178.245.	To become a party to exemption 8196 (Modes 1, 2, 3).
8214-X	DOT-E 8214	Morton International, Inc., Ogden, UT.	49 CFR 171.11 (see paragraph 8.d), 173.153, 173.154, 175.3.	Authorizes the transport of inflators and modules for passive restraint systems for use in automobiles. (Modes 1, 2, 3, 4).
8214-P	DOT-E 8214	Howard Ternes Packaging Company, Redford, MI.	49 CFR 171.11 (see paragraph 8.d), 173.153, 173.154, 175.3.	To become a party to exemption 8214 (Modes 1, 2, 3, 4).
8228-P	DOT-E 8228	U.S. Postal Inspection Service, Dulles, VA.	49 CFR 173.100(bb), 173.113(a)(1), 173.86.	To become a party to exemption 8228 (Modes 1, 2, 3).
8278P	DOT-E 8278	CITGO Pipeline Company, Lake Charles, LA.	49 CFR 173.119, 173.304, 173.315.	To become a party to exemption 8278 (Mode 1).
8396-P	DOT-E 8396	Aztec Peroxides, Inc., Elyria, OH.	49 CFR 173.119, 173.21, 173.221.	To become a party to exemption 8396 (Mode 1).
8445-P	DOT-E 8445	Clean Harbors Environmental Services, Inc., Quincy, MA.	49 CFR Part 173, Subparts D, E, F, H.	To become a party to exemption 8445 (Mode 1).
8450-P	DOT-E 8450	Loral Vought Systems Corporation, Dallas, TX.	49 CFR 173.92	Authorizes the transport of rocket motors, Class B explosives, in non-DOT specification polyethylene containers. (Mode 1).
8451-P	DOT-E 8451	Takata Moses Lake, Inc., Moses Lake, WA.	49 CFR 173.65, 173.86(e) 175.3.	To become a party to exemption 8451 (Mode 1, 2, 3).
8451-P	DOT-E 8451	Magnavox Electronic Systems Company, Fort Wayne, IN.	49 CFR 173.65, 173.86(e), 175.3.	To become a party to exemption 8451 (Modes 1, 2, 3).
8451-P	DOT-E 8451	HITECH, Inc., East Camden, AR.	49 CFR 173.65, 173.86(e), 175.3.	To become a party to exemption 8451 (Modes 1, 2, 3).
8451-X	DOT-E 8451	Hercules Incorporated, Wilmington, DE.	49 CFR 173.65, 173.86(e), 175.3.	Authorizes the transport of not more than 25 grams of high explosives and pyrotechnic materials in a special shipping container. (Modes 1, 2, 3).
8451-P	DOT-E 8451	Halliburton Energy Services, Houston, TX.	49 CFR 173.65, 173.86(e), 175.3.	To become a party to exemption 8451 (Modes 1, 2, 3).
8451-P	DOT-E 8451	Ferranti Technologies, Inc., Lancaster, PA.	49 CFR 173.65, 173.86(e), 175.3.	To become a party to exemption 8451 (Modes 1, 2, 3).
8451-P	DOT-E 8451	Chemical Waste Management, Inc., Oakbrook, IL.	49 CFR 173.65, 173.86(e), 175.3.	To become a party to exemption 8451 (Modes 1, 2, 3).
8451-P	DOT-E 8451	MESC Electronic Systems, Inc., Fort Wayne, IN.	49 CFR 173.65, 173.86(e), 175.3.	To become a party to exemption 8451 (Modes 1, 2, 3).
8451-P	DOT-E 8451	Physics International Company, San Leandro, CA.	49 CFR 173.65, 173.86(e), 175.3.	To become a party to exemption 8451 (Modes 1, 2, 3).
8453-P	DOT-E 8453	OEI, Incorporated, Whitesburg, GA.	49 CFR 173.114a	To become a party to exemption 8453 (Modes 1, 3).
8453-P	DOT-E 8453	DYNO—Alaska, Olympia, WA.	49 CFR 173.114a	To become a party to exemption 8453 (Modes 1, 3).
8453-P	DOT-E 8453	DYNO—Northwest, Olympia, WA.	49 CFR 173.114a	To become a party to exemption 8453 (Modes 1, 3).
8516-P	DOT-E 8516	DYNO—Alaska, Olympia, WA.	49 CFR 176.83(b)	To become a party to exemption 8516 (Mode 3).
8516-P	DOT-E 8516	DYNO—Northwest, Olympia, WA.	49 CFR 176.83(b)	To become a party to exemption 8516 (Mode 3).
8516-P	DOT-E 8516	Pacific Powder Company, Olympia, WA.	49 CFR 176.83(b)	To become a party to exemption 8516 (Mode 3).
8554-P	DOT-E 8554	Brandywine Explosives & Supply, Inc., Paris, KY.	49 CFR 173.114a, 173.154, 173.93.	To become a party to exemption 8554 (Modes 1, 3).
8554-P	DOT-E 8554	Western Explosive Systems Company (WESCO), Salt Lake City, UT.	49 CFR 173.114a, 173.154, 173.93.	To become a party to exemption 8554 (Modes 1, 3).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8554-P	DOT-E 8554	Buckley Powder Company of Oklahoma, Inc., Mill Creek, OK.	49 CFR 173.114a, 173.154, 173.93.	To become a party to exemption 8554 (Modes 1, 3).
8554-P	DOT-E 8554	DYNO—Alaska, Olympia, WA.	49 CFR 173.114a, 173.154, 173.93.	To become a party to exemption 8554 (Modes 1, 3).
8554-P	DOT-E 8554	DYNO—Northwest, Olympia, WA.	49 CFR 173.114a, 173.154, 173.93.	To become a party to exemption 8554 (Modes 1, 3).
8554-P	DOT-E 8554	Pacific Powder Company, Olympia, WA.	49 CFR 173.114a, 173.154, 173.93.	To become a party to exemption 8554 (Modes 1, 3).
8582-P	DOT-E 8582	Toledo, Peoria and Western Railway Corporation, East Peoria, IL.	49 CFR Parts 100.177 ...	To become a party to exemption 8582 (Mode 1582).
8582-P	DOT-E 8582	Southern California Regional Rail Authority, Los Angeles, CA.	49 CFR Parts 100.177 ...	To become a party to exemption 8582 (Mode 1723).
8723-P	DOT-E 8723	Slurry Explosive Corporation, Columbus, KS.	49 CFR 172.101, 173.114a(h)(3), 173.154, 176.415, 176.83.	To become a party to exemption 8723 (Modes 1, 2).
8723-P	DOT-E 8723	Western Explosive Systems Company (WESCO), Salt Lake City, UT.	49 CFR 172.101, 173.114a(h)(3), 173.154, 176.415, 176.83.	To become a party to exemption 8723 (Modes 1, 2).
8723-P	DOT-E 8723	Buckley Powder Company of Oklahoma, Inc., Mill Creek, OK.	49 CFR 172.101, 173.114a(h)(3), 173.154, 176.415, 176.83.	To become a party to exemption 8723 (Modes 1, 2).
8723-P	DOT-E 8723	DYNO—Alaska, Olympia, WA.	49 CFR 172.101, 173.1141(h)(3), 173.154, 176.415, 176.83.	To become a party to exemption 8723 (Modes 1, 2).
8723-P	DOT-E 8723	DYNO—Northwest, Olympia, WA.	49 CFR 172.101, 173.114a(h)(3), 173.154, 176.415, 176.83.	To become a party to exemption 8723 (Modes 1, 2).
8845-P	DOT-E 8845	Halliburton Energy Services, Houston, TX.	49 CFR 173.110(c)(1), 173.80(b), 173.80(c).	To become a party to exemption 8845 (Modes 1, 3).
8845-P	DOT-E 8845	Titan Wireline Services, Fort Worth, TX.	49 CFR 173.110(c)(1), 173.80(b), 173.80(c).	To become a party to exemption 8845 (Modes 1, 3).
8845-P	DOT-E 8845	Magnum Wireline Services, Inc., Fort Worth, TX.	49 CFR 173.110(c)(1), 173.80(b), 173.80(c).	To become a party to exemption 8845 (Modes 1, 3).
8845-P	DOT-E 8845	Black Warrior Wireline Corp., Columbus, MS.	49 CFR 173.110(c)(1), 173.80(b), 173.80(c).	To become a party to exemption 8845 (Modes 1, 3).
8845-P	DOT-E 8845	Directional Wireline Services, Inc., Lake Charles, LA.	49 CFR 173.110(c)(1), 173.80(b) 173.80(c).	To become a party to exemption 8845 (Modes 1, 3).
8871-P	DOT-E 8871	Chase Packaging, Inc., Newport News, VA.	49 CFR 172.331, 173.154, 173.164, 173.178, 173.182, 173.204, 173.217, 173.234, 173.245(b), 173.366.	To become a party to exemption 8871 (Modes 1, 2, 3).
8877-P	DOT-E 8877	Advanced Chemical Systems International, Inc., Carrollton, TX.	49 CFR 173.119, 173.245.	To become a party to exemption 8877 (Modes 1, 2, 3).
8915-P	DOT-E 8915	Albemarle Corporation, Baton Rouge, LA.	49 CFR 173.301(d), 173.302(a)(3).	To become a party to exemption 8915 (Modes 1, 3).
8932-P	DOT-E 8932	Aztec Peroxides, Inc., Elyria, OH.	49 CFR 173.119(m), 173.221.	To become a party to exemption 8932 (Mode 1).
8958-P	DOT-E 8958	Parks and Son, Inc., Advance, NC.	49 CFR 172.101, 173.60	To become a party to exemption 8958 (Modes 1, 2).
9052-X	DOT-E 9052	Hoover Group, Inc., Beatrice, NE.	49 CFR 173.118a, 173.119, 173.125, 176.340, 178.19, 178.253, Part 173, Subpart F.	Authorizes the manufacture, marking and sale of non-DOT specification 225 gallons rotationally molded polyethylene portable tanks for shipment of those corrosive liquids and hydrogen peroxide presently authorized in DOT Specification 34 and certain flammable liquids. (Modes 1, 2, 3).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9157-X	DOT-E 9157	Matheson Gas Products, Secaucus, NJ.	49 CFR 173.314(c), 179.300-7.	Authorizes the use of a non-DOT specification multiunit tank car tank, for transportation of a flammable gas. (Mode 1).
9248-P	DOT-E 9248	Advertising Unlimited, Inc., Red Wing, MN.	49 CFR 173.1200, 173.154a.	To become a party to exemption 9248 (Modes 1, 2).
9262-P	DOT-E 9262	Halliburton Energy Services, Houston, TX.	49 CFR 173.100(v), 175.30.	To become a party to exemption 9262 (Modes 1, 3, 4).
9262-P	DOT-E 9262	Directional Wireline Services, Inc., Lake Charles, LA.	49 CFR 173.100(v), 175.30.	To become a party to exemption 9262 (Modes 1, 3, 4).
9275-P	DOT-E 9275	Sanofi Beaute, Inc., Edison, NJ.	49 CFR 100-199	To become a party to exemption 9275 (Modes 1, 2, 3, 4, 5).
9275-P	DOT-E 9275	Richard Barrie Frangrances, Inc., Orange, CT.	49 CFR 100-199	To become a party to exemption 9275 (Modes 1, 2, 3, 4, 5).
9275-P	DOT-E 9275	Lancaster Group USA, Paterson, NJ.	49 CFR 100-199	To become a party to exemption 9275 (Modes 1, 2, 3, 4, 5).
9275-P	DOT-E 9275	J. Manheimer, Inc., Long Island City, NY.	49 CFR 100-199	To become a party to exemption 9275 (Modes 1, 2, 3, 4, 5).
9275-P	DOT-E 9275	Nielsen-Massey Vanillas, Inc., Waukegan, IL.	49 CFR 100-199	To become a party to exemption 9275 (Modes 1, 2, 3, 4, 5).
9275-P	DOT-E 9275	Cosmair Inc., North Brunswick, NJ.	49 CFR 100-199	To become a party to exemption 9275 (Modes 1, 2, 3, 4, 5).
9281-P	DOT-E 9281	Halliburton Energy Services, Houston, TX.	49 CFR 172.101, 173.100.	To become a party to exemption 9281 (Modes 1, 2, 3, 4).
9346-P	DOT-E 9346	Arrow Terminals, Industry, PA.	49 CFR 174.67(a)(2)	To become a party to exemption 9346 (Mode 2).
9347-X	DOT-E 9247	Precision General, Inc., Houston, TX.	49 CFR 173.302(a)(1), 173.304(a)(1), 173.304(b)(1), 175.3, 178.42.	Authorizes the manufacture, marking and sale of non-DOT specification stainless steel cylinders for shipment of flammable and nonflammable gases used for sampling purposes. (Modes 1, 2).
9355-P	DOT-E 9355	Eveready Battery Company, Inc., Westlake, OH.	49 CFR Parts 100-177 ..	To become a party to exemption 9355 (Modes 1, 2, 3, 4).
9372-P	DOT-E 9372	Halliburton Energy Services, Houston, TX.	49 CFR 173.110(c)(1), 173.80(b), 173.80(c).	To become a party to exemption 9372 (Modes 1, 3).
9408-P	DOT-E 9408	Albemarle Corporation, Baton Rouge, LA.	49 CFR 173.301(d)(2), 173.302.	To become a party to exemption 9408 (Mode 1).
9507-P	DOT-E 9507	IWECO, Inc., Houston, TX.	49 CFR 173.119, 173.302, 173.304, 173.328, 173.34, 173.346.	To become a party to exemption 9507 (Mode 1).
9549-P	DOT-E 9549	Halliburton Energy Services, Houston, TX.	49 CFR 173.100(v), 175.30.	To become a party to exemption 9549 (Modes 1, 3, 4).
9549-P	DOT-E 9549	Directional Wireline Services, Inc., Lake Charles, LA.	49 CFR 173.100(v), 175.30.	To become a party to exemption 9549 (Modes 1, 3, 4).
9610-P	DOT-E 9610	Blount, Inc., Lewiston, ID	49 CFR 172.203(a), (e), 172.204, 173.29(a), (d), Parts 107, Appendix B(2), (3), Parts 171-189.	To become a party to exemption 9610 (Modes 1, 2).
9617-P	DOT-E 9617	Buckley Powder Company of Oklahoma, Inc., Mill Creek, OK.	49 CFR 176.83(a), 177.835(g), 177.848(f), Part 107, Appendix B(1).	To become a party to exemption 9617 (Modes 1, 3).
9623-P	DOT-E 9623	Buckley Powder Company of Oklahoma, Inc., Mill Creek, OK.	49 CFR 177.835(c)(3)	To become a party to exemption 9623 (Mode 1).
9623-P	DOT-E 9623	DYNO—Alaska, Olympia, WA.	49 CFR 177.835(c)(3)	To become a party to exemption 9623 (Mode 1).
9623-P	DOT-E 9623	DYNO—Northwest, Olympia, WA.	49 CFR 177.835(c)(3)	To become a party to exemption 9623 (Mode 1).
9623-P	DOT-E 9623	Pacific Powder Company, Olympia, WA.	49 CFR 177.835(c)(3)	To become a party to exemption 9623 (Mode 1).
9659-P	DOT-E 9659	Kaiser Compositek, Inc., Brea, CA.	49 CFR 173.302(a)(1), 173.304(a), (d), 175.3, 177.812.	To become a party to exemption 9659 (Modes 1, 2, 3, 4).
9672-P	DOT-E 9672	Albemarle Corporation, Baton Rouge, LA.	49 CFR 178.337 11(c) ...	To become a party to exemption 9672 (Mode 1).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9723-P	DOT-E 9723	Environmental Enterprises, Inc., Cincinnati, OH.	49 CFR 177.848(b)	To become a party to exemption 9723 (Mode 1).
9723-P	DOT-E 9723	Environmental Services of America, Inc., Ellington, CT.	49 CFR 177.848(b)	To become a party to exemption 9723 (Mode 1).
9723-P	DOT-E 9723	Environmental Response, Inc., Hendersonville, TN.	49 CFR 177.848(b)	To become a party to exemption 9723 (Mode 1).
9723-P	DOT-E 9723	Allwaste Transportation & Remediation, Inc., San Martin, CA.	49 CFR 177.848(b)	To become a party to exemption 9723 (Mode 1).
9723-P	DOT-E 9723	Dahlen Transport, Inc., Newport, MN.	49 CFR 177.848(b)	To become a party to exemption 9723 (Mode 1).
9723-P	DOT-E 9723	Rock Transfer & Storage, Inc., Milwaukee, WI.	49 CFR 177.848(b)	To become a party to exemption 9723 (Mode 1).
9723-P	DOT-E 9723	Marine Shale Processors, Inc., Morgan City, LA.	49 CFR 177.838(b)	To become a party to exemption 9723 (Mode 1).
9723-P	DOT-E 9723	Tri-S Incorporated, Ellington, CT.	49 CFR 177.848(b)	To become a party to exemption 9723 (Mode 1).
9723-P	DOT-E 9723	Inland Water Pollution Control, Detroit, MI.	49 CFR 177.848(b)	To become a party to exemption 9723 (Mode 1).
9723-P	DOT-E 9723	City Environmental, Inc., Detroit, MI.	49 CFR 177.848(b)	To become a party to exemption 9723 (Mode 1).
9723-P	DOT-E 9723	Universal Waste and Transit, Inc., Tampa, FL.	49 CFR 177.848(b)	To become a party to exemption 9723 (Mode 1).
9723-P	DOT-E 9723	Smith Systems Transportation, Inc., Scottsbluff, NE.	49 CFR 177.838(b)	To become a party to exemption 9723 (Mode 1).
9723-P	DOT-E 9723	The Environmental Service Group (NY), Inc., Tonawanda, NY.	49 CFR 177.848(b)	To become a party to exemption 9723 (Mode 1).
9723-P	DOT-E 9723	Midwest Environmental Transport, Inc., Cincinnati, OH.	49 CFR 177.848(b)	To become a party to exemption 9723 (Mode 1).
9758-P	DOT-E 9758	The Coleman Company, Inc., Wichita, KS.	49 CFR 173.304(d)(3)(ii), 178.33.	To become a party to exemption 9758 (Modes 1, 2, 3, 4).
9758-X	DOT-E 9758	Camping Gaz International, Paris, France.	49 CFR 173.304(d)(3)(ii), 178.33.	Authorizes the shipment of certain flammable gases in a nonrefillable, non-DOT inside container conforming with the DOT-2P except for diameter and capacity. (Modes 1, 2, 3, 4).
9758-X	DOT-E 9758	Watson & Company, San Diego, CA.	49 CFR 173.304(d)(3)(ii), 178.33.	Authorizes the shipment of certain flammable gases in a nonrefillable, non-DOT inside container conforming with the DOT-2P except for diameter and capacity. (Modes 1, 2, 3, 4).
9769-P	DOT-E 9769	Chemical Waste Management, Inc., Oak Brook, IL.	49 CFR 176.83, 177.848	To become a party to exemption 9769 (Modes 1, 2, 3).
9769-P	DOT-E 9769	Franklin Environmental Services, Inc., Wrentham, MA.	49 CFR 176.83, 177.848	To become a party to exemption 9769 (Modes 1, 2, 3).
9779-P	DOT-E 9779	Western Unichem, Houston, TX.	49 CFR 173.119, 173.245, 178.253.	To become a party to exemption 9779 (Mode 1).
9781-P	DOT-E 9781	Rowell Chemical Corporation, Hinsdale, IL.	49 CFR 173.304(a)(2), 173.34(d), (e).	To become a party to exemption 9781 (Mode 1).
9880-P	DOT-E 9880	Halliburton Energy Services Houston, TX.	49 CFR 173.302, 173.3 ..	To become a party to exemption 9880 (Modes 1, 2, 3, 4, 5).
9969-P	DOT-E 9969	Mine Safety Appliances Company Pittsburgh, PA.	49 CFR 173.119, 173.121, 173.123, 173.124, 173.141, 173.145, 173.251, 173.252, 173.255, 173.264, 173.276, 173.302, 173.304, 173.328, 173.333, 173.336, 173.337, 173.352.	To become a party to exemption 9969 (Modes 1, 2, 3, 4).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9969-P	DOT-E 9969	Kin-Tek Laboratories, Inc., LaMarque, TX.	49 CFR 173.119, 173.121, 173.123, 173.124, 173.141, 173.145, 173.251, 173.252, 173.255, 173.264, 173.276, 173.302, 173.304, 173.328, 173.333, 173.336, 173.337, 173.352.	To become a party to exemption 9969 (Modes 1, 2, 3, 4).
9977-X	DOT-E 9977	Hercules Incorporated, Wilmington, DE.	49 CFR 173.88(e) (2) (ii), 173.92(a)(i), 173.92(b).	Authorizes the transport of rocket motors in a propulsive state, with igniters installed. (Mode 1).
9977-X	DOT-E 9977	Hercules Aerospace Company, Magna, UT.	49 CFR 173.88(e) (2) (ii), 173.92(a)(i), 173.92(b).	Authorizes the transport of rocket motors in a propulsive state, with igniters installed. (Mode 1).
10001-P	DOT-E 10001	Airgas, Inc., Mobile, AL ..	49 CFR 173.316, 173.320.	To become a party to exemption 10001 (Mode 1).
10001-P	DOT-E 10001	Linweld, Lincoln, NE	49 CFR 173.316, 173.320.	To become a party to exemption 10001 (Mode 1).
10048-X	DOT-E 10048	Air Products and Chemicals, Inc., Allentown, PA.	49 CFR 173.119, 173.134, 173.154, 173.28(m).	Authorizes the use of a DOT Specification 17C metal drum with inside non-DOT specification metal containers for shipment of pyrophoric liquids, flammable liquids, and flammable solids. (Modes 1, 3).
10114-P	DOT-E 10114	Northwest Airlines, Inc., St. Paul, MN.	49 CFR 172.200, 175.10(a)(7).	To become a party to exemption 10114 (Mode 4).
10130-X	DOT-E 10130	UF Strainrite, Lewiston, ME.	49 CFR Part 173 Subparts E, F, and H.	Authorizes the manufacture, marking and sale of collapsible, disposable polyethylene-lined woven polypropylene bulk bags for shipment of oxidizers, flammable, corrosive, and poison B solids. (Modes 1, 2, 3).
10130-X	DOT-E 10130	UF Strainrite, Lewiston, ME.	49 CFR Part 173 Subparts E, F, and H.	Authorizes the manufacture, marking and sale of collapsible, disposable polyethylene-lined woven polypropylene bulk bags for shipment of oxidizers, flammable, corrosive, and poison B solids. (Modes 1, 2, 3).
10172-X	DOT-E 10172	Hoover Group, Inc., Beatrice, NE.	49 CFR 178.19, 178.253, Part 173, Subparts D and F, Section 173.266.	Authorizes the manufacture, marking and sale of a non-DOT specification rotationally molded, cross-linked high density polyethylene portable tank enclosed within a protective wire frame for the shipment of corrosive liquids, flammable liquids or an oxidizer. (Modes 1, 2).
10174-P	DOT-E 10174	Albemarle Corporation, Baton Rouge, LA.	49 CFR 173.206	To become a party to exemption 10174 (Mode 2).
10175-P	DOT-E 10175	Letica Corporation, Rochester, MI.	49 CFR 173.119, 178.19, Part 173, Subpart F.	To become a party to exemption 10175 (Modes 1, 2, 3).
10180-X	DOT-E 10180	Convenience Marine Products, Inc., Grand Rapids, MI.	49 CFR 173.304(a)(2), 173.34(d).	Authorizes the manufacture, marking, and sale of DOT Specification 39 cylinders equipped with pressure relief device systems for transportation of nonflammable gases. (Modes 1, 3, 4).
10247-P	DOT-E 10247	Mine Safety Appliances Company Pittsburg, PA.	49 CFR 173.4	To become a party to exemption 10247 (Modes 1, 2, 4).
10247-P	DOT-E 10247	Thermo Analytical, Inc. Waltham, MA.	49 CFR 173.4	To become a party to exemption 10247 (Modes 1, 2, 4).
10278-P	DOT-E 10248	The Coleman Company, Inc. Wichita, KS.	49 CFR 173.304(d), 178.33.	To become a party to exemption 10278 (Modes 1, 2, 3).
10307-P	DOT-E 10307	Boliden Intertrade Inc. Atlanta, GA.	49 CFR 179.200-18, 179.201-1.	To become a party to exemption 10307 (Mode 2).
10307-P	DOT-E 10307	Texasgulf, Inc., Aurora, NC.	49 CFR 179.200-18, 179.201-1.	To become a party to exemption 10307 (Mode 2).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
10307-P	DOT-E 10307	Rhone-Poulenc Basic Chemicals Co., Shelton, CT.	49 CFR 179.200-18, 179.201-1.	To become a party to exemption 10307 (Mode 2).
10365-P	DOT-E 10365	United States Enrichment Corporation (USEC), Bethesda, MD.	49 CFR 178.121-1(b)	To become a party to exemption 10365 (Modes 1, 2, 3).
10429-P	DOT-E 10429	Petrolite Corporation St. Louis, MO.	49 CFR 177.834(h), Part 107 appendix B(1), Part 173 Subpart D and F.	To become a party to exemption 10429 (Mode 1).
10429-P	DOT-E 10429	Champion Technologies, Inc. Houston, TX.	49 CFR 177.834(h), Part 107 appendix B(1), Part 173 Subpart D and F.	To become a party to exemption 10429 (Mode 1).
10441-P	DOT-E 10441	J.B. Hunt Special Commodities, Inc. Lowell, AR.	49 CFR 177.848	To become a party to exemption 10441 (Mode 1).
10486-X	DOT-E 10486	Aeropres Corporation, Shreveport, LA.	49 CFR 173.302, 173.304, 173.305, 173.315.	Authorizes the transportation of mixtures of flammable and nonflammable compressed gases in DOT Specification MC 330 and MC 331 cargo tanks. (Mode 1).
10660-P	DOT-E 10660	The Upjohn Company, Kalamazoo, MI.	49 CFR 172.402(a)(1), 172.403(e), 173.4(a)(1)(i-iii), 173.4(a)(1)(iv).	To become a party to exemption 10660 (Modes 1, 4).
10755-X	DOT-E 10755	Minnesota Mining and Manufacturing Company, (3M) St. Paul, MN.	49 CFR 172.203, 172.400, 172.402, 172.504, 173.150, 173.151, 173.152, 173.153, 173.154, 173.201, 173.202, 173.203, 173.211, 173.212, 173.25, 173.4 and 173.211, 174.213, 175.25, 175.3, 175.33.	Authorizes manufacture, marking and sale of specially designed combination packaging for shipment of hazardous materials required to bear the POISON, KEEP AWAY FROM FOOD, FLAMMABLE LIQUID, MABLE SOLID OR CORROSIVE labels. (Modes 1, 2, 3, 4, 5).
10795-P	DOT-E 10795	Niagara Mohawk Power Corporation (NM), Syracuse, NY.	49 CFR 173.31(b)(1), 174.67(a)(7).	To become a party to exemption 10795 (Mode 2).
10809-P	DOT-E 10809	Spectrum Packaging Systems, Inc. (SPS), Moonachie, NJ.	49 CFR 173.245b, 173.365.	To become a party to exemption 10809 (Modes 1, 2).
10878-X	DOT-E 10878	Tankcon FRP, Inc., Boxborough, MA.	49 CFR 178.345, 178.348.	To manufacture, mark and sell non-DOT specification cargo tanks construct of fiberglass reinforced plastic for use in transporting various commodities classed as corrosive material. (Mode 1).
10898-P	DOT-E 10898	Fluid System Components, Inc., Green Bay, WI.	49 CFR 173.302	To become a party to exemption 10898 (Modes 1, 2, 3, 4).
10911-X	DOT-E 10911	The Pallet Reefer Company, Seaford, DE.	49 CFR 173.24(g)	To manufacture, mark and sell a specially designed refrigeration unit equipped with four DOT specification 3AL1800 cylinders, containing carbon dioxide, refrigerated liquid, division 2.2, which are vented during transportation through a controlled release process for cooling purposes. (Modes 1, 4).
10914-X	DOT-E 10914	Allied-Signal Aerospace Company, Tempe, AZ.	49 CFR 178.44	To authorize the manufacture, mark and sell of non-DOT specification welded pressure vessel comparable to a DOT3HT cylinder for use in transporting compressed gas. (Modes 1, 4).
10922-P	DOT-E 10922	UltraTest Corp., Division of FIBA, Westboro, MA.	49 CFR 172.301(c), 173.34(e).	To become a party to exemption 10922 (Modes 1, 2, 3).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
10933-P	DOT-E 10933	Advanced Environmental Technology Corporation, Flanders, NJ.	49 CFR 173.12, 174.81, 176.83 AND 177.848.	To become a party to exemption 10933 (Modes 1, 2, 3).
10933-P	DOT-E 10933	California Advanced Environmental Technology Corp, Hayward, CA.	49 CFR 173.12, 174.81, 176.83 and 177.848.	To become a party to exemption 10933 (Modes 1, 2, 3).
10933-P	DOT-E 10933	J.B. Hunt Special Commodities, Inc., Lowell, AR.	49 CFR 173.12, 174.81, 176.83 AND 177.848.	To become a party to exemption 10933 (Modes 1, 2, 3).
10982-P	DOT-E 10982	Appleton Papers, Inc., Appleton, WI.	49 CFR 17174.67(i)+(j) ..	To become a party to exemption 10982 (Mode 2).
10982-P	DOT-E 10982	Temple-Inland Forest Products Corporation, Diboll, TX.	49 CFR 174.67(i)+(j)	To become a party to exemption 10982 (Mode 2).
10982-P	DOT-E 10982	Appleton Papers, Inc., Appleton, WI.	49 CFR 174.67(i)+(j)	To become a party to exemption 10982 (Mode 2).
11033-P	DOT-E 11033	Engineering Resources, Inc. (ERI), Fayetteville, AR.	49 CFR 173.302(a)(3)	To become a party to exemption 11033 (mode 1).
11041-X	DOT-E 11041	Aerojet Propulsion Division, (APD), Sacramento, CA.	49 CFR 173.124(a)(1)(i)	Authorizes the transportation in commerce of a Class 9 material (aqueous solution containing not more than 12% ammonium perchlorate, 0.5% nitroguandine and 50 ppm of (RDX) in cargo tanks. (Mode 1).
11072-X	DOT-E 11072	U.S. Department of Defense, Falls Church, VA.		To authorize the transportation in commerce of explosive materials containing white phosphorus of Class 1, Compatibility Group H stored in shipborne steel barges instead of stored in steel portable magazines or freight containers. (Mode 3).
11073-X	DOT-E 11073	E.I. du Pont de Nemours & Company, Inc., Wilmington, DE.	49 CFR 172.102(c)(3) Special Provision B14 and B74; and, 179.101-1.	To authorize the transportation of chlorosulfonic acid DOT Class 112S tank cars consted of ASTM 204-70, Type 304L stainless steel, equipped with full head shields. (Mode 2).
11119-X	DOT-E 11119	U.S. Chemical and Plastics Co., Inc., Canton, OH.	49 CFR 173.152	To authorize the transportation in commerce of certain organic peroxides, as limited quantities/commodities when the inside containers do not exceed 125 ml for liquids and 500 g for solids. (Modes 1, 2).
11119-P	DOT-E 11119	Marson Corporation, Chelsea, MA.	49 CFR 173.152	To become a party to exemption 11119 (Modes 1, 2).
11119-P	DOT-E 11119	Crater Auto Supply, Inc., Medford, OR.	49 CFR 173.152	To become a party to exemption 11119 (Modes 1, 2).
11119-P	DOT-E 11119	Fiber Glass Evercoat Co., Inc., Cincinnati, OH.	49 CFR 173.152	To become a party to exemption 11119 (Modes 1, 2).
11119-P	DOT-E 11119	Akzo Coatings, Inc., Norcross, GA.	49 CFR 173.152	To become a party to exemption 11119 (Modes 1, 2).
11119-P	DOT-E 11119	Oak Distributors, Inc., Ontario, CA.	49 CFR 173.152	To become a party to exemption 11119 (Modes 1, 2).
11119-P	DOT-E 11119	The C.R.C. Line, Inc., Spencer, MA.	49 CFR 173.152	To become a party to exemption 11119 (Modes 1, 2).
11119-P	DOT-E 11119	Dynatron/Bondo Corporation, Atlanta, GA.	49 CFR 173.152	To become a party to exemption 11119 (Modes 1, 2).
11119-P	DOT-E 11119	The Norac Company, Inc., Azusa, CA.	49 CFR 173.152	To become a party to exemption 11119 (Modes 1, 2).
11119-P	DOT-E 11119	Oatey Co., Cleveland, OH.	49 CFR 173.152	To become a party to exemption 11119 (Modes 1, 2).
11119-P	DOT-E 11119	DBF, Inc., Riverview MI .	49 CFR 173.152	To become a party to exemption 11119 (Modes 1, 2).
11147-X	DOT-E11147	The Boeing Company, Seattle, WA.	49 CFR 173.301(i)	To authorize the transportation in commerce of aircraft safety equipment which utilizes non-DOT specification cylinders containing certain compressed gases, Division 2.2. (Mode 1).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
11168-X	DOT-E 11168	Aldrich Chemical Company, Inc., Milwaukee, WI.	49 CFR 173.21(b), 173.54(k), 173.57(a), 173.124(a).	To authorize the transport of small quantities of 1-methyl-3-nitro-1-nitrosoguanidine (MNNG) a thermally unstable material, as Division 4.1, which is forbidden for transportation, in specially designed packaging. (Modes 1, 2).
11189-P	DOT-E 11189	Volkswagen of America, Inc., Auburn Hills, MI.	49 CFR 172.101, 173.56, 173.116.	To become a party to exemption 11189 (Modes 1, 2, 3, 4, 5).
11189-P	DOT-E 11189	Ford Motor Company, Dearborn, MI.	49 CFR 172.101, 173.56, 173.116.	To become a party to exemption 11189 (Modes 1, 2, 3, 4, 5).
11189-P	DOT-E 11189	TRW Vehicle Safety Systems, Inc., Washington, MI.	49 CFR 172.101, 173.56, 173.116.	To become a party to exemption 11189 (Modes 1, 2, 3, 4, 5).
11189-P	DOT-E 11189	Breed Technologies, Inc., Lakeland, FL.	49 CFR 172.101, 173.56, 173.116.	To become a party to exemption 11189 (Modes 1, 2, 3, 4, 5).
11189-P	DOT-E 11189	Mercedes-Benz of North America, Inc., Montvale, NJ.	49 CFR 172.101, 173.56, 173.116.	To become a party to exemption 11189 (Modes 1, 2, 3, 4, 5).
11189-P	DOT-E 11189	Morton Bendix, Maryville, TN.	49 CFR 172.101, 173.56, 173.116.	To become a party to exemption 11189 (Modes 1, 2, 3, 4, 5).

NEW EXEMPTIONS

10603-N	DOT-E 10603	Chesterfield Cylinders Limited, Chesterfield, Derbyshire, England.	49 CFR 173.301(h), 173.302(a)(1), 173.302(c)(3), 173.304(a), 173.305(a)(3), 173.34(a)(1).	To manufacture, mark and sell non-DOT specification seamless steel cylinders comparable to DOT Specification 3AA cylinders to transport commodities classed as flammable and nonflammable gases, liquified and non-flammable gases and mixtures. (Modes 1, 2, 3, 4).
10651-N	DOT-E 10651	Ashland Chemical, Inc., Columbus, OH.	49 CFR 173.34(e)	To eliminate the periodic retest, reinspection and marking requirements for DOT Specification 4BW cylinders authorized for the transportation of flammable liquids. (Mode 1).
10705-N	DOT-E 10705	Baker Performance Chemicals, Inc., Houston, TX.	49 CFR 173.122(a)(5)	To authorize the transportation of acrolein in non-DOT specification IMCO Type 5 portable tanks with flammable or corrosive material. (Mode 1).
10753-N	DOT-E 10753	Pestcon System, Inc., Raleigh, NC.	49 CFR 172.500(f), 172.504.	To authorize transportation of aluminum phosphide, classed as a flammable solid, in private owned pest control vehicles without placards. (Mode 1).
10771-N	DOT-E 10771	Tomco Equipment Company, Loganville, GA.	49 CFR 178.337-6(b)	To authorize the manufacture, mark and sell of non-DOT specification cargo tanks with front head manway mounted on flat-bed truck for use in transporting carbon dioxide, refrigerated liquid. (Mode 1).
10802-N	DOT-E 10802	Air Products and Chemicals, Inc., Allentown, PA.	49 CFR 173.302(f)	To authorize the transportation of carbon monoxide and carbon monoxide mixture classed as flammable and nonflammable gases in DOT 3AL cylinders with service pressures up to and including 3000 psig. (Modes 1, 2, 4).
10823-N	DOT-E 10823	Comdyne I, Inc., West Liberty, OH.	49 CFR 173.302(a)(1), 173.304(a)(1), 175.3.	To manufacture, mark and sell non-DOT specification cylinders for use in transportation of certain flammable and nonflammable compressed gases. (Modes 1, 3, 4, 5).
10838-N	DOT-E 10838	Gustafson, Incorporated, Dallas, TX.	49 CFR 173 Subpart F, 173.114(a)(h)(3), 173.119, 173.256, 173.266, 173.268, 176.415, 176.83, 178.19, 178.353.	To authorize the manufacture, mark and sell of a non-DOT specification rotationally molded, cross-linked polyethylene portable tank enclosed with a protective steel frame for shipment of various classes of hazardous materials. (Modes 1, 2, 3).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
10840-N	DOT-E 10840	The Chloramone Company, Delaware City, DE.	49 CFR 173.302, 173.304, 173.34.	To authorize the use of a non-DOT specification salvage cylinder for overpacking damaged or leaking cylinders containing sulfur dioxide classed as nonflammable gas. (Mode 1).
10847-N	DOT-E 10847	Brunswick Corporation, Lincoln, NE.	49 CFR 173.302(a)(1), 173.304(a)(1), 175.3.	To manufacture, mark and sell composite hooped wrapped aluminum cylinders for use in transporting various gases classed as flammable and nonflammable. (Modes 1, 2, 3).
10867-N	DOT-E 10867	Pacific Scientific, HTL/Kin-Tech Division, Duarte, CA.	49 CFR 173.302, 175.3, 178.44.	To authorize the manufacture, mark and sell of non-DOT specification welded titanium cylinder having 35 cubic inches maximum water capacity and 3,200 psig maximum service pressure for use in transporting nitrogen, with 5% trace of helium gas, classed as nonflammable gas. (Modes 1, 2, 4, 5).
10878-N	DOT-E 10878	Tankcon FRP Inc., Boisbriand, Que, CN.	49 CFR 178.345, 178.348.	To manufacture, mark and sell non-DOT specification cargo tanks constructed of fiberglass reinforced plastic for use in transporting various commodities classed as corrosive material. (Mode 1).
10887-N	DOT-E 10887	National Aeronautics and Space Administration, Washington, DC.	49 CFR 173.245	To authorize the transportation of dinitrogen tetroxide liquid, classed as poison gas, inhalation hazardous zone A; oxidizers and other liquid hazardous materials in non-DOT specification portable tanks comparable to the DOT-51 portable tank specification. (Mode 1).
10898-N	DOT-E 10898	HYDAC Corporation, Bethlehem, PA.	49 CFR 173.302	To authorize the transportation of nitrogen, classed as nonflammable gas, in precharged accumulators of various sizes not to exceed 5000 psig designed in accordance with ASME pressure vessel code. (Modes 1, 2, 3, 4).
10913-N	DOT-E 10913	Aco-Ass-mann of Canada Ltd., Pickering, Ontario, Canada.	49 CFR 173.(f), 173.119, 173.125, 178.19, 178.253.	To authorize the manufacture, mark and sale of non-DOT specification rotationally molded, low density polyethylene portable tank enclosed with a protective steel cage for shipment of various classes of hazardous materials. (Modes 1, 2, 3.)
10925-N	DOT-E 10925	Southern Air Transport, Miami, FL.	49 CFR 172.101	To authorize the transportation of dimethylhydrazine, Class 3 in 55-gallon DOT Specification 5C drums and nitrogen tetroxide class 6 in 106A100W or 110A500W tank containers aboard cargo aircraft only. (Mode 4.)
10926-N	DOT-E 10926	Radcal Corporation, Monrovia, CA.	49 CFR 173.34(d)	To manufacture, mark and sell radiation monitors which incorporate a DOT Specification 39 cylinder, without a safety relief device, containing argon, Division 2.2. (Modes 1, 4, 5.)
10949-N	DOT-E 10949	Laidlaw Environmental Services, Inc., Columbia, SC.	49 CFR 177.848(c)	To authorize the transportation of detector units containing cyanide packed in lab pack drums on the same vehicle carrying acids packaged in 55 gallon DOT specification drums separated by nine foot buffer zone. (Mode 2.)
10951-N	DOT-E 10951	E.I. du Pont de Nemours & Company, Inc., Wilmington, DE.	49 CFR 179.100-15, 179.101-1.	To authorize the transportation of hydrogen chloride, refrigerated liquid, Division 2.3 in DOT-Specification 105A600W tank cars with relief device set to 380 psig and rupture disc at 400 psig. (Mode 2.)

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
10957-N	DOT-E 10957	Rhone-Poulenc Basic Chemicals Co., Shelton, CT.	49 CFR 174.67(a)(2)	To authorize the blocking and braking of the first and last tank car in a series of five tank cars, instead of each individual car, when engaged in unloading sulfuric acid and sulfuric acid, spent, Class 8. (Mode 2.)
10962-N	DOT-E 10962	International Compliance Center (USA), Ltd., Niagara Falls, NY.	49 CFR Part 172, Subpart E & F, Part 177, Subpart C.	To authorize the manufacture, mark and sale of specially designed combination packaging for shipment of limited quantities of various classes of hazardous materials to be shipped with the required hazard labels. (Mode 1.)
10969-N	DOT-E 10969	Brights Associates, Inc., Tonawanda, NY.	49 CFR 173.304(a)(2), 173.34(d) and (e).	To authorize the manufacture, mark and sale of non-DOT specification full open head, steel salvage cylinders for overpacking damaged or leaking chlorine cylinders. (Mode 1.)
10970-N	DOT-E 10970	Luxfer USA Limited, Riverside, CA.	49 CFR 173.302(a)(1), 173.304(a)(d), 175.3.	To authorize the manufacture, mark and sale of a fully overwrapped, aluminum-lined, composite cylinder meeting the design and qualification requirements of DOT FRP-1 standard for use in transporting various commodities classed as Division 2.1 and 2.2. (Modes 1, 2, 3, 4, 5.)
10973-N	DOT-E 10973	Richards-Gregory & Associates, Inc., Bolingbrook, IL.	49 CFR 173.119, 173.125, 173.245, 173.249, 173.249(a), 173.250(a), 173.256, 173.157, 173.262, 173.263, 173.264, 173.265, 173.266, 173.269, 173.272, 173.276, 173.277, 173.283, 173.287, 173.288, 173.289, 173.292, 173.297, 173.299(a), CFR 173.	To authorize the manufacture, mark and sale of composite portable tanks with a capacity up to 330 gallons, consisting of a rotationally molded polyethylene inner receptacle within a metal frame outer casing, for the shipment of certain hazardous materials. (Modes 1, 2).
10979-N	DOT-E 10979	Degussa Corporation, Ridgefield Park, NJ.	49 CFR 173.266(e)	To authorize the transportation of hydrogen peroxide, aqueous solutions, classed as Division 5.1 in polyethylene portable tanks meeting DOT Specification 57 in mixed loads. (Mode 1).
10989-N	DOT-E 10989	Eagle-Picher Ind, Inc., Joplin, MO.	49 CFR 173.159(g)(2)	To authorize the transport of electrolyte acid, or battery fluid alkaline, Class 8, included with storage batteries and filling kits overpacked in sealed steel drums when shipments are made by, for or to the Department of Defense. (Mode 1).
10993-N	DOT-E 10993	Columbia Helicopters, Inc., Portland, OR.	49 CFR 172.101(9)(b), 173.241-243.	To authorize the transportation of bulk quantities of flammable liquids in non-DOT specification seal drums (rollagons) up to 500 gallons capacity. (Mode 4).
11021-N	DOT-E 11021	Union Pacific RR Co. and Missouri Pacific RR Co., Omaha, NE.	49 CFR 173.318	To authorize the transportation of methane, classed in Division 2.1, in DOT-113C120W tank cars. (Mode 2).
11025-N	DOT-E 11025	Mass Systems, Inc., Baldwin Park, CA.	49 CFR 173.302(a)(2), 175.3, 178.44.	To authorize the manufacture, mark and sell of non-DOT specification welded stainless steel cylinders having 200 cubic inches maximum water capacity and 3800 psi maximum service pressure for transporting various Division 2.2 commodities. (Modes 1, 2, 4, 5).
11031-N	DOT-E 11031	Amfuel, Magnolia, AR	49 CFR Part 173, Subpart F.	To authorize the manufacture, mark and sell of specially designed truck mounted cargo tank for use in transporting Class 9 material. (Mode 1).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
11032-N	DOT-E 11032	L'Air Liquide—D.T.A., Sassenage, France.	49 CFR Part 173, Part 178.	To authorize the manufacture, mark and sell of non-DOT specification ring shaped steel cylinder in emergency breathing equipment for use in transporting compressed oxygen classed in Division 2.2 (Modes 1, 2, 3, 4, 5).
11033-N	DOT-E 11033	Witco Corporation, Hous- ton, TX.	49 CFR 173.302(a)(3)	To authorize the transport of compressed gas, flammable, n.o.s., classed in Division 2.1 in DOT specification 3AAX tube trailers. (Mode 1).
11044-N	DOT-E 11044	Southeastern Fumigants, Inc., Dawson, GA.	49 CFR 173.334	To authorize shipment of 2.2 dichlorovinyl dimethyl phosphate classed as Division 2.3 Zone C in a DOT Specification 4BA240 cylinder with 25 pounds of product. (Mode 1).
11045-N	DOT-E 11045	Sandoz Agro, Inc., Beau- mont, TX.	49 CFR 174.67(i)+(j)	To authorize chlorine filled tank cars to remain connected during unloading without the physical presence of an unloader. (Mode 2).
11050-N	DOT-E 11050	Chevron USA Products Co., Inc., San Fran- cisco, CA.	49 CFR 174.67(i)+(j)	To authorize the unloading of tank cars containing asphalt cement, classed as Class 9, without the physical presence of an unloader (Mode 2).
11054-N	DOT-E 11054	Welker Engineering Company, Sugar Land, TX.	49 CFR 178.36 Subpart C.	To authorize the manufacture, mark and sell of non-DOT specification cylinders conforming to 3A specification for use in shipment of various hazardous materials classed in Class 3, Division 2.1 and 2.3. (Modes 1, 2, 3, 4).
11057-N	DOT-E 11057	Conax Florida Corpora- tion, St. Petersburg, FL.	49 CFR 173.304	To authorize the manufacture, mark, and sell of welded non-DOT specification nonrefillable stainless steel cylinders conforming to DOT-Specification 39 for use in transporting nitrogen, compressed, classed as Division 2.2. (Modes 1, 4).
11058-N	DOT-E 11058	Spex Industries, Inc., Edison, NJ.	49 CFR 173.158(e)	To authorize the transport of nitric acid and hydrochloric acid, Class 8 material, in combination packaging in 4G fiber-board boxes with inside plastic bottles of not over 2.5 liter capacity. (Mode 1).
11070-N	DOT-E 11070	National Aeronautics & Space Administration, (NASA) Washington, DC.	49 CFR 173.304	To authorize the shipment of anhydrous ammonia, classed as Division 2.2, in non-DOT specification cylinders described as part of a closed loop thermal control system for the space program. (Mode 1).
11090-N	DOT-E 11090	Mobile Ripening Sys- tems, Inc., Jessup, MD.	49 CFR 177.809 and 177.817, Part 107, Subpart B, Appendix B, Part 172, Subparts C, D and E; 173.24(b)(1).	To authorize the controlled release of ethylene, contained in DOT specification cylinders, into a transport vehicle for the purpose of ripening fruits and vegetables. (Mode 1).
11091-N	DOT-E 11091	National Aeronautics and Space Administration, Washington, DC.	49 CFR 173.34(e)(15)	To authorize DOT Specification 3A or 3AA cylinders, over 35 years old, used in hydrogen service, to be exempt from certain retest requirements. (Mode 1).
11103-N	DOT-E 11103	Space Systems/Loral, Palo Alto, CA.	49 CFR 107.302, CFR 49.	To authorize the transport of GOES I Satellite containing propellant/pressurant tanks pressurized with nitrogen or helium classed as Division 2.2. (Mode 1).
11105-N	DOT-E 11105	Gulf States Paper Cor- poration, Demopolis, AL.	49 CFR 174.67(i)+(j)	To authorize chlorine filled tank cars to remain connected during unloading without the physical presence of an unloader. (Mode 2).
11107-N	DOT-E 11107	Teledyne McCormick Selph, Hollister, CA.	49 CFR 173.56(b)	To authorize the transport of explosive devices, classed as Division 1.1 mounted on aluminum trays with anti-static plastic bags overpacked in UN 4C1 plywood/wood boxes. (Mode 1).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
11109-N	DOT-E 11109	Matson Navigation Company, Inc., San Francisco, CA.	49 CFR 176.170(b)	To authorize an exemption from the 11,023 pound weight limit on explosives, classed as Division 1.5, transported in freight containers longer than 20 feet on cargo vessels. (Mode 3).
11110-N	DOT-E 11110	United Parcel Service Company (UPSCO), Louisville, KY.	49 CFR 49 CFR 175.75(a)(2).	To authorize the transportation of certain hazardous materials classed as D Division 1.4, Class 3, Division 6.1 and Class 8 when loaded an inaccessible location aboard an aircraft in quantities exceeding those authorized. (Modes 4, 5).
11111-N	DOT-E 11111	Great Lakes Chemical Corporation, El Dorado, AR.	49 CFR 173.315	To authorize the transport of hydrogen bromide, anhydrous, classed as Division 2.3, Hazard Zone C material shipped in MC-330 tank with a minimum design pressure of 375 psig. (Mode 1).
11115-N	DOT-E 11115	U.S. Department of Energy, Washington, DC.	49 CFR 173.416	To authorize a one time shipment of a Nordion International Gammacell 220 High Dose Rate Irradiator in a foreign approved Type B(U) package, radioactive material, special form, n.o.s., Cobalt-60, Class 7 consisting of a cylindrical steel-encased lead radiation shield with plywood overpack. (Mode 1).
11131-N	DOT-E 11131	Interstate Navigation Company, New London, CT.	49 CFR CFR 107.101	To authorize the transport of LPG propane gas, classed as Division 2.1, contained in cylinders on passenger ferries. (Mode 3).
11135-N	DOT-E 11135	Enron Clean Fuels Marketing Company, Houston, TX.	49 CFR 173.29(b)(ii)	To authorize the one-time shipment of a DOT Specification 111A100W1 rail car, containing methyl alcohol residue, Class 3. (Mode 2).
11136-N	DOT-E 11136	American Pyrotechnics Association, Chestertown, MD.	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320.	To authorize the transport of fireworks, 1.3G explosives which are forbidden for shipment by cargo-only aircraft. (Mode 4).
11168-N	DOT-E 11168	Aldrich Chemical Company, Inc. Milwaukee, WI.	49 CFR 173.21(b), 173.54(k), 173.57(a), 173.124(a).	To authorize the transportation of small quantities of 1-methyl-3-nitro-1-nitrosoguanidine (MNNG) a thermally unstable material, which is forbidden for transportation, to be shipped as a Division 4.1 when contained in specially designed packaging. (Modes 1, 2).
11176-N	DOT-E 11176	K.A. Steel Chemicals, Inc., Lemont, IL.	49 CFR 176.67(i)+(j)	To authorize chlorine filled tank cars to remain connected during unloading without the physical presence of an unloader. (Mode 2).
11179-N	DOT-E 11179	Jones-Hamilton Co., Newark, CA.	49 CFR 173.24(g), 173.29(a).	To authorize the transportation of empty, uncleaned non-DOT specification reusable plastic drums equipped with venting device, comparable to UN 1H1, containing sulfuric acid, Class 8. (Mode 1).
11189-N	DOT-E 11189	Morton International, Inc., Ogden, UT.	49 CFR 172.101, 173.56, 173.116.	To authorize automotive passive restraint inflators and/or modules, which are capable of passing certain UN test criteria, to be shipped as class 9. (Modes 1, 2, 3, 4, 5).
11212-N	DOT-E 11212	Temple-Inland Forest Products Corporation, Diboll, TX.	49 CFR 174.67(i) & (j) ...	To authorize chlorine filled tank cars to remain connected during unloading without the physical presence of an unloader. (Mode 2).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
11239-N	DOT-E 11239	CO.ME.F Carpentaria s.r.l., Tradate, Italy.	49 CFR 178.245-1(b)	To authorize the transportation of certain liquefied flammable and non-flammable refrigerant gases, Division 2.1 and 2.2, in non-DOT specification steel portable tanks equipped with openings in the shell which are not grouped together. (Modes 1, 2, 3).
11254-N	DOT-E 11254	Halliburton Energy Services, Houston, TX.	49 CFR 173.62(c), 49 CFR, Packing Method US006, Paragraph C and F.2.	To authorize transportation of jet perforating guns, charged, Division 1.4D, NA0124, on specially designed private offshore supply vessels. (Mode 3).

EMERGENCY EXEMPTIONS

EE 3095-X	DOT-E 3095	Dowell Schlumberger Inc., Houston, TX.	49 CFR 173.119(a), (b), 173.245(a), 173.249(a), 173.263(a), 173.264, 173.283, 173.289, 173.342-5, 178.343-5.	Authorizes the use of a privately owned and operated steel non-DOT specification cargo tank motor vehicle designed and constructed in full conformance with DOT Specification MC-300, MC-306, MC-307 or MC-311, MC-312 for shipment of corrosive and flammable liquids. (Modes 1, 3).
EE 3095-X	DOT-E 3095	Dowell Schlumberger Inc., Houston, TX.	49 CFR 173.119(a), (b), 173.245(a), 173.249(a), 173.263(a), 173.264, 173.283, 173.289, 178.342-5, 178.343-5.	Authorizes the use of a privately owned and operated steel non-DOT specification cargo tank motor vehicle designed and constructed in full conformance with DOT Specification MC-300, MC-306, MC-307 or MC-311, MC-312 for shipment of corrosive and flammable liquids. (Modes 1, 3).
EE 4803-P	DOT-E 4803	D-H Acquisition, Inc., Dallas, TX.	49 CFR 173.245, 173.248, 173.249, 173.263, 173.272, 173.289, 178.343-5.	To become a party to exemption 4803. (Mode 1).
EE 5923-X	DOT-E 5923	Parry Corp. (formerly Akron Welding & Spring Co.), North Royalton, OH.	49 CFR 173.148(a)(4), 173.31(d)(9), 173.314.	Authorizes the transport of certain flammable and nonflammable gases in DOT-106A500X and 110A500W multi-unit tank cars. (Modes 1, 2, 3).
EE 6530-X	DOT-E 6530	Valley Welding Supply Company, Wheeling, WV.	49 CFR 173.302(c)	Authorizes the shipment of hydrogen and mixtures of hydrogen with helium, argon or nitrogen in DOT Specification 3A, 3AA, 3AX or 3AAX steel cylinders. (Modes 1, 2).
EE 6530-X	DOT-E 6530	Parry Corp. (formerly Akron Welding & Spring Co.), North Royalton, OH.	49 CFR 173.302(c)	Authorizes the shipment of hydrogen and mixtures of hydrogen with helium, argon or nitrogen in DOT Specification 3A, 3AA, 3AX, or 3AAX steel cylinders. (Modes 1, 2).
EE 6614-X	DOT-E 6614	Auto-Chlor System, Memphis, TN.	49 CFR 173.245, 173.263(a)(28) and 173.277(a)(6).	Authorizes the use of non-DOT specification polyethylene bottles, packed inside a high density polyethylene box for transportation of certain corrosive liquids. (Mode 1).
EE 6691-X	DOT-E 6691	Valley Welding Supply Company, Wheeling, WV.	49 CFR 173.34(e)(15)(i), Part 107, Subpart B, Appendix B.	Authorizes the use of DOT Specification 3A or 3AA cylinders over 35 years old, which can be retested every 10 years, for transportation of certain flammable and nonflammable gases. (Modes 1, 2, 3, 4).
EE 6691-X	DOT-E 6691	Parry Corp. (formerly Akron Welding & Spring Co.), North Royalton, OH.	49 CFR 173.34(e)(15)(i), Part 107, Subpart B, Appendix B.	Authorizes the use of DOT Specification 3A or 3AA cylinders over 35 years old, which can be retested every 10 years, for transportation of certain flammable and nonflammable gases. (Modes 1, 2, 3, 4).
EE 6765-X	DOT-E 6765	Nippon Helium, Inc., Yokohama, Japan.	49 CFR 172.203, 173.318, 173.320, 176.30, 176.76(h), 177.840, 178.338.	Authorizes the use of non-DOT specification portable tanks for transportation of a flammable and a nonflammable gas. (Modes 1, 3).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 7835-X	DOT-E 7835	Scott Specialty Gases, Inc., Plumsteadville, PA.	49 CFR 177.848, Part 107, Appendix (B)(1).	Authorizes the transport of compressed gas cylinders bearing the flammable gas label, the oxidizer label, or the poison gas label and tank car tanks bearing the poison gas label on the same vehicle. (Mode 1).
EE 7891-X	DOT-E 7891	Farchan Laboratories, Inc., Gainesville, FL.	49 CFR 172.400, 172.402(a)(2), 172.402(a)(3), 172.504 Table 1, 172.504(a), 173.126, 173.138, 173.237, 173.246, 173.25(a), 175.3.	Authorizes the transport of packages bearing the DANGEROUS WHEN WET label, in motor vehicles which are not placarded FLAMMABLE SOLID W. (Modes 1, 2).
EE 7943-X	DOT-E 7943	Patterson Laboratories, Inc. (Patterson West), Goodyear, AZ.	49 CFR 173.263(a)(15), 173.272(c), 173.272(i)(12), 173.277(a)(1).	Authorizes the shipment of corrosive liquids in fiberboard boxes complying with DOT Specification 12B except for handholes in top flaps. (Mode 1).
EE 8156-X	DOT-E 8156	Valley Welding Supply Company, Wheeling, WV.	49 CFR 173.121, 173.302(a)(4), 173.302(f), 173.304(a)(1).	Authorizes the shipment of flammable gases in DOT Specification 39 cylinders up to 225 cubic inches in volume. (Modes 1, 2).
EE 8156-X	DOT-E 8156	Parry Corp. (formerly Akron Welding & Spring Co., North Royalton, OH.	49 CFR 173.121, 173.302(a)(4), 173.302(f), 173.304(a)(1).	Authorizes the shipment of flammable gases in DOT Specification 39 cylinders up to 225 cubic inches in volume. (Modes 1, 2).
EE 8214-X	DOT-E 8214	Mitsubishi Motor Sales of America, Inc., Cypress, CA.	49 CFR 171.11 (see paragraph 8.d.), 173.153, 173.154, 175.3.	Authorizes the shipment of inflators and modules, containing a Class C explosive classed as a flammable solid for passive restraint systems use automobiles. (Modes 1, 2, 3, 4).
EE 8458-X	DOT-E 8458	Welland Chemical Inc., Newell, PA.	49 CFR 173.31(c) Table 1, 179.202-12(b).	Authorizes the conversion of DOT Specification 105A500W or 112A400W tank cars to a DOT Specification 111A100W2 tank car. (Modes 2).
EE 8582-X	DOT-E 8582	Metro North Commuter Railroad Company, New York, NY.	49 CFR Parts 100-177 ..	Authorizes the transport of railway track torpedoes and fuses packed in metal kits in motor vehicles by railroad maintenance crews as nonregulated all carrier equipment. (Mode 1).
EE 8723-X	DOT-E 8723	Mt. State Bit Service, Inc., Morgantown, WV.	49 CFR 172.101, 173.114a(h)(3), 173.154, 176.415, 176.83.	Authorizes the use of non-DOT specification motor vehicles for bulk shipment of certain blasting agents. (Modes 1, 2).
EE 9047-X	DOT-E 9047	Valley Welding Supply Company, Wheeling, WV.	49 CFR 173.124(a)(2), 173.124(a)(4), 175.3.	Authorizes the use of copper-bearing (brass) valves in DOT specification cylinders and DOT Specification 5P drums containing ethylene oxide. (Modes 1, 2, 3, 4).
EE 9047-X	DOT-E 9047	Parry Corp. (formerly Akron Welding & Spring Co., North Royalton, OH.	49 CFR 173.124(a)(2), 173.124(a)(4), 175.3.	Authorizes the use of copper-bearing (brass) valves in DOT specification cylinders and DOT Specification 5P drums containing ethylene oxide. (Modes 1, 2, 3, 4).
EE 9145-X	DOT-E 9145	Exxon Pipeline Company, Houston, TX.	49 CFR 173.119, 173.304, 173.315.	Authorizes the use of a non-DOT specification container, for shipment of flammable gases. (Mode 1).
EE 9162-X	DOT-E 9162	Sun Pipe Line Company, Snyder, TX.	49 CFR 173.119, 173.304, 173.315.	Authorizes the use of a non-DOT specification container, for transportation of flammable liquids or flammable gases. (Mode 1).
EE 9346-X	DOT-E 9346	IMC Fertilizer, Inc., Mulberry, FL.	49 CFR 174.67(a)(2)	Authorizes setting of the brakes and blocking the wheels of the first and last tank cars on up to a 12 tank car assembly, instead of each individual car, when engaged in unloading crude oil and petroleum. (Mode 2).
EE 9816-X	DOT-E 9816	Amrex Chemical Company, Inc., Binghamton, NY.	49 CFR 173.277(a)(9)	Authorizes the shipment of hypochlorite solution, more than 7 percent available chlorine by weight, in non-DOT specification cargo tanks. (Mode 1).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 10001-X	DOT-E 10001	Valley Welding Supply Company, Wheeling, WV.	49 CFR 173.316, 173.320.	Authorizes the transport of argon containing up to 10 percent oxygen as a refrigerated liquid in DOT Specification 4L cylinder. (Mode 1).
EE 10001-X	DOT-E 10001	Parry Corp. (formerly Akron Welding & Spring Co., North Royalton, OH.	49 CFR 173.316, 173.320.	Authorizes the transport of argon containing up to 10 percent oxygen as a refrigerated liquid in DOT Specification 4L cylinder. (Mode 1).
EE 10184-X	DOT-E 10184	Valley Welding Supply Company, Wheeling, WV.	49 CFR 173.34(e)(10), 173.34(e)(9).	Authorizes the shipment of a specific gas mixture in DOT Specification 4B, 4BA or 4BW cylinders retested in accordance with the provisions of 49 CFR 173.34(e)(9) and (e)(10). (Modes 1, 2, 3).
EE 10184-X	DOT-E 10184	Parry Corp. (formerly Akron Welding & Spring Co., North Royalton, OH.	49 CFR 173.34(e)(10), 173.34(e)(9).	Authorizes the shipment of a specific gas mixture of DOT Specification 4B, 4BA or 4BW cylinders retested in accordance with the provisions of 49 CFR 173.34(e)(9) and (e)(10). (Modes 1, 2, 3).
EE 10553-X	DOT-E 10553	All Pure Chemical Company, Tracy, CA.	49 CFR 176.67(i) & (j) ...	Authorizes the use of tank car tanks loaded with chlorine, which is a nonflammable gas, to remain standing with the unloading connections attached. (Mode 2).
EE 10553-X	DOT-E 10553	All Pure Chemical Company, Tracy, CA.	49 CFR 176.76(i) & (j) ...	Authorizes the use of tank car tanks loaded with chlorine, which is a nonflammable gas, to remain standing with the unloading connections attached. (Mode 2).
EE 10576-X	DOT-E 10576	Simpson Tacoma Kraft Company, Tacoma, WA.	49 CFR 174.67(l), (J)	Authorizes the use of tank cars loaded with chlorine to be remotely monitored and attached to transfer connections during the unloading process. (Mode 2).
EE10660-X	DOT-E 10660	DuPont Merck Pharmaceutical Company, Billerica, MA.	49 CFR 172.402(a)(1), 172.403(e), 173.4(a)(1)(i-iii), 173.4(a)(1)(iv).	Authorizes the transportation of packages of hazardous materials that are labeled only for the primary radioactive material hazard class even though the small amount of materials contained in the package also meet the definition of a secondary hazard. (Modes 1, 4).
EE10660-X	DOT-E 10660	E.I. du Pont de Nemours & Company, Inc., Boston, MA.	49 CFR 172.402(a)(1), 172.403(e), 173.4(a)(1)(i-iii), 173.4(a)(1)(iv).	Authorizes the transportation of packages of hazardous materials that are labeled only for the primary radioactive material hazard class even though the small amount of materials contained in the package also meet the definition of a secondary hazard. (Modes 1, 4).
EE10693-X	DOT-E 10693	Vertex Chemical Corporation, St. Louis, MO.	49 CFR 174.67(i) and (j), Part 107, Appendix B.	Authorizes the use of tank cars, containing chlorine, to remain standing with unloading connections attached when no product is being transferred. (Mode 2).
EE10785-X	DOT-E 10785	Kay-Ray/Sensall, Inc., a subsidiary of Rosemount, Mt. Prospect, IL.	49 CFR 173.302, 175.3 .	Authorizes the manufacture, marking and sale of non-DOT specification containers (radiation detection chamber) in certain non-contacting measurement systems. (Modes 1, 2, 3, 4, 5).
EE11011-X	DOT-E 11011	Arco Alaska, Incorporated, Pasadena, CA.	49 CFR 173.31(n), 173.315(h), 173.315(i), 178.245-1, 178.245-4 and 178.245-5.	To authorize the one-time shipment for transportation in commerce of nonflammable liquefied compressed gas in a DOT specification ASME Code "Code U" stamped portable tank. (Mode 3).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE11071-X	DOT-E 11071	Riedel Environmental Services, Inc., Portland, OR.	49 CFR Parts 171, 172, 173 and 177.	To authorize the transportation in commerce of waste hazardous materials in certain non-DOT specification strong leak-proof metal, plastic, or lined wood non-bulk packagings suitable for the liquids or solids to be transported. (Mode 1).
EE11073-X	DOT-E 11073	E.I. du Pont de Nemours and Company, Wilmington, DE.	49 CFR 172.102(c)(3) Special Provision B14 and B74; and, 179.101-1..	To authorize the transportation of chlorosulfonic acid DOT Class 112S tank cars consted of ASTM 204-70, Type 304L stainless steel, equipped with full head shields. (Mode 2).
EE11095-X	DOT-E 11095	Westvaco Corporation, New York, NY.	49 CFR 173.29(c)(2), 173.31(b)(3), 179-100-12(c) and, 179.100-13.	To authorize the shipment of a DOT Specification 105A500W tank car, containing a Division 2.3 material, meeting all DOT requirements except that the tank car has a defective safety relief valve and chlorine "C" kit attached (Mode 2).
EE11119-P	DOT-E 11119	Dynatron/Bondo Corporation, Atlanta, GA.	49 CFR 173.152	To become a party to exemption 11119. (Modes 1, 2).
EE 11121-N	DOT-E 11121	U.S. Department of Defense, Washington, DC.	49 CFR 176.83(b) Table, 176.83(f) Table, and 173.136.	To authorize the transportation in commerce of certain hazardous materials on board cargo vessels operated under the U.S. Marine Corps Maritime Prepositioning Force (MPF) program and Military Sealift Command charter utilizing alternative stowage and segregation provision to those specified in 49 CFR Part 176. (Mode 3).
EE 11122-N	DOT-E 11122	Monsanto Chemical Co., St. Louis, MO.	49 CFR 173.32c(c)	To authorize the one time shipment in transportation is commerce of 45 DOT Specification IM 101 portable tanks, overdue for visual inspection, containing chloronitrobenzene, para, solid, for St. Louis, Missouri to Newport, UK. (Modes 1, 2, 3).
EE 11125-X	DOT-E 11125	Rhone-Poulenc Basic Chemical Company, Shelton, CT.	49 CFR 172.103, Special Revision B74.	To authorize the transportation in commerce of a Class 8 material meeting the definition of a poison inhalation material, in certain DOT Specification 105S300W tank cars with a safety relief device rated at 2 percent of the tank test pressure. (Mode 2).
EE 11140-N	DOT-E 11140	Liquid Carbonic Industries Corporation, Oak Brook, IL.	49 CFR 172.101 Table, Column (2).	To authorize the transportation in commerce of a carbon dioxide and ethylene oxide mixture (ethylene oxide 10% by weight or volume) classed as a Division 2.2. instead of Division 2.1 based on the mixture meeting the test criteria for a nonflammable gas. (Mode 1).
EE 11143-N	DOT-E 11143	United States Rail Services, San Francisco, CA.	49 CFR 179.200-25	To authorize the transportation in commerce of certain Class 3 materials in DOT Specification 111A100W1 tank cars equipped with ½" thick full head shields and restencldled to DOT 111S100W3. (Mode 2).
EE 11146-N	DOT-E 11146	Allied Signal Incorporated, Morristown, NJ.	49 CFR 173.31(b)(3), 179.100-12(c), 179.100-13.	To authorize the shipment of a DOT Specification 112S400W tank car, containing a class 8 material, meeting all DOT requirement except that the tank car has a defective safety relief valve and chlorine "C" kit attached. (Mode 2).
EE 11147-N	DOT-E 11147	The Boeing Company, Seattle, WA.	49 CFR 173.301(i)	To authorize the transportation in commerce of aircraft safety equipment which utilizes non-DOT specification cylinders containing certain compressed gases, Division 2.2. (Mode 1).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 11149-N	DOT-E 11149	Reactives Management Corporation, Chesapeake, VA.	49 CFR 173.21	To authorize the one time transportation in commerce of four containers of methyl ethyl ketone peroxide (MEKP), for forbidden for transportation, on a public highway for approximately 1.5 miles under police and fire department escort. (Mode 1).
EE 11150-P	DOT-E 11150	Casco Bay Island Transit District, Portland, ME.	49 CFR 172.101	To authorize the transportation in commerce of liquefied petroleum gas in DOT Specification cylinders, secured to transport vehicles on-passenger ferry vessels, which is not authorized by the regulations. (Mode 3).
EE11152-N	DOT-E 11152	Oriental World, Inc., Portland, OR.	49 CFR Parts 100-199 ..	To authorize the transportation in commerce of certain 1.4G explosives (Snappers and Pull-string trick noise makers) as non-regulated. (Mode 1).
EE11152-N	DOT-E 11152	Oriental World, Inc., Portland, OR.	49 CFR Parts 100-199 ..	To authorize the transportation in commerce of certain 1.4G explosives (Snappers and Pull-string trick noise makers) as non-regulated. (Mode 1).
EE11162-N	DOT-E 11162	Gabriel Chemicals, Inc., Houston, TX.	49 CFR 172.102, Special Provision B74 and 173.244(a).	To authorize the shipment of a class 8 material meeting the definition of a poison inhalation material, in certain DOT Specification 111A60W7 tank cars. (Mode 2).
EE11162-N	DOT-E 11162	Gabriel Chemicals, Inc., Houston, TX.	49 CFR 172.102, Special Provision B74 and 173.244(a).	To authorize the shipment of a class 8 material meeting the definition of a poison inhalation material, in certain DOT Specification 111A60W7 tank cars. (Mode 2).
EE11173-N	DOT-E 11173	Olin Corporation, Stamford, CT.	49 CFR 173.201, 173.226, 173.227, 178.61-5, 178.61-20.	The exemption authorizes the transportation in commerce of certain hazardous materials in stainless steel cylinders conforming in part with the DOT-4BW specification. (Modes 1, 2, 3, 4, 5).
EE11175-N	DOT-E 11175	Gabriel Chemicals, Inc., Houston, TX.	49 CFR 172.102, Special Provision B74 and 173.244(a).	To authorize the transportation of a Class 8 material, meeting the definition of a material poisonous by inhalation, in certain DOT Specification 111A60W7 tank cars. (Mode 2).
EE11175-N	DOT-E 11175	Gabriel Chemicals Inc., Houston, TX.	49 CFR 172.102, Special Provision B74 and 173.244(a).	To authorize the transportation of a Class 8 material, meeting the definition of a material poisonous by inhalation, in certain DOT Specification 111A60W7 tank cars. (Mode 2).
EE11175-N	DOT-E 11175	Gabriel Chemicals Inc., Houston, TX.	49 CFR 172.102, Special Provision B74 and 173.244(a).	To authorize the transportation of a Class 8 material, meeting the definition of a material poisonous by inhalation, in certain DOT Specification 111A60W7 tank cars. (Mode 2).
EE11200-N	DOT-E 11200	Olin Corporation, Stamford, CT.	49 CFR 173.31(a)(4) and 179.800-15.	To authorizes the transportation in commerce of methylhydrazine in DOT Specification 110A500W multi-unit tank car tanks which are not fitted with a pressure relief device. (Modes 1, 3).
EE11200-N	DOT-E 11200	Olin Corporation, Stamford, CT.	49 CFR 173.31(a)(4) and 179.800-15.	To authorizes the transportation in commerce of methylhydrazine in DOT Specification 110A500W multi-unit tank car tanks which are not fitted with a pressure relief device. (Modes 1, 3).
EE 11201-N	DOT-E 11201	Occidental Chemical Corporation, Dallas, TX.	49 CFR 173.29(a), 173.31(a)(1), 179.100-2(c) and 179.100-13(a).	To authorize the transportation in commerce of a DOT Specification 105A500@ tank car, containing a Division 2.3 material, meeting all DOT requirements except that the tank car has a defective safety relief valve which has been equipped with a chlorine "C" kit. (Mode 2).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 11201-X	DOT-E 11201	Occidental Chemical Corporation, Dallas, TX.	49 CFR 173.29(a), 173.31(a)(1), 179.100-2(c) and 179.100-13(a).	To authorize the transportation in commerce of a DOT Specification 105A500@ tank car, containing a Division 2.3 material, meeting all DOT requirements except that the tank car has a defective safety relief valve which has been equipped with a chlorine "C" kit. (Mode 2).
EE 11205-N	DOT-E 11205	Olin Corporation, Stamford, CT.	49 CFR 173.314(c)	To authorize the shipment of 38 DOT Specification 105A500W tank cars, containing a Division 2.3 material, meeting all DOT requirements except that the tank cars are overloaded. (Mode 2).
EE 11214-N	DOT-E 11214	Olin Corporation, Stamford, CT.	49 CFR 173.31(b)(3), 179.100-12(c).	To authorize the transportation of a DOT Specification 105A500W tank car, containing a Division 2.3 material, meeting all DOT requirement except that the tank car has a defective safety relief valve which is equipped with a chlorine "C" kit. (Mode 2).
EE 11215-N	DOT-E 11215	Orbital Sciences Corporation (OSC), Dulles, VA.	49 CFR and 173.62, Part 107, Subpart B, Appendix B; 172.102 note 109, Part 172 Subpart C, D, E, F; Part 173 Subpart E, G.	To authorize the transportation in commerce of certain hazardous materials, contained in a pegasus XL three stage winged solid fuel rocket in captive carry launch (CCL) configuration secured beneath a McDonnell Douglas L-1011 (L-1011) aircraft. The flight of the L-1011 must be in accordance with the range safety procedure of Vandenberg AFB, CA. (Mode 4).
EE 11216-N	DOT-E 11216	Boliden Intertrade Manufacturing, Inc., Copperhill, TN.	49 CFR 173.29(a), 17.31(a)(1), 179.100-129c) and 179.100-13.	To authorize the transportation in commerce of a DOT Specification 105A500W tank car, containing a Division 2.3 material, meeting all DOT requirements except that the tank car has two defective liquid eduction valves and a chlorine "C" kit attached. (Mode 2).
EE 11217-N	DOT-E 11217	U.S. Department of Defense, Washington, DC.	49 CFR 173.226(b)	To authorize the one-time transportation, in commerce, of methylhydrazine, a Division 6.1 material, contained in four UN1A1 drums which do not meet all requirements of 49 CFR 173.26 subject to the conditions and limitations specified. (Mode 1).
EE 11223-N	DOT-E 11223	ICI Canada, Incorporated, Montreal, Quebec, CN.	49 CFR 173.226(b)	To authorize the transportation of a DOT Specification 105A500W tank car, containing a Division 2.3 material, meeting all DOT requirements except that the tank car has a defective liquid eduction valve which is equipped with a chlorine "C" kit. (Mode 2.)
EE 11224-N	DOT-E 11224	Olin Corporation, Stamford, CT.	49 CFR 173.29(c)(2) and 173.31.	To authorize the transportation of a DOT Specification 105S400W tank car, containing a Division 2.3 material, meeting all DOT requirements except that the tank car is not equipped on the "A" end with a coupler vertical restraint system and has a damaged head shield and tank head. (Mode 2.)
EE 11225-N	DOT-E 11225	Sun Refining and Marketing Company, Philadelphia, PA.	49 CFR 174.9(b), 174.67(k).	To authorize the transportation in commerce of a DOT Specification 111A100W1 tank car, containing a residual amount of a Class 3 material, meeting all DOT requirements except that the tank car has defective interior heater coils. (Mode 2.)

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 11231-N	DOT-E 11231	The Dow Chemical Company, Midland, MI.	49 CFR 173.314(c)	To authorize the one-time transportation in commerce of a DOT Specification 105A600W tank car, containing a Division 2.3 material, poisonous by inhalation, meeting all DOT requirements except the internal product pressure is greater than 90 psig. (Mode 2.)
EE 11233-N	DOT-E 11233	U.S. Department of Defense, Washington, DC.	49 CFR 172.101, Column 8C, 172.510(a), 173.60, 173.61, 173.62, 174.26(a), 174.81, Subpart E of Part 174, and 176.76(a)(1).	To authorize the transportation of unloaded combat vehicles containing certain Class 1 material (Modes 2, 3.)
EE 11234-N	DOT-E 11234	Olin Corporation, Stamford, CT.	49 CFR 173.31(1)(4) and 179.300-15.	To authorize the transportation in commerce of methylhydrazine in DOT Specification 110A500W multi-tank car tanks which are not fitted with a pressure relief device. (Modes 1, 3.)
EE11235-N	DOT-E 11235	Consolidated Rail Corporation, Philadelphia, PA.	49 CFR 173.31(a)	To authorize the transportation in commerce of a DOT Specification 111A100WI tank car, containing a Class 3 material, meeting all DOT requirements except that the tank car has a 1/4" fracture extending approximately 5 feet across the bottom 1/3 of the "A" end tank head. (Mode 2.)
EE 11245-N	DOT-E 11245	IMC Fertilizer, Inc., Mundelein, IL.	49 CFR 173.29(c)(2), 173.31(a).	To authorize the transportation of a DOT Specification 111A100W1 tank car, containing a residue of a class B material, which does not fully comply with all DOT requirements. (Mode 2.)
EE 11246-N	DOT-E 11246	CSX Transportation, Incorporated, Jacksonville, FL.	49 CFR 173.31(a)(5)	To authorize the transportation of a DOT Specification 111A100W1 tank car, containing a class 8 material, meeting all DOT requirements except that the tank car is not equipped with a coupler vertical restraint system on the "A" end. (Mode 2.)
EE 11247-N	DOT-E 11247	Merichem Company, Houston, TX.	49 CFR 174.9(b) and 174.67(k).	To authorize the transportation in commerce of a DOT Specification 111A100W1 tank car, containing a class 8 material, meeting all DOT requirements except that the tank car has defective interior heater coils. (Mode 2.)
EE 11258-N	DOT-E 11258	Elf Atochem North America, Portland, OR.	49 CFR 173.31(b)(3), 179.100-12(c), and 179.100-13.	To authorize the shipment of a DOT Specification 105A500W tank car, containing a division 2.3 material, meeting all DOT requirements except that the tank car has a defective vapor line valve and chlorine "C" kit attached. (Mode).

WITHDRAWAL EXEMPTIONS

4884-X		Scott Specialty Gases, Inc., Plumsteadville, PA.	49 CFR 173.119(m), 173.136, 173.247, 173.251, 173.3(a), 173.302(a)(1), 173.304, 175.3, 178.61.	Authorizes the shipment of liquefied and nonliquefied compressed gases and a flammable liquid in stainless steel cylinders complying with DOT Specification 4BS with certain exceptions. (Modes 1, 2, 3, 4).
7076-X		LaMotte Company, Chestertown, MD.	49 CFR 173.286(b)	Authorizes the use of a packaging not authorized for transportation of a certain corrosive liquid and flammable liquid. (Modes 1, 2, 3).
7517-X		Trinity Industries, Inc., Dallas, TX.	49 CFR 173.314(c)	Authorizes the manufacture, marking, and sale of non-DOT specification fusion welded tank car tanks, for transportation of a nonflammable compressed gas. (Modes 1, 2, 3).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
7638-X		Minnesota Valley Engineering, Inc., Canton, GA.	49 CFR 173.316(a), 175.3.	Authorizes the manufacture, marking and sale of DOT Specification 4L cylinders for transportation of certain nonflammable compressed gases. (Modes 1, 2, 3, 4).
7891-X		Farchan Laboratories, Inc., Gainesville, FL.	49 CFR 172.400, 172.402(a)(2), 172.402(a)(3), 172.504 Table 1, 172.504(a), 173.126, 173.138, 173.237, 173.246, 173.25(a), 175.3.	To authorize the transport of packages bearing the DANGEROUS WHEN WET label, in motor vehicles which are not placarded FLAMMABLE SOLID W. (Modes 1, 2).
7891-X		Farchan Laboratories, Inc. Gainesville, FL.	49 CFR 172.400, 172.402(a)(2), 172.402(a)(3), 172.504 Table 1, 172.504(a), 173.126, 173.138, 173.237, 173.246, 173.25(a), 175.3.	Authorizes the transport of packages bearing the DANGEROUS WHEN WET label, in motor vehicles which are not placarded FLAMMABLE SOLID W. (Modes 1, 2).
7891-X		Farchan Laboratories, Inc. Gainesville, FL.	49 CFR 172.400, 172.402(a)(2), 172.402(a)(3), 172.504 Table 1, 172.504(a), 173.126, 173.138, 173.237, 173.246, 173.25(a), 175.3.	Authorizes the transport of packages bearing the DANGEROUS WHEN WET label, in motor vehicles which are not placarded FLAMMABLE SOLID W. (Modes 1, 2).
7945-X		HTL—Division of Pacific Scientific Company Duarte, CA.	49 CFR 172.101, 173.301(d)(2), 173.302(a)(3).	Deviate from flattening test, delete use by aircraft only, authorize the attachment of 3 actuating cartridges to cylinders (fire extinguishers) containing bromotrifluoromethane pressurized with nitrogen. (Modes 1, 2, 4).
8141-X		Yardney Technical Products, Inc. Pawcatuck, CT.	49 CFR 172.101, 173.206, 173.247.	Authorizes the transport of individual cells and modules consisting of three cells containing lithium metal and thionyl chloride. (Modes 1, 3).
8141-X		U.S. Department of Defense Falls Church, VA.	49 CFR 172.101, 173.206, 173.247.	Authorizes the transport of individual cells and modules consisting of three cells containing lithium metal and thionyl chloride. (Modes 1, 3).
8214-P		TRW Vehicle Safety Systems Queen Creek, AZ.	49 CFR 171.11 (see paragraph 8.d), 173.153, 173.154, 175.3.	To become a party to exemption 8214 (Modes 1, 2, 3, 4).
8426-X		Ancon Environmental Services Wilmington, CA.	49 CFR 173.119(a), (m), 173.245(a), 173.346(a), 178.340–7, 178.342–5, 178.343–5.	Authorizes the manufacture, marking and sale of non-DOT specification cargo tanks complying with DOT Specification MC–307/312, with certain exceptions for the transport of liquid and semisolid waste materials. (Mode 1).
8518-X		Pacific Petroleum Corporation Orcutt, CA.	49 CFR 173.119(a), (m), 173.245(a), 173.346(a), 178.340–7, 178.342–5, 178.343–5.	Authorizes the manufacture, marking and sale of non-DOT specification cargo tanks complying generally with DOT Specification MC–307/312 except for bottom outlet valve variations, for transportation of flammable or corrosive waste liquids or semisolids. (Mode 1).
8518-X		Pacific Construction & Maintenance Inc., Santa Paula, CA.	49 CFR 173.119(a), (m), 173.245(a), 173.346(a), 178.340–7, 178.342–5, 178.343–5.	Authorizes the manufacture, marking and sale of non-DOT specification cargo tanks complying generally with DOT Specification MC–307/312 except for bottom outlet valve variations, for transportation of flammable or corrosive waste liquids or semisolids. (Mode 1).
8723-X		Alaska-Pacific Powder Company, Anchorage, AK.	49CFR 172.101, 173.114a(h) (3), 173.154, 176.415, 176.83.	To authorize the use of non-DOT specification motor vehicles for bulk shipment of certain blasting agents. (Modes 1, 2).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8886-X		Amorex Corporation, Trussville, AL.	49 CFR 173.34(e)(8), (e)(9), 175.3.	Authorizes a longer time period between retests of DOT Specification 4B or 4B240ET cylinders containing a nonflammable gas. (Modes 1, 2, 4).
8886-X		Amerex Corporation, Trussville, AL.	49 CFR 173.34(e)(8), (e)(9), 175.3.	Authorizes a longer time period between retests of DOT Specification 4B or 4B240ET cylinders containing a nonflammable gas. (Modes 1, 2, 4).
8901-X		Great Lakes Chemical Corporation, El Dorado, AR.	49 CFR 173.357	Authorizes the shipment of chloropicrin in polyethylene bottles overpacked in non-DOT specification triple-wall, corrugated fiberboard boxes. (Modes 1, 3).
8970-X		WR Metals Industries, Inc., Denver, CO.	49 CFR 173.368	To authorize shipment of arsenical dust, in a non-DOT specification cylindrical steel container. (Modes 1, 2).
9346-X		Marsulex Inc., North York, Ontario, Canada.	49 CFR 174.67(a)(2)	Authorizes setting of the brakes and blocking the wheels of the first and last tank cars on up to a 12 tank car assembly, instead of each individual car, when engaged in unloading crude oil and petroleum. (Mode 2).
9374-X		Poly Processing Co. & Poly Cal Plastics, Monroe, LA.	49 CFR 173.114a(h)(3), 173.119, 173.256, 173.266, 173.268, 176.415, 176.83, 178.19, 178.253, Part 173, Subpart F.	Authorizes the manufacture, marking, and sale of non-DOT specification rotationally molded, cross-linked polyethylene portable tank enclosed within a protective steel frame, for shipment of corrosive liquids, flammable liquids or an oxidizer. (Modes 1, 2, 3).
9491-X		Air Products and Chemicals, Inc., Allentown, PA.	49 CFR 173.302, 173.304.	Authorizes the transport of hexafluoroethane and trifluoromethane in DOT Specification 3AL cylinders. (Modes 1, 2, 3, 4, 5).
9623-P		ICI Explosives USA Inc., Dallas, TX.	49 CFR 177.835(c)(3)	To become a party to exemption 9623 (Mode 1).
9678-X		Rossborough Manufacturing Company, Avon Lake, OH.	49 CFR 173.154	Authorizes the use of dry bulk tank semi-trailers for shipment of magnesium and calcium salt mixtures. (Mode 1).
9723-P		Midwest Environmental Transport, Inc., Cincinnati, OH.	49 CFR 177.848(b)	To become a party to exemption 9723 (Mode 1).
9920-X		Tri-Wall Company Louisville, KY.	49 CFR 173.245b, 173.365.	To authorize rail as an additional mode of transportation. (Modes 1, 2)
10479-N		Premier Air Center, Inc. East Alton, IL.	49 CFR 172.101, 175.3 .	To authorize the transportation of ammunition for cannon with empty projectile which is forbidden for shipment aboard cargo aircraft. (Mode 4)
10504-X		Solkatronic Chemicals, Inc. Fairfield, NJ.	49 CFR 173.119, 173.302, 173.304, 173.328, 173.34, 173.346.	Authorizes the use of a non-DOT specification full removable head salvage cylinder of 33 gallons capacity for overpacking damaged or leaking packages of pressurized and nonpressurized hazardous materials. (Mode 1)
10694-X		Polymet Alloys, Inc. Birmingham, AL.	49 CFR 173.178	Authorizes a one-time shipment of calcium silicon, a flammable solid, in non-DOT specification packagings. (Modes 1, 2)
10794-N		LND, Inc. Oceanside, NY	49 CFR 173.302, 175.3 .	To authorize the use of non-DOT specification containers described as hermetically sealed electron tube device for transporting various nonflammable gases. (Modes 1, 4, 5)
10795-X		Mobil Oil Corporation Fairfax, VA.	49 CFR 173.31(b)(1), 174.67(a)(7).	Authorizes the loading of tank cars coupled in a series with the bottom discharge outlet caps in place on all cars except the first and last, the setting of the hand brake and the blocking of a wheel in both directions on the first and last cars of a series of coupled tank cars prior to unloading. (Mode 2)

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
10843-N		Gopher Smelting & Refining Co. Eagan, MN.	49 CFR 173.260	To authorize the bulk transportation of wet electric storage batteries in a non-DOT specification container constructed of polyethylene material with a loaded capacity not to exceed 2000 pounds. (Mode 1)
10845-P		ICI Foreste Products Montreal Quebec, CN.	49 CFR 173.29(c)(2) and 173.31(c).	To become a party to exemption 10845 (Mode 2)
10872-N		WASAG USA, Inc. Wilmington, DE.		To authorize the transportation of limited quantities of black powder, class A explosive contained in one pound capacity polyethylene bottles overpack, not to exceed 25 bottles per fiberboard box to be reclassified and shipped as flammable solid. (Modes 1, 2, 3)
10943-X		Worthington Cylinder Corporation Columbus, OH.	49 CFR 173.34(d) and 178.65-10.	To authorize the use of certain DOT Specification 39 cylinder, which may have pressure relief devices not in conformance with the specification requirements, to be filled with helium. (Mode 1)
10988-N		Ensign-Bickford Company Simsbury, CT.	49 CFR 173.62	To authorize the shipment of articles, explosive, n.o.s., Division 1.4D, in interplant shipments on public highway in specifically designed containers (shock tubes). (Mode 1.)
10991-N		3M Company St. Paul, MN.	49 CFR 173.24(c) 173.314.	To authorize the transport of certain non-corrosive, liquefied gas classed as Division 2.2 in non-DOT specification tank, similar to a multi-unit tank car unit, with a water capacity of approximately 1800 pounds. (modes 1, 2, 3)
11053-N		PLM Transportation Equipment Corp. Chicago, IL.	49 CFR 172.102 SPB14	To authorize the transport of methylamine, anhydrous, classed in Division 2, 3, in non-insulated 112J340W and 112J400W tank cars. (Mode 2.)
11064-N		Exxon Chemical Company Linden, NJ.	49 CFR 171.8, 172.101, Appendix B.	To authorize certain products (lubricant additives) which contain small amounts of materials which meet the definition of marine pollutants to be shipped without being identified as marine pollutants. (Modes 1, 2.)
11084-N		Ethyl Corporation Baton Rouge, LA.	49 CFR 173.29(a)(2)	To authorize a one time shipment of two out-of-test DOT Specification 105A300W rail cars, containing motor fuel anti-knock mixtures residue, Division 6.1 (Mode 2.)
11089-N		LCP Chemicals Monmouth, Beach, NJ.	49 CFR 172.102 BP74 ..	To authorize the shipment of chloropicrin and residual amount of chloropicrin, Division 6.1, inhalation hazard in DOT Specification 105S and 105A tank cars without thermal protection. (Mode 1.)
11119-P		Akzo Coatings, Inc. Norcross, GA.	49 CFR 173.152	To become a party to exemption 11119 (Modes 1, 2.)
11137-N		BioSurface Technology, Inc. Cambridge, MA.	49 CFR 172.101(j), 172.101(k), 173.196(a)(b)(e) and (f), 173.24(e), 173.24(f), 173.24(i), 173.24a(a), 173.27(b), 173.27(c), 173.29(a), 178.609, 49 CFR.	To authorize the transport by courier of human skin grafts classed as infectious substances, Division 6.2 in specifically designed containers in quantities greater than those authorized by CFR. (Modes 1, 3, 5.)
11160-N		Dow Chemical Company Freeport, TX.	49 CFR 173.247	To authorize the bulk transport of molten magnesium, Class 9, in specifically design stainless steel 600 gallon container via specifically built road vehicles on private roads that cross state highways. (Modes 1, 2.)

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
11177-N		BHP Petroleum Americas Terminals, Inc. Honolulu, HI.	49 CFR 107.503(c)	To authorize an exemption from the R stamp requirements for cargo tank repairs. (Mode 1.)
11198-N		Macrotech, Inc. Los Angeles, CA.	49 CFR 178.42	To manufacture, mark and sell a non-DOT specification seamless aluminum cylinder comparable to a DOT Specification 3E for shipment of those hazardous materials authorized for shipment in a DOT Specification 3AL cylinder. (Modes 1, 2, 3, 4.)

	Denials		Denials
8938-X	Request by Cryogenic Services, Inc. Canton, GA to authorize the manufacture, marking, and sale of DOT Specification 4L welded cylinders for transportation of nonflammable gases denied March 22, 1994.	11007-N	Request by Noma Outdoor Products Jackson, TN to authorize the shipment of equipment with batteries installed without required markings denied November 9, 1993.
10718-N	Request by Tesco Resources, Inc. Prospect, CT to authorize the manufacture, mark and sell of an emergency collapsible overpack container for use in transporting leaking containers from spill scenes denied December 17, 1993.	11036-N	Request by Miles, Inc. Pittsburgh, PA to authorize the bulk transportation of thionyl chloride, classed in Division 8.6, UN 1836 in bulk cargo tank denied May 20, 1994.
10831-N	Request by Trinity Industries, Inc. Dallas, TX to authorize the transportation of non-DOT specification cylinders having welds that are not in conformance with ANSI-14.1-1971 but do comply with ASME Section VIII, Division 1 Standards for transporting uranium hexafluoride, classed as radioactive material denied March 22, 1994.	11081-N	Request by Central Welding Supplies, Inc. Lexington, KY to authorize compressed carbon monoxide, classed as Division 2.3, to be transported in DOT-3AA6000 cylinders at 4800 psi denied December 10, 1993.
10941-N	Request by Union Pacific Railroad Company Omaha, NE to authorize a placarded flatcar to be moved in an automated, gravity actuated, freight classification yard (hump yard) over the hump and roll free into various classification tracks using a controlled reduction of momentum computer system denied March 10, 1994.	11106-N	Request by E.P. Spray System East Hanover, NJ to manufacture mark and sell a specially designed system for use in an aerosol can containing 40 percent compressed air used to spray water base products or other nonflammable liquids to be shipped as essentially nonregulated denied May 20, 1994.
10961-N	Request by J.B. Hunt Special Commodities, Inc. (JBHSC) Hampton, AR to authorize transport of raffinate sludge, class 7—LSA with radioactivity concentration greater than the limit established, contained in DOT specification MC-312 cargo tanks denied March 25, 1994.	11130-N	Request by Clean Harbors Environmental Services, Inc. Quincy, MA to load, transport and store Division 6.1 liquids in Packing Group 1, Zone A packed in "lab-pack" drums on the same transport vehicle carrying packages containing various classes of hazardous materials denied November 30, 1993.
		11181-N	Request by Don Ross d/b/a Canning Air Service Fairbanks, AK to authorize the transportation of gasoline, Class 3, in DOT-34-15 polyethylene drums for carriage in small cargo only aircraft within the state of Alaska denied May 13, 1994.

Issued in Washington, DC, on February 22, 1995.

J. Suzanne Hedgepeth,

Chief, Exemption Programs, Office of Hazardous Materials Exemptions and Approvals.

[FR Doc. 95-4792 Filed 2-28-95; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1994 Rev., Supp. No. 10]

Surety Companies Acceptable on Federal Bonds: Christinia General Insurance Corporation of New York

A Certificate of Authority as an acceptable surety on Federal Bonds is hereby issued to the following company under Sections 9304 to 9308, Title 31, of the United States Code Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1994 Revision, on page 34148 to reflect this addition:

Christinia General Insurance Corporation of New York

Business Address: 120 White Plains Road, Tarrytown, NY 10591 Telephone No. (914) 631-3636. Underwriting Limitation b/: \$8,697,000. Surety Licenses c/: AL, AK, AR, CA, DC, ID, IA, KS, KY, MD, MS, NV, NY, ND, OH, PA, SD, TN, TX, UT, WA, WI, WY. Incorporated in: New York.

Certificates of Authority expire on June 30 each year, unless revoked prior to that date. The Certificates are subject to subsequent annual renewal as long as the companies remain qualified (31 CFR, Part 223). A list of qualified companies is published annually as of July 1 in Treasury Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information.

Copies of the Circular may be obtained for the Surety Bond Branch, Funds Management Division, Financial Management Service, Department of the

Treasury, Hyattsville, MD 20782,
Telephone (202) 874-6696.

Dated: February 16, 1995.

Charles F. Schwan III,

*Director, Funds Management Division,
Financial Management Services.*

[FR Doc. 95-4919 Filed 2-28-95; 8:45 am]

BILLING CODE 4810-35-M

Sunshine Act Meetings

Federal Register

Vol. 60, No. 40

Wednesday, March 1, 1995

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).

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Monday, March 6, 1995.

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: February 24, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95-5078 Filed 2-27-95; 9:59 am]

BILLING CODE 5210-01-P

Corrections

Federal Register

Vol. 60, No. 40

Wednesday, March 1, 1995

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Childhood Lead Poisoning Prevention Program Grantee Workshop; Notice

Correction

In notice document 95-2785 appearing on page 7062 in the issue of Monday, February 6, 1995, make the following correction:

In the third column, the heading should read as set forth above and in the second paragraph, in the second line "Guarantee" should read "Grantee".

BILLING CODE 1505-01-D

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

24 CFR Part 3500

[Docket No. R-95-1688; FR-3255-F-05]

RIN 2502-AF77

Real Estate Settlement Procedures Act (Regulation X); Escrow Accounting Procedures

Correction

In final rule document 95-3683 beginning on page 8812 in the issue of Wednesday, February 15, 1995, make the following corrections:

On page 8813, in the third column, in paragraph (i.) the formulas for computing the CPI were inadvertently omitted, and should appear as follows:

(i.) [Page 53904, § 3500.17(c)(7).] How does a servicer compute the Consumer Price Index (CPI) adjustment factor to estimate disbursements?

Answer: This factor is the ratio of the monthly CPI for all urban consumers, all

items, reported most recently, to the same monthly CPI reported 12 months earlier; i.e.:

$$\frac{\text{most recent monthly CPI}}{\text{monthly CPI for same month 12 months earlier}}$$

The adjustment is made by multiplying last year's disbursement by this ratio. For example, if last year's school tax bill was \$827, the value of the most recent CPI (September 1994) was 149.4, and the value of the CPI in September 1993 was 145.1, then the school tax projection using this technique may not exceed \$851.51:

$$\$827 \times \frac{149.4}{145.1} = \$851.51$$

The two CPI numbers must have the same base period and must either both be seasonably adjusted or both be not seasonably adjusted.

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910, 1915, and 1926

RIN 1218-AB25

Occupational Exposure to Asbestos

Correction

In rule document 95-4083 appearing on page 9624 in the issue of Tuesday, February 21, 1995, in the first column, the text under **DATES:** should read as follows: "These amendments take effect on February 21, 1995. For Part 1910-General Industry, for §1910.1001, the start-up dates for compliance for paragraph (d)(2)- initial monitoring, for paragraph (e) - regulated area, for paragraph (f) - methods of compliance, paragraph (g) - respiratory protection, paragraph (i) - hygiene facilities, paragraph (j) - communication of hazards, paragraph (k) - housekeeping and paragraph (l) - medical surveillance are extended to July 10, 1995. For Part 1915 - Shipyards, for §1915.1001, the start-up dates for compliance for paragraph (g) - methods of compliance, for paragraph (h) - respiratory protection, paragraph (j) - hygiene facilities, paragraph (k) - communication of hazards, paragraph (l) housekeeping, paragraph (m) - medical surveillance, and paragraph (o) -

competent person are extended to July 10, 1995. For Part 1926 - Construction for §1926.1101, the start-up dates for compliance for paragraph (g) - methods of compliance, paragraph (h) - respiratory protection, paragraph (j) - hygiene facilities, paragraph (k) - communication of hazards, paragraph (l) - housekeeping, paragraph (m) - medical surveillance and paragraph (o) - competent person are extended to July 10, 1995".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 25, 121, and 135

[Docket No. 26192, Amendments Nos. 25-83, 121-247 and 135-55]

RIN 2120-AD28

Improved Flammability Standards for Materials Used in the Interiors of Transport Category Airplane Cabins

Correction

In rule document 95-2114 beginning on page 6616 in the issue of Thursday, February 2, 1995, make the following corrections:

Appendix F to Part 25 [Corrected]

1. On page 6623, in the third column, in paragraph (b)(5), in the seventh line, "0.18" should read ".018".

2. On page 6624, in the second column, in the sixth line from the top, the heading of paragraph (b)(8)(ii) should read "Standard Three-Hole Upper Pilot Burner."

3. On page 6625, in the second column, in the fifth line from the top "Zero" should read "zero".

§ 121.312 [Corrected]

4. On page 6628, in the second column, in paragraph (a)(8), in the eighth line from the top, "(a-1)" should read "(a)(1)"

§ 135.170 [Corrected]

5. On page 6629, in the second column, in paragraph (b)(1)(vii), in the fifth line from the bottom, a ";" should be placed following "and".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[IA-42-93]

RIN 1545-AS93

**Adjustments Required by Changes in
Method of Accounting**

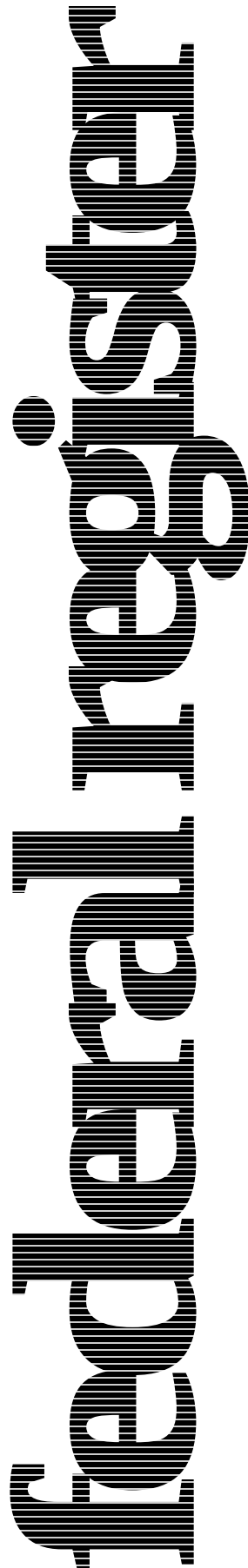
Correction

In proposed rule document 94-31531 beginning on page 66825 in the issue of Wednesday, December 28, 1994, make the following correction:

§1.446-1 [Corrected]

On page 66826, §1.446-1(e)(3)(iii), in the third line, "February 27, 1995" should read "December 27, 1994".

BILLING CODE 1505-01-D



Wednesday
March 1, 1995

Part II

Department of Defense General Services Administration

National Aeronautics and Space Administration

48 CFR Chapter 1
Federal Acquisition Regulation (FAR);
Acquisition of Commercial Items and
Components: Proposed Rule; and Agency
Information Collection Under OMB
Review; Notice

DEPARTMENT OF DEFENSE**GENERAL SERVICES
ADMINISTRATION****NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION****48 CFR Chapter 1****[FAR Case 94-790]****RIN 9000-AG38****Federal Acquisition Regulation;
Acquisition of Commercial Items**

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: This proposed rule is issued pursuant to the Federal Acquisition Streamlining Act of 1994 to implement the revised statutory authorities for the acquisition of commercial items and components by Federal Government agencies as well as contractors and subcontractors at all levels. This regulatory action was subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

DATES: Comments should be submitted on or before May 1, 1995 to be considered in the formulation of a final rule.

Public Meeting: March 17, 1995, 9:30 a.m. at the following location: General Services Administration, Auditorium, 18th & F Streets, NW., Washington, DC 20405.

Written and Oral Statements: Statements prepared for oral presentation must be sent to the FAR Secretariat at the address given below, not later than March 13, 1995.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW., room 4037, Washington, DC 20405. Please cite FAR case 94-790 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Colonel Laurence M. Trowel, Commercial Item Team Leader, at (703) 695-3858 in reference to this FAR case. For general information, contact the FAR Secretariat, room 4037, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAR case 94-790.

SUPPLEMENTARY INFORMATION:**A. Background**

The Federal Acquisition Streamlining Act of 1994, Pub. L. 103-355, provides

authorities that streamline the acquisition process and minimize burdensome Government-unique requirements. Major changes that can be expected in the acquisition process as a result of Federal Acquisition Streamlining Act implementation include changes in the areas of Commercial Item Acquisition, Simplified Acquisition Procedures, the Truth in Negotiations Act, and Introduction of the Federal Acquisition Computer Network (FACNET).

This notice announces FAR revisions developed under FAR case 94-790, Acquisition of Commercial Items, which encourage the acquisition of commercial end items and components by Federal Government agencies as well as contractors and subcontractors at all levels. The Commercial Item Drafting Team was organized and tasked with reviewing Title VIII of the Act and preparing implementing language for the FAR. The proposed revisions make changes throughout the FAR to incorporate the provisions of Title VIII. The most significant proposed revisions are in the following FAR parts:

FAR Part 2 has been amended to incorporate the definitions of "commercial item," "component," "commercial component" and "nondevelopmental item" from the Act with only minor revisions for clarification. The clause at 52.202-1, Definitions, has been similarly revised to make the definitions available to prime and subcontractors.

FAR Part 10 has been completely revised to address market research. It contains some language taken from the current FAR Part 11. This new part establishes the requirement for market research as the first step in the acquisition process. Market research is an essential element in the later steps of describing the agency's need, developing the overall acquisition strategy and identifying terms and conditions unique to the item being acquired.

FAR Part 11 has been completely revised to address the process of describing agency needs. It contains some of the language on specifications and standards formerly found in FAR Part 10, but takes a more streamlined approach. In addition, the revised Part 11 establishes the Government's order of precedence for requirements documents and addresses the concept of market acceptance contained in the Act. The revised Part 11 also contains coverage on Delivery or Performance Schedules, Liquidated Damages, Priorities and Allocations, and Variations in Quantity taken from the current Part 12 with only minor editorial revisions. The current

FAR Part 12 coverage on Suspension of Work, Stop Work Orders, and Government Delay of Work has been moved to Subpart 42.13 with only minor editorial revisions.

FAR Part 12 has been revised to address the acquisition of commercial items. The Team created this entirely new coverage to address in one FAR part both the policies and procedures for the acquisition of commercial items. FAR Part 12 was chosen to reinforce the expected sequence of events in approaching a given acquisition * * * market research (FAR Part 10), description of agency need (FAR Part 11), acquisition of commercial items, if they meet the agency's needs (FAR Part 12); and acquisition of other than commercial items using current FAR procedures (FAR Parts 13, 14 and 15). The Team also believes that moving the policies and procedures for the acquisition of commercial items to FAR Part 12 creates a clean break with past policies and procedures such as the Acquisition and Distribution of Commercial Products (ADCOP) program initiated in 1978 and currently described in FAR Part 11, and the DFARS 211 implementation of Section 824(b) of the 1990-1991 DOD Authorization Act.

—48 CFR Part 12, FAR Subpart 12.1 states that the policies and procedures in the revised FAR Part 12 are applicable to all acquisitions of commercial items above the micro-purchase threshold. The requirements of other parts of the FAR apply to commercial items to the extent they are not inconsistent with FAR Part 12;

—48 CFR Part 12, FAR Subpart 12.2 identifies special requirements for the acquisition of commercial items.

These requirements generally reflect the requirements of Title VIII.

—48 CFR Part 12, FAR Subpart 12.3 establishes standard provisions and clauses for use in the acquisition of commercial items. The Team believes this approach is essential to meet the requirements of the statute and offers contracting officers and industry an easy to use, simplified method for acquiring commercial items. However, the Team also recognizes that it is essential that contracting officers be allowed to tailor solicitations and contracts to meet the needs of the particular acquisition and the market place for that item. Subpart 12.3 gives contracting officers broad authority to tailor solicitations and contracts, a practice itself that is consistent with commercial practices. The Act requires that some constraints be placed on this authority

to tailor, and that has also been accommodated in this subpart.

- The Team proposes the establishment of a new form, the Standard Form XXXX, Solicitation/Contract/Order for Commercial Items. The proposed SF XXXX combines features of the SF 33, Solicitation, Offer and Award; the SF 1447, Solicitation/Contract; and the DD 1155, Order for Supplies and Services. The most significant element is the addition of acceptance blocks at the bottom of the form (patterned after the DD Form 1155). This will allow suppliers of commercial items to utilize the SF XXXX to document receipt of the supplies or services by the government avoiding the need for preparation of separate receipt/acceptance forms.
- 48 CFR Part 12, FAR Subpart 12.4 identifies the applicability of certain laws to the acquisition of commercial items. This subpart is intended to meet the requirements of Section 8003(a) of the Act which requires that the FAR contain a list of laws determined to be inapplicable to prime contracts for commercial items.
- FAR 12.402 contains the list of laws determined to be not applicable to executive agency prime contracts for acquisition of commercial items. This list has been expanded to also include those laws that have been revised in some manner to modify their applicability to commercial items. In each instance, the specific prescriptive language elsewhere in the FAR has been revised to reflect this modified applicability. FAR 12.402 only includes those laws that apply to prime contracts awarded by both DOD and civilian agencies. Agency unique laws determined to be not applicable to prime contracts are not addressed in this rule and may be addressed separately by the respective agencies.
- FAR 12.403 contains the list of laws determined to be not applicable to subcontracts for commercial items. This list has been expanded to also include those laws that have been revised in some manner to modify their applicability to subcontracts for commercial items. The list of laws to be included in 12.403 are contained in FAR case 94-791 which is currently under agency review and coordination. The list will be published in the **Federal Register** for public comment upon completion.
- 48 CFR Part 12, FAR Subpart 12.6 identifies two streamlined procedures for the solicitation and award of contracts for commercial items. These procedures may be used at the discretion of the contracting officer.

FAR Part 52 has been revised to include several new provisions and clauses to be inserted in all solicitations and contracts for the acquisition of commercial items:

- 52.212-1, Instructions to Offerors—Commercial Items, contains solicitation instructions unique to Government procurement and is based upon existing FAR language. The information has been simplified and tailored to meet the requirements of commercial items. For the most part, the simplified paragraphs in the new provision do not contain new concepts.
- 52.212-2, Evaluation—Commercial Items, contains evaluation information that has been simplified and tailored to meet the requirements of commercial items. Again, this provision does not contain new concepts and is generally based upon provisions prescribed in FAR Parts 14 and 15. This provision may be used at the discretion of the contracting officer. It requires the contracting officer to establish specific evaluation factors and the order of importance for each acquisition.
- 52.212-3, Offeror Representations and Certifications—Commercial Items, includes the certifications required to comply with laws or Executive orders. Instead of using the numerous certifications contained in the FAR, the Team drafted a single provision containing all the requirements that may apply to the acquisition of commercial items.
- 52.212-4, Contract Terms and Conditions—Commercial Items, contains the terms and conditions the Team believes are consistent with customary commercial practice by addressing general areas that previous studies have identified as the “core” areas covered by commercial contracts. Several concepts included in the clause at 52.212-4 represent significant changes from standard Government practices to commercial practices.
- 52.212-5, Contract Terms and Conditions Required to Implement Statutes or Executive orders—Commercial Items, implements provisions of law or executive orders applicable to Government acquisitions of commercial items or commercial components. The Team believes the clause at 52.212-5 represents the minimum number of clauses required to implement statutes. Certain clauses may apply depending upon the circumstances; the contracting officer will indicate which of these clauses apply for the

specific acquisition. In addition, this clause provides that the contractor is not required to include any FAR provision or clause in its subcontracts other than those listed in paragraph (d) of the clause. The clauses to be included on this list and flowed down to subcontractors for commercial items are currently under agency review and coordination. The list will be published in the **Federal Register** for public comment once coordination is complete.

- 52.244-XX, Subcontracts for Commercial Items and Commercial Components, implements the preference for the acquisition of commercial items or nondevelopmental items other than commercial items as components of items to be supplied under Federal contracts. This clause will be inserted in all solicitations and contracts for supplies and services other than commercial items. It provides that the contractor is not required to include in its subcontracts for commercial items any FAR provision or clause, other than those listed in the clause. The clauses to be included on this list and flowed down to subcontractors for commercial items are contained in FAR case 94-791 which is currently in agency review and coordination. This list will be published in the **Federal Register** for public comment once coordination is complete.

Public Meeting. The FAR Council is interested in an exchange of ideas and opinions on this rule. For that reason, the FAR Council is conducting a series of public meetings. A public meeting will be held on March 17, 1995, to enable the public to present its views on this rule. This rule will only be discussed at the public meeting session. Any subsequent public meetings will be devoted to other revisions to the FAR. The public is encouraged to furnish its views; the Council anticipates that public comments will be very helpful in formulating final rules.

Persons or organizations wishing to make presentations will be allowed 10 minutes each, provided they notify the FAR Secretariat at (202) 501-4755 and submit written statements of the presentation by March 13, 1995. Persons or organizations with similar positions are encouraged to select a common spokesman for presentation of their views. This meeting, in conjunction with the **Federal Register** notice soliciting public comments on the rule, will be the only opportunity for the public to present its views.

B. Regulatory Flexibility Act

The proposed language will have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* This rule will have this impact as a result of the following:

(1) It establishes a much broader definition of "commercial items" compared to the language of either FAR Part 11 or by including certain modifications to existing items and by including certain commercial services. In both cases, small business is very likely to benefit from this expanded definition;

(2) It establishes a requirement for conducting market research in certain circumstances before issuing solicitations which should benefit small business by ensuring the contracting activity has conducted sufficient research to be aware of the availability of commercial items and the practices used in the commercial market place to acquire them. The rule also cautions contracting officers not to require potential sources to submit more than the minimum information necessary as a part of market research.

(3) It establishes a clear preference for the acquisition of commercial items thereby enabling more small businesses that offer commercial items to participate in Government acquisition;

(4) It establishes a clear preference for stating Government requirements in terms of functions to be performed, performance required, or essential physical characteristics rather than detailed, Government-unique design specifications thereby allowing a broader range of products of small businesses to satisfy the Government need;

(5) It establishes the Government order of precedence for requirements documents emphasizing performance-oriented documents and nongovernment standards rather than Federal/Military-unique standards thereby allowing a broader range of small businesses to participate in Government acquisitions;

(6) It allows contracting officers the flexibility to use either the solicitation, evaluation and award procedures in the revised Part 12 for acquiring commercial items, or the procedures in Part 13, 14 or 15 if they are more streamlined and beneficial thereby allowing maximum flexibility for contracting with small businesses;

(7) It allows the use of the streamlined terms and conditions for acquiring commercial items for every acquisition above the micropurchase threshold thereby allowing the maximum number

of small businesses to benefit from these procedures;

(8) It requires that, except in unique circumstances, that the Government utilize the contractor's quality assurance system thereby allowing small businesses to utilize their own quality system when selling commercial items rather than a Government-specified system;

(9) It requires that, when acquiring commercial items, the contracting officer may only use the solicitation provisions and contract clauses specifically established for acquiring commercial items and may only tailor those provisions and clauses when the customary practices in the market dictate the use of other terms and conditions; and

(10) By significantly limiting the flow down of Government-unique terms and conditions to subcontractors at all levels thereby minimizing the burden on a significant number of small businesses.

An Initial Regulatory Flexibility Analysis (IRFA) has been prepared and will be provided to the Chief Counsel for Advocacy for the Small Business Administration. A copy of the IRFA may be obtained from the FAR Secretariat. Comments are invited. Comments from small entities concerning the affected FAR subpart will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and should cite 5 U.S.C. 601, *et seq.* (FAR Case 94-790), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96-511) is deemed to apply because the proposed rule contains information collection requirements. Accordingly, a request for approval of a new information collection requirement concerning Acquisition of Commercial Items is being submitted to the Office of Management and Budget under 44 U.S.C. 3501, *et seq.* Public comments concerning this request are invited in a **Federal Register** notice which appears elsewhere in this issue.

List of Subjects in 48 CFR Chapter 1

Government procurement.

Dated: February 17, 1995.

Edward C. Loeb,

Deputy Project Manager for the Implementation of the Federal Acquisition Streamlining Act of 1994.

Therefore, it is proposed that 48 CFR Chapter 1 be amended as set forth below:

1. The authority citation for 48 CFR Chapter 1 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 2—DEFINITIONS OF WORDS AND TERMS

2. Section 2.101 is amended by adding in alphabetical order the definitions "Commercial component", "Commercial item", "Component", "Market research", and "Nondevelopmental item" to read as follows:

2.101 Definitions.

* * * * *

Commercial component means any component that is a commercial item.

Commercial item means—

(a) Any item, other than real property, that is of a type customarily used for nongovernmental purposes and that—

(1) Has been sold, leased, or licensed to the general public; or,

(2) Has been offered for sale, lease, or license to the general public;

(b) Any item that evolved from an item described in paragraph (a) of this definition through advances in technology or performance and that is not yet available in the commercial marketplace, but will be available in the commercial marketplace in time to satisfy the delivery requirements under a Government solicitation;

(c) Any item that would satisfy a criterion expressed in paragraph (a) or (b) of this definition, but for—

(1) Modifications of a type customarily available in the commercial marketplace; or

(2) Minor modifications of a type not customarily available in the commercial market place made to meet Federal Government requirements. Such modifications are considered minor if the change does not significantly alter a commercial item's function or essential physical characteristics. Minor is not defined by the specific dollar value or percentage basis of the change;

(d) Any combination of items meeting the requirements of paragraph (a), (b), (c), or (e) of this definition that are of a type customarily combined and sold in combination to the general public;

(e) Installation services, maintenance services, repair services, training services, and other services if such services are procured for support of an item referred to in paragraph (a), (b), (c), or (d) of this definition, and if the source of such services—

(1) Offers such services to the general public and the Federal Government contemporaneously and under similar terms and conditions; and

(2) Offers to use the same work force for providing the Federal Government with such services as the source uses for providing such services to the general public;

(f) Services of a type offered and sold competitively in substantial quantities in the commercial marketplace based on established catalog or market prices for specific tasks performed under standard commercial terms and conditions. This does not include services that are sold based on hourly rates without a fixed catalog price for a specific service performed;

(g) Any item, combination of items, or service referred to in paragraphs (a) through (f), notwithstanding the fact that the item, combination of items, or service is transferred between or among separate divisions, subsidiaries, or affiliates of a contractor; or

(h) A nondevelopmental item, if the procuring agency determines that the item was developed exclusively at private expense and has been sold in substantial quantities, on a competitive basis, to multiple State and local governments.

Component means any item supplied to the Federal Government as part of an end item or of another component.

* * * * *

Market research means collecting and analyzing information about capabilities within the market to satisfy agency needs.

* * * * *

Nondevelopmental item means—

(a) Any commercial item;

(b) Any previously developed item of supply that is in use by a department or agency of the United States, a State or local government, or a foreign government with which the United States has a mutual defense cooperation agreement;

(c) Any item described in paragraphs (a) or (b) of this definition that requires only minor modification or modifications of a type customarily available in the commercial marketplace in order to meet the requirements of the procuring department or agency; or

(d) Any item of supply being produced that does not meet the requirements of paragraph (a), (b), or (c) solely because the item is not yet in use.

* * * * *

PART 3—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

3. Section 3.404 is amended by removing “or” from the end of paragraph (b)(4); by redesignating paragraph (b)(5) as (b)(6) and adding a new paragraph (b)(5); and by revising paragraph (c) to read as follows:

3.404 Solicitation provision and contract clause.

* * * * *

(b) * * *

(5) The solicitation is for a commercial item (see parts 2 and 12); or

(c) The contracting officer shall insert the clause at 52.203–5, Covenant Against Contingent Fees, in all solicitations and contracts exceeding the simplified acquisition threshold other than those for commercial items (see parts 2 and 12).

* * * * *

4. Section 3.502–2 is amended by revising the introductory text of paragraph (i) to read as follows:

3.502–2 General.

* * * * *

(i) Requires each contracting agency to include in each prime contract, except contracts for commercial items (see part 12), a requirement that the prime contractor shall—

* * * * *

5. Section 3.502–3 is revised to read as follows:

3.502–3 Contract clause.

The contracting officer shall insert the clause at 52.203–7, Anti-Kickback Procedures, in all solicitations and contracts exceeding the simplified acquisition threshold (see part 13) other than those for commercial items (see part 12).

6. Section 3.503–2 is revised to read as follows:

3.503–2 Contract clause.

The contracting officer shall insert the clause at 52.203–6, Restrictions on Subcontractor Sales to the Government, in solicitations and contracts exceeding the simplified acquisition threshold in part 13. For procurements of commercial items, the contracting officer shall use the clause with its Alternate I.

PART 5—PUBLICIZING CONTRACT ACTIONS

7. Section 5.203 is amended by revising paragraphs (a), (b), and (c) to read as follows:

5.203 Publicizing and response time.

* * * * *

(a) A notice of contract action shall be published in the CBD at least 15 days before issuance of a solicitation except when the combined CBD synopsis/solicitation procedure for acquisition of commercial items is used (see 12.603).

(b) For each contract action in an amount estimated to be greater than \$25,000 but not greater than the simplified acquisition threshold, or for the acquisition of commercial items, the

contracting officer shall establish a response time which will afford potential offerors a reasonable opportunity to respond.

(c) Agencies shall allow at least a 30 day response time for receipt of bids or proposals from the date of issuance of a solicitation, if the contract action is expected to exceed the simplified acquisition threshold or is for other than the acquisition of commercial items (see part 12).

* * * * *

PART 6—COMPETITION REQUIREMENTS

8. Section 6.303–2 is amended by revising paragraph (a)(8) to read as follows:

6.303–2 Content.

(a) * * *

(8) A description of the market research conducted (see part 10) and the results or a statement of the reason market research was not conducted.

* * * * *

9. Section 6.502 is revised to read as follows:

6.502 Duties and responsibilities.

(a) Agency and procuring activity competition advocates are responsible for promoting the acquisition of commercial items, promoting full and open competition, challenging requirements that are not stated in terms of functions to be performed, performance required or essential physical characteristics, and challenging barriers to the acquisition of commercial items and full and open competition such as unnecessarily restrictive statements of work, unnecessarily detailed specifications, and unnecessarily burdensome contract clauses.

(b) Agency competition advocates shall—

(1) Review the contracting operations of the agency and identify and report to the agency senior procurement executive—

(i) Opportunities and actions taken to acquire commercial items to meet the needs of the agency;

(ii) Opportunities and actions taken to achieve full and open competition in the contracting operations of the agency;

(iii) Actions taken to challenge requirements that are not stated in terms of functions to be performed, performance required or essential physical characteristics;

(iv) Any condition or action that has the effect of unnecessarily restricting the acquisition of commercial items or competition in the contracting actions of the agency;

(2) Prepare and submit an annual report to the agency senior procurement executive, in accordance with agency procedures, describing—

(i) Such advocate's activities under this subpart;

(ii) New initiatives required to increase the acquisition of commercial items;

(iii) New initiatives required to increase competition;

(iv) New initiatives to ensure requirements are stated in terms of functions to be performed, performance required or essential physical characteristics;

(v) Any barriers to the acquisition of commercial items or competition that remain; and

(vi) Other ways in which the agency has emphasized the acquisition of commercial items and competition in areas such as acquisition training and research.

(3) Recommend to the senior procurement executive of the agency goals and plans for increasing competition on a fiscal year basis; and

(4) Recommend to the senior procurement executive of the agency a system of personal and organizational accountability for competition, which may include the use of recognition and awards to motivate program managers, contracting officers, and others in authority to promote competition in acquisition.

PART 7—ACQUISITION PLANNING

7.101 [Amended]

10. Section 7.101 is amended by removing the definition "Market survey".

11. Section 7.102 is revised to read as follows:

7.102 Policy.

(a) Agencies shall perform acquisition planning and conduct market research (see part 10) for all acquisitions in order to promote and provide for—

(1) Acquisition of commercial items or, to the extent that commercial items suitable to meet the agency's needs are not available, nondevelopmental items other than commercial items, to the maximum extent practicable (10 U.S.C. 2377 and 41 U.S.C. 251 *et seq.*); and

(2) Full and open competition (see part 6) or, when full and open competition is not required in accordance with part 6, to obtain competition to the maximum extent practicable, with due regard to the nature of the supplies or services to be acquired (10 U.S.C. 2301(a)(5) and 41 U.S.C. 253a(a)(1)); and

(b) This planning shall integrate the efforts of all personnel responsible for

significant aspects of the acquisition. The purpose of this planning is to ensure that the Government meets its needs in the most effective, economical, and timely manner. Agencies that have a detailed acquisition planning system in place that generally meets the requirements of 7.104 and 7.105 need not revise their system to specifically meet all of these requirements.

12. Section 7.103 is amended by revising paragraph (b); redesignating paragraphs (c) through (l) as (d) through (m) and adding a new paragraph (c); and in newly designated (m) by removing "10.002(c)" and inserting "11.001(b)" to read as follows:

7.103 Agency-head responsibilities.

* * * * *

(b) Encouraging offerors to supply commercial items, or to the extent that commercial items suitable to meet the agency needs are not available, nondevelopmental items other than commercial items in response to agency solicitations (10 U.S.C. 2377 and 41 U.S.C. 251, *et seq.*); and

(c) Promoting and providing for full and open competition with due regard to the nature of the supplies and services to be acquired (10 U.S.C. 2305(a)(1)(A) and 41 U.S.C. 253a(a)(1) (see parts 6 and 11).

* * * * *

13. Section 7.105 is amended in paragraph (a)(8)(iii) by revising the parenthetical to read "(see 11.001(d))"; by revising paragraph (b)(1); and by revising paragraph (b)(12)(i) to read as follows:

7.105 Contents of written acquisition plans.

* * * * *

(b) *Plan of action*—(1) *Sources*. Indicate the prospective sources of supplies and/or services that can meet the need. Consider required sources of supplies or services (see part 8). Include considerations of small business and small disadvantaged business concerns (see part 19). Address the extent and results of the market research and indicate their impact on the various elements of the plan.

* * * * *

(12) * * *

(i) The assumptions determining contractor or agency support, both initially and over the life of the acquisition, including consideration of contractor or agency maintenance and servicing (see subpart 7.3) and distribution of commercial items (see part 11);

* * * * *

PART 9—CONTRACTOR QUALIFICATIONS

14. Section 9.106–1 is amended by revising paragraph (a) to read as follows:

9.106–1 Conditions for preaward surveys.

(a) A preaward survey is normally required when the information on hand or readily available to the contracting officer is not sufficient to make a determination regarding responsibility. However, if the contemplated contract will have a fixed price at or below the simplified acquisition threshold or will involve the acquisition of commercial items (see part 12), the contracting officer should not request a preaward survey unless circumstances justify its cost.

* * * * *

15. Section 9.306 is amended in paragraph (f) introductory text by revising the parenthetical to read "(see 11.404)".

16. Part 10 is revised to read as follows:

PART 10—MARKET RESEARCH

Sec.

10.000 Scope of part.

10.001 Policy.

10.002 Procedures.

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

10.000 Scope of part.

This part prescribes policies and procedures for conducting market research to arrive at the most suitable approach to acquiring, distributing, and supporting supplies and services. This part implements requirements of 41 U.S.C. 253a(a)(1), 41 U.S.C. 264b, and 10 U.S.C. 2377.

10.001 Policy.

(a) The head of an agency shall—

(1) Ensure that, in coordination with customers, legitimate needs are identified and trade-offs evaluated to acquire items which meet those needs;

(2) Conduct market research appropriate to the circumstances—

(i) Before developing new requirements documents for an acquisition by that agency;

(ii) Before soliciting offers for acquisitions with an estimated value in excess of the simplified acquisition threshold; and

(iii) Before soliciting offers for acquisitions with an estimated value less than the simplified acquisition threshold when adequate information is not available and the circumstances justify its cost.

(3) Use the results of market research to determine—

(i) If commercial items or, to the extent commercial items suitable to meet the agency's needs are not available, nondevelopmental items other than commercial items are available that—

(A) Meet the agency's requirements;

(B) Could be modified to meet the agency's requirements; or

(C) Could meet the agency's requirements if those requirements were modified to a reasonable extent; and

(ii) Practices of firms engaged in producing, distributing, and supporting commercial items, such as terms for warranties, buyer financing, maintenance and packaging, and marking; and

(iii) Sources capable of satisfying the agency's requirements exist.

(b) When conducting market research, the head of an agency should not require potential sources to submit more than the minimum information necessary.

10.002 Procedures.

(a) Acquisitions begin with a description of the Government's needs stated in general terms sufficient to allow conduct of market research.

(b) Market research is then conducted to ascertain the availability of commercial items, as well as distribution and logistics support to meet those needs, and to identify market practices.

(c) The extent of market research will vary, depending on such factors as urgency, estimated dollar value, complexity, and past experience. Market research involves obtaining information such as—

(1) The availability of commercial items suitable as is or that could be modified to meet the agency's requirements;

(2) Customary practices regarding customizing, modifying or tailoring of items to meet customer needs and associated costs;

(3) Customary practices, including warranty, buyer financing, discounts, etc., under which commercial sales of the products are made;

(4) The requirements of any laws and regulations unique to the item being acquired; and

(5) The distribution and support capabilities of potential suppliers, including alternative arrangements and cost estimates.

(d) Techniques for conducting market research may include any or all of the following:

(1) Contacting experts regarding market capabilities to meet requirements.

(2) Reviewing the results of recent market research undertaken to meet similar or identical requirements.

(3) Publishing formal requests for information in appropriate technical and scientific journals.

(4) Querying Government data bases that provide information relevant to agency procurements.

(5) Participating in interactive, on-line communication among industry, acquisition personnel, and customers.

(6) Obtaining source lists of similar items from other contracting activities or agencies, trade associations or other sources.

(7) Reviewing catalogs and other generally available product literature, much of which are available on-line, published by manufacturers, distributors, and dealers.

(8) Holding presolicitation conferences.

(e) When initial market research indicates commercial or nondevelopmental items other than commercial items might not be available to satisfy agency needs, reevaluate the need and determine whether it can be restated to permit commercial or nondevelopmental items other than commercial items to satisfy the agency's needs.

17. and 18. Sections 11.000 and 11.001 are revised to read as follows:

11.000 Scope of part.

This part prescribes policies and procedures for describing agency needs and related considerations of acquisition streamlining.

11.001 Policy.

(a) In fulfilling requirements of 10 U.S.C. 2305(a)(1), 10 U.S.C. 2377, 41 U.S.C. 253a(a), and 41 U.S.C. 264b, agencies shall—

(1) Specify needs using market research in a manner designed to—

(i) Promote full and open competition (see part 6), with due regard to the nature of the supplies or services to be acquired; and

(ii) Only include restrictive provisions or conditions to the extent necessary to satisfy the minimum needs of the agency or as authorized by law.

(2) To the maximum extent practicable, ensure that acquisition officials—

(i) State requirements with respect to an acquisition of supplies or services in terms of—

(A) Functions to be performed;

(B) Performance required; or

(C) Essential physical characteristics;

(ii) Define requirements in terms that enable and encourage offerors to supply commercial items, or, to the extent that

commercial items suitable to meet the agency's needs are not available, nondevelopmental items other than commercial items, in response to the agency solicitations;

(iii) Provide offerors of commercial items and nondevelopmental items other than commercial items an opportunity to compete in any procurement to fill such requirements;

(iv) Require prime contractors and subcontractors at all levels under the agency contracts to incorporate commercial items or nondevelopmental items other than commercial items as components of items supplied to the agency; and

(v) Modify requirements in appropriate cases to ensure that the requirements can be met by commercial items or, to the extent that commercial items suitable to meet the agency's needs are not available, nondevelopmental items other than commercial items.

(b) The Metric Conversion Act of 1975, as amended by the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 205a, et seq.), designates the metric system of measurement as the preferred system of weights and measures for United States trade and commerce and it requires that each agency use the metric system of measurement in its procurements, except to the extent that such use is impracticable or is likely to cause significant inefficiencies or loss of markets to United States firms. Requiring activities are responsible for establishing guidance implementing this policy in formulating their requirements for acquisitions.

(c) To the extent practicable, contractors should be involved in recommending application and tailoring of requirements. Requiring agencies should apply specifications, standards, and related documents initially for guidance only, making final decisions on the application and tailoring of these documents as a product of the design and development process. Requiring agencies should not dictate detailed design solutions prematurely (see 7.101 and 7.105(a)(8)).

11.002 through 11.007 [Removed]

19. Sections 11.002 through 11.007 are removed.

20. Subparts 11.1 through 11.3 are added to read as follows:

Subpart 11.1—Selecting and Developing Requirements Documents

11.101 Order of precedence.

Agencies may select from existing requirements documents, modify or

combine existing requirements documents, or create new requirements documents to meet agency needs, consistent with the following order of precedence:

- (a) Documents mandated for use by law or regulation pursuant to law.
- (b) Performance-oriented documents:
 - (1) Nongovernment standards.
 - (2) Commercial item descriptions.
 - (3) Federal specifications and standards.
 - (4) Military specifications and standards.
 - (c) Design-based documents:
 - (1) Nongovernment standards.
 - (2) Federal specifications and standards.
 - (3) Military specifications and standards.
 - (d) Agency-unique standards, specifications and related publications issued by the government outside the military or Federal series for the non-repetitive acquisition of nondevelopmental items.

11.102 Standardization program.

Agencies shall select existing requirements documents or develop new requirements documents that meet the needs of the agency in accordance with the guidance contained in the Federal Standardization Manual and DOD 4120.3-M, Defense Standardization Program Policies and Procedures.

11.103 Market acceptance.

(a) Section 8002(c) of Pub. L. 103-355 provides that in accordance with agency procedures, the head of an agency may, under appropriate circumstances, require offerors to demonstrate that the items offered—

- (1) Have either—
 - (i) Achieved commercial market acceptance; or
 - (ii) Been satisfactorily supplied to an agency under current or recent contracts for the same or similar requirements; and
- (2) Otherwise meet the item description, specifications, or other criteria prescribed in the public notice and solicitation.

(b) The criteria to be considered in determining commercial market acceptance include—

- (1) The minimum need of the agency concerned; and
- (2) The entire relevant commercial market, including small business.

11.104 Items peculiar to one manufacturer.

Agency requirements shall not be written so as to specify a particular brand-name, product, or a feature of a product, peculiar to one manufacturer,

thereby precluding consideration of a product manufactured by another company, unless—

- (a) The particular brand-name, product, or feature is essential to the Government's requirements, and market research indicates other companies' similar products, or products lacking the particular feature, do not meet, or can not be modified to meet, the agency's minimum needs; and
- (b) The authority to contract without providing for full and open competition is supported by the required justifications and approvals (see 6.302-1).

Subpart 11.2—Using Requirements Documents

11.201 Identification and availability of specifications.

(a) Solicitations citing requirements documents listed in the General Services Administration (GSA) Index of Federal Specifications, Standards and Commercial Item Descriptions, the DoD Index of Specifications and Standards (DoDISS), or other agency index shall identify each document's approval date and the dates of any applicable amendments and revisions. Do not use general identification references, such as "the issue in effect on the date of the solicitation." Contracting offices will not normally furnish these cited documents with the solicitation, except when—

(1) The requirements document must be furnished with the solicitation to enable prospective contractors to make a competent evaluation of the solicitation;

(2) In the judgment of the contracting officer, it would be impracticable for prospective contractors to obtain the documents in reasonable time to respond to the solicitation; or

(3) A prospective contractor requests a copy of the requirements document.

(b) Contracting offices shall clearly identify in the solicitation any pertinent documents not listed in the GSA Index of Federal Specifications, Standards and Commercial Item Descriptions or DoDISS. Such documents shall be furnished with the solicitation.

(c) When documents refer to other documents, such references shall: (1) Be restricted to documents, or appropriate portions of documents, that apply in the acquisition; (2) cite the extent of their applicability; (3) not conflict with other documents and provisions of the solicitation; and (4) identify all applicable first tier references.

(d) The GSA Index of Federal Specifications, Standards and Commercial Item Descriptions and

DoDISS may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

11.202 Acquiring used or reconditioned material, former Government surplus property and residual inventory.

(a) Generally, all contractually furnished supplies and their components, including former Government property, will be new, including recycled (see 48 CFR part 23, FAR subpart 23.4 for policy on recovered materials). However, agencies may acquire used or reconditioned material, former Government surplus property, or residual inventory conforming to the solicitation's requirements, if the contracting officer determines that it is acceptable. When acquiring commercial items, the contracting officer should determine the customary practice in the industry before including a requirement for new materials. When such a determination is made, the solicitation shall clearly identify the supplies or their components that need not be new, along with the necessary details on their acceptability. Offerors wishing to provide such used or reconditioned material, former Government surplus property, or residual inventory shall do so in accordance with the clause at 52.211-5, New Material, or the provision at 52.211-6, Listing of Used or Reconditioned Material, Residual Inventory, and Former Government Surplus Property, and the clause at 52.211-7, Used or Reconditioned Material, Residual Inventory, and Former Government Surplus Property, as appropriate.

(b) Contracting officers shall consider the following when determining whether used or reconditioned materials, former Government surplus property, or residual inventory are acceptable:

- (1) Safety of persons or property.
- (2) Total cost to the Government (including maintenance, inspection, testing, and useful life).
- (3) Performance requirements.
- (4) Availability and cost of new materials and components.

(c) With regard to former Government surplus property, the contracting officer shall ensure that the prices paid for such items are reasonable considering overall cost savings to the Government. When a contract calls for material to be furnished at cost, the allowable charge for former Government surplus property shall not exceed the cost at which the contractor acquired the property.

11.203 Solicitation provisions and contract clauses.

(a) The contracting officer shall insert the provision at 52.211-1, Availability of Specifications Listed in the GSA Index of Federal Specifications, Standards and Commercial Item Descriptions, in solicitations that (1) are issued by civilian agency contracting offices and (2) cite specifications listed in the Index that are not furnished with the solicitation.

(b) The contracting officer shall insert the provision at 52.211-2, Availability of Specifications Listed in the DOD Index of Specifications and Standards (DoDISS), in solicitations that (1) are issued by DOD contracting offices and (2) cite specifications listed in the DoDISS that are not furnished with the solicitation.

(c) The contracting officer shall insert a provision substantially the same as the provision at 52.211-3, Availability of Specifications Not Listed in the GSA Index of Federal Specifications, Standards and Commercial Item Descriptions, in solicitations that cite specifications that are not listed in the Index and are not furnished with the solicitation, but may be obtained from a designated source.

(d) The contracting officer shall insert a provision substantially the same as the provision at 52.211-4, Availability for Examination of Specifications Not Listed in the GSA Index of Federal Specifications, Standards and Commercial Item Descriptions, in solicitations that cite specifications that are not listed in the Index and are available for examination at a specified location.

(e)(1) The contracting officer may insert the clause at 52.211-5, New Material, in solicitations and contracts for supplies. The clause shall not be used if it would be contrary to customary commercial practices for the item being acquired.

(2) The contracting officer may insert the clause in solicitations and contracts for services that may involve the incidental furnishing of parts.

(f)(1) The contracting officer may insert the provision at 52.211-6, Listing of Used or Reconditioned Material, Residual Inventory, and Former Government Surplus Property, in solicitations for supplies. The provision shall not be used if it would be contrary to customary commercial practice for the item being acquired.

(2) The contracting officer may insert the provision in solicitations for services that may involve the incidental furnishing of parts.

(g)(1) The contracting officer may insert the clause at 52.211-7, Used or

Reconditioned Material, Residual Inventory, and Former Government Surplus Property, in solicitations and contracts for supplies. The clause shall not be used if it would be contrary to customary commercial practice for the item being acquired.

(2) The contracting officer may insert the clause in solicitations and contracts for services that may involve the incidental furnishing of parts.

Subpart 11.3—Maintenance of Requirements Documents**11.301 Customer satisfaction.**

Acquisition organizations shall communicate with customers to determine how well the requirements document reflects the customer's needs and to obtain suggestions for corrective actions. Whenever practicable, the agency may provide affected industry an opportunity to comment on the requirements documents.

11.302 Maintenance of standardization documents.

(a) Agencies shall submit recommendations for changes to standardization documents listed in the GSA Index of Federal Specifications, Standards and Commercial Item Descriptions to the General Services Administration, Federal Supply Service, Office of Commodity Management, Washington, DC 20406. Agencies shall submit recommendations for changes to standardization documents listed in the DoDISS to the cognizant preparing activity.

(b) When an agency cites an existing standardization document but modifies it to meet its needs, the agency shall follow the guidance in Federal Standardization Manual and DOD 4120.3-M, Defense Standardization Program Policies and Procedures.

Subpart 11.4 [Redesignated from Subpart 12.1]

21. Subpart 12.1 is redesignated as Subpart 11.4 and sections 12.101 through 12.104 are redesignated as sections 11.401 through 11.404, respectively.

Subpart 11.4 Delivery or Performance Schedules

22. Newly designated section 11.401 is amended in paragraph (a) by revising the last sentence; and in the parenthetical of paragraph (c) by removing "subpart 12.2" and inserting "subpart 11.5". The revised text reads as follows:

11.401 General.

(a) * * * Schedules that are unreasonably tight or difficult to attain (1) tend to restrict competition, (2) are inconsistent with small business policies, and (3) may result in higher contract prices.

* * * * *

23. Newly designated section 11.402 is amended by revising paragraphs (a)(2) and (5) to read as follows:

11.402 Factors to consider in establishing schedules.

(a) * * *

(2) Industry practices;

* * * * *

(5) Production time;

* * * * *

11.404 [Amended]

24. Newly designated section 11.404 is amended in paragraph (a)(2) by removing "52.212-1" and inserting "52.211-8"; in paragraph (a)(3) by removing "52.212-2" and inserting "52.211-9"; and in paragraph (b) by removing "52.211-3" and inserting "52.211-10".

Subpart 11.5 [Redesignated]

25. Subpart 12.2 is redesignated as Subpart 11.5 and sections 11.501 through 11.504 are redesignated from sections 12.201 through 12.204.

11.504 [Amended]

26. Newly designated section 11.504 is amended in paragraph (a) by removing "52.212-4" and inserting "52.211-11"; in paragraph (b) by removing "52.212-5" and inserting "52.211-12"; and in paragraph (c) by removing "52.212-6" and inserting "52.211-13".

Subpart 11.6 [Redesignated from 12.3]

27. Subpart 12.3 is redesignated as Subpart 11.6 and sections 12.300 through 12.304 are redesignated as sections 11.600 through 11.604, respectively.

11.604 [Amended]

28. Newly designated section 11.604 is amended in paragraph (a) by removing "52.212-7" and inserting "52.211-14"; and in paragraph (b) by removing "52.212-8" and inserting "52.211-15".

Subpart 11.7 [Redesignated from 12.4]

29. Subpart 12.4 is redesignated as Subpart 11.7 and sections 12.401 through 12.403 are redesignated as 11.701 through 11.703, respectively.

11.703 [Amended]

30. Newly designated section 11.703 is amended in paragraph (a) by removing “52.212–9” and inserting “52.211–16”; in paragraph (b) by removing “52.212–10” and inserting “52.211–17”; and in paragraph (c) by removing “52.212–11” and inserting “52.211–18”.

31. Subpart 12.5 is redesignated as subpart 42.13 and sections 12.501 through 12.505 are redesignated as sections 42.1301 through 42.1305, respectively.

31a. Part 12 is revised to read as follows:

PART 12—ACQUISITION OF COMMERCIAL ITEMS

Sec.

12.000 Scope of part.

12.001 Definition.

Subpart 12.1—Acquisition of Commercial Items—General

12.101 Policy.

12.102 Applicability.

Subpart 12.2—Special Requirements for the Acquisition of Commercial Items

12.201 General.

12.202 Market research and description of agency need.

12.203 Solicitation, evaluation, and award.

12.204 Solicitation/contract form.

12.205 Offers.

12.206 Use of past performance.

12.207 Contract type.

12.208 Contract quality assurance.

12.209 Warranties.

12.210 Contract financing methods.

12.211 Technical data.

12.212 Other customary commercial practices.

Subpart 12.3—Solicitation Provisions and Contract Clauses for the Acquisition of Commercial Items

12.301 Scope of subpart.

12.302 Solicitation provisions and contract clauses for the acquisition of commercial items.

12.303 Tailoring of provisions and clauses for the acquisition of commercial items.

Subpart 12.4—Applicability of Certain Laws to the Acquisition of Commercial Items

12.400 Scope of subpart.

12.401 Applicability.

12.402 Applicability of certain laws to Executive agency contracts for the acquisition of commercial items.

Subpart 12.5—Unique Requirements for the Administration of Contracts for Commercial Items

12.501 General.

12.502 Pricing of changes.

12.503 Acceptance.

12.504 Termination.

Subpart 12.6—Streamlined Procedures for Solicitation and Award of Contracts for Commercial Items

12.601 General.

12.602 Streamlined evaluation of offers.

12.603 Streamlined solicitation for commercial items.

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

12.000 Scope of part.

This part prescribes policies and procedures unique to the acquisition of commercial items. It implements the Federal Government's preference for the acquisition of commercial items contained in Title VIII of the Federal Acquisition Streamlining Act of 1994 (Pub. L. 103–355) by establishing acquisition policies more closely resembling those of the commercial market place and encouraging the acquisition of commercial items and components at all levels.

12.001 Definition.

Subcontract, as used in this part, includes a transfer of commercial items between divisions, subsidiaries, or affiliates of a contractor or subcontractor.

Subpart 12.1—Acquisition of Commercial Items—General

12.101 Policy.

Agencies shall—

(a) Conduct market research to determine whether commercial items or nondevelopmental items other than commercial items are available that could meet the agency's requirements;

(b) Acquire commercial items or nondevelopmental items other than commercial items when they are available to meet the needs of the agency; and

(c) Require prime contractors and subcontractors at all levels to incorporate, to the maximum extent practicable, commercial items or nondevelopmental items other than commercial items as components of items supplied to the agency.

12.102 Applicability.

(a) This part shall be used for the acquisition of—

(1) Commercial items; and

(2) Nondevelopmental items other than commercial items, but only when competing with commercial items under the same terms, conditions and evaluation/award criteria (i.e., when at least one offer is received for a commercial item under the same solicitation).

(b) Contracts for the acquisition of commercial items are subject to the requirements in other parts of this

chapter. When a requirement in this part is inconsistent with a requirement in another part of this chapter, this part 12 shall take precedence for the acquisition of commercial items.

(c) This part shall not apply to the acquisition of commercial items at or below the micro-purchase threshold (see 48 CFR part 13, FAR subpart 13.6).

Subpart 12.2—Special Requirements for the Acquisition of Commercial Items

12.201 General.

Public Law 103–355 establishes special requirements for the acquisition of commercial items intended to more closely resemble those customarily used in the commercial market place. This subpart identifies those special requirements as well as other considerations necessary for proper planning, solicitation, evaluation and award of contracts for commercial items.

12.202 Market research and description of agency need.

(a) Market research is an essential element of building an effective strategy for the acquisition of commercial items and establishes the foundation for the agency description of need (see part 11), the solicitation, and resulting contract.

(b) The description of agency need must contain sufficient detail for potential offerors of commercial items to know which commercial products or services to offer. Generally, an agency's statement of need for a commercial item will describe the product or service to be acquired and explain how the agency intends to use the product or service in terms of function to be performed, performance requirement or essential physical characteristics. Describing the agency's need in these terms allows offerors to propose methods that will best meet the needs of the Government.

12.203 Solicitation, evaluation, and award.

(a) Contracting officers may use the procedures in parts 13, Simplified Acquisition Procedures; 14, Sealed Bidding; or 15, Contracting by Negotiation, as appropriate, for the acquisition of commercial items. However, regardless of the procedures being used, when a requirement in this part is inconsistent with a requirement in another part of this chapter, this part 12 shall take precedence.

(b) Where FACNET is available, it may be used to solicit and award contracts for commercial items (see part 4).

12.204 Solicitation/contract form.

The Standard Form XXXX, Solicitation/Contract/Order for Commercial Items, shall be used by the contracting officer when soliciting offers and awarding contracts for commercial items. This form contains the information necessary for solicitations and contracts as well as documenting receipt, inspection and acceptance of commercial items. Other Standard Forms are not compatible with the policies for the acquisition of commercial items in that they contain references to the Uniform Contract Format and certain FAR clauses that are not applicable to the acquisition of commercial items.

12.205 Offers.

(a) Contracting officers should, as part of market research, review existing product literature generally available in the industry to determine its adequacy for purposes of evaluation. If adequate, contracting officers shall use existing product literature from offerors of commercial items in lieu of requesting unique technical proposals.

(b) Contracting officers should allow offerors to propose more than one product that will meet a Government need in response to solicitations for commercial items. The contracting officer shall evaluate each product as a separate offer.

(c) Contracting officers may allow fewer than 30 days response time for receipt of offers for commercial items. The response time shall afford potential offerors a reasonable opportunity to respond to ensure adequate competition (see 5.203).

12.206 Use of past performance.

Past performance should be an important element of every evaluation and contract award for commercial items. Contracting officers should consider past performance data from a wide variety of sources both inside and outside the Federal Government in accordance with the policies and procedures contained in 48 CFR Part 9, (FAR) subpart 9.1 and 48 CFR Part 15, (FAR) subpart 15.6.

12.207 Contract type.

Firm fixed price contracts or fixed price contracts with economic price adjustment shall be used for the acquisition of commercial items. Use of any other contract type to acquire commercial items is prohibited.

12.208 Contract quality assurance.

Solicitations and contracts for commercial items shall use contractors' existing quality assurance systems as a

substitute for Government inspection and testing before tendering for acceptance unless customary market practices for the commercial item being acquired permits in-process inspection.

12.209 Warranties.

(a) To the maximum extent practicable, solicitations for commercial items shall require offerors to offer the Government at least the same warranty terms, including offers of extended warranties, offered to the general public in customary commercial practice. Solicitations may specify minimum warranty terms, such as minimum duration, appropriate for the Government's intended use of the item.

(b) Agencies shall consider warranties offered in light of established systems for their administration. When necessary, agencies shall establish procedures to permit the effective administration of commercial warranties to include identifying warranted items and warranty periods, facilitating return of warranted commercial items to the contractor for repair or replacement and collection of product performance information.

12.210 Contract financing methods.

Customary industry practice for some commercial items may include a form of buyer financing such as advance (pre-performance) payments or incremental (pre-delivery) payments based on time or specified performance milestones. If market research confirms that buyer financing is the customary industry practice for the commercial item to be acquired, the contracting officer may offer Government financing. Such financing shall be consistent with customary industry practices and the requirements and limitations of part 32.

12.211 Technical data.

Generally, the Government will acquire only the technical data customarily provided to the public. (See part 27.)

12.212 Other customary commercial practices.

Market research may indicate other customary commercial practices that are appropriate for the acquisition of the particular item. These practices should be considered for incorporation into the solicitation and contract if the contracting officer determines them essential to concluding a satisfactory business arrangement, in the Government's best interest, and not otherwise precluded by law or executive order.

Subpart 12.3—Solicitation Provisions and Contract Clauses for the Acquisition of Commercial Items.**12.301 Scope of subpart.**

This subpart establishes provisions and clauses to be used when acquiring commercial items.

12.302 Solicitation provisions and contract clauses for the acquisition of commercial items.

(a) In accordance with Section 8002 of Pub. L. 103-355 (41 U.S.C. 264, note), contracts for the acquisition of commercial items shall, to the maximum extent practicable, include only those clauses—

(1) Required to implement provisions of law or executive orders applicable to the acquisition of commercial items; or

(2) Determined to be consistent with customary commercial practice.

(b) To implement this Act, the contracting officer shall insert the following provisions in solicitations for the acquisition of commercial items, and clauses in solicitations and contracts for the acquisition of commercial items:

(1) *The provision at 52.212-1, Instructions to Offerors—Commercial Items.* This provision provides a single, streamlined set of instructions to be used when soliciting offers for commercial items and is incorporated in the solicitation by reference (see Block 26, SF XXXX). The contracting officer is not required to use any other provision. The contracting officer may tailor these instructions or provide additional instructions tailored to the specific acquisition in accordance with 12.303;

(2) *The provision at 52.212-3, Offeror Representations and Certifications—Commercial Items.* This provision provides a single, consolidated and streamlined list of certifications and representations for the acquisition of commercial items and is attached to the solicitation for offerors to complete and return with their offer. The contracting officer is not required to use any other provision containing a certification or representation. This provision may not be tailored except in accordance with subpart 1.4;

(3) *The clause at 52.212-4, Contract Terms and Conditions—Commercial Items.* This clause includes terms and conditions which are, to the maximum extent practicable, consistent with customary commercial practices and is incorporated in the solicitation and contract by reference (see Block 26, SF XXXX). The contracting officer is not required to use any other clause except as provided in 12.302(b)(4). The

contracting officer may tailor this clause in accordance with 12.303; and

(4) *The clause at 52.212-5, Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items.* This clause includes only those clauses required to implement provisions of law or executive orders applicable to the acquisition of commercial items. The contracting officer shall attach this clause to the solicitation and contract, and indicate which, if any, of the additional clauses cited in 52.212-5 are applicable to the specific acquisition. When either 15.804-2(b) or the exception at 15.804-1(a)(2) apply, the contracting officer shall include the appropriate clauses prescribed by part 15. The contracting officer is not required to include any other FAR clause in the contract. This clause may not be tailored except in accordance with 48 CFR part 1, subpart 1.4.

(c) The contracting officer may insert the provision at 52.212-2, Evaluation—Commercial Items, in solicitations for commercial items (see 12.602). If this provision is not used, a similar provision containing all evaluation factors required by 48 CFR part 14, subpart 14.2 or 48 CFR part 15, subpart 15.6 shall be included in the solicitation as an addendum (see 12.303(c)).

(d) Notwithstanding prescriptions contained elsewhere in the FAR, only the provisions and clauses prescribed in this subpart shall be required for use in solicitations and contracts for the acquisition of commercial items. The provisions and clauses in this part shall be revised by the FAR Council, as necessary, to reflect the applicability of future statutes and executive orders to contracts for the acquisition of commercial items in accordance with Section 34 of the Office of Federal Procurement Policy Act.

(e) Agencies shall supplement these provisions and clauses as necessary to reflect agency unique statutes.

12.303 Tailoring of provisions and clauses for the acquisition of commercial items.

(a) The provisions and clauses established in this subpart are intended to address, to the maximum extent practicable, customary commercial market place practices for a wide range of potential Government acquisitions of commercial items. However, because of the broad range of commercial items acquired by the Government and the variations in customary commercial practices across the entire market place, contracting officers may, after conducting appropriate market research, tailor the provision at 52.212-1, Instructions to Offerors—Commercial

Items, and the clause at 52.212-4, Contract Terms and Conditions—Commercial Items, to adapt to the market conditions for each acquisition.

(b) Contracting officers shall not tailor the clause at 52.212-4, Contract Terms and Conditions—Commercial Items, or otherwise include any additional terms or conditions in a solicitation or contract for commercial items that are inconsistent with customary commercial practice for the item being acquired unless a waiver is approved in accordance with agency procedures. The request for waiver must describe the customary commercial practice found in the market place, support the need to include a term or condition that is inconsistent with that practice and include a determination that use of the customary commercial practice is inconsistent with the needs of the government. A waiver may be requested for an individual or class of contracts for that specific item.

(c) Tailoring shall be by addenda to the solicitation and contract. The contracting officer shall indicate in Block 26 of the SF XXXX if addenda are attached. These addenda may include, for example, a continuation of the schedule of supplies/services to be acquired from blocks 18 through 21 of the SF XXXX; a continuation of the description of the supplies/services being acquired; further elaboration of any other item(s) on the SF XXXX; any other terms or conditions necessary for the performance of the proposed contract (such as options, ordering procedures for indefinite-delivery type contracts, warranties, contract financing arrangements, etc.).

Subpart 12.4—Applicability of Certain Laws to the Acquisition of Commercial Items

12.400 Scope of subpart.

As required by Section 34 of the Office of Federal Procurement Policy Act (41 U.S.C. 430), this subpart lists provisions of laws that (a) Are not applicable to contracts for the acquisition of commercial items, or (b) are not applicable to subcontracts, at any level, for the acquisition of a commercial item. This subpart also lists provisions of law that have been amended to eliminate or modify their applicability to either contracts or subcontracts for the acquisition of commercial items.

12.401 Applicability.

(a) This subpart applies to any contract or subcontract at any level for the acquisition of commercial items.

(b) Nothing in this subpart shall be construed to authorize the waiver of any provision of law with respect to any subcontract if the prime contractor is reselling or distributing commercial items of another contractor without adding value.

12.402 Applicability of certain laws to Executive agency contracts for the acquisition of commercial items.

(a) The following laws are not applicable to executive agency contracts for the acquisition of commercial items:

(1) 41 U.S.C. 43, Walsh-Healey Act (see 48 CFR part 22, subpart 22.6).

(2) 41 U.S.C. 254(a) and 10 U.S.C. 2306(b), Contingent Fees (see 3.404).

(3) 41 U.S.C. 416(a)(6), Minimum Response Time for Offers under Office of Federal Procurement Policy Act (see 5.203).

(4) 41 U.S.C. 701 *et seq.*, Drug-Free Workplace Act of 1988 (see 23.501).

(b) Certain requirements of the following laws have been eliminated for executive agency contracts for the acquisition of commercial items:

(1) 33 U.S.C. 1368, Requirement for a certificate and clause under the Federal Water Pollution Control Act (see 23.105);

(2) 40 U.S.C. 327 *et seq.*, Requirement for a certificate and clause under the Contract Work Hours and Safety Standards Act (see 22.305);

(3) 41 U.S.C. 57(a) and (b), and 58, Requirement for a clause and certain other requirements related to the Anti-Kickback Act of 1986 (see 3.502);

(4) 41 U.S.C. 423e(1)(B), Requirement for certain certifications under the Procurement Integrity Act (see 3.104-9);

(5) 42 U.S.C. 7606, Requirements for a certificate and clause under the Clean Air Act (see 23.105);

(6) 49 U.S.C. 40118, Requirement for a certificate and clause Fly American provisions (see 47.405);

(c) The applicability of the following laws have been modified in regards to Executive agency contracts for the acquisition of commercial items:

(1) 41 U.S.C. 253g and 10 U.S.C. 2402, Prohibition on Limiting Subcontractor Direct Sales to the United States (see 3.503);

(2) 41 U.S.C. 254(d) and 10 U.S.C. 2306a, Truth in Negotiations Act (see 15.804);

(3) 41 U.S.C. 422, Cost Accounting Standards (see 48 CFR part 99);

(d) The FAR prescription, provision or clause for each of these statutes has been revised in the appropriate part to reflect their proper application to the acquisition of commercial items.

12.403 Applicability of certain laws to subcontracts for the acquisition of commercial items.

(a) The following laws are not applicable to subcontracts under either a contract for the acquisition of commercial items or a subcontract for the acquisition of commercial items: [list of laws to be published in the **Federal Register** in a future proposed rule under FAR case 94-791]

(b) Certain requirements of the following laws have been eliminated for subcontracts under either a contract for the acquisition of commercial items or subcontract for the acquisition of commercial items: [list of laws to be published in the **Federal Register** in a future proposed rule under FAR case 94-791]

(c) The applicability of the following laws have been modified in regards to subcontracts under either a contract for the acquisition of commercial items or a subcontract for the acquisition of commercial items: [list of laws to be published in the **Federal Register** in a future proposed rule under FAR case 94-791]

(d) The FAR prescription, provision or clause for each of these statutes has been revised in the appropriate part to reflect their proper application to the acquisition of commercial items.

Subpart 12.5—Unique Requirements for the Administration of Contracts for Commercial Items

12.501 General.

This subpart outlines selected areas where the administration of contracts for commercial items differs substantially from the administration of other Government contracts.

12.502 Pricing of changes.

When the exceptions at 15.804-1(a) do not apply, the contracting officer shall include the appropriate clauses prescribed by part 15.

12.503 Acceptance.

Acceptance under the clause at 52.212-4, Contract Terms and Conditions—Commercial Items, assumes that the Government will rely on the contractor's assurances that commercial items tendered for acceptance conform to the requirements of the contract. The acceptance provision at 52.212-4 includes patent defects as a reason to revoke finality of acceptance.

12.504 Termination.

(a) The clause at 52.212-4, Contract Terms and Conditions—Commercial Items, contains procedures for termination of contracts for commercial

items, either for convenience or for cause, that are consistent with customary commercial practice. The contracting officer should consult with legal counsel prior to terminating any contract for cause.

(b) Contractors are required to notify the Government when there will be an excusable delay. Failure to notify the Government as soon as it is reasonably possible could result in termination for cause.

(c) The remedies available to the Government if a contract is terminated for cause are those available to any buyer in the marketplace and are not limited by part 49. The Government's preferred remedy will be to acquire similar items from another contractor and charge the terminated contractor with any excess procurement costs.

Subpart 12.6—Streamlined Procedures for Solicitation and Award of Contracts for Commercial Items

12.601 General.

This subpart provides (a) a streamlined procedure for evaluating offers for commercial items; and (b) a streamlined procedure for soliciting offers for commercial items. These procedures are intended to simplify the process of preparing and issuing solicitations, and evaluating offers for commercial items consistent with customary commercial practices. While the procedures described in this subpart are appropriate for many commercial items, other methods of evaluation may also be appropriate. The contracting officer may use these procedures for soliciting offers for commercial items in lieu of procedures contained in parts 13, 14 or 15.

12.602 Streamlined evaluation of offers.

(a) The Contracting officer may insert a provision substantially the same as the provision at 52.212-2, Evaluation—Commercial Items, in solicitations for commercial items. Paragraph (a) of the provision shall be tailored to the specific acquisition to describe the evaluation factors and relative importance of those factors. This provision contemplates an approach designed to select the source whose offer will provide the Government with the greatest value in terms of performance and other factors. Other methods of evaluation and basis for award may be more appropriate for a given acquisition.

(b) Offers shall be evaluated in accordance with the tailored criteria contained in the provision at 52.212-2, Evaluation—Commercial Items, and any addenda. For many commercial items,

the criteria need not be more detailed than technical (capability of the item offered to meet the Agency need), price and past performance. Technical capability may be evaluated by how well the proposed products meet the Government requirement instead of predetermined subfactors. Solicitations for commercial items do not have to contain subfactors for technical capability when the solicitation adequately describes its intended use. A technical evaluation would include examination of such things as product literature, product samples (if requested), technical features and warranty provisions. Past performance shall be evaluated in accordance with the procedures in 48 CFR part 15, subpart 15.6. The contracting officer shall ensure the instructions provided in the provision at 52.212-1, Instructions to Offerors—Commercial Items, and the evaluation criteria provided in the provision at 52.212-2, Evaluation—Commercial Items, are in agreement.

(c) Select the offer that is most advantageous to the Government based on the factors contained in the solicitation. Fully document the rationale for selection of the successful offeror including discussion of any trade-offs considered.

12.603 Streamlined solicitation for commercial items.

(a) To reduce the time required to solicit and award contracts for the acquisition of commercial items, the contracting officer may use this procedure which combines the CBD synopsis required by 5.203 and the issuance of the solicitation into a single document with the following limitations:

(1) FAR 5.207 limits submissions to the CBD to 12,000 textual characters (approximately 3½ single-spaced pages).

(2) This combined CBD synopsis/solicitation is only appropriate where the solicitation is relatively simple and is not recommended for use when lengthy addenda to the solicitation are necessary.

(b) To use these procedures, the contracting officer shall—

(1) Prepare the synopsis as described at 5.207 for items 1-16;

(2) In item 17, Description, include the following additional information:

(i) A statement that this is a combined synopsis/solicitation for commercial items prepared in accordance with the format in subpart 12.6, as supplemented with additional information included in this notice, and that a written solicitation will not be issued.

(ii) A statement that the solicitation document and incorporated provisions and clauses are those in effect through FAC ____.

(iii) A notice of small business or other set-aside, if applicable.

(iv) A list of contract line item number(s) and items, quantities and units of measure, (including option(s), if applicable).

(v) Description of requirements for the items to be acquired.

(vi) Date(s) and place(s) of delivery.

(vii) A statement regarding any addenda to the provision at 52.212-1, Instructions to Offerors—Commercial.

(viii) A statement regarding the applicability of the provision at 52.212-2, Evaluation—Commercial Items, if used, and the specific evaluation criteria to be included in paragraph (a) of that provision. If this provision is not used, describe the evaluation procedures to be used.

(ix) A statement advising offerors to include a completed copy of the provision at 52.212-3, Offeror Representations and Certifications—Commercial Items, with its offer.

(x) A statement regarding any addenda to the clause at 52.212-4, Contract Terms and Conditions—Commercial Items.

(xi) A statement regarding which, if any, of the additional FAR clauses cited in the clause at 52.212-5, Contract Terms and Conditions Required To Implement Statutes Or Executive Orders—Commercial Items, are applicable to the acquisition.

(xii) A statement regarding any additional contract requirement(s) or terms and conditions (such as contract financing arrangements, warranty requirements or GSA Delegation of Procurement Authority (DPA) case number (see FIRM 201-39.106-4)) determined by the contracting officer to be necessary for this acquisition and consistent with customary commercial practices.

(xiii) A statement regarding any applicable Commerce Business Daily numbered notes.

(xiv) The date, time and place offers are due.

(3) Response time for receipt of offers—

(i) Because the CBD synopsis and solicitation are contained in a single document, it is not necessary to publish a separate CBD synopsis 15 days before the issuance of the solicitation; and

(ii) When using the combined CBD synopsis/solicitation, contracting officers shall allow at least 15 days response time (see 5.203(b)).

(4) Post copies of the combined CBD synopsis/solicitation in accordance with 5.101(a)(2).

(5) Amendments to solicitations shall be published in the same manner as the initial synopsis/solicitation.

PART 13—SIMPLIFIED ACQUISITION PROCEDURES

13.501 [Amended]

32. Section 13.501 is amended in paragraph (c) by removing “12.4” and inserting “11.7”.

PART 14—SEALED BIDDING

14.201-2 [Amended]

33. 14.201-2 is amended in the parenthetical of paragraph (c) by removing “part 10, Specifications, Standards, and Other Product Descriptions” and inserting “part 11”; and in the parenthetical of paragraph (d) by removing “10.004(e)” and inserting “part 11”.

14.404-1 [Amended]

34. Section 14.404-1 is amended in paragraph (b) by removing “10.008” and inserting “11.201”.

PART 15—CONTRACTING BY NEGOTIATION

15.406-2 [Amended]

35. Section 15.406-2 is amended in the parenthetical of paragraph (c) by removing “part 10, Specifications, Standards, and Other Product Descriptions” and inserting “part 11”; and in the parenthetical of paragraph (d) by removing “10.004(e)” and inserting “part 11”.

36. Section 15.501 is amended by revising the definition “Commercial product offer” to read as follows:

15.501 Definitions.

* * * * *

Commercial item offer means an offer of a commercial item the vendor wishes to see introduced in the Government's supply system as an alternate or replacement for an existing supply item.

* * * * *

15.503 [Amended]

37. Section 15.503 is amended in paragraph (b) by removing the word “product” and inserting “item”.

38. Section 15.704 is amended by revising the second sentence to read as follows:

15.704 Items and work included.

* * * Raw materials, commercial items (see 2.101), and off-the-shelf items (see 46.101) shall not be included, unless their potential impact on contract cost or schedule is critical. * * *

PART 16—TYPES OF CONTRACTS

39. Section 16.201 is amended by adding a sentence at the end of the paragraph to read as follows:

16.201 General.

* * * The contracting officer shall use firm-fixed price or fixed-price with economic price adjustment contracts when acquiring commercial items.

40. Section 16.202-2 is amended by revising the introductory paragraph to read as follows:

16.202-2 Application.

A firm-fixed price contract is suitable for acquiring commercial items (see parts 2 and 12) or for acquiring other supplies or services on the basis of reasonably definite functional or detailed specifications (see part 11) when the contracting officer can establish fair and reasonable prices at the outset, such as when—

* * * * *

41. Section 16.301-3 is amended by redesignating paragraphs (a) through (c) as paragraphs (a)(1) through (a)(3), respectively, designating the introductory text as paragraph (a) introductory text; and adding paragraph (b) to read as follows:

16.301-3 Limitations.

(a) A cost-reimbursement contract may be used only when—

* * * * *

(b) The use of cost-reimbursement contracts is prohibited for the acquisition of commercial items (see parts 2 and 12).

16.603-2 [Amended]

42. Section 16.603-2 is amended in paragraph (e) by removing “12.304” and inserting “11.604”.

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

43. Section 22.305 is amended by redesignating paragraph (h) as (i) and adding a new paragraph (h) to read as follows:

22.305 Contract clause.

* * * * *

(h) Contracts for commercial items (see parts 2 and 12).

* * * * *

44. Section 22.604-1 is amended by revising paragraph (a) to read as follows:

22.604-1 Statutory exemptions.

* * * * *

(a) Any item in those situations where the contracting officer is authorized by the express language of a statute to

purchase “in the open market” generally (such as commercial items, see part 12); or where a specific purchase is made under the conditions described in 6.302–2 in circumstances where immediate delivery is required by the public exigency.

* * * * *

PART 23—ENVIRONMENTAL, CONSERVATION, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

45. Section 23.105 is amended at the end of paragraph (b)(2) by removing “or”; by redesignating paragraphs (b)(3) and (4) as (b)(4) and (5), respectively; and adding a new paragraph (b)(3) to read as follows:

23.105 Solicitation provision and contract clause.

* * * * *

(b) * * *

(3) The contract is for other than commercial items; or

* * * * *

46. Section 23.501 is amended by redesignating paragraphs (b) through (d) as (c) through (e) respectively, and adding a new paragraph (b) to read as follows:

23.501 Applicability.

* * * * *

(b) Contracts for the acquisition of commercial items (see part 12);

* * * * *

PART 36—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

36.206 [Amended]

47. Section 36.206 is amended by removing “12.202” and inserting “11.502”.

36.303 [Amended]

48. Section 36.303 is amended in paragraph (c)(4) by removing “12.1” and inserting “48 CFR part 11, subpart 11.4”.

PART 42—CONTRACT ADMINISTRATION

42.1105 [Amended]

49. and 50. Section 42.1105 is amended by removing the reference “subpart 12.3” and inserting “48 CFR part 11, subpart 11.6”.

Subpart 42.13 [Redesignated from subpart 12.5]

42.1304 [Amended]

51. Newly designated section 42.1304 (redesignated from 12.504) is amended in paragraph (a) by removing “52.212–15” and inserting “52.242–17”.

42.1305 [Amended]

52. Newly designated section 42.1305 (redesignated from 12.505) is amended in paragraph (a) by removing “52.212–12” and inserting “52.242–14”; in paragraph (b)(1) by removing “52.212–13” and inserting “52.242–15”; in paragraph (c) by removing “52.212–14” and inserting “52.242–16”; and in paragraph (d) by removing “52.212–15” and inserting “52.242–17”.

PART 44—SUBCONTRACTING POLICIES AND PROCEDURES

53. Subpart 44.4, consisting of sections 44.400 through 44.403, is added to read as follows:

Subpart 44.4—Subcontracts for Commercial Items and Commercial Components

Sec.

44.400 Scope of subpart.

44.401 Applicability.

44.402 Policy requirements.

44.403 Contract clause.

Subpart 44.4—Subcontracts for Commercial Items and Commercial Components

44.400 Scope of subpart.

This subpart prescribes the policies limiting the contract clauses a prime contractor may be required to apply to any subcontractors that are furnishing commercial items or commercial components in accordance with Section 8002(b)(2) (Pub. L. 103–355).

44.401 Applicability.

This subpart applies to all contracts and subcontracts. For the purpose of this subpart, the term “subcontract” has the same meaning as defined in part 12.

44.402 Policy requirements.

(a) To the maximum extent practicable—

(1) Contractors and subcontractors at all levels shall incorporate commercial items or nondevelopmental items other than commercial items as components of items delivered to the Government; and

(2) Agencies shall not require prime contractors to apply to any of its divisions, subsidiaries, affiliates, subcontractors or suppliers that are furnishing commercial items or commercial components any clause, except those—

(i) Required to implement provisions of law or executive orders applicable to subcontractors furnishing commercial items or commercial components; or

(ii) Determined to be consistent with customary commercial practice for the item being acquired.

(b) The clause at 52.244–XX, Subcontracts for Commercial Items and Commercial Components, implements the policy in paragraph (a) of this section. Notwithstanding any other clause in the prime contract, only those clauses identified in the clause at 52.244–XX are required to be in subcontracts for commercial items or commercial components.

(c) Agencies shall supplement the clause at 52.244–XX, as necessary to reflect agency unique statutes.

44.403 Contract clause.

The contracting officer shall insert the clause at 52.244–XX, Subcontracts for Commercial Items and Commercial Components, in solicitations and contracts for supplies or services other than commercial items.

PART 46—QUALITY ASSURANCE

54. Section 46.101 is amended by adding in alphabetical order the definition “Commercial item” to read as follows:

46.101 Definitions.

* * * * *

Commercial item (see 2.101).

* * * * *

55. Section 46.102 is amended by redesignating paragraph (f) as (g) and adding a new paragraph (f) to read as follows:

46.102 Policy.

* * * * *

(f) For the acquisition of commercial items, contractors are permitted to use their existing quality assurance system as a substitute for compliance with Government-specified requirements unless customary market practice for the commercial item being acquired permits in-process inspection (Pub. L. 103–355);

* * * * *

Subpart 46.2—Contract Quality Requirements

46.202 [Amended]

56. Section 46.202 is amended by removing “three” and inserting “four”.

57. Sections 46.202–1 through 46.202–3 are redesignated as 46.202–2 through 46.202–4 respectively, and a new 46.202–1 is added to read as follows:

46.202–1 Contracts for commercial items.

When acquiring commercial items (see part 12), the Government shall use contractors’ existing quality assurance system as a substitute for Government inspection and testing before tendering for acceptance unless customary market

practices for the commercial item being acquired permits in-process inspection.

58. Section 46.203 is amended by revising paragraph (a)(1); at the end of paragraph (a)(2) by removing the semicolon and “or” and inserting a period; and by removing paragraph (a)(3). The revised text reads as follows:

46.203 Criteria for use of contract quality requirements.

* * * * *

(a) * * *

(1) Commercial (described in commercial catalogs, drawing, or industrial standards; see part 2); or

* * * * *

46.204 [Removed and reserved]

59. Section 46.204 is removed and reserved.

60. Section 46.709 is revised to read as follows:

46.709 Warranties of commercial items.

The contracting officer should take advantage of commercial warranties, including extended warranties (where appropriate and in the Government's best interests), offered by the contractor for the repair and replacement of commercial items (see part 12).

58. Section 46.710 is amended by revising the first sentence of the introductory paragraph; by removing paragraphs (a)(2) and (b)(2) and redesignating paragraphs (a)(3) through (a)(6) as (a)(2) through (a)(5), and paragraphs (b)(3) through (b)(5) as (b)(2) through (b)(4), respectively. The revised text reads as follows:

46.710 Contract clauses.

The clauses and alternates prescribed in this section may be used in solicitations and contracts in which inclusion of a warranty is appropriate (see 46.709 for warranties for commercial items). * * *

* * * * *

61. Section 47.405 is amended by revising the last sentence to read as follows:

47.405 Contract clause.

* * * This clause does not apply to contracts awarded using the simplified acquisition procedures in part 13 or contracts for commercial items (see part 12).

PART 49—TERMINATION OF CONTRACTS

62. Section 49.501 is revised to read as follows:

49.501 General.

This subpart prescribes the principal contract termination clauses. For

contracts for the acquisition of commercial items, this part provides administrative guidance which may be followed when it is consistent with the requirements and procedures in the clause at 52.212–4, Contract Terms and Conditions—Commercial Items. In appropriate cases, agencies may authorize the use of special purpose clauses, if consistent with this chapter.

49.607 [Amended]

63. Section 49.607 is amended by removing “12.5” in the introductory text and inserting “48 CFR part 42, subpart 42.13”.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

64. Section 52.202–1 is amended by revising the date of the clause; by redesignating paragraphs (b) and (c) as (e) and (f), and adding new paragraphs (b), (c) and (d) to read as follows:

52.202–1 Definitions.

* * * * *

Definitions (Date)

* * * * *

(b) *Commercial component* means any component that is a commercial item.

(c) *Commercial item* means

(1) Any item, other than real property, that is of a type customarily used for nongovernmental purposes and that—

(i) Has been sold, leased, or licensed to the general public; or,

(ii) Has been offered for sale, lease, or license to the general public;

(2) Any item that evolved from an item described in paragraph (c)(1) of this clause through advances in technology or performance and that is not yet available in the commercial marketplace, but will be available in the commercial marketplace in time to satisfy the delivery requirements under a Government solicitation;

(3) Any item that would satisfy a criterion expressed in paragraphs (c)(1) or (c)(2) of this clause, but for—

(i) Modifications of a type customarily available in the commercial marketplace; or

(ii) Minor modifications of a type not customarily available in the commercial market place made to meet Federal Government requirements. Such modifications are considered minor if the change does not significantly alter a commercial item's function or essential physical characteristics. Minor is not defined by the specific dollar value or percentage basis of the change;

(4) Any combination of items meeting the requirements of paragraphs (c)(1), (2), (3), or (5) of this clause that are of a type customarily combined and sold in combination to the general public;

(5) Installation services, maintenance services, repair services, training services, and other services if such services are procured for support of an item referred to in paragraphs (c)(1), (2), (3), or (4) of this clause, and if the source of such services—

(i) Offers such services to the general public and the Federal Government contemporaneously and under similar terms and conditions; and

(ii) Offers to use the same work force for providing the Federal Government with such services as the source uses for providing such services to the general public;

(6) Services of a type offered and sold competitively in substantial quantities in the commercial marketplace based on established catalog or market prices for specific tasks performed under standard commercial terms and conditions. This does not include services that are sold based on hourly rates without a fixed price for a specific service performed;

(7) Any item, combination of items, or service referred to in subparagraphs (c)(1) through (c)(6), notwithstanding the fact that the item, combination of items, or service is transferred between or among separate divisions, subsidiaries, or affiliates of a Contractor; or

(8) A nondevelopmental item, if the procuring agency determines that the item was developed exclusively at private expense and has been sold in substantial quantities, on a competitive basis, to multiple State and local Governments.

(d) *Component* means any item supplied to the Federal Government as part of an end item or of another component.

* * * * *

(End of clause)

65. Section 52.203–6 is amended by revising the clause date; and by adding an Alternate I following paragraph (c)(5) to read as follows:

52.203–6 Restrictions on Subcontractor Sales to the Government.

* * * * *

Restrictions on Subcontractor Sales to the Government (Date)

* * * * *

Alternate I (DATE). As prescribed in 3.503–2, substitute the following paragraph in place of paragraph (b) of the basic clause:

(b) The prohibition in paragraph (a) of this clause does not preclude the Contractor from asserting rights that are otherwise authorized by law or regulation. For procurements of commercial items, the prohibition in paragraph (a) applies only to the extent that any agreement restricting sales by subcontractors results in the Federal Government being treated differently from any other prospective purchaser for the sale of the commercial item(s).

52.210–1 through 52.210–7 [Redesignated]

66. Sections 52.210–1 through 52.210–7 are redesignated as 52.211–1 through 52.211–7, respectively.

52.212–1 through 52.212–11 [Redesignated]

67. Sections 52.212–1 through 52.212–11 are redesignated as 52.211–8 through 52.211–18, respectively.

**52.212–12 through 52.212–15
[Redesignated]**

68. Sections 52.212–12 through 52.212–15 are redesignated as 52.242–14 through 52.242–17.

69. 52.212–1 through 52.212–5 Added.

52.212–1 through 52.242–15 [Added]

70. Part 52 is amended by adding new sections 52.212–1 through 52.212–5, to read as follows:

Sec.
52.212–1 Instructions to Offerors—
Commercial Items.

52.212–2 Evaluation—Commercial Items.

52.212–3 Offeror Representations and
Certifications—Commercial Items.

52.212–4 Contract Terms and Conditions—
Commercial Items.

52.212–5 Contract Terms and Conditions
Required to Implement Statutes or
Executive Orders—Commercial Items.

**52.212–1 Instructions to Offerors—
Commercial Items.**

As prescribed in 12.302(b)(1), insert the following provision:

**Instructions to Offerors—Commercial Items
(Date)**

Standard Industrial Classification (SIC) Code and Small Business Size Standard. The SIC code and small business size standard for this acquisition appear in Block 10 of the solicitation cover sheet (SF XXXX). However, the small business size standard for a concern which submits an offer in its own name, but which proposes to furnish an item which it did not itself manufacture, is 500 employees.

Submission of Offers. Submit offers to the office specified in this solicitation at or before the exact time specified in this solicitation. Offers may be submitted on the SF XXXX, letterhead stationery, or as otherwise specified in the solicitation. As a minimum, offers must show—

- (a) The solicitation number;
- (b) The time specified for receipt;
- (c) The name and address of the offeror;
- (d) A technical description of the items being offered in sufficient detail to determine compliance with the requirements in the solicitation. This may include product literature, warranty provisions, or other documents, if necessary;
- (e) Price;
- (f) "Remit to" address, if different than mailing address;
- (g) A completed copy of the representations and certifications at FAR 52.212–3;
- (h) Acknowledgment of Solicitation Amendments;
- (i) Past performance information, when included as an evaluation factor, to include recent and relevant contracts for the same or similar items and other references. At a minimum, this should include contract numbers, points of contact with telephone numbers and other relevant information; and
- (j) If the offer is not submitted on the SF XXXX, include a statement specifying the extent of agreement with all terms,

conditions, and provisions included in the solicitation. Offers that fail to furnish required representations or information, or take exception to the terms and conditions of the solicitation may be excluded from consideration.

Offered Prices. The offeror agrees to hold the prices in its offer firm for 30 calendar days from the date specified for receipt of offers, unless another time period is specified in an addendum to the solicitation.

Product Samples. When required by the solicitation, product samples shall be submitted at or prior to the time specified for receipt of offers. Unless otherwise specified in this solicitation, these samples shall be submitted at no expense to the Government, and returned at the sender's request and expense, unless they are destroyed during preaward testing.

Multiple Offers. Offerors are encouraged to submit multiple offers presenting alternative commercial items for satisfying the requirements of this solicitation. Each offer submitted will be evaluated separately.

Late Offers. Offers or modifications of offers received at the address specified for the receipt of offers after the exact time specified for receipt of offers will not be considered.

Contract Award. The Government intends to evaluate offers and award a contract without discussions with offerors. Therefore, the offeror's initial offer should contain the offeror's best terms from a price and technical standpoint. However, the Government reserves the right to conduct discussions if later determined by the Contracting Officer to be necessary. The Government may reject any or all offers if such action is in the public interest; accept other than the lowest offer; and waive informalities and minor irregularities in offers received.

Multiple Awards. The Government may accept any item or group of items of an offer, unless the offeror qualifies the offer by specific limitations. Unless otherwise provided in the Schedule, offers may not be submitted for quantities less than those specified. The Government reserves the right to make an award on any item for a quantity less than the quantity offered, at the unit prices offered, unless the offeror specifies otherwise in the offer.

(End of provision)

52.212–2 Evaluation—Commercial Items.

As prescribed in 12.602(c), the Contracting Officer may insert a provision substantially as follows:

Evaluation—Commercial Items (Date)

(a) The Government will award a contract resulting from this solicitation to the responsible offeror whose offer conforming to the solicitation will be most advantageous to the Government, price and other factors considered. The following factors [Contracting Officer insert relative order of importance (see 15.605)] shall be used to evaluate offers:

[Contracting Officer insert the significant evaluation factors and subfactors, such as (i) technical capability of the item offered to meet the Government requirement; (ii) price; (iii) past performance (see 15.605)].

Technical and past performance, when combined, are [Contracting Officer insert relative importance of evaluation factors (see 15.605)].

(b) *Options.* The Government will evaluate offers for award purposes by adding the total price for all options to the total price for the basic requirement. Evaluation of options shall not obligate the Government to exercise the option(s).

(c) The Government may determine that an offer is unacceptable if the prices proposed are materially unbalanced between line items or subline items.

(d) A written award or acceptance of offer mailed or otherwise furnished to the successful offeror within the time for acceptance specified in the offer shall result in a binding contract without further action by either party. Before the offer's specified expiration time, the Government may accept an offer (or part of an offer), whether or not there are negotiations after its receipt, unless a written notice of withdrawal is received before award.

(End of Provision)

**52.212–3 Offeror Representations and
Certifications—Commercial Items.**

As prescribed in 12.302(b)(2), insert the following provision:

**Offeror Representations and Certifications—
Commercial Items (Date)**

(a) *Definitions.* As used in this provision:

Emerging small business means a small business concern whose size is no greater than 50 percent of the numerical size standard for the standard industrial classification code designated.

Small business concern means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria and size standards in this solicitation.

Small disadvantaged business concern means a small business concern that—

(1) Is at least 51 percent unconditionally owned by one or more individuals who are both socially and economically disadvantaged or a publicly owned business, having at least 51 percent of its stock unconditionally owned by one or more socially and economically disadvantaged individuals; and

(2) Has its management and daily business controlled by one or more such individuals.

This term also means a small business concern that is at least 51 percent unconditionally owned by an economically disadvantaged Indian tribe or Native Hawaiian organization, or publicly owned business having at least 51 percent of its stock unconditionally owned by one or more of these entities which has its management and daily business controlled by members of an economically disadvantaged Indian tribe or Native Hawaiian organization and which meets the requirements of 13 CFR part 124.

Women-owned small business concern means a small business concern at least 51 percent owned by a woman or women or, in the case of any publicly owned business, at least 51 percent of the stock is owned by one

or more women; and whose management and daily business operations are controlled by one or more women.

Women-owned business concern means a concern which is at least 51 percent owned by one or more women; or in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and whose management and daily business operations are controlled by one or more women.

(b) **Taxpayer Identification Number (TIN)** (26 U.S.C. 6050M). (1) The offeror's TIN is _____. If the offeror does not have a TIN, provide an explanation with your offer. If the offeror is owned or controlled by a common parent that files its Federal income tax returns on a consolidated basis including the offeror, provide the name and TIN of the common parent—

Name _____
TIN _____

(2) **Type of Business Organization.** The offeror represents—

(i) If the offeror is a U.S. entity, it operates as: _____ a corporation incorporated under the laws of the State of _____ providing medical and health care services, or engaged in the billing and collecting of payments for such services; _____ an other corporate entity; _____ a sole proprietorship; _____ a partnership; _____ a hospital or extended care facility described in 26 CFR 501(c)(3) that is exempt from taxation under 26 CFR 501(a).

(ii) If the offeror is a foreign entity, it operates as: _____ an agency or instrumentality of a foreign government; or agency or instrumentality of a Federal, state or local Government.

(c) Representations required to implement provisions of the Small Business Act (15 U.S.C. 631 *et seq.*):

Note: Offerors must complete this paragraph (c) only if the resulting contract is to be performed inside the United States, its territories or possessions, Puerto Rico, the Trust Territory of the Pacific Islands, or the District of Columbia.

(1) **Small Business Concern.** The offeror represents and certifies as part of its offer that it ☐ is, ☐ is not a small business concern.

(2) **Small Disadvantaged Business Concern.** The offeror represents and certifies that it ☐ is, ☐ is not a small disadvantaged business concern.

(3) **Women-Owned Small Business Concern.** The offeror represents that it ☐ is, ☐ is not a women-owned small business concern.

Note: Complete paragraphs (c)(4) and (c)(5) only if this solicitation is expected to exceed the simplified acquisition threshold.

(4) **Women-Owned Business Concern.** The offeror represents that it ☐ is, ☐ is not, a women-owned business concern.

(5) **Priority for Labor Surplus Area Concerns.** Offeror identify the labor surplus areas in which costs to be incurred on account of manufacturing or production (by offeror or first-tier subcontractors) amount to more than 50 percent of the contract price:

(6) **Small Business Size for the Small Business Competitiveness Demonstration**

Program and for the Targeted Industry Categories under the Small Business Competitiveness Demonstration Program. [Complete only if the offeror has certified itself to be a small business concern under the size standards for this solicitation.]

(i) [Complete only for solicitations in the four designated industry groups.] The offeror represents and certifies as part of its offer that it ☐ is, ☐ is not an emerging small business.

(ii) [Complete only for solicitations in targeted industry categories expected to result in an award in excess of \$25,000.] Offeror represents and certifies as follows:

(A) Offeror's number of employees for the past 12 months (check this column if size standard stated in the solicitation is expressed in terms of number of employees); or

(B) Offeror's average annual gross revenue for the last 3 fiscal years (check this column if size standard stated in the solicitation is expressed in terms of annual receipts)

(Check one of the following):

Employees	Average annual gross number of revenues
50 or fewer.	\$1 million or less.
51–100.	1,000,001–2 million.
101–250.	2,000,001–3.5 million.
251–500.	3,500,001–5 million.
501–750.	5,000,001–10 million.
751–1,000.	10,000,001–17 million.
Over 1,000.	Over 17 million.

(d) Certifications and representations required to implement provisions of Executive Order 11246—

(1) **Certification of Non-segregated Facilities.** (Applies only if the contract amount is expected to exceed \$10,000)—

By submission of this offer, the offeror certifies that it does not and will not maintain or provide for its employees, any facilities that are segregated on the basis of race, color, religion, or national origin because of habit, local custom, or otherwise and that it does not and will not permit its employees to perform their services at any location where segregated facilities are maintained. The offeror agrees that a breach of this certification is a violation of the Equal Opportunity clause in the contract.

(2) **Previous Contracts and Compliance.** The offeror represents that—

(i) It ☐ has, ☐ has not, participated in a previous contract or subcontract subject either to the Equal Opportunity clause of this solicitation, the clause originally contained in Section 310 of Executive Order 10925, or the clause contained in Section 201 of Executive Order 11114; and

(ii) It ☐ has, ☐ has not, filed all required compliance reports

(3) **Affirmative Action Compliance.** The offeror represents that—

(i) It ☐ has developed and has on file, ☐ has not developed and does not have on file,

at each establishment, affirmative action programs required by rules and regulations of the Secretary of Labor (41 CFR subparts 60–1 and 60–2), or

(ii) It ☐ has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.

(e) **Certification Regarding Payments to Influence Federal Transactions** (31 U.S.C. 1352). (Applies only if the contract is expected to exceed \$100,000.) By submission of its offer, the offeror certifies to the best of its knowledge and belief that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress on his or her behalf in connection with the award of any resultant contract.

(f) **Buy American Act—Trade Agreements—Balance of Payments Program Certificate.** (Applies only if FAR clause 52.225–9, Buy American Act—Trade Agreement—Balance of Payments Program, is included in this solicitation.)

(1) The offeror hereby certifies that each end product, except those listed in paragraph (f)(2) of this provision, is a domestic end product (as defined in the clause entitled “Buy American Act—Trade Agreements—Balance of Payments Program”) and that components of unknown origin have been considered to have been mined, produced, or manufactured outside the United States, a designated country, a North American Free Trade Agreement (NAFTA) country, or a Caribbean Basin country, as defined in section 25.401 of the Federal Acquisition Regulation.

(2) **Excluded End Products:**

Line Item No.

Country of Origin

(List as necessary)

(3) Offers will be evaluated by giving certain preferences to domestic end products, designated country end products, NAFTA country end products, and Caribbean Basin country end products over other end products. In order to obtain these preferences in the evaluation of each excluded end product listed in paragraph (f)(2) of this provision, offerors must identify and certify below those excluded end products that are designated or NAFTA country end products, or Caribbean Basin country end products. Products that are not identified and certified below will not be deemed designated country end products, NAFTA country end products, or Caribbean Basin country end products. Offerors must certify by inserting the applicable line item numbers in the following:

(i) The offeror certifies that the following supplies qualify as “designated or NAFTA country end products” as those terms are defined in the clause entitled “Buy American Act—Trade Agreements—Balance of Payments Program:”

(Insert line item numbers)

(ii) The offeror certifies that the following supplies qualify as “Caribbean Basin country end products” as that term is defined in the

clause entitled "Buy American Act—Trade Agreements—Balance of Payments Program":
(Insert line item numbers)

(4) Offers will be evaluated in accordance with part 25 of the Federal Acquisition Regulation.

(g) *Buy American Act—North American Free Trade Agreement (NAFTA) Implementation Act—Balance of Payments Program Certificate.* (Applies only if FAR clause 52.225-21, Buy American Act—North American Free Trade Agreement (NAFTA) Implementation Act—Balance of Payments Program, is included in this solicitation.)

(1) The offeror hereby certifies that each end product, except those listed in paragraph (g)(2) of this provision, is a domestic end product (as defined in the clause entitled "Buy American Act—North American Free Trade Agreement (NAFTA) Implementation Act—Balance of Payments Program" and that components of unknown origin have been considered to have been mined, produced, or manufactured outside the United States.

(2) Excluded End Products:

Line Item No.

Country of Origin

(List as necessary)

(3) Offers will be evaluated by giving certain preferences to domestic end products or NAFTA country end products over other end products. In order to obtain these preferences in the evaluation of each excluded end product listed in paragraph (g)(2) of this provision, offerors must identify and certify below those excluded end products that are NAFTA country end products. Products that are not identified and certified below will not be deemed NAFTA country end products. Offerors must certify by inserting the applicable line item numbers in the following:

The offeror certifies that the following supplies qualify as "NAFTA country end products" as that term is defined in the clause entitled "Buy American Act—North American Free Trade Agreement Implementation Act—Balance of Payments Program:"

(Insert line item numbers)

(4) Offers will be evaluated in accordance with FAR part 25.

(h) *Procurement Integrity Certification (41 U.S.C. 423).* (Applies only if the contract is expected to exceed \$100,000.)

I, the undersigned, am the officer or employee responsible for the preparation of this offer. I certify, to the best of my knowledge and belief, that either—

_____ I have no information, or

_____ I have disclosed information to the Contracting Officer concerning a violation or possible violation of subsection (a), (b), (d) or (f) of 41 U.S.C. 423, Procurement Integrity, or its implementing regulations that may have occurred during the conduct of this procurement.

Signature of the officer or employee responsible for the offer and date.

(End of Certification)

(End of Provision)

52.212-4 Contract Terms and Conditions—Commercial Items.

As prescribed in 12.302(b)(3), insert the following clause:

Contract Terms and Conditions—Commercial Items (Date)

Acceptance. The Contractor shall tender to the Government for acceptance only supplies or services that the Contractor has inspected in accordance with its commercial inspection system and found to be in conformity with contract requirements. The Government has the right to inspect or test all supplies or services after they have been tendered for acceptance. Acceptance shall be conclusive except for patent defects, latent defects, fraud, gross mistakes amounting to fraud, or as otherwise provided in the contract. The Government may require correction or replacement of nonconforming supplies or reperformance of nonconforming services at no increase in contract price, or require an adjustment to the contract price to reflect the reduced value of the nonconforming supplies or services. Revocation of acceptance shall occur (1) within a reasonable time after the defect was discovered or should have been discovered; and (2) before substantial change occurs in the condition of the item. This limitation does not apply to changes in condition caused by the defect.

Assignment. The Contractor or its assignee, may, when done in accordance with the provisions of the Assignment of Claims Act (31 U.S.C. 3727), assign its rights to be paid amounts due as a result of performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency.

Changes. Changes in the terms and conditions of this contract may be made only by written agreement of the parties.

Disputes. This contract is subject to the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613). Failure of the parties to this contract to reach agreement on any request for equitable adjustment, claim, appeal or action arising under or relating to this contract shall be a dispute to be resolved in accordance with the clause at FAR 52.233-1, Disputes, which is incorporated herein by reference.

Definitions. The clause at FAR 52.202-1, Definitions, is incorporated herein by reference.

Excusable Delays. The Contractor shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

Invoice. The Contractor shall submit an original invoice and three copies to the

address designated in the contract to receive invoices. An invoice must include—

- (1) Name and address of the Contractor;
- (2) Invoice date;
- (3) Contract number, contract line item number and, if applicable, the order number;
- (4) Description, quantity, unit of measure, unit price and extended price of the items delivered;
- (5) Shipping number and date of shipment including the bill of lading number and weight of shipment if shipped on Government bill of lading;
- (6) Terms of any prompt payment discount offered;
- (7) Name and address of official to whom payment is to be sent; and
- (8) Name, title, and phone number of person to be notified in event of defective invoice.

If the invoice does not comply with these requirements, the Contractor will be notified of the defect within 7 days after receipt of the invoice at the designated office.

Patent Indemnity. The Contractor shall indemnify the Government and its officers, employees and agents against liability, including costs, for actual or alleged direct or contributory infringement of, or inducement to infringe, any United States or foreign patent, trademark or copyright, arising out of the performance of this contract, provided the Contractor is reasonably notified of such claims and proceedings.

Payment. Payment shall be made for items accepted by the Government that have been delivered to the delivery destinations set forth in this contract. The Government will make payment in accordance with the Prompt Payment Act (31 U.S.C. 3903) and Office of Management and Budget (OMB) Circular A-125, Prompt Payment.

In connection with any discount offered for early payment, time shall be computed from the date of the invoice. For the purpose of computing the discount earned, payment shall be considered to have been made on the date which appears on the payment check or the date on which an electronic funds transfer was made.

Risk of Loss. Unless the contract specifically provides otherwise, risk of loss or damage shall remain with the Contractor until, and shall pass to the Government upon:

- (1) Delivery of the item(s) to a carrier, if transportation is f.o.b. origin; or
- (2) Acceptance by the Government or delivery of the item(s) to the Government at the destination specified in the contract, whichever is later, if transportation is f.o.b. destination.

Taxes. The contract price includes all applicable Federal, State, and local taxes and duties.

Termination. The Government reserves the right to terminate this contract, or any part hereof, for its sole convenience. In the event of such termination, the Contractor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms of this contract, the Contractor shall be paid a reasonable termination charge considering the percentage of the contract price reflecting the

percentage of the work performed prior to the notice of termination, plus actual direct costs that the Contractor can demonstrate have resulted from the termination. The Contractor shall not be paid for any work done after receipt of the termination notice, nor for any costs incurred by the Contractor's suppliers or subcontractors which the Contractor could reasonably have avoided.

Termination for Cause. The Government may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the Government, upon request, with adequate assurances of future performance. In the event of termination for cause, the Government shall not be liable to the Contractor for any amount, and the Contractor shall be liable to the Government for any and all rights and remedies provided by law. If it should be determined that the Government improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

Title. Unless specified elsewhere in this contract, title to items furnished under this contract shall pass to the Government upon final acceptance, regardless of when or where the Government takes physical possession, unless the contract specifically provides for earlier passage of title.

Warranty. Except as expressly set forth elsewhere in this contract and except for the implied warranty of merchantability, there are no warranties express or implied. In no event will the Contractor be liable to the Government for consequential damages resulting from the seller's breach including—

(a) Any loss resulting from general or particular requirements and needs of which the seller at the time of contracting had reason to know and which could not reasonably be prevented by cover or otherwise; and

(b) Injury to person or property proximately resulting from any breach of warranty.

Other Compliances. The Contractor agrees to comply with all applicable Federal, State and local laws, executive orders, and regulations thereunder and amendments thereto, including, without limitation, 15 U.S.C. 2601 *et seq.*, the Federal Occupational Safety and Health Act of 1970; 42 U.S.C. 7401 *et seq.*, the Clean Air Act; 15 U.S.C. 2601 *et seq.*, the Toxic Substances Control Act; and 33 U.S.C. 1251 *et seq.*, and the Federal Water Pollution Control Act.

Compliance with Laws Unique to Government Contracts. The Contractor agrees to comply with 31 U.S.C. 1352 relating to limitations on the use of appropriated funds to influence certain Federal contracting; 18

U.S.C. 431 relating to officials not to benefit; 40 U.S.C. 327 *et seq.*, Contract Work Hours and Safety Standards Act; 41 U.S.C. 51–58, Anti-Kickback Act of 1986; 41 U.S.C. 251 related to whistle blower protections; and 49 U.S.C. 40118, Fly American.

Order of Precedence. Any inconsistencies in this solicitation or contract shall be resolved by giving precedence in the following order: (a) addenda to this solicitation or contract; (b) solicitation provisions; (c) contract clauses; (d) Standard Form XXXX; (e) other documents, exhibits, and attachment; and (f) the specification.

(End of Clause)

52.212–5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items.

As prescribed in 12.302(b)(4), insert the following clause:

Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items (Date)

(a) The Contractor agrees to comply with the following FAR clauses, which are incorporated in this contract by reference, to implement provisions of law or executive orders applicable to acquisitions of commercial items:

(1) 52.219–8, Utilization of Small Business Concerns and Small Disadvantaged Business Concerns (15 U.S.C. 637 (d)(2) and (3)).

(2) 52.222–3, Convict Labor (E.O. 11755)

(3) 52.233–3, Protest After Award (31 U.S.C. 3553 and 40 U.S.C. 759)

(b) The Contractor agrees to comply with the following FAR and FIRM clauses in this paragraph (b) that are indicated as being incorporated in this contract by reference to implement provisions of law or executive orders applicable to acquisitions of commercial items or components:

(1) 52.203–6, Restrictions on Subcontractor Sales to the Government, with Alternate I (41 U.S.C. 253g and 10 U.S.C. 2402).

(2) 52.203–10, Price or Fee Adjustment for Illegal or Improper Activity (41 U.S.C. 423).

(3) 52.219–14, Limitation on Subcontracting (15 U.S.C. 637(a)(14)).

(4) 52.222–26, Equal Opportunity (E.O. 11246).

(5) 52.222–35, Affirmative Action for Special Disabled and Vietnam Era Veterans (38 U.S.C. 2012).

(6) 52.222–36, Affirmative Action for Handicapped Workers (29 U.S.C. 793).

(7) 52.222–37, Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era (38 U.S.C. 2012).

(8) 52.225–3, Buy American Act—Supplies (41 U.S.C. 10).

(9) 52.225–9, Buy American Act—Trade Agreements Act—Balance of Payments Program (41 U.S.C. 10, 19 U.S.C. 2501–2582).

(10) 52.225–17, Buy American Act—Supplies Under European Community Sanctions for End Products (E.O. 12849).

(11) 52.225–18, European Community Sanctions for End Products (E.O. 12849).

(12) 52.225–19, European Community Sanctions for Services (E.O. 12849).

(13) 52.225–21, Buy American Act—North American Free Trade Agreement Implementation Act—Balance of Payments Program (41 U.S.C. 10, Pub. L. 103–187).

(14) 52.247–64, Preference for Privately Owned US Flagged Commercial Vessels (46 U.S.C. 1241).

(15) 201–39.5202–3, Procurement Authority (FIRM).

(This acquisition is being conducted under _____ delegation of GSA's exclusive procurement authority for FIP resources. The specific GSA DPA case number is _____).

(c) The Contractor agrees to comply with the following FAR clauses in this paragraph (c), applicable to commercial services, that are indicated as being incorporated in this contract by reference to implement provisions of law or executive orders applicable to acquisitions of commercial items or components:

(1) 52.222–41, Service Contract Act of 1965, As amended (41 U.S.C. 351, *et seq.*).

(2) 52.222–42, Statement of Equivalent Rates for Federal Hires (29 U.S.C. 206 and 41 U.S.C. 351, *et seq.*).

(3) 52.222–43, Fair Labor Standards Act and Service Contract Act—Price Adjustment (Multiple Year and Option Contracts) (29 U.S.C. 206 and 41 U.S.C. 351 *et seq.*).

(4) 52.222–44, Fair Labor Standards Act and Service Contract Act—Price Adjustment (29 U.S.C. 206 and 41 U.S.C. 351 *et seq.*).

(5) 52.222–47, SCA Minimum Wages and Fringe Benefits Applicable to Successor Contract Pursuant to Predecessor Contractor Collective Bargaining Agreement (CBA) (41 U.S.C. 351 *et seq.*).

(d) Notwithstanding the requirements of the clauses in paragraphs (a), (b) or (c) of this clause, the Contractor is not required to include any FAR clause, other than those listed below, in a subcontract for commercial items or commercial components—[list of clauses to be published in the **Federal Register** in a future proposed rule under FAR case 94–791]

(End of clause)

71. In the list of newly redesignated sections below, for each clause or provision indicated in the left column, remove the reference listed in the middle column and insert the reference listed in the right column:

Clause/provision	Remove	Insert
52.211–1	10.011(a)	11.203(a)
52.211–2	10.011(b)	11.203(b)
52.211–3	10.011(c)	11.203(c)
52.211–4	10.011(d)	11.203(d)
52.211–5	10.011(e)	11.203(e)
52.211–6	10.011(f)	11.203(f)
52.211–7	10.011(g)	11.203(g)

Clause/provision	Remove	Insert
52.211-8	12.104(a)(2)	11.404(a)(2)
52.211-9	12.104(a)(3)	11.404(a)(3)
52.211-10	12.104(b)	11.404(b)
52.211-11	12.204(a)	11.504(a)
52.211-11	12.202	11.502(b)
52.211-12	12.204(b)	11.504(b)
52.211-13	12.204(c)	11.504(c)
52.211-14	12.304(a)	11.604(a)
52.211-15	12.304(b)	11.604(b)
52.211-16	12.403(a)	11.703(a)
52.211-17	12.403(b)	11.703(b)
52.211-18	12.403(c)	11.703(c)
52.242-14	12.505(a)	42.1305(a)
52.242-15	12.505(b)	42.1305(b)
52.242-16	12.505(c)	42.1305(c)
52.242-17	12.505(d)	42.1305(d)

72. Section 52.244-xx is added to read as follows:

52.244-XX Subcontracts for Commercial Items and Commercial Components

As prescribed in 44.403, insert the following clause:

Subcontracts for Commercial Items and Commercial Components (Date)

(a) Definition.

Commercial item, as used in this clause, has the meaning contained in the clause at 52.202-1, Definitions.

Subcontract, as used in this clause, includes a transfer of commercial items between divisions, subsidiaries, or affiliates of the Contractor or subcontractor.

(b) To the maximum extent practicable, the Contractor shall incorporate, and require its subcontractors at all levels to incorporate, commercial items or nondevelopmental

items other than commercial items, as components of items to be supplied under this contract.

(c) If in awarding a subcontract for commercial items, an exception under 15.804-1(a) does not apply, the subcontractor may be required to submit cost or pricing data and comply with the appropriate clauses prescribed in FAR part 15.

(d) Notwithstanding any other clause of this contract, the Contractor is not required to include any FAR provision or clause, other than those listed below and as may be required by paragraph (c) of this clause, in a subcontract for commercial items or commercial components: [list to be published in the **Federal Register** in a future proposed rule under FAR case 94-791]

(e) The Contractor shall include the terms of this clause, including this paragraph (e), in subcontracts awarded under this contract.

(End of clause)

PART 53—FORMS

73. Section 53.212 is added to read as follows:

53.212 Acquisition of commercial items.

SF XXXX (XX/95), Solicitation/Contract/Order for Commercial Items. *SF XXXX* is prescribed for use in solicitations and contracts for commercial items. Agencies may prescribe additional detailed instructions for use of the form.

53.301 [Amended]

74. Section 53.301-xxxx is added to read as follows:

SF XXXX (xx/95), Solicitation/Contract/Order for Commercial Items.

BILLING CODE 6820-34D-M

SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS OFFEROR TO COMPLETE BLOCKS 12, 18, 22, 23, & 29.				1. REQUISITION NUMBER		PAGE 1 OF	
2. CONTRACT NO.		3. AWARD/EFFECTIVE DATE		4. ORDER NUMBER		5. SOLICITATION NUMBER	
7. FOR SOLICITATION INFORMATION CALL:		A. NAME		B. TELEPHONE NUMBER (No collect calls)		6. SOLICITATION ISSUE DATE	
9. ISSUED BY		CODE		10. THIS ACQUISITION IS		11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED	
				☐ UNRESTRICTED ☐ SET ASIDE: % FOR ☐ SMALL BUSINESS ☐ SMALL DBADV. BUSINESS ☐ 8(A) SIC: SIZE STANDARD:		☐ SEE SCHEDULE ☐ 13A. THIS CONTRACT IS A RATED ORDER UNDER DPAS (18 CFR 700) 13B. RATING	
14. DELIVER TO		CODE		18. ADMINISTERED BY		CODE	
16A. CONTRACTOR/OFFEROR		CODE		17A. PAYMENT WILL BE MADE BY		CODE	
TELEPHONE NO.				17B. SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK 17 UNLESS BLOCK BELOW IS CHECKED		☐ SEE ADDENDUM	
☐ 16B. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER							
18. ITEM NO.	19. SCHEDULE OF SUPPLIES/SERVICES			20. QUANTITY	21. UNIT	22. UNIT PRICE	23. AMOUNT
(Attach Additional Sheets as Necessary)							
24. ACCOUNTING AND APPROPRIATION DATA						25. TOTAL AWARD AMOUNT (For Govt. Use Only)	
☐ 26A. SOLICITATION INCORPORATES BY REFERENCE FAR 52.212-1, 52.212-4. FAR 52.212-3 AND 52.212-6 ARE ATTACHED. ADDENDA ☐ ARE ☐ ARE NOT ATTACHED. ☐ 26B. CONTRACT/PURCHASE ORDER INCORPORATES BY REFERENCE FAR 52.212-4. FAR 52.212-6 IS ATTACHED. ADDENDA ☐ ARE ☐ ARE NOT ATTACHED.							
27. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN COPIES TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY ADDITIONAL SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED HEREIN.				28. AWARD OF CONTRACT: REFERENCE OFFER DATED ☐ YOUR OFFER ON SOLICITATION (BLOCK 5), INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN, IS ACCEPTED AS TO ITEMS.			
29A. SIGNATURE OF OFFEROR/CONTRACTOR				30A. UNITED STATES OF AMERICA (SIGNATURE OF CONTRACTING OFFICER)			
29B. NAME AND TITLE OF SIGNER (TYPE OR PRINT)		29C. DATE SIGNED		30B. NAME OF CONTRACTING OFFICER (TYPE OR PRINT)		30C. DATE SIGNED	
31A. QUANTITY IN COLUMN 20 HAS BEEN ☐ RECEIVED ☐ INSPECTED ☐ ACCEPTED, AND CONFORMS TO THE CONTRACT, EXCEPT AS NOTED				32. SHIP NUMBER ☐ PARTIAL ☐ FINAL		33. DD VOUCHER NUMBER	
31B. SIGNATURE OF AUTHORIZED GOVT. REPRESENTATIVE		31C. DATE		35. PAYMENT ☐ COMPLETE ☐ PARTIAL ☐ FINAL		36. CHECK NUMBER	
				37. S/R ACCOUNT NUMBER		38. S/R VOUCHER NUMBER	
				41A. RECEIVED BY (Print)			
40A. I CERTIFY THIS ACCOUNT IS CORRECT AND PROPER FOR PAYMENT				41B. RECEIVED AT (Location)			
40B. SIGNATURE AND TITLE OF CERTIFYING OFFICER		40C. DATE		41C. DATE REC'D (YY/MM/DD)		41D. TOTAL CONTAINERS	

AUTHORIZED FOR LOCAL REPRODUCTION

 STANDARD FORM XXXX
 Prescribed by GSA
 FAR (48 CFR) 53.212

DEPARTMENT OF DEFENSE**GENERAL SERVICES
ADMINISTRATION****NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION****OMB Clearance Request for Standard
Form XXXX, Solicitation/Contract/
Order for Commercial Items**

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of new request for OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve a new information collection requirement concerning Standard Form XXXX, Solicitation/Contract/Order for Commercial Items.

DATES: Comments may be submitted on or before May 1, 1995.

ADDRESSES: Send comments to Mr. Peter Weiss, FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT:

Beverly Fayson, Office of Federal Acquisition Policy, GSA (202) 501-4755.

SUPPLEMENTARY INFORMATION:**A. Purpose**

The Federal Acquisition Streamlining Act of 1994 included Title VIII, entitled Commercial Items. The title made numerous additions and revisions to both the civilian agency and Armed Service acquisition statutes to encourage and facilitate the acquisition of commercial items and services by Federal Government agencies.

The proposed revisions include a new form, Standard Form XXXX, Solicitation/Contract/order for Commercial Items. The form would replace several existing "cover page" forms on solicitations, orders, and contracts for commercial items and services. It is designed to facilitate the incorporation of the contract clauses required for commercial items in solicitations, orders, and contracts. The new form would substitute for those "cover page" forms on a one-for-one basis, and is not intended to impose any additional burden on firms that do business with the Federal Government. The net effect of the entirety of the proposed revisions (including the new form) is likely to reduce the burden on Government contractors.

Information will be used by Federal agencies to facilitate the acquisition of commercial items and services.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average 45 minutes per response,

including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to General Services Administration, FAR Secretariat, 18th & F Streets, NW, Room 4037, Washington, DC 20405, and to the FAR Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

The annual reporting burden is estimated as follows: Respondents, 500,000; responses per respondent, 20; total annual responses, 10,000,000; preparation hours per response, .75; and total response burden hours, 7,500,000.

Obtaining Copies of Proposals

Requester may obtain copies of OMB applications or justifications from the General Services Administration, FAR Secretariat (VRS), Room 4037, Washington, DC 20405, telephone (202) 501-4755. Please cite OMB clearance request regarding Standard Form XXXX, Solicitation/Contract/Order for Commercial Items, FAR case 94-790, in all correspondence.

Dated: February 17, 1995.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 95-4536 Filed 2-28-95; 8:45 am]

BILLING CODE 6820-34-M

**Final
Notice
to
Appeal
Decision**

Wednesday
March 1, 1995

Part III

**Department of
Housing and Urban
Development**

**NOFA for the Public and Indian Housing
Tenant Opportunities Program Technical
Assistance; Notice**

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. N-95-3847; FR-3828-N-01]

NOFA for the Public and Indian Housing Tenant Opportunities Program Technical Assistance

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

ACTION: Notice of funding availability for FY 1995.

SUMMARY: HUD is announcing the availability of \$25 million for Fiscal Year 1995 under the Public and Indian Housing Tenant Opportunities Program (TOP). HUD reinvented resident management and created the TOP to expand the range of the resident-managed activities, so that resident organizations can set priorities based on the needs in their communities. The program provides assistance to Resident Councils (RCs), Resident Management Corporations (RMCs), Resident Organizations (ROs) and National Resident Organizations (NROs), Regional Resident Organizations (RROs), and Statewide Resident Organizations (SROs), to fund training and other tenant opportunities, such as the formation of such entities, identification of the relevant social support needs, and securing of such support for residents of public and Indian housing. The NOFA discusses eligibility, funding amounts, selection criteria, how to apply for funding, and the selection process.

DATES: Application kits may be requested beginning March 1, 1995. The application deadline will be specified in the application kit, and will be firm as to date and time. Applicants will have at least 60 days from today's publication of the NOFA to prepare and submit their applications.

ADDRESSES: To obtain a copy of the application kit, please write the Resident Initiatives Clearinghouse, Post Office Box 6424, Rockville, MD 20850, or call the toll free number 1-800-955-2232. Requests for application kits must include your name, mailing address (including zip code), telephone number (including area code), and should refer to document FR-3828. This NOFA cannot be used as the application.

FOR FURTHER INFORMATION CONTACT: Christine Jenkins or Barbara J. Armstrong, Office of Community Relations and Involvement, Department of Housing and Urban Development,

451 Seventh Street, S.W., Room 4112, Washington, D.C. 20410; telephone: (202) 708-3611. All Indian Housing applicants may contact Tracy Outlaw or Charles Bell, Office of Native American Programs, Department of Housing and Urban Development, 451 Seventh Street, S.W., Room B-133, Washington, D.C. 20410; telephone: (202) 755-0032. Hearing- or speech-impaired persons may use the Telecommunications Devices for the Deaf (TDD) by contacting the Federal Information Relay Service on 1-800-877-TDDY (1-800-877-8339) or 202-708-9300 for information on the program. (Other than the "800" TDD number, telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The information collection requirements contained in this notice have been approved by the Office of Management and Budget, under section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501-3520), and assigned OMB control number 2577-0127.

I. Purpose and Description

A. Authority

Section 20, United States Housing Act of 1937 (42 U.S.C. 1437r); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

B. Statutory Background

Section 122 of the Housing and Community Development Act of 1987 (Pub. L. 100-42, approved February 5, 1988) amended the U.S. Housing Act of 1937 (1937 Act) by adding a new section 20. In part, section 20 states as its purpose the encouragement of "increased resident management of public housing projects [and the provision of funding] * * * to promote formation and development of resident management entities" (Sec. 20(a)). Under section 20(f)(1):

(The Secretary shall provide financial assistance to resident management corporations or resident councils that obtain, by contract or otherwise, technical assistance for the development of resident management entities, including the formation of such entities, the development of the management capability of newly formed or existing entities, the identification of the social support needs of residents of public housing projects, and the securing of such support.)

Under section 20(f)(2), this financial assistance may not exceed \$100,000 with respect to any public housing project. Section 20 is implemented in 24 CFR part 905, subpart O (for Indian housing), and part 964 (for public

housing). The rules set forth, among other things, the policies, procedures, and requirements of resident participation and management of public and Indian housing.

In FY 1988, \$2.5 million was awarded to 27 resident organizations; in FY 1989, \$2.5 million was awarded to 35 resident organizations; in FY 1990, \$2.4 million was awarded to 37 resident organizations; in FY 1991, \$4.9 million was awarded to 96 organizations; in FY 1992, \$4.6 million was awarded to 94 organizations; in FY 1993, \$4.7 million was awarded to 94 organizations; and in FY 1994, \$24 million was awarded to 257 organizations with \$1 million awarded to ten NROs/RROs/SROs. In FY 1995, \$25 million is available to Public and Indian Housing RCs/RMCs/ROs, of which \$1 million is set-aside for NROs/RROs/SROs to provide technical assistance and training activities under the TOP program.

Today, 640 resident groups throughout the country are in training under this program. HUD supports the tenant opportunities movement, as well as other self-sufficiency and improvement programs designed to benefit public and Indian housing residents. The Office of Community Relations and Involvement (formerly called the Office of Resident Initiatives) has been created to deliver a variety of resident initiative programs, with assistance from a network of Community Relations and Involvement Specialists (CRIs) in HUD's field structure. The CRIs are available to provide direct assistance to residents and resident groups interested in resident initiatives programs.

C. Key Features of this NOFA

(1) The TOP Program meets the need in many communities for business development, education, job training and development, social services, and opportunities for other self-help initiatives. The program enables resident entities to establish priorities based on the efforts in their public and Indian housing communities that are aimed at furthering economic lift and independence. The authority for the TOP program is found in section 20 of the 1937 Act; section 20(f) authorizes technical assistance and training. Financial assistance in the form of technical assistance grants is provided by the Secretary to resident grantees to prepare for management activities in their housing development (hereinafter referred to as TOP technical assistance grants). Technical assistance grants are available for "the development of resident management entities, including the formation of such entities, the

development of the management capability of newly formed or existing entities, the identification of the social support needs of residents of public housing projects and the securing of such support."

Residents may use TOP technical assistance grants for training related to any TOP initiative. The results from organizations in training have been significant and multifaceted. For example, resident-managed activities have resulted in economic development, resident self-sufficiency, improved living conditions, and enhanced social services for residents (i.e., child care and other youth projects). TOP will provide public and Indian housing residents the opportunity to be trained and move toward responsible roles in their communities. The training will aim to enhance the functioning of the resident council as well as develop skills to engage in resident managed activities in its community. TOP will strongly encourage resident entities to develop a partnership with their public housing agency or Indian housing authority (hereafter jointly referred to as "HA"). The Department is committed to building a real partnership among HAs, residents, and HUD.

(2) RCs/RMCs/ROs that have been in existence for several years or that were recently formed may receive up to \$100,000.

(3) All applicants that are selected for funding (including NROs/RROs/SROs) will access the grant funds through the Line of Credit Control System (LOCCS), as explained in Section I.D, "Funding," of this NOFA.

(4) An application kit is required as the formal submission to apply for funding. The kit includes information on the preparation of a Work Plan and Budget for activities proposed by the applicant. This process facilitates the expeditious execution of a TOP Technical Assistance Grant (TOP TAG) for those applicants that are selected to receive funding. The kit also includes narratives, certifications, and forms. Included in the application kit this year is a new certification that requires each applicant RC/RMC/RO to certify that it has held a democratic election. The certification must be signed by an authorized representative of the local HA.

(5) The information listed below is regarding all HOPE I grantees:

All HOPE I applicants' applications will be screened. A cross-check will be made against the HOPE I Planning grants and HOPE I Implementation grants, to assure compliance with section 20(f)(4) of the 1937 Act, which states: "The Secretary may not provide

financial assistance under this subsection to any resident management corporation or resident council with respect to which assistance for the development or formation of such entity is provided under title III." HOPE I Planning and Implementation grantees were required to propose plans to establish a RC, RMC, or cooperative association where one did not exist for the proposed homeownership site, including the development or formation of that entity. In addition, HOPE I Full Planning and Implementation grant applicants were expected to include in their applications all eligible activities necessary to make their proposed homeownership program feasible (even if some of the proposed activities were to be carried out with non-HOPE I funds, such as resident management funds). Consequently, in reviewing Tenant Opportunities Program grant applications, the following rules apply:

Rule 1. An applicant for TOP funds that has received a HOPE I Full Planning or Implementation grant (as a lead or joint applicant) may not also receive a TOP grant, unless the applicant proposed in its HOPE I application to use resident management funding to carry out those activities.

Rule 2. An applicant for TOP funds that has received a HOPE I Mini Planning grant (as a lead or joint applicant) may not receive a TOP grant for any activity proposed for funding in the HOPE I grant. Mini Planning grant applicants may apply for a TOP grant if the activities proposed in the TOP application are not duplicative.

(6) All applicants will have an opportunity to correct technical deficiencies in this application submission as provided for in this NOFA.

D. Funding

As noted, \$25 million is being made available on a competitive basis under this NOFA to applicants that submit timely applications and are selected for funding. Section 20 provides that not more than an aggregate of \$100,000 may be approved with respect to any TOP project.

Of the \$25 million total current funds, \$1 million will be awarded to National Resident Organizations (NROs), Regional Resident Organizations (RROs), and Statewide Resident Organizations (SROs), to provide technical assistance to public and Indian housing residents.

With the remaining \$24 million, the Department will be providing two types of grants to RCs/RMCs/ROs: (1) Basic Grant; and (2) Additional Grant.

Basic Grants

All RCs/RMCs/ROs that have been in existence for several years and new emerging groups that meet eligibility requirements (see Definitions) may apply for a Basic grant for up to \$100,000. All grantees will access the TOP grant funds through a line of credit control system (LOCCS).

To ensure the progress of the grantees, each grantee will be allowed to draw down through LOCCS only the specific amount of funding needed to complete the tasks and subtasks specified in the work plan. The grantee must complete all activities under Phases 1 and 2 in the work plan prior to advancing to Phases 3 through 5 and receiving additional funds, except for those activities that can be reasonably construed as being ongoing, such as technical assistance or training.

The local HUD Field Office will be responsible for approving the work plan and determining the ability of the grantee to access LOCCS.

Additional Grants

Any RC/RMC/RO selected for a Resident Management (RM)/TOP grant in FYs 1988–1994 (including a minigrant for start-up activities) that received less than a total of \$100,000 may apply for an Additional Grant not to exceed (including previous grants) the total statutory maximum of \$100,000.

To ensure the progress of the grantees, each grantee will be allowed to draw down from LOCCS only the specific amount of funding needed to complete the tasks and subtasks specified in the work plan. Each Additional Grant grantee must provide a progress report that will indicate progress and the activities that are completed. The local HUD Field Office will be responsible for approving the work plan and determining the ability of the grantee to access LOCCS.

Each Additional Grant applicant must demonstrate the need for additional funding by submitting evidence of completing specific activities. An Additional Grant applicant may receive a higher score if most of the activities listed in Section I.L. of this NOFA are completed and documentation is included as evidence.

NROs/SROs/RROs Grant

The purpose of this grant is to provide technical assistance to public and Indian housing residents desiring either to establish a RC/RMC/RO where one does not exist or to organize an inactive RC/RMC/RO. The awards will be competitive, using the Rating Factors in

Section I.M of this NOFA, and applicants must meet eligibility requirements. The local HUD Field Office will be responsible for approving the work plan and determining the ability of the grantee to access LOCCS.

E. TOP Technical Assistance Grant Agreement

Grant awards will be made through a TOP Technical Assistance Grant Agreement which defines the legal framework for the relationship between HUD and a resident grantee for the proposed activities approved for funding. The grant agreement will contain all applicable requirements, including administrative requirements such as progress reports, a final report, a final audit, accessing the LOCCS to draw down funds, and all the necessary forms needed to execute the grant. No funds can be drawn down by grantees until the grant agreement is executed by the local HUD Field Office.

F. Definitions

The following definitions apply to public housing, as provided in 24 CFR 964.115 and 964.120:

Resident Council (RC). An incorporated or unincorporated nonprofit organization or association that shall consist of persons residing in public housing and must meet each of the following requirements in order to receive official recognition from the HA/ HUD, and be eligible to receive funds for resident council activities, and stipends for officers for their related costs for volunteer work in public housing:

(1) It may represent residents residing in scattered site buildings, in areas of contiguous row houses; or in one or more contiguous buildings; in a development; or in a combination of these buildings or developments;

(2) It must adopt written procedures such as by-laws, or a constitution which provides for the election of residents to the governing board by the voting membership of the residents residing in public housing on a regular basis but at least once every 3 years. The written procedures must provide for the recall of the resident board by the voting membership. These provisions shall allow for a petition or other expression of the voting membership's desire for a recall election, and set the number of percentage of voting membership ("threshold") who must be in agreement in order to hold a recall election. This threshold shall not be less than 10 percent of the voting membership.

(3) It must have a democratically elected governing board that is elected by the voting membership. At a

minimum, the governing board should consist of five elected board members. The voting membership must consist of heads of households (any age) and other residents at least 18 years of age or older and whose name appears on a lease for the unit in the public housing that the resident council represents.

Resident Management Corporation (RMC). An entity that consists of residents residing in public housing must have each of the following characteristics in order to receive official recognition by the HA and HUD:

(1) It shall be a nonprofit organization that is validly incorporated under the laws of the State in which it is located;

(2) It may be established by more than one resident council, so long as each such council:

(a) Approves the establishment of the corporation; and

(b) Has representation on the Board of Directors of the corporation;

(3) It shall have an elected Board of Directors, and elections must be held at least once every 3 years;

(4) Its by-laws shall require the Board of Directors to include resident representatives of each resident council involved in establishing the corporation; include qualifications to run for office, frequency of elections, procedures for recall, and term limits if desired.

(5) Its voting members shall be heads of households (any age) and other residents at least 18 years of age and whose name appears on the lease of a unit in public housing represented by the resident management corporation;

(6) Where a resident council already exists for the development, or a portion of the development, the resident management corporation shall be approved by the resident council board and a majority of the residents. If there is no resident council, a majority of the residents of the public housing development it will represent must approve the establishment of such a corporation for the purposes of managing the project; and

(7) It may serve as both the resident management corporation and the resident council, so long as the corporation meets the requirements of this part for a resident council.

The following definitions apply to Indian Housing as defined in 24 CFR part 905.962:

Resident Management Corporation (RMC). An entity that proposed to enter into, or enters into a contract to manage IHA property. The corporation must have each of the following characteristics:

(1) It must be a nonprofit organization that is incorporated under the laws of

the State or Indian tribe in which it is located.

(2) It may be established by more than one resident organization, so long as each such organization both approves the establishment of the corporation and has representation on the Board of Directors of the corporation.

(3) It must have an elected Board of Directors.

(4) Its by-laws must require the Board of Directors to include representatives of each resident organization involved in establishing the corporation.

(5) Its voting members are required to be residents of the project or projects it manages.

(6) It must be approved by the resident organization. If there is no organization, a majority of the households of the project or projects must approve the establishment of such an organization.

Resident Organization (RO). A Resident Organization (or "Resident Council" as defined in section 20 of the Act) is an incorporated or unincorporated nonprofit organization or association that meets each of the following criteria:

(1) It must consist of residents only, and only residents may vote.

(2) If it represents residents in more than one development or in all of the developments of an IHA, it must fairly represent residents from each development that it represents.

(3) It must adopt written procedures providing for the election of specific officers on a regular basis.

(4) It must have a democratically elected governing board. The voting membership of the board shall consist solely of the residents of the development or developments that the RO represents.

The following definitions apply to NRO/RRO/SRO applicants:

National Resident Organization (NRO). An incorporated nonprofit organization or association for public and Indian housing that meets each of the following requirements:

(1) It is national (i.e., conducts activities or provides services in at least two HUD Areas or two States);

(2) It has experience in providing start-up and capacity-building training to residents and resident organizations; and

(3) Public or Indian housing residents representing different geographical locations in the country must comprise the majority of the board of directors.

Regional Resident Organization (RRO). An incorporated nonprofit organization or association for public or Indian housing that meets each of the following requirements:

(1) It is regional (i.e., not limited by HUD Areas, including Tribal Areas); and

(2) It has experience in providing start-up and capacity-building training to residents and resident organizations; and

(3) Public or Indian housing residents representing different geographical locations in the region must comprise the majority of the board of directors.

Statewide Resident Organization (SRO). An incorporated nonprofit organization or association for public or Indian housing that meets the following requirements:

(1) It is Statewide;

(2) It has experience in providing start-up and capacity-building training to residents and resident organizations; and

(3) Public or Indian housing residents representing different geographical locations in the State must comprise the majority of the board of directors.

G. Eligibility

Only organizations that meet the definition of a RC/RMC/RO or a NRO/RRO/SRO, as set forth under the Section I.F, "Definitions," of this NOFA will be eligible for funding under this NOFA. The following considerations also apply:

(1) Only public and Indian housing RCs/RMCs/ROs and NROs/SROs/RROs are eligible to apply for this grant. The local HAs, Section 8 developments, or other federally subsidized housing communities are not eligible to apply.

(2) A RC/RMC/RO will receive consideration for a basic grant based on the rating factors contained in Section I.K. of this NOFA.

(3) A RC/RMC/RO selected for funding in FYs 1988–1994 that received less than the statutory maximum of \$100,000 may apply for an Additional Grant not to exceed (including previous grants) the total statutory maximum of \$100,000.

(4) A RC/RMC/RO will receive consideration for an Additional Grant based on the rating factors contained in Section I.L. of this NOFA.

(5) Grantees that were awarded the maximum total amount of \$100,000 in FYs 1988–1994 are not eligible to apply.

(6) Only one application will be considered for funding from an individual development. If more than one application is received from a development, only the application from the duly elected RC/RMC/RO will be considered. All other applications will be rejected.

(7) A city-wide organization (consisting of members from RCs/RMCs/ROs who reside in housing

developments that are owned and operated by the same HA within the city) may represent more than one RC/RMC/RO within an HA. Under some circumstances, a number of the RCs/RMCs/ROs who are members of a city-wide organization may wish to apply jointly for a grant. In that case, a city-wide organization may represent these developments and apply for a grant as a city-wide applicant. The individual developments under the umbrella of the city-wide organization may apply for a separate grant only if the activities that are included in the individual development's application are not the same activities that are included in the city-wide organization's application. All applications will be screened for duplicative activities. In addition, the city-wide organization cannot include an application for funding any individual development that has received RM/TOP technical assistance funding totalling \$100,000 in previous years.

(8) A jurisdiction-wide organization (consisting of members from RCs/RMCs/ROs who reside in housing developments that are owned and operated by the same HA within that HA's jurisdiction, other than a city-wide organization making an application in accordance with paragraph (7) in this Section I.G) may be formed for the purpose of advising the HA Board of Commissioners or Executive Directors in all areas of HA operations. In that case, the jurisdiction-wide organization may apply for a grant to carry out jurisdiction-wide programs. These grants will have no impact on the individual RC/RMC/RO funding.

(9) An NRO/SRO/RRO that is organized to provide technical assistance to RCs/RMCs/ROs may receive grants up to \$100,000. An NRO/SRO/RRO previously funded for \$100,000 may apply for a new TOP grant only if the groups represented in its application are new groups. The local HUD Field Office will screen the application for this purpose.

H. Eligible Activities

Activities for which funding under this NOFA may be provided to an eligible RC/RMC/RO or NRO/RRO/SRO include any combination of, but are not limited to, the following:

(1) Resident Capacity Building:

- Training board members in community organizing, board development, and leadership training; and

- Determining the feasibility of the TOP initiatives for a specific development.

(2) Resident Management:

- Building and strengthening its capacity as an organization (e.g., establishing operating/planning committees and block/building captains to carry out specific organizational tasks, developing by-laws, etc.); developing a cohesive relationship between the residents and the local community; and building a partnership with the HA;

- Training residents, as potential employees of an RMC, in skills directly related to the operation, management, maintenance and financial systems of a project;

- Training of residents with respect to fair housing and equal opportunity requirements;

- Gaining assistance in negotiating management contracts and in related contract monitoring and management procedures, and designing a long-range planning system related to contracts; and

- Assisting in the actual creation of an RC/RMC/RO, such as consulting and acquiring legal assistance to incorporate, prepare by-laws, draft a corporate charter, and apply for nonprofit status.

(3) Resident Management Business Development:

- Economic development training related to resident management and technical assistance for job training and placement in RC/RMC/RO developments;

- Technical assistance and training in business development related to resident management, through feasibility and market studies; development of business plans; affirmative outreach activities; and innovative financing methods, including revolving loan funds; and

- Legal advice in establishing resident management-required business entities.

(4) Partnerships:

- Establishing and providing to residents in each community training related to the Partnership Paradigm Technical Assistance (PPTA)/Technical Assistance Organization (TAO) model. This is an optional partnership that would bring together residents, the HA, and HUD, in an effort to create a community-based process that offers technical assistance and training related to building the partnership between the residents, the HA, and HUD and to oversee and carry out activities in the TOP program. HUD's Office of Community Relations and Involvement (OCRI) may be contacted at the address and telephone number listed at the beginning of this NOFA for additional information, if there is an interest in the PPTA.

- Other partnerships developed by the local residents/HA in the community.

(5) Social Support Services (such as self-sufficiency and youth initiatives):

- Feasibility studies to determine training and social services needs;
- Coordination of support services;
- Training for programs such as child care, early childhood development, parent involvement, volunteer services, parenting skills, and before- and after-school programs;
- Training programs on health, nutrition, and safety;
- Workshops for youth services, child abuse and neglect prevention, and tutorial services, in partnership with community-based organizations, such as local Boys and Girls Clubs, YMCA/YWCA, Boys/Girls Scouts, Campfire, Big Brothers/Big Sisters, 4-H Clubs, etc.; and
- Training in the development of strategies to implement youth programs successfully. For example, assessing the needs and problems of the youth; improving youth initiatives that are currently active; and training youth, housing authority staff, and RCs/RMCs/ROs on youth initiatives and program activities.

(6) General:

- Required training on HUD regulations and policies governing the operation of low-income public and Indian housing, financial management, capacity building to develop the necessary skills to assume management responsibilities at the project, and property management;
- Training in accessing other funding sources;
- Developing performance standards and assessment procedures to measure the success of the RC/RMC/RO;
- Assistance in acquiring fidelity bonding and insurance, but not the cost of the bonding and insurance;
- Assessing potential management functions or tasks that the RC/RMC/RO might undertake;
- Training in resident management-related skills, such as computer and clerical (payroll clerk/records management) skills;
- Resident management-related employment training and counseling;
- Hiring trainers or other experts (resident grantees must ensure that all training is provided by a qualified housing management specialist, a community development specialist, the HA, or other sources knowledgeable about the program). Generally, no more than 50% of the grant funds or \$50,000, whichever is less, should be used for any one consultant for this purpose;

- Rental or lease of a car, van, or bus by resident grantees to attend training related to the TOP initiatives; and

- Stipends, as provided in this paragraph. Officers and members of a RC/RMC/RO should not receive stipends for participating in or receiving training under the TOP. If RCs/RMCs/ROs are interested in implementing resident-managed activities, stipends will be approved, subject to the availability of funds, when the officers and members of the resident entity have successfully completed the first stage of training on any TOP initiative, dual management contract with the HA, or a HA-operated career-related training program. Generally, no more than 20% of the grant funds should be used for this purpose.

(7) Capacity building and training to facilitate resident participation in the Comprehensive Grant Program.

(8) Implementation of activities by a RC/RMC/RO associated with the operation and maintenance of the public and Indian housing project. Examples of eligible activities in this category that have not been mentioned previously are:

- Designing and implementing financial management systems that include provisions for budgeting, accounting, and auditing;
- Designing and implementing personnel policies; performance standards for measuring staff productivity; policies and procedures covering organizational structure, such as recordkeeping, maintenance, insurance, occupancy, and management information systems; any other recognized functional responsibilities relating to property management, in general, and public and Indian housing management, in particular; and responsibilities relating to any TOP initiative;
- Identifying the social support needs of residents, and the securing of that support by hiring a services coordinator to coordinate and assist in implementing the services needed by the residents, such as health clinics, day care, and security; and
- Assessing potential homeownership opportunities for residents within public and Indian housing or anywhere in the community.

(9) Administrative costs necessary for the implementation of activities outlined in paragraphs (1) through (8) of this Section I.H, "Eligible Activities," of the NOFA. Appropriate administrative costs include, but are not limited to, the following items or activities:

- Telephone, telegraph, printing, and sundry nondwelling equipment (such as office supplies, computer software, and

furniture). In addition, a reasonable portion of funds may be applied to the acquisition of equipment, such as computer hardware and copying machines, unless purchase of this equipment can be made from a grantee's operating budget. A grantee must justify the need for this equipment in relationship to its management capability and the level of its management responsibilities;

- HUD-approved travel directly related to activities for the development/training and implementation of resident management or any tenant opportunity initiatives, including conference fees, related per diem for meals, and miscellaneous travel expenses for individual staff or board members of the RC/RMC/RO; and

- Child care expenses for individual staff and board members, in cases where staff or board members who need child care are involved in training-related activities associated with the development of resident management entities. Not more than 2 percent of the total grant amount (0.02 times the grant award amount) may be used for expenses to support child care needs.

(10) For NROs/RROs/SROs only:

Organizing and establishing democratically elected and effective RCs/RMCs/ROs:

- Identifying existing funded resident organizations in a geographical area that are inactive and providing training and technical assistance to help them become active again;
- Assisting new resident organizations within a geographical area to become a RC, RMC, or RO; and
- Providing local or on-site training and technical assistance to the inactive or newly formed resident organization, to enable it to implement activities included in the Work Plan within the time and budget constraints.
- Providing training and technical assistance to the resident organizations in accomplishing any of the eligible activities related to the TOP initiatives.

I. Ineligible Activities

Ineligible items or activities include, but are not limited to, the following:

(1) Entertainment, including associated costs such as food and beverages, except normal per diem for meals related to travel;

(2) Purchase or rental of land or buildings or any improvements to land or buildings;

(3) Activities not directly related to the TOP initiatives, e.g., lead-based paint testing and abatement and operating capital for economic development activities;

(4) Purchase of any vehicle (car, van, bus etc.) or any other property, other than as described under paragraph (9) of Section I.H, "Eligible Activities," of this NOFA, unless approved by HUD Headquarters or the local HUD Field Office;

(5) Architectural and engineering fees;

(6) Payment of salaries for routine project operations, such as security and maintenance, or for RC/RMC/RO staff, except that a reasonable amount of grant funds may be used to hire a person to coordinate the TOP grant activities or coordinate on-site social services;

(7) Payment of fees for lobbying services;

(8) Any fraudulent or wasteful expenditures or expenditures otherwise incurred contrary to HUD program regulations or directives will be considered ineligible expenditures, upon appropriate determination by an audit by HUD Field Office staff, and HUD will reduce the grantee's grant for the amount expended; and

(9) Any activity otherwise eligible under this NOFA for which funds are being provided from any other source.

J. Selection Process

Each application for a grant award that is submitted in a timely manner, as specified in the application kit, to the local HUD field office and that otherwise meets the requirements of this NOFA, will be evaluated. An application for either a Basic Grant or an Additional Grant must receive a minimum score of 80 points (out of the maximum of 115 points) to be eligible for funding. NROs/RROs/SROs must receive a minimum score of 80 points (out of a maximum of 110) to be eligible for funding. An RC/RMC/RO or NRO/RRO/SRO should submit its application to the appropriate local HUD Field Office (see Appendix to this NOFA). The local Field Office will transfer all RC/RMC/RO applications to a grant review site for processing by a Grants Management Team. Upon completion of the review, all applications will be placed in an overall nationwide ranking order and funded until all funds are exhausted, except that HUD may fund grants out of rank order based on geographical diversity and diversity in size and type of housing development (developments that include family high-rise buildings of five or more stories or those that include only low-rise buildings).

K. Rating Factors—Basic Grants

An application for funding for a Basic Grant will be reviewed based on the following Rating Factors (maximum of 115 points). This 115-point maximum

includes *10 Bonus Points* that will be given if the applicant can show evidence of clear and precise measures of performance in carrying out its plan to improve its public and Indian housing communities. Examples of such measures are lowering maintenance costs, reducing local crime, and increasing resident employment by certain percentage points.

(1) Describe the Activities and Goals of the RC/RMC/RO and the Community (Maximum Points: 30):

- A high score (Maximum Points: 30) is received where the RC/RMC/RO identifies activities and describes the goals of the community. The applicant includes a clear and effective plan for addressing the needs and accomplishing the overall goals of the RC/RMC/RO.

- A medium score (Maximum Points: 15) is received where the RC/RMC/RO identifies activities and describes the goals of the community, but the plan to address the needs and accomplish the goals is general.

- A low score (Maximum Points: 5) is received where the RC/RMC/RO does not identify any activities and the plan to address the needs and accomplish the goals of the community is unclear.

- A score of zero (0 points) will be given if the applicant fails to respond to this factor.

(2) Evidence of Support by Development's Residents, and Resident Involvement in the RC's/RMC's/RO's Activities (Maximum Points: 25):

- A high score (Maximum Points: 25) is received where the RC/RMC/RO describes the support by the residents and provides documentation that shows support and how involved the residents are in the RC's/RMC's/RO's activities.

An applicant must submit a copy of a petition and/or other documentation showing widespread support and involvement, minutes of the RC's/RMC's/RO's latest monthly meeting, and the attendance log.

- A medium score (Maximum Points: 10) is received where the RC/RMC/RO describes the support by the residents and the documentation of support includes minutes of the RC's/RMC's/RO's latest monthly meeting and attendance log, but no petition.

- A score of zero (0 points) is received where the RC/RMC/RO fails to provide documentation of support by the development's residents and no support is mentioned in the narrative.

(3) Evidence That the RC/RMC/RO Has a Partnership With the HA: (Maximum Points: 15):

- A high score (Maximum Points: 15) is received where the RC/RMC/RO provides a letter of support from the local HA that states its support of the

RC/RMC/RO, as well as a specific description of what assistance the HA will undertake on behalf of the RC/RMC/RO.

- A medium score (Maximum Points: 10) is received where either: (i) The RC/RMC/RO provides a letter of support from the HA that does not specifically state the activities for which the HA will provide assistance; or (ii) the RC/RMC/RO provides detailed documents (e.g., copies of correspondence exchanged with the HA, summaries of meetings held with the HA, and summaries of efforts made to establish a partnership with the HA) indicating that the residents have made a substantial effort to establish a partnership with the HA, but the HA will not support the RC's/RMC's/RO's activities.

- A low score (Maximum Points: 5) is received if the applicant mentions HA support or obstacles encountered in attempting to build a partnership with the HA.

- A score of zero (0 points) is received where the RC/RMC/RO fails to submit a letter of support or documentation of its efforts to obtain HA support.

(4) Evidence That the RC/RMC/RO Has Support of State/Tribal/Local Government, Community Organizations, or Other Public/Private Sector Groups (Maximum Points: 20 + 5 bonus points). Under this factor, 5 Bonus Points will be given if the applicant submits evidence that specific support is provided by Weed and Seed organizations.

Otherwise, maximum point value is given where the support letters contain specific commitments, such as financial assistance, technical assistance, on-the-job training, or other tangible support.

- A high score (Maximum Points: 20) is received where the RC/RMC/RO provides copies of letters of support discussing specific assistance from three or more entities (e.g., State/Tribal/local government, community organizations, or other public/private sector groups).

- A medium score (Maximum Points: 12) is received where the RC/RMC/RO provides a letter of support from two entities.

- A low score (Maximum Points: 5) is received where the RC/RMC/RO fails to provide any letters of support, but support of the State/Tribal/local government, community organizations, or other public/private sector groups is mentioned in the narrative.

(5) Capability of RC/RMC/RO in Handling Financial Resources (Maximum Points: 10). This factor can be demonstrated by including previous experience of the RC/RMC/RO or by providing an explanation of how the financial resources will be obtained:

- A high score (Maximum Points: 10) is received where the RC/RMC/RO provides evidence of having 2 or more years of experience in handling financial resources and has adequate accounting procedures in place or provides a plan to partner with the HA or hire a private organization to develop the financial controls.

- A medium score (Maximum Points: 5) is received where the RC/RMC/RO provides evidence of having up to 2 years of experience in handling financial resources, but no accounting procedures are established nor has a plan been provided to partner with the HA or hire a private organization to develop the financial controls.

- A score of zero (0 points) is received where the RC/RMC/RO has no experience in handling financial matters and there is clearly no accounting system or procedures established.

L. Rating Factors—Additional Grants

An application for funding for an Additional Grant will be reviewed based on the following Rating Factors (maximum 115 points). This 115-point maximum includes *10 Bonus Points* that will be given if the applicant can show evidence of clear and precise measures of performance in carrying out its plan to improve its public and Indian housing communities. Examples of such measures are proposing to lower maintenance costs, reduce local crime and increase resident employment by certain percentage points.

(1) Evidence of Need for Additional Funding (Maximum Points: 30):

- A high score (Maximum Points: 30) is received where the RC/RMC/RO provides a copy of evidence showing the completion of all of the activities listed below, therefore demonstrating progress and a need for additional funding:

- (a) Developed an active community organization that includes democratically elected officers (example: election certification signed by the local HA or an independent third-party organization and minutes of meetings);

- (b) Developed by-laws pursuant to 24 CFR part 905, subpart O, or 24 CFR part 964, whichever is applicable, that govern the operation of the organization (example: a copy of the RC's/RMC's/RO's by-laws);

- (c) Developed an organizational structure that consists of floor/block captains or residential community groups and program committees to carry out specific tasks (example: a copy of the RC's/RMC's/RO's organization structure that lists floor/block captains,

community groups, and program committees);

- (d) Developed a basic financial management and accounting system that will provide effective control over and accountability for all grant funds, or acquired an accounting service to perform this function (example: a certification that the accounting system is developed);

- (e) Developed a Memorandum of Understanding (MOU) between the RC/RMC/RO and HA that states the elements of their relationship and delineates what support the HA will provide to the resident organization (e.g., on-the-job training, technical assistance, equipment, space, transportation, etc.) and the activities to be conducted by the RC/RMC/RO (example: a copy of an executed MOU between the RC/RMC/RO and HA);

- A medium score (Maximum Points: 20) is received where the RC/RMC/RO submits evidence of completing 4 of the activities listed under "high score" of this factor.

- A low score (Maximum Points: 10) is received where the RC/RMC/RO submits evidence of completing 2 of the activities listed under "high score" of this factor.

- A score of zero (0 points) is given if the applicant submits no evidence of accomplishing any of the activities listed under "high score" of this factor or it is clear that the applicant has made no progress in the previous activities.

(2) *Evidence of Support by Development's Residents, and Resident Involvement in the RC's/RMC's/RO's Activities* (Maximum Points: 25):

- A high score (Maximum Points: 25) is received where the RC/RMC/RO describes the support by the residents and provides documentation that shows support and how involved are the residents in the RC's/RMC's/RO's activities. An applicant must submit a copy of a petition and/or other documentation showing widespread support and involvement, minutes of the RC's/RMC's/RO's latest monthly meeting, and the attendance log.

- A medium score (Maximum Points: 10) is received where the RC/RMC/RO describes the support by the residents and the documentation of support includes minutes of the RC's/RMC's/RO's latest monthly meeting and attendance log, but no petition.

- A score of zero (0 points) is received where the RC/RMC/RO fails to provide documentation of support by the development's residents or does not mention support in the narrative.

(3) *Evidence That the RC/RMC/RO has a Strong Partnership With the HA* (Maximum Points: 25):

- A high score (Maximum Points: 25) is received where the RC/RMC/RO provides a letter of support from the local HA that states its support of the RC/RMC/RO, as well as a specific description of what assistance the HA will undertake on behalf of the RC/RMC/RO (e.g., on-the-job training, technical assistance, equipment, space, transportation, etc.).

- A medium score (Maximum Points: 15) is received where either: (i) the RC/RMC/RO provides a letter of support from the HA that does not specifically state the activities for which the HA will provide assistance; or (ii) the RC/RMC/RO provides detailed documents (e.g., copies of correspondence exchanged with the HA, summaries of meetings held with the HA, and summaries of efforts made to establish a partnership with the HA) showing that the residents have made a substantial effort to establish a partnership with the HA, but the HA will not support the RC's/RMC's/RO's activities. Up to 5 points will be awarded if support is mentioned or obstacles encountered in attempting to build a partnership with the HA are mentioned.

- A score of zero (0 points) is received where the RC/RMC/RO fails to submit a letter of support or documentation of its efforts to obtain such support.

(4) *Evidence That the RC/RMC/RO has the Support of the State/Tribal/Local Government, Community Organizations, or Other Public/Private Sector Groups* (Maximum Points: 20 + 5 bonus points). Under this factor 5 *Bonus Points* will be given if the applicant submits evidence that specific support is provided by Weed and Seed organizations. Otherwise, maximum point value is given where the support letters contain specific commitments, such as financial assistance, technical assistance, on-the-job training, or other tangible support.

- A high score (Maximum Points: 20) is received where the RC/RMC/RO provides copies of letters from three or more entities (e.g., State/Tribal/local government, community organizations, or other public/private sector groups).

- A medium score (Maximum Points: 10) is received where the RC/RMC/RO provides letters of support from two entities.

- A low score (Maximum Points: 5) is received where the RC/RMC/RO provides a letter of support from one entity.

M. Rating Factors—NROs/RROs/SROs

An application for funding will be reviewed based on the following Rating Factors (maximum of 110 points). This

110-point maximum includes *10 Bonus Points* that will be given if the applicant can show evidence of clear and precise measures of performance in carrying out its plan to improve its public and Indian housing communities (e.g., measures proposed for creating new RCs).

(1) *Describe the Goals and Objectives of the NRO/RRO/SRO* (Maximum Points: 35):

- A high score (Maximum Points: 35) is received where the NRO/RRO/SRO provides a detailed plan clearly describing the proposed methods for accomplishing the overall goals and objectives of organizing and training RCs/RMCs/ROs in the TOP initiatives. Applicants should also provide a description of the proposed training, identify selected trainers, and submit support letters from selected trainers.

- A medium score (Maximum Points: 15) is received where the NRO/RRO/SRO provides a general outline of proposed methods for accomplishing the goals and objectives of organizing and training RCs/RMCs/ROs in the TOP initiatives.

- A score of zero (0 points) is received where the NRO/RRO/SRO does not clearly state the goals and objectives of the TOP initiative.

(2) *Evidence of Support by NRO/RRO/SRO Board of Directors and the Local Housing Authority* (Maximum Points: 10):

- A high score (Maximum Points: 10) is received where the NRO/RRO/SRO provides documentation that shows support from its board of directors, as evidenced by a board resolution, minutes of meetings, and letters of support. The applicants should also provide a letter of support from each HA where the applicant proposes to train residents.

- A medium score (Maximum Points: 5) is received where the NRO/RRO/SRO provides documentation of support that is limited to minutes of meetings.

- Low score (Maximum Points: 2) is received where the NRO/RRO/SRO fails to provide documentation of support, but support is mentioned.

(3) *Evidence of Prior Resident Training Experience*. This factor can be demonstrated by the support of the RCs/RMCs/ROs and the local HAs. The letters of support should indicate the success and quality of prior training. (Maximum Points: 30):

- A high score (Maximum Points: 30) is received where the applicant provides documentation that shows support by the residents (i.e., letters of support, board resolutions, and minutes of meetings) and support letters from the HA.

- A medium score (Maximum Points: 15) is received where the applicant provides documentation that is limited to minutes of meetings.

- Low score (Maximum Points: 5) is received where the applicant fails to provide documentation of support by the development's residents and the HA, but support is mentioned.

(4) *Evidence of the Capability to Provide Local Training*. The applicant should demonstrate the ability to sustain the training and technical assistance through provision of local or on-site trainers and to coordinate these activities throughout the grant period. The applicant should also demonstrate that the residents will have access to continued training and technical assistance through the local provider after the completion of the grant period. (Maximum Points: 15):

- A high score (Maximum Points: 15) is received where the applicant provides a detailed plan clearly showing its capability to identify and provide local training and to coordinate activities of the local training provider.

- A medium score (Maximum Points: 5) is received where the applicant provides a general description of its capability to identify and provide local training.

- A score of zero (0 points) is received where the applicant does not clearly state its capability to identify and provide local training.

(5) *Capability of Handling Financial Resources*. This factor can be demonstrated through previous experience, adequate financial control procedures, or similar evidence, or by an explanation of how such capability will be obtained. (Maximum Points: 10):

- A high score (Maximum Points: 10) is received where the NRO/RRO/SRO provides evidence of having 2 or more years of experience in handling financial resources and has adequate accounting procedures in place.

- A medium score (Maximum Points: 5) is received where the NRO/RRO/SRO provides evidence of having less than 2 years of experience in handling financial resources or has provided a plan for developing financial controls that are adequate.

- A score of zero (0 points) is received where the NRO/RRO/SRO has no experience in handling financial matters and does not submit evidence that shows that an adequate accounting system is in place or under development.

N. HA Notification

HUD will send a notification to the HAs associated with the applications selected for funding.

II. Application Process

A. Actions Preceding Application Submission

Consistent with this NOFA, HUD may direct a HA to notify its existing RCs/RMCs/ROs, as well as NROs, SROs, and RROs, of this funding opportunity. It is important for residents to be advised that, even in the absence of a RC/RMC/RO, the opportunity exists to establish a RC/RMC/RO before applying for funding. If no RC/RMC/RO exists for any of the developments, HUD encourages a HA to post this NOFA in a prominent location within the HA's main office, as well as in each development's office.

B. Application Submission and Development

(1) *Submission*. An application kit is required as the formal submission to apply for funding. The kit includes the overview of the TOP program, application requirements, forms, certifications, assurances, worksheets, selection criteria, workplan and budget information. An application may be obtained by writing the Resident Initiatives Clearinghouse, P.O. Box 6091, Rockville, MD 20850, or by calling the toll-free number: 1-800-955-2232. Requests for application kits must include your name, mailing address (including zip code), and telephone number (including area code), and should refer to document FR-3828. Applications may be requested beginning March 1, 1995. Each RC/RMC/RO and NRO/RRO/SRO must submit its application to the local HUD Field Office or, in the case of an IHA, to the appropriate HUD Office of Native American Programs, listed in the Appendix to this NOFA.

Each applicant must submit the original and 2 copies of its application. The Appendix lists addresses of HUD Field Offices that will accept a completed application. All applications must be received by the local HUD Field Office no later than 3:00 p.m. (local time) on the deadline date listed in the application kit. In the interest of fairness to all competing applicants, any application that is received after the deadline date and time will be considered ineligible. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems. HUD will date-stamp incoming applications to evidence (timely or late) receipt, and, upon request, will provide an acknowledgment of receipt. Facsimile

and telegraphic applications are not authorized and will not be considered.

HUD also encourages an applicant to submit a copy of the application to the HA for the jurisdiction in which the RC/RMC/RO is located.

(2) *Development.* (a) The application must contain the following information:

(i) *For all applicants:* Narrative statements addressing the issues outlined in paragraph (2)(b) of this Section II.B ("Application Submission and Development") of the NOFA.

(ii) *RCs/RMCs/ROs:* Name and address of the RC/RMC/RO. Name and title of the board members of the RC/RMC/RO and date of the last election. A copy of the RC's/RMC's/RO's organizational documents (board resolution, charter, articles of incorporation (if incorporated)) and by-laws, narratives for all rating factors (Basic or Additional Grant), support letters, evidence needed for certain rating factors, forms, certifications, assurances, workplan, and budget information. Name and phone number of contact person (in the event further information or clarification is needed during the application review process). Name, address, and phone number of the HA for the applicant's jurisdiction, to which inquiries may be addressed concerning the application.

(iii) *NROs/RROs/SROs:* Name and address of the applicant. Name, title, and telephone number of a contact person (in the event further information or clarification is needed during the application review process). Name and title of the board members and date of last election. A copy of the articles of incorporation and nonprofit documents (i.e., by-laws, tax-exempt status or other organizational documents). Applicants should also include a narrative statement discussing the geographical areas in which the applicant wishes to organize RCs/RMCs/ROs. In addition, the name and address of the HA for any jurisdiction in which the applicant proposes to organize new or inactive RCs/RMCs/ROs, and a proposed schedule of activities.

(b) *The narrative statements* required under paragraph (2)(a)(i) of this Section II.B of the NOFA shall include the following:

(i) *For all applicants:*

- The name of any development for which the funds are proposed to be used;
- A summary of the program proposed in the application. Also include in the summary the proposed length of time, in months, needed to complete TOP activities (i.e., 24 months, 36 months, etc). The maximum length to complete all activities is 5 years;

- The application must be signed by an authorized member of the board of the RC/RMC/RO or NRO/RRO/SRO (not the HA), and must include a resolution from the RC/RMC/RO or NRO/RRO/SRO stating that it agrees to comply with the terms and conditions established under this program and under 24 CFR parts 964 (for public housing) and 905 (for Indian housing); and

- Assurances (e.g., board resolution or certificate) that the RC/RMC/RO or NRO/RRO/SRO will comply with all applicable Federal laws, Executive Orders, regulations, and policies governing this program, including all applicable civil rights laws, regulations, and program requirements.

(ii) *For Basic Grant applicants:*

- Factor 1: A narrative describing the activities of the RC/RMC/RO and the community and overall group goals for specified TOP initiatives and how the proposed activities will meet the needs of the RC/RMC/RO;

- Factor 2: A narrative describing the extent to which the residents support the proposed activities of the RC/RMC/RO and how active the residents are in the community.

- Factor 3: A narrative describing the partnership with the HA and the extent to which the HA supports the activities outlined in the proposal;

- Factor 4: A narrative describing the extent to which local agencies, community organizations, and the private sector support the activities outlined in the proposal, including the provision of financial resources, technical assistance, or other support; and

- Factor 5: A narrative describing the RC's/RMC's/RO's financial and accounting procedures that have been implemented, or plans to develop these procedures, to ensure that funds are properly spent.

(iii) *For Additional Grant applicants:*

- Factor 1: Provide evidence that certain activities are completed which demonstrates the need for additional funding;

- Factor 2: A narrative describing the extent to which the residents support the proposed activities of the RC/RMC/RO and how active the residents are in the community.

- Factor 3: A narrative describing the extent to which the local HA supports the activities outlined in the proposal; and

- Factor 4: A narrative describing the extent to which local agencies, community organizations, and the private sector support the activities outlined in the proposal, including the provision of financial resources, technical assistance, or other support.

(iv) For NRO/RRO/SRO applicants:

- Factor 1: A narrative describing the activities proposed by the NROs/RROs/SRO and providing a detailed plan that clearly describes the methods for accomplishing the goals and objectives of the TOP initiatives;

- Factor 2: A narrative describing the extent to which the board of the NRO/RRO/SRO and the HA support the proposed activities;

- Factor 3: A narrative describing the applicant's prior experience in training residents, which can be demonstrated by the support of the RCs/RMCs/ROs and the local HAs. The letters of support should indicate the success and quality of training;

- Factor 4: A narrative describing the organization's capability for providing local training; and

- Factor 5: A narrative describing the project's financial and accounting procedures, or plans to develop these procedures to ensure that funds are spent properly.

(3) *HA Support.* (a) HUD is in full support of a cooperative relationship between each RC/RMC/RO and its HA. A resident organization is urged to involve its HA in the application planning and submission process. This can be achieved through meetings to discuss resident concerns and objectives and how best to translate these objectives into activities in the application. The RC/RMC/RO is also encouraged to obtain a letter of support from the HA, indicating to what extent the HA supports the proposed activities listed by the RC/RMC/RO and how the HA will assist the RC/RMC/RO. To foster partnership, HUD encourages NROs/RROs/SROs to obtain letters of acknowledgment from the appropriate HAs regarding the intent to organize residents.

(b) A RC/RMC/RO is encouraged to include an indication of support and assistance by development residents (e.g., RC/RMC/RO Board resolution, copies of minutes, letters, petition, etc.), the neighboring community, and local public or private organizations.

(c) All Additional Grant applicants should include in their applications documentation that demonstrates the need for additional funding, as well as support letters from the HA and local and private organizations.

III. Checklist of Application Submission Requirements

The Application Kit will contain a checklist of all application submission requirements to complete the application process.

A. Training Requirements

(1) RC/RMC/RO grantees are required to have training, and NRO/SRO/RRO grantees are requested to provide training, in the areas listed below, but the amount and scope of training will depend on the resident groups' goals. For example, training required to assume property management is more extensive than training needed to establish a landscaping enterprise. The required training areas are:

(a) HUD regulations and policies governing the operation of low-income housing, which includes the part 900 series of 24 CFR; Section 3 (of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u), implemented in 24 CFR part 135; other Fair Housing Act requirements; and applicable civil rights laws as implemented for public housing (24 CFR part 964) and Indian housing (24 CFR part 905);

(b) Financial management, including budgetary and accounting principles and techniques, in accordance with Federal guidelines, including OMB Circulars A-110 (and implementing regulations at 24 CFR part 84) and A-122, which contain Federal administrative requirements for grants, and A-133, relating to audit requirements for nonprofit organizations;

(c) Capacity building to develop the necessary skills to assume management responsibilities at the project; and

(d) Based on the goals of the RC/RMC/RO, property management or any TOP activities training that is required.

(2) Each grantee must ensure that this training is provided by a qualified housing management specialist (Consultant/Trainer), community development specialist, the HA, or other local agencies knowledgeable about the program.

B. OMB Procurement Requirements

(1) The resident grantees must follow 24 CFR part 84, which implements OMB Circular A-110 and prescribes standards and policies essential to the proper execution of procurement transactions, including standards of conduct for resident grantees' employees, officers, or agents engaged in procurement actions, to avoid any conflict of interest.

(2) A grantee may use two methods in obtaining consultant services:

(a) A "full service" approach may be used where the applicant solicits competitive proposals for assisting in the preparation of the application, with inclusion of the consultant work if the applicant is selected to receive a grant. The total allowed for hiring an individual consultant for this purpose

shall not exceed 50% or \$50,000, whichever is less, of the total award to the grantee. The evaluation criteria in the solicitation must address the qualifications and experience of prospective consultants for all tasks (the contract may stipulate that in the event that the application is not approved, the consultant is not entitled to any payment); and

(b) Separation of application preparation from consultant work to be performed after the award of a grant. This approach allows an applicant to solicit competitive proposals and contract with a Consultant-Trainer/Housing Management Specialist for the development of an application for technical assistance funding. If the applicant is selected for funding, the Consultant-Trainer/Housing Management Specialist must compete along with other prospective Consultant-Trainer/Housing Management Specialists through an open and free procurement process for a training and technical assistance contract. This will eliminate any competitive advantage attained by the Consultant-Trainer/Housing Management Specialist who was awarded a contract for the development of the application/Work Plan and Budget. The total allowed for hiring an individual consultant for this purpose shall not exceed 50% or \$50,000, whichever is less, of the total award to the grantee.

IV. Corrections to Deficient Applications

HUD will notify an applicant in writing of any technical deficiencies in the application. Any deficiency capable of cure will involve only items not necessary for HUD to assess the merits of an application against the Rating Factors specified in this NOFA. For example, signatures needed on certain forms, certifications, workplan, budget, and other required forms may be considered curable deficiencies. All applicants including NROs/RROs/SROs must submit corrections to the local HUD Field Office (including Native American Program Offices, as appropriate) within 14 calendar days from the date of HUD's letter notifying the applicant of any technical deficiency. If corrections are received by the local Field Office after the 14-day timeframe, the applications will be considered incomplete and will not be considered for funding.

After the application due date, applicants will not have an opportunity to submit independently information omitted from the application that directly relates to the evaluation factors

contained in the subheading "Rating Factors" of this NOFA, so as to enhance the merits of the application. HUD encourages all applicants to submit all documents with their applications before the due date, so that applicants will not be affected by the technical deficiency period.

V. Other Matters

A. Freedom of Information Act

Applications submitted in response to this NOFA are subject to disclosure under the Freedom of Information Act (FOIA). To assist the Department in determining whether to release information contained in an application in the event a FOIA request is received, an applicant may, through clear earmarking or otherwise, indicate those portions of its application that it believes should not be disclosed. The applicant's views will be used solely to aid the Department in preparing its response to a FOIA request; the Department is required by the FOIA to make an independent evaluation of the information.

HUD suggests that an applicant provide a basis, when possible, for its belief that confidential treatment is appropriate; general assertions or blanket requests for confidentiality, without more information, are of limited value to the Department in making determinations concerning the release of information under FOIA. The Department is required to segregate disclosable information from non-disclosable items, so an applicant should be careful to identify each portion of the application for which confidential treatment is requested.

The Department emphasizes that the presence or absence of comments or earmarking regarding confidential information will have no bearing on the evaluation of applications submitted in response to this solicitation.

B. Environmental Impact

In accordance with 40 CFR 1508.4 of the regulations of the Council on Environmental Quality and 24 CFR 50.20(b) of the HUD regulations, the policies and procedures contained in this rule relate only to technical assistance and, therefore, are categorically excluded from the requirements of the National Environmental Policy Act.

C. Executive Order 12606, the Family

The General Counsel, as the Designated Official under Executive Order 12606, *The Family*, has determined that this notice does not have potential for significant impact on

family formation, maintenance, and general well-being, and, thus, is not subject to review under the Order. No significant change in existing HUD policies or programs will result from promulgation of this notice, as those policies and programs relate to family concerns.

D. Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that the policies contained in this notice will not have substantial direct effects on States or their political subdivisions, or on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. As a result, the notice is not subject to review under the Order. The NOFA will fund technical assistance and activities for resident management and other TOP initiatives of public and Indian housing. It will have no meaningful impact on States or their political subdivisions.

E. Documentation and Public Access Requirements; Applicant/Recipient Disclosures: HUD Reform Act

Documentation and public access requirements. Pursuant to section 102 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3537a) (HUD Reform Act), HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Materials will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in a **Federal Register** notice of recipients of HUD assistance awarded on a competitive basis. (See 24 CFR 12.14(a) and 12.16(b), and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942), for further information on these documentation and public access requirements.)

Disclosures. HUD will make available to the public for five years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no

case for a period less than three years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. (See 24 CFR part 12, subpart C, and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942), for further information on these disclosure requirements.)

F. Prohibition Against Advance Information on Funding Decisions

Section 103 of the HUD Reform Act proscribes the communication of certain information by HUD employees to persons not authorized to receive that information during the selection process for the award of assistance. HUD's regulation implementing section 103 is codified at 24 CFR part 4 (see 56 FR 22088, May 13, 1991). In accordance with the requirements of section 103, HUD employees involved in the review of applications and in the making of funding decisions are restrained by 24 CFR part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR part 4. Applicants who have questions should contact the HUD Office of Ethics (202) 708-3815 (voice/TDD). (This is not a toll-free number.)

G. Prohibition Against Lobbying of HUD Personnel

Section 112 of the HUD Reform Act added a new section 13 to the Department of Housing and Urban Development Act (42 U.S.C. 3531 *et seq.*). Section 13 contains two provisions dealing with efforts to influence HUD's decisions with respect to financial assistance. The first imposes disclosure requirements on those who are typically involved in these efforts—those who pay others to influence the award of assistance or the taking of a management action by the Department and those who are paid to provide the influence. The second restricts the payment of fees to those who are paid to influence the award of HUD assistance, if the fees are tied to the number of housing units received or are based on the amount of assistance received, or if they are contingent upon the receipt of assistance.

Section 13 is implemented in 24 CFR part 86. If readers are involved in any efforts to influence the Department in

these ways, they are urged to read part 86, particularly the examples contained in Appendix A of that part.

Any questions about the rule should be directed to the Office of Ethics, room 2158, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410-3000. Telephone: (202) 708-3815 (voice/TDD) (these are not toll-free numbers). Forms necessary for compliance with the rule may be obtained from the local HUD office.

H. Drug-Free Workplace Certification

The Drug-Free Workplace Act of 1988 (42 U.S.C. 701) requires grantees of federal agencies to certify that they will provide drug-free workplaces. Each potential recipient under this NOFA must certify that it will comply with drug-free workplace requirements in accordance with the Act and with HUD's rules at 24 CFR part 24, subpart F.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance program number is 14.853.

Authority: 42 U.S.C. 1437r; 42 U.S.C. 3535(d).

Dated: February 22, 1995.

Joseph H. Shuldiner,

Assistant Secretary for Public and Indian Housing.

Appendix—Names, Addresses, and Telephone Numbers of HUD Field Offices Accepting Applications for Tenant Opportunities Program Technical Assistance

Massachusetts State Office

Public Housing Division, Room 375, Thomas P. O'Neill, Jr. Federal Building, 10 Causeway Street, Boston, Massachusetts 02222-1092, (617) 565-5234

Connecticut State Office

Public Housing Division, First Floor, 330 Main St., Hartford, Connecticut 06106-1860, (203) 240-4523

New Hampshire State Office

Public Housing Division, Norris Cotton Federal Building, 275 Chestnut St., Manchester, New Hampshire 03101-2487, (603) 666-7681

Rhode Island State Office

Public Housing Division, Sixth Floor, 10 Weybosset Street, Providence, Rhode Island 02903-3234, (401) 528-5351

New York State Office

Public Housing Division, 26 Federal Plaza, New York, New York 10278-0068, (212) 264-6500

Buffalo Area Office

Public Housing Division, 465 Main Street, Lafayette Court, 5th Floor, Buffalo, New York 14203-1780, (716) 846-5755

New Jersey State Office

Public Housing Division, One Newark Center, Thirteenth Floor, Newark, New Jersey 07102-5260, (201) 622-7900

Washington, D.C. Office

Public Housing Division, 820 First St. N.E., Suite 300, Washington, D.C. 20002-4502, (202) 275-9200

Pennsylvania State Office

Public Housing Division, Liberty Square Building, 105 South Seventh Street, Philadelphia, Pennsylvania 19106-3392, (215) 597-2560

Maryland State Office

Public Housing Division, City Crescent Building, 10 South Howard St., 5th Floor, Baltimore, Maryland 21202-2505, (410) 962-2520

Pittsburgh Area Office

Public Housing Division, 412 Old Post Office Courthouse, 7th Avenue and Grant St., Pittsburgh, Pennsylvania 15219-1906, (412) 644-6428

Virginia State Office

Public Housing Division, The 3600 Centre, 3600 West Broad St., P.O. Box 90331, Richmond, Virginia 23230-0331, (804) 278-4507

West Virginia State Office

Public Housing Division, 405 Capitol St., Suite 708, Charleston, West Virginia 25301-1795, (304) 347-7000

Georgia State Office

Public Housing Division, Richard B. Russell Federal Building, 75 Spring Street, S.W., Atlanta, Georgia 30303-3388, (404) 331-5136

Alabama State Office

Public Housing Division, Beacon Ridge Tower, 600 Beacon Parkway West, Suite 300, Birmingham, Alabama 35209-3144, (205) 290-7617

Kentucky State Office

Public Housing Division, P.O. Box 1044, 601 W. Broadway, Louisville, Kentucky 40201-1044, (502) 582-5251

Mississippi State Office

Public Housing Division, Dr. A. H. McCoy Federal Building, 100 West Capitol St., Suite 910, Jackson, Mississippi 39269-1096, (601) 965-5308

North Carolina State Office

Public Housing Division, Koger Building, 2306 W. Meadowview Rd., Greensboro, North Carolina 27407-3707, (910) 547-4001

Caribbean Office

Public Housing Division, New San Juan Office Building, 159 Carlos E. Chardon Ave., San Juan, Puerto Rico 00918-1804, (809) 766-6121

South Carolina State Office

Public Housing Division, Strom Thurmond Federal Building, 1835 Assembly St.,

Columbia, South Carolina 29201-2480, (803) 765-5592

Knoxville Area Office

Public Housing Division, John J. Duncan Federal Building, 710 Locust St., 3rd Floor, Knoxville, Tennessee 37902-2526, (615) 545-4384

Tennessee State Office

Public Housing Division, 251 Cumberland Bend Drive, Suite 200, Nashville, Tennessee 37228-1803, (615) 736-5213

Jacksonville Area Office

Public Housing Division, Southern Bell Tower, 301 West Bay Street, Suite 2200, Jacksonville, Florida 32202-5121, (904) 232-2626

Illinois State Office

Public Housing Division, Ralph Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago, Illinois 60604-3507, (312) 353-5680

Michigan State Office

Public Housing Division, Patrick V. McNamara Federal Building, 477 Michigan Ave., Detroit, Michigan 48226-2592, (313) 226-7900

Indiana State Office

Public Housing Division, 151 North Delaware St., Indianapolis, Indiana 46204-2526, (317) 226-6303

Grand Rapids Area Office

Public Housing Division, 2922 Fuller Ave., N.E., Grand Rapids, Michigan 49505-3499, (616) 456-2100

Minnesota State Office

Public Housing Division, 220 2nd St. South, Bridge Place Building, Minneapolis, Minnesota 55401-2195, (612) 370-3000

Cincinnati Area Office

Public Housing Division, 525 Vine St., 7th Floor, Cincinnati, Ohio 45202-3188, (513) 684-2884

Cleveland Area Office

Public Housing Division, Renaissance Building, 1350 Euclid Ave., 5th Floor, Cleveland, Ohio 44115-1815, (216) 522-4058

Ohio State Office

Public Housing Division, 200 North High Street, Columbus, Ohio 43215-2499, (614) 469-5737

Wisconsin State Office

Public Housing Division, Henry S. Reuss Federal Plaza, 310 W. Wisconsin Ave., Suite 1380, Milwaukee, Wisconsin 53203-2289, (414) 297-3214

Texas State Office

Public Housing Division, 1600 Throckmorton, P.O. Box 2905, Fort Worth, Texas 76113-2905, (817) 885-5401

Houston Area Office

Public Housing Division, Norfolk Tower, 2211 Norfolk, Suite 200, Houston, Texas 77098-4096, (713) 834-3274

San Antonio Area Office

Public Housing Division, Washington Square Building, 800 Dolorosa St., San Antonio, Texas 78207-4563, (210) 229-6800

Arkansas State Office

Public Housing Division, TCBY Tower, 425 West Capitol Ave., Little Rock, Arkansas 72201-3488, (501) 324-5931

Louisiana State Office

Public Housing Division, Fisk Federal Building, 1661 Canal St., Suite 3100, New Orleans, Louisiana, 70112-2887 (504) 589-7200

New Mexico State Office

Public Housing Division, 625 Truman Street N.E., Albuquerque, NM 87110-6443, (505) 262-6463

Nebraska State Office

Public Housing Division, 10909 Mill Valley Rd., Omaha, Nebraska 68154-3955, (402) 492-3100

St. Louis Area Office

Public Housing Division, Robert A. Young Federal Building, 1222 Spruce St. Room 3207, St. Louis, Missouri 63103-2836, (314) 539-6583

Kansas/Missouri State Office

Public Housing Division, Room 200, Gateway Tower II, 400 State Avenue, Kansas City, Kansas 66101-2406, (913) 551-5462

Iowa State Office

Public Housing Division, Federal Building, 210 Walnut St., Rm. 239, Des Moines, Iowa 50309-2155, (515) 284-4512

Colorado State Office

Public Housing Division, 633 17th Street, First Interstate Tower North, Denver, Colorado 80202-3607, (303) 672-5440

California State Office

Public Housing Division, Philip Burton Federal Building & U.S. Courthouse, 450 Golden Gate Avenue, P.O. Box 36003, San Francisco, California 94102-3448, (415) 556-4752

Hawaii State Office

Public Housing Division, 7 Waterfront Plaza, 500 Ala Moana Blvd., Suite 500, Honolulu, Hawaii 96813-4918, (808) 552-8175

Los Angeles Area Office

Public Housing Division, 1615 W. Olympic Blvd., Los Angeles, California 90015-3801, (213) 251-7122

Sacramento, California Office

Public Housing Division, 777 12th St., Suite 200, Sacramento, California 95814-1997, (916) 551-1351

Arizona State Office

Public Housing Division, Two Arizona Center, 400 N. 5th St., Suite 1600, Phoenix, Arizona 85004-2361, (602) 379-4434

Oregon State Office

Public Housing Division, Cascade Building, 520 Southwest Sixth Ave., Portland, Oregon 97204-1596, (503) 326-2561

Washington State Office

Public Housing Division, Suite 200, Seattle
Federal Office Building, 909 First Avenue,
Seattle, Washington 98104-1000, (206)
220-5101

Alaska State Office

Public Housing Division, University Plaza
Building, 949 E. 36th Ave., Suite 401,
Anchorage, Alaska 99508-4399, (907) 271-
4170

Native American Program Offices

*Serves: All States East of the Mississippi
River and Iowa*

Administrator, Eastern/Woodlands Office of
Native American Programs, 5P, 77 W.
Jackson Boulevard, 24th Floor, Chicago,
Illinois 60604-3507, (312) 886-4532

*Serves: Oklahoma, Kansas, Missouri, Texas,
Arkansas and Louisiana*

Administrator, Southern Plains Office of
Native American Programs, 6.7P, Murrah
Federal Building, 200 N.W. 5th Street,
Oklahoma City, Oklahoma 73102, (405)
231-4101

*Serves: Colorado, Montana, the Dakotas,
Nebraska, Utah and Wyoming*

Mr. Vernon Haragara, Administrator,
Southern Plains Office of Native American
Programs, 8P, First Interstate Tower North,
633 17th Street, Denver, Colorado 80202-
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Final Rule

Wednesday
March 1, 1995

Part IV

**Federal Emergency
Management Agency**

44 CFR Part 152
Arson Prevention Act of 1994—State
Grants; Final Rule

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 152

RIN 3067-AC31

The Arson Prevention Act of 1994— State Grants

AGENCY: The United States Fire Administration, FEMA.

ACTION: Final rule.

SUMMARY: This final rule identifies the eligibility criteria and procedures for States or consortia of States to apply for arson related grants, and it details the evaluation criteria and anti-arson goals the awards are targeted to support.

EFFECTIVE DATE: This final rule is effective March 31, 1995.

FOR FURTHER INFORMATION CONTACT: Kenneth J. Kuntz, United States Fire Administration, 16825 South Seton Avenue, Emmitsburg, MD 21727, (301) 447-1271, facsimile (301) 447-1102.

SUPPLEMENTARY INFORMATION: The Arson Prevention Act of 1994 (Pub. L. 103-254) amends the Fire Prevention and Control Act of 1974 (15 U.S.C. 2220) to make available competitive grants to States or consortia of States, for programs relating to arson research, prevention, and control. Accordingly, FEMA is publishing this final rule to indicate how it will administer the grant program.

FEMA published the proposed rule in the **Federal Register** on Tuesday, September 20, 1994, 59 FR 48277. Comments were invited until November 4, 1994. No comments were received. Therefore, FEMA is publishing the final rule as initially proposed, with minor technical changes.

National Environmental Policy Act

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

Regulatory Flexibility Act

I certify that this final rule will not have a significant economic impact on a substantial number of small entities in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., because the final rule will relate to the procedures that FEMA will use to administer the statutorily mandated grant program, and will have no direct effect on small business or governmental entities. The final rule will not: (1) Affect adversely the availability of grants to small entities; (2) have significant secondary or

incidental effects on a substantial number of small entities; nor (3) create an additional burden on small entities. Accordingly, no regulatory flexibility analysis will be prepared.

Paperwork Reduction Act

This final rule does not involve any collection of information for the purposes of the Paperwork Reduction Act.

Executive Order 12866, Regulatory Planning and Review

Promulgation of this final rule is required by statute, 15 U.S.C. 2221 et seq., which also specifies the regulatory approach taken in the final rule. To the extent possible under the statutory requirements of 15 U.S.C. 2221, this final rule adheres to the principles of regulation as set forth in this Executive Order. This final rule has not been reviewed by the Office of Management and Budget under the provisions of E.O. 12866.

Executive Order 12612, Federalism

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

Executive Order 12778, Civil Justice Reform

The final rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 152

Administrative practice and procedure, Firefighters, Arson prevention, Grant programs, Reporting and record keeping requirements.

Accordingly, 44 CFR Part 152 is added to read as follows:

PART 152—STATE GRANTS FOR ARSON RESEARCH, PREVENTION, AND CONTROL

Subpart A—Purpose, Scope, Definitions

Sec.

152.1 Purpose.

152.2 Scope.

152.3 Definitions.

Subpart B—Competitive State Grants

152.4 Grant goals.

152.5 State qualification criteria.

152.6 Grant application procedures.

152.7 Available funds and application submission.

152.8 Competitive evaluation criteria.

152.9 Reporting requirements.

Subpart C—Administration

152.10 Extensions.

152.11 Technical assistance.

152.12 Consultation and cooperation.

152.13 Audits.

152.14 Penalties.

Authority: 15 U.S.C. 2221; Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

Subpart A—Purpose, Scope, Definitions

§ 152.1 Purpose.

This part establishes the uniform administrative rules under which States or consortia of States will request consideration for competitive arson research, prevention and control grant award(s), and details the associated administrative procedures which will be required of applicants and recipients.

§ 152.2 Scope.

This part applies to all States or consortia of States requesting competitive consideration of their respective proposals, and all those States or consortia of States actually awarded arson grants under this authority.

§ 152.3 Definitions.

Administrative costs means those actual expenses incurred by a grantee to oversee and execute the specific administrative provisions of the grant award, including as appropriate the provision of grant related monitoring services and reporting requirements, and the nominal purchase of necessary equipment and expendable supplies to support the administration of the grant.

Administrator means the Administrator of the United States Fire Administration.

Grantee means the State, consortia of States, or State and consortia of States identified as recipients of grant awards under this part.

Prevention and control means the aggressive intervention strategies, methods, and materials developed or relied upon to minimize the occurrence and effects of arson.

Program costs means the actually incurred expenses related to the development, delivery, training, research or other activities proposed and subsequently authorized by the grant award and other appropriate controls.

Reporting methodology is the means by which a jurisdiction provides arson data to the National Fire Incident Reporting System (NFIRS) or the Uniform Crime Reporting (UCR) programs.

Research means the application of conventional scientific and statistical methods to assess a particular issue, application methodology, intervention or mitigation strategy in an effort to advance the collective scientific body of

knowledge related to the nation's arson problem.

Resources means tangible capability enhancements including but not limited to the purchase of program related equipment, services, materials, and expendable supplies.

Responsible official means the individual specifically authorized to act as the accountable Agent of the State for purposes of administering the grants awarded under this part.

State means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

State consortia means a cooperative and collective group of more than one State, (or State equivalents as noted above).

Subpart B—Competitive State Grants

§ 152.4 Grant goals.

Grant applications for these grant awards must promote one or more of the following 10 goals:

(a) To improve the training by States leading to professional certification of arson investigators in accordance with nationally recognized certification standards. Certification of arson investigators is to be accomplished in accordance with State guidelines, by appropriate State authorities.

(b) To provide resources for the formulation of arson task forces or interagency organizational arrangements involving police and fire departments and other relevant local agencies, such as a State arson bureau and the office of a fire marshal of a State.

(c) To combat fraud as a cause of arson, and to advance research at the State and local levels on the significance and prevention of fraud as a motive for setting fires.

(d) To provide for the management of arson squads including:

(1) Training courses for fire departments in arson case management including standardization of investigative techniques and reporting methodology;

(2) The preparation of arson unit management guides; and

(3) The development and dissemination of new public education materials relating to the arson problem; proposals should address all three subactivities in support of the management of an arson squad.

(e) To combat civil unrest as a cause of arson, and to advance research at the State and local levels on the prevention and control of arson linked to urban disorders.

(f) To combat juvenile arson, such as juvenile fire setter counseling programs and similar intervention programs, and to advance research at the State and local levels on the prevention of juvenile arson.

(g) To combat drug-related arson, and to advance research at the State and local levels on the causes and prevention of drug-related arson.

(h) To combat domestic violence as a cause of arson, and to advance research at the State and local levels on the prevention of arson arising from domestic violence.

(i) To combat arson in rural areas and to improve the capability of firefighters to identify and prevent arson initiated fires in rural areas and public forests.

(j) To improve the capability of firefighters to identify and combat arson through expanded training programs, including:

(1) Training courses at the State fire academies; and

(2) Innovative courses at the National Fire Academy (NFA) and made available to volunteer firefighters through regional delivery methods, including teleconferencing and satellite delivered television programs.

(k) Proposals addressing goals in paragraphs (a), (i), and (j) of this section would be encouraged to rely, at least in part on training course materials and offerings currently available through the NFA. Proposals should specifically identify which training components would be utilized and how they would be delivered. In the event Course content, other than that available from the NFA is proposed, the applicant will include copies of the proposed training materials with the proposal.

(l) In addition, applicants should make specific reference in their proposal(s) as to those efforts being made to provide improved and more widely available arson training courses which demonstrate particular emphasis on the needs of volunteer firefighters.

§ 152.5 State qualification criteria.

Each State or consortium of States will demonstrate by appropriate means and provide such assurances as are deemed adequate by the Administrator that the State, or consortium of States:

(a) Will obtain at least 25 percent of the cost(s) funded by the grant, in cash or in kind, from non-Federal sources.

(1) *State's contribution.* Applicants will identify the source and amount of their respective contribution (in cash or in kind) in the work plan and budget detail sections of the application.

(2) Cash contributions will be sourced or certified by responsible authority to

be derived entirely from non-Federal sources.

(3) In kind contributions will be specifically detailed and clearly demonstrate the type, nature, value and quantity of the contribution offered to satisfy this requirement. The applicant(s) may offer current staff in support of the contribution requirement, insofar as the offering would not effect the restriction against decreasing the prior levels of spending detailed in paragraph (b) of this section.

(4) In kind contributions will also be sourced and certified to be derived from non-Federal sources.

(b) Will not as a result of receiving the grant decrease the prior level of spending of funds of the State or consortium from non-federal sources for arson research, prevention, and control programs. The applicant(s) will provide a concise overview of the level of funding dedicated to these areas for each of the two previous fiscal years. This information will be included in the grant file and is subject to post audit reviews. The applicant's responsible official will provide appropriate certification that the recipient is cognizant of this condition of award, and that no diminution of funding is to result in such anti-arson efforts in the event of a grant award. Violation of this grant award condition may subject the recipient to termination of the grant, and forfeiture of unused portions of grant funds, and other applicable administrative or criminal sanctions.

(c) Will use no more than 10 percent of the funds provided under the grant for administrative costs of the programs. Actual administrative cost incurred, not to exceed 10 percent for the funds provided, may be funded through the grant. It is recognized that the administrative costs may exceed the allocation limit, in such cases the additional expense will be born by the recipient. Excess administrative costs will *not* be considered part of the recipients required 'contribution' as noted in paragraph (a) of this section; and

(d) Is making efforts to ensure that all local jurisdictions will provide arson data to the National Fire Incident Reporting System (NFIRS) or the Uniform Crime Reporting (UCR) program.

(1) The State, or consortia of States, will provide, as part of the application process, such information as will describe its current efforts to ensure that all local jurisdictions will provide data to NFIRS or UCR.

(2) This description should include the current level of local jurisdiction participation in each of the respective

data collection programs. It should detail the State's reporting criteria, and data collection requirements, and statutory reporting mandates, if applicable. It should specifically identify the constructive efforts (both incentives and penalties to local jurisdiction's participation) underway to achieve complete reporting, and identify the actions, if any, to be taken under the proposed grant to achieve the participation target; and

(e) Has a policy to promote actively the training of its firefighters in cardiopulmonary resuscitation (CPR). The applicant(s) may demonstrate their fulfillment of this requirement by providing a true copy of the policy with the proposal, or by such other means as would reasonably attest to the applicant's active promotion of CPR training for all firefighters.

§ 152.6 Grant application procedures.

(a)(1) Applicants, both singly and in consortia, must format their proposals so as to assure the grant goal(s) identified in § 152.4 are clearly addressed and that the work plan descriptions of the level of effort, program activity, and program budgets are specific to each of the selected target goals.

(2) The legislation directs that awards be made in support of each of the ten (10) goals enumerated in § 152.4. The competitive evaluation of the proposals will be done on a goal by goal basis, and the grant awards will be made accordingly. In effect, all of the proposals received that address, for example § 152.4(a), will be reviewed against the competitive evaluation criteria detailed in § 152.8 in relation to achieving that goal. The best overall proposal will be the recipient of the award. Each of the other proposals offered in support of each of the other goals will likewise be assessed. The State or consortia of States may submit proposals addressing more than one of the goals. Applicants must however insure that the proposal detail is separable in its entirety, goal by goal. States, or consortia of States, applying for the competitive grants available under this section will comply with and are bound by all of the applicable provisions of 44 CFR parts 13 and 14 with respect to the Uniform Administrative Requirements for Grants to State Governments, and the Administration of Grants: Audits of State Governments.

(b) The application will identify the requestor's status as a:

- (1) State; or
- (2) Consortium of States, (detailing each of the States in the consortium).

(c) The application will specifically identify both the responsible State organizational element (e.g., the Office of the State Fire Marshal) and the responsible Official/Individual who will administer the grant in the event of an award. Grant requests from consortia of States will include this information for each of the States, and will identify which one of these responsible Officials will serve as the grant's administrative coordinator with USFA.

(d) The information provided will include the following:

- (1) The applicant's complete organizational title;
- (2) The applicant's complete mailing address;
- (3) The name and title of the State's designated responsible Official;
- (4) The responsible Official's complete mailing address; and
- (5) The responsible Official's telephone and facsimile numbers.

(e) The application will indicate specifically which of the 10 grant goals in § 152.4 the proposed grant activities are intended to address. Consortia proposals may propose that each of the consortia States address a particular goal or group of goals singularly, or the States may approach the selected goals, in part or in whole, collectively.

(f) The application will provide specific work plans which detail the means by which the applicant(s) intends to pursue the selected goal's attainment through the grant. The work plan will include the overall level of effort envisioned as a result of the proposed grant's implementation, the specific tasks and time lines to be accomplished, the resources both human and material that will be applied to the effort (including the means by which the utilization of these resources will be accounted for), and the means and methods that will be utilized to assess and evaluate the accomplishment of the targeted goals.

(g) Each applicant will submit a detailed grant program budget which addresses, by goal specific reference, how the grant funds, both administrative and programmatic, will be disbursed. The grant proposal budget element will specifically distinguish between "administrative costs" and "program costs" consistent with the requirements noted herein. No more than 10 percent of the funds provided under the grant will be used for the administrative costs of the program. This restriction does not preclude the applicant(s) from proposing a greater level of effort or resource dedication to administrative activity, it simply limits the costs to be supported through the grant funding. Each of the States in a

consortium may request support for actual administrative costs of no more than 10 percent of its respective program expenses.

§ 152.7 Available funds and application submission.

(a) Funds may be appropriated in Fiscal Year 1995 to support grant awards addressing the ten (10) goals of § 152.4. No grant awards would be made in Fiscal Year 1995 or future years unless and until funds are appropriated.

(b) Reasonable efforts will be made to award a grant addressing each of the enumerated goals in an expeditious manner. Upon completion of the initial competitive evaluations and the resulting grant awards, any goal(s) yet unattended will be identified and may become the subject of a second round of applications solicitation, consideration and grant award(s). Grant proposals should be formatted to address specifically the incremental use of the currently available (FY 1995) funds, and target the possible use of FY 1996 funds if made available, as logical programmatic extensions or replications of the activities proposed and supported by FY 1995 funds.

(c) Following the comment period and the publishing of the final rule incorporating these procedures, a formal announcement of grant availability will be issued in the **Federal Register**. Applicants will be afforded a period of not less than 30 and not more than 45 days, following the formal announcement, to submit applications. It is anticipated that the initial grant awards will be made during the first quarter of calendar year 1995. In the event awards are not made in support of each of the ten goals, a second Notice of Availability, addressing the unattended goals, may be published in the **Federal Register** and awards will be targeted to occur before September 30, 1995.

§ 152.8 Competitive evaluation criteria.

Each grant application/program proposal received will be competitively assessed against the following criteria:

- (a) The degree to which the proposal is seen to address the targeted goal or each goal in a combination of goals;
- (b) The scope and effect of the proposed initiative in relation to the proposed program cost;
- (c) The degree to which the proposed activity supports a "model program initiative" suitable for replication in other jurisdictions;
- (d) The degree to which the proposed activity demonstrates an effective and efficient integration of a variety of program resources;
- (e) The degree to which the proposed activity could sustain itself upon the

completion of the grant performance period;

(f) The degree to which the proposed activity would target intervention strategies addressing high-risk groups, properties, or specific conditions.

(g) The degree to which the activity proposed would produce a lasting antiarson program, initiative, or other such appropriate outcome;

(h) The degree to which the proposed activity promotes the introduction of new technology, innovative techniques, or nontraditional approaches to reduce the nation's arson problem;

(i) The degree to which the proposed activity relies upon the development of intergovernmental, interorganizational, or community involving "partnerships" to promote goal attainment; and

(j) The degree to which the proposed activity supports the enhanced ability to collect arson data.

§ 152.9 Reporting requirements.

(a) Each State, or consortium of States, which is the recipient of a grant under this authority, by acceptance of the award, agrees to provide to the satisfaction of the Administrator and in timely fashion, any and all such documentation as may be requested or required to detail the methods and amounts of grant funds disbursement and such other record keeping, retention of records and the additional provision of information by the Grantee as may be required by the awarding Agency and applicable regulation.

(b) The reporting requirements will consist of primarily the two following types:

(1) Quarterly progress and financial status reports; and

(2) Final progress report and financial status report. The final progress report will include a summary evaluation of the program related activities under the

grant. It will identify the evaluation methodology and the assessment values applied to critique the grant's effectiveness in relation to achieving the targeted goal(s).

Subpart C—Administration

§ 152.10 Extension.

The Administrator has discretionary authority to extend the duration of grants made under this part for one or more additional periods. Grant recipients desiring an extension of the grant performance period, will request such extensions in writing at least sixty (60) days prior to the expiration of the grant period. The request will include the reason for the requested extension, a description of the effect(s) on the program if the extension is not granted, and a statement that no additional federal funds would be necessary to support the grant activities during the extension period. Grant extension requests may not be utilized to request additional funding.

§ 152.11 Technical assistance.

The Administrator shall provide technical assistance to States in carrying out the program(s) funded by grants under the Act. This assistance will consist of providing the customary and usual information on the application process, deadlines, program and financial reporting requirements, and related grant program activities support. This provision is not intended to suggest that USFA will provide other than grant related support and technical assistance. Grant proposals should not suggest or rely upon other program related services, staff support or monies from USFA to be any part of the proposed grant activities, except as provided in this part.

§ 152.12 Consultation and cooperation.

The Administrator would consult and cooperate with other Federal agencies to enhance program effectiveness and avoid duplication of effort, including the conduct of regular meetings initiated by the Administrator with representatives of other Federal agencies concerned with arson and concerned with efforts to develop a more comprehensive profile of the magnitude of the national arson problem.

§ 152.13 Audits.

In accordance with applicable regulations, all the grants awarded under this part and all records of the recipient would be subject to audit by appropriate Federal Emergency Management Agency staff or other responsible authority.

§ 152.14 Penalties.

The recipient designated responsible official or others who provide information or documentation to federal officials in connection with the activities or funds authorized by or expended through these grants are subject to, among other laws, the criminal penalties of 18 U.S.C. 287 and 1001, which punish the submission of false, fictitious or fraudulent claims and the making of false, fictitious or fraudulent statements. Such actions are punishable by the imposition of a fine not to exceed \$10,000.00 or imprisonment for not more than five (5) years, or both. Such a violation may also subject the responsible official to the civil penalties set out in 31 U.S.C. 3729 and 3730.

Dated: February 16, 1995.

Harvey G. Ryland,

Deputy Director.

[FR Doc. 95-4415 Filed 2-28-95; 8:45 am]

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Final Rule

Wednesday
March 1, 1995

Part V

**Department of
Agriculture**

Agricultural Marketing Service

7 CFR Part 51

Blueberries; Grade Standards; Final Rule

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 51

[Docket Number FV-92-301]

Blueberries; Grade Standards

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule revises the United States Standards for Grades of Blueberries by adding another species of cultivated blueberries, eliminating size as a requirement of the grade, revising tolerances and applications of tolerances to percentages of defective berries, specifying allowable amounts for defects caused by scars and well healed broken skins, redefining terms to more clearly reflect current cultural and marketing practices, and providing a format consistent with other recently revised U.S. grade standards. The Agricultural Marketing Service (AMS), in cooperation with industry and other interested parties, has the responsibility to develop and improve standards of quality, condition, quantity, grade and packaging in order to facilitate efficient marketing of agricultural commodities.

EFFECTIVE DATE: March 20, 1995.

FOR FURTHER INFORMATION CONTACT:

Frank O'Sullivan, Fresh Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, P.O. Box 96456, Washington, DC 20090-6456, (202) 720-2185.

SUPPLEMENTARY INFORMATION: The Department is issuing this rule in conformance with Executive Order 12866.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Administrator of the Agricultural Marketing Service (AMS) has determined that this action will not have a significant economic impact on a substantial number of small entities. The revision of the U.S. Standards for Grades of Blueberries will not impose substantial direct economic cost, recordkeeping, or personnel workload changes on small entities, and will not alter the market share or competitive position of these entities relative to large businesses. In addition, under the Agricultural Marketing Act of 1946, the use of these standards is voluntary.

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This

final rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Agencies periodically review existing regulations. An objective of the review is to ensure that the grade standards are serving their intended purpose, the language is clear, and the standards are consistent with AMS policy and authority.

The proposed rule, United States Standards for Grades of Blueberries, was published in the **Federal Register** on November 19, 1993 (58 FR 61033-61035).

The North American Blueberry Council (NABC), which represents the majority of blueberry growers and packers in the United States and Canada, formally requested USDA to revise the United States Standards for Grades of Blueberries which were last revised in June 1966. The NABC requested that the standards be revised in order to bring them into conformity with current cultural, harvesting, and marketing practices. The NABC contends that due to changes in harvesting practices, more growers using mechanical harvesters versus hand picking, and new improved varieties, the changes are necessary.

The comment period ended January 18, 1994, and a total of nineteen comments were received from growers, shippers, receivers, and researchers. In addition, recommendations were received from inspection personnel.

Nine comments were in favor of the proposal in its entirety. These comments agreed that due to changes in current cultural, harvesting, and marketing practices of blueberries, it was necessary to change the standards as proposed.

Three comments suggested eliminating the basic requirement "not wet." They felt that blueberries that are wet from condensation would be scored against this requirement, and perfectly good blueberries would be scored as defects. AMS believes that the definition under the "damage" section clearly states that wet berries are damaged when "the individual berry is wet from juice from crushed, leaking, or decayed berries, but not due to condensation," and thereby good blueberries would not be scored as defects.

Three comments were in favor of the proposal with some changes. All three of the comments expressed the opinion that a minimum size should be specified, or that size should be part of

the grade. Two of these comments also stated that the ten percent tolerance for attached stems is too high. One of these comments stated that the tolerances should be based on number of defects and not percentages, with no allowance for "leakers." AMS feels that size should not be part of the grade since blueberries are not packed by size. However, the size classification section should be left in the standards for common marketing terminology. The NABC specifically requested that tolerances be in percentages and that an additional allowance be made for attached stems. Further, tolerances based on percentages rather than number of berries would be more simplistic for inspectors, industry, and other interested parties; a chart of the number of berries allowed for various defects would no longer be needed. Since some varieties of blueberries have stems which adhere more readily to the berry, or growing conditions cause the stems to remain attached, a ten percent allowance for attached stems is needed so as to take into account certain varieties with inherent characteristics. Therefore, AMS believes the tolerances for defects and the allowance for attached stems should remain as they were in the proposal.

Two comments opposed the proposed definition of damage by shriveling, which stated "shriveling when the skin is slightly wrinkled." They were of the opinion that the term "slightly wrinkled" meant that the berries would be observed under close scrutiny and when wrinkling was found to any degree the berries would be scored. The commentors proposed that the definition be changed to "shriveling when the wrinkling is readily noticeable." This would mean that only the wrinkling found upon casual observation would be scored as a defect. One of the commentors also felt that having a definition for "damage by green berries" and a definition for "well colored" was redundant. They felt that the "damage by green berries" should be deleted. AMS agrees with the comments as to "shriveling" and the definition of damage by shriveling will be "when the wrinkling is readily noticeable." In regard to the comment of "damage by green berries" and "well colored," AMS feels that green berries would be considered immature berries and berries that are not well colored may be mature but simply do not meet the color requirements. AMS believes that buyers and sellers would want to know the distinction between these two defects.

One comment from an exporter did not address the provisions of the proposal.

One comment stated the following: "stems should not be counted as defects unless excessive—50 or more per pint; shriveled berries should not be counted as defects unless excessive—20 or more per pint; berries with picking scars or split by excessive rain or moisture, but are not overripe, with healed scars, would not be counted as soft berries; and soft berries are those that are overripe, bleeding, and certain to cause molding within 24 hours." AMS believes that all of these issues have been addressed in the revised standards by: Defining under damage and serious damage how much each blueberry may be affected by a certain defect; in the application of tolerance section defining the percentage of blueberries that may be defective in each sample; and in the tolerance section defining the percentage of defective blueberries which are allowed in a load or lot of blueberries.

One recommendation was made concerning the "definitions for damage and serious damage by scars is too loose." It was suggested that only the scars that are fairly smooth and have no depth be scored as outlined in the proposed standards. AMS believes that scars are too small to distinguish as to their smoothness or depth, and has decided to leave the definition of damage and serious damage by scars as proposed.

One recommendation made several suggestions for changing definitions of various defects. Clusters were proposed to be changed to "3 or more joined capstems with more than one berry attached." Shriveling was proposed to be changed to "more than slightly wrinkled." It was recommended that broken skins, regardless of whether they are well healed or not should be scored as serious damage, except for an allowable area around the stem scar. Also, damage by scars should be changed from 20 percent of the surface to 25 percent of the surface. Mummified berries should include in its definition those berries that are in the process of being mummified. AMS does not believe that these changes are warranted due to the inconsistencies these changes would create with other standards and with the scoring of the above defects. However, as stated previously, the definition of "damage by shriveling" will be applied "when shriveling is readily noticeable."

One recommendation suggested an additional grade for higher quality blueberries should be inserted in the standards. Also, size should be determined by weight, since "cup" could be confusing and is not precise enough. Finally, it was felt that the

current size classifications do not allow for loads and/or lots of blueberries that contain both medium and large size berries in the same lot. The NABC made it clear to AMS that it did not want an additional grade in the standards. Also, most commodities are marketed on the basis of U.S. No. 1 and it is felt that other grades would not be necessary. AMS feels that determining size by weight would be more difficult due to the modest size of the berries. AMS did make allowances in the tolerances for "off-size" to allow for blueberries that contain both medium and large size berries in the same lot.

The Agricultural Research Service of the Department stated that it is "not aware of any research data or other information relevant to the possible effect of the 'cosmetic appearance' elements of the proposed rulemaking on pesticide use on blueberries."

AMS develops and improves standards of quality, condition, grade, and packaging in order to facilitate efficient marketing. The provisions of this final rule are the same as those in the proposed rule, except for the changes noted above in response to the comments received, and several minor editorial changes made for clarity.

List of Subjects in 7 CFR Part 51

Agricultural commodities, Food grades and standards, Fruits, Nuts, Reporting and recordkeeping requirements, Vegetables.

PART 51—[AMENDED]

For reasons set forth in the preamble, it is amended as follows:

1. The authority citation for 7 CFR Part 51 continues to read as follows:

Authority: 7 U.S.C. 1622, 1624.

Subpart—United States Standards for Grades of Blueberries

2. Sections 51.3475 through 51.3479 and the undesignated center headings are revised to read as follows:

General

§ 51.3475 General.

(a) These standards apply only to selected and hybrid varieties of the highbush (*Vaccinium australe* Small and *Vaccinium corymbosum* L.) and rabbiteye (*Vaccinium ashei* Reade) blueberries produced under cultivation, but not to other species of the genus *Vaccinium* nor to the true huckleberries of the genus *Gaylussacia*.

(b) Because of the size differences between varieties and the difference in size preference in various markets, there are no size requirements in the grade.

Therefore, size will not be determined unless specifically requested by the applicant. If requested, size may be specified as provided in § 51.3477.

Grade

§ 51.3476 U.S. No. 1.

"U.S. No. 1" consists of blueberries which meet the following requirements:

- (a) Basic requirements:
 - (1) Similar varietal characteristics;
 - (2) Clean;
 - (3) Well colored;
 - (4) Not overripe;
 - (5) Not crushed, split, or leaking; and
 - (6) Not wet.
- (b) Free from:
 - (1) Attached stems;
 - (2) Mold;
 - (3) Decay;
 - (4) Insects or when there is visible evidence of the presence of insects;
 - (5) Mummified berries; and
 - (6) Clusters.
- (c) Free from damage caused by:
 - (1) Shriveling;
 - (2) Broken skins;
 - (3) Scars;
 - (4) Green berries; and
 - (5) Other means.
- (d) Tolerances as specified in §§ 51.3478 (a) and (b) and applied pursuant to § 51.3479.

Size Classifications

§ 51.3477 Size classifications.

The following size classifications may be used in specifying size of blueberries:

- (a) *Extra large*. Less than 90 berries per cup;¹
- (b) *Large*. 90 to 129 berries per cup;¹
- (c) *Medium*. 130 to 189 berries per cup;¹ and,
- (d) *Small*. 190 to 250 berries per cup.¹
- (e) For tolerances see § 51.3478.

Tolerances

§ 51.3478 Tolerances.

In order to allow for variations incident to proper grading and handling, based on sample inspection, the following tolerances, by count, shall be allowed:

- (a) *For defects at shipping point.*² Ten percent for blueberries which have attached stems. Additionally, not more than 8 percent of the blueberries may be below the remaining requirements of the grade: *Provided*, that included in this amount not more than 4 percent shall be allowed for defects causing serious

¹ Cup equals 237 ml, ½ pint, or 2 gills.

² Shipping point, as used in the standards in this subpart, means the point of origin of the shipment in the producing area or at port of loading for ship stores or overseas shipment, or, in the case of shipments from outside the continental United States, the port of entry into the United States.

damage, including in this latter amount not more than 1 percent for blueberries which are affected by mold or decay.

(b) *For defects en route or at destination.* Ten percent for blueberries which have attached stems. Additionally, not more than 12 percent of the blueberries may be below the remaining requirements of the grade: *Provided*, that included in this amount not more than the following percentages shall be allowed for defects listed:

(1) 8 percent for blueberries which fail to meet the requirements for this grade because of permanent defects; or,

(2) 6 percent for blueberries which are seriously damaged, including therein not more than 4 percent for blueberries which are seriously damaged by permanent defects and not more than 2 percent for blueberries which are affected by mold or decay.

(c) *Off-size:* When size is designated according to one or more of the size classifications in § 51.3477, not more than 10 percent of the samples in any lot or one sample, whichever is the greater number, may fail to meet the range in count specified.

Application of Tolerances

§ 51.3479 Application of tolerances.

Individual samples are subject to the following limitations: *Provided*, that the averages for the entire lot are within the tolerances specified for the grade:

(a) For a tolerance of 10 percent or more, individual samples may contain not more than one and one-half times the tolerance specified.

(b) For a tolerance of less than 10 percent, individual samples may

contain not more than double the tolerance specified.

3. Sections 51.3482 and 51.3483 are revised to read as follows:

§ 51.3482 Well colored.

Well colored means that more than one-half of the surface of the individual berry is blue, bluish-purple, purple, bluish-red, or bluish-black.

§ 51.3483 Overripe.

Overripe means that the individual berry is dead ripe, the flesh is soft and mushy, and past commercial utility.

4. Sections 51.3484 and 51.3485 are removed and § 51.3486 is redesignated 51.3484 and is revised to read as follows:

§ 51.3484 Damage.

Damage means any specific defect described in this section, or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which materially detracts from the appearance, or the edible or marketing quality of the blueberries. The following specific defects shall be considered as damage:

(a) Wet berries when the individual berry is wet from juice from crushed, leaking, or decayed berries, but not due to condensation;

(b) Clusters when there are three or more joined capstems with at least one berry attached;

(c) Shriveling when the wrinkling is readily noticeable;

(d) Broken skins when not well healed or when well healed and readily noticeable, except for an allowable area within a $\frac{1}{8}$ inch (3.2 mm) circle centered at the stem scar;

(e) Scars when affecting more than 20 percent of the surface of the individual berry; and,

(f) Green berries when one-half or more of the berry is green.

5. Section 51.3487 is redesignated 51.3485 and is revised to read as follows:

§ 51.3485 Serious damage.

Serious damage means any specific defect described in this section, or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which seriously detracts from the appearance, or the edible or marketing quality of the blueberries. The following specific defects shall be considered as serious damage:

(a) Decay;

(b) Moldy berries;

(c) Overripe berries;

(d) Crushed, split, or leaking berries;

(e) Mummified berries when the individual berry is dried up, withered or shrunk;

(f) Insects or when there is any visible evidence of the presence of insects, including but not limited to an insect, the insect larva, feeding, webbing or frass;

(g) Broken skins when not well healed; and,

(h) Scars when affecting more than 50 percent of the surface of the individual berry.

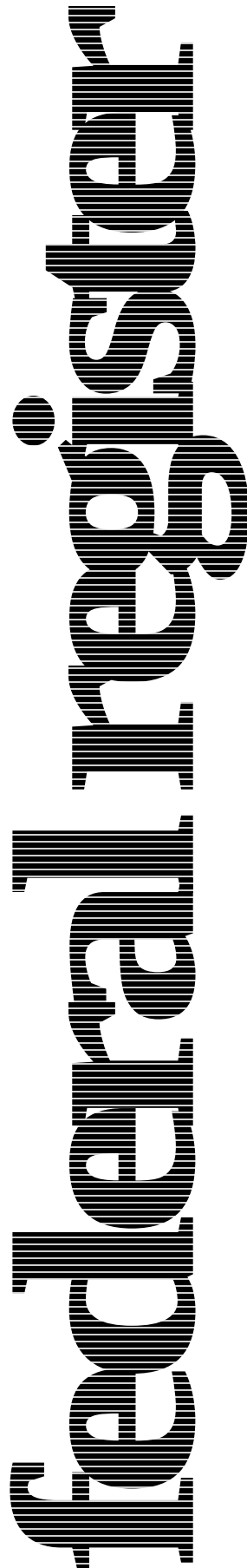
Dated: February 23, 1995.

Lon Hatamiya,

Administrator.

[FR Doc. 95-4952 Filed 2-28-95; 8:45 am]

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Wednesday
March 1, 1995

Part VI

**Department of
Agriculture**

Agricultural Marketing Service

7 CFR Part 58

**Grading and Inspection, General
Specifications for Approved Plants and
Standards for Grades of Dairy Products;
United States Standards for Grades of
Colby Cheese; Final Rule**

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 58

[DA-91-010A]

Grading and Inspection, General Specifications for Approved Plants and Standards for Grades of Dairy Products; United States Standards for Grades of Colby Cheese

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This document revises the United States Standards for Grades of Colby Cheese. The final rule action modifies the standards to recognize differences in cheese characteristics resulting from technological changes in manufacturing practices and to more accurately describe consumer-acceptable product. This action expands the permissible range of open body characteristics to include colby cheese manufactured using automated equipment. The revision was initiated at the request of the National Cheese Institute (NCI) and was developed in cooperation with NCI and other dairy trade associations.

EFFECTIVE DATE: March 31, 1995.

FOR FURTHER INFORMATION CONTACT:

Roland S. Golden, Dairy Products Marketing Specialist, Dairy Standardization Branch, USDA/AMS/ Dairy Division, Room 2750-S, P.O. Box 96456, Washington, DC 20090-6456, (202) 720-7473.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This rule would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

The final rule also has been reviewed in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* The Administrator, Agricultural Marketing Service, has determined that the final rule will not have a significant economic impact on a substantial number of small entities because use of the standards is voluntary and this action will not increase costs to those utilizing the standards.

The Department is issuing this rule in conformance with Executive Order 12866.

To recognize differences in cheese characteristics resulting from technological changes in the manufacture of colby cheese and to permit the assignment of U.S. grade to cheese manufactured utilizing this technology, USDA is revising the U.S. Standards for Grades of Colby Cheese. The revised standards have received general support from many manufacturers of colby cheese and dairy trade associations representing the cheese industry.

In view of the need for revised standards, the Department published on June 30, 1993 (58 FR 34933) a proposal to revise the United States Standards for Grades of Colby Cheese. Except for minor format changes, the standards contained in this final rule are the same as those set forth in the proposal. The new standards establish the following:

1. Expand body and texture criteria to permit U.S. grade assignment to colby cheese that contains less than numerous mechanical openings.

When the U.S. Standards for Grades of Colby Cheese were established in 1973, production procedures encouraged the formation of numerous small mechanical openings, evenly distributed throughout the cheese. Since then, automated manufacturing processes have been developed which have altered traditional body characteristics. Colby cheese that is produced using automated production technology has resulted in cheese that no longer exhibits numerous mechanical openings. Cheese produced in this manner is readily available and is capturing an increasing share of the Colby cheese market. Changes in body characteristics have not altered the flavor or reduced the useability of the cheese.

Changes in the standards provide for the assignment of U.S. grades to colby cheese that contains less than numerous mechanical openings or that may be completely devoid of mechanical openings. These changes do not disallow mechanical openings in cheese produced using traditional production methods. No additional changes to body and texture characteristics are being made.

2. Delete the requirement that colby cheese be held at a temperature no lower than 35 °F. for 10 days prior to grading.

When the U.S. Standards for Grades of Colby Cheese were established in 1973, the standards included a requisite that the cheese be held at a temperature no lower than 35 °F. during a required 10-day aging period prior to grading. This was the only U.S. grade standard that contains a storage temperature

requirement. This revision eliminates the temperature requirement, and provides consistency among U.S. grade standards for various types of cheeses.

3. Modify the permitted flavor characteristics by deleting the provision for "very slight bitter" in U.S. Grade A Colby Cheese.

Bitter flavor in colby cheese is generally found in higher moisture cheese and increases in intensity as the cheese ages. U.S. grade may be assigned to colby cheese once it has reached 10 days of age. Any evidence of a bitter flavor at this time will intensify as the cheese ages. Provisions for slight bitter flavor remain the same for U.S. Grade B Colby Cheese. No additional changes to flavor characteristics have been made.

4. Redefine packaging requirements.

Changes in packaging requirements provide greater clarity and expand the types of packaging methods permitted. The general-type packaging requirements recognize the packaging methods (such as rindless and paraffin-dipped, rindless and wrapped, and rindless and paraffin-dipped) that are used in the cheese industry today and provide latitude for future developments in packaging technology.

5. Update the terminology and format of the standards.

Since the U.S. Standards for Grades of Colby Cheese were last published, changes in terminology and formatting have taken place. This revision updates the standards to provide consistency among the various U.S. grade standards for cheeses.

USDA grade standards are voluntary standards that are developed pursuant to the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 *et seq.*) to facilitate the marketing process. Manufacturers of dairy products are free to choose whether or not to use these grade standards. USDA grade standards for dairy products have been developed to identify the degree of quality in the various products. Quality in general refers to usefulness, desirability, and value of the product—its marketability as a commodity. When colby cheese is officially graded, the USDA regulations and standards governing the grading of manufactured or processed dairy products are used. These regulations also require a charge for the grading service provided by USDA. This action makes minor format changes for purposes of clarity to the section on flavor for U.S. Grade B colby cheese and to Tables I, II, III, and IV to the format that appeared in the proposed rule.

Public Comments

On June 30, 1993, the Department published a proposed rule (58 FR

34933) to revise the United States Standards for Grades of Colby Cheese. The public comment period closed August 30, 1993. Comments were received from two colby cheese manufacturers.

Discussion of Comments

1. Both commenters were concerned that their markets would be negatively affected by allowing the assignment of U.S. grade to colby cheese that does not exhibit numerous mechanical openings.

United States grade standards assist the orderly marketing of dairy products by establishing requirements to describe quality in colby cheese. To be of greatest value, these standards must accurately describe quality in colby cheese available in the market. Changes in manufacturing procedures have resulted in colby cheese that does not exhibit the numerous mechanical openings found in colby cheese produced according to traditional manufacturing procedures. Cheese without numerous mechanical openings is currently available and consumer acceptance is evident by its increasing availability. Changes in the U.S. grade standards will more accurately define quality in consumer-acceptable product and permit the assignment of U.S. grade to more cheese currently available in the market.

2. Both commenters felt that by permitting the assignment of U.S. grade to colby cheese with less than numerous mechanical openings the standards would allow high-moisture cheddar cheese to be substituted for colby cheese.

The compositional requirements for standardized cheeses are provided in the Food and Drug Administration's (FDA) standards of identity. FDA standards define moisture ranges for colby and cheddar cheese whose moisture content must fall within the range specified. The U.S. grade standards include a reference to the FDA standards of identity and do not establish moisture requirements that differ from the FDA standards. U.S. grade can only be assigned to colby cheese that meets the compositional requirements of the FDA standards of identity.

3. One commenter felt that the standards should require that colby cheese only be made using traditional manufacturing procedure.

United States grade standards define quality in the manufactured dairy products and do not detail the procedures used to produce the product. No changes were made to require that traditional manufacturing procedures be used to produce colby cheese eligible for U.S. grade assignment. This action

does not preclude U.S. grade assignment to colby cheese produced using traditional manufacturing procedures.

4. One commenter felt that changes in the standards would mislead the consumer because of similarities with colby and cheddar cheeses.

Colby and cheddar cheeses are very similar in composition and salient characteristics. However, compositional differences do exist and are identified in the FDA standards of identity. Accurate labeling of cheese provides the information necessary for the consumer to differentiate between the varieties of cheese. Federal and State regulations exist that require truthful labeling of foods. The U.S. grade standards do not contain labeling requirements. Changes in the standards will not affect the composition or labeling of products available to the consumer.

List of Subjects in 7 CFR Part 58

Dairy products, Food grades and standards, Food labeling, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR Part 58, is amended as follows:

PART 58—[AMENDED]

1. The authority citation for 7 CFR part 58 continues to read as follows:

Authority: 7 U.S.C. 1621–1627, unless otherwise noted.

2. Subpart J—United States Standards for Grades of Colby Cheese is revised to read as follows:

Subpart J—United States Standards for Grades of Colby Cheese

Definitions

Sec.

58.2475 Colby cheese.

58.2476 Types of surface protection.

U.S. Grades

58.2477 Nomenclature of U.S. grades.

58.2478 Basis for determination of U.S. grade.

58.2479 Specifications for U.S. grades.

58.2480 U.S. grade not assignable.

Explanation of Terms

58.2481 Explanation of terms.

Subpart J—United States Standards for Grades of Colby Cheese ¹

Definitions

§ 58.2475 Colby cheese.

Colby cheese is cheese made by the colby process or by any other procedure which produces a finished cheese

¹ Compliance with these standards does not excuse failure to comply with the provisions of the Federal Food, Drug and Cosmetic Act.

having the same organoleptic, physical, and chemical properties as the cheese produced by the colby process. The cheese is made from cow's milk with or without the addition of artificial coloring. It contains added common salt and more than 40 percent moisture, its total solids content is not less than 50 percent milkfat, and it conforms to the applicable provisions of 21 CFR 133.118, "Cheeses and Related Cheese Products," as issued by the Food and Drug Administration.

§ 58.2476 Types of surface protection.

The following are the types of surface protection for colby cheese:

(a) *Rinded and paraffin-dipped.*

The cheese that has formed a rind is dipped in a refined paraffin, amorphous wax, microcrystalline wax, or other suitable substance. Such coating is a continuous, unbroken, and uniform film adhering tightly to the entire surface of the cheese rind.

(b) *Rindless.*

(1) *Wrapped.* The cheese is properly enveloped in a tight-fitting wrapper or other protective covering, which is sealed with sufficient overlap or satisfactory closure. The wrapper or covering shall not impart color or objectionable taste or odor to the cheese. The wrapper or covering shall be of sufficiently low permeability to air so as to prevent the formation of a rind.

(2) *Paraffin-dipped.* The cheese is dipped in a refined paraffin, amorphous wax, microcrystalline wax, or other suitable substance. The paraffin shall be applied so that it is continuous, unbroken, and uniformly adheres tightly to the entire surface. If a wrapper or coating is applied to the cheese prior to paraffin dipping, it shall completely envelop the cheese and not impart color or objectionable taste or odor to the cheese.

U.S. Grades

§ 58.2477 Nomenclature of U.S. grades.

The nomenclature of U.S. grades is as follows:

(a) U.S. Grade AA.

(b) U.S. Grade A.

(c) U.S. Grade B.

§ 58.2478 Basis for determination of U.S. grade.

(a) The cheese shall be graded no sooner than 10 days of age.

(b) The rating of each quality factor shall be established on the basis of characteristics present in any vat of cheese.

(c) The U.S. grades of colby cheese are determined on the basis of rating the following quality factors:

(1) Flavor.

(2) Body and texture.

(3) Color.

(4) Finish and appearance.

(d) The final U.S. grade shall be established on the basis of the lowest rating of any one of the quality factors.

§ 58.2479 Specifications for U.S. grades.

(a) *U.S. Grade AA.* U.S. Grade AA Colby Cheese shall conform to the following requirements (See Tables I, II, III, and IV of this section):

(1) *Flavor.* The cheese shall possess a fine and highly pleasing colby cheese flavor which is free from undesirable tastes and odors, or it may be lacking in flavor development. The cheese may possess a very slight feed flavor. See Table I of this section.

(2) *Body and Texture.* A plug drawn from the cheese shall be firm. Dependent upon the method of manufacture, a satisfactory plug may exhibit evenly distributed small mechanical openings or a close body. The cheese shall not possess sweet holes, yeast holes, or other gas holes. The texture may be definitely curdy. See Table II of this section.

(3) *Color.* The color shall be uniform and bright. If colored, the cheese should be a medium yellow-orange. See Table III of this section.

(4) *Finish and appearance.*

(i) *Rinded and paraffin-dipped.* The bandage shall be evenly placed over the entire surface of the cheese and be free from unnecessary overlapping and wrinkles, and not burst or torn. The rind shall be sound, firm, smooth, and provide good protection to the cheese. The surface shall be smooth, bright, and have a good coating of wax or coating that adheres firmly to all surfaces. The cheese shall be free from mold under the paraffin. The cheese shall be free from high edges, huffing, or lopsidedness, but may possess soiled surface to a very slight degree. See Table IV of this section.

(ii) *Rindless and wrapped.* The wrapper or covering shall be practically smooth and properly sealed with adequate overlapping at the seams or sealed by any other satisfactory type of closure. The wrapper or covering shall be neat and shall adequately and securely envelop the cheese, but may be slightly wrinkled. Allowance should be made for slight wrinkles caused by crimping or sealing when vacuum packaging is used. The cheese shall be free from mold under the wrapper or covering and shall not be huffed or lopsided. See Table IV of this section.

(iii) *Rindless and paraffin-dipped.* The cheese surface shall be smooth, bright, and have a good coating of paraffin that adheres firmly. If a

wrapper or coating is applied prior to paraffin dipping, it shall completely envelop the cheese. The cheese shall be free from high edges, huffing, lopsidedness, or mold. The cheese may possess soiled surface to a very slight degree. The wrapper may be wrinkled to a slight degree. See Table IV of this section.

(b) *U.S. Grade A.* U.S. Grade A Colby Cheese shall conform to the following requirements (See Tables I, II, III, and IV of this section):

(1) *Flavor.* The cheese shall possess a pleasing colby cheese flavor which is free from undesirable tastes and odors, or it may be lacking in flavor development. The cheese may possess very slight acid flavor or feed flavor to a slight degree. See Table I of this section.

(2) *Body and texture.* A plug drawn from the cheese shall be reasonably firm. Dependent upon the method of manufacture, a satisfactory plug may exhibit evenly distributed mechanical openings or a close body. The plug shall be free from sweet holes, yeast holes, or other gas holes. The body may be very slightly loosely knit or definitely curdy. See Table II of this section.

(3) *Color.* The color shall be fairly uniform and bright. If colored, the cheese shall be a medium yellow-orange. The cheese may possess waviness to a very slight degree. See Table III of this section.

(4) *Finish and appearance.*

(i) *Rinded and paraffin-dipped.* The bandage shall be evenly placed over the entire surface of the cheese and not be burst or torn. The rind shall be sound, firm, smooth, and provide good protection to the cheese. The surface shall be practically smooth, bright, and have a good coating of paraffin that adheres firmly to all surfaces. The cheese shall be free from mold under the paraffin. The cheese may possess the following characteristics to a very slight degree: Soiled surface or surface mold; and to a slight degree: High edges, irregular press cloth, lopsided, or rough surface. See Table IV of this section.

(ii) *Rindless and wrapped.* The wrapper or covering shall be practically smooth, properly sealed with adequate overlapping at the seams or sealed by any other satisfactory type of closure. The wrapper or covering shall be neat and adequately and securely envelop the cheese but may be slightly wrinkled. Allowance should be made for slight wrinkles caused by crimping or sealing when vacuum packaging is used. The cheese shall be free from mold under the wrapper or covering and shall not be huffed but may possess to a slight degree: High edges, lopsided, irregular

press cloth, or rough surface. See Table IV of this section.

(iii) *Rindless and paraffin-dipped.* The cheese surface shall be bright and have a good coating of paraffin that adheres firmly. If a wrapper or coating is applied prior to paraffin dipping, it shall completely envelop the cheese and have a good coating of paraffin that adheres firmly. The cheese may possess soiled surface to a very slight degree. The cheese shall be free from mold, and may possess to a slight degree: High edges, lopsided, irregular press cloth, or rough surface. The wrapper may be wrinkled to a slight degree. See Table IV of this section.

(c) *U.S. Grade B.* U.S. Grade B Colby Cheese shall conform to the following requirements (See Tables I, II, III, and IV of this section):

(1) *Flavor.* The cheese may possess a fairly pleasing colby cheese flavor, or it may be lacking in flavor development. The cheese may possess the following flavors to a very slight degree: Onion or sour; to a slight degree: Barny, bitter, flat, fruity, malty, old milk, rancid, utensil, weedy, whey-taint, or yeasty; and to a definite degree: Acid or feed. See Table I of this section.

(2) *Body and texture.* A plug drawn from the cheese shall be moderately firm. Dependent upon the method of manufacture, a satisfactory plug may exhibit mechanical openings or a close body. The cheese may possess the following characteristics to a slight degree: Coarse, corky, crumbly, gassy, loosely knit, mealy, pasty, short, slitty, sweet holes, or weak; and the following to a definite degree: Curdy. See Table II of this section.

(3) *Color.* The cheese may possess the following characteristics to a slight degree: Acid-cut, dull, faded, mottled, salt spots, seamy, unnatural, or wavy. In addition, rindless colby cheese may have a bleached surface to a slight degree. See Table III of this section.

(4) *Finish and appearance.*

(i) *Rinded and paraffin-dipped.* The bandage shall be placed over the entire surface of the cheese and may be uneven and wrinkled, but not burst or torn. The rind shall be reasonably sound and free from soft spots, rind rot, cracks, or openings of any kind. The surface may be rough and unattractive but shall possess a fairly good coating of paraffin. The paraffin may be scaly or blistered, with very slight mold under the bandage or paraffin, but there shall be no indication that mold has entered the cheese. The cheese may possess the following characteristics to a slight degree: Checked rind, defective coating, soiled surface, sour rind, surface mold, or weak rind; and to a definite degree:

High edges, irregular press cloth, lopsided, or rough surface. See Table IV of this section.

(ii) *Rindless and wrapped.* The wrapper or covering shall be unbroken and shall adequately and securely envelop the cheese. The following may be present to a very slight degree: Mold under the wrapper but not entering the cheese; to a slight degree: Soiled surface or surface mold; and to a definite

degree: High edges, irregular press cloth, lopsided, rough surface, or wrinkled wrapper or cover. See Table IV of this section.

(iii) *Rindless and paraffin-dipped.* The wrapper or coating applied prior to paraffin dipping shall adequately and securely envelop the cheese and have a coating of paraffin that adheres firmly to the cheese wrapper or shall be unbroken but may be definitely wrinkled. The

paraffin may be scaly or blistered, with very slight mold under the paraffin, but there shall be no indication that mold has entered the cheese. The cheese may possess the following characteristics to a slight degree: Defective coating, soiled surface, or surface mold; and the following to a definite degree: High edges, lopsided, irregular press cloth, or rough surface. See Table IV of this section.

TABLE I.—CLASSIFICATION OF FLAVOR WITH CORRESPONDING U.S. GRADE

Flavor characteristics	AA	A	B
Acid	—	VS	D
Barny	—	—	S
Bitter	—	—	S
Feed	VS	S	D
Flat	—	—	S
Fruity	—	S	S
Malty	—	—	S
Old milk	—	—	S
Onion	—	—	VS
Rancid	—	—	S
Sour	—	—	VS
Utensil	—	—	S
Weedy	—	—	S
Whey-taint	—	—	S
Yeasty	—	—	S

(—) = Not permitted VS = Very Slight S = Slight D = Definite.

TABLE II.—CLASSIFICATION OF BODY AND TEXTURE WITH CORRESPONDING U.S. GRADE

Body and texture characteristics	AA	A	B
Coarse	—	—	S
Corky	—	—	S
Crumbly	—	—	S
Curdy	D	D	D
Gassy	—	—	S
Loosely knit	—	VS	S
Mealy	—	—	S
Pasty	—	—	S
Short	—	—	S
Slitty	—	—	S
Sweet holes	—	—	S
Weak	—	—	S

(—) = Not permitted VS = Very Slight S = Slight D = Definite.

TABLE III.—CLASSIFICATION OF COLOR WITH CORRESPONDING U.S. GRADE

Color characteristics	AA	A	B
Acid-cut	—	—	S
Bleached surface (rindless)	—	—	S
Dull or faded	—	—	S
Mottled	—	—	S
Salt spots	—	—	S
Seamy	—	—	S
Unnatural	—	—	S
Wavy	—	VS	S

(—) = Not permitted VS = Very Slight S = Slight.

TABLE IV.—CLASSIFICATION OF FINISHED AND APPEARANCE WITH CORRESPONDING U.S. GRADE

Finish and appearance characteristics	AA	A	B
Rindless:			
Defective coating (paraffin-dipped: scaly, blistered, and checked)	—	—	S
High edges	—	S	D

TABLE IV.—CLASSIFICATION OF FINISHED AND APPEARANCE WITH CORRESPONDING U.S. GRADE—Continued

Finish and appearance characteristics	AA	A	B
Irregular press cloth (uneven, wrinkled, and improper overlapping)	—	S	D
Lopsided	—	S	D
Mold under wrapper or covering	—	—	VS
Rough surface	—	S	D
Soiled surface	—	—	S
Soiled surface (paraffin-dipped)	VS	VS	S
Surface mold	—	—	S
Wrinkled wrapper or covering (paraffin dipped)	S	S	D
Rind:			
Checked rind	—	—	S
Defective coating (scaly, blistered, and checked)	—	—	S
High edges	—	S	D
Irregular press cloth (uneven, wrinkled, and improper overlapping)	—	S	D
Lopsided	—	S	D
Mold under paraffin	—	—	VS
Rough surface	—	S	D
Soiled surface	VS	VS	S
Sour rind	—	—	S
Surface mold	—	VS	S
Weak rind	—	—	S

(—) = Not permitted VS = Very Slight S = Slight D = Definite.

58.2480 U.S. grade not assignable.

Colby cheese shall not be assigned a U.S. grade for one or more of the following reasons:

(a) The cheese fails to meet or exceed the requirements for U.S. Grade B.

(b) The cheese is produced in a plant that is rated ineligible for USDA grading service or is not USDA-approved.

Explanation of Terms

58.2481 Explanation of terms.

(a) *With respect to types of surface protection:*

(1) *Paraffin*. Refined paraffin, amorphous wax, microcrystalline wax, or any combination of such or any other suitable substance.

(2) *Paraffin dipped*. Cheese that has been coated with paraffin.

(3) *Rind*. A hard coating caused by the dehydration of the surface of the cheese.

(4) *Rinded*. A protection developed by the formation of a rind.

(5) *Rindless*. Cheese which has not formed a rind due to the impervious type of wrapper, covering or container, enclosing the cheese.

(6) *Wrapped*. Cheese that has been covered with a transparent or opaque material (plastic film type or foil) next to the surface of the cheese.

(7) *Wrapper or covering*. A plastic film or foil material next to the surface of the cheese, used as an enclosure or covering of the cheese.

(b) *With respect to flavor:*

(1) *Very slight*. Detected only upon very critical examination.

(2) *Slight*. Detected only upon critical examination.

(3) *Definite*. Not intense but detectable.

(4) *Undesirable*. Those listed in excess of the intensity permitted or those characterizing flavors not listed.

(5) *Acid*. Sharp and puckery to the taste, characteristic of lactic acid.

(6) *Barny*. A flavor characteristic of the odor of a poorly ventilated cow barn.

(7) *Bitter*. Distasteful, similar to the taste of quinine.

(8) *Feed*. Feed flavors (such as alfalfa, sweetclover, silage, or similar feed) in milk carried through into the cheese.

(9) *Flat*. Insipid, practically devoid of any characteristic colby cheese flavor.

(10) *Fruity*. A fermented, sweet, fruit-like flavor resembling apples.

(11) *Lacking in flavor development*. No undesirable and very little, if any, colby cheese flavor development.

(12) *Malty*. A distinctive, harsh flavor suggestive of malt.

(13) *Old milk*. Lacks freshness.

(14) *Onion*. A flavor recognized by the peculiar taste and aroma suggestive of its name. Present in milk or cheese when the cows have eaten onions, garlic, or leeks.

(15) *Rancid*. A flavor suggestive of rancidity or butyric acid; sometimes associated with bitterness.

(16) *Sour*. An acid, pungent flavor resembling vinegar.

(17) *Utensil*. A flavor that is suggestive of improper or inadequate washing and sterilization of milking machines, utensils, or factory equipment.

(18) *Weedy*. A flavor present in cheese when cows have eaten weedy hay or grazed on weed-infested pasture.

(19) *Whey-taint*. A slightly acid flavor characteristic of fermented whey.

(20) *Yeasty*. A flavor indicating yeasty fermentation.

(c) *With respect to body and texture:*

(1) *Very slight*. Detected only upon very critical examination and present only to a minute degree.

(2) *Slight*. Barely identifiable and present only to a small degree.

(3) *Definite*. Readily identifiable and present to a substantial degree.

(4) *Coarse*. Feels rough, dry, and sandy.

(5) *Corky*. Hard, tough, over-firm cheese which does not readily break down when rubbed between the thumb and fingers.

(6) *Crumbly*. Tends to fall apart when rubbed between the thumb and fingers.

(7) *Curdy*. Smooth but firm; when worked between the fingers is rubbery and not waxy or broken down.

(8) *Firm*. Feels solid, not soft or weak.

(9) *Gassy*. Gas holes of various sizes and may be scattered.

(10) *Loosely knit*. Curd particles are not well-matted and fused together.

(11) *Mealy*. Short body, does not mold well and looks and feels like corn meal when rubbed between the thumb and fingers.

(12) *Mechanical openings*. Irregular shaped openings that are caused by variations in make procedure and not caused by gas fermentation.

(13) *Pasty*. Is usually a weak body and when the cheese is rubbed between the thumb and fingers becomes sticky and smeary.

(14) *Pinny*. Numerous very small gas holes.

(15) *Reasonably firm*. Somewhat less firm but not to the extent of being weak.

(16) *Short*. No elasticity in the cheese plug and when rubbed between the

thumb and fingers, the cheese tends toward mealiness.

(17) *Slitty*. Narrow, elongated slits generally associated with a cheese that is gassy or yeasty. Sometimes referred to as "fish-eyes."

(18) *Sweet holes*. Spherical gas holes which are glossy in appearance and usually about the size of BB shots. These gas holes are sometimes referred to as "shot holes."

(19) *Weak*. The cheese plug is soft but is not necessarily sticky like a pasty cheese and requires little pressure to crush.

(d) *With respect to color:*

(1) *Very slight*. Detected only upon very critical examination and present only to a minute degree.

(2) *Slight*. Barely identifiable and present only to a small degree.

(3) *Acid-cut*. A bleached or faded color which sometimes varies throughout the cheese and appears most often around mechanical openings.

(4) *Bleached surface*. A faded color beginning at the surface and progressing inward.

(5) *Dull or faded*. A color condition lacking in luster or translucency.

(6) *Mottled*. Irregular shaped spots or blotches in which portions are light colored and others are of higher color. Also an unevenness of color due to combining the curd from two different vats, sometimes referred to as "mixed curd."

(7) *Salt spots*. Large light colored spots or areas.

(8) *Seamy*. White thread-like lines that form when the curd is not properly matted or fused.

(9) *Unnatural*. Deep orange or reddish color.

(10) *Uncolored*. Absence of added coloring.

(11) *Wavy*. Unevenness of color which appears as layers or waves.

(e) *With respect to finish and appearance:*

(1) *Very slight*. Detected only upon very critical examination and present to a minute degree.

(2) *Slight*. Barely identifiable and present to a small degree.

(3) *Definite*. Readily identifiable and present to a substantial degree.

(4) *Adequately and securely enveloped*. The wrapper or covering is properly sealed and entirely encloses the cheese with sufficient adherence to the surface of the cheese to protect it from contamination or dehydration.

(5) *Bandage*. Cheese cloth used to wrap cheese prior to dipping in paraffin.

(6) *Bandage evenly placed*. Placement of the bandage so that it completely envelops the cheese and overlaps evenly about one inch.

(7) *Bright surface*. Clean, glossy surface.

(8) *Burst or torn bandage*. A severance of the bandage usually occurring at the side seam; or when the bandage is otherwise snagged or broken.

(9) *Checked rind*. Numerous small cracks or breaks in the rind which sometimes follows the outline of curd particles.

(10) *Defective coating*. A brittle coating of paraffin that breaks and peels off in the form of scales or flakes; flat or raised blisters or bubbles under the surface of the paraffin; checked paraffin, including cracks, breaks or hairline checks in the paraffin or coating of the cheese.

(11) *Firm sound rind*. A rind possessing a firmness and thickness (not easily dented or damaged) consistent with the size of the cheese and which is dry, smooth, and closely knit, sufficient to protect the interior quality from external defects; free from checks, cracks, breaks, or soft spots.

(12) *High edge*. A rim or ridge on the side of the cheese.

(13) *Huffed*. A block of cheese which is swollen because of gas fermentation. The cheese becomes rounded or oval in shape instead of having flat surfaces.

(14) *Irregular press cloth*. Press cloth improperly placed in the hoop resulting in too much press cloth on one end and insufficient on the other causing overlapping; wrinkled and loose fitting.

(15) *Lopsided*. One side of the cheese is higher than the other side.

(16) *Mold under bandage and paraffin*. Mold spots or areas under the paraffin.

(17) *Mold under wrapper or covering*. Mold spots or areas under the wrapper or covering.

(18) *Rind rot*. Soft spots on the rind that have become discolored and are decayed or decomposed.

(19) *Rough surface*. Lacks smoothness.

(20) *Smooth surface*. Not rough or uneven.

(21) *Soft spots*. Areas soft to the touch and which are usually faded and moist.

(22) *Soiled surface*. Milkstone, rust spots, or other discoloration on the surface of the cheese.

(23) *Sour rind*. A fermented rind condition, usually confined to the faces of the cheese.

(24) *Surface mold*. Mold on the exterior of the paraffin or wrapper.

(25) *Wax or paraffin that adheres firmly to the surface of the cheese*. A coating with no cracks, breaks, or loose areas.

(26) *Weak rind*. A thin rind which possesses little or no resistance to pressure.

Dated: February 23, 1995.

Lon Hatamiya,

Administrator.

[FR Doc. 95-4953 Filed 2-28-95; 8:45 am]

BILLING CODE 3410-02-P

Federal Register

Wednesday
March 1, 1995

Part VII

**Department of
Transportation**

Federal Aviation Administration

14 CFR Part 61

**Robinson R-22/R-44 Special Training and
Experience Requirements; Final Rule**

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 61**

[Docket No. 28095; SFAR No. 73]

RIN 2120-AF66

Robinson R-22/R-44 Special Training and Experience Requirements

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule; Request for comments.

SUMMARY: This Special Federal Aviation Regulation (SFAR) establishes special training and experience requirements for pilots operating the Robinson model R-22 or R-44 helicopters to maintain safe operation of Robinson helicopters. It also establishes special training and experience requirements for certified flight instructors conducting student instruction or flight reviews. The FAA has determined this emergency SFAR is needed to respond to the number of accidents involving the Robinson model R-22 and R-44 helicopters. The intended effect of this emergency action is to increase awareness of and training for the potential hazards of particular flight operations in the Robinson helicopters.

DATES: This final rule is effective March 27, 1995. This final rule expires December 31, 1997. Comments must be received by May 30, 1995.

ADDRESSES: Comments should be submitted in triplicate to Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-200), Docket No. 28095, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Robert J. O'Haver, Operations Branch, AFS-820, General Aviation and Commercial Division, 800 Independence Ave. SW., Washington, DC 20591; Telephone: (202) 267-7031.

SUPPLEMENTARY INFORMATION:**Comments Invited**

All interested persons are invited to comment on this SFAR by submitting such written data, views, or arguments as they may desire, including comments relating to the environmental, energy, or economic impacts. Communications should identify the regulatory docket or SFAR number, and be submitted in triplicate to the Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-200), Docket No. 28095, 800 Independence

Ave., Washington, DC 20591. All communications received will be considered by the Administrator. The rules in this SFAR may be changed as a result of comments received from the public. All comments submitted will be available for examination in the Rules Docket in Room 915-G of the FAA Building, 800 Independence Ave., Washington, DC 20591. Persons wishing to have the FAA acknowledge receipt of their comments must submit a self-addressed, stamped postcard with the following statement: "Comments to Docket Number 28095." The postcard will then be dated, time stamped, and returned by the FAA.

Availability of This SFAR

Any person may obtain a copy of this SFAR by submitting a request to the FAA, Office of Public Affairs, ATTN: APA-200, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling the Office of Public Affairs at (202) 267-3484. Persons wanting a copy of this SFAR must identify the SFAR by asking for "Docket No. 28095; Robinson R-22/R-44 Special Training and Experience Requirements Final Rule."

Persons interested in being placed on a mailing list for future notices should request a copy of Advisory Circular 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

Part 61 of Title 14 of the Code of Federal Regulations (14 CFR part 61) details the certification requirements for pilots and flight instructors. Particular requirements for pilots and flight instructors in rotorcraft are found in Subparts C through G, and Appendix B of part 61. These requirements do not address any specific type or model of rotorcraft. However, the FAA has determined that specific training and experience requirements are necessary for the safe operation of Robinson R-22 and R-44 model helicopters.

The R-22 is a 2-seat, reciprocating engine-powered helicopter that is frequently used as low-cost initial student training aircraft. The R-44 is a 4-seat helicopter with similar operating characteristics and design features of the R-22. The R-22 is the smallest helicopter in its class and incorporates a unique cyclic control and rotor system. Certain aerodynamic and design features of the aircraft cause specific flight characteristics that require particular pilot awareness and responsiveness.

Currently, there are 855 registered R-22's and three R-44's in the United States. Since the R-22 was certificated,

there have been 339 accidents in the U.S. involving R-22's. The FAA found that the R-22 met 14 CFR part 27 certification requirements and issued a type certificate in 1979; however, the R-22 has had a high number of fatal accidents due to main rotor/airframe contact when compared to other piston powered helicopters. Many of these accidents have been attributed to pilot performance or inexperience, leading to low rotor revolutions per minute (RPM) or low "G" conditions that resulted in mast bumping or main rotor/airframe contact accidents. Its small size and relatively low operating costs result in its use as a training or small utility aircraft, and its operation by a significant population of relatively inexperienced helicopter pilots.

In its analysis of accident data, the FAA has found that apparently qualified pilots may not be properly prepared to safely operate the R-22 and R-44 helicopters in certain flight conditions. The FAA has determined that additional specific pilot training is necessary for safe operation of these helicopters as part of a comprehensive program that responds to the high number of accidents involving these helicopters. Other elements of this program include addressing design and operational issues, cited by the National Transportation Safety Board (NTSB), that may have been contributing factors in some of the accidents.

In addition to the specific pilot training and experience requirements recommended by a R-22 and R-44 Flight Standardization Board established on January 8, 1995, and the subject of this SFAR, the FAA has taken several other actions to alert pilots and owners to the hazards of these helicopters. Individual notice to every certificated rotorcraft pilot, including all rotorcraft certified flight instructors who instruct in these helicopters, was given by the FAA when it issued the Special Airworthiness Alert No. ASW-95-01 on January 10, 1995. This alert, provided specific guidance in avoiding and dealing with low rotor RPM and low G conditions. This guidance was made mandatory when the FAA issued to all owners of these helicopters Airworthiness Directives Nos. 95-02-03 and 95-02-04 on January 12, 1995, which amended these helicopters' operating envelope by limiting operations in certain atmospheric conditions, such as turbulence, and reduced operating speed in turbulent conditions to avoid the situations described in the Alert. Finally, the FAA is undertaking an aggressive engineering and design review of these helicopters and their operations as well as

evaluating potential design improvement for the Robinson helicopters.

Discussion

The FAA has determined, after reviewing the NTSB accident reports of 30 fatal accidents since 1982 in which main rotor/airframe contact occurred, that certain flight maneuvers caused, or contributed to, the accidents. In four recent R-22 and R-44 accidents, main rotor/airframe contact occurred while the helicopters were apparently well within the aircraft's defined operating envelope. Although the pilots assumed to be operating the flight controls at the time of the accidents had little experience, the investigations found no evidence that the pilots were improperly operating the helicopters.

There is a clear relationship between pilot inexperience in the R-22 and R-44 helicopters and main rotor/airframe contact accidents. An analysis of this type of accident, indicates that in 23 of the 30 fatal accidents, the pilot apparently manipulating the controls had less than 200 flight hours in helicopters or less than 50 flight hours in the model of Robinson helicopter they were operating. It appears that pilots with more than a minimal level of experience are more likely to recognize situations that would cause this type of accident. However, the FAA has determined that all pilots, regardless of their level of experience, need to have a greater awareness of the flight conditions that have led to these accidents and a capability to respond appropriately when those conditions are encountered. Accordingly, the agency is initiating a two-fold program, including ground and flight training. For pilots that have 200 flight hours in helicopters and at least 50 hours in either the R22 or R44 Robinson helicopter, as appropriate, flight training would not be required because of their overall experience, and their specific experience in the Robinson helicopter. For rated pilots who do not have this experience and students pilots, there are specific flight training requirements. In both cases, the intent is to ensure that the pilots, either through accumulated experience or flight training, have the skills necessary to avoid, as well as react to, situations that can cause main rotor/airframe contact. While experience is beneficial in avoiding this type of accident, the FAA believes that there is a need for all pilots operating the Robinson helicopters to be aware of certain characteristics associated with the Robinson R22 and R44 helicopter. For this reason, the FAA is imposing an awareness training requirement on all

individuals operating Robinson R22 and R44 aircraft.

In addition, the FAA is requiring that any pilot operating a Robinson R22 helicopter, as pilot in command, to complete future flight review requirements of Part 61 in the R22. A separate flight review is required for the R-44. Pilots with less experience (i.e. those with less than 200 flight hours in helicopters and at least 50 hours in the model of Robinson helicopters) are required to complete an annual flight review. Similarly, the pilot in command currency requirements of Part 61 must be met in the particular model Robinson helicopter. The purpose of these provisions is to ensure persons operating Robinson R22 and R44 maintain proficiency and competency over time.

Finally, the SFAR establishes criteria for flight instructor who wish to continue to instruct or conduct flight reviews in a Robinson helicopter. These criteria are established to insure that the instructors are knowledgeable and competent to conduct the awareness and flight training. This SFAR requires that each individual who receives awareness training or flight training obtain an endorsement in that individuals logbook from a CFI who has met the criteria.

The FAA has determined that the provisions of this SFAR for requiring student pilots, pilots, and flight instructors to undergo special awareness training, additional recency of experience requirements, and the additional aeronautical flight experience above the current requirements in Part 61 will provide for safe operation of the Robinson R-22 and R-44 helicopters.

The FAA has determined that prompt action regarding these helicopters is necessary, and therefore that notice and comment concerning this rule is not in the public interest. The additional training prescribed in the rule should be taken as rapidly as possible. Nonetheless, the FAA believes that adherence to the Alert and Airworthiness Directives noted above, together with appropriate caution in operating these aircraft, will provide for safe operations for the next 30 days until this SFAR takes effect. No additional extension of this 30 day period is anticipated, however.

Ongoing FAA Actions

The rule expires on December 31, 1997, but may be terminated sooner or extended through the publication of notice, comment and final rule action if circumstances so warrant. This action is one of several on-going actions related to the Robinson helicopters. The FAA

may take additional actions or modify these actions already taken as a result of further study or comments received concerning this rule.

Regulatory Evaluation Summary

Proposed changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic effect or regulatory changes on small entities. Third, the Office of Management of Budget (OMB) directs agencies to assess the effect of regulatory changes on international trade. However, OMB may exempt classes of regulations from the Executive Order's requirements, in addition to those explicitly exempt, such as rules unlikely to involve significant policy issues for which even a brief delay could impose significant costs. In addition, DOT Order 2100.5 "Policies and Procedures for Simplification, Analysis, and Review of Regulations" states that an emergency regulation that otherwise would be nonsignificant is excepted from the requirements for any Evaluation. Thus, because of the emergency nature of this SFAR, the FAA has not prepared a full regulatory evaluation.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily or disproportionately burdened by Federal regulations. The RFA requires a Regulatory Flexibility Analysis if a rule will have a significant economic impact on a substantial number of small entities. FAA Order 2100.14A, Regulatory Flexibility Criteria and Guidance, provides threshold cost and small entity size standards for complying with RFA review requirements in FAA rulemaking actions. Small entities are independently owned and operated small businesses and small not-for-profit organizations. A substantial number of small entities is defined as a number that is 11 or more and which is more than one-third of the small entities subject to this rule. The FAA has determined that this rule will not result in a significant economic impact, either detrimental or beneficial, on a substantial number of small entities, however, the public is invited to comment on this determination particularly with respect to the number

of small entities that will be affected and the cost impact on those small entities.

International Trade Impact Assessment

The FAA has determined that this SFAR will not constitute barriers to international trade, including the export of American goods and services to foreign countries and barriers affecting the import of foreign goods and services into the United States.

Good Cause Justification for Immediate Adoption

Because of the emergency nature of this rulemaking and because of the reasons stated above, the FAA finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and contrary to the public interest.

Paperwork Reduction Act

This SFAR contains no information collection requests requiring approval of the Office of Management and Budget pursuant to the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Federalism Implications

The SFAR adopted herein will not have substantial direct effects on the states, on the relationship between the Federal government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12866, it is determined that this SFAR does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

International Civil Aviation Organization (ICAO) and Joint Aviation Regulations

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with ICAO Standards and Recommended Practices to the maximum extent practicable. The FAA has determined that this SFAR does not conflict with any international agreement of the United States.

Conclusion

For the reasons previously discussed in the preamble, the FAA has determined that this SFAR is not significant under Executive Order 12866. The FAA has determined that this regulation is an emergency regulation that must be issued immediately to address an unsafe condition. Based on the findings in the Regulatory Flexibility Determination and the International Trade Impact Analysis, the FAA certifies that this

SFAR 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. This SFAR is not considered significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

List of Subjects in 14 CFR Part 61

Aircraft, Aircraft pilots, Airmen, Airplanes, Air safety, Air transportation, Aviation safety, Balloons, Helicopters, Rotorcraft, Students.

The Rule

In consideration of the foregoing, the Federal Aviation Administration amends part 61 of Title 14 of the Code of Federal Regulations (14 CFR part 61) as follows:

PART 61—CERTIFICATION: PILOTS AND FLIGHT INSTRUCTORS

1. The authority citation for part 61 continues to read as follows:

Authority: 49 U.S.C. app. 1354(a), 1355, 1421, 1422, and 1427; 49 U.S.C. 106(g).

2. By adding Special Federal Aviation Regulation (SFAR) No. 73 to part 61 to read as follows:

Special Federal Aviation Regulations

* * * * *

SFAR No. 73—Robinson R-22/R-44 Special Training and Experience Requirements

1. *Applicability.* Under the procedures prescribed herein, this SFAR applies to all persons who seek to manipulate the controls or act as pilot in command of a Robinson model R-22 or R-44 helicopter. The requirements stated in this SFAR are in addition to the current requirements of part 61.

2. *Required training, aeronautical experience, endorsements, and flight review.*

(a) Awareness Training:

(1) Except as provided in paragraph (a)(2) of this section, no person may manipulate the controls of a Robinson model R-22 or R-44 helicopter after March 27, 1995 for the purpose of flight unless the awareness training specified in paragraph (a)(3) of this section is completed and the person's logbook has been endorsed by a certified flight instructor authorized under paragraph (b)(5) of this section.

(2) A person who holds a rotorcraft category and helicopter class rating on their pilot certificate and meets the experience requirements of paragraph (b)(1) or (b)(2) of this section may not manipulate the controls of a Robinson model R-22 or R-44 helicopter for the purpose of flight after April 26, 1995 unless the awareness training specified in paragraph (a)(3) of this section is completed and the person's logbook has been endorsed by a certified flight instructor authorized under paragraph (b)(5) of this section.

(3) Awareness training must be conducted by a certified flight instructor who has been

endorsed under paragraph (b)(5) of this section and consists of instruction in the following general subject areas:

- (i) energy management;
- (ii) mast bumping;
- (iii) low rotor RPM (blade stall);
- (iv) low G hazards; and
- (v) rotor RPM decay.

(4) A person who can show satisfactory completion of the manufacturer's safety course after January 1, 1994, may obtain an endorsement from an FAA aviation safety inspector in lieu of completing the awareness training required in paragraphs (a)(1) and (a)(2) of this section.

(b) Aeronautical Experience:

(1) No person may act as pilot in command of a Robinson model R-22 unless that person:

(i) has had at least 200 flight hours in helicopters, at least 50 flight hours of which were in the Robinson R-22; or

(ii) has had at least 10 hours dual instruction in the Robinson R-22 and has received an endorsement from a certified flight instructor authorized under paragraph (b)(5) of this section that the individual has been given the training required by this paragraph and is proficient to act as pilot in command of an R-22. Beginning 12 calendar months after the date of the endorsement, the individual may not act as pilot in command unless the individual has completed a flight review in an R-22 within the preceding 12 calendar months and obtained an endorsement for that flight review. The dual instruction must include at least the following abnormal and emergency procedures flight training:

- (A) enhanced training in autorotation procedures,
- (B) engine rotor RPM control without the use of the governor,
- (C) low rotor RPM recognition and recovery, and
- (D) effects of low G maneuvers and proper recovery procedures.

(2) No person may act as pilot in command of a Robinson model R-44 unless that person:

(i) has had at least 200 flight hours in helicopters, at least 50 flight hours of which were in the Robinson R-44; or

(ii) has had at least 10 hours dual instruction in the Robinson R-44 and has received an endorsement from a certified flight instructor authorized under paragraph (b)(5) of this section that the individual has been given the training required by this paragraph and is proficient to act as pilot in command of an R-44. Beginning 12 calendar months after the date of the endorsement, the individual may not act as pilot in command unless the individual has completed a flight review in an R-44 within the preceding 12 calendar months and obtained an endorsement for that flight review. The dual instruction must include at least the following abnormal and emergency procedures flight training:

- (A) enhanced training in autorotation procedures,
- (B) engine rotor RPM control without the use of the governor,
- (C) low rotor RPM recognition and recovery, and
- (D) effects of low G maneuvers and proper recovery procedures.

(3) A person who does not hold a rotorcraft category and helicopter class rating must have had at least 20 hours of dual instruction in a Robinson R-22 helicopter prior to operating it in solo flight. In addition, the person must obtain an endorsement from a certified flight instructor authorized under paragraph (b)(5) of this section that instruction has been given in those maneuvers and procedures, and the instructor has found the applicant proficient to solo a Robinson R-22. This endorsement is valid for a period of 90 days. The dual instruction must include at least the following abnormal and emergency procedures flight training:

- (i) enhanced training in autorotation procedures,
- (ii) engine rotor RPM control without the use of the governor,
- (iii) low rotor RPM recognition and recovery, and
- (iv) effects of low G maneuvers and proper recovery procedures.

(4) A person who does not hold a rotorcraft category and helicopter class rating must have had at least 20 hours of dual instruction in a Robinson R-44 helicopter prior to operating it in solo flight. In addition, the person must obtain an endorsement from a certified flight instructor authorized under paragraph (b)(5) of this section that instruction has been given in those maneuvers and procedures, and the instructor has found the applicant proficient to solo a Robinson R-44. This endorsement is valid for a period of 90 days. The dual instruction must include at least the

following abnormal and emergency procedures flight training:

- (i) enhanced training in autorotation procedures,
 - (ii) engine rotor RPM control without the use of the governor,
 - (iii) low rotor RPM recognition and recovery, and
 - (iv) effects of low G maneuvers and proper recovery procedures.
- (5) No certificated flight instructor may provide instruction or conduct a flight review in a Robinson model R-22 or R-44 unless that instructor:
- (i) Completes the awareness training in paragraph 2(a) of this SFAR,
 - (ii) Meets the experience requirements of paragraphs 2(b)(1)(i) of this SFAR for the R-22, or 2(b)(2)(i) of this SFAR for the R-44,
 - (iii) Has completed flight training in an R-22, R-44, or both, on the following abnormal and emergency procedures:
 - (A) enhanced training in autorotation procedures,
 - (B) engine rotor RPM control without the use of the governor,
 - (C) low rotor RPM recognition and recovery, and
 - (D) effects of low G maneuvers and proper recovery procedures.
 - (iv) Been authorized by endorsement from an FAA aviation safety inspector or authorized designated examiner that the instructor has completed the appropriate training, meets the experience requirements and has satisfactorily demonstrated an ability to provide instruction on the general subject areas of paragraph 2(a)(3) of this SFAR, and

the flight training identified in paragraph 2(b)(5)(iii) of this SFAR.

(c) Flight Review:

(1) No flight review completed to satisfy § 61.56 by an individual after becoming eligible to function as pilot in command in a Robinson R-22 helicopter shall be valid for the operation of R-22 helicopter unless that flight review was taken in an R-22.

(2) No flight review completed to satisfy § 61.56 by individual after becoming eligible to function as pilot in command in a Robinson R-44 helicopter shall be valid for the operation of R-44 helicopter unless that flight review was taken in the R-44.

(3) The flight review will include a review of the awareness training subject areas of paragraph 2(a)(3) of this SFAR and the flight training identified in paragraph 2(b) of this SFAR.

(d) Currency Requirements: No person may act as pilot in command of a Robinson model R-22 or R-44 helicopter carrying passengers unless the pilot in command has met the recency of flight experience requirements of § 61.57 in an R-22 or R-44, as appropriate.

3. *Expiration date.* This SFAR expires December 31, 1997, unless sooner superseded or rescinded.

Issued in Washington, DC, February 23, 1995.

David R. Hinson,

Administrator.

[FR Doc. 95-4967 Filed 2-24-95; 12:49 pm]

BILLING CODE 4910-13-M

FD-302a
Continuation of FD-302

Wednesday
March 1, 1995

Part VIII

**Department of
Health and Human
Services**

Food and Drug Administration

**International Conference on
Harmonisation; Guideline on Validation of
Analytical Procedures: Definitions and
Terminology Availability; Notice**

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Food and Drug Administration**

[Docket No. 94D-0016]

International Conference on Harmonisation; Guideline on Validation of Analytical Procedures: Definitions and Terminology; Availability**AGENCY:** Food and Drug Administration, HHS.**ACTION:** Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing a final guideline entitled "Text on Validation of Analytical Procedures." This guideline was prepared under the auspices of the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH). The guideline is intended to present topics that should be considered during the validation of the analytical procedures included as part of registration applications for pharmaceuticals.

DATES: Effective on March 1, 1995. Submit written comments at any time.

ADDRESSES: Submit written comments on the guideline to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857. Copies of the guideline are available from CDER Executive Secretariat Staff (HFD-8), Center for Drug Evaluation and Research, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855.

FOR FURTHER INFORMATION CONTACT:

Regarding the guideline: Roger L. Williams, Center for Drug Evaluation and Research (HFD-4), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-594-6740.

Regarding ICH: Janet J. Showalter, Office of Health Affairs (HFY-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1382.

SUPPLEMENTARY INFORMATION: In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote international harmonization of regulatory requirements. FDA has participated in many meetings designed to enhance harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify

and then reduce differences in technical requirements for drug development among regulatory agencies.

ICH was organized to provide an opportunity for tripartite harmonization initiatives to be developed with input from both regulatory and industry representatives. FDA also seeks input from consumer representatives and others. ICH is concerned with harmonization of technical requirements for the registration of pharmaceutical products among three regions: The European Union, Japan, and the United States. The six ICH sponsors are the European Commission; the European Federation of Pharmaceutical Industry Associations; the Japanese Ministry of Health and Welfare; the Japanese Pharmaceutical Manufacturers Association; the Centers for Drug Evaluation and Research and Biologics Evaluation and Research, FDA; and the Pharmaceutical Research and Manufacturers of America. The ICH Secretariat, which coordinates the preparation of documentation, is provided by the International Federation of Pharmaceutical Manufacturers Association (IFPMA).

The ICH Steering Committee includes representatives from each of the ICH sponsors and IFPMA, as well as observers from the World Health Organization, the Canadian Health Protection Branch, and the European Free Trade Area.

Harmonization of the validation of analytical procedures for pharmaceuticals was selected as a priority topic during the early stages of the ICH initiative. In the **Federal Register** of March 1, 1994 (59 FR 9750), FDA published a draft tripartite guideline entitled "Draft Guideline on Validation of Analytical Procedures." The notice gave interested persons an opportunity to submit comments by May 16, 1994.

After consideration of the comments received and revisions to the guideline, a final draft of the guideline was submitted to the ICH Steering Committee and endorsed by the three participating regulatory agencies at the ICH meeting held in October 1994.

The guideline presents a discussion of the characteristics that should be considered during the validation of the analytical procedures included as part of registration applications submitted in Europe, Japan, and the United States. The guideline discusses common types of analytical procedures and defines basic terms, such as "analytical procedure," "specificity," and "precision." These terms and definitions are meant to bridge the differences that often exist between

various compendia and regulators of the European Union, Japan, and the United States.

In the past, guidelines have generally been issued under § 10.90(b) (21 CFR 10.90(b)), which provides for the use of guidelines to state procedures or standards of general applicability that are not legal requirements but are acceptable to FDA. The agency is now in the process of revising § 10.90(b). Therefore, this guideline is not being issued under the authority of § 10.90(b), and it does not create or confer any rights, privileges, or benefits for or on any person, nor does it operate to bind FDA in any way.

As with all of FDA's guidelines, the public is encouraged to submit written comments with new data or other new information pertinent to this guideline. The comments in the docket will be periodically reviewed, and, where appropriate, the guideline will be amended. The public will be notified of any such amendments through a notice in the **Federal Register**.

Interested persons may, at any time, submit written comments on the guideline 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. The guideline and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

The text of the guideline follows:

Text on Validation of Analytical Procedures**1. Introduction**

This document presents a discussion of the characteristics for consideration during the validation of the analytical procedures included as part of registration applications submitted within the European Union, Japan, and the United States. This document does not necessarily seek to cover the testing that may be required for registration in, or export to, other areas of the world. Furthermore, this text presentation serves as a collection of terms, and their definitions, and is not intended to provide direction on how to accomplish validation. These terms and definitions are meant to bridge the differences that often exist between various compendia and regulators of the European Union, Japan, and the United States.

The objective of validation of an analytical procedure is to demonstrate that it is suitable for its intended purpose. A tabular summation of the characteristics applicable to identification, control of impurities, and assay procedures is included. Other analytical procedures may be considered in future additions to this document.

2. Types of Analytical Procedures to be Validated

The discussion of the validation of analytical procedures is directed to the four most common types of analytical procedures:

- Identification tests.
- Quantitative tests for impurities' content.
- Limit tests for the control of impurities.
- Quantitative tests of the active moiety in samples of drug substance or drug product or other selected component(s) in the drug product.

Although there are many other analytical procedures, such as dissolution testing for drug products or particle size determination for drug substance, these have not been addressed in the initial text on validation of analytical procedures. Validation of these additional analytical procedures is equally important to those listed herein and may be addressed in subsequent documents.

A brief description of the types of tests considered in this document is provided below.

- Identification tests are intended to ensure the identity of an analyte in a sample. This is normally achieved by comparison of a property of the sample (e.g., spectrum, chromatographic behavior, chemical

reactivity, etc.) to that of a reference standard.

- Testing for impurities can be either a quantitative test or a limit test for the impurity in a sample. Either test is intended to accurately reflect the purity characteristics of the sample. Different validation characteristics are required for a quantitative test than for a limit test.

- Assay procedures are intended to measure the analyte present in a given sample. In the context of this document, the assay represents a quantitative measurement of the major component(s) in the drug substance. For the drug product, similar validation characteristics also apply when assaying for the active or other selected component(s). The same validation characteristics may also apply to assays associated with other analytical procedures (e.g., dissolution).

The objective of the analytical procedure should be clearly understood since this will govern the validation characteristics which need to be evaluated. Typical validation characteristics which should be considered are listed below:

Accuracy;
Precision:

Repeatability;
Intermediate precision;
Specificity;
Detection limit;
Quantitation limit;
Linearity;
Range.

Each of these validation characteristics is defined in the attached Glossary. The table lists those validation characteristics regarded as the most important for the validation of different types of analytical procedures. This list should be considered typical for the analytical procedures cited but occasional exceptions should be dealt with on a case-by-case basis. It should be noted that robustness is not listed in the table but should be considered at an appropriate stage in the development of the analytical procedure.

Furthermore revalidation may be necessary in the following circumstances:

- Changes in the synthesis of the drug substance;
- Changes in the composition of the finished product;
- Changes in the analytical procedure.

The degree of revalidation required depends on the nature of the changes. Certain other changes may require validation as well.

TABLE

Type of analytical procedure; characteristics	Identification	Testing for impurities		Assay; dissolution (measurement) only; content/potency
		Quantitation	Limit	
Accuracy	—	+	—	+
Precision				
Repeatability	—	+	—	+
Intermediate Precision	—	+ ¹	—	+ ¹
Specificity ²	+	+	+	+
Detection Limit	—	— ³	+	—
Quantitation Limit	—	+	—	—
Linearity	—	+	—	+
Range	—	+	—	+

Note—signifies that this characteristic is not normally evaluated; + signifies that this characteristic is normally evaluated.

¹ In cases where reproducibility (see Glossary) has been performed, intermediate precision is not needed.

² Lack of specificity of one analytical procedure could be compensated by other supporting analytical procedure(s).

³ May be needed in some cases.

Glossary

1. Analytical Procedure

The analytical procedure refers to the way of performing the analysis. It should describe in detail the steps necessary to perform each analytical test. This may include but is not limited to: The sample, the reference standard and the reagents preparations, use of the apparatus, generation of the calibration curve, use of the formulae for the calculation, etc.

2. Specificity

Specificity is the ability to assess unequivocally the analyte in the presence of components which may be expected to be present. Typically these might include impurities, degradants, matrix, etc.

Lack of specificity of an individual analytical procedure may be compensated by other supporting analytical procedure(s).

This definition has the following implications:

Identification: To ensure the identity of an analyte.

Purity Tests: To ensure that all the analytical procedures performed allow an accurate statement of the content of impurities of an analyte, i.e., related substances test, heavy metals, residual solvents content, etc.

Assay (content or potency): To provide an exact result which allows an accurate statement on the content or potency of the analyte in a sample.

3. Accuracy

The accuracy of an analytical procedure expresses the closeness of agreement between the value which is accepted either as a conventional true value or an accepted reference value and the value found.

This is sometimes termed trueness.

4. Precision

The precision of an analytical procedure expresses the closeness of agreement (degree of scatter) between a series of measurements

obtained from multiple sampling of the same homogeneous sample under the prescribed conditions. Precision may be considered at three levels: Repeatability, intermediate precision and reproducibility.

Precision should be investigated using homogeneous, authentic samples. However, if it is not possible to obtain a homogeneous sample it may be investigated using artificially prepared samples or a sample solution.

The precision of an analytical procedure is usually expressed as the variance, standard deviation, or coefficient of variation of a series of measurements.

4.1. Repeatability

Repeatability expresses the precision under the same operating conditions over a short interval of time. Repeatability is also termed intra-assay precision.

4.2. *Intermediate precision*

Intermediate precision expresses within laboratories' variations: Different days, different analysts, different equipment, etc.

4.3. *Reproducibility*

Reproducibility expresses the precision between laboratories (collaborative studies, usually applied to standardization of methodology).

5. **Detection Limit**

The detection limit of an individual analytical procedure is the lowest amount of analyte in a sample which can be detected but not necessarily quantitated as an exact value.

6. **Quantitation Limit**

The quantitation limit of an individual analytical procedure is the lowest amount of analyte in a sample which can be quantitatively determined with suitable precision and accuracy. The quantitation limit is a parameter of quantitative assays for low levels of compounds in sample matrices, and is used particularly for the determination of impurities and/or degradation products.

7. **Linearity**

The linearity of an analytical procedure is its ability (within a given range) to obtain test results which are directly proportional to the concentration (amount) of analyte in the sample.

8. **Range**

The range of an analytical procedure is the interval between the upper and lower

concentration (amounts) of analyte in the sample (including these concentrations) for which it has been demonstrated that the analytical procedure has a suitable level of precision, accuracy, and linearity.

9. **Robustness**

The robustness of an analytical procedure is a measure of its capacity to remain unaffected by small, but deliberate, variations in method parameters and provides an indication of its reliability during normal usage.

Dated: February 23, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95-4956 Filed 2-28-95; 8:45 am]

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Food and Drug Administration

Wednesday
March 1, 1995

Part IX

**Department of
Health and Human
Services**

Food and Drug Administration

**International Conference on
Harmonisation; Guideline on the
Assessment of Systemic Exposure in
Toxicity Studies; Notice**

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Food and Drug Administration****[Docket No. 94D-0015]****International Conference on Harmonisation; Guideline on the Assessment of Systemic Exposure in Toxicity Studies; Availability****AGENCY:** Food and Drug Administration, HHS.**ACTION:** Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing a final guideline entitled "Toxicokinetics: Guidance on the Assessment of Systemic Exposure in Toxicity Studies." This guideline was prepared under the auspices of the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH). The guideline is intended to help ensure that the assessment of systemic exposure in toxicity studies to support drug registration is carried out according to sound scientific principles.

DATES: Effective on March 1, 1995. Submit written comments at any time.

ADDRESSES: Submit written comments on the guideline to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857. Copies of the guideline are available from CDER Executive Secretariat Staff (HFD-8), Center for Drug Evaluation and Research, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855.

FOR FURTHER INFORMATION CONTACT:

Regarding the guideline: Roger L. Williams, Center for Drug Evaluation and Research (HFD-4), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-594-6740.

Regarding ICH: Janet J. Showalter, Office of Health Affairs (HFY-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1382.

SUPPLEMENTARY INFORMATION: In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote international harmonization of regulatory requirements. FDA has participated in many meetings designed to enhance harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify and then reduce differences in technical

requirements for drug development among regulatory agencies.

ICH was organized to provide an opportunity for tripartite harmonization initiatives to be developed with input from both regulatory and industry representatives. FDA also seeks input from consumer representatives and others. ICH is concerned with harmonization of technical requirements for the registration of pharmaceutical products among three regions: The European Union, Japan, and the United States. The six ICH sponsors are the European Commission; the European Federation of Pharmaceutical Industry Associations; the Japanese Ministry of Health and Welfare; the Japanese Pharmaceutical Manufacturers Association; the Centers for Drug Evaluation and Research and Biologics Evaluation and Research, FDA; and the Pharmaceutical Research and Manufacturers of America. The ICH Secretariat, which coordinates the preparation of documentation, is provided by the International Federation of Pharmaceutical Manufacturers Association (IFPMA).

The ICH Steering Committee includes representatives from each of the ICH sponsors and IFPMA, as well as observers from the World Health Organization, the Canadian Health Protection Branch, and the European Free Trade Area.

Harmonization of the assessment of systemic exposure in toxicity studies was selected as a priority topic during the early stages of the ICH initiative. In the **Federal Register** of March 1, 1994 (59 FR 9755), FDA published a draft tripartite guideline entitled, "Toxicokinetics: A Guidance on the Assessment of Systemic Exposure in Toxicity Studies." The notice gave interested persons an opportunity to submit comments by May 16, 1994.

After consideration of the comments received and revisions to the guideline, a final draft of the guideline was submitted to the ICH Steering Committee and endorsed by the three participating regulatory agencies at the ICH meeting held in October 1994.

The guideline discusses toxicokinetics, which is the generation of pharmacokinetic data in nonclinical toxicity studies or ancillary studies to assess exposure. The objectives of toxicokinetics are: (1) To describe the systemic exposure achieved in animals, its relationship to dose level, and the time course of the toxicity study; (2) to relate the exposure achieved in toxicity studies to toxicological findings; (3) to support the choice of species and treatment regimen in nonclinical toxicity studies; and (4) to supply

information which, along with the toxicity findings, will contribute to developing additional nonclinical toxicity studies.

In the past, guidelines have generally been issued under § 10.90(b) (21 CFR 10.90(b)), which provides for the use of guidelines to state procedures or standards of general applicability that are not legal requirements but are acceptable to FDA. The agency is now in the process of revising § 10.90(b). Therefore, this guideline is not being issued under the authority of § 10.90(b), and it does not create or confer any rights, privileges, or benefits for or on any person, nor does it operate to bind FDA in any way.

As with all of FDA's guidelines, the public is encouraged to submit written comments with new data or other new information pertinent to this guideline. The comments in the docket will be periodically reviewed, and, where appropriate, the guideline will be amended. The public will be notified of any such amendments through a notice in the **Federal Register**.

Interested persons may, at any time, submit written comments on the guideline 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. The guideline and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

The text of the guideline follows:

Toxicokinetics: Guidance on the Assessment of Systemic Exposure in Toxicity Studies**I. Introduction**

This Note for Guidance concerns toxicokinetics only with respect to the development of pharmaceutical products intended for use in human subjects.

In this context, toxicokinetics is defined as the generation of pharmacokinetic data, either as an integral component in the conduct of nonclinical toxicity studies or in specially designed supportive studies, in order to assess systemic exposure. These data may be used in the interpretation of toxicology findings and their relevance to clinical safety issues (see Note 1 for definitions of other terms used in this document).

The Note for Guidance has been developed in order to provide an understanding of the meaning and application of toxicokinetics and to provide guidance on developing test strategies in toxicokinetics. The guidance highlights the need to integrate pharmacokinetics into toxicity testing, which should aid in the interpretation of the toxicology findings and promote rational study design development.

Toxicokinetic measurements are normally integrated within the toxicity studies and as such are described in this document as "concomitant toxicokinetics" (Note 1). Alternatively, data may be generated in other supportive studies conducted by mimicking the conditions of the toxicity studies.

Toxicokinetic procedures may provide a means of obtaining multiple dose pharmacokinetic data in the test species, if appropriate parameters are monitored, thus avoiding duplication of such studies; optimum design in gathering the data will reduce the number of animals required.

Various components of the total nonclinical pharmacokinetics and metabolism program may be of value in contributing to the interpretation of toxicology findings. However, the toxicokinetic data focus on the kinetics of a new therapeutic agent under the conditions of the toxicity studies themselves.

Toxicokinetics is thus an integral part of the nonclinical testing program; it should enhance the value of the toxicological data generated, both in terms of understanding the toxicity tests and in comparison with clinical data as part of the assessment of risk and safety in humans. Due to its integration into toxicity testing and its bridging character between nonclinical and clinical studies, the focus is primarily on the interpretation of toxicity tests and not on characterizing the basic pharmacokinetic parameters of the substance studied.

As the development of a pharmaceutical product is a dynamic process which involves continuous feedback between nonclinical and clinical studies, no rigid detailed procedures for the application of toxicokinetics are recommended. It may not be necessary for toxicokinetic data to be collected in all studies and scientific judgment should dictate when such data may be useful. The need for toxicokinetic data and the extent of exposure assessment in individual toxicity studies should be based on a flexible step-by-step approach and a case-by-case decisionmaking process to provide sufficient information for a risk and safety assessment.

2. The Objectives of Toxicokinetics and the Parameters Which May Be Determined

The primary objective of toxicokinetics is:

- To describe the systemic exposure achieved in animals and its relationship to dose level and the time course of the toxicity study.

Secondary objectives are:

- To relate the exposure achieved in toxicity studies to toxicological findings and contribute to the assessment of the relevance of these findings to clinical safety.

- To support (Note 1) the choice of species and treatment regimen in nonclinical toxicity studies.

- To provide information which, in conjunction with the toxicity findings, contributes to the design of subsequent nonclinical toxicity studies.

These objectives may be achieved by the derivation of one or more pharmacokinetic parameters (Note 2) from measurements made at appropriate time points during the course of the individual studies. These

measurements usually consist of plasma (or whole blood or serum) concentrations for the parent compound and/or metabolite(s) and should be selected on a case-by-case basis. Plasma (or whole blood or serum) AUC, C_{max} , and $C_{(time)}$ (Note 2) are the most commonly used parameters in assessing exposure in toxicokinetics studies. For some compounds it will be more appropriate to calculate exposure based on the (plasma protein) unbound concentration.

These data may be obtained from all animals on a toxicity study, in representative subgroups, in satellite groups (see 3.5 and Note 1) or in separate studies.

Toxicity studies which may be usefully supported by toxicokinetic information include single and repeated dose toxicity studies, reproductive, genotoxicity, and carcinogenicity studies. Toxicokinetic information may also be of value in assessing the implications of a proposed change in the clinical route of administration.

3. General Principles to be Considered

3.1 Introduction

In the following paragraphs some general principles are set out which should be taken into consideration in the design of individual studies.

It should be noted that for those toxicity studies whose performance is subject to Good Laboratory Practice (GLP) the concomitant toxicokinetics must also conform to GLP. Toxicokinetic studies retrospectively designed to generate specific sets of data under conditions which closely mimic those of the toxicity studies should also conform to GLP when they are necessary for the evaluation of safety.

3.2 Quantification of exposure

The quantification of systemic exposure provides an assessment of the burden on the test species and assists in the interpretation of similarities and differences in toxicity across species, dose groups, and sexes. The exposure might be represented by plasma (serum or blood) concentrations or the AUC's of parent compound and/or metabolite(s). In some circumstances, studies may be designed to investigate tissue concentrations. When designing the toxicity studies, the exposure and dose-dependence in humans at therapeutic dose levels (either expected or established) should be considered in order to achieve relevant exposure at various dose levels in the animal toxicity studies. The possibility that there may be species differences in the pharmacodynamics of the substance (either qualitative or quantitative) should also be taken into consideration.

Pharmacodynamic effects or toxicity might also give supporting evidence of exposure or even replace pharmacokinetic parameters in some circumstances.

Toxicokinetic monitoring or profiling of toxicity studies should establish what level of exposure has been achieved during the course of the study and may also serve to alert the toxicologist to nonlinear, dose-related changes in exposure (Note 3) that may have occurred. Toxicokinetic information may allow better interspecies comparisons than simple dose/body weight (or surface area) comparisons.

3.3 Justification of time points for sampling

The time points for collecting body fluids in concomitant toxicokinetic studies should be as frequent as is necessary, but not so frequent as to interfere with the normal conduct of the study or to cause undue physiological stress to the animals (Note 4). In each study, the number of time points should be justified on the basis that they are adequate to estimate exposure (see 3.2). The justification should be based on kinetic data gathered from earlier toxicity studies, from pilot or dose range-finding studies, from separate studies in the same animal model, or in other models allowing reliable extrapolation.

3.4 Contribution to the setting of dose levels in order to produce adequate exposure

The setting of dose levels in toxicity studies is largely governed by the toxicology findings and the pharmacodynamic responses of the test species. However, the following toxicokinetic principles may contribute to the setting of the dose levels.

3.4.1 Low dose levels

At the low dose, preferably a no-toxic-effect dose level (Note 5), the exposure in the animals of any toxicity study should ideally equal or just exceed the maximum expected (or known to be attained) in patients. It is recognized that this ideal is not always achievable and that low doses will often need to be determined by considerations of toxicology; nevertheless, systemic exposure should be determined.

3.4.2 Intermediate dose levels

Exposure at intermediate dose levels should normally represent an appropriate multiple (or fraction) of the exposure at lower (or higher) dose levels dependent upon the objectives of the toxicity study.

3.4.3 High dose levels

The high dose levels in toxicity studies will normally be determined by toxicological considerations. However, the exposure achieved at the dose levels used should be assessed.

Where toxicokinetic data indicate that absorption of a compound limits exposure to parent compound and/or metabolite(s) (Note 6), the lowest dose level of the substance producing the maximum exposure should be accepted as the top dose level to be used (when no other dose-limiting constraint applies, Note 7).

Very careful attention should be paid to the interpretation of toxicological findings in toxicity studies (of all kinds) when the dose levels chosen result in nonlinear kinetics (Note 3). However, nonlinear kinetics should not necessarily result in dose limitations in toxicity studies or invalidate the findings; toxicokinetics can be very helpful in assessing the relationship between dose and exposure in this situation.

3.5 Extent of exposure assessment in toxicity studies

In toxicity studies, systemic exposure should be estimated in an appropriate number of animals and dose groups (Note 8) to provide a basis for risk assessment.

Concomitant toxicokinetics may be performed either in all or a representative proportion of the animals used in the main study or in special satellite groups (Notes 1 and 5). Normally, samples for the generation of toxicokinetic data may be collected from main study animals, where large animals are involved, but satellite groups may be required for the smaller (rodent) species.

The number of animals to be used should be the minimum consistent with generating adequate toxicokinetic data. Where both male and female animals are utilized in the main study it is normal to estimate exposure in animals of both sexes unless some justification can be made for not so doing.

Toxicokinetic data are not necessarily required from studies of different duration if the dosing regimen is essentially unchanged (see also 4.3).

3.6 Complicating factors in exposure interpretation

Although estimating exposure as described above may aid in the interpretation of toxicity studies and in the comparison with human exposure, a few caveats should be noted.

Species differences in protein binding, tissue uptake, receptor properties, and metabolic profile should be considered. For example, it may be more appropriate for highly protein bound compounds to have exposure expressed as the free (unbound) concentrations. In addition, the pharmacological activity of metabolites, the toxicology of metabolites, and antigenicity of biotechnology products may be complicating factors. Furthermore, it should be noted that even at relatively low plasma concentrations, high levels of the administered compound and/or metabolite(s) may occur in specific organs or tissues.

3.7 Route of administration

The toxicokinetic strategy to be adopted for the use of alternative routes of administration, for example, by inhalation, topical, or parenteral delivery, should be based on the pharmacokinetic properties of the substance administered by the intended route.

It sometimes happens that a proposal is made to adopt a new clinical route of administration for a pharmaceutical product; for example, a product initially developed as an oral formulation may subsequently be developed for intravenous administration. In this context, it will be necessary to ascertain whether changing the clinical route will significantly reduce the safety margin.

This process may include a comparison of the systemic exposure to the compound and/or its relevant metabolite(s) (AUC and C_{max}) in humans generated by the existing and proposed routes of administration. If the new route results in increased AUC and/or C_{max} , or a change in metabolic profile, the continuing assurance of safety from animal toxicology and kinetics should be reconsidered. If exposure is not substantially greater, or different, by the proposed new route compared to that for the existing route(s) then additional nonclinical toxicity studies may focus on local toxicity.

3.8 Determination of metabolites

A primary objective of toxicokinetics is to describe the systemic exposure to the administered compound achieved in the toxicology species. However, there may be circumstances when measurement of metabolite concentrations in plasma or other body fluids is especially important in the conduct of toxicokinetics (Note 9).

- When the administered compound acts as a "pro-drug" and the delivered metabolite is acknowledged to be the primary active entity.

- When the compound is metabolized to one or more pharmacologically or toxicologically active metabolites which could make a significant contribution to tissue/organ responses.

- When the administered compound is very extensively metabolized and the measurement of plasma or tissue concentrations of a major metabolite is the only practical means of estimating exposure following administration of the compound in toxicity studies (Note 10).

3.9 Statistical evaluation of data

The data should allow a representative assessment of the exposure. However, because large intra- and inter-individual variation of kinetic parameters may occur and small numbers of animals are involved in generating toxicokinetic data, a high level of precision in terms of statistics is not normally needed. Consideration should be given to the calculation of mean or median values and estimates of variability, but, in some cases, the data of individual animals may be more important than a refined statistical analysis of group data.

If data transformation (e.g., logarithmic) is performed, a rationale should be provided.

3.10 Analytical methods

Integration of pharmacokinetics into toxicity testing implies early development of analytical methods for which the choice of analytes and matrices should be continually reviewed as information is gathered on metabolism and species differences.

The analytical methods to be used in toxicokinetic studies should be specific for the entity to be measured and of an adequate accuracy and precision. The limit of quantification should be adequate for the measurement of the range of concentrations anticipated to occur in the generation of the toxicokinetic data.

The choice of analyte and the matrix to be assayed (biological fluids or tissue) should be stated and possible interference by endogenous components in each type of sample (from each species) should be investigated. Plasma, serum, or whole blood are normally the matrices of choice for toxicokinetic studies.

If the drug substance is a racemate or some other mixture of enantiomers, additional justification should be made for the choice of the analyte (racemate or enantiomer(s)).

The analyte and matrix assayed in nonclinical studies should ideally be the same as in clinical studies. If different assay methods are used in non-clinical and clinical studies they should all be suitably validated.

3.11 Reporting

A comprehensive account of the toxicokinetic data generated, together with an evaluation of the results and of the implications for the interpretation of the toxicology findings, should be given.

An outline of the analytical method should be reported or referenced. In addition, a rationale for the choice of the matrix analysed and the analyte measured (see 3.8 and 3.10) should be given.

The positioning of the report within the application will depend upon whether the data are specific to any one toxicity study or is supportive of all toxicity testing.

4. Toxicokinetics in the Various Areas of Toxicity Testing—Specific Aspects

4.1 Introduction

Based on the principles of toxicokinetics outlined above, the following specific considerations refer to individual areas of toxicity testing. The frequency of exposure monitoring or profiling may be extended or reduced where necessary.

It may be appropriate to take samples from some individual animals only, where this may help in the interpretation of the toxicology findings for these animals.

4.2 Single dose toxicity studies

These studies are often performed in a very early phase of development before a bioanalytical method has been developed and toxicokinetic monitoring of these studies is therefore not normally possible. Plasma samples may be taken in such studies and stored for later analysis, if necessary; appropriate stability data for the analyte in the matrix sampled would then be required.

Alternatively, additional toxicokinetic studies may be carried out after completion of a single dose toxicity study in order to respond to specific questions which may arise from the study.

Results from single dose kinetic studies may help in the choice of formulation and in the prediction of rate and duration of exposure during a dosing interval. This may assist in the selection of appropriate dose levels for use in later studies.

4.3 Repeated dose toxicity studies

The treatment regimen (Note 11) and species should be selected whenever possible with regard to pharmacodynamic and pharmacokinetic principles. This may not be achievable for the very first studies, at a time when neither animal nor human pharmacokinetic data are normally available.

Toxicokinetics should be incorporated appropriately into the design of the studies. It may consist of exposure profiling or monitoring (Note 1) at appropriate dose levels at the start and towards the end of the treatment period of the first repeat dose study (Note 12). The procedure adopted for later studies will depend on the results from the first study and on any changes in the proposed treatment regimen. Monitoring or profiling may be extended, reduced, or modified for specific compounds where problems have arisen in the interpretation of earlier toxicity studies.

4.4 Genotoxicity studies

For negative results of in vivo genotoxicity studies, it may be appropriate to have demonstrated systemic exposure in the species used or to have characterized exposure in the indicator tissue.

4.5 Carcinogenicity (Oncogenicity) studies¹

4.5.1 Sighting or dose-ranging studies

Appropriate monitoring or profiling of these studies should be undertaken in order to generate toxicokinetic data which may assist in the design of the main studies (see 4.5.2.). Particular attention should be paid to species and strains which have not been included in earlier toxicity studies and to the use of routes or methods of administration which are being used for the first time.

Particular attention should be paid to the establishment of appropriate toxicokinetic data when administration is to be in the diet (Note 13).

Toxicokinetic data may assist in the selection of dose levels in the light of information about clinical exposure and in the event that nonlinear kinetics (Note 3) may complicate the interpretation of the study.

In principle, the ideal study design would ensure that dose levels in oncogenicity studies generate a range of systemic exposure values that exceed the maximum therapeutic exposure for humans by varying multiples. However, it is recognized that this idealized selection of dose levels may be confounded by unavoidable species-specific problems. Thus, the emphasis of this guidance is on the need to estimate systemic exposure, to parent compound and/or metabolite(s) at appropriate dose levels and at various stages of an oncogenicity study, so that the findings of the study may be considered in the perspective of comparative exposure for the animal model and humans.

A highest dose based on knowledge of probable systemic exposure in the test species and in humans may be an acceptable end-point in testing for carcinogenic potential. Historically, a toxicity end-point¹ has been often used to select the top dose level.

4.5.2 The main studies

The treatment regimen, species, and strain selection should, as far as is feasible, be determined with regard to the available pharmacokinetic and toxicokinetic information. In practice, the vast majority of these studies is conducted in the rat and mouse.

As mentioned in the "Introduction" to this section, it is recommended that reassurance be sought from monitoring that the exposure in the main study is consistent with profiles of kinetics established in free-standing or specific dose-ranging studies. Such monitoring will be appropriate on a few occasions during the study, but it is not considered essential to continue beyond 6 months.

4.6 Reproductive toxicity studies²

4.6.1 Introduction

It is preferable to have some information on pharmacokinetics before initiating

reproduction studies since this may suggest the need to adjust the choice of species, study design, and dosing schedules. At this time, the information need not be sophisticated or derived from pregnant or lactating animals. At the time of study evaluation, further information on pharmacokinetics in pregnant or lactating animals may be required depending on the results obtained.

The limitation of exposure in reproductive toxicity is usually governed by maternal toxicity. Thus, while toxicokinetic monitoring in reproductive toxicity studies may be valuable in some instances, especially with compounds with low toxicity, such data are not generally needed for all compounds.

Where adequate systemic exposure might be questioned because of absence of pharmacological response or toxic effects, toxicokinetic principles could usefully be applied to determine the exposures achieved by dosing at different stages of the reproductive process.

A satellite group of female animals may be used to collect the toxicokinetic data.

4.6.2 Fertility studies

The general principles for repeated dose toxicity studies apply (see 4.3). The need to monitor these studies will depend on the dosing regimen used and the information already available from earlier studies in the selected species.

4.6.3 Studies in pregnant and lactating animals

The treatment regimen during the exposure period should be selected on the basis of the toxicological findings and on pharmacokinetic and toxicokinetic principles.

Consideration should be given to the possibility that the kinetics will differ in pregnant and nonpregnant animals.

Toxicokinetics may involve exposure assessment of dams, embryos, fetuses, or newborn at specified days (Note 14). Secretion in milk may be assessed to define its role in the exposure of newborns. In some situations, additional studies may be necessary or appropriate in order to study embryo/fetal transfer and secretion in milk.

Consideration should be given to the interpretation of reproductive toxicity tests in species in which placental transfer of the substance cannot be demonstrated.

5. Supplementary Notes

Note 1: Definitions of expressions appearing in this "Note for Guidance:"

Analyte: The chemical entity assayed in biological samples.

Matrix: Blood, plasma, urine, serum, or other fluid or tissue selected for assay.

Concomitant toxicokinetics: Toxicokinetic measurements performed in the toxicity study, either in all animals or in representative subgroups or in satellite groups.

Exposure: Exposure is represented by pharmacokinetic parameters demonstrating the local and systemic burden on the test species with the test compound and/or its metabolites. The area under the matrix level concentration-time curve (AUC) and/or the

measurement of matrix concentrations at the expected peak-concentration time C_{max} , or at some other selected time $C_{(time)}$ are the most commonly used parameters. Other parameters might be more appropriate in particular cases.

Monitor: To take a small number of matrix samples (e.g., 1 to 3) during a dosing interval to estimate $C_{(time)}$ or C_{max} .

Profile: To take (e.g., 4 to 8) matrix samples during a dosing interval to make an estimate of C_{max} and/or $C_{(time)}$ and area under the matrix concentration-time curve (AUC).

Satellite: Groups of animals included in the design and groups: conduct of a toxicity study, treated and housed under conditions identical to those of the main study animals, but used primarily for toxicokinetics.

Support: In the context of a toxicity study—to ratify or confirm the design of a toxicity study with respect to pharmacokinetic and metabolic principles.

This process may include two separate steps: (a) Confirmation using toxicokinetic principles that the animals on a study were exposed to appropriate systemic levels of the administered compound (see 3.4) and/or its metabolite(s).

(b) Confirmation that the metabolic profile in the species used was acceptable; data to support this will normally be derived from metabolism studies in animals and in humans.

Validate: In the context of an analytical method—to establish the accuracy, precision, reproducibility, response function, and the specificity of the analytical method with reference to the biological matrix to be examined and the analyte to be quantified.

Note 2: Symbols and definitions according to "Manual of Symbols, Equations and Definitions in Pharmacokinetics," Committee for Pharmacokinetic Nomenclature of the American College of Clinical Pharmacology, Philadelphia, PA, May 1982:

C_{max} —Maximum (peak) concentration.

$C_{(time)}$ —Maximum concentration at a specified time after administration of a given dose.

t_{max} —Time to reach peak or maximum concentration following administration.

$AUC_{(0-t)}$ —Area under concentration-time curve from zero to time t . It should be noted that $AUC_{(0-\infty)}$ is a special case of $AUC_{(0-t)}$.

Other measurements, for example, urinary excretion, may be more appropriate for some compounds. Other derived parameters, for example, bioavailability, half-life, fraction of unbound drug, and volume of distribution, may be of value in interpreting toxicokinetic data. Thus, the selection of parameters and time points has to be made on a case-by-case basis considering the general principles as outlined in Section 3.

Note 3: Increases in exposure may arise unexpectedly as a result of nonlinear kinetics due to saturation of a clearance process. Increasing exposure may also occur during the course of a study for those compounds which have a particularly long plasma half-life. Careful attention should also be paid to compounds which achieve high C_{max} values over comparatively short time periods within the dosing interval. Conversely, unexpectedly low exposure may occur during a study as a result of auto-induction of metabolizing enzymes.

Note 4: If samples are taken from main study animals it should be considered whether samples should be taken from *all* the dosed animals and the controls in order to treat all animals on the study in the same way, or whether samples should be taken from representative subgroups of the same size.

Note 5: In this context, a “no-toxic-effect dose level” (deemed to be the same as “no-observed-adverse-effect dose level”) is defined as a dose level at which some pharmacological response may be observed, but at which no adverse effect is found.

Note 6: In these circumstances it should be established that absorption is the rate limiting step and that limitations in exposure to the administered substance are not due to an increased clearance.

Note 7: The limits placed on acceptable volumes which can be administered orally to animals may constrain the dose levels achievable for comparatively non-toxic compounds administered as solutions or suspensions.

Note 8: It is often considered unnecessary to assay samples from control groups. Samples may be collected and then assayed if it is deemed that this may help in the interpretation of the toxicity findings, or in the validation of the assay method.

Note 9: Measurement of metabolite concentrations may be especially important when documentation of exposure to human metabolite(s) is needed in the nonclinical toxicity studies in order to demonstrate adequate toxicity testing of these metabolites.

Note 10: It is recognised that measurement of metabolite(s) as a part of toxicokinetic evaluation serves only to assess exposure and cannot account for possible reactive intermediate metabolites.

Note 11: Treatment regimen encompasses dosage, formulation, route of administration, and dosing frequency.

Note 12: The first repeat dose study incorporating toxicokinetic data for each species is normally of 14 day's duration or longer.

Note 13: Additional studies may be required in order to compare exposure to the compound administered in diet and by gavage or by routes different from the intended clinical route.

Note 14: It should be noted that while it is important to consider the transfer of substances entering the embryo-fetal compartment, fetal exposure is the parameter which is most often assessed in practice in separate studies and expressed as “placental transfer.”

6. References (other ICH Guidance)

1. Code SIC “Carcinogenicity: Guidance for Dose Selection Dose Selection for Carcinogenicity Studies of Therapeutics.”

2. Code SSA “Detection of Toxicity to Reproduction for Medicinal Products.”

Dated: February 23, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95-4957 Filed 2-28-95; 8:45 am]

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FD-350 (Rev. 1-7-90)

Wednesday
March 1, 1995

Part X

**Department of
Health and Human
Services**

Food and Drug Administration

**International Conference on
Harmonisation; Guideline on Extent of
Population Exposure Required to Assess
Clinical Safety for Drugs; Notice**

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Food and Drug Administration**

[Docket No. 94D-0029]

International Conference on Harmonisation; Guideline on the Extent of Population Exposure Required to Assess Clinical Safety for Drugs Intended for Long-Term Treatment of Non-Life-Threatening Conditions; Availability**AGENCY:** Food and Drug Administration, HHS.**ACTION:** Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing a final guideline entitled "The Extent of Population Exposure Required to Assess Clinical Safety for Drugs Intended for Long-term Treatment of Non-life-threatening Conditions." This guideline was prepared under the auspices of the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH). The guideline is intended to present an accepted set of principles for the safety evaluation of drugs intended for the long-term treatment (chronic or repeated intermittent use for longer than 6 months) of non-life-threatening diseases.

DATES: Effective on March 1, 1995. Submit written comments at any time.

ADDRESSES: Submit written comments on the guideline to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857. Copies of the guideline are available from CDER Executive Secretariat Staff (HFD-8), Center for Drug Evaluation and Research, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855.

FOR FURTHER INFORMATION CONTACT:

Regarding the guideline: Leah Ripper, Center for Drug Evaluation and Research (HFD-500), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2544.

Regarding ICH: Janet J. Showalter, Office of Health Affairs (HFY-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1382.

SUPPLEMENTARY INFORMATION: In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote international harmonization of regulatory requirements. FDA has

participated in many meetings designed to enhance harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify and reduce differences in technical requirements for drug development among regulatory agencies.

ICH was organized to provide an opportunity for tripartite harmonization initiatives to be developed with input from both regulatory and industry representatives. FDA also seeks input from consumer representatives and others. ICH is concerned with harmonization of technical requirements for the registration of pharmaceutical products among three regions: The European Union, Japan, and the United States. The six ICH sponsors are the European Commission; the European Federation of Pharmaceutical Industry Associations; the Japanese Ministry of Health and Welfare; the Japanese Pharmaceutical Manufacturers Association; the Centers for Drug Evaluation and Research and Biologics Evaluation and Research, FDA; and the Pharmaceutical Research and Manufacturers of America. The ICH Secretariat, which coordinates the preparation of documentation, is provided by the International Federation of Pharmaceutical Manufacturers Association (IFPMA).

The ICH Steering Committee includes representatives from each of the ICH sponsors and IFPMA, as well as observers from the World Health Organization, the Canadian Health Protection Branch, and the European Free Trade Area.

Harmonization of the safety evaluation of drugs intended for the long-term treatment of non-life-threatening diseases was selected as a priority topic during the early stages of the ICH initiative. In the **Federal Register** of March 1, 1994 (59 FR 9746), FDA published a draft tripartite guideline entitled "Draft Guideline on the Extent of Population Exposure Required to Assess Clinical Safety for Drugs Intended for Long-Term Treatment of Non-Life-Threatening Conditions." The notice gave interested persons an opportunity to submit comments by May 16, 1994.

After consideration of the comments received and revisions to the guideline, a final draft of the guideline was submitted to the ICH Steering Committee and endorsed by the three participating regulatory agencies at the ICH meeting held in October 1994.

The guideline presents an accepted set of principles for the safety evaluation of drugs intended for the

long-term treatment of non-life-threatening diseases. The guideline distinguishes between clinical data on adverse drug events (ADE's) derived from studies of shorter duration of exposure and data from studies of longer duration, which frequently include nonconcurrently controlled studies. The principles discussed in the guideline are summarized as follows: (1) Regulatory standards are valuable for the extent and duration of treatment needed to provide the safety data base for drugs intended for long-term treatment of non-life-threatening conditions; however, there are a number of circumstances where harmonized regulatory standards for the clinical safety evaluation may not be applicable; (2) further investigation is needed about the occurrence of ADE's in relation to duration of treatment for different drug classes; (3) because most ADE's first occur within the first 3 to 6 months of drug treatment, many patients should be treated and observed for 6 months at dosage levels intended for clinical use; and (4) because some serious ADE's may occur only after drug treatment for more than 6 months, some patients should be treated with the drug for 12 months.

In the past, guidelines have generally been issued under § 10.90(b) (21 CFR 10.90(b)), which provides for the use of guidelines to state procedures or standards of general applicability that are not legal requirements but are acceptable to FDA. The agency is now in the process of revising § 10.90(b). Therefore, this guideline is not being issued under the authority of § 10.90(b), and it does not create or confer any rights, privileges, or benefits for or on any person, nor does it operate to bind FDA in any way.

As with all of FDA's guidelines, the public is encouraged to submit written comments with new data or other new information pertinent to this guideline. The comments in the docket will be periodically reviewed, and, where appropriate, the guideline will be amended. The public will be notified of any such amendments through a notice in the **Federal Register**.

Interested persons may, at any time, submit written comments on the guideline 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. The guideline and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

The text of the guideline follows:

The Extent of Population Exposure to Assess Clinical Safety for Drugs Intended for Long-Term Treatment of Non-Life-Threatening Conditions

The objective of this guideline is to present an accepted set of principles for the safety evaluation of drugs intended for the long-term treatment (chronic or repeated intermittent use for longer than 6 months) of non-life-threatening diseases. The safety evaluation during clinical drug development is expected to characterize and quantify the safety profile of a drug over a reasonable duration of time consistent with the intended long-term use of the drug. Thus, duration of drug exposure and its relationship to both time and magnitude of occurrence of adverse events are important considerations in determining the size of the data base necessary to achieve such goals.

For the purpose of this guideline, it is useful to distinguish between clinical data on adverse drug events (ADE's) derived from studies of shorter duration of exposure and data from studies of longer duration, which frequently are nonconcurrently controlled studies. It is expected that short-term event rates (cumulative 3-month incidence of about 1 percent) will be well characterized. Events where the rate of occurrence changes over a longer period of time may need to be characterized depending on their severity and importance to the risk-benefit assessment of the drug. The safety evaluation during clinical drug development is not expected to characterize rare adverse events, for example, those occurring in less than 1 in 1,000 patients.

The design of the clinical studies can significantly influence the ability to make causality judgments about the relationships between the drug and adverse events. A placebo-controlled trial allows the adverse event rate in the drug-treated group to be compared directly with the background event rate in the patient population being studied. Although a study with a positive or active control will allow a comparison of adverse event rates to be made between the test drug and the control drug, no direct assessment of the background event rate in the population studied can be made. A study that has no concurrent control group makes it more difficult to assess the causality relationship between adverse events observed and the test drug.

There was general agreement on the following:

1. A harmonized regulatory standard is of value for the extent and duration of treatment needed to provide the safety data base for drugs intended for long-term treatment of non-life-threatening conditions. Although this standard covers many indications and drug classes, there are exceptions.

2. Regulatory standards for the safety evaluation of drugs should be based on

previous experience with the occurrence and detection of ADE's, statistical considerations of the probability of detecting specified frequencies of ADE's, and practical considerations.

3. Information about the occurrence of ADE's in relation to duration of treatment for different drug classes is incomplete, and further investigations to obtain this information would be useful.

4. Available information suggests that most ADE's first occur, and are most frequent, within the first few months of drug treatment. The number of patients treated for 6 months at dosage levels intended for clinical use, should be adequate to characterize the pattern of ADE's over time.

To achieve this objective, the cohort of exposed subjects should be large enough to observe whether more frequently occurring events increase or decrease over time as well as to observe delayed events of reasonable frequency (e.g., in the general range of 0.5 percent to 5 percent). Usually 300 to 600 patients should be adequate.

5. There is concern that, although they are likely to be uncommon, some ADE's may increase in frequency or severity with time or that some serious ADE's may occur only after drug treatment for more than 6 months. Therefore, some patients should be treated with the drug for 12 months. In the absence of more information about the relationship of ADE's to treatment duration, selection of a specific number of patients to be followed for 1 year is to a large extent a judgment based on the probability of detecting a given ADE frequency level and practical considerations.

One hundred patients exposed for a minimum of 1 year are considered to be acceptable to include as part of the safety data base. The data should come from prospective studies appropriately designed to provide at least 1-year exposure at dosage levels intended for clinical use. When no serious ADE is observed in a 1-year exposure period, this number of patients can provide reasonable assurance that the true cumulative 1-year incidence is no greater than 3 percent.

6. It is anticipated that the total number of individuals treated with the investigational drug, including short-term exposure, will be about 1,500. Japan currently accepts 500 to 1,500 patients; the potential for a smaller number of patients is due to the postmarketing surveillance requirement, the actual number for a specific drug being determined by the information available on the drug and drug class.

7. There are a number of circumstances where the harmonized general standards for the clinical safety evaluation may not be applicable. Reasons for, and examples of, these exceptions are listed below. It is expected that additional examples may arise. It should also be recognized that the clinical data base required for efficacy testing may be

occasionally larger or may require longer patient observation than that suggested by this guideline.

Exceptions:

a. Instances where there is concern that the drug will cause late developing ADE's, or cause ADE's that increase in severity or frequency over time, would require a larger and/or longer-term safety data base. The concern could arise from:

(1) Data from animal studies;

(2) Clinical information from other agents with related chemical structures or from a related pharmacologic class;

(3) Pharmacokinetic or pharmacodynamic properties known to be associated with such ADE's.

b. Situations in which there is a need to quantitate the occurrence rate of an expected specific low frequency ADE will require a greater long-term data base. Examples would include situations where a specific serious ADE has been identified in similar drugs or where a serious event that could represent an alert event is observed in early clinical trials.

c. Larger safety data bases may be needed to make risk/benefit decisions in situations where the benefit from the drug is either: (1) small (e.g., symptomatic improvement in less serious medical conditions), (2) will be experienced by only a fraction of the treated patients (e.g., certain preventive therapies administered to healthy populations), or (3) is of uncertain magnitude (e.g., efficacy determination on a surrogate endpoint).

d. In situations where there is concern that a drug may add to an already significant background rate of morbidity or mortality, clinical trials may need to be designed with a sufficient number of patients to provide adequate statistical power to detect prespecified increases over the baseline morbidity or mortality.

e. In some cases, a smaller number of patients may be acceptable, for example, where the intended treatment population is small.

8. Filing for approval will usually be possible based on the data from patients treated through 6 months. Data on patients treated through 12 months should be submitted as soon as available and prior to approval in the United States and Japan but may be submitted after approval in the European Union. In the United States, the initial submission for those drugs designated as priority drugs should include the 12-month patient data.

Dated: February 23, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

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Final
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Wednesday
March 1, 1995

Part XI

**Department of
Health and Human
Services**

Food and Drug Administration

**International Conference on
Harmonisation; Guideline on Repeated
Dose Tissue Distribution Studies; Notice**

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Food and Drug Administration**

[Docket No. 94D-0028]

International Conference on Harmonisation; Guideline on Repeated Dose Tissue Distribution Studies; Availability**AGENCY:** Food and Drug Administration, HHS.**ACTION:** Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing a final guideline entitled "Pharmacokinetics: Guidance for Repeated Dose Tissue Distribution Studies." This guideline was prepared under the auspices of the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH). The guideline is intended to provide guidance on the circumstances when nonclinical repeated dose tissue distribution studies to support drug registration should be considered and on the conduct of those studies.

DATES: Effective on March 1, 1995. Submit written comments at any time.

ADDRESSES: Submit written comments on the guideline to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857. Copies of the guideline are available from CDER Executive Secretariat Staff (HFD-8), Center for Drug Evaluation and Research, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855.

FOR FURTHER INFORMATION CONTACT:

Regarding the guideline: Roger L. Williams, Center for Drug Evaluation and Research (HFD-4), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-594-6740.

Regarding ICH: Janet J. Showalter, Office of Health Affairs (HFY-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1382.

SUPPLEMENTARY INFORMATION: In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote international harmonization of regulatory requirements. FDA has participated in many meetings designed to enhance harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify

and then reduce differences in technical requirements for drug development among regulatory agencies.

ICH was organized to provide an opportunity for tripartite harmonization initiatives to be developed with input from both regulatory and industry representatives. FDA also seeks input from consumer representatives and others. ICH is concerned with harmonization of technical requirements for the registration of pharmaceutical products among three regions: The European Union, Japan, and the United States. The six ICH sponsors are the European Commission; the European Federation of Pharmaceutical Industry Associations; the Japanese Ministry of Health and Welfare; the Japanese Pharmaceutical Manufacturers Association; the Centers for Drug Evaluation and Research and Biologics Evaluation and Research, FDA; and the Pharmaceutical Research and Manufacturers of America. The ICH Secretariat, which coordinates the preparation of documentation, is provided by the International Federation of Pharmaceutical Manufacturers Association (IFPMA).

The ICH Steering Committee includes representatives from each of the ICH sponsors and IFPMA, as well as observers from the World Health Organization, the Canadian Health Protection Branch, and the European Free Trade Area.

Harmonization of repeated dose tissue distribution studies was selected as a priority topic during the early stages of the ICH initiative. In the **Federal Register** of March 1, 1994 (59 FR 9748), FDA published a draft tripartite guideline entitled, "Pharmacokinetics: Guidance for Repeated Dose Tissue Distribution Studies." The notice gave interested persons an opportunity to submit comments by May 16, 1994.

After consideration of the comments received and revisions to the guideline, a final draft of the guideline was submitted to the ICH Steering Committee and endorsed by the three participating regulatory agencies at the ICH meeting held in October 1994.

The guideline recommends that repeated dose tissue distribution studies should not be required uniformly for all compounds and should only be conducted when appropriate data cannot be derived from other sources. Repeated dose studies may be appropriate for compounds which have: (1) An apparently long half-life; (2) incomplete elimination; or (3) unanticipated organ toxicity. The guideline provides general guidance on the use of radio labelled compounds,

dose and species selection, and duration of studies.

In the past, guidelines have generally been issued under § 10.90(b) (21 CFR 10.90(b)), which provides for the use of guidelines to state procedures or standards of general applicability that are not legal requirements but are acceptable to FDA. The agency is now in the process of revising § 10.90(b). Therefore, this guideline is not being issued under the authority of § 10.90(b), and it does not create or confer any rights, privileges, or benefits for or on any person, nor does it operate to bind FDA in any way.

As with all of FDA's guidelines, the public is encouraged to submit written comments with new data or other new information pertinent to this guideline. The comments in the docket will be periodically reviewed and, where appropriate, the guideline will be amended. The public will be notified of any such amendments through a notice in the **Federal Register**.

Interested persons may, at any time, submit written comments on the guideline 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. The guideline and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

The text of the guideline follows:

Pharmacokinetics: Guidance For Repeated Dose Tissue Distribution Studies**Introduction**

A comprehensive knowledge of the absorption, distribution, metabolism, and elimination of a compound is important for the interpretation of pharmacology and toxicology studies. Tissue distribution studies are essential in providing information on distribution and accumulation of the compound and/or metabolites especially in relation to potential sites of action; this information may be useful for designing toxicology and pharmacology studies and for interpreting the results of these experiments.

In the European Union, United States, and Japan, there has been a general agreement on the need to conduct single dose tissue distribution studies as part of the nonclinical program. These studies often provide sufficient information about tissue distribution.

There has been no consistent requirement for repeated dose tissue distribution studies. However, there may be circumstances when assessments after repeated dosing may yield important information.

This paper provides guidance on circumstances when repeated dose tissue distribution studies should be considered and on the conduct of such studies.

Circumstances Under Which Repeated Dose Tissue Distribution Studies Should Be Considered

1. When single dose tissue distribution studies suggest that the apparent half-life of the test compound (and/or metabolites) in organs or tissues significantly exceeds the apparent half-life of the elimination phase in plasma and is also more than twice the dosing interval in the toxicity studies, repeated dose tissue distribution studies may be appropriate.

2. When steady-state levels of a compound/metabolite in the circulation, determined in repeated dose pharmacokinetic or toxicokinetic studies, are markedly higher than those predicted from single dose kinetic studies, then repeated dose tissue distribution studies should be considered.

3. When histopathological changes, critical for the safety evaluation of the test substances, are observed that would not be predicted from short-term toxicity studies, single dose tissue distribution studies and pharmacological studies, repeated dose tissue distribution studies may aid in the interpretation of these findings. Those organs or tissues which were the site of the lesions should be the focus of such studies.

4. When the pharmaceutical is being developed for site-specific targeted delivery,

repeated dose tissue distribution studies may be appropriate.

Design and Conduct of Repeated Dose Tissue Distribution Studies

The objectives of these studies may be achieved using radiolabelled compounds or alternative methods of sufficient sensitivity and specificity.

Dose level(s) and species should be chosen to address the problem that led to the consideration of the repeated dose tissue distribution study.

Information from previous pharmacokinetic and toxicokinetic studies should be used in selecting the duration of dosing in repeated dose tissue distribution studies. One week of dosing is normally considered to be a minimum period. A longer duration should be selected when the blood/plasma concentration of the compound and/or its metabolites does not reach steady state. It is normally considered unnecessary to dose for longer than 3 weeks.

Consideration should be given to measuring unchanged compound and/or metabolites in organs and tissues in which extensive accumulation occurs or if it is believed that such data may clarify mechanisms of organ toxicity.

Summary

Tissue distribution studies are an important component in the nonclinical kinetics program. For most compounds, it is expected that single dose tissue distribution studies with sufficient sensitivity and specificity will provide an adequate assessment of tissue distribution and the potential for accumulation. Thus, repeated dose tissue distribution studies should not be required uniformly for all compounds and should only be conducted when appropriate data cannot be derived from other sources. Repeated dose studies may be appropriate under certain circumstances based on the data from single dose tissue distribution studies, toxicity and toxicokinetic studies. The studies may be most appropriate for compounds which have an apparently long half-life, incomplete elimination or unanticipated organ toxicity. The design and timing of repeated dose tissue distribution studies should be determined on a case-by-case basis.

Dated: February 23, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95-4959 Filed 2-28-95; 8:45 am]

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Food and Drug Administration

Wednesday
March 1, 1995

Part XII

**Department of
Health and Human
Services**

Food and Drug Administration

**International Conference on
Harmonisation; Guideline on Dose
Selection for Carcinogenicity Studies of
Pharmaceuticals; Availability; Notice**

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Food and Drug Administration**

[Docket No. 94D-0017]

International Conference on Harmonisation; Guideline on Dose Selection for Carcinogenicity Studies of Pharmaceuticals; Availability**AGENCY:** Food and Drug Administration, HHS.**ACTION:** Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing a final guideline entitled "Dose Selection for Carcinogenicity Studies of Pharmaceuticals." This guideline was prepared under the auspices of the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH). The guideline examines criteria for establishing uniformity among international regulatory agencies for dose selection for carcinogenicity studies of human pharmaceuticals. The guideline is intended to help ensure that dose selection for carcinogenicity studies of pharmaceuticals to support drug registration is carried out according to sound scientific principles.

DATES: Effective (*insert date of publication in the Federal Register*). Submit written comments at any time.

ADDRESSES: Submit written comments on the guideline to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857. Copies of the guideline are available from CDER Executive Secretariat Staff (HFD-8), Center for Drug Evaluation and Research, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855.

FOR FURTHER INFORMATION CONTACT:

Regarding the guideline: Roger L. Williams, Center for Drug Evaluation and Research (HFD-4), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-594-6740.

Regarding the ICH: Janet J. Showalter, Office of Health Affairs (HFY-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1382.

SUPPLEMENTARY INFORMATION: In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote international harmonization of regulatory requirements. FDA has participated in many meetings designed

to enhance harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify and then reduce differences in technical requirements for drug development among regulatory agencies.

ICH was organized to provide an opportunity for tripartite harmonization initiatives to be developed with input from both regulatory and industry representatives. FDA also seeks input from consumer representatives and others. ICH is concerned with harmonization of technical requirements for the registration of pharmaceutical products among three regions: The European Union, Japan, and the United States. The six ICH sponsors are the European Commission, the European Federation of Pharmaceutical Industry Associations, the Japanese Ministry of Health and Welfare, the Japanese Pharmaceutical Manufacturers Association, the Centers for Drug Evaluation and Research and Biologics Evaluation and Research, FDA, and the Pharmaceutical Research and Manufacturers of America. The ICH Secretariat, which coordinates the preparation of documentation, is provided by the International Federation of Pharmaceutical Manufacturers Association (IFPMA).

The ICH Steering Committee includes representatives from each of the ICH sponsors and the IFPMA, as well as observers from the World Health Organization, the Canadian Health Protection Branch, and the European Free Trade Area.

Harmonization of dose selection for carcinogenicity studies of pharmaceuticals was selected as a priority topic during the early stages of the ICH initiative. In the **Federal Register** of March 1, 1994 (59 FR 9752), FDA published a draft tripartite guideline entitled, "Dose Selection for Carcinogenicity Studies of Pharmaceuticals." The notice gave interested persons an opportunity to submit comments by May 16, 1994.

After consideration of the comments received and revisions to the guideline, a final draft of the guideline was submitted to the ICH Steering Committee and endorsed by the three participating regulatory agencies at the ICH meeting held in October 1994.

The guideline discusses criteria for high dose selection for carcinogenicity studies of pharmaceuticals. Five generally acceptable criteria are dose limiting pharmacodynamic effects, maximum tolerated dose, a minimum of a 25-fold area under the concentration-time curve (AUC) ratio (rodent:human),

saturation of absorption, and maximum feasible dose. The guideline also considers other pharmacodynamic-, pharmacokinetic-, or toxicity-based endpoints in study design based on scientific rationale and individual merits.

FDA offers consultation and concurrence on carcinogenicity study designs and dose selection upon request. Regulatory consultation may be valuable when using any endpoint discussed in the guideline. However, it is considered especially important for sponsors to consult with FDA when planning carcinogenicity studies using pharmacodynamic endpoints and other product-specific designs to ensure their acceptability.

The guideline discusses a new pharmacokinetic endpoint, the 25X AUC ratio, developed specifically for carcinogenicity studies of nongenotoxic pharmaceuticals. The metabolism of the pharmaceutical should be qualitatively similar between humans and rodents to use the AUC ratio approach. Adequate data on comparative systemic exposure, metabolism and protein binding should be provided.

In the past, guidelines have generally been issued under § 10.90(b) (21 CFR 10.90(b)), which provides for the use of guidelines to state procedures or standards of general applicability that are not legal requirements but are acceptable to FDA. The agency is now in the process of revising § 10.90(b). Therefore, this guideline is not being issued under the authority of § 10.90(b), and it does not create or confer any rights, privileges, or benefits for or on any person, nor does it operate to bind FDA in any way.

As with all of FDA's guidelines, the public is encouraged to submit written comments with new data or other new information pertinent to this guideline. The comments in the docket will be periodically reviewed, and, where appropriate, the guideline will be amended. The public will be notified of any such amendments through a notice in the **Federal Register**.

Interested persons may, at any time, submit written comments on the final guideline 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. The final guideline and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

The text of the guideline follows:

Dose Selection for Carcinogenicity Studies of Pharmaceuticals

Introduction

Traditionally, carcinogenicity studies for chemical agents have relied upon the maximally tolerated dose (MTD) as the standard method for high dose selection (NOTE 1). The MTD is generally chosen based on data derived from toxicity studies of 3 months' duration.

In the past, the criteria for high dose selection for carcinogenicity studies of human pharmaceuticals have not been uniform among international regulatory agencies. In Europe and Japan, dose selection based on toxicity endpoints or attaining high multiples of the maximum recommended human daily dose (>100X on a milligram per kilogram (mg/kg) basis) have been accepted. However, in the United States, dose selection based on the MTD has traditionally been the only acceptable practice. All regions have used a maximum feasible dose as an acceptable endpoint.

For pharmaceuticals with low rodent toxicity, use of the MTD may result in the administration of very large doses in carcinogenicity studies, often representing high multiples of the clinical dose. The usefulness of an approach developed for genotoxic substances or radiation exposure where a threshold carcinogenic dose is not necessarily definable may not be appropriate for nongenotoxic agents (NOTE 2). For nongenotoxic substances where thresholds may exist and carcinogenicity may result from alterations in normal physiology, linear extrapolations from high dose effects have been questioned. This has led to the concern that exposures in rodents greatly in excess of the intended human exposures may not be relevant to human risk, because they so greatly alter the physiology of the test species, the findings may not reflect what would occur following human exposure.

Ideally, the doses selected for rodent bioassays for nongenotoxic pharmaceuticals should provide an exposure to the agent that (1) allows an adequate margin of safety over the human therapeutic exposure, (2) is tolerated without significant chronic physiological dysfunction and are compatible with good survival, (3) is guided by a comprehensive set of animal and human data that focus broadly on the properties of the agent and the suitability of the animal, and (4) permits data interpretation in the context of clinical use.

In order to achieve international harmonization of requirements for high dose selection for carcinogenicity studies of pharmaceuticals, and to establish a rational basis for high dose selection, the ICH Expert Working Group on Safety initiated a process to arrive at mutually acceptable and scientifically based criteria for high dose selection. Several features of pharmaceutical agents distinguish them from other environmental chemicals and can justify a guideline which may differ in some respects from other guidelines. This should enhance the relevance of the carcinogenicity study for pharmaceuticals. Thus, much knowledge may be available on the pharmacology, pharmacokinetics, and metabolic disposition

in humans. In addition, there will usually be information on the patient population, the expected use pattern, the range of exposure, and the toxicity and/or side effects that cannot be tolerated in humans. Diversity of the chemical and pharmacological nature of the substances developed as pharmaceuticals, plus the diversity of nongenotoxic mechanisms of carcinogenesis calls for a flexible approach to dose selection. This document proposes that any one of several approaches may be appropriate and acceptable for dose selection, and should provide for a more rational approach to dose selection for carcinogenicity studies for pharmaceuticals. These include: (1) Toxicity-based endpoints; (2) pharmacokinetic endpoints; (3) saturation of absorption; (4) pharmacodynamic endpoints; (5) maximum feasible dose; (6) additional endpoints.

Consideration of all relevant animal data and integration with available human data is paramount in determining the most appropriate endpoint for selecting the high dose for the carcinogenicity study. Relevant pharmacokinetic, pharmacodynamic, and toxicity data should always be considered in the selection of doses for the carcinogenicity study, regardless of the primary endpoint used for high dose selection.

In the process of defining such a flexible approach, it is recognized that the fundamental mechanisms of carcinogenesis are only poorly understood at the present time. Further, it is also recognized that the use of the rodent to predict human carcinogenic risk has inherent limitations, although this approach is the best available option at this time. Thus, while the use of plasma levels of drug-derived substances represents an important attempt at improving the design of the rodent bioassay, progress in this field will necessitate continuing examination of the best method to detect human risk. This guideline is therefore intended to serve as guidance in this difficult and complex area recognizing the importance of updating the specific provisions outlined below as new data become available.

General Considerations for the Conduct of Dose-Ranging Studies

The considerations involved when undertaking dose-ranging studies to select the high dose for carcinogenicity studies are the same regardless of the final endpoint utilized.

1. In practice, carcinogenicity studies are carried out in a limited number of rat and mouse strains for which there are reasonable information on spontaneous tumor incidence. Ideally, rodent species/strains with metabolic profiles as similar as possible to humans should be studied (NOTE 3).

2. Dose-ranging studies should be conducted for both males and females for all strains and species to be tested in the carcinogenicity bioassay.

3. Dose selection is generally determined from 90-day studies using the route and method of administration that will be used in the bioassay.

4. Selection of an appropriate dosing schedule and regimen should be based on clinical use and exposure patterns, pharmacokinetics, and practical considerations.

5. Ideally, both the toxicity profile and any dose-limiting toxicity should be characterized. Consideration should also be given to general toxicity, the occurrence of preneoplastic lesions and/or tissue-specific proliferative effects, and disturbances in endocrine homeostasis.

6. Changes in metabolite profile or alterations in metabolizing enzyme activities (induction or inhibition) over time, should be understood to allow for appropriate interpretation of studies.

Toxicity Endpoints in High Dose Selection

ICH 1 agreed to evaluate endpoints other than the MTD for the selection of the high dose in carcinogenicity studies. These were to be based on the pharmacological properties and toxicological profile of the test compound. There is no scientific consensus of the use of toxicity endpoints other than the MTD. Therefore, the ICH Expert Working Group on Safety has agreed to continue use of the MTD as an acceptable toxicity-based endpoint for high dose selection for carcinogenicity studies.

The following definition of the MTD is considered consistent with those published previously by international regulatory authorities (NOTE 1): The top dose or maximum tolerated dose is that which is predicted to produce a minimum toxic effect over the course of the carcinogenicity study. Such an effect may be predicted from a 90-day dose range-finding study in which minimal toxicity is observed. Factors to consider are alterations in physiological function which would be predicted to alter the animal's normal life span or interfere with interpretation of the study. Such factors include: No more than 10 percent decrease in body weight gain relative to controls; target organ toxicity; significant alterations in clinical pathological parameters.

Pharmacokinetic Endpoints in High Dose Selection

A systemic exposure representing a large multiple of the human AUC (at the maximum recommended daily dose) may be an appropriate endpoint for dose selection for carcinogenicity studies for nongenotoxic pharmaceuticals (NOTE 2) which have similar metabolic profiles in humans and rodents and low organ toxicity in rodents (high doses are well tolerated in rodents). The level of animal systemic exposure should be sufficiently great, compared to exposure to provide reassurance of an adequate test of carcinogenicity.

It is recognized that the doses administered to different species may not correspond to tissue concentrations because of different metabolic and excretory patterns. Comparability of systemic exposure is better assessed by blood concentrations of parent drug and metabolites than by administered dose. The unbound drug in plasma is thought to be the most relevant indirect measure of tissue concentrations of unbound drug. The AUC is considered the most comprehensive pharmacokinetic endpoint since it takes into account the plasma concentration of the compound and residence time in vivo.

There is as yet, no validated scientific basis for use of comparative drug plasma

concentrations in animals and humans for the assessment of carcinogenic risk to humans. However, for the present, and based on an analysis of a data base of carcinogenicity studies performed at the MTD, the selection of a high dose for carcinogenicity studies which represents a 25 fold ratio of rodent to human plasma AUC of parent compound and/or metabolites is considered pragmatic (NOTE 4).

Criteria for Comparisons of AUC in Animals and Humans for Use in High Dose Selection

The following criteria are especially applicable for use of a pharmacokinetically-defined exposure for high dose selection.

1. Rodent pharmacokinetic data are derived from the strains used for the carcinogenicity studies using the route of compound administration and dose ranges planned for the carcinogenicity study (NOTES 5, 6, and 7).
2. Pharmacokinetic data are derived from studies of sufficient duration to take into account potential time-dependent changes in pharmacokinetic parameters which may occur during the dose ranging studies.
3. Documentation is provided on the similarity of metabolism between rodents and humans (NOTE 8).
4. In assessing exposure, scientific judgment is used to determine whether the AUC comparison is based on data for the parent, parent and metabolite(s), or metabolite(s). The justification for this decision is provided.
5. Interspecies differences in protein binding are taken into consideration when estimating relative exposure (NOTE 9).
6. Human pharmacokinetic data are derived from studies encompassing the maximum recommended human daily dose (NOTE 10).

Saturation of Absorption in High Dose Selection

High dose selection based on saturation of absorption measured by systemic availability of drug-related substances is acceptable. The mid and low doses selected for the carcinogenicity study should take into account saturation of metabolic and elimination pathways.

Pharmacodynamic Endpoints in High Dose Selection

The utility and safety of many pharmaceuticals depend on their pharmacodynamic receptor selectivity. Pharmacodynamic endpoints for high dose selection will be highly compound-specific and are considered for individual study designs based on scientific merits. The high dose selected should produce a pharmacodynamic response in dosed animals of such magnitude as would preclude further dose escalation. However, the dose should not produce disturbances of physiology or homeostasis which would compromise the validity of the study. Examples include hypotension and inhibition of blood clotting (because of the risk of spontaneous bleeding).

Maximum Feasible Dose

Currently, the maximum feasible dose by dietary administration is considered 5 percent of diet. International regulatory

authorities are reevaluating this standard. It is believed that the use of pharmacokinetic endpoints (AUC ratio) for dose selection of low toxicity pharmaceuticals, discussed in this guideline, should significantly decrease the need to select high doses based on feasibility criteria.

When routes other than dietary administration are appropriate, the high dose will be limited based on considerations including practicality and local tolerance.

Additional Endpoints in High Dose Selection

It is recognized that there may be merit in the use of alternative endpoints not specifically defined in this guidance on high dose selection for rodent carcinogenicity studies. Use of these additional endpoints in individual study designs must be based on scientific rationale. Such designs are evaluated based on their individual merits (NOTE 11).

Selection of Middle and Low Doses in Carcinogenicity Studies

Regardless of the method used for the selection of the high dose, the selection of the mid and low doses for the carcinogenicity study should provide information to aid in assessing the relevance of study findings to humans. The doses should be selected following integration of rodent and human pharmacokinetic, pharmacodynamic, and toxicity data. The rationale for the selection of these doses should be provided. While not all encompassing, the following points should be considered in selection of the middle and low doses for rodent carcinogenicity studies:

1. Linearity of pharmacokinetics and saturation of metabolic pathways.
2. Human exposure and therapeutic dose.
3. Pharmacodynamic response in rodents.
4. Alterations in normal rodent physiology.
5. Mechanistic information and potential for threshold effects.
6. The unpredictability of the progression of toxicity observed in short-term studies.

Summary

This guidance outlines five generally acceptable criteria for selection of the high dose for carcinogenicity studies of therapeutics: Maximum tolerated dose, 25 fold AUC ratio (rodent:human), dose-limiting pharmacodynamic effects, saturation of absorption, and maximum feasible dose. The use of other pharmacodynamic-pharmacokinetic- or toxicity-based endpoints in study design is considered based on scientific rationale and individual merits. In all cases, appropriate dose ranging studies need to be conducted. All relevant information should be considered for dose and species/strain selection for the carcinogenicity study. This information should include knowledge of human use, exposure patterns, and metabolism. The availability of multiple acceptable criteria for dose selection will provide greater flexibility in optimizing the design of carcinogenicity studies for therapeutic agents.

NOTE 1

The following are considered equivalent definitions of the toxicity based endpoint describing the maximum tolerated dose:

The U.S. Interagency Staff Group on Carcinogens has defined the MTD as follows:

"The highest dose currently recommended is that which, when given for the duration of the chronic study, is just high enough to elicit signs of minimal toxicity without significantly altering the animal's normal lifespan due to effects other than carcinogenicity. This dose, sometimes called the maximum tolerated dose (MTD), is determined in a subchronic study (usually 90 days duration) primarily on the basis of mortality, toxicity and pathology criteria. The MTD should not produce morphologic evidence of toxicity of a severity that would interfere with the interpretation of the study. Nor should it comprise so large a fraction of the animal's diet that the nutritional composition of the diet is altered, leading to nutritional imbalance."

"The MTD was initially based on a weight gain decrement observed in the subchronic study; i.e., the highest dose that caused no more than a 10% weight gain decrement. More recent studies and the evaluation of many more bioassays indicate refinement of MTD selection on the basis of a broader range of biological information. Alterations in body and organ weight and clinically significant changes in hematologic, urinary, and clinical chemistry measurements can be useful in conjunction with the usually more definitive toxic, pathologic, or histopathologic endpoints." (Environmental Health Perspectives, Vol. 67, pp. 201-281, 1986.)

The Ministry of Health and Welfare in Japan prescribes the following:

"The dose in the preliminary carcinogenicity study that inhibits body weight gain by less than 10% in comparison with the control and causes neither death due to toxic effects nor remarkable changes in the general signs and laboratory examination findings of the animals is the highest dose to be used in the full-scale carcinogenicity study." (Toxicity test guideline for pharmaceuticals. Chapter 5, p. 127, 1985.)

The Committee on Proprietary Medicinal Products of the European Community prescribes the following:

"The top dose should produce a minimum toxic effect, for example a 10% weight loss or failure of growth, or minimal target organ toxicity. Target organ toxicity will be demonstrated by failure of physiological functions and ultimately by pathological changes." (Rules Governing Medicinal Products in the European Community, Vol. III, 1987.)

NOTE 2

While it is recognized that standard test batteries may not examine all potential genotoxic mechanisms, for the purposes of this guideline, a pharmaceutical is considered nongenotoxic with respect to the use of pharmacokinetic endpoints for dose selection, if it is negative in the standard battery of assays required for pharmaceutical registration.

NOTE 3

This does not imply that all possible rodent strains will be surveyed for metabolic profile. But rather, that standard strains used in carcinogenicity studies will be examined.

NOTE 4

In order to select a multiple of the human AUC that would serve as an acceptable endpoint for dose selection for carcinogenicity studies, a retrospective analysis was performed on data from carcinogenicity studies of therapeutics conducted at the MTD for which there was sufficient human and rodent pharmacokinetic data for comparison of AUC values.

In 35 drug carcinogenicity studies carried out at the MTD for which there were adequate pharmacokinetic data in rats and humans, approximately, 1/3 had a relative systemic exposure ratio less than or equal to 1, another 1/3 had ratios between 1 and 10.

An analysis of the correlation between the relative systemic exposure ratio, the relative dose ratio (rat mg/kg MTD: human mg/kg MRD) and the dose ratio adjusted for body surface area (rat mg/M² MTD: human mg/M² MRD), performed in conjunction with the above described data base analysis indicates that the relative systemic exposure corresponds better with dose ratios expressed in terms of body surface area rather than body weight. When 123 compounds in the expanded FDA data base were analyzed by this approach, a similar distribution of relative systemic exposures was observed.

In the selection of a relative systemic exposure ratio (AUC ratio) to apply in high dose selection, consideration was given to a ratio value that would represent an adequate margin of safety, would detect known or probable human carcinogens, and could be attained by a reasonable proportion of compounds.

To address the issue of detection of known or probable human carcinogenic pharmaceuticals, an analysis of exposure and or dose ratios was performed on the International Agency for Research on Cancer (IARC) class 1 and 2A pharmaceuticals with positive rat findings. For phenacetin, sufficient rat and human pharmacokinetic data are available to estimate that a relative systemic exposure ratio of at least 15 is necessary to produce positive findings in a rat carcinogenicity study. For most of 14

IARC 1 and 2A drugs evaluated with positive carcinogenicity findings in rats, there is a lack of adequate pharmacokinetic data for analysis. For these compounds, the body surface area adjusted dose ratio was employed as a surrogate for the relative systemic exposure ratio. The results of this analysis indicated that using doses in the rodent corresponding to body surface area ratios of 10 or more would identify the carcinogenic potential of these pharmaceuticals.

As a result of the evaluations described above, a minimum systemic exposure ratio of 25 is proposed as an acceptable pharmacokinetic endpoint for high dose selection. This value was attained by approximately 25 percent of compounds tested in the FDA data base, is high enough to detect known or probable (IARC 1, 2A) human carcinogenic drugs and represent an adequate margin of safety. Those pharmaceuticals tested using a 25 fold or greater AUC ratio for the high dose will have exposure ratios greater than 75 percent of pharmaceuticals tested previously in carcinogenicity studies performed at the MTD.

NOTE 5

The rodent AUC's and metabolite profiles may be determined from separate steady state kinetic studies, as part of the subchronic toxicity studies, or dose ranging studies.

NOTE 6

AUC values in rodents are usually obtainable using a small number of animals, depending on the route of administration and the availability of data on the pharmacokinetic characteristics of the test compound.

NOTE 7

Equivalent analytical methods of adequate sensitivity and precision are used to determine plasma concentrations of pharmaceuticals in rodents and humans.

NOTE 8

It is recommended that in vivo metabolism be characterized in humans and rodents, if possible. However, in the absence of

appropriate in vivo metabolism data, in vitro metabolism data (e.g., from liver slices, uninduced microsomal preparations) may provide adequate support for the similarity of metabolism across species.

NOTE 9

While in vivo determinations of unbound drug may be the best approach, in vitro determinations of protein binding using parent and/or metabolites as appropriate (over the range of concentrations achieved in vivo in rodents and humans) may be used in the estimation of AUC unbound. When protein binding is low in both humans and rodents or when protein binding is high and the unbound fraction of drug is greater in rodents than in humans, the comparison of total plasma concentration of drug is acceptable. When protein binding is high and the unbound fraction is greater in humans than in rodents, the ratio of the unbound concentrations should be used.

NOTE 10

Human systemic exposure data may be derived from pharmacokinetic monitoring in normal volunteers and/or patients. The possibility of extensive inter-individual variation in exposure should be taken into consideration. In the absence of knowledge of the maximum recommended human daily dose, at a minimum, doses producing the desired pharmacodynamic effect in humans are used to derive the pharmacokinetic data.

NOTE 11

Additional pharmaceutical-specific endpoints to select an appropriate high dose are currently under discussion (e.g., additional pharmacodynamic, pharmacokinetic, and toxicity endpoints as well as alternatives to a maximum feasible dose).

Dated: February 23, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95-4960 Filed 2-28-95; 8:45 am]

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FD-350

Wednesday
March 1, 1995

Part XIII

**Department of
Health and Human
Services**

Food and Drug Administration

**International Conference on
Harmonisation; Guideline on Clinical
Safety Data Management; Notice**

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 93D-0203]

International Conference on Harmonisation; Guideline on Clinical Safety Data Management: Definitions and Standards for Expedited Reporting; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing a final guideline entitled "Clinical Safety Data Management: Definitions and Standards for Expedited Reporting." This guideline was prepared under the auspices of the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH). The guideline provides standard definitions and terms for key aspects of clinical safety reporting. The guideline also discusses mechanisms for expedited reporting. This guideline is intended to help harmonize methods for gathering and evaluating clinical safety data.

DATES: Effective March 1, 1995. Submit written comments at any time.

ADDRESSES: Submit written comments on the guideline to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857. Copies of the guideline are available from CDER Executive Secretariat Staff (HFD-8), Center for Drug Evaluation and Research, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855.

FOR FURTHER INFORMATION CONTACT:

Regarding the guideline: Murray M. Lumpkin, Center for Drug Evaluation and Research (HFD-2), Food and Drug Administration, 1451 Rockville Pike, Rockville, MD 20852, 301-594-6740.

Regarding ICH: Janet J. Showalter, Office of Health Affairs (HFY-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1382.

SUPPLEMENTARY INFORMATION: In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote international harmonization of regulatory requirements. FDA has participated in many meetings designed to enhance harmonization and is committed to seeking scientifically

based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify and then reduce differences in technical requirements for drug development among regulatory agencies.

ICH was organized to provide an opportunity for tripartite harmonization initiatives to be developed with input from both regulatory and industry representatives. FDA also seeks input from consumer representatives and others. ICH is concerned with harmonization of technical requirements for the registration of pharmaceutical products among three regions: The European Union, Japan, and the United States. The six ICH sponsors are the European Commission; the European Federation of Pharmaceutical Industry Associations; the Japanese Ministry of Health and Welfare; the Japanese Pharmaceutical Manufacturers Association; the Centers for Drug Evaluation and Research and Biologics Evaluation and Research, FDA; and the Pharmaceutical Research and Manufacturers of America. The ICH Secretariat, which coordinates the preparation of documentation, is provided by the International Federation of Pharmaceutical Manufacturers Association (IFPMA).

The ICH Steering Committee includes representatives from each of the ICH sponsors and IFPMA, as well as observers from the World Health Organization, the Canadian Health Protection Branch, and the European Free Trade Area.

Harmonization of clinical safety data management was selected as a priority topic during the early stages of the ICH initiative. In the **Federal Register** of July 9, 1993 (58 FR 37408), FDA published a draft tripartite guideline entitled, "Clinical Safety Data Management: Definitions and Standards for Expedited Reporting." The notice gave interested persons an opportunity to submit comments by August 9, 1993.

After consideration of the comments received and revisions to the guideline, a final draft of the guideline was submitted to the ICH Steering Committee and endorsed by the three participating regulatory agencies at the ICH meeting held in October 1994.

The guideline defines basic terms, such as "adverse event," "adverse drug reaction," and "unexpected adverse drug reaction." The guideline also provides guidance on determining whether an adverse drug reaction is "expected," and contains standards for expedited reporting, describing what information should be reported, recommending reporting timeframes and the use of the CIOMS-I form for

reporting information or, alternatively, suggesting that basic information or data elements be used. The guideline also discusses: Whether and when the blind should be broken for a patient; reporting reactions associated with comparison drug or placebo treatments; products with more than one dosage form, route of administration, or use; and adverse events that occur after the patient has completed the clinical study.

In the past, guidelines have generally been issued under § 10.90(b) (21 CFR 10.90(b)), which provides for the use of guidelines to state procedures or standards of general applicability that are not legal requirements but are acceptable to FDA. The agency is now in the process of revising § 10.90(b). Therefore, this guideline is not being issued under the authority of § 10.90(b), and it does not create or confer any rights, privileges, or benefits for or on any person, nor does it operate to bind FDA in any way.

As with all of FDA's guidelines, the public is encouraged to submit written comments with new data or other new information pertinent to this guideline. The comments in the docket will be periodically reviewed, and, where appropriate, the guideline will be amended. The public will be notified of any such amendments through a notice in the **Federal Register**.

Interested persons may, at any time, submit written comments on the guideline 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. The guideline and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

The text of the guideline follows:

Clinical Safety Data Management: Definitions and Standards for Expedited Reporting

I. Introduction

It is important to harmonize the way to gather and, if necessary, to take action on important clinical safety information arising during clinical development. Thus, agreed definitions and terminology, as well as procedures, will ensure uniform Good Clinical Practice standards in this area. The initiatives already undertaken for marketed medicines through the CIOMS-1 and CIOMS-2 Working Groups on expedited (alert) reports and periodic safety update reporting, respectively, are important precedents and models. However, there are special circumstances involving medicinal products under development, especially in the early stages and before any marketing

experience is available. Conversely, it must be recognized that a medicinal product will be under various stages of development and/or marketing in different countries, and safety data from marketing experience will ordinarily be of interest to regulators in countries where the medicinal product is still under investigational only (Phase 1, 2, or 3) status. For this reason, it is both practical and well-advised to regard premarketing and postmarketing clinical safety reporting concepts and practices as interdependent, while recognizing that responsibility for clinical safety within regulatory bodies and companies may reside with different departments, depending on the status of the product (investigational versus marketed).

There are two issues within the broad subject of clinical safety data management that are appropriate for harmonization at this time:

(1) The development of standard definitions and terminology for key aspects of clinical safety reporting, and

(2) The appropriate mechanism for handling expedited (rapid) reporting, in the investigational (i.e., preapproval) phase.

The provisions of this guideline should be used in conjunction with other ICH Good Clinical Practice guidelines.

II. Definitions and Terminology Associated with Clinical Safety Experience

A. Basic Terms

Definitions for the terms adverse event (or experience), adverse reaction, and unexpected adverse reaction have previously been agreed to by consensus of the more than 30 Collaborating Centers of the WHO International Drug Monitoring Centre (Uppsala, Sweden). (Edwards, I. R., et al., "Harmonisation in Pharmacovigilance," *Drug Safety*, 10(2): 93-102, 1994.) Although those definitions can pertain to situations involving clinical investigations, some minor modifications are necessary, especially to accommodate the preapproval, development environment.

The following definitions, with input from the WHO Collaborative Centre, have been agreed.

1. Adverse Event (or Adverse Experience).

Any untoward medical occurrence in a patient or clinical investigation subject administered a pharmaceutical product and which does not necessarily have to have a causal relationship with this treatment.

An adverse event (AE) can therefore be any unfavorable and unintended sign (including an abnormal laboratory finding, for example), symptom, or disease temporally associated with the use of a medicinal product, whether or not considered related to the medicinal product.

2. Adverse Drug Reaction (ADR).

In the *preapproval clinical experience* with a new medicinal product or its new usages, particularly as the therapeutic dose(s) may not be established:

All noxious and unintended responses to a medicinal product related to any dose should be considered adverse drug reactions.

The phrase "responses to medicinal products" means that a causal relationship between a medicinal product and an adverse

event is at least a reasonable possibility, i.e., the relationship cannot be ruled out.

Regarding *marketed medicinal products*, a well-accepted definition of an adverse drug reaction in the postmarketing setting is found in WHO Technical Report 498 (1972) and reads as follows:

"A response to a drug which is noxious and unintended and which occurs at doses normally used in man for prophylaxis, diagnosis, or therapy of disease or for modification of physiological function."

The old term "side effect" has been used in various ways in the past, usually to describe negative (unfavorable) effects, but also positive (favorable) effects. It is recommended that this term no longer be used and particularly should not be regarded as synonymous with adverse event or adverse reaction.

3. Unexpected Adverse Drug Reaction

An adverse reaction, the nature or severity of which is not consistent with the applicable product information (e.g., Investigator's Brochure for an unapproved investigational medicinal product). See III. C.

B. Serious Adverse Event Or Adverse Drug Reaction

During clinical investigations, adverse events may occur which, if suspected to be medicinal product-related (adverse drug reactions), might be significant enough to lead to important changes in the way the medicinal product is developed (e.g., change in dose, population, needed monitoring, consent forms). This is particularly true for reactions which, in their most severe forms, threaten life or function. Such reactions should be reported promptly to regulators.

Therefore, special medical or administrative criteria are needed to define reactions that, either due to their nature ("serious") or due to the significant, unexpected information they provide, justify expedited reporting.

To ensure that no confusion or misunderstanding exist of the difference between the terms "serious" and "severe," which are not synonymous, the following note of clarification is provided:

The term "severe" is often used to describe the intensity (severity) of a specific event (as in mild, moderate, or severe myocardial infarction); the event itself, however, may be of relatively minor medical significance (such as severe headache). This is *not* the same as "serious," which is based on patient/event *outcome* or *action* criteria usually associated with events that pose a threat to a patient's life or functioning. Seriousness (not severity) serves as a guide for defining regulatory reporting obligations.

After reviewing the various regulatory and other definitions in use or under discussion elsewhere, the following definition is believed to encompass the spirit and meaning of them all:

A serious adverse event (experience) or reaction is any untoward medical occurrence that at any dose:

- Results in death,
- Is life-threatening,

(NOTE: The term "life-threatening" in the definition of "serious" refers to an event in which the patient was at risk of death at the

time of the event; it does not refer to an event which hypothetically might have caused death if it were more severe.)

- Requires inpatient hospitalization or prolongation of existing hospitalization,
- Results in persistent or significant disability/incapacity, or
- Is a congenital anomaly/birth defect.

Medical and scientific judgment should be exercised in deciding whether expedited reporting is appropriate in other situations, such as important medical events that may not be immediately life-threatening or result in death or hospitalization but may jeopardize the patient or may require intervention to prevent one of the other outcomes listed in the definition above. These should also usually be considered serious.

Examples of such events are intensive treatment in an emergency room or at home for allergic bronchospasm; blood dyscrasias or convulsions that do not result in hospitalization; or development of drug dependency or drug abuse.

C. Expectedness of an Adverse Drug Reaction

The purpose of expedited reporting is to make regulators, investigators, and other appropriate people aware of new, important information on serious reactions. Therefore, such reporting will generally involve events previously unobserved or undocumented, and a guideline is needed on how to define an event as "unexpected" or "expected" (expected/unexpected from the perspective of previously observed, *not* on the basis of what might be anticipated from the pharmacological properties of a medicinal product).

As stated in the definition (II.A.3.), an "unexpected" adverse reaction is one, the nature or severity of which is not consistent with information in the relevant source document(s). Until source documents are amended, expedited reporting is required for additional occurrences of the reaction.

The following documents or circumstances will be used to determine whether an adverse event/reaction is expected:

1. For a medicinal product not yet approved for marketing in a country, a company's Investigator's Brochure will serve as the source document in that country. See III.F. and ICH Guideline for the Investigator's Brochure.

2. Reports which add significant information on specificity or severity of a known, already documented serious ADR constitute unexpected events. For example, an event more specific or more severe than described in the Investigator's Brochure would be considered "unexpected." Specific examples would be (a) acute renal failure as a labeled ADR with a subsequent new report of interstitial nephritis and (b) hepatitis with a first report of fulminant hepatitis.

III. Standards for Expedited Reporting

A. What Should Be Reported?

1. Single Cases of Serious, Unexpected ADR's

All ADR's that are both serious and unexpected are subject to expedited reporting. This applies to reports from spontaneous sources and from any type of

clinical or epidemiological investigation, independent of design or purpose. It also applies to cases not reported directly to a sponsor or manufacturer (for example, those found in regulatory authority generated ADR registries or in publications). The source of a report (investigation, spontaneous, other) should always be specified.

Expedited reporting of reactions that are serious but *expected* will ordinarily be inappropriate. Expedited reporting is also inappropriate for serious events from clinical investigations that are considered *not* related to study product, whether the event is expected or not. Similarly, nonserious adverse reactions, whether expected or not, will ordinarily not be subject to *expedited* reporting.

Information obtained by a sponsor or manufacturer on serious, unexpected reports from any source should be submitted on an expedited basis to appropriate regulatory authorities if the minimum criteria for expedited reporting can be met. See section III.B.

Causality assessment is required for clinical investigation cases. All cases judged by either the reporting health care professional or the sponsor as having a reasonable suspected causal relationship to the medicinal product qualify as ADR's. For purposes of reporting, adverse event reports associated with marketed drugs (spontaneous reports) usually imply causality.

Many terms and scales are in use to describe the degree of causality (attributability) between a medicinal product and an event, such as certainly, definitely, probably, possibly, or likely related or not related. Phrases such as "plausible relationship," "suspected causality," or "causal relationship cannot be ruled out" are also invoked to describe cause and effect. However, there is currently no standard international nomenclature. The expression "reasonable causal relationship" is meant to convey in general that there are facts (evidence) or arguments to suggest a causal relationship.

2. Other Observations

There are situations in addition to single case reports of "serious" adverse events or reactions that may necessitate rapid communication to regulatory authorities; appropriate medical and scientific judgment should be applied for each situation. In general, information that might materially influence the benefit-risk assessment of a medicinal product or that would be sufficient to consider changes in medicinal product administration or in the overall conduct of a clinical investigation represents such situations. Examples include:

a. For an "expected, serious ADR, an increase in the rate of occurrence which is judged to be clinically important.

b. A significant hazard to the patient population, such as lack of efficacy with a medicinal product used in treating life-threatening disease.

c. A major safety finding from a newly completed animal study (such as carcinogenicity).

B. Reporting Time Frames

1. Fatal Or Life-Threatening Unexpected ADR's

Certain ADR's may be sufficiently alarming so as to require very rapid notification to regulators in countries where the medicinal product or indication, formulation, or population for the medicinal product are still not approved for marketing, because such reports may lead to consideration of suspension of, or other limitations to, a clinical investigation program. Fatal or life-threatening, unexpected ADR's occurring in clinical investigations qualify for very rapid reporting. Regulatory agencies should be notified (e.g., by telephone, facsimile transmission, or in writing) as soon as possible but no later than 7 calendar days after first knowledge by the sponsor that a case qualifies, followed by as complete a report as possible within 8 additional calendar days. This report should include an assessment of the importance and implication of the findings, including relevant previous experience with the same or similar medicinal products.

2. All Other Serious, Unexpected ADR's

Serious, unexpected reactions (ADR's) that are not fatal or life-threatening should be filed as soon as possible but no later than 15 calendar days after first knowledge by the sponsor that the case meets the minimum criteria for expedited reporting.

3. Minimum Criteria for Reporting

Information for final description and evaluation of a case report may not be available within the required timeframes for reporting outlined above. Nevertheless, for regulatory purposes, initial reports should be submitted within the prescribed time as long as the following minimum criteria are met: An identifiable patient; a suspect medicinal product; an identifiable reporting source; and an event or outcome that can be identified as serious and unexpected, and for which, in clinical investigation cases, there is a reasonable suspected causal relationship. Followup information should be actively sought and submitted as it becomes available.

C. How To Report

The CIOMS-I form has been a widely accepted standard for expedited adverse event reporting. However, no matter what the form or format used, it is important that certain basic information/data elements, when available, be included with any expedited report, whether in a tabular or narrative presentation. The listing in Attachment 1 addresses those data elements regarded as desirable; if all are not available at the time of expedited reporting, efforts should be made to obtain them. See III.B.

All reports must be sent to those regulators or other official parties requiring them (as appropriate for the local situation) in countries where the drug is under development.

D. Managing Blinded Therapy Cases

When the sponsor and investigator are blinded to individual patient treatment (as in a double-blind study), the occurrence of a serious event requires a decision on whether to open (break) the code for the specific patient. If the investigator breaks the blind, then it is assumed the sponsor will also know the assigned treatment for that patient. Although it is advantageous to retain the

blind for all patients prior to final study analysis, when a serious adverse reaction is judged reportable on an expedited basis, it is recommended that the blind be broken only for that specific patient by the sponsor even if the investigator has not broken the blind. It is also recommended that, when possible and appropriate, the blind be maintained for those persons, such as biometrics personnel, responsible for analysis and interpretation of results at the study's conclusion.

There are several disadvantages to maintaining the blind under the circumstances described which outweigh the advantages. By retaining the blind, placebo and comparator (usually a marketed product) cases are filed unnecessarily. When the blind is eventually opened, which may be many weeks or months after reporting to regulators, it must be ensured that company and regulatory data bases are revised. If the event is serious, new, and possibly related to the medicinal product, then if the Investigator's Brochure is updated, notifying relevant parties of the new information in a blinded fashion is inappropriate and possibly misleading. Moreover, breaking the blind for a single patient usually has little or no significant implications for the conduct of the clinical investigation or on the analysis of the final clinical investigation data.

However, when a fatal or other "serious" outcome is the primary efficacy endpoint in a clinical investigation, the integrity of the clinical investigation may be compromised if the blind is broken. Under these and similar circumstances, it may be appropriate to reach agreement with regulatory authorities in advance concerning serious events that would be treated as disease-related and not subject to routine expedited reporting.

E. Miscellaneous Issues

1. Reactions Associated With Active Comparator or Placebo Treatment

It is the sponsor's responsibility to decide whether active comparator drug reactions should be reported to the other manufacturer and/or directly to appropriate regulatory agencies. Sponsors should report such events to either the manufacturer of the active control or to appropriate regulatory agencies. Events associated with placebo will usually not satisfy the criteria for an ADR and, therefore, for expedited reporting.

2. Products With More Than One Presentation or Use

To avoid ambiguities and uncertainties, an ADR that qualifies for expedited reporting with one presentation of a product (e.g., a dosage form, formulation, delivery system) or product use (e.g., for an indication or population) should be reported or referenced to regulatory filings across other product presentations and uses.

It is not uncommon that more than one dosage form, formulation, or delivery system (oral, IM, IV, topical, etc.) of the pharmacologically active compound(s) is under study or marketed; for these different presentations there may be some marked differences in the clinical safety profile. The same may apply for a given product used in different indications or populations (single dose versus chronic administration, for example). Thus, "expectedness" may be

product or product-use specific, and separate Investigator's Brochures may be used accordingly. However, such documents are expected to cover ADR information that applies to all affected product presentations and uses. When relevant, separate discussions of pertinent product-specific or use-specific safety information will also be included.

It is recommended that any adverse drug reactions that qualify for expedited reporting observed with one product dosage form or use be cross referenced to regulatory records for all other dosage forms and uses for that product. This may result in a certain amount of overreporting or unnecessary reporting in obvious situations (for example, a report of phlebitis on IV injection sent to authorities in a country where only an oral dosage form is studied or marketed). However, underreporting is completely avoided.

3. Poststudy Events

Although such information is not routinely sought or collected by the sponsor, serious adverse events that occurred after the patient had completed a clinical study (including any protocol required posttreatment followup) will possibly be reported by an investigator to the sponsor. Such cases should be regarded for expedited reporting purposes as though they were study reports. Therefore, a causality assessment and determination of expectedness are needed for a decision on whether or not expedited reporting is required.

F. Informing Investigators and Ethics Committees/Institutional Review Boards of New Safety Information

International standards regarding such communication are discussed within the ICH GCP Guidelines, including the addendum on "Guideline for the Investigator's Brochure." In general, the sponsor of a study should amend the Investigator's Brochure as needed, and in accord with any local regulatory requirements, so as to keep the description of safety information updated.

Attachment 1

Key Data Elements for Inclusion in Expedited Reports of Serious Adverse Drug Reactions

The following list of items has its foundation in several established precedents, including those of CIOMS-I, the WHO International Drug Monitoring Centre, and

various regulatory authority forms and guidelines. Some items may not be relevant depending on the circumstances. The minimum information required for expedited reporting purposes is: an identifiable patient, the name of a suspect medicinal product, an identifiable reporting source, and an event or outcome that can be identified as serious and unexpected and for which, in clinical investigation cases, there is a reasonable suspected causal relationship. Attempts should be made to obtain followup information on as many other listed items pertinent to the case.

1. Patient Details:

- Initials,
- Other relevant identifier (clinical investigation number, for example),
- Gender,
- Age and/or date of birth,
- Weight,
- Height.

2. Suspected Medicinal Product(s):

- Brand name as reported,
- International Nonproprietary Name (INN),
- Batch number,
- Indication(s) for which suspect medicinal product was prescribed or tested,
- Dosage form and strength,
- Daily dose and regimen (specify units—e.g., mg, mL, mg/kg)
- Route of administration,
- Starting date and time of day,
- Stopping date and time, or duration of treatment.

3. Other Treatment(s):

- For concomitant medicinal products (including nonprescription/OTC medicinal products) and nonmedicinal product therapies, provide the same information as for the suspected product.

4. Details Of Suspected Adverse Drug Reaction(s)

- Full description of reaction(s) including body site and severity, as well as the criterion (or criteria) for regarding the report as serious should be given. In addition to a description of the reported signs and symptoms, whenever possible, attempts should be made to establish a specific diagnosis for the reaction.

- Start date (and time) of onset of reaction,

- Stop date (and time) or duration of reaction,
- Dechallenge and rechallenge information,
- Setting (e.g., hospital, out-patient clinic, home, nursing home),
- Outcome: Information on recovery and any sequelae; what specific tests and/or treatment may have been required and their results; for a fatal outcome, cause of death and a comment on its possible relationship to the suspected reaction should be provided. Any autopsy or other post-mortem findings (including a coroner's report) should also be provided when available. Other information: anything relevant to facilitate assessment of the case, such as medical history, including allergy, drug or alcohol abuse; family history; findings from special investigations.

5. Details on Reporter of Event (Suspected ADR):

- Name,
- Address,
- Telephone number,
- Profession (specialty).

6. Administrative and Sponsor/Company Details:

- Source of report: was it spontaneous, from a clinical investigation (provide details), from the literature (provide copy), other?
- Date event report was first received by sponsor/manufacture,
- Country in which event occurred,
- Type of report filed to authorities: initial or followup (first, second, etc.).
- Name and address of sponsor/manufacturer/company,
- Name, address, telephone number, and FAX number of contact person in reporting company or institution,
- Identifying regulatory code or number for marketing authorization dossier or clinical investigation process for the suspected product (for example, IND or CTX number, NDA number).
- Sponsor/manufacturer's identification number for the case. (This number should be the same for the initial and followup reports on the same case.)

Dated: February 23, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95-4961 Filed 2-28-95; 8:45 am]

BILLING CODE 4160-01-F

Federal Register

Wednesday
March 1, 1995

Part XIV

**Department of the
Interior**

Bureau of Indian Affairs

Indian Gaming; Notices

DEPARTMENT OF THE INTERIOR**Bureau of Indian Affairs****Indian Gaming**

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of amendment to approved Tribal-State compact.

SUMMARY: Pursuant to 25 U.S.C. 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100-497), the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Amendments to Tribal-State Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through her delegated authority, has approved Amendment I to the Tribal-State Compact For Regulation of Class III Gaming Between the Confederated Tribes of the Grand Ronde Community of Oregon and the State of Oregon, which was executed on December 29, 1994.

DATES: This action is effective March 1, 1995.

FOR FURTHER INFORMATION CONTACT:

George T. Skibine, Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, D.C. 20240, (202) 219-4068.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 95-4992 Filed 2-28-95; 8:45 am]

BILLING CODE 4310-02-P

DEPARTMENT OF THE INTERIOR**Bureau of Indian Affairs****Indian Gaming**

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of amendment to approved Tribal-State compact.

SUMMARY: Pursuant to 25 U.S.C. 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100-497), the Secretary of the Interior shall publish, in the **Federal**

Register, notice of approved Amendments to Tribal-State Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through her delegated authority, has approved the Amendment to the Tribal-State Compact For Regulation of Class III Gaming Between the Coshatta Tribe and the State of Louisiana which was executed on January 12, 1995.

DATES: This action is effective March 1, 1995.

FOR FURTHER INFORMATION CONTACT:

George T. Skibine, Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, D.C. 20240, (202) 219-4068.

Dated: February 21, 1995.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 95-4993 Filed 2-28-95; 8:45 am]

BILLING CODE 4310-02-P

**Revised
Federal Register**

Wednesday
March 1, 1995

Part XV

**Department of
Defense**

Office of the Secretary

Base Closures and Realignments; Notice

DEPARTMENT OF DEFENSE

BILLING CODE 5000-04

Office of the Secretary

Base Closure and Realignment

AGENCY: Office of the Secretary of Defense, DoD

ACTION: Notice of Recommended Base Closures and Realignments

SUMMARY: The Secretary of Defense is authorized to recommend military installations inside the United States for closure and realignment in accordance with Title XXIX, Part A of the FY 1991 National Defense Authorization Act, as amended. The Secretary is required to publish his recommendations in the Federal Register by March 1. The recommendations follow.

EFFECTIVE DATE: March 1, 1995

FOR A REPORT ON THE DOD RECOMMENDATIONS CONTACT: The Office of the Assistant to the Secretary of Defense for Public Affairs, Directorate of Public Communication, (703) 697-5737.



L.M. Bynum
Alternate OSD Federal Register
Liason Officer
Department of Defense
February 27, 1995

**THE SECRETARY OF DEFENSE**

WASHINGTON, DC 20301-1000

February 28, 1995

Honorable Alan J. Dixon
Chairman
Defense Base Closure and Realignment Commission
1700 North Moore Street, Suite 1425
Arlington, VA 22209

Dear Mr. Chairman:

Under the procedures of Public Law 101-510, as amended, I hereby transmit for your review my recommendations to close or realign 146 installations. Attached to this letter is a summary of the selection process and the description of and justification for each recommendation.

These recommendations were not arrived at easily. We were forced to consider and choose among many excellent facilities. But there is no alternative: if we fail to bring our infrastructure in line with our force structure and budget, we will lack the funds to maintain our readiness and modernization in years to come.

Being Objective and Fair

The base closure process was designed by the Congress to be objective, open and fair. Each potential recommendation is measured by published criteria, which gives priority first to military value, then to cost savings and to the economic and other impacts upon local communities. The data employed have been certified and our procedures have been overseen by the DoD Inspector General and the General Accounting Office. Both, of course, will be reviewed in detail by the public and your Commission.

That process has worked well so far, and we have followed it to the letter.

Within the Department, recommendations were made first by each Military Department and certain Defense Agencies (hereafter, "the Services"). Each Service made its best judgment about the facilities it has and the capacities it needs, applying the published force structure and criteria required by the law. They operated under the guidance of a BRAC Review Group chaired by the Deputy Secretary.

At the beginning of February, the Services made their recommendations to me. Since that time, my staff and the Joint Staff have reviewed the recommendations and underlying analyses to ensure that the law and DoD policies were followed. We particularly looked for concerns or

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February 28, 1995

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effects that the Military Departments might not fully have taken into account, such as the war fighting requirements of the Unified and Specified Commanders, treaty obligations of the United States, and possible economic impacts from independent actions of several Services on a particular locale.

Preserving Military Capabilities

My recommendations are consistent with the force structure plan for the Armed Forces for the six-year period of the Future Years Defense Plan. In Fiscal year 1999, the active Army will have 10 divisions; we will have room to station all of them. The active Navy will have 11 carriers; we will have room to berth them. The active Air Force will have 936 fighters; we will have room to beddown all of them. The active Marine Corps will contain 3 divisions; we will be able to base them. In exercising military judgment, the Services have retained domestic capacity to accommodate their forward deployed forces if need be. I am confident, therefore, that the remaining base structure can accommodate any foreseeable force resizing -- even a significant degree of reconstitution.

The Chairman, Joint Chiefs of Staff concurs in this view and supports these recommendations fully.

Based upon the 1993 BRAC Commission's recommendation and my own view that the support structure of the Department needed to be reduced just as the combat force had been, I designated common support functions as areas of special attention in BRAC 95. Joint Cross Service Groups analyzed the Department's depot, medical, pilot training, laboratory, and test and evaluation facilities. These groups assessed both the functional value and the capacity of these facilities. They compared this to projected needs and suggested to the Services both reduction goals and possible alternatives to meet them. The Services then considered these alternatives in their own review process. In some cases they adopted these suggestions as recommended or in modified form; in other cases they declined to do so because the bases had unique military value to the Services, or for other reasons. Overall, the cross service effort did assist in reducing excess capacity and determining where joint or collocated functions made functional and economic sense. Further, this DoD-wide review of support functions provides a road map for cross-servicing in the future.

In the logistics area, in particular, savings were achieved using several strategies. The Army, Navy, and Defense Logistics Agency (DLA) all proposed closing major depots and/or shipyards. The Air Force, however, proposes to achieve significant savings by consolidating and reducing activity at its five air logistics centers in place, as well as providing consolidation sites for DLA storage activities. Because of the Air Force's unique logistics complexes, this approach proved significantly more cost effective than closures.

Honorable Alan J. Dixon
February 28, 1995

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These Recommendations Will Save Billions

My recommendations, if approved, will provide very substantial savings to the taxpayers and the Department. Initially, implementing these closures and realignments will require expenditures estimated at \$3.8 billion (excepting certain environmental costs). However, even within the 6 year planning period for which we program a budget, this round will provide approximately \$4 billion in savings (FY96\$) in excess of the costs required for base closure. These savings will continue at the rate of approximately \$1.8 billion per year, and over the twenty year period for which we forecast should total some \$18 billion (measured on a present value basis in today's dollars).

Net savings, FY 1996-2001	\$ 4.0 billion
Annual savings thereafter	\$ 1.8 billion
Total (over 20 years, present value)	\$18.4 billion.

The 1995 program, coupled with the previously approved closures, will reduce the domestic base structure by about 21 percent (measured by replacement value). All four rounds of closures together, when complete in 2001, will produce about \$6.0 billion in annual recurring savings (FY96\$) and a total savings over 20 years in present value of almost \$57 billion.

Assisting Community Recovery

As we implement these closures, we recognize a special obligation to those men and women -- military and civilian -- who won the Cold War. We will meet that obligation.

In addition to transition programs for DoD personnel, the Department is determined to carry out the President's promise to help base closure communities reshape their economic future. This assistance comes in many forms: technical assistance and planning grants; on site base transition coordinators to provide a focal point for Federal assistance; accelerated property disposal to make surplus property available for civilian reuse; and fast track environmental clean-up in coordination with Federal and State regulators and community reuse authorities.

In some cases, reused bases are now home to more civilian jobs than there were before closure. Many communities have found that base property can be the bedrock for a healthier and more diverse economy. What it requires is strong local leadership and a lot of hard work. We at the Department stand ready to help.

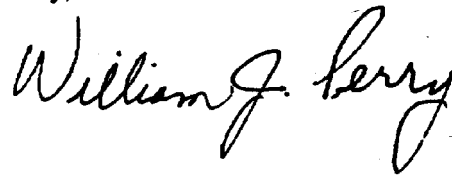
I have sent identical letters, with enclosures, to the Chairmen of the House National Security and Appropriations Committees and the Senate Armed Services and Appropriations Committees, and published this letter, with its enclosures, in the Federal Register.

Honorable Alan J. Dixon
February 28, 1995

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In closing, I would like to note the critical role that your Commission plays. Your review is an essential confirmation of the integrity of our procedures and the soundness of our judgments. We know that your review of our recommendations will be as searching, thorough and careful as the process by which we made them. We stand ready to provide any information you require and to discuss any judgment we have made. In the end, we hope you endorse our recommendations in this process that is so critical to our Nation's security.

Sincerely,

A handwritten signature in black ink, reading "William J. Perry". The signature is written in a cursive, flowing style with a large, prominent "W" and "P".

Enclosures

Recommendations of the Secretary of Defense for Closure or Realignment of Military Installations Inside the United States

In developing the Defense Base Closure and Realignment Act of 1990 (Public Law 101-510), as amended, Congress provided mechanisms to ensure that the process would be fair, objective, and open. The Act requires that closures and realignments of military installations in the United States must be recommended on the basis of a six-year force structure plan and public selection criteria.

The procedures are continually subject to review by the DoD Inspector General, the General Accounting Office, as well as by the BRAC Commission and the public. This section describes them in detail.

Policy Guidance

The Deputy Secretary established the policy, procedures, authorities and responsibilities for selecting bases for realignment or closure (BRAC) by memorandum dated January 7, 1994. This policy guidance provided the Secretaries of the Military Departments and the Directors of the Defense Agencies with the responsibility to provide the Secretary of Defense with recommendations for closures and realignments. This policy also required the Secretaries of the Military Departments and Defense Agencies to develop recommendations based exclusively upon the force structure plan and final selection criteria; consider all military installations inside the United States (as defined in the law) equally; analyze their base structure using like categories of bases; use objective measures for the selection criteria wherever possible; and allow for the exercise of military judgement in selecting bases for closure and realignment.

The Deputy Secretary also established the BRAC 95 Review Group and the BRAC 95 Steering Group to oversee the entire BRAC process. The BRAC 95 Review Group was composed of senior level representatives from each of the Military Departments, Chairpersons of the BRAC 95 Steering Group and each Joint Cross-Service Group, and other senior officials from the Office of the Secretary of Defense, Joint Staff and Defense Logistics Agency. It provided oversight and policy for the entire BRAC process. The BRAC 95 Steering Group assisted the Review Group in exercising its authorities.

The Assistant Secretary of Defense for Economic Security was given the responsibility to oversee the 1995 process, and was delegated authority to issue additional instructions.

The Chairman of the Joint Chiefs issued the interim force structure plan, as directed by the Deputy Secretary's January 7, 1994 memorandum, on February 7, 1994. The Deputy Secretary issued the final selection criteria on November 2, 1994. The Deputy Secretary provided the final force structure plan on January 11, 1995. This Plan was updated on February 22, 1995, by the Deputy Secretary to reflect budget decisions, and was provided to Congress and the Commission on the same day.

Laboratories

There were some significant cross-service actions taken as a result of the JCSG alternatives. The package includes some C4I cross-service consolidation at Fort Monmouth, NJ, as well as medical research consolidation in Washington, DC. Excess capacity was reduced; however, capacity reduction was less than desired by the JCSG. Many of the workload transfers proposed by the JCSG were too small to influence installation decisions and were therefore not considered cost effective by the Military Departments. Since lab consolidations often appear most attractive on installations devoted to testing, lack of joint consolidation in the T&E area affected laboratory recommendations. As with Depots, potential workload consolidation opportunities were identified which may occur in the future outside of BRAC.

Test and Evaluation

Cross-servicing and downsizing of the test and evaluation infrastructure proved to be a considerable challenge. In general, the Military Departments concluded that preservation of core test facilities, which have irreplaceable land, air and water ranges, precluded closures of major facilities and that cross-servicing of T&E functions would not be cost effective. However, there was some success in the closure of a number of small test functions, and consolidations within each Service's technical infrastructure.

Medical Facilities

The Military Medical Treatment Facilities group established and generally achieved its overall cross-service and excess capacity reduction goals. This was in large measure due to the cross-servicing policies already in affect in this function. Since location of military medical facilities is largely dependent on the major military installations which provide their patient load, they generally followed the realignment and closure actions of the Military Departments. As with several of the other groups, the medical JCSG group identified and is planning for future actions for consolidation and downsizing of medical facilities through programmatic actions. BRAC 95 did provide an opportunity to close one major teaching hospital, while rationalizing other graduate medical training. It also provided an avenue to down-size many large, full service hospitals to smaller hospitals or clinics. Cross-servicing will continue in this vital field.

Undergraduate Pilot Training

The JCSG alternatives were incorporated in the work of the Military Departments and provided a basis for carrying out the Department's policies for cross-service flight training. The Air Force and Navy's earlier agreement to consolidate fixed-wing training through a joint syllabus was critical to this group's success. The recommendations developed reduce excess capacity and maintain a capacity buffer to ensure meeting projected requirements during the turmoil associated with multiple base closures and fielding the new JPATS trainers. However,

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there was no agreement on the collocation or consolidation of helicopter training. Like other core activities, this issue needs to be resolved before BRAC real estate alternatives are addressed. Overall, the Military Departments reduced this training infrastructure by three bases.

OSD/JCS Review

Using certified data, the Secretaries of the Military Departments and Directors of the Defense Agencies developed their recommendations based on the approved final criteria and force structure plan, and submitted their base closure and realignment recommendations to the Secretary of Defense for review and approval. As part of the Secretary's review, the Assistant Secretary of Defense for Economic Security provided for Joint Staff and OSD review of the recommendations received from the Military Departments and Defense Agencies.

The Joint Staff reviewed the recommendations from a warfighting perspective to ensure they would not adversely affect the military readiness capabilities of the armed services. The Chairman of the Joint Chiefs of Staff endorsed all the Military Department and Defense Agency recommendations without objection.

Key staff elements of the Office of the Secretary of Defense and the Joint Staff also reviewed the recommendations to ensure they would not sacrifice necessary capabilities and resources. The Assistant Secretary of Defense for Economic Security reviewed the recommendations to ensure all eight selection criteria were considered and the recommendations were consistent with the force structure plan. This review also assured that DoD policies and procedures were followed and that the analyses were objective and rigorous.

The Secretary approved the recommendations of the Military Departments and Defense Agencies and the list of military installations approved by the Secretary of Defense for closure or realignment is herein forwarded, as required, to the 1995 Defense Base Closure and Realignment Commission.

Summaries of the Military Department and Defense Agency selection processes precede their recommendations and justifications.

Economic Impact in the BRAC Process

The Department recognizes that base closure imposes severe strains on local communities. These economic impacts are recognized and considered in the BRAC process.

For BRAC 95, the Department created the Joint Cross-Service Group on Economic Impact to ensure more consistent application of the economic impact criterion in BRAC 95. This Group included representatives from the Military Departments and the Office of the Secretary of Defense. For a year the Group reviewed methods for analyzing economic impact, established common measures and approaches, and developed a computer-based system to facilitate the analysis of economic impact, including cumulative economic impact.

Under the law, the Department developed its BRAC recommendations based on consistent application of eight final selection criteria and the force structure plan. Under the approved selection criteria, the first four selection criteria pertain to military value and are accorded priority consideration. "The economic impact on communities" is the sixth criterion.

The Department considered cumulative economic impact as part of the economic impact criterion. In response to concerns raised by the 1993 Defense Base Closure and Realignment Commission and the General Accounting Office, DoD analyzed economic impact and cumulative economic impact as relative measures for comparing alternatives. DoD did not establish threshold values above which, for example, it would remove bases from consideration.

Economic impact was considered at two stages in the process. The Military Departments, in developing their recommendations, developed and analyzed data reflecting the economic impacts of prior BRAC rounds as well as that particular Department's actions in BRAC 1995. Once the Service recommendations were made to the Secretary of Defense, the economic impacts were reviewed again, to determine whether there were instances in which separate Service actions might have affected the same locality.

The Department sponsored an independent review of its plans for BRAC 95 economic analysis in May 1994. Six experts from government, academia, and the private sector participated in the review. The reviewers agreed that our proposed measures of economic impact were reasonable and supported our approach to defining economic impact areas. They emphasized that DoD's estimates tend to overstate economic impact, and that the Department should stress this in its presentations to the Defense Base Realignment and Closure Commission, the Congress, and the public. In addition, the Department asked the Bureau of Economic Analysis of the Department of Commerce to review our methodology for estimating indirect jobs. They responded that the method was of "good, sound quality, consistent with good regional economic impact estimation practices."

**1995 List of Military Installations
Inside the United States for Closure or Realignment**

Part I: Major Base Closures

Army

Fort McClellan, Alabama
Fort Chaffee, Arkansas
Fitzsimons Army Medical Center, Colorado
Price Support Center, Illinois
Savanna Army Depot Activity, Illinois
Fort Ritchie, Maryland
Selfridge Army Garrison, Michigan
Bayonne Military Ocean Terminal, New Jersey
Seneca Army Depot, New York
Fort Indiantown Gap, Pennsylvania
Red River Army Depot, Texas
Fort Pickett, Virginia

Navy

Naval Air Facility, Adak, Alaska
Naval Shipyard, Long Beach, California
Ship Repair Facility, Guam
Naval Air Warfare Center, Aircraft Division, Indianapolis, Indiana
Naval Surface Warfare Center, Crane Division Detachment, Louisville, Kentucky
Naval Surface Warfare Center, Dahlgren Division Detachment, White Oak, Maryland
Naval Air Station, South Weymouth, Massachusetts
Naval Air Station, Meridian, Mississippi
Naval Air Warfare Center, Aircraft Division, Lakehurst, New Jersey
Naval Air Warfare Center, Aircraft Division, Warminster, Pennsylvania

Air Force

North Highlands Air Guard Station, California
Ontario IAP Air Guard Station, California
Rome Laboratory, Rome, New York
Roslyn Air Guard Station, New York
Springfield-Beckley MAP, Air Guard Station, Ohio
Greater Pittsburgh IAP Air Reserve Station, Pennsylvania
Bergstrom Air Reserve Base, Texas
Brooks Air Force Base, Texas
Reese Air Force Base, Texas

Defense Logistics Agency

Defense Distribution Depot Memphis, Tennessee
Defense Distribution Depot Ogden, Utah

Part II: Major Base Realignments

Army

Fort Greely, Alaska
Fort Hunter Liggett, California
Sierra Army Depot, California
Fort Meade, Maryland
Detroit Arsenal, Michigan
Fort Dix, New Jersey
Fort Hamilton, New York
Charles E. Kelly Support Center, Pennsylvania
Letterkenny Army Depot, Pennsylvania
Fort Buchanan, Puerto Rico
Dugway Proving Ground, Utah
Fort Lee, Virginia

Navy

Naval Air Station, Key West, Florida
Naval Activities, Guam
Naval Air Station, Corpus Christi, Texas
Naval Undersea Warfare Center, Keyport, Washington

Air Force

McClellan Air Force Base, California
Onizuka Air Station, California
Eglin Air Force Base, Florida
Robins Air Force Base, Georgia
Malmstrom Air Force Base, Montana
Kirtland Air Force Base, New Mexico
Grand Forks Air Force Base, North Dakota
Tinker Air Force Base, Oklahoma
Kelly Air Force Base, Texas
Hill Air Force Base, Utah

***Part III: Smaller Base or Activity Closures, Realignments,
Disestablishments or Relocations***

Army

Branch U.S. Disciplinary Barracks, California
East Fort Baker, California
Rio Vista Army Reserve Center, California
Stratford Army Engine Plant, Connecticut
Big Coppett Key, Florida
Concepts Analysis Agency, Maryland
Publications Distribution Center Baltimore, Maryland
Hingham Cohasset, Massachusetts
Sudbury Training Annex, Massachusetts
Aviation-Troop Command (ATCOM), Missouri
Fort Missoula, Montana
Camp Kilmer, New Jersey
Caven Point Reserve Center, New Jersey
Camp Pedricktown, New Jersey
Bellmore Logistics Activity, New York
Fort Totten, New York
Recreation Center #2, Fayetteville, North Carolina
Information Systems Software Command (ISSC), Virginia
Camp Bonneville, Washington
Valley Grove Area Maintenance Support Activity (AMSA), West Virginia

Navy

Naval Command, Control and Ocean Surveillance Center, In-Service Engineering West Coast
Division, San Diego, California
Naval Health Research Center, San Diego, California
Naval Personnel Research and Development Center, San Diego, California
Supervisor of Shipbuilding, Conversion and Repair, USN, Long Beach, California
Naval Undersea Warfare Center-Newport Division, New London Detachment, New London,
Connecticut
Naval Research Laboratory, Underwater Sound Reference Detachment, Orlando, Florida
Fleet and Industrial Supply Center, Guam
Naval Biodynamics Laboratory, New Orleans, Louisiana
Naval Medical Research Institute, Bethesda, Maryland
Naval Surface Warfare Center, Carderock Division Detachment, Annapolis, Maryland
Naval Technical Training Center, Meridian, Mississippi
Naval Aviation Engineering Support Unit, Philadelphia, Pennsylvania
Naval Air Technical Services Facility, Philadelphia, Pennsylvania
Naval Air Warfare Center, Aircraft Division, Open Water Test Facility, Oreland, Pennsylvania

Naval Command, Control and Ocean Surveillance Center, RDT&E Division Detachment,
Warminster, Pennsylvania
Fleet and Industrial Supply Center, Charleston, South Carolina
Naval Command, Control and Ocean Surveillance Center, In-Service Engineering East Coast
Detachment, Norfolk, Virginia
Naval Information Systems Management Center, Arlington, Virginia
Naval Management Systems Support Office, Chesapeake, Virginia

Navy/Marine Reserve Activities

Naval Reserve Centers at:

Huntsville, Alabama
Stockton, California
Santa Ana, Irvine, California
Pomona, California
Cadillac, Michigan
Staten Island, New York
Laredo, Texas
Sheboygan, Wisconsin

Naval Air Reserve Center at:

Olathe, Kansas

Naval Reserve Readiness Commands at:

New Orleans, Louisiana (Region 10)
Charleston, South Carolina (Region 7)

Air Force

Moffett Federal Airfield AGS, California
Real-Time Digitally Controlled Analyzer Processor Activity, Buffalo, New York
Air Force Electronic Warfare Evaluation Simulator Activity, Fort Worth, Texas

Defense Logistics Agency

Defense Contract Management District South, Marietta, Georgia
Defense Contract Management Command International, Dayton, Ohio
Defense Distribution Depot Columbus, Ohio
Defense Distribution Depot Letterkenny, Pennsylvania
Defense Industrial Supply Center Philadelphia, Pennsylvania
Defense Distribution Depot Red River, Texas

Defense Investigative Service

Investigations Control and Automation Directorate, Fort Holabird, Maryland

Part IV: Changes to Previously Approved BRAC Recommendations

Army

Army Bio-Medical Research Laboratory, Fort Detrick, Maryland

Navy

Marine Corps Air Station, El Toro, California
Marine Corps Air Station, Tustin, California
Naval Air Station Alameda, California
Naval Recruiting District, San Diego, California
Naval Training Center, San Diego, California
Naval Air Station, Cecil Field, Florida
Naval Aviation Depot, Pensacola, Florida
Navy Nuclear Power Propulsion Training Center, Naval Training Center, Orlando, Florida
Naval Training Center Orlando, Florida
Naval Air Station, Agana, Guam
Naval Air Station, Barbers Point, Hawaii
Naval Air Facility, Detroit, Michigan
Naval Shipyard, Norfolk Detachment, Philadelphia, Pennsylvania
Naval Sea Systems Command, Arlington, Virginia
Office of Naval Research, Arlington, Virginia
Space and Naval Warfare Systems Command, Arlington, Virginia
Naval Recruiting Command, Washington, D.C.
Naval Security Group Command Detachment Potomac, Washington, D.C.

Air Force

Williams AFB, Arizona
Lowry AFB, Colorado
Homestead AFB, Florida (301st Rescue Squadron)
Homestead AFB, Florida (726th Air Control Squadron)
MacDill AFB, Florida
Griffiss AFB, New York (Airfield Support for 10th Infantry (Light) Division)
Griffiss AFB, New York (485th Engineering Installation Group)

Defense Logistics Agency

Defense Contract Management District West, El Segundo, California

Department of the Army Selection Process

Introduction

The Army's efforts to reduce unnecessary infrastructure began with the Defense Secretary's Commission on Base Realignments and Closures in 1988. Since that Commission, the Army has reduced its force of 770,000 active duty soldiers to 540,000 and active divisions from 18 to 12. The Army has closed 77 installations in the U.S. and is in the process of closing six others. Over 500 sites overseas, mostly in Europe, have been returned to their host nation. The Army is planning to return about 150 more. Last December, the Army announced further reductions in end strength to 495,000 personnel and a further restructuring of the active Army to 10 divisions by the end of fiscal year 1996. Available resources have declined with the \$90 billion budget of the 1980s dropping to approximately \$60 billion, necessitating major reductions in base operating costs. While these latest recommendations were difficult, the Army has kept its sights focused on the future in order to lay a foundation for a smaller, more capable Army, one that is able to project power and support national strategy into the 21st century.

The Selection Process

To provide an operational context for planning and analysis, the Army developed a stationing strategy. Derived from the National Military Strategy, the Army developed guidelines to govern the stationing of forces and influence the types of installations needed for the future. This operational blueprint described parameters for reducing infrastructure without jeopardizing future requirements.

As in previous studies, the Army conducted a comprehensive review of all installations. To facilitate a fair comparison, the Army grouped installations into categories with similar missions, capabilities and characteristics. After developing a set of measurable attributes related to DoD's four selection criteria for military value, the Army then assigned weights to reflect the relative importance of each measure. Next, the Army collected data on its installations and estimated their relative importance, using established quantitative techniques to assemble installation assessments.

Using both the installation assessments and the stationing strategy, the Army determined the military value of each installation. These appraisals represented the Army's best judgment on the relative merit of each installation and were the basis for selecting installations that were studied further for closure or realignment.

Once the list of final study candidates received approval by the Secretary of the Army, a variety of alternatives were examined in an effort to identify the most feasible and cost-effective way to close or realign. Subsequently, the Army reviewed alternatives recommended by DoD's Joint Cross Service Groups and incorporated those that made sense and saved money. The Army applied DoD's remaining four selection criteria by analyzing the financial, economic, community and environmental impacts of each alternative, using DoD's standard models. The Army's senior leaders reviewed the results of these analyses and discontinued studies of alternatives that were financially or operationally infeasible.

During the course of the study effort, the Army Audit Agency performed independent tests and evaluations to check mathematical computations and ensure the accuracy of data and reasonableness of assumptions throughout every step of analysis. The General Accounting Office monitored the Army's process from the very beginning and met regularly with the Army's auditors as well as officials from The Army Basing Study (TABS).

The Secretary of the Army, with advice from the Chief of Staff, recommended installations for closure or realignment to the Secretary of Defense based upon the DoD Force Structure Plan and the selection criteria established under Public Law 101-510, as amended.

Fort McClellan, Alabama

Recommendation: Close Fort McClellan, except minimum essential land and facilities for a Reserve Component enclave and minimum essential facilities, as necessary, to provide auxiliary support to the chemical demilitarization operation at Anniston Army Depot. Relocate the U. S. Army Chemical and Military Police Schools to Fort Leonard Wood, Missouri, upon receipt of the required permits. Relocate the Defense Polygraph Institute (DODPI) to Fort Jackson, South Carolina. License Pelham Range and current Guard facilities to the Alabama Army National Guard.

Justification: This closure recommendation is based upon the assumption that requisite permits can be granted to allow operation of the Chemical Defense Training Facility at Fort Leonard Wood, Missouri. The Governor of the State of Missouri has indicated that an expeditious review of the permit application can be accomplished.

Collocation allows the Army to focus on the doctrinal and force development requirements of Engineers, Military Police, and the Chemical Corps. The synergistic advantages of training and development programs are: coordination, employment, and removal of obstacles; conduct of river crossing operations; operations in rear areas or along main supply routes; and counter-drug operations. The missions of the three branches will be more effectively integrated.

This recommendation differs from the Army's prior closure recommendations submitted to the 1991 and 1993 Commissions. The Army will relocate the Chemical Defense Training Facility (CDTF) to Fort Leonard Wood, Missouri. By relocating the CDTF, the Army can continue providing live-agent training to all levels of command. The Army is the only Service that conducts live agent training, and it will continue this training at Fort Leonard Wood.

The Army has considered the use of some Fort McClellan assets for support of the chemical demilitarization mission at Anniston Army Depot. The Army will use the best available assets to provide the necessary support to Anniston's demilitarization mission.

Return on Investment: The total one-time cost to implement this recommendation is \$259 million. The net of all costs and savings during the implementation period is a cost of \$122 million. Annual recurring savings after implementation are \$45 million with a return on investment expected in six years. The net present value of the costs and savings over 20 years is a savings of \$316 million.

Impacts: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 10,720 jobs (8,536 direct jobs and 2,184 indirect jobs) over the 1996-to-2001 period in the Anniston, AL Metropolitan Statistical Area, which represents 17.3 percent of the area's employment.

The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in this area over the 1994-to-2001 period could result in a maximum potential decrease equal to 14.7 percent of employment in the area. There are no known environmental impediments at the closing or receiving installations.

Fort Chaffee, Arkansas

Recommendation: Close Fort Chaffee, except minimum essential buildings, and ranges for Reserve Component (RC) training as an enclave.

Justification: In the past ten years, the Army has significantly reduced its active and reserve forces. The Army must reduce excess infrastructure to meet future requirements.

Fort Chaffee is the former home of the Joint Readiness Training Center (JRTC). In 1991, the Defense Base Closure and Realignment Commission approved the JRTC's relocation to Fort Polk, LA. The transfer was completed in 1992. The post is managed by an Active Component/civilian staff, although it possesses virtually no Active Component tenants.

Fort Chaffee ranked last in military value when compared to other major training area installations. The Army will retain some ranges for use by the RC units stationed in the area. Annual training for Reserve Component units which now use Fort Chaffee can be conducted at other installations in the region, including Fort Polk, Fort Riley and Fort Sill. The Army intends to license required land and facilities to the Army National Guard.

Return on Investment: The total one-time cost to implement this recommendation is \$10 million. The net of all costs and savings during the implementation period is a savings of \$39 million. Annual recurring savings after implementation are \$13 million with a return on investment expected in one year. The net present value of the costs and savings over 20 years is a savings of \$167 million.

Impacts: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 352 jobs (247 direct jobs and 105 indirect jobs) over the 1996-to-2001 period in the Fort Smith, AR-OK Metropolitan Statistical Area, which represents 0.3 percent of the area's employment.

The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in this area over the 1994-to-2001 period could result in a maximum potential decrease equal to 0.4 percent of employment in the area. There are no known environmental impediments at the closing or receiving installation.

Fitzsimons Army Medical Center, Colorado

Recommendation: Close Fitzsimons Army Medical Center (FAMC), except for Edgar J. McWhethy Army Reserve Center. Relocate the Medical Equipment and Optical School and Optical Fabrication Laboratory to Fort Sam Houston, TX. Relocate Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) activities to Denver leased space. Relocate other tenants to other installations.

Justification: FAMC is low in military value compared to other medical centers. This recommendation avoids anticipated need for estimated \$245 million construction to replace FAMC while preserving health care services through other more cost-effective means. This action will offset any loss of medical services through: phased-in CHAMPUS and Managed Care Support contracts; increased services at Fort Carson and US Air Force Academy; and redistribution of Medical Center patient load from Region Eight to other Medical Centers. FAMC is not collocated with a sizable active component population. Its elimination does not jeopardize the Army's capability to surge to support two near-simultaneous major regional contingencies, or limit the Army's capability to provide wartime medical support in the theater of operations. Closure of this medical center allows redistribution of medical military personnel to other medical centers to absorb the diverted medical center patient load. These realignments avoid a significant cost of continuing to operate and maintain facilities at this stand-alone medical center. DoD's Joint Cross-Service Group for Military Treatment Facilities supports the closure of Fitzsimons.

Return on Investment: The total one-time cost to implement this recommendation is \$142 million. The net of all costs and savings during the implementation period is a cost of \$39 million. Annual recurring savings after implementation are \$34 million with a return on investment expected in three years. The net present value of the costs and savings over 20 years is a savings of \$299 million.

Impacts: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 4,489 jobs (2,903 direct jobs and 1,586 indirect jobs) over the 1996-to-2001 period in the Denver, CO Primary Metropolitan Statistical Area, which represents 0.4 percent of the area's employment.

The cumulative economic impact of all BRAC 95 recommendations and all prior round BRAC actions in this area over the 1994-to-2001 period could result in a maximum potential decrease equal to 0.8 percent of employment in the area. There are no known environmental impediments at the closing or receiving installations.

Price Support Center, Illinois

Recommendation: Close Charles Melvin Price Support Center, except a small reserve enclave and a storage area.

Justification: Charles Melvin Price Support Center provides area support and military housing to the Army and other Federal activities in the St. Louis, MO, area. It is low in military value compared to similar installations. Its tenants, including a recruiting company and a criminal investigative unit, can easily relocate.

This recommendation is related to the Army's recommendation to relocate Aviation-Troop Command (ATCOM) from St. Louis, MO, to other locations. A reduction in the Army's presence in the area warrants a corresponding reduction in Charles Melvin Price Support Center.

Return on Investment: The total one-time cost to implement this recommendation is \$4 million. The net of all costs and savings during the implementation period is a savings of \$35 million. Annual recurring savings after implementation are \$9 million with an immediate return on investment. The net present value of the costs and savings over 20 years is a savings of \$116 million.

Impacts: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 363 jobs (225 direct jobs and 138 indirect jobs) over the 1996-to-2001 period in the St. Louis, MO-IL Metropolitan Statistical Area, which represents less than 0.1 percent of the area's employment.

The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in this area over the 1994-to-2001 period could result in a maximum potential decrease equal to 0.6 percent of employment in the area. There are no known environmental impediments at the closing or receiving installations.

Savanna Army Depot Activity, Illinois

Recommendation: Close Savanna Army Depot Activity (ADA). Relocate the United States Army Defense Ammunition Center and School (USADACS) to McAlester Army Ammunition Plant, Oklahoma.

Justification: This recommendation is supported by the Army's long range operational assessment. The Army has adopted a "tiered" ammunition depot concept to reduce infrastructure, eliminate static non-required ammunition stocks, decrease manpower requirements, increase efficiencies and permit the Army to manage a smaller stockpile. The tiered depot concept reduces the number of active storage sites and makes efficiencies possible:

(1) Tier 1 - Active Core Depots. These installations will support a normal/full-up activity level with a stockage configuration of primarily required stocks and minimal non-required stocks requiring demilitarization. Normal activity includes daily receipts/issues of training stocks, storage of war reserve stocks required in contingency operations and additional war reserve stocks to augment lower level tier installation power projection capabilities. Installations at this activity level will receive requisite levels of storage support, surveillance, inventory, maintenance and demilitarization.

(2) Tier 2 - Cadre Depots. These installations normally will perform static storage of follow-on war reserve requirements. Daily activity will be minimal for receipts/issues. Workload will focus on maintenance, surveillance, inventory and demilitarization operations. These installations will have minimal staffs unless a contingency arises.

(3) Tier 3 - Caretaker Depots. Installations designated as Tier 3 will have minimal staffs and store stocks no longer required until demilitarized or relocated. The Army plans to eliminate its stocks at these sites no later than year 2001. Savanna Army Depot Activity is a Tier 3 depot.

USADACS performs the following basic functions: munitions training, logistics engineering, explosive safety, demilitarization research and development, technical assistance, and career management. Relocation of USADACS to McAlester Army Ammunition Plant (AAP) allows it to collocate with an active ammunition storage and production operation. McAlester AAP, a Tier 1 depot, is the best for providing the needed capabilities.

Return on Investment: The total one-time cost to implement this recommendation is \$38 million. The net of all costs and savings during the implementation period is a cost of \$12 million. Annual recurring savings after implementation are \$13 million with a return on investment expected in two years. The net present value of the costs and savings over 20 years is a savings of \$112 million.

Impacts: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 627 jobs (450 direct jobs and 177 indirect jobs) over the 1996-to-2001 period in the Carroll County, IL, area, which represents 8.2 percent of the area's employment. There are no known environmental impediments at the closing or receiving installations.

Fort Ritchie, Maryland

Recommendation: Close Fort Ritchie. Relocate the 1111th Signal Battalion and 1108th Signal Brigade to Fort Detrick, MD. Relocate Information Systems Engineering Command elements to Fort Huachuca, AZ.

Justification: This recommendation assumes that base support for Defense Intelligence Agency and other National Military Command Center support elements will be provided by nearby Fort Detrick. Closing Fort Ritchie and transferring support elements of the National Military Command Center to Fort Detrick will: (a) maintain operational mission support to geographically unique Sites R and C (National Military Command Center) for the Joint Chiefs of Staff; (b) capitalize on existing facilities at Site R and C to minimize construction; (c) maintain an active use and continuous surveillance of Site R and Site C facilities to maintain readiness; (d) collocate signal units that were previously separated at two different garrisons; (e) consolidate major portion of Information Systems Engineering Command-CONUS with main headquarters of Information Systems Engineering Command to improve synergy of information system operations; and (f) provide a direct support East Coast Information Systems Engineering Command field element to respond to regional requirements. These relocations, collocations and consolidations allow the elimination of Fort Ritchie's garrison and avoids significant costs associated with the continued operation and maintenance of support facilities at a small installation.

Return on Investment: The total one-time cost to implement this recommendation is \$93 million. The net of all costs and savings during the implementation period is a savings of \$83 million. Annual recurring savings after implementation are \$65 million with a return on investment expected in one year. The net present value of the costs and savings over 20 years is a savings of \$712 million.

Impacts: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 3,210 jobs (2,344 direct jobs and 866 indirect jobs) over the 1996-to-2001 period in the Hagerstown, MD Primary Metropolitan Statistical Area, which represents 4.8 percent of the area's employment. There are no known environmental impediments at the closing or receiving installations.

Selfridge Army Garrison, Michigan

Recommendation: Close U.S. Army Garrison, Selfridge.

Justification: Closing Selfridge eliminates an installation that exists primarily to provide housing for activities (predominantly Detroit Arsenal) located in the immediate area although such support can be provided through a less costly alternative. Sufficient commercial housing is available on the local economy for military personnel using Variable Housing Allowance/Basic Allowance for Quarters. Closure avoids the cost of continued operation and maintenance of unnecessary support facilities. This recommendation will not degrade local military activities.

Return on Investment: The total one-time cost to implement this recommendation is \$5 million. The net of all costs and savings during the implementation period is a savings of \$47 million. Annual recurring savings after implementation are \$10 million with an immediate return on investment. The net present value of the costs and savings over 20 years is a savings of \$140 million.

Impacts: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 867 jobs (536 direct jobs and 331 indirect jobs) over the 1996-to-2001 period in the Detroit, MI Primary Metropolitan Statistical Area, which represents less than 0.1 percent of the area's employment.

The cumulative economic impact of all BRAC 95 recommendations and all prior round BRAC actions in this area over the 1994-to-2001 period could result in a maximum potential decrease equal to less than 0.1 percent of employment in the area. There are no known environmental impediments at the closing or receiving installations.

Bayonne Military Ocean Terminal, New Jersey

Recommendation: Close Bayonne Military Ocean Terminal. Relocate the Military Transportation Management Command (MTMC) Eastern Area Command Headquarters and the traffic management portion of the 1301st Major Port Command to Fort Monmouth, New Jersey. Retain an enclave for the Navy Military Sealift Command, Atlantic, and Navy Resale and Fashion Distribution Center.

Justification: This recommendation is supported by the Army's long range operational assessment. The primary mission of Bayonne is the shipment of general bulk cargo. It has no capability to ship bulk munitions. There are sufficient commercial port facilities on the East and Gulf Coasts to support power projection requirements with a minimal loss to operational capability. Bayonne provides the Army with few military capabilities that cannot be accomplished at commercial ports.

Return on Investment: The total one-time cost to implement this recommendation is \$44 million. The net of all costs and savings during the implementation period is a cost of \$8 million. Annual recurring savings after implementation are \$10 million with a return on investment expected in five years. The net present value of the costs and savings over 20 years is a savings of \$90 million.

Impacts: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 2,105 jobs (1,367 direct jobs and 738 indirect jobs) over the 1996-to-2001 period in the Jersey City, NJ Primary Metropolitan Statistical Area, which represents 0.8 percent of the area's employment.

The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in this area over the 1994-to-2001 period could result in a maximum potential decrease equal to 0.8 percent of employment in the area. There are no known environmental impediments at the closing or receiving installations.

Seneca Army Depot, New York

Recommendation: Close Seneca Army Depot, except an enclave to store hazardous material and ores.

Justification: This recommendation is supported by the Army's long range operational assessment. The Army has adopted a "tiered" ammunition depot concept to reduce infrastructure, eliminate static non-required ammunition stocks, decrease manpower requirements, increase efficiencies and permit the Army to manage a smaller stockpile. The tiered depot concept reduces the number of active storage sites and makes efficiencies possible:

(1) Tier 1 - Active Core Depots. These installations will support a normal/full-up activity level with a stockage configuration of primarily required stocks and minimal non-required stocks requiring demilitarization. Normal activity includes daily receipts/issues of training stocks, storage of war reserve stocks required in contingency operations and additional war reserve stocks to augment lower level tier installation power projection capabilities. Installations at this activity level will receive requisite levels of storage support, surveillance, inventory, maintenance and demilitarization.

(2) Tier 2 - Cadre Depots. These installations normally will perform static storage of follow-on war reserve requirements. Daily activity will be minimal for receipts/issues. Workload will focus on maintenance, surveillance, inventory and demilitarization operations. These installations will have minimal staffs unless a contingency arises.

(3) Tier 3 - Caretaker Depots. Installations designated as Tier 3 will have minimal staffs and store stocks no longer required until demilitarized or relocated. The Army plans to eliminate stocks at these sites no later than year 2001. Seneca Army Depot is a Tier 3 depot.

Return on Investment: The total one-time cost to implement this recommendation is \$15 million. The net of all costs and savings during the implementation period is a savings of \$34 million. Annual recurring savings after implementation are \$21 million with an immediate return on investment. The net present value of the costs and savings over 20 years is a savings of \$242 million.

Impacts: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 463 jobs (325 direct jobs and 138 indirect jobs) over the 1996-to-2001 period in the Seneca County, NY, economic area, which represents 3.2 percent of the area's employment. There are no known environmental impediments at the closing or receiving installations.

Fort Indiantown Gap, Pennsylvania

Recommendation: Close Fort Indiantown Gap, except minimum essential facilities as a Reserve Component enclave.

Justification: In the past ten years, the Army significantly reduced its active and reserve forces. The Army must reduce excess infrastructure to meet future requirements.

Fort Indiantown Gap is low in military value compared to other major training area installations. Although managed by an Active Component garrison, it has virtually no Active Component tenants. Annual training for Reserve Component units which now use Fort Indiantown Gap can be conducted at other installations in the region, including Fort Dix, Fort A.P. Hill and Fort Drum.

Fort Indiantown Gap is owned by the Commonwealth of Pennsylvania and leased by the U.S. Army through 2049 for \$1. The government can terminate the lease with one year's written notice. Facilities erected during the duration of the lease are the property of the U.S. and may be disposed of, provided the premises are restored to their natural condition.

Return on Investment: The total one-time cost to implement this recommendation is \$13 million. The net of all costs and savings during the implementation period is a savings of \$67 million. Annual recurring savings after implementation are \$23 million with a return on investment expected in one year. The net present value of the costs and savings over 20 years is a savings of \$285 million.

Impacts: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 789 jobs (521 direct jobs and 268 indirect jobs) over the 1996-to-2001 period in the Harrisburg-Lebanon-Carlisle, PA Metropolitan Statistical Area, which represents 0.2 percent of the area's employment.

The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in this area over the 1994-to-2001 period could result in a maximum potential increase equal to 0.2 percent of employment in the area. There are no known environmental impediments at the closing or receiving installations.

Red River Army Depot, Texas

Recommendation: Close Red River Army Depot. Transfer the ammunition storage mission, intern training center, and civilian training education to Lone Star Army Ammunition Plant. Transfer the light combat vehicle maintenance mission to Anniston Army Depot. Transfer the Rubber Production Facility to Lone Star.

Justification: Red River Army Depot is one of the Army's five maintenance depots and one of three ground vehicle maintenance depots. Over time, each of the ground maintenance depots has become increasingly specialized. Anniston performs heavy combat vehicle maintenance and repair. Red River performs similar work on infantry fighting vehicles. Letterkenny Army Depot is responsible for towed and self-propelled artillery as well as DoD tactical missile repair. Like a number of other Army depots, Red River receives, stores, and ships all types of ammunition items. A review of long range operational requirements supports a reduction of Army depots, specifically the consolidation of ground combat workload at a single depot.

The ground maintenance capacity of the three depots currently exceeds programmed work requirements by the equivalent of one to two depots. Without considerable and costly modifications, Red River cannot assume the heavy combat vehicle mission from Anniston. Red River cannot assume the DoD Tactical Missile Consolidation program from Letterkenny without major construction. Available maintenance capacity at Anniston and Tobyhanna makes the realignment of Red River into Anniston the most logical in terms of military value and cost effectiveness. Closure of Red River is consistent with the recommendations of the Joint Cross-Service Group for Depot Maintenance.

Return on Investment: The total one-time cost to implement this recommendation is \$60 million. The net of all costs and savings during the implementation period is a savings of \$313 million. Annual recurring savings after implementation are \$123 million with an immediate return on investment. The net present value of the costs and savings over 20 years is a savings of \$1,497 million.

Impacts: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 5,654 jobs (2,901 direct jobs and 2,753 indirect jobs) over the 1996-to-2001 period in the Texarkana, TX-Texarkana, AR Metropolitan Statistical Area, which represents 9.5 percent of the area's employment.

The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in this area over the 1994-to-2001 period could result in a maximum potential decrease equal to 7.7 percent of employment in the area. There are no known environmental impediments at the closing or receiving installations.

Fort Pickett, Virginia

Recommendation: Close Fort Pickett, except minimum essential training areas and facilities as an enclave for the Reserve Components. Relocate the Petroleum Training Facility to Fort Dix, NJ.

Justification: In the past ten years, the Army has reduced its active and reserve forces considerably. The Army must reduce excess infrastructure to meet the needs of the future.

Fort Pickett is very low in military value compared to other major training area installations. It has virtually no Active Component tenants. Annual training for reserve units that now use Fort Pickett can be conducted easily at other installations in the region, including Fort Bragg, Fort A.P. Hill and Camp Dawson. The Army intends to license required facilities and training areas to the Army National Guard.

Return on Investment: The total one-time cost to implement this recommendation is \$25 million. The net of all costs and savings during the implementation period is a savings of \$41 million. Annual recurring savings after implementation are \$21 million with an immediate return on investment. The net present value of the costs and savings over 20 years is a savings of \$241 million.

Impacts: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 362 jobs (254 direct jobs and 108 indirect jobs) over the 1996-to-2001 period in the Nottoway & Dinwiddie Counties, VA area, which represents 0.8 percent of the area's employment. There are no known environmental impediments at the closing or receiving installations.

Fort Greely, Alaska

Recommendation: Realign Fort Greely by relocating the Cold Region Test Activity (CRTA) and Northern Warfare Training Center (NWTC) to Fort Wainwright, Alaska.

Justification: Fort Greely currently supports two tenant activities (CRTA and NWTC) and manages training areas for maneuver and range firing. Over 662,000 acres of range and training areas are used by both the Army and the Air Force. These valuable training lands will be retained.

The Army has recently reduced the NWTC by over half its original size and transferred oversight responsibilities to the U.S. Army, Pacific. The garrison staff will reduce in size and continue to support the important testing and training missions. The Army intends to use Fort Wainwright as the base of operations (107 miles away) for these activities, and "safari" them to Fort Greely, as necessary. This allows the Army to reduce its presence at Fort Greely, reduce excess capacity and perform essential missions at a much lower cost. The Army intends to retain facilities at Bolio Lake (for CRTA), Black Rapids (for NWTC), Allen Army Airfield, and minimal necessary garrison facilities to maintain the installation for contingency missions.

Return on Investment: The total one-time cost to implement this recommendation is \$23 million. The net of all costs and savings during the implementation period is a savings of \$43 million. Annual recurring savings after implementation are \$19 million with a return on investment expected in one year. The net present value of the costs and savings over 20 years is a savings of \$225 million.

Impacts: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 969 jobs (724 direct jobs and 245 indirect jobs) over the 1996-to-2001 period in the Southeast Fairbanks Census Area, AK, which represents 36.3 percent of the area's employment. There are no known environmental impediments at the realigning or receiving installations.

Fort Hunter Liggett, California

Recommendation: Realign Fort Hunter Liggett by relocating the U.S. Army Test and Experimentation Center (TEC) missions and functions to Fort Bliss, Texas. Eliminate the Active Component mission. Retain minimum essential facilities and training area as an enclave to support the Reserve Components (RC).

Justification: Fort Hunter Liggett is low in military value compared to other major training area installations and has few Active Component tenants. Relocation of the Test and Experimentation Center optimizes the unique test capabilities afforded by Fort Bliss and White Sands Missile Range.

Fort Hunter Liggett's maneuver space is key to Reserve Component training requirements. Since it is a primary maneuver area for mechanized units in the western United States, retention of its unique training lands is essential.

Return on Investment: The total one-time cost to implement this recommendation is \$6 million. The net of all costs and savings during the implementation period is a savings of \$12 million. Annual recurring savings after implementation are \$5 million with a return on investment expected in one year. The net present value of the costs and savings over 20 years is a savings of \$64 million.

Impacts: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 686 jobs (478 direct jobs and 208 indirect jobs) over the 1996-to-2001 period in the Salinas, CA Metropolitan Statistical Area, which represents 0.3 percent of the area's employment.

The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in this area over the 1994-to-2001 period could result in a maximum potential increase equal to 0.32 percent of employment in the area. There are no known environmental impediments at the closing or receiving installations.

Sierra Army Depot, California

Recommendation: Realign Sierra Army Depot by eliminating the conventional ammunition mission and reducing it to a depot activity. Retain an enclave for the Operational Project Stock mission and the static storage of ores.

Justification: This recommendation is supported by the Army's long range operational assessment. The Army has adopted a "tiered" ammunition depot concept to reduce infrastructure, eliminate static non-required ammunition stocks, decrease manpower requirements, increase efficiencies and permit the Army to manage a smaller stockpile. The tiered depot concept reduces the number of active storage sites and makes efficiencies possible:

(1) Tier 1 - Active Core Depots. These installations will support a normal/full-up activity level with a stockage configuration of primarily required stocks and minimal non-required stocks requiring demilitarization. Normal activity includes daily receipts/issues of training stocks, storage of war reserve stocks required in contingency operations and additional war reserve stocks to augment lower level tier installation power projection capabilities. Installations at this activity level will receive requisite levels of storage support, surveillance, inventory, maintenance and demilitarization.

(2) Tier 2 - Cadre Depots. These installations normally will perform static storage of follow-on war reserve requirements. Daily activity will be minimal for receipts/issues. Workload will focus on maintenance, surveillance, inventory and demilitarization operations. These installations will have minimal staffs unless a contingency arises.

(3) Tier 3 - Caretaker Depots. Installations designated as Tier 3 will have minimal staffs and store stocks no longer required until demilitarized or relocated. The Army plans to eliminate stocks at these sites no later than year 2001. Sierra Army Depot is a Tier 3 Depot.

Complete closure is not possible, since Sierra is the Center of Technical Excellence for Operational Project Stocks. This mission entails the management, processing and maintenance of: Force Provider (550-man tent city), Inland Petroleum Distribution System; and Water Support System. It also stores such stocks as Clam Shelters (mobile maintenance tents), bridging, and landing mats for helicopters. The cost of relocating the Operational Project Stocks is prohibitively expensive. Therefore, the Army will retain minimum essential facilities for storage.

Return on Investment: The total one-time cost to implement this recommendation is \$14 million. The net of all costs and savings during the implementation period is a savings of \$55 million. Annual recurring savings after implementation are \$29 million with an immediate return on investment. The net present value of the costs and savings over 20 years is a savings of \$333 million.

Impacts: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 839 jobs (592 direct jobs and 247 indirect jobs) over the 1996-to-2001 period in the Lassen County, CA economic area, which represents 7.4 percent of the area's employment. There are no known environmental impediments at the realigning or receiving installations.

Fort Meade, Maryland

Recommendation: Realign Fort Meade by reducing Kimbrough Army Community Hospital to a clinic. Eliminate inpatient services.

Justification: This recommendation, suggested by the Joint Cross-Service Group on Medical Treatment, eliminates excess medical treatment capacity at Fort Meade, MD by eliminating inpatient services at Kimbrough Army Community Hospital. Inpatient care would be provided by other military medical activities and private facilities through Civilian Health and Medical Program of the Uniformed Services (CHAMPUS).

Return on Investment: The total one-time cost to implement this recommendation is \$2 million. The net of all costs and savings during the implementation period is a savings of \$16 million. Annual recurring savings after implementation are \$4 million with a return on investment expected in one year. The net present value of the costs and savings over 20 years is a savings of \$50 million.

Impacts: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 203 jobs (129 direct jobs and 74 indirect jobs) over the 1996-to-2001 period in the Baltimore, MD Primary Metropolitan Statistical Area, which represents less than 0.1 percent of the area's employment.

The cumulative economic impact of all BRAC 95 recommendations and all prior round BRAC actions in this area over the 1994-to-2001 period could result in a maximum potential decrease equal to less than 0.1 percent of employment in the area. There are no known environmental impediments at the closing or receiving installations.

Detroit Arsenal, Michigan

Recommendation: Realign Detroit Arsenal by closing and disposing of the Detroit Army Tank Plant.

Justification: Detroit Tank Plant, located on Detroit Arsenal, is one of two Army Government-Owned, Contractor-Operated tank production facilities. A second facility is located at Lima, Ohio, (Lima Army Tank Plant). The Detroit plant is not as technologically advanced as the Lima facility and is not configured for the latest tank production. Moreover, retaining the plant as a "rebuild" facility is not practical since Anniston Army Depot is capable of rebuilding and repairing the M1 Tank and its principal components. Accordingly, the Detroit Tank Plant is excess to Army requirements.

Return on Investment: The total one-time cost to implement this recommendation is \$1 million. The net of all costs and savings during the implementation period is a savings of \$8 million. Annual recurring savings after implementation are \$3 million with an immediate return on investment. The net present value of the costs and savings over 20 years is a savings of \$38 million.

Impacts: This recommendation will not affect any jobs in the Detroit, MI Primary Metropolitan Statistical Area. There are no known environmental impediments at the realigning site.

Fort Dix, New Jersey

Recommendation: Realign Fort Dix by replacing the Active Component garrison with a U.S. Army Reserve garrison. Retain minimum essential ranges, facilities, and training areas required for Reserve Component (RC) training as an enclave.

Justification: In the past ten years, the Army has significantly reduced its active and reserve forces. The Army must reduce excess infrastructure to meet the needs of the future.

This proposal retains facilities and training areas essential to support Army National Guard and U.S. Army Reserve units in the Mid-Atlantic states. However, it reduces base operations and real property maintenance costs by eliminating excess facilities. Additionally, this reshaping will truly move Fort Dix into a preferred role of RC support. It retains an Army Reserve garrison to manage Fort Dix and provides a base to support RC logistical requirements. The Army intends to continue the Army National Guard's current license of buildings.

Various U.S. Army National Guard and U.S. Army Reserve activities regularly train at Fort Dix. The post houses the National Guard High Technology Training Center, a unique facility providing state-of-the-art training devices for guardsmen and reservists in a 12-state area. Fort Dix's geographic proximity to a large portion of the nation's RC forces and the air and seaports of embarkation make it one of the most suitable RC Major Training Areas in the United States. This recommendation is consistent with the decision of the 1991 Commission, but better aligns the operation of the installation with its users.

Return on Investment: The total one-time cost to implement this recommendation is \$19 million. The net of all costs and savings during the implementation period is a savings of \$112 million. Annual recurring savings after implementation are \$38 million with a return on investment expected in one year. The net present value of the costs and savings over 20 years is a savings of \$478 million.

Impacts: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 1,164 jobs (739 direct jobs and 425 indirect jobs) over the 1996-to-2001 period in the Philadelphia, PA-NJ Primary Metropolitan Statistical Area, which represents less than 0.1 percent of the area's employment.

The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in this area over the 1994-to-2001 period could result in a maximum potential decrease equal to 1.2 percent of employment in the area. There are no known environmental impediments at the realigning or receiving installations.

Fort Hamilton, New York

Recommendation: Realign Fort Hamilton. Dispose of all family housing. Retain minimum essential land and facilities for existing Army units and activities. Relocate all Army Reserve units from Caven Point, New Jersey, to Fort Hamilton.

Justification: Fort Hamilton is low in military value compared to the other command and control/administrative support installations. The post has limited capacity for additional growth or military development. No new or additional missions are planned.

This proposal reduces the size of Fort Hamilton by about one-third to support necessary military missions in the most cost effective manner. The New York Area Command, which includes protocol support to the United Nations, will remain at Fort Hamilton. Another installation will assume the area support currently provided to the New York area.

The Armed Forces Reserve Center at Caven Point was built in 1941. Its sole mission is to support reserve component units. The buildings on the 35-acre parcel are in poor condition. Relocating to Fort Hamilton will allow the Army Reserve to eliminate operating expenses in excess of \$100 thousand per year.

Return on Investment: The total one-time cost to implement this recommendation is \$2 million. The net of all costs and savings during the implementation period is a savings of \$3 million. Annual recurring savings after implementation are \$7 million with an immediate return on investment. The net present value of the costs and savings over 20 years is a savings of \$74 million.

Impacts: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 85 jobs (52 direct jobs and 33 indirect jobs) over the 1996-to-2001 period in the New York, NY, Primary Metropolitan Statistical Area, which represents less than 0.1 percent of the area's employment.

The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in this area over the 1994-to-2001 period could result in a maximum potential decrease equal to 0.1 percent of employment in the area. There are no known environmental impediments at the realigning or receiving installations.

Kelly Support Center, Pennsylvania

Recommendation: Realign the Kelly Support Center by consolidating Army Reserve units onto three of its five parcels. Dispose of the remaining two parcels. Relocate the Army Reserve's leased maintenance activity in Valley Grove, WV, to the Kelly Support Center.

Justification: Kelly Support Center, a sub-installation of Fort Drum, NY, provides administrative and logistical support to Army Reserve units in western Pennsylvania. It comprises five separate parcels of property.

The Kelly Support Center is last in military value compared to other command and control/administrative support installations. Reserve usage is limited to monthly weekend drills. It possesses no permanent facilities or mobilization capability.

This proposal eliminates two parcels of property, approximately 232 acres and 500,000 square feet of semi-permanent structures, from the Army's inventory. Since there are no other feasible alternatives, the Army is retaining three small parcels for Army Reserve functions and Readiness Group Pittsburgh.

Relocating the Army's Reserve activity from Valley Grove Area Maintenance Support Activity, WV, to the Kelly Support Center consolidates it with its parent unit and saves \$28,000 per year in lease costs.

Return on Investment: The total one-time cost to implement this recommendation is \$36 million. The net of all costs and savings during the implementation period is a cost of \$22 million. Annual recurring savings after implementation are \$5 million with a return on investment expected in six years. The net present value of the costs and savings over 20 years is a savings of \$28 million.

Impacts: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 209 jobs (128 direct jobs and 81 indirect jobs) over the 1996-to-2001 period in the Allegheny, Fayette, Washington, & Westmoreland Counties, PA, area which represents less than 0.1 percent of the area's employment.

The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in this area over the 1994-to-2001 period could result in a maximum potential decrease equal to 0.1 percent of employment in the area. There are no known environmental impediments at the realigning or receiving installations.

Letterkenny Army Depot, Pennsylvania

Recommendation: Realign Letterkenny Army Depot by transferring the towed and self-propelled combat vehicle mission to Anniston Army Depot. Retain an enclave for conventional ammunition storage and tactical missile disassembly and storage. Change the 1993 Commission's decision regarding the consolidating of tactical missile maintenance at Letterkenny by transferring missile guidance system workload to Tobyhanna Army Depot.

Justification: Letterkenny Army Depot is one of the Army's five maintenance depots and one of three ground vehicle maintenance depots. Over time, each of the ground maintenance depots has become increasingly specialized. Anniston performs heavy combat vehicle maintenance and repair. Red River performs similar work on infantry fighting vehicles. Letterkenny Army Depot is responsible for towed and self-propelled artillery as well as DoD tactical missile repair. Like a number of other Army depots, Letterkenny receives, stores, and ships all types of ammunition items. A review of long range operational requirements supports a reduction of Army depots, specifically the consolidation of ground combat workload at a single depot.

The ground maintenance capacity of the three depots currently exceeds programmed work requirements by the equivalent of one to two depots. The heavy combat vehicle mission from Anniston cannot be absorbed at Letterkenny without major construction and facility renovations. Available maintenance capacity at Anniston and Tobyhanna makes the realigning Letterkenny to the two depots the most logical in terms of military value and cost effectiveness. Closure of Letterkenny is supported by the Joint Cross-Service Group for Depot Maintenance.

The Army's recommendation to transfer missile workload to Tobyhanna Army Depot preserves Letterkenny's missile disassembly and storage mission. It capitalizes on Tobyhanna's electronics focus and retains DoD missile system repair at a single Army depot.

Return on Investment: The total one-time cost to implement this recommendation is \$50 million. The net of all costs and savings during the implementation period is a savings of \$207 million. Annual recurring savings after implementation are \$78 million with an immediate return on investment. The net present value of the costs and savings over 20 years is a savings of \$952 million.

Impacts: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 4,126 jobs (2,090 direct jobs and 2,036 indirect jobs) over the 1996-to-2001 period in the Franklin County, PA area, which represents 6.6 percent of the area's employment.

The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in this area over the 1994-to-2001 period could result in a maximum potential decrease equal to 8.5 percent of employment in the area. There are no known environmental impediments at the realigning or receiving installations.

Fort Buchanan, Puerto Rico

Recommendation: Realign Fort Buchanan by reducing garrison management functions and disposing of family housing. Retain an enclave for the reserve components, Army and Air Force Exchange Service (AAFES) and the Antilles Consolidated School.

Justification: Fort Buchanan, a sub-installation of Fort McPherson, provides administrative, logistical and mobilization support to Army units and activities in Puerto Rico and the Caribbean region. Tenants include a U.S. Army Reserve headquarters, AAFES and a DoD-operated school complex. Although the post is managed by an active component garrison, it supports relatively few active component tenants. The family housing will close. The activities providing area support will relocate to Roosevelt Roads Navy Base and other sites. The Army intends to license buildings to the Army National Guard, that they currently occupy.

Return on Investment: The total one-time cost to implement this recommendation is \$74 million. The net of all costs and savings during the implementation period is a cost of \$50 million. Annual recurring savings after implementation are \$10 million with a return on investment expected in seven years. The net present value of the costs and savings over 20 years is a savings of \$45 million.

Impacts: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 289 jobs (182 direct jobs and 107 indirect jobs) over the 1996-to-2001 period in the San Juan, PR economic area which represents 0.1 percent of the area's employment. There are no known environmental impediments at the realigning or receiving installations.

Dugway Proving Ground, Utah

Recommendation: Realign Dugway Proving Ground by relocating the smoke and obscurant mission to Yuma Proving Ground, AZ, and some elements of chemical/biological research to Aberdeen Proving Ground, MD. Dispose of English Village and retain test and experimentation facilities necessary to support Army and DoD missions.

Justification: Dugway is low in military value compared to other proving grounds. Its test facilities conduct both open air and laboratory chemical/biological testing in support of various Army and DoD missions. The testing is important as are associated security and safety requirements. However, this recommendation enables the Army to continue these important missions and also reduce costly overhead at Dugway.

Yuma can assume Dugway's programmed smoke and obscurant testing. Aberdeen Proving Ground can accept the laboratory research and development portion of the chemical/biological mission from Dugway, since it is currently performing chemical and biological research in facilities that carry equivalent bio/safety levels. Open air and simulant testing missions will remain at Dugway.

The State of Utah has expressed an interest in using English Village and associated firing and training ranges at Dugway for the National Guard, including the establishment of an artillery training facility.

Return on Investment: The total one-time cost to implement this recommendation is \$25 million. The net of all costs and savings during the implementation period is a savings of \$61 million. Annual recurring savings after implementation are \$26 million with an immediate return on investment. The net present value of the costs and savings over 20 years is a savings of \$307 million.

Impacts: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 1,715 jobs (1,096 direct jobs and 619 indirect jobs) over the 1996-to-2001 period in the Tooele County, UT economic area, which represents 13.0 percent of the area's employment.

The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in this area over the 1994-to-2001 period could result in a maximum potential decrease equal to 36.6 percent of employment in the area. There are no known environmental impediments at the realigning or receiving installations.

Fort Lee, Virginia

Recommendation: Realign Fort Lee, by reducing Kenner Army Community Hospital to a clinic. Eliminate inpatient services.

Justification: This recommendation, suggested by the Joint Cross-Service Group on Medical Treatment, eliminates excess medical treatment capacity at Fort Lee, VA by eliminating inpatient services at Kenner Army Community Hospital. Inpatient care would be provided by other nearby military medical activities and private facilities through Civilian Health and Medical Program of the Uniformed Services (CHAMPUS).

Return on Investment: The total one-time cost to implement this recommendation is \$2 million. The net of all costs and savings during the implementation period is a savings of \$16 million. Annual recurring savings after implementation are \$4 million with a return on investment expected in one year. The net present value of the costs and savings over 20 years is a savings of \$51 million.

Impacts: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 321 jobs (205 direct jobs and 116 indirect jobs) over the 1996-to-2001 period in the Richmond-Petersburg, VA Metropolitan Statistical Area, which represents 0.1 percent of the area's employment.

The cumulative economic impact of all BRAC 95 recommendations and all prior round BRAC actions in this area over the 1994-to-2001 period could result in a maximum potential increase equal to 0.1 percent of employment in the area. There are no known environmental impediments at the closing or receiving installations.

Branch U.S. Disciplinary Barracks, Lompoc, California

Recommendation: Close Branch U.S. Disciplinary Barracks (USDB), Lompoc, CA.

Justification: Branch USDB, Lompoc consists of approximately 4,000 acres and 812,000 square feet of detention facilities. It is permitted to and operated by the Federal Bureau of Prisons. There are no Army activities on USDB, Lompoc. Accordingly, it is excess to the Army's requirements.

Return on Investment: There is no one-time cost to implement this recommendation. There are no costs and savings during the implementation period. There are no annual recurring savings after implementation. The net present value of the costs and savings over 20 years is a savings of \$0 million.

Impacts: This recommendation will not affect any jobs in the Santa Barbara-Santa Maria-Lompoc, CA economic area. There are no known environmental impediments at the closing site.

East Fort Baker, California

Recommendation: Close East Fort Baker. Relocate all tenants to other installations that meet mission requirements. Return all real property to the Golden Gate National Recreation Area.

Justification: East Fort Baker is at the north end of the Golden Gate Bridge in Marin County, CA. The post consists of approximately 347 acres and 390,000 square feet of facilities. It provides facilities and housing for the Headquarters, 91st Training Division (U.S. Army Reserve) and the 6th Recruiting Brigade, Army Recruiting Command. The 91st Training Division has a requirement to remain in the San Francisco Bay area, while the 6th Recruiting Brigade has a regional mission associated with the western United States. Both the 6th Recruiting Brigade and the 91st Training Division can easily relocate to other installations. The 91st Training Division will relocate to Parks Reserve Forces Training Area, where it better aligns with its training mission. Closing East Fort Baker saves operations and support costs by consolidating tenants to other military installations without major construction.

Return on Investment: The total one-time cost to implement this recommendation is \$8 million. The net of all costs and savings during the implementation period is a cost of \$1 million. Annual recurring savings after implementation are \$2 million with a return on investment expected in five years. The net present value of the costs and savings over 20 years is a savings of \$15 million.

Impacts: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 152 jobs (97 direct jobs and 55 indirect jobs) over the 1996-to-2001 period in the San Francisco, CA Primary Metropolitan Statistical Area, which represents less than 0.1 percent of the area's employment.

The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in this area over the 1994-to-2001 period could result in a maximum potential decrease equal to 0.5 percent of employment in the area. There are no known environmental impediments at the closing or receiving installations.

Rio Vista Army Reserve Center, California

Recommendation: Close Rio Vista Army Reserve Center.

Justification: Rio Vista Army Reserve Center consists of approximately 28 acres. It formerly supported an Army Reserve watercraft unit. Since Reserve Components no longer use Rio Vista Reserve Center, it is excess to the Army's requirements. Closing Rio Vista will save base operations and maintenance funds and provide reuse opportunities for approximately 28 acres.

Return on Investment: There is no one-time cost to implement this recommendation. The net of all costs and savings during the implementation period is a savings of \$1 million. Annual recurring savings after implementation are \$0.1 million with an immediate return on investment. The net present value of the costs and savings over 20 years is a savings of \$2 million.

Impacts: This recommendation will not affect any jobs in the Vallejo-Fairfield-NAPA, CA Primary Metropolitan Statistical Area. There are no known environmental impediments at the closing or receiving sites.

Stratford Army Engine Plant, Connecticut

Recommendation: Close Stratford Army Engine Plant.

Justification: The Stratford facility has produced engines for heavy armor vehicles and rotary wing aircraft. Reduced production requirements and the Army's increased capability for rebuild and repair have eliminated the need for the Stratford Army Engine Plant. There is no requirement for use of the installation by either the Active or Reserve Components.

The Army has an extensive capability to repair engines at Anniston and Corpus Christi Army Depots. The current inventory for these engines meets projected operational requirements. During mobilization, the capability to rebuild engines can be increased at both depots. In the event of an extended national emergency that would deplete stocks, the depots could reconfigure to assemble new engines from parts provided by the manufacturer until mothballed facilities become operational. Prior to closing the facility, the contractor will complete all existing contracts.

Return on Investment: The total one-time cost to implement this recommendation is \$2 million. The net of all costs and savings during the implementation period is a savings of \$24 million. Annual recurring savings after implementation are \$6 million with an immediate return on investment. The net present value of the costs and savings over 20 years is a savings of \$80 million.

Impacts: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 3 jobs (2 direct jobs and 1 indirect jobs) over the 1996-to-2001 period in the Fairfield County, CT economic area, which represents 0 percent of the area's employment. There are no known environmental impediments at the closing site.

Big Coppett Key, Florida

Recommendation: Close Big Coppett Key.

Justification: Big Coppett Key, an island near Key West, consists of approximately five acres and 3,000 square feet of facilities. Big Coppett Key formerly provided communications support to United States Army. Since the Army no longer uses Big Coppett Key, it is excess and to Army requirements. Closing Big Coppett Key will save base operations and maintenance funds and provide reuse opportunities.

Return on Investment: There is no one-time cost to implement this recommendation. The net of all costs and savings during the implementation period is a savings of \$0.05 million. Annual recurring savings after implementation are \$0.01 million with an immediate return on investment. The net present value of the costs and savings over 20 years is a savings of \$0.1 million.

Impacts: This recommendation will not affect any jobs in the Monroe County, FL economic area. There are no known environmental impediments at the closing site.

Concepts Analysis Agency, Maryland

Recommendation: Close by relocating Concepts Analysis Agency to Fort Belvoir, VA.

Justification: In 1993, the Commission suggested that DoD direct the Services to include a separate category for leased facilities to ensure a bottom-up review of leased space. The Army has conducted a review of activities in leased space to identify opportunities for relocation onto military installations. Because of the cost of leasing, the Army's goal is to minimize leased space when feasible, and maximize the use of government-owned space.

Since Army studies indicate that space is available at Fort Belvoir, the Concepts Analysis Agency can easily relocate with limited renovation. The annual cost of the current lease is \$1.5 million.

Return on Investment: The total one-time cost to implement this recommendation is \$3.7 million. The net of all costs and savings during the implementation period is a cost of \$0.4 million. Annual recurring savings after implementation are \$0.8 million with a return on investment expected in five years. The net present value of the costs and savings over 20 years is a savings of \$7 million.

Impacts: This recommendation will not result in a change in employment in the Washington, DC-MD-VA-WV Primary Metropolitan Statistical Area because all affected jobs will remain in that area. There are no known environmental impediments at the closing site or receiving installation.

Publications Distribution Center Baltimore, Maryland

Recommendation: Close by relocating the U.S. Army Publications Distribution Center, Baltimore to the U.S. Army Publications Center St. Louis, Missouri.

Justification: Consolidation of the U.S. Army Publications Distribution Center, Baltimore with the U.S. Army Publications Center, St. Louis, combines the wholesale and retail distribution functions of publication distribution into one location. The consolidation eliminates a manual operation at Baltimore in favor of an automated facility at St. Louis and creates efficiencies in the overall distribution process. This move consolidates two leases into one less costly lease.

Return on Investment: The total one-time cost to implement this recommendation is \$6 million. The net of all costs and savings during the implementation period is a savings of \$3 million. Annual recurring savings after implementation are \$3 million with a return on investment expected in two years. The net present value of the costs and savings over 20 years is a savings of \$35 million.

Impacts: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 213 jobs (131 direct jobs and 82 indirect jobs) over the 1996-to-2001 period in the Baltimore, MD Primary Metropolitan Statistical Area, which represents less than 0.1 percent of the area's employment.

The cumulative economic impact of all BRAC 95 recommendations and all prior round BRAC actions in this area over the 1994-to-2001 period could result in a maximum potential decrease equal to less than 0.1 percent of employment in the area. There are no known environmental impediments at the closing or receiving installations.

Hingham Cohasset, Massachusetts

Recommendation: Close Hingham Cohasset.

Justification: Hingham Cohasset, formerly a U.S. Army Reserve Center, is essentially vacant and is excess to the Army's requirements. The site consists of approximately 125 acres and 150,000 square feet of facilities. Closing Hingham Cohasset will save base operations and maintenance funds and provide reuse opportunities.

Return on Investment: There is no one-time cost to implement this recommendation. The net of all costs and savings during the implementation period is a savings of \$1 million. Annual recurring savings after implementation are \$0.2 million with an immediate return on investment. The net present value of the costs and savings over 20 years is a savings of \$2 million.

Impacts: This recommendation will not affect any jobs in the Boston-Worcester-Lawrence-Lowell-Brockton, MA-NH New England County Metropolitan Area. There are no known environmental impediments at the closing site.

Sudbury Training Annex, Massachusetts

Recommendation: Close Sudbury Training Annex.

Justification: Sudbury Training Annex, outside Boston, consists of approximately 2,000 acres and 200,000 square feet of facilities. The primary mission of Sudbury Training Annex is to provide storage facilities for various Department of Defense activities. Sudbury Training Annex is excess to the Army's requirements. Closing the annex will save base operations and maintenance funds and provide reuse opportunities for approximately 2,000 acres.

Return on Investment: The total one-time cost to implement this recommendation is \$1 million. The net of all costs and savings during the implementation period is a cost of \$0.1 million. Annual recurring savings after implementation are \$0.1 million with a return on investment expected in five years. The net present value of the costs and savings over 20 years is a savings of \$1 million.

Impacts: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 21 jobs (13 direct jobs and 8 indirect jobs) over the 1996-to-2001 period in the Essex-Middlesex-Suffolk-Plymouth and Norfolk Counties, MA, which represents less than 0.1 percent of the area's employment.

The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in this area over the 1994-to-2001 period could result in a maximum potential decrease equal to 0.1 percent of employment in the area. There are no known environmental impediments at the closing or receiving sites.

Aviation-Troop Command, Missouri

Recommendation: Disestablish Aviation-Troop Command (ATCOM), and close by relocating its missions/functions as follows:

- Relocate Aviation Research, Development & Engineering Center; Aviation Management; and Aviation Program Executive Offices to Redstone Arsenal, Huntsville, AL, to form the Aviation & Missile Command.
- Relocate functions related to soldier systems to Natick Research, Development, Engineering Center, MA, to align with the Soldier Systems Command.
- Relocate functions related to materiel management of communications-electronics to Fort Monmouth, NJ, to align with Communications-Electronics Command.
- Relocate automotive materiel management functions to Detroit Arsenal, MI, to align with Tank-Automotive and Armaments Command.

Justification: In 1993, the Commission suggested that DoD direct the Services to include a separate category for leased facilities to ensure a bottom-up review of leased space. The Army has conducted a review of activities in leased space to identify opportunities for relocation onto military installations. Because of the cost of leasing, the Army's goal is to minimize leased space, when feasible, and maximize the use of government-owned facilities.

In 1991, the Commission approved the merger of Aviation Systems Command and Troop Systems Command (ATCOM). It also recommended that the Army evaluate the relocation of these activities from leased space to government-owned facilities and provide appropriate recommendations to a subsequent Commission. In 1993, the Army studied the possibility of relocating ATCOM to a military installation and concluded it would be too costly. It is evident that restructuring ATCOM now provides a financially attractive opportunity to relocate.

Significant functional efficiencies are also possible by separating aviation and troop support commodities and relocating these functions to military installations. The aviation support functions realign to Redstone Arsenal to form a new Aviation & Missiles Command. The troop support functions realign to Natick, MA to align with the new Soldier Systems Command.

This recommendation preserves crucial research and development functions while optimizing operational efficiencies. Moving elements of ATCOM to Natick and Redstone Arsenal improves the synergistic effect of research, development and engineering, by facilitating the interaction between the medical, academic, and industrial communities already present in these regions. Vacating the St. Louis lease will collocate/consolidate similar life cycle functions at military installations for improved efficiencies and effectiveness.

Return on Investment: The total one-time cost to implement this recommendation is \$146 million. The net of all costs and savings during the implementation period is a savings of \$9 million. Annual recurring savings after implementation are \$46 million with a return on investment expected in three years. The net present value of the costs and savings over 20 years is a savings of \$453 million.

Impacts: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 7,679 jobs (4,731 direct jobs and 2,948 indirect jobs) over the 1996-to-2001 period in the St. Louis, MO-IL Metropolitan Statistical Area, which represents 0.5 percent of the area's employment.

The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in this area over the 1994-to-2001 period could result in a maximum potential decrease equal to 0.6 percent of employment in the area. There are no known environmental impediments at the closing site or receiving installations.

Fort Missoula, Montana

Recommendation: Close Fort Missoula, except an enclave for minimum essential land and facilities to support the Reserve Component units.

Justification: Fort Missoula consists of approximately 35 acres and 180,000 square feet of facilities. It provides administration, supply, training, maintenance, logistics support to Reserve Component forces. The post also provides facilities for the United States Forest Service. Fort Missoula has land and facilities excess to the Army's requirements. Closing Fort Missoula will save base operations and maintenance funds and provide reuse opportunities for approximately 25 acres. The Army intends to continue to license buildings and land currently occupied by the Army National Guard.

Return on Investment: The total one-time cost to implement this recommendation is \$0.4 million. The net of all costs and savings during the implementation period is a savings of \$0.5 million. Annual recurring savings after implementation are \$0.2 million with a return on investment expected in two years. The net present value of the costs and savings over 20 years is a savings of \$2 million.

Impacts: This recommendation will not affect any jobs in the Missoula County, MT economic area. There are no known environmental impediments at the closing or receiving installations.

Camp Kilmer, New Jersey

Recommendation: Close Camp Kilmer, except an enclave for minimum necessary facilities to support the Reserve Components.

Justification: Camp Kilmer consists of approximately 75 acres and 331,000 square feet of facilities. The camp provides administration, supply, training, maintenance, and logistics support to Reserve Component forces. The vast majority of the site is excess to the Army's requirements. Closing Camp Kilmer will save base operations and maintenance funds and provide reuse opportunities for approximately 56 acres.

Return on Investment: The total one-time cost to implement this recommendation is \$0.1 million. The net of all costs and savings during the implementation period is a savings of \$1 million. Annual recurring savings after implementation are \$0.2 million with a return on investment expected in one year. The net present value of the costs and savings over 20 years is a savings of \$3 million.

Impacts: This recommendation will not affect any jobs in the Middlesex-Somerset-Hunterdon, NY Metropolitan Statistical Area. There are no known environmental impediments at the closing or receiving installations.

Caven Point Army Reserve Center, New Jersey

Recommendation: Close Caven Point U. S. Army Reserve Center. Relocate its reserve activities to the Fort Hamilton, NY, provided the recommendation to realign Fort Hamilton is approved.

Justification: Caven Point U.S. Army Reserve Center (USARC) is located near Jersey City, NJ, and consists of approximately 45,000 square feet of administrative and maintenance facilities on 35 acres. It is overcrowded and in generally poor condition. The primary mission of Caven Point USARC is to provide administrative, logistics and maintenance support to the Army Reserve. The consolidation of tenants from Caven Point USARC with Reserve Component activities remaining on Fort Hamilton will achieve savings in operations costs.

Return on Investment: The cost and savings information for the closure of Caven Point U.S. Army Reserve Center is included in the recommendation for Fort Hamilton, NY.

Impacts: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 4 jobs (3 direct jobs and 1 indirect job) over the 1996-to-2001 period in the Jersey City, NJ, Primary Metropolitan Statistical Area which represents less than 0.1 percent of the area's employment.

The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in this area over the 1994-to-2001 period could result in a maximum potential decrease equal to 0.8 percent of employment in the area. There are no known environmental impediments at the closing or receiving installations.

Camp Pedricktown, New Jersey

Recommendation: Close Camp Pedricktown, except the Sievers-Sandberg Reserve Center.

Justification: Camp Pedricktown consists of approximately 82 acres and 260,000 square feet of facilities. Its primary mission is to provide administration, supply, training, maintenance, and logistics support to Reserve Component forces. The vast majority of Camp Pedricktown's land and facilities are excess to Army requirements. Closing it will save base operations and maintenance funds and provide reuse opportunities for approximately 60 acres.

Return on Investment: The total one-time cost to implement this recommendation is \$0.1 million. The net of all costs and savings during the implementation period is a savings of \$2 million. Annual recurring savings after implementation are \$0.4 million with an immediate return on investment. The net present value of the costs and savings over 20 years is a savings of \$5 million.

Impacts: This recommendation will not affect any jobs in the Philadelphia, PA-NJ Primary Metropolitan Statistical Area. There are no known environmental impediments at the closing or receiving installations.

Bellmore Logistics Activity, New York

Recommendation: Close Bellmore Logistics Activity.

Justification: Bellmore Logistics Activity, located on Long Island, consists of approximately 17 acres and 180,000 square feet of facilities. It formerly provided maintenance and logistical support to Reserve Component units. Since Reserve Components no longer use Bellmore Logistics Activity, it is excess to the Army's requirements. Closing Bellmore Logistics Activity will save base operations and maintenance funds and provide reuse opportunities.

Return on Investment: There is no one-time cost to implement this recommendation. The net of all costs and savings during the implementation period is a savings of \$2 million. Annual recurring savings after implementation are \$0.3 million with an immediate return on investment. The net present value of the costs and savings over 20 years is a savings of \$5 million.

Impacts: This recommendation will not affect any jobs in the Nassau-Suffolk, NY Primary Metropolitan Statistical Area. There are no known environmental impediments at the closing site.

Fort Totten, New York

Recommendation: Close Fort Totten, except an enclave for the U. S. Army Reserve. Dispose of family housing.

Justification: Fort Totten, a sub-installation of Fort Hamilton, provides administrative and logistical support to Army Reserve units in the New York City metropolitan area.

Fort Totten is low in military value compared to other command and control/administrative support installations. The post has limited capacity for growth or further military development.

Fort Totten is home to the Ernie Pyle U.S. Army Reserve Center, the largest in the country. Realignment of the Center to nearby Fort Hamilton is not possible since Fort Hamilton has little available space. Therefore, the Army decided to retain this facility as a reserve enclave.

Return on Investment: The total one-time cost to implement this recommendation is \$4 million. The net of all costs and savings during the implementation period is a savings of \$0.1 million. Annual recurring savings after implementation are \$2 million with a return on investment expected in one year. The net present value of the costs and savings over 20 years is a savings of \$17 million.

Impacts: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 69 jobs (43 direct jobs and 26 indirect jobs) over the 1996-to-2001 period in the New York, NY Primary Metropolitan Statistical Area, which represents less than 0.1 percent of the area's employment.

The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in this area over the 1994-to-2001 period could result in a maximum potential decrease equal to 0.1 percent of employment in the area. There are no known environmental impediments at the closing or receiving installations.

Recreation Center #2, North Carolina

Recommendation: Close Recreation Center #2, Fayetteville, NC.

Justification: Recreation Center #2 consists of approximately four acres and 17,000 square feet of community facilities. Recreation Center #2 is currently being leased to the city of Fayetteville, NC, and is excess to the Army's requirements. Closing Recreation Center #2 will provide reuse opportunities.

Return on Investment: There are no costs associated with this recommendation.

Impacts: This recommendation will not affect any jobs in the Fayetteville, NC Metropolitan Statistical Area. There are no known environmental impediments at the closing site.

Information Systems Software Command (ISSC), Virginia

Recommendation: Close by relocating Information Systems Software Command to Fort Meade, MD.

Justification: In 1993, the Commission suggested DoD direct the Services to include a separate category for leased facilities to ensure a bottom-up review of leased space. The Army has conducted a review of activities in leased space to identify opportunities for relocation onto military installations. Because of the cost of leasing, the Army's goal is to minimize leased space, when feasible, and maximize the use of government-owned facilities.

This activity can relocate easily for a minor cost. The annual cost of the current lease is \$2 million.

Return on Investment: The total one-time cost to implement this recommendation is \$6 million. The net of all costs and savings during the implementation period is a cost of \$2 million. Annual recurring savings after implementation are \$1 million with a return on investment expected in six years. The net present value of the costs and savings over 20 years is a savings of \$8 million.

Impacts: This recommendation will not result in a change in employment in the Washington, DC-MD-VA-WV Primary Metropolitan Statistical Area because all affected jobs will remain in that area. There are no known environmental impediments at the closing site or receiving installation.

Camp Bonneville, Washington

Recommendation: Close Camp Bonneville.

Justification: Camp Bonneville consists of approximately 4,000 acres and 178,000 square feet of facilities. The primary mission of Camp Bonneville is to provide training facilities for Active and Reserve units. Training currently conducted at Camp Bonneville will be shifted to Fort Lewis, Washington. Accordingly, Camp Bonneville is excess to the Army's requirements. Closing the camp will save base operations and maintenance funds and provide reuse opportunities.

Return on Investment: The total one-time cost to implement this recommendation is \$0.04 million. The net of all costs and savings during the implementation period is a savings of \$0.8 million. Annual recurring savings after implementation are \$0.2 million with an immediate return on investment. The net present value of the costs and savings over 20 years is a savings of \$2 million.

Impacts: This recommendation will not affect any jobs in the Portland-Vancouver, OR-WA economic area. There are no known environmental impediments at the closing site.

Valley Grove Area Maintenance Support Activity, West Virginia

Recommendation: Close Valley Grove Area Maintenance Support Activity (AMSA). Relocate reserve activity to the Kelly Support Center, PA, provided the recommendation to realign Kelly Support Center is approved.

Justification: Valley Grove AMSA, located in Valley Grove, WV, consists of approximately 10,000 square feet of leased maintenance facilities. Its primary mission is to provide maintenance support to Army Reserve activities. Consolidating tenants from Valley Grove AMSA with the Reserve Component activities remaining on Kelly Support Center will reduce the cost of operation.

Return on Investment: The cost and savings information for the closure of Valley Grove AMSA is included in the recommendation for Charles E. Kelly Support Center.

Impacts: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 10 jobs (7 direct jobs and 3 indirect jobs) over the 1996-to-2001 period in the Wheeling, WV-OH, Metropolitan Statistical Area, which is less than 0.1 percent of the areas employment. There are no known environmental impediments at the closing or receiving installations.

Tri-Service Project Reliance

Recommendation: Change the recommendation of the 1991 Commission regarding Tri-Service Project Reliance. Upon disestablishment of the U.S. Army Biomedical Research Development Laboratory (USABRDL) at Fort Detrick, MD, do not collocate environmental and occupational toxicology research with the Armstrong Laboratory at Wright-Patterson Air Force Base, OH. Instead relocate the health advisories environmental fate research and military criteria research functions of the Environmental Quality Research Branch to the U.S. Army Environmental Hygiene Agency (AEHA), Aberdeen Proving Ground, MD, and maintain the remaining functions of conducting non-mammalian toxicity assessment models and on-site biomonitoring research of the Research Methods Branch at Fort Detrick as part of Headquarters, U.S. Army Medical Research and Materiel Command.

Justification: There are no operational advantages that accrue by relocating this activity to Wright-Patterson AFB. Substantial resources were expended over the last 15 years to develop this unique laboratory currently used by researchers from across the DoD, other federal agencies and the academic community. No facilities are available at Wright-Patterson to accommodate this unique aquatic research activity, which supports environmental quality R&D initiatives developing cost effective alternatives to the use of mammalian species in toxicity testing. Significant new construction is required at Wright Patterson to duplicate facilities at Fort Detrick to continue this critical research. No construction is required at Aberdeen Proving Ground. Furthermore, the quality of water required for the culture of aquatic animals used in this research is not adequate at Wright-Patterson. This would necessitate additional construction and result in either several years of costly overlapping research in Maryland and Ohio, or the loss of over 10 years experience with the unique lab colonies used at Fort Detrick. The Navy and the Air Force agree that true research synergy is possible without executing the planned relocation.

Return on Investment: The total one-time cost to implement this recommendation is \$0.3 million. The net of all costs and savings during the implementation period is a savings of \$4 million. There are no annual recurring savings after implementation. The net present value of the costs and savings over 20 years is a savings of \$4 million.

Impacts: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 15 jobs (9 direct jobs and 6 indirect jobs) over the 1996-to-2001 period in the Washington, DC-MD-VA-WV Primary Metropolitan Statistical Area, which is less than 0.1 percent of the areas employment.

The cumulative economic impact of all BRAC 95 recommendations and all prior round BRAC actions in this area over the 1994-to-2001 period could result in a maximum potential decrease equal to 0.6 percent of employment in the area. There are no known environmental impediments at the closing or receiving installations.

Department of the Navy Selection Process

Introduction

Building upon the experience gained during BRAC 93, the Secretary of the Navy established policies, procedures, organizations, and internal controls that ensured that the process in the Department of the Navy (DON) for making base closure and realignment recommendations to the Secretary of the Defense was sound and in compliance with the Base Closure Act. The Secretary of the Navy established a Base Structure Evaluation Committee (BSEC) for the analyses and deliberations required to satisfy the Base Closure Act, and a Base Structure Analysis Team (BSAT) to provide staff support to the BSEC.

The Selection Process

Under the oversight and guidance of the Under Secretary of the Navy, the BSEC had eight members, consisting of senior DON career civilians and Navy flag and Marine Corps general officers who were responsible for developing recommendations for closure and realignment of DON military installations for approval by the Secretary of the Navy. The BSEC was required to evaluate Navy and Marine Corps installations in accordance with the Base Closure Act, to comply with appropriate guidance from higher levels, to ensure audibility by the Comptroller General, and to ensure operational factors were considered. In conducting its evaluation, the BSEC applied the final selection criteria for selecting bases for closure or realignment and based its recommendations on the FY 2001 force structure plan.

The BSAT was composed of military and civilian analysts who were tasked to collect data and to perform analysis for the BSEC. Additionally, the Naval Audit Service and the Office of General Counsel were integrally involved in the process. The Naval Audit Service reviewed the activities of the BSEC and the BSAT to ensure compliance with the approved Internal Control Plan and audited the accuracy and reliability of data provided by DON activities. The Office of the General Counsel provided senior-level legal advice and counsel.

In compliance with the Internal Control Plan, a Base Structure Data Base (BSDB) was developed and contained relevant information on all DON military installations subject to the Base Closure Act. The BSEC used the data base as the baseline for its evaluation of DON military installations, leading to development of recommendations for closure and realignment. Pursuant to the certification policy promulgated by the Secretary of the Navy to comply with the provisions of the Base Closure Act, data which was included in the Base Structure Data Base had to be certified as accurate and complete by the officer or civilian employee who initially generated data in response to the BSEC request for information, and then at each succeeding level of the chain of command. In conjunction with the requirement to keep records of all meetings that were part of the decision making process, the Base Structure Data Base and the certification policy were designed to ensure the accuracy, completeness, and integrity of the information upon which the DON recommendations were based.

The senior leadership of the Navy and Marine Corps was substantially involved in the process. Policy issues and basic principles that affect basing and infrastructure requirements were articulated, and comments were solicited from the major "owner/operators" of Navy and Marine Corps installations on Fleet operations, support, and readiness impacts. Additionally, the relationship between the Military Departments and the Office of the Secretary of Defense (OSD) for BRAC 95 was more formalized and more robust than in prior rounds. The DON was significantly represented on every OSD BRAC 95 group.

In order to comply with the requirements of the Base Closure Act relating to evaluation using the force structure plan and the selection criteria, the first step in the process was to categorize and aggregate installations for analysis. Based on a review of the Secretary of the Navy's responsibilities under Title 10 of the U.S. Code to operate, maintain, train, and support the operating forces within the DON, the BSEC developed five major categories for organizing its military installations for analysis and evaluation: Operational Support, Industrial Support, Technical Centers/Laboratories, Educational/Training, and Personnel Support/Other. These categories were then further divided into 27 subcategories to ensure that like installations were compared to one another and to allow identification of total capacity and military value for an entire category of installations. Within these 27 subcategories were 830 individual Navy or Marine Corps installations or activities, each of which was reviewed during the BRAC 95 process.

Data calls were issued to these installations, tailored to the subcategory in which the activity was grouped, to obtain the relevant certified information relating to capacity and military value. "Conglomerate" activities having more than one significant mission received multiple military value and capacity data calls relating to those missions. The certified responses to these data calls were entered into the Base Structure Data Base and formed the sole basis for BSEC determinations.

Capacity analysis compared the present base structure to the future force structure requirement for each subcategory of installations to determine whether excess base structure capacity existed. The capacity measures were the appropriate "throughput" for each type of installation. If total capacity was greater than the future required capacity, excess capacity was determined to exist, and the military value of each installation in a subcategory was evaluated. If there was no meaningful excess capacity, no further closure or realignment analysis was conducted. Of the 27 subcategories, eight of them demonstrated either little or no excess capacity.

The remaining 19 subcategories underwent military value analysis to assess the relative military value of installations within a subcategory, using a quantitative methodology that was as objective as possible. The foundation of the analysis was the military value criteria, which are the first four of the eight selection criteria issued by the Secretary of Defense. Information from the military value data call responses was displayed in a matrix, scored by the BSEC according to relative importance for a particular subcategory. A military value score for a particular

installation is a relative measure of military value only within the context of the subcategory in which that installation was analyzed, in order to compare one installation in a subcategory against another installation in that category.

The results of the capacity analyses and military value analyses were then combined in that stage of the process called configuration analysis. The purpose of configuration analysis was to identify, for each subcategory of installations, sets of installations that best meet the needs of the Navy and Marine Corps, in light of future requirements, while eliminating the most excess capacity. Multiple solutions were generated that would satisfy capacity requirements for the future force structure while maintaining the average military value of the retained installations at a level equal to or greater than the average military value for all of the installations in the subcategory.

The configuration analysis solutions were then used by the BSEC as the starting point for the application of military judgment in the development of potential closure and realignment scenarios to undergo return on investment analysis. Scenario development was an iterative process in which results of COBRA analyses and inputs from the senior Defense leadership were used to generate additional options. The input received from the Fleet CINC's, the major claimants (including the SYSCOM Commanders), and the DON civilian leadership was an integral part of scenario development. The CINCs and major claimants provided input both directly, during meetings, and indirectly, through COBRA scenario data call responses. Additionally, the Joint Cross-Service Groups generated numerous alternatives derived from their analysis of data and information provided by the Military Departments. From alternatives proposing closure or realignment of DON activities, all but one of the Depot Maintenance alternatives, all of the significant Laboratory alternatives, all of the Military Treatment Facilities alternatives, all of the significant Test and Evaluation alternatives, and all of the Undergraduate Pilot Training alternatives resulted in COBRA scenario data calls. As a result of the scenario development portion of the process, the BSEC developed 174 scenarios involving 119 activities.

COBRA analyses were conducted on all of these scenarios, using certified responses to COBRA scenario data calls from the chains of command of affected installations and their tenants. In analyzing these responses, the BSEC aggressively challenged cost estimates to ensure both their consistency with standing policies and procedures and their reasonableness. With reductions in budgets, numbers of programs, and numbers of systems being produced, the BSEC reviewed the data call responses to ensure that outyear requirements were appropriately reduced in terms of personnel, facilities, and capacities of remaining facilities. The BSEC used the COBRA algorithms as a tool to ensure that its recommendations were cost effective. As a result, the estimated upfront costs are the lowest of any round of base closure, and the longest period for return on investment of any recommendation is four years. Most recommendations will obtain an immediate return on investment, with savings offsetting costs of closure within the closure period.

The impact on the local economic area for each DON installation considered for closure or realignment was calculated using the DoD BRAC 95 Economic Impact Data Base. The DON is very concerned about economic impact and has made every effort to fully understand all of the

economic impacts its recommendations might have on local communities. The BSEC also evaluated the ability of the existing local community infrastructure at potential receiving installations to support additional missions and personnel. The impact of increases in base personnel on such infrastructure items as off-base housing availability, public and private schools, public transportation, fire and police protection, health care facilities, and public utilities was assessed. No significant community infrastructure impacts were identified for any of the DON proposed closure or realignment actions.

Once the BSEC had determined the serious candidates for closure or realignment, an environmental summary was prepared which compared the environmental management efforts at losing and gaining sites. Differences in environmental management effort were presented as they relate to such programs as threatened/endangered species, wetlands, cultural resources, land use, air quality, environmental facilities, and installation restoration sites. The environmental impact analysis permitted the BSEC to obtain a comprehensive picture of the potential environmental impacts arising from the recommendations for closure and realignment. No significant environmental impacts were identified for any scenario which would support reconsideration of any recommendation.

Naval Air Facility, Adak, Alaska

Recommendation: Close Naval Air Facility, Adak, Alaska.

Justification: Despite the large reduction in operational infrastructure accomplished during the 1993 round of base closure and realignment, since DON force structure experiences a reduction of over 10 percent by the year 2001, there continues to be additional excess capacity that must be eliminated. In evaluating operational bases, the goal was to retain only that infrastructure necessary to support the future force structure without impeding operational flexibility for deployment of that force. In the case of Naval Air Facility, Adak, Alaska, the Navy's anti-submarine warfare surveillance mission no longer requires these facilities to base or support its aircraft. Closure of this activity reduces excess capacity by eliminating unnecessary capabilities and can be accomplished with no loss in mission effectiveness.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$9.4 million. The net of all costs and savings during the implementation period is a savings of \$108 million. Annual recurring savings after implementation are \$26 million with an immediate return on investment expected. The net present value of the costs and savings over 20 years is a savings of \$354.8 million.

Impacts:

Economic Impact on Communities: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 894 jobs (678 direct jobs and 216 indirect jobs) over the 1996-to-2001 period in the Aleutians West Census Area economic area, which is 10.4 percent of economic area employment. However, the geography of the Aleutian Islands localizes economic effects, and no loss is anticipated from the closure of NAF Adak beyond the direct job loss.

Community Infrastructure Impact: There is no community infrastructure impact since there are no receiving installations for this recommendation.

Environmental Impact: The closure of Naval Air Facility, Adak will have a positive effect on the environment in that, even though NAF Adak is in an attainment area for carbon monoxide, ozone, and PM-10, a source of ozone will be removed, further improving already favorable air quality. In an area with few air emission sources present, cessation of air emissions from this facility will enhance the natural state of the western Alaska region. Also, there is no adverse impact on threatened/endangered species, sensitive habitats and wetlands, or cultural/historical resources occasioned by this recommendation.

Naval Shipyard, Long Beach, California

Recommendation: Close the Naval Shipyard Long Beach, California, except retain the sonar dome government-owned, contractor-operated facility and those family housing units needed to fulfill Department of the Navy requirements, particularly those at Naval Weapons Station, Seal Beach, California. Relocate necessary personnel to other naval activities as appropriate, primarily Naval Weapons Station, Seal Beach and naval activities in the San Diego, California, area.

Justification: Despite substantial reductions in depot maintenance capability accomplished in prior base closure evolutions, as force levels continue to decline, there is additional excess capacity that needs to be eliminated. Force structure reductions by the year 2001 eliminate the requirement for the Department of the Navy to retain this facility, including its large-deck drydocking capability. As a result of BRAC 91, the adjoining Naval Station Long Beach was closed, and some of its assets were transferred to the naval shipyard for "ship support functions." Of those transferred assets, only those housing units required to fulfill Department of the Navy requirements in the local commuting area will be retained after closure of the naval shipyard.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$74.5 million. The net of all costs and savings during the implementation period is a savings of \$725.6 million. Annual recurring savings after implementation are \$130.6 million with an immediate return on investment expected. The net present value of the costs and savings over 20 years is a savings of \$1,948.6 million.

Impacts:

Economic Impact on Communities: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 13,261 jobs (4,029 direct jobs and 9,232 indirect jobs) over the 1996-to-2001 period in the Los Angeles-Long Beach, California PMSA economic area, which is 0.3 percent of economic area employment. The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in the economic area over the 1994-to-2001 period could result in a maximum potential decrease equal to 0.4 percent of employment in the economic area.

Community Infrastructure Impact: There is no known community infrastructure impact at any receiving installation.

Environmental Impact: The closure of Long Beach Naval Shipyard will have a positive impact on the local environment. The removal of a major industrial activity from an area that is in non-attainment for carbon monoxide, ozone, and PM-10 will be of substantial benefit to the air quality of this area. Similarly, the workload and small numbers of personnel being relocated to other activities are not expected to adversely impact the environment of geographic areas in which those activities are located. There are no adverse impacts to threatened/endangered species, sensitive habitats and wetlands, or cultural/historical resources occasioned by this recommendation.

Ship Repair Facility, Guam

Recommendation: Close the Naval Ship Repair Facility (SRF), Guam, except transfer appropriate assets, including the piers, the floating drydock, its typhoon basin anchorage, the recompression chamber, and the floating crane, to Naval Activities, Guam.

Justification: Despite substantial reductions in depot maintenance capability accomplished in prior base closure evolutions, as force levels continue to decline, there is additional excess capacity that needs to be eliminated. While operational and forward basing considerations require access to Guam, a fully functional ship repair facility is not required. The workload of SRF Guam can be entirely met by other Department of the Navy facilities. However, retention of the waterfront assets provides the DON with the ability to meet voyage repair and emergent requirements that may arise in the Western Pacific.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$8.4 million. The net of all costs and savings during the implementation period is a savings of \$171.9 million. Annual recurring savings after implementation are \$37.8 million with an immediate return on investment expected. The net present value of the costs and savings over 20 years is a savings of \$529 million.

Impacts:

Economic Impact on Communities: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 1,321 jobs (663 direct jobs and 658 indirect jobs) over the 1996-to-2001 period in the Agana, Guam economic area, which is 2.0 percent of economic area employment. The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in the economic area over the 1994-to-2001 period could result in a maximum potential decrease equal to 10.6 percent of employment in the economic area. However, much of this impact involves the inclusion of Military Sealift Command mariners in the job loss statement, which does not reflect the temporary nature of their presence on Guam.

Community Infrastructure Impact: There is no known community infrastructure impact at any receiving installation.

Environmental Impact: The closure of the Ship Repair Facility Guam will have a generally positive impact on the environment because a significant industrial operation will be closed, including the removal of stationary emission sources associated with this operation. This will be a benefit to an already positive air quality situation on Guam. Further, this closure will not have an adverse impact on threatened/endangered species, sensitive habitats and wetlands, or cultural/historical resources.

Naval Air Warfare Center, Aircraft Division, Indianapolis, Indiana

Recommendation: Close the Naval Air Warfare Center (NAWC), Aircraft Division, Indianapolis, Indiana. Relocate necessary functions along with associated personnel, equipment and support to other naval technical activities, primarily Naval Surface Warfare Center, Crane, Indiana; Naval Air Warfare Center, Aircraft Division, Patuxent River, Maryland; and Naval Air Warfare Center, Weapons Division, China Lake, California.

Justification: There is an overall reduction in operational forces and a sharp decline of the DON budget through FY 2001. Specific reductions for technical centers are difficult to determine, because these activities are supported through customer orders. However, the level of forces and the budget are reliable indicators of sharp declines in technical center workload through FY 2001, which leads to a recognition of excess capacity in these activities. This excess and the imbalance in force and resource levels dictate closure/realignment or consolidation of activities wherever practicable. This recommended closure results in the closure of a major technical center and the relocation of its principal functions to three other technical centers, realizing both a reduction in excess capacity and significant economies while raising aggregate military value.

Return on Investment: The return on investment data below applies to the closure of Naval Surface Warfare Center Louisville and the closure of NAWC Indianapolis. The total estimated one-time cost to implement these recommendations is \$180 million. The net of all costs and savings during the implementation period is a cost of \$26.8 million. Annual recurring savings after implementation are \$67.8 million with a return on investment expected in two years. The net present value of the costs and savings over 20 years is a savings of \$639.9 million.

Impacts:

Economic Impact on Communities: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 7,659 jobs (2,841 direct jobs and 4,818 indirect jobs) over the 1996-to-2001 period in the Boone-Hamilton-Hancock-Hendricks-Johnson-Marion-Morgan-Shelby Counties, Indiana, economic area, which is 0.9 percent of economic area employment. The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in the economic area over the 1994-to-2001 period could result in a maximum potential decrease equal to 2.2 percent of employment in the economic area.

Community Infrastructure Impact: There is no known community infrastructure impact at any receiving installation.

Environmental Impact: The closure of NAWC Indianapolis will have a positive effect on the environment because of the movement out of a region that is in marginal non-attainment for ozone. All three of the receiving sites (NSWC Crane, NAWC China Lake, and NAWC Patuxent River) are in areas that are in attainment for carbon monoxide, and the relocation of personnel from Indianapolis is not expected to have a significant effect on base operations at these sites. The utility infrastructure at each of these receiving bases is sufficient to handle these additional personnel, and this closure will not adversely impact threatened/endangered species, sensitive habitats and wetlands, or cultural/historical resources.

Naval Surface Warfare Center, Crane Division Detachment, Louisville, Kentucky

Recommendation: Close the Naval Surface Warfare Center, Crane Division Detachment, Louisville, Kentucky. Relocate appropriate functions, personnel, equipment, and support to other naval activities, primarily the Naval Shipyard, Norfolk, Virginia; the Naval Surface Warfare Center, Port Hueneme, California; and the Naval Surface Warfare Center, Crane, Indiana.

Justification: There is an overall reduction in operational forces and a sharp decline of the DON budget through FY 2001. Specific reductions for technical centers are difficult to determine, because these activities are supported through customer orders. However, the level of forces and the budget are reliable indicators of sharp declines in technical center workload through FY 2001, which leads to a recognition of excess capacity in these activities. This excess and the imbalance in force and resource levels dictate closure/realignment or consolidation of activities wherever practicable. Consistent with the Department of the Navy's efforts to remove depot level maintenance workload from technical centers and return it to depot industrial activities, this action consolidates ships' systems (guns) depot and general industrial workload at NSYD Norfolk, which has many of the required facilities in place. The functional distribution of workload in this manner offers an opportunity for cross-servicing part of the gun plating workload to the Watervliet Arsenal in New York. System integration engineering will relocate to NSWC Port Hueneme, with the remainder of the engineering workload and Close-in-Weapons System (CIWS) depot maintenance functions relocating to NSWC Crane. The closure of this activity not only reduces excess capacity, but relocation of functional workload to activities performing similar work will result in additional efficiencies and economies in the management of those functions.

Return on Investment: The return on investment data below applies to the closure of NSWC Louisville and the closure of NAWC Indianapolis. The total estimated one-time cost to implement these recommendations is \$180 million. The net of all costs and savings during the implementation period is a cost of \$26.8 million. Annual recurring savings after implementation are \$67.8 million with a return on investment expected in two years. The net present value of the costs and savings over 20 years is a savings of \$639.9 million.

Impacts:

Economic Impact on Communities: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 3,791 jobs (1,464 direct jobs and 2,327 indirect jobs) over the 1996-to-2001 period in the Louisville, Kentucky-Indiana MSA economic area, which is 0.7 percent of economic area employment.

Community Infrastructure Impact: There is no known community infrastructure impact at any receiving installation.

Environmental Impact: The closure of NSWC Louisville will have a generally positive impact on the environment because a major industrial operation will be closing in an area that is in moderate non-attainment for ozone. To the extent the relocations from this recommendation trigger the requirement for a conformity determination to assess the impact on the air quality of the areas in which each of the receiving sites are located, such determinations will be prepared. One of the most significant environmental benefits resulting from this recommendation is the transfer of workload from NSWC Louisville to the Watervliet Arsenal, New York, to accomplish plating operations which the Norfolk Naval Shipyard currently cannot perform. This transfer reduces the DoD-wide facilities required to perform the programmed plating work. There are no impacts on threatened/endangered species, sensitive habitats and wetlands, or cultural resources occasioned by this recommendation.

Naval Surface Warfare Center, Dahlgren Division Detachment, White Oak, Maryland

Recommendation: Close the Naval Surface Warfare Center, Dahlgren Division Detachment, White Oak, Maryland. Relocate the functions, personnel and equipment associated with Ship Magnetic Signature Control R&D Complex to the Naval Surface Warfare Center, Carderock, Maryland, and the functions and personnel associated with reentry body dynamics research and development to the Naval Surface Warfare Center, Dahlgren, Virginia.

Justification: There is an overall reduction in operational forces and a sharp decline of the DON budget through FY 2001. Specific reductions for technical centers are difficult to determine, because these activities are supported through customer orders. However, the level of forces and the budget are reliable indicators of sharp declines in technical center workload through FY 2001, which leads to a recognition of excess capacity in these activities. This excess and the imbalance in force and resource levels dictate closure/realignment or consolidation of activities wherever practicable. Closure of the Naval Surface Warfare Center, Dahlgren Division Detachment, White Oak, Maryland, reduces this excess capacity, and its consolidation with two other major technical centers that already have capability will result in further economies and efficiencies. This closure also eliminates unnecessary capabilities, since a few Navy facilities were left at NSWC White Oak only because Naval Sea Systems Command was relocating there as a result of BRAC 93. However, those facilities can be excessed, and the Naval Sea Systems Command can be easily accommodated at the Washington Navy Yard.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$2.9 million. The net of all costs and savings during the implementation period is a savings of \$28.7 million. Annual recurring savings after implementation are \$6 million with an immediate return on investment expected. The net present value of the costs and savings over 20 years is a savings of \$85.9 million.

Impacts:

Economic Impact on Communities: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 646 jobs (202 direct jobs and 444 indirect jobs) over the 1996-to-2001 period in the Washington, DC-Maryland-Virginia-West Virginia PMSA economic area, which is less than 0.1 percent of economic area employment. The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in the economic area over the 1994-to-2001 period could result in a maximum potential decrease equal to 0.6 percent of employment in the economic area.

Community Infrastructure Impact: There is no known community infrastructure impact at any receiving installation.

Environmental Impact: The closure of NSWC White Oak Detachment will have a generally positive impact on the environment. A portion of the personnel being relocated will transfer to NSWC Dahlgren, which is in an area that is in attainment for carbon monoxide. As regards personnel movements to NSWC Carderock, a conformity determination may be required to assess any air quality impacts. In each case, however, the personnel relocating, when compared to expected force structure reductions by FY 2001, represent a net decrease in base personnel. There is adequate capacity in the utility infrastructure at the receiving sites to handle additional personnel loading. Likewise, there is sufficient space for rehabilitation or acreage of unrestricted land for expansion for new facilities. There is no adverse impact to threatened/endangered species, sensitive habitats and wetlands, or cultural/historical resources occasioned by this recommendation.

Naval Air Station, South Weymouth, Massachusetts

Recommendation: Close Naval Air Station, South Weymouth, Massachusetts. Relocate its aircraft and necessary personnel, equipment and support to Naval Air Station, Brunswick, Maine. Relocate the Marine Corps Reserve support squadrons to another facility in the local area or to NAS Brunswick. Reestablish Naval Reserve Center, Quincy, Massachusetts, and change the receiving site specified by the 1993 Commission (1993 Commission Report, at page 1-64) for consolidation of Navy and Marine Corps Reserve Center, Lawrence, Massachusetts; Naval Reserve Center, Chicopee, Massachusetts; and Naval Reserve Center, Quincy, Massachusetts, from "NAS South Weymouth, Massachusetts" to "Naval Reserve Center, Quincy, Massachusetts."

Justification: As a result of the Base Closure and Realignment Commission's actions in BRAC 93, the Department of the Navy retained several naval air stations north of the major fleet concentration in Norfolk. Despite the large reduction in operational infrastructure accomplished during BRAC 93, the current Force Structure Plan shows a continuing decline in force levels from that governing BRAC 93, and thus there is additional excess capacity that must be eliminated. The major thrust of the evaluation of operational bases was to retain only that infrastructure necessary to support future force levels while, at the same time, not impeding operational flexibility for the deployment of that force. In that latter context, the Commander-in-Chief, U.S. Atlantic Fleet (CINCLANTFLT), expressed an operational desire to have as fully-capable an air station as possible north of Norfolk with the closest geographic proximity to support operational deployments. Satisfaction of these needs both to further reduce excess capacity and to honor CINCLANTFLT's operational imperative can be accomplished best by the retention of the most fully capable air station in this geographic area, Naval Air Station, Brunswick, Maine, in lieu of the reserve air station at South Weymouth. Unlike BRAC 93, where assets from Naval Air Station, South Weymouth were proposed to be relocated to three receiving sites, two of which were geographically quite remote, and where the perceived adverse impact on reserve demographics was considered unacceptable by the Commission, this BRAC 95 recommendation moves all of the assets and supporting personnel and equipment less than 150 miles away, thus providing most acceptable reserve demographics. Further, the consolidation of several reserve centers at the Naval Reserve Center, Quincy, Massachusetts, provides demographics consideration for surface reserve assets. In addition, this recommendation furthers the Departmental preference to collocate active and reserve assets and personnel wherever possible to enhance the readiness of both.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$17.3 million. The net of all costs and savings during the implementation period is a savings of \$50.8 million. Annual recurring savings after implementation are \$27.4 million with a return on investment expected in one year. The net present value of the costs and savings over 20 years is a savings of \$315.2 million.

Impacts:

Economic Impact on Communities: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 1,443 jobs (936 direct jobs and 507 indirect jobs) over the 1996-to-2001 period in the Essex-Middlesex-Suffolk-Plymouth-Norfolk Counties, Massachusetts economic area, which is 0.1 percent of economic area employment. The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in the economic area over the 1994-to-2001 period could result in a maximum potential decrease equal to 0.1 percent of employment in the economic area.

Community Infrastructure Impact: There is no known community infrastructure impact at any receiving installation.

Environmental Impact: The closure of NAS South Weymouth will have a positive effect on local air quality in that a source of VOC and NOX emissions will be removed from an area that is in severe non-attainment for ozone. NAS Brunswick is in an area that is in attainment for carbon monoxide and PM-10 but is in moderate non-attainment for ozone, which may require a conformity determination to evaluate air quality impacts. However, it is expected that the additional functions, personnel, and equipment from this closure recommendation will have no significant impact on air quality and airfield operations at NAS Brunswick. Water supply and wastewater treatment services are provided to NAS Brunswick from off-base and are not limited by capacity. Also, there is no adverse impact on threatened/endangered species, sensitive habitats and wetlands, or cultural/historical resources occasioned by this recommendation.

Naval Air Station, Meridian, Mississippi

Recommendation: Close Naval Air Station, Meridian, Mississippi, except retain the Regional Counterdrug Training Academy facilities which are transferred to the Academy. Relocate the undergraduate strike pilot training function and associated personnel, equipment and support to Naval Air Station, Kingsville, Texas. Its major tenant, the Naval Technical Training Center, will close, and its training functions will be relocated to other training activities, primarily the Navy Supply Corps School, Athens, Georgia, and Naval Education and Training Center, Newport, Rhode Island.

Justification: The 1993 Commission recommended that Naval Air Station, Meridian remain open because it found that the then-current and future pilot training rate (PTR) required that there be two full-strike training bases, Naval Air Station, Kingsville, Texas, and Naval Air Station, Meridian. In the period between 1993 and the present, two factors emerged that required the Department of the Navy again to review the requirement for two such installations. First, the current Force Structure Plan shows a continuing decline in the PTR (particularly in the decline from 11 to 10 carrier air wings) so that Navy strike training could be handled by a single full-strike training base. Second, the consolidation of strike training that follows the closure of NAS Meridian is in the spirit of the policy of the Secretary of Defense that functional pilot training be consolidated. The training conducted at Naval Air Station, Meridian is similar to that conducted at Naval Air Station, Kingsville, which has a higher military value, presently houses T-45 assets (the Department of the Navy's new primary strike training aircraft) and its supporting infrastructure, and has ready access to larger amounts of air space, including over-water air space if such is required. Also, the Undergraduate Pilot Training Joint Cross-Service Group included the closure of Naval Air Station, Meridian in each of its closure/realignment alternatives. The separate recommendation for the consolidation of the Naval Technical Training Center functions at two other major training activities provides improved and more efficient management of these training functions and aligns certain enlisted personnel training to sites where similar training is being provided to officers.

Return on Investment: The return on investment data below applies to the closure of NAS Meridian, the closure of NTTC Meridian, the realignment of NAS Corpus Christi to an NAF, and the NAS Alameda redirect. The total estimated one-time cost to implement these recommendations is \$83.4 million. The net of all costs and savings during the implementation period is a savings of \$158.8 million. Annual recurring savings after implementation are \$33.4 million with an immediate return on investment expected. The net present value of the costs and savings over 20 years is a savings of \$471.2 million.

Impacts:

Economic Impact on Communities: The economic data below applies to the closure of NAS Meridian and the closure of NTTC Meridian. Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 3,324 jobs (2,581 direct jobs and 743 indirect jobs) over the 1996-to-2001 period in the Lauderdale County, Mississippi economic area, which is 8.0 percent of economic area employment.

Community Infrastructure Impact: There is no known community infrastructure impact at any receiving installation.

Environmental Impact: The closure of NAS Meridian will have a generally positive effect on the environment. Undergraduate Pilot Training will be relocated to NAS Kingsville, which is in an air quality control district that is in attainment for carbon monoxide, ozone, and PM-10. Cleanup of the six IR sites at NAS Meridian will continue. No impact was identified for threatened/endangered species, sensitive habitats and wetlands, cultural/historical resources, land/air space use, pollution control, and hazardous material waste requirements. Adequate capacity exists for all utilities at the gaining base, and there is sufficient space for rehabilitation or unrestricted acres available for expansion.

**Naval Air Warfare Center, Aircraft Division,
Lakehurst, New Jersey**

Recommendation: Close Naval Air Warfare Center, Aircraft Division, Lakehurst, New Jersey, except transfer in place certain facilities and equipment to the Naval Air Warfare Center, Aircraft Division, Patuxent River, Maryland. Relocate other functions and associated personnel and equipment to the Naval Air Warfare Center, Aircraft Division, Patuxent River, Maryland, and the Naval Aviation Depot, Jacksonville, Florida. Relocate the Naval Air Technical Training Center Detachment, Lakehurst, to Naval Air Station, Pensacola, Florida. Relocate Naval Mobile Construction Battalion 21, the U.S. Army CECOM Airborne Engineering Evaluation Support Activity, and the Defense Reutilization and Marketing Office to other government-owned spaces.

Justification: There is an overall reduction in operational forces and a sharp decline of the DON budget through FY 2001. Specific reductions for technical centers are difficult to determine, because these activities are supported through customer orders. However, the level of forces and the budget are reliable indicators of sharp declines in technical center workload through FY 2001, which leads to a recognition of excess capacity in these activities. This excess and the imbalance in force and resource levels dictate closure/realignment or consolidation of activities wherever practicable. The closure and realignment of this activity permits the elimination of the command and support structure of this activity and the consolidation of its most critical functions at a major technical center, allowing synergism with its parent command and more fully utilizing available capabilities at major depot activities. This recommendation retains at Lakehurst only those facilities and personnel essential to conducting catapult and arresting gear testing and fleet support.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$96.9 million. The net of all costs and savings during the implementation period is a cost of \$5 million. Annual recurring savings after implementation are \$37.2 million with a return on investment expected in three years. The net present value of the costs and savings over 20 years is a savings of \$358.7 million.

Impacts:

Economic Impact on Communities: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 4,126 jobs (1,763 direct jobs and 2,363 indirect jobs) over the 1996-to-2001 period in the Monmouth-Ocean, New Jersey PMSA economic area, which is 1.0 percent of economic area employment. The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in the economic area over the 1994-to-2001 period could result in a maximum potential increase equal to 1.1 percent of employment in the economic area.

Community Infrastructure Impact: There is no known community infrastructure impact at any receiving installation.

Environmental Impact: The closure of NAWC Lakehurst will have a generally positive impact on the environment because of the relocation of appropriate functions and personnel out of an area that is in severe non-attainment for ozone. NAWC Patuxent River is currently in an attainment area for carbon monoxide, and the additional functions and personnel are not expected to significantly affect this status. While NAS Jacksonville is in an attainment area for carbon monoxide, it is in a transitional area for ozone. The relocation of functions and personnel to NAS Jacksonville are not expected to significantly affect this status. Each of the gaining sites has sufficient capacity in its respective utility infrastructure to handle the additional personnel. There is no adverse impact on threatened/endangered species, sensitive habitats and wetlands, or cultural/historical resources occasioned by this recommendation.

Naval Air Warfare Center, Aircraft Division, Warminster, Pennsylvania

Recommendation: Close the Naval Air Warfare Center, Aircraft Division, Warminster, Pennsylvania. Relocate appropriate functions, personnel, equipment, and support to other technical activities, primarily the Naval Air Warfare Center, Aircraft Division, Patuxent River, Maryland.

Justification: There is an overall reduction in operational forces and a sharp decline of the DON budget through FY 2001. Specific reductions for technical centers are difficult to determine, because these activities are supported through customer orders. However, the level of forces and the budget are reliable indicators of sharp declines in technical center workload through FY 2001, which leads to a recognition of excess capacity in these activities. This excess and the imbalance in force and resource levels dictate closure/realignment or consolidation of activities wherever practicable. The closure of this activity reduces excess capacity with the resultant efficiencies and economies in the consolidation of the relocated functions with its parent command at the new receiving site. Additionally, it completes the process of realignment initiated in BRAC 91, based on a clearer understanding of what is now required to be retained in-house. Closure and excessing of the Human Centrifuge/Dynamic Flight Simulator Facility further reduces excess capacity and provides the opportunity for the transfer of this facility to the public educational or commercial sectors, thus maintaining access on an as-needed basis.

Return on Investment: The return on investment data below applies to the closure of NAWC Warminster and the closure of Naval Command, Control and Ocean Surveillance Center (NCCOSC), RDT&E Division Detachment, Warminster. The total estimated one-time cost to implement this recommendation is \$8.4 million. The net of all costs and savings during the implementation period is a savings of \$33.1 million. Annual recurring savings after implementation are \$7.6 million with an immediate return on investment expected. The net present value of the costs and savings over 20 years is a savings of \$104.6 million.

Impacts:

Economic Impact on Communities: The economic data below applies to the closure of NAWC Warminster and the closure of NCCOSC Det Warminster. Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 1,080 jobs (348 direct jobs and 732 indirect jobs) over the 1996-to-2001 period in the Philadelphia, Pennsylvania-New Jersey PMSA economic area, which is less than 0.1 percent of economic area employment. The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in the economic area over the 1994-to-2001 period could result in a maximum potential decrease equal to 1.2 percent of employment in the economic area.

Community Infrastructure Impact: There is no known community infrastructure impact at any receiving installation.

Environmental Impact: The closure of both NAWC Warminster and NCCOSC Det Warminster will have a positive effect on the environment because their appropriate functions and personnel will be relocated out of an area that is in severe non-attainment for ozone and from an activity that is included on the National Priorities List. The personnel being relocated to NAWC Patuxent River represent an increase in personnel of less than 1 percent, which is not considered of sufficient size to adversely impact the environment at that site. However, a conformity determination may be required to determine this impact. The utility infrastructure capacity at NAWC Patuxent River is sufficient to handle the additional loading. There is no adverse impact on threatened/endangered species, sensitive habitats and wetlands, or cultural/historical resources occasioned by this recommendation.

Naval Air Station, Key West, Florida

Recommendation: Realign Naval Air Station, Key West, Florida, to a Naval Air Facility and dispose of certain portions of Truman Annex and Trumbo Point (including piers, wharfs and buildings).

Justification: Despite the large reduction in operational infrastructure accomplished during the 1993 round of base closure and realignment, since DON force structure experiences a reduction of over 10 percent by the year 2001, there continues to be additional excess capacity that must be eliminated. In evaluating operational bases, the goal was to retain only that infrastructure necessary to support the future force structure without impeding operational flexibility for deployment of that force. In the case of NAS Key West, its key importance derives from its airspace and training ranges, particularly in view of other aviation consolidations. Full access to those can be accomplished by retaining a downsized Naval Air Facility rather than a large naval air station. This realignment disposes of the waterfront assets of this facility and retains both the airspace and the ranges under its control for continued use by the Fleet for operations and training.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$0.4 million. The net of all costs and savings during the implementation period is a savings of \$8.2 million. Annual recurring savings after implementation are \$1.8 million with an immediate return on investment expected. The net present value of the costs and savings over 20 years is a savings of \$25.5 million.

Impacts:

Economic Impact on Communities: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 26 jobs (20 direct jobs and 6 indirect jobs) over the 1996-to-2001 period in the Monroe County, Florida economic area, which is 0.1 percent of economic area employment.

Community Infrastructure Impact: There is no community infrastructure impact since there are no receiving installations for this recommendation.

Environmental Impact: The realignment of NAS Key West to a Naval Air Facility has a minimal impact on the air quality of the local area, which is in attainment for carbon monoxide, ozone, and PM-10. Since no aviation assets are being moved into or out of this facility, the reduction in personnel and the resultant commuter carbon monoxide emissions will have a positive impact on the environment. Also, there is no adverse impact on threatened/endangered species, sensitive habitats and wetlands, or cultural/historical resources occasioned by this recommendation.

Naval Activities, Guam

Recommendation: Realign Naval Activities Guam. Relocate all ammunition vessels and associated personnel and support to Naval Magazine, Lualualei, Hawaii. Relocate all other combat logistics force ships and associated personnel and support to Naval Station, Pearl Harbor, Hawaii. Relocate Military Sealift Command personnel and Diego Garcia support functions to Naval Station, Pearl Harbor, Hawaii. Disestablish the Naval Pacific Meteorology and Oceanographic Center-WESTPAC, except for the Joint Typhoon Warning Center, which relocates to the Naval Pacific Meteorology and Oceanographic Center, Pearl Harbor, Hawaii. Disestablish the Afloat Training Group-WESTPAC. All other Department of Defense activities that are presently on Guam may remain either as a tenant of Naval Activities, Guam or other appropriate naval activity. Retain waterfront assets for support, mobilization, and contingencies and to support the afloat tender.

Justification: Despite the large reduction in operational infrastructure accomplished during the 1993 round of base closure and realignment, since DON force structure experiences a reduction of over 10 percent by the year 2001, there continues to be additional excess capacity that must be eliminated. In evaluating operational bases, the goal was to retain only that infrastructure necessary to support the future force structure without impeding operational flexibility for deployment of that force. Shifting deployment patterns in the Pacific Fleet reduce the need for a fully functional naval station. Operational and forward basing considerations require access to Guam. However, since no combatant ships are homeported there, elimination of the naval station facilities which are not required to support mobilization and/or contingency operations allows removal of excess capacity while retaining this necessary access.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$93.1 million. The net of all costs and savings during the implementation period is a savings of \$66.3 million. Annual recurring savings after implementation are \$42.5 million with a return on investment expected in one year. The net present value of the costs and savings over 20 years is a savings of \$474.3 million.

Impacts:

Economic Impact on Communities: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 3,359 jobs (2,421 direct jobs and 938 indirect jobs) over the 1996-to-2001 period in the Agana, Guam economic area, which is 5.0 percent of economic area employment. The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in the economic area over the 1994-to-2001 period could result in a maximum potential decrease equal to 10.6 percent of employment in the economic area. It should be recognized, however, that a major segment of these jobs is attributable to crews of the Military Sealift Command ships, whose presence on the island is sporadic in any given year.

Community Infrastructure Impact: There is no known community infrastructure impact at any receiving installation.

Environmental Impact: The closure of a portion of Naval Activities, Guam will have a generally positive effect on the environment because of the elimination of permitted stationary sources of air emissions associated with naval operations. In addition, the removal of military activity in areas occupied by threatened/endangered species and wetlands contributes positively to the environment. Sufficient unrestricted land is available for expansion at each of the receiving sites, and adequate capacity exists in their environmental facilities (such as water treatment and wastewater treatment plants) to handle the increases in personnel attendant to this closure.

Naval Air Station, Corpus Christi, Texas

Recommendation: Realign Naval Air Station, Corpus Christi, Texas, as a Naval Air Facility, and relocate the undergraduate pilot training function and associated personnel, equipment and support to Naval Air Station, Pensacola, Florida, and Naval Air Station, Whiting Field, Florida.

Justification: Reductions in force structure have led to decreases in pilot training rates. This reduction has allowed the Navy to consolidate maritime and primary fixed wing training in the Pensacola-Whiting complex while retaining the airfield and airspace at Corpus Christi to support the consolidation of strike training at the Kingsville-Corpus Christi complex. The Corpus Christi Naval Air Facility is also being retained to accept mine warfare helicopter assets in support of the Mine Warfare Center of Excellence at Naval Station, Ingleside, and to provide the opportunity for the movement of additional aviation assets to the NAF as operational considerations dictate. This NAF will continue to support its current group of DoD and Federal agency tenants and their aviation-intensive needs, as well as other regional Navy air operations as needed.

Return on Investment: The return on investment data below applies to the closure of NAS Meridian, the closure of NTTC Meridian, the realignment of NAS Corpus Christi to an NAF, and the NAS Alameda redirect. The total estimated one-time cost to implement these recommendations is \$83.4 million. The net of all costs and savings during the implementation period is a savings of \$158.8 million. Annual recurring savings after implementation are \$33.4 million with an immediate return on investment expected. The net present value of the costs and savings over 20 years is a savings of \$471.2 million.

Impacts:

Economic Impact on Communities: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 152 jobs (142 direct jobs and 10 indirect jobs) over the 1996-to-2001 period in the Corpus Christi, Texas MSA economic area, which is 0.1 percent of economic area employment. The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in the economic area over the 1994-to-2001 period could result in a maximum potential increase equal to 0.2 percent of employment in the economic area.

Community Infrastructure Impact: There is no known community infrastructure impact at any receiving installation.

Environmental Impact: The realignment of NAS Corpus Christi will have a generally positive effect on the environment. Undergraduate Pilot Training will be relocated to NAS Pensacola and NAS Whiting Field, which are in air quality control districts that are in attainment for carbon monoxide, ozone, and PM-10. A conformity determination for certain air quality areas may be required to assess the impact this realignment (in combination with the closure of NAS Meridian) will have on the air quality status of these areas. Each receiving base was reviewed for the realignment impact on threatened/endangered species, sensitive habitats and

wetlands, cultural/historical resources, land/air space use, pollution control, and hazardous material waste requirements, and no such impact was found. Adequate capacity exists for all utilities at each gaining base. The gaining sites have sufficient space for rehabilitation or unrestricted acres available for expansion.

Naval Undersea Warfare Center, Keyport, Washington

Recommendation: Realign Naval Undersea Warfare Center, Keyport, Washington, by moving its ships' combat systems console refurbishment depot maintenance and general industrial workload to Naval Shipyard, Puget Sound, Bremerton, Washington.

Justification: There is an overall reduction in operational forces and a sharp decline of the DON budget through FY 2001. Specific reductions for technical centers are difficult to determine, because these activities are supported through customer orders. However, the level of forces and the budget are reliable indicators of sharp declines in technical center workload through FY 2001, which leads to a recognition of excess capacity in these activities. This excess and the imbalance in force and resource levels dictate closure/realignment or consolidation of activities wherever practicable. Consistent with the Department of the Navy's efforts to remove depot level maintenance workload from technical centers and return it to depot industrial activities, this action consolidates ship combat systems workload at NSYD Puget Sound, but retains electronic test and repair equipments at NUWC Keyport, as well as torpedo depot maintenance, thereby removing the need to replicate facilities. The workload redistribution also furthers the Pacific Northwest Regional Maintenance Center initiatives, more fully utilizes the capacity at the shipyard, and will achieve greater productivity efficiencies within the shipyard.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$2.1 million. The net of all costs and savings during the implementation period is a savings of \$9.8 million. Annual recurring savings after implementation are \$2.1 million with a return on investment expected in one year. The net present value of the costs and savings over 20 years is a savings of \$29.7 million.

Impacts:

Economic Impact on Communities: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 58 jobs (28 direct jobs and 30 indirect jobs) over the 1996-to-2001 period in the Bremerton, Washington PMSA economic area, which is 0.1 percent of economic area employment. The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in the economic area over the 1994-to-2001 period could result in a maximum potential increase equal to 7.3 percent of employment in the economic area.

Community Infrastructure Impact: There is no known community infrastructure impact at any receiving installation.

Environmental Impact: This recommendation involves the transfer of functions and associated personnel between NUWC Keyport and the Puget Sound Naval Shipyard, both of which are in the same air quality region. The reduction of personnel resulting from this transfer will have a generally positive impact on the environment. There are no impacts on threatened/endangered species, sensitive habitats and wetlands, or cultural/historical resources occasioned by this recommendation.

Naval Command, Control and Ocean Surveillance Center, In-Service Engineering West Coast Division, San Diego, California

Recommendation: Disestablish the In-Service Engineering West Coast Division (NISE West), San Diego, California, of the Naval Command, Control and Ocean Surveillance Center (NCCOSC), including the Taylor Street Special Use Area, and consolidate necessary functions and personnel with the Naval Command, Control and Ocean Surveillance Center, RDT&E Division, either in the NCCOSC RDT&E Division spaces at Point Loma, California, or in current NISE West spaces in San Diego, California.

Justification: There is an overall reduction in operational forces and a sharp decline of the DON budget through FY 2001. Specific reductions for technical centers are difficult to determine, because these activities are supported through customer orders. However, the level of forces and the budget are reliable indicators of sharp declines in technical center workload through FY 2001, which leads to a recognition of excess capacity in these activities. This excess and the imbalance in force and resource levels dictate closure/realignment or consolidation of activities wherever practicable. This action permits the elimination of the command and support structure of the closing activity resulting in improved efficiency, reduced costs, and reduced excess capacity.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$1.8 million. The net of all costs and savings during the implementation period is a savings of \$19.3 million. Annual recurring savings after implementation are \$4.3 million with an immediate return on investment expected. The net present value of the costs and savings over 20 years is a savings of \$60 million.

Impacts:

Economic Impact on Communities: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 168 jobs (58 direct jobs and 110 indirect jobs) over the 1996-to-2001 period in the San Diego, California MSA economic area, which is less than 0.1 percent of economic area employment. The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in the economic area over the 1994-to-2001 period could result in a maximum potential increase equal to 1.2 percent of employment in the economic area.

Community Infrastructure Impact: There is no known community infrastructure impact at any receiving installation.

Environmental Impact: The closure of NISE West San Diego will have no appreciable impact on the environment since all relocation of personnel will be within the local area and within the same air quality district. The gaining sites have sufficient space for rehabilitation and adequate capacity in the utility infrastructure to handle this additional load. There is no impact on threatened/endangered species, sensitive habitats and wetlands, or cultural/historical resources occasioned by this recommendation.

Naval Health Research Center, San Diego, California

Recommendation: Disestablish the Naval Health Research Center (NHRC), San Diego, California, and relocate necessary functions, personnel and equipment to the Bureau of Naval Personnel (BUPERS) at Memphis, Tennessee.

Justification: There is an overall reduction in operational forces and a sharp decline of the DON budget through FY 2001. Specific reductions for technical centers are difficult to determine, because these activities are supported through customer orders. However, the level of forces and the budget are reliable indicators of sharp declines in technical center workload through FY 2001, which leads to a recognition of excess capacity in these activities. This excess and the imbalance in force and resource levels dictate closure/realignment or consolidation of activities wherever practicable. This activity performs research and modelling and maintains databases in a number of personnel health and performance areas, and its consolidation with the Bureau of Naval Personnel not only reduces excess capacity but also aligns this activity with the DON's principal organization responsible for military personnel and the primary user of its products. The resulting synergy enhances the discharge of this responsibility while achieving necessary economies.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$6.2 million. The net of all costs and savings during the implementation period is a cost of \$2 million. Annual recurring savings after implementation are \$1.4 million with a return on investment expected in four years. The net present value of the costs and savings over 20 years is a savings of \$11.4 million.

Impacts:

Economic Impact on Communities: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 423 jobs (154 direct jobs and 269 indirect jobs) over the 1996-to-2001 period in the San Diego, California MSA economic area, which is less than 0.1 percent of economic area employment. The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in the economic area over the 1994-to-2001 period could result in a maximum potential increase equal to 1.2 percent of employment in the economic area.

Community Infrastructure Impact: There is no known community infrastructure impact at any receiving installation.

Environmental Impact: The disestablishment of NHRC San Diego will have a positive impact on the environment in that this activity will be leaving an area that is in moderate non-attainment for carbon monoxide. The additional personnel being relocated to BUPERS Memphis represent a net decrease in personnel by FY 2001, and, accordingly, will not impact the environment at the receiving site, although a conformity determination may be required to assess this impact. There is adequate capacity in the utility infrastructure at the receiving site to handle these relocating personnel. There is no adverse impact on threatened/endangered species, sensitive habitats and wetlands, or cultural/historical resources occasioned by this recommendation.

**Naval Personnel Research and Development Center,
San Diego, California**

Recommendation: Disestablish Naval Personnel Research and Development Center, San Diego, California, and relocate its functions, and appropriate personnel, equipment, and support to the Bureau of Naval Personnel, Memphis, Tennessee, and Naval Air Warfare Center, Training Systems Division, Orlando, Florida.

Justification: There is an overall reduction in operational forces and a sharp decline of the DON budget through FY 2001. Specific reductions for technical centers are difficult to determine, because these activities are supported through customer orders. However, the level of forces and the budget are reliable indicators of sharp declines in technical center workload through FY 2001, which leads to a recognition of excess capacity in these activities. This excess and the imbalance in force and resource levels dictate closure/realignment or consolidation of activities wherever practicable. Disestablishment of this technical center not only eliminates excess capacity but also collocates its functions with the primary user of its products. This recommendation permits the consolidation of appropriate functions at the new headquarters concentration for the Bureau of Naval Personnel in Memphis, Tennessee, and at the technical concentration for training systems and devices in Orlando, producing economies and efficiencies in the management of these functions.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$7.9 million. The net of all costs and savings during the implementation period is a cost of \$4.3 million. Annual recurring savings after implementation are \$1.9 million with a return on investment expected in four years. The net present value of the costs and savings over 20 years is a savings of \$14.9 million.

Impacts:

Economic Impact on Communities: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 611 jobs (219 direct jobs and 392 indirect jobs) over the 1996-to-2001 period in the San Diego, California MSA economic area, which is less than 0.1 percent of economic area employment. The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in the economic area over the 1994-to-2001 period could result in a maximum potential increase equal to 1.2 percent of employment in the economic area.

Community Infrastructure Impact: There is no known community infrastructure impact at any receiving installation.

Environmental Impact: Disestablishing NPRDC San Diego will have a generally positive effect on the environment because it will be relocating personnel out of an area currently in severe non-attainment for ozone. These personnel represent less than a 2 percent increase in the personnel at BUPERS Memphis, an area in moderate non-attainment for carbon monoxide, and thus will have a minimal impact on that region, although a conformity determination may be required to assess the impact on air quality from this action. Those personnel that are relocating to NAWCTSD Orlando, an area that is in attainment for carbon monoxide, represent less than a four percent increase in personnel and will not adversely affect that area. There will be no adverse impact on threatened/endangered species, sensitive habitats and wetlands, or cultural/historical resources occasioned by this recommendation.

**Supervisor of Shipbuilding, Conversion and Repair, USN,
Long Beach, California**

Recommendation: Disestablish the Supervisor of Shipbuilding, Conversion and Repair, USN, Long Beach, California. Relocate certain functions, personnel and equipment to Supervisor of Shipbuilding, Conversion and Repair, USN, San Diego, California.

Justification: Because of reductions in the FY 2001 Force Structure Plan and resource levels, naval requirements for private sector shipbuilding, conversion, modernization and repair are expected to decrease significantly. The combined capacity of the current thirteen SUPSHIP activities meaningfully exceeds the DON requirement over that Force Structure Plan. Additionally, with the closure of the Long Beach Naval Shipyard, the future requirement for this work in this region is anticipated to be quite nominal. The predicted workload can be efficiently absorbed by SUPSHIP San Diego.

Return on Investment: The total estimated one-time cost to implement this action is \$0.3 million. The net of all costs and savings during the implementation period is a savings of \$0.8 million. Annual recurring savings after implementation are \$0.3 million with a return on investment expected in one year. The net present value of the costs and savings over 20 years is a savings of \$3.3 million.

Impacts:

Economic Impact on Communities: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 30 jobs (19 direct jobs and 11 indirect jobs) over the 1996-to-2001 period in the Los Angeles-Long Beach, California PMSA economic area, which is less than 0.1 percent of economic area employment. The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in the economic area over the 1994-to-2001 period could result in a maximum potential decrease equal to 0.4 percent of employment in the economic area.

Community Infrastructure Impact: There is no known community infrastructure impact at any receiving installation.

Environmental Impact: SUPSHIP Long Beach is a tenant activity and as such does not control or manage real property. Its complete closure will have no appreciable environmental impacts, including impacts on threatened/endangered species, sensitive habitats and wetlands, or cultural/historical resources. Despite the classification of San Diego, California, as a non-attainment area for ozone, the transfer of a small number of personnel from SUPSHIP Long Beach to San Diego will not adversely impact the air quality of that area.

Naval Undersea Warfare Center, Newport Division, New London Detachment, New London, Connecticut

Recommendation: Disestablish the Naval Undersea Warfare Center, Newport Division, New London Detachment, New London, Connecticut, and relocate necessary functions with associated personnel, equipment, and support to Naval Undersea Warfare Center, Newport Division, Newport, Rhode Island. Close the NUWC New London facility, except retain Pier 7 which is transferred to the Navy Submarine Base New London. The site presently occupied by the U.S. Coast Guard Station, New London, will be transferred to the U.S. Coast Guard. The Navy Submarine Base, New London, Magnetic Silencing Facility will remain in its present location as a tenant of the U.S. Coast Guard. Naval reserve units will relocate to other naval activities, primarily NUWC Newport, Rhode Island, and Navy Submarine Base, New London, Connecticut.

Justification: There is an overall reduction in operational forces and a sharp decline of the DON budget through FY 2001. Specific reductions for technical centers are difficult to determine, because these activities are supported through customer orders. However, the level of forces and the budget are reliable indicators of sharp declines in technical center workload through FY 2001, which leads to a recognition of excess capacity in these activities. This excess and the imbalance in force and resource levels dictate closure/realignment or consolidation of activities wherever practicable. The closure of this activity completes the undersea warfare center consolidation begun in BRAC 91. It not only reduces excess capacity, but, by consolidating certain functions at NUWC Newport Rhode Island, achieves efficiencies and economies in management, thus reducing costs.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$23.4 million. The net of all costs and savings during the implementation period is a savings of \$14.3 million. Annual recurring savings after implementation are \$8.1 million with a return on investment expected in three years. The net present value of the costs and savings over 20 years is a savings of \$91.2 million.

Impacts:

Economic Impact on Communities: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 1,365 jobs (627 direct jobs and 738 indirect jobs) over the 1996-to-2001 period in the New London-Norwich, Connecticut NECMA economic area, which is 1.0 percent of economic area employment. The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in the economic area over the 1994-to-2001 period could result in a maximum potential decrease equal to 3.2 percent of employment in the economic area.

Community Infrastructure Impact: There is no known community infrastructure impact at any receiving installation.

Environmental Impact: The closure of NUWC New London will have a generally beneficial impact on the environment. New London is in a non-attainment area for ozone, and, accordingly, the closure of this site will have a positive effect on the environment. The movement of personnel to Newport will not impact that area's status of being in attainment for carbon monoxide and PM-10. Adequate capacity exists in NUWC's utility infrastructure to handle these relocating personnel without impact. There is no adverse impact on threatened/endangered species, sensitive habitats and wetlands, or cultural/historical resources at either the losing or gaining sites occasioned by this recommendation.

Naval Research Laboratory, Underwater Sound Reference Detachment, Orlando, Florida

Recommendation: Disestablish the Naval Research Laboratory, Underwater Sound Reference Detachment (NRL UWSRD), Orlando, Florida. Relocate the calibration and standards function with associated personnel, equipment, and support to the Naval Undersea Warfare Center, Newport Division, Newport, Rhode Island, except for the Anechoic Tank Facility I, which will be excessed.

Justification: There is an overall reduction in operational forces and a sharp decline of the DON budget through FY 2001. Specific reductions for technical centers are difficult to determine, because these activities are supported through customer orders. However, the level of forces and of the budget are reliable indicators of sharp declines in technical center workload through FY 2001, which leads to a recognition of excess capacity in these activities. This excess and the imbalance in force and resource levels dictate closure/realignment or consolidation of activities wherever practicable. The disestablishment of this laboratory reduces excess capacity by eliminating unnecessarily redundant capability, since requirements can be met by reliance on alternative lakes that exist in the DON inventory. By consolidating necessary functions at NUWC Newport, Rhode Island, this recommendation achieves efficiencies and economies.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$8.4 million. The net of all costs and savings during the implementation period is a savings of \$3.7 million. Annual recurring savings after implementation are \$2.8 million with a return on investment expected in three years. The net present value of the costs and savings over 20 years is a savings of \$30.1 million.

Impacts:

Economic Impact on Communities: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 292 jobs (109 direct jobs and 183 indirect jobs) over the 1996-to-2001 period in the Orange-Osceola-Seminole Counties, Florida economic area, which is less than 0.1 percent of economic area employment. The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in the economic area over the 1994-to-2001 period could result in a maximum potential decrease equal to 1.9 percent of employment in the economic area.

Community Infrastructure Impact: There is no known community infrastructure impact at any receiving installation.

Environmental Impact: The closure of NRL UWSRD Orlando generally will have a minor positive impact on the environment. Both Orlando and NUWC Newport are in areas of attainment for carbon monoxide, and the additional personnel relocating to Newport, when compared to force structure reductions by FY 2001, still represent a net decrease in personnel at the Newport site. The utility infrastructure at the receiving site is sufficient to handle the relocating personnel. There is no adverse impact to threatened/endangered species, sensitive habitats and wetlands, and cultural/historical resources occasioned by this recommendation.

Fleet and Industrial Supply Center, Guam

Recommendation: Disestablish the Fleet and Industrial Supply Center, Guam.

Justification: Fleet and Industrial Supply Centers (FISC) are follower activities whose existence depends upon active fleet units in their homeport area. Prior and current BRAC actions closing both Naval Air Station, Guam and a portion of Naval Activities, Guam have significantly reduced this activity's customer base. The remaining workload can efficiently be handled by other activities on Guam or by other FISCs.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$18.4 million. The net of all costs and savings during the implementation period is a savings of \$143 million. Annual recurring savings after implementation are \$31.1 million with an immediate return on investment expected. The net present value of the costs and savings over 20 years is a savings of \$437.3 million.

Impacts:

Economic Impact on Communities: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 580 jobs (413 direct jobs and 167 indirect jobs) over the 1996-to-2001 period in the Agana, Guam economic area, which is 0.9 percent of economic area employment. The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in the economic area over the 1994-to-2001 period could result in a maximum potential decrease equal to 10.6 percent of employment in the economic area. However, much of this impact involves the inclusion of MSC mariners in the job loss statement, which does not reflect the temporary nature of their presence on Guam.

Community Infrastructure Impact: There is no known community infrastructure impact at any receiving installation.

Environmental Impact: The Guam Air Pollution Control District is in attainment for carbon monoxide, ozone, and PM-10. Closure of this activity will remove POV sources of air emissions, thus enhancing the air quality of Guam. A significant factor further contributing to an overall positive impact on the environment in Guam is the shutdown of fueling facilities at Guam, specifically at Sasa Valley and Tenjo. Not only does this action eliminate the need for continuous monitoring of fuel tanks but it also removes the potential for a fuel spill in an area that has been designated as part of the Guam National Wildlife Refuge. The elimination of military actions in areas occupied by the indigenous endangered species, the Common Moorhen, and in and near wetlands also will contribute positively to the environment in Guam.

Naval Biodynamics Laboratory, New Orleans, Louisiana

Recommendation: Close the Naval Biodynamics Laboratory, New Orleans, Louisiana, and relocate necessary personnel to Wright-Patterson Air Force Base, Dayton, Ohio, and Naval Aeromedical Research Laboratory, Pensacola, Florida.

Justification: There is an overall reduction in operational forces and a sharp decline of the DON budget through FY 2001. Specific reductions for technical centers are difficult to determine, because these activities are supported through customer orders. However, the level of forces and the budget are reliable indicators of sharp declines in technical center workload through FY 2001, which leads to a recognition of excess capacity in these activities. This excess and the imbalance in force and resource levels dictate closure/realignment or consolidation of activities wherever practicable. Closure of this laboratory reduces this excess capacity and fosters joint synergism. It also provides the opportunity for the transfer of its equipment and facilities to the public educational or commercial sector, thus maintaining access to its capabilities on an as-needed basis.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$6 million. The net of all costs and savings during the implementation period is a savings of \$14.1 million. Annual recurring savings after implementation are \$2.9 million with an immediate return on investment expected. The net present value of the costs and savings over 20 years is a savings of \$41.8 million.

Impacts:

Economic Impact on Communities: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 126 jobs (54 direct jobs and 72 indirect jobs) over the 1996-to-2001 period in the New Orleans, Louisiana MSA economic area, which is less than 0.1 percent of economic area employment. The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in the economic area over the 1994-to-2001 period could result in a maximum potential decrease equal to less than 0.1 percent of employment in the economic area.

Community Infrastructure Impact: There is no known community infrastructure impact at any receiving installation.

Environmental Impact: The closure of the Biodynamics Lab, New Orleans, will not have an effect on the environment. This closure recommendation only relocates two personnel to Wright-Patterson AFB and one to Pensacola, but leaves all facilities and equipment in place. There is no adverse impact on threatened/endangered species, sensitive habitats and wetlands, and cultural/historical resources occasioned by this recommendation.

Naval Medical Research Institute, Bethesda, Maryland

Recommendation: Close the Naval Medical Research Institute (NMRI), Bethesda, Maryland. Consolidate the personnel of the Diving Medicine Program with the Experimental Diving Unit, Naval Surface Warfare Center, Dahlgren Division, Coastal Systems Station, Panama City, Florida. Relocate the Infectious Diseases, Combat Casualty Care and Operational Medicine programs along with necessary personnel and equipment to the Walter Reed Army Institute for Research at Forest Glen, Maryland.

Justification: There is an overall reduction in operational forces and a sharp decline of the DON budget through FY 2001. Specific reductions for technical centers are difficult to determine, because these activities are supported through customer orders. However, the level of forces and of the budget are reliable indicators of sharp declines in technical center workload through FY 2001, which leads to a recognition of excess capacity in these activities. This excess and the imbalance in force and resource levels dictate closure/realignment or consolidation of activities wherever practicable. This closure and realignment achieves a principal objective of the DoD by cross-servicing part of this laboratory's workload and furthers the BRAC 91 Tri-Service Project *Reliance Study decision by collocating medical research with the Army. Other portions of that* workload can be assumed by another Navy installation with only a transfer of certain personnel, achieving both a reduction in excess capacity and a cost savings by eliminating a redundant capability in the area of diving research.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$3.4 million. The net of all costs and savings during the implementation period is a savings of \$19 million. Annual recurring savings after implementation are \$9.5 million with a return on investment expected in one year. The net present value of the costs and savings over 20 years is a savings of \$111 million.

Impacts:

Economic Impact on Communities: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 226 jobs (146 direct jobs and 80 indirect jobs) over the 1996-to-2001 period in the Washington, DC-Maryland-Virginia-West Virginia PMSA economic area, which is less than 0.1 percent of economic area employment. The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in the economic area over the 1994-to-2001 period could result in a maximum potential decrease equal to 0.6 percent of employment in the economic area.

Community Infrastructure Impact: There is no known community infrastructure impact at any receiving installation.

Environmental Impact: The closure of NMRI Bethesda will have a minimal impact on the environment. The relocation of personnel to Panama City, Florida, represents a net reduction in FY 2001 compared to current personnel loading. Therefore, these additional personnel will have no significant impact on the environment at that receiving site. The addition of personnel transferring to the Walter Reed Army Institute for Research represents less than a one percent increase in personnel, with insignificant impacts on the environment. There is no adverse impact on threatened/endangered species, sensitive habitats and wetlands, and cultural/historical resources occasioned by this recommendation.

Naval Surface Warfare Center, Carderock Division Detachment, Annapolis, Maryland

Recommendation: Close the Naval Surface Warfare Center, Carderock Division Detachment, Annapolis, Maryland, including the NIKE Site, Bayhead Road, Annapolis, except transfer the fuel storage/refueling sites and the water treatment facilities to Naval Station, Annapolis to support the U.S. Naval Academy and Navy housing. Relocate appropriate functions, personnel, equipment and support to other technical activities, primarily Naval Surface Warfare Center, Carderock Division Detachment, Philadelphia, Pennsylvania; Naval Surface Weapons Center, Carderock Division, Carderock, Maryland; and the Naval Research Laboratory, Washington, D.C. The Joint Spectrum Center, a DoD cross-service tenant, will be relocated with other components of the Center in the local area as appropriate.

Justification: There is an overall reduction in operational forces and a sharp decline of the Department of the Navy budget through 2001. Specific reductions for technical centers are difficult to determine because these activities are supported through customer orders. However, the level of forces and the budget are reliable indicators of sharp declines in technical center workload through 2001, which leads to a recognition of excess capacity in these activities. This excess and the imbalance in force and resource levels dictate closure/realignment or consolidation of activities wherever practicable. The total closure of this technical center reduces overall excess capacity in this category of installations, as well as excess capacity specific to this particular installation. It results in synergistic efficiencies by eliminating a major site and collocating technical personnel at the two primary remaining sites involved in hull, machinery, and equipment associated with naval vessels. It allows the movement of work to other Navy, DoD, academic and private industry facilities, and the excessing of some facilities not in continuous use. It also collocates RDT&E efforts with the In-Service Engineering work and facilities, to incorporate lessons learned from fleet operations and to increase the technical response pool to solve immediate problems.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$25 million. The net of all costs and savings during the implementation period is a savings of \$36.7 million. Annual recurring savings after implementation are \$14.5 million with a return on investment expected in one year. The net present value of the costs and savings over 20 years is a savings of \$175.1 million.

Impacts:

Economic Impact on Communities: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 1,512 jobs (522 direct jobs and 990 indirect jobs) over the 1996-to-2001 period in the Baltimore, Maryland PMSA economic area, which is 0.1 percent of economic area employment. The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in the economic area over the 1994-to-2001 period could result in a maximum potential decrease equal to less than 0.1 percent of employment in the economic area.

Community Infrastructure Impact: There is no known community infrastructure impact at any receiving installation.

Environmental Impact: The closure of NSWC Annapolis does not involve the transfer of any industrial-type activities. NSWC Carderock and NRL are currently in moderate non-attainment for carbon monoxide and attainment for PM-10; however, the movement of personnel into those areas will not adversely impact the environment in those areas. NSWC Philadelphia is in a non-attainment area for carbon monoxide. In the case of each receiving site, a conformity determination may be required to assess the impact of this action. At all receiving sites, the utility infrastructure is adequate to handle the additional personnel. Also, there is no adverse impact on threatened/endangered species, sensitive habitats and wetlands, cultural/historical resources as a result of this recommendation.

Naval Technical Training Center, Meridian, Mississippi

Recommendation: Close the Naval Technical Training Center, Meridian, Mississippi, and relocate the training functions to other training activities, primarily the Navy Supply Corps School, Athens, Georgia, and Naval Education and Training Center, Newport, Rhode Island.

Justification: Projected manpower reductions contained in the DoD Force Structure Plan require a substantial decrease in training-related infrastructure consistent with the policy of collocating training functions at fleet concentration centers when feasible. Consolidation of the Naval Technical Training Center functions at two other major training activities provides improved and more efficient management of these training functions and aligns certain enlisted personnel training to sites where similar training is being provided to officers.

Return on Investment: The return on investment data below applies to the closure of NAS Meridian, the closure of NTTC Meridian, the realignment of NAS Corpus Christi to an NAF, and the NAS Alameda redirect. The total estimated one-time cost to implement these recommendations is \$83.4 million. The net of all costs and savings during the implementation period is a savings of \$158.8 million. Annual recurring savings after implementation are \$33.4 million with an immediate return on investment expected. The net present value of the costs and savings over 20 years is a savings of \$471.2 million.

Impacts:

Economic Impact on Communities: The economic data below applies to the closure of NAS Meridian and the closure of NTTC Meridian. Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 3,324 jobs (2,581 direct jobs and 743 indirect jobs) over the 1996-to-2001 period in the Lauderdale County, Mississippi economic area, which is 8.0 percent of economic area employment.

Community Infrastructure Impact: There is no known community infrastructure impact at any receiving installation.

Environmental Impact: The closure of NAS Meridian, the host of this activity, will have a generally positive effect on the environment. Undergraduate Pilot Training will be relocated to NAS Kingsville, which is in an air quality control district that is in attainment for carbon monoxide, ozone, and PM-10. Cleanup of the six IR sites at NAS Meridian will continue. No impact was identified for threatened/endangered species, sensitive habitats and wetlands, cultural/historical resources, land/air space use, pollution control, and hazardous material waste requirements. Adequate capacity exists for all utilities at the gaining base, and there is sufficient space for rehabilitation or unrestricted acres available for expansion.

Naval Aviation Engineering Service Unit, Philadelphia, Pennsylvania

Recommendation: Close the Naval Aviation Engineering Service Unit (NAESU), Philadelphia, Pennsylvania, and consolidate necessary functions, personnel, and equipment with the Naval Aviation Depot (NADEP), North Island, California.

Justification: There is an overall reduction in operational forces and a sharp decline of the DON budget through FY 2001. Specific reductions for technical centers are difficult to determine, because these activities are supported through customer orders. However, the level of forces and the budget are reliable indicators of sharp declines in technical center workload through FY 2001, which leads to a recognition of excess capacity in these activities. This excess and the imbalance in force and resource levels dictate closure/realignment or consolidation of activities wherever practicable. Closure of this facility eliminates excess capacity within the technical center subcategory by using available capacity at NADEP North Island. Additionally, it enables the consolidation of necessary functions with a depot activity performing similar work and results in a reduction of costs.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$2.5 million. The net of all costs and savings during the implementation period is a savings of \$5.9 million. Annual recurring savings after implementation are \$2.5 million with a return on investment expected in one year. The net present value of the costs and savings over 20 years is a savings of \$29.5 million.

Impacts:

Economic Impact on Communities: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 145 jobs (90 direct jobs and 55 indirect jobs) over the 1996-to-2001 period in the Philadelphia, Pennsylvania-New Jersey PMSA economic area, which is less than 0.1 percent of economic area employment. The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in the economic area over the 1994-to-2001 period could result in a maximum potential decrease equal to 1.2 percent of employment in the economic area.

Community Infrastructure Impact: There is no known community infrastructure impact at any receiving installation.

Environmental Impact: The closure of NAESU Philadelphia will have a generally positive impact on the environment because it removes POV air emission sources from an area that is in non-attainment for carbon monoxide. The additional personnel relocating to NADEP North Island represent less than a one percent increase in current base personnel loading, which will not affect the environment. Further, the utility infrastructure capacity at the receiving site is sufficient to handle these additional personnel. There is no adverse impact on threatened/endangered species, sensitive habitats and wetlands, or cultural/historical resources occasioned by this recommendation.

Naval Air Technical Services Facility, Philadelphia, Pennsylvania

Recommendation: Close the Naval Air Technical Services Facility (NATSF), Philadelphia, Pennsylvania, and consolidate necessary functions, personnel, and equipment with the Naval Aviation Depot, North Island, California.

Justification: There is an overall reduction in operational forces and a sharp decline of the DON budget through FY 2001. Specific reductions for technical centers are difficult to determine, because these activities are supported through customer orders. However, the level of forces and the budget are reliable indicators of sharp declines in technical center workload through FY 2001, which leads to a recognition of excess capacity in these activities. This excess and the imbalance in force and resource levels dictate closure/realignment or consolidation of activities wherever practicable. Closure of this facility eliminates excess capacity within the technical center subcategory by using available capacity at NADEP North Island and achieves the synergy from having the drawings and manuals collocated with an in-service maintenance activity at a major fleet concentration. Additionally, it enables the elimination of the NATSF detachment already at North Island and results in a reduction of costs.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$5.7 million. The net of all costs and savings during the implementation period is a savings of \$1.5 million. Annual recurring savings after implementation are \$2.2 million with a return on investment expected in three years. The net present value of the costs and savings over 20 years is a savings of \$22.7 million.

Impacts:

Economic Impact on Communities: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 715 jobs (227 direct jobs and 488 indirect jobs) over the 1996-to-2001 period in the Philadelphia, Pennsylvania-New Jersey PMSA economic area, which is less than 0.1 percent of economic area employment. The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in the economic area over the 1994-to-2001 period could result in a maximum potential decrease equal to 1.2 percent of employment in the economic area.

Community Infrastructure Impact: There is no known community infrastructure impact at any receiving installation.

Environmental Impact: The closure of NATSF Philadelphia will have a generally positive effect on the environment because this activity will be vacating leased space in an area that is in non-attainment for carbon monoxide. The additional personnel being relocated represent less than a one percent increase in base personnel at North Island, and adequate capacity exists in the utility infrastructure to handle this additional personnel loading. There will be no adverse impact on threatened/endangered species, sensitive habitats and wetlands, or cultural/historical resources occasioned by this recommendation.

Naval Air Warfare Center, Aircraft Division, Open Water Test Facility, Oreland, Pennsylvania

Recommendation: Close the Naval Air Warfare Center, Aircraft Division, Open Water Test Facility, Oreland, Pennsylvania.

Justification: There is an overall reduction in operational forces and a sharp decline of the DON budget through FY 2001. Specific reductions for technical centers are difficult to determine, because these activities are supported through customer orders. However, the level of forces and the budget are reliable indicators of sharp declines in technical center workload through FY 2001, which leads to a recognition of excess capacity in these activities. This excess and the imbalance in force and resource levels dictate closure/realignment or consolidation of activities wherever practicable. Closure of this facility reduces excess capacity by eliminating unnecessarily redundant capability, since requirements can be met by reliance on other lakes that exist in the DON inventory.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$50 thousand. The net of all costs and savings during the implementation period is a savings of \$33 thousand. Annual recurring savings after implementation are \$15 thousand with a return on investment expected in three years. The net present value of the costs and savings over 20 years is a savings of \$.2 million.

Impacts:

Economic Impact on Communities: This recommendation will not affect any jobs in the Philadelphia, Pennsylvania-New Jersey PMSA economic area.

Community Infrastructure Impact: There is no community infrastructure impact since there are no receiving installations for this recommendation.

Environmental Impact: The closure of the NAWC OWTF Oreland will have a beneficial effect on the environment since any impact of military activities on jurisdictional wetlands will be eliminated. Because this closure has no accompanying transfer of functions or personnel, there are no other environmental impacts associated with this closure. There will be no adverse impact on threatened/endangered species, sensitive habitats, or cultural/historical resources occasioned by this recommendation.

**Naval Command, Control and Ocean Surveillance Center, RDT&E
Division Detachment, Warminster, Pennsylvania**

Recommendation: Close the Naval Command, Control and Ocean Surveillance Center, RDT&E Division Detachment, Warminster, Pennsylvania. Relocate appropriate functions, personnel, equipment, and support to other technical activities, primarily the Naval Command, Control and Ocean Surveillance Center, RDT&E Division, San Diego, California; and the Naval Oceanographic Office, Bay St. Louis, Mississippi.

Justification: There is an overall reduction in operational forces and a sharp decline of the DON budget through FY 2001. Specific reductions for technical centers are difficult to determine, because these activities are supported through customer orders. However, the level of forces and the budget are reliable indicators of sharp declines in technical center workload through FY 2001, which leads to a recognition of excess capacity in these activities. This excess and the imbalance in force and resource levels dictate closure/realignment or consolidation of activities wherever practicable. The closure of this activity reduces excess capacity with the resultant efficiencies and economies in the management of the relocated functions at the new receiving sites. Additionally, it completes the process of realignment initiated in BRAC 91, based on a clearer understanding of what is now required to be retained in-house. Closure and excessing of the Inertial Navigational Facility further reduces excess capacity and provides the opportunity for the transfer of these facilities to the public educational or commercial sectors, thus maintaining access on an as-needed basis.

Return on Investment: The return on investment data below applies to the closure of NAWC Warminster and the closure of NCCOSC Det Warminster. The total estimated one-time cost to implement this recommendation is \$8.4 million. The net of all costs and savings during the implementation period is a savings of \$33.1 million. Annual recurring savings after implementation are \$7.6 million with an immediate return on investment expected. The net present value of the costs and savings over 20 years is a savings of \$104.6 million.

Impacts:

Economic Impact on Communities: The economic data below applies to the closure of NAWC Warminster and the closure of NCCOSC Det Warminster. Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 1,080 jobs (348 direct jobs and 732 indirect jobs) over the 1996-to-2001 period in the Philadelphia, Pennsylvania-New Jersey PMSA economic area, which is less than 0.1 percent of economic area employment. The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in the economic area over the 1994-to-2001 period could result in a maximum potential decrease equal to 1.0 percent of employment in the economic area.

Community Infrastructure Impact: There is no known community infrastructure impact at any receiving installation.

Environmental Impact: The closure of both NAWC Warminster and NCCOSC Det Warminster will have a positive effect on the environment because their appropriate functions and personnel will be relocated out of an area that is in severe non-attainment for ozone and from an activity that is included on the National Priorities List. The personnel being relocated to NCCOSC San Diego represent an increase in personnel of less than six percent, which is not considered of sufficient size to adversely impact the environment at that sites. However, a conformity determination may be required to determine this impact. At both receiving sites, the utility infrastructure capacity is sufficient to handle the additional loading. There is no adverse impact on threatened/endangered species, sensitive habitats and wetlands, or cultural/historical resources occasioned by this recommendation.

Fleet and Industrial Supply Center, Charleston, South Carolina

Recommendation: Close the Fleet and Industrial Supply Center, Charleston, South Carolina.

Justification: Fleet and Industrial Supply Centers are follower activities whose existence depends upon active fleet units in their homeport area. Prior BRAC actions closed or realigned most of this activity's customer base, and most of its personnel have already transferred to the Naval Command, Control, and Ocean Surveillance Center, In-Service Engineering, East Coast Division, Charleston, South Carolina. Further, in accordance with the FY 2001 Force Structure Plan, force structure reductions through the year 2001 erode the requirement for support of active forces even further. This remaining workload can efficiently be handled by other FISCs or other naval activities.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$2.3 million. The net of all costs and savings during the implementation period is a savings of \$2.3 million. Annual recurring savings after implementation are \$0.9 million with a return on investment expected in two years. The net present value of the costs and savings over 20 years is a savings of \$10.8 million.

Impacts:

Economic Impact on Communities: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 12 jobs (8 direct jobs and 4 indirect jobs) over the 1996-to-2001 period in the Charleston-North Charleston, South Carolina MSA economic area, which is less than 0.1 percent of economic area employment. The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in the economic area over the 1994-to-2001 period could result in a maximum potential decrease equal to 8.4 percent of employment in the economic area.

Community Infrastructure Impact: There is no community infrastructure impact since there are no receiving installations for this recommendation.

Environmental Impact: This activity is located in an area that is in attainment for carbon monoxide, ozone and PM-10. This closure will support the maintenance of this air quality status and will have a further positive impact on the environment in that it eliminates barge movements in and out of the pier area as part of the fueling operations in the FISC complex. An additional positive impact is the elimination of military activities in an area occupied by the Least Tern, an endangered species, and its designated habitat aboard the present FISC Charleston complex. There will be no adverse impact on cultural/historical resources occasioned by this recommendation.

Naval Command, Control and Ocean Surveillance Center, In-Service Engineering East Coast Detachment, Norfolk, Virginia

Recommendation: Close the In-Service Engineering East Coast Detachment, St. Juliens Creek Annex, Norfolk, Virginia, of the Naval Command, Control and Ocean Surveillance Center, except retain in place the transmit and receive equipment and antennas currently at the St. Juliens Creek Annex. Relocate functions, necessary personnel and equipment to Norfolk Naval Shipyard, Norfolk, Virginia.

Justification: There is an overall reduction in operational forces and a sharp decline of the DON budget through FY 2001. Specific reductions for technical centers are difficult to determine, because these activities are supported through customer orders. However, the level of forces and the budget are reliable indicators of sharp declines in technical center workload through FY 2001, which leads to a recognition of excess capacity in these activities. This excess and the imbalance in force and resource levels dictate closure/realignment or consolidation of activities wherever practicable. The closure of this activity and the relocation of its principal functions achieves improved efficiencies and a reduction of excess capacity by aligning its functions with other fleet support provided by the shipyard.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$4.6 million. The net of all costs and savings during the implementation period is a savings of \$0.06 million. Annual recurring savings after implementation are \$2.1 million with a return on investment expected in three years. The net present value of the costs and savings over 20 years is a savings of \$20.4 million.

Impacts:

Economic Impact on Communities: This recommendation will not result in a change in employment in the Norfolk-Virginia Beach-Newport News, Virginia-North Carolina MSA economic area because all affected jobs will remain in that economic area.

Community Infrastructure Impact: There is no known community infrastructure impact at any receiving installation.

Environmental Impact: The closure of NCCOSC ISE East Det Norfolk, St. Juliens Creek Annex, will have no appreciable impact on the environment since all relocation of personnel will be within the local area and within the same air quality region. There is no adverse impact on threatened/endangered species, sensitive habitats and wetlands, or cultural/historical resources occasioned by this recommendation.

Naval Information Systems Management Center, Arlington, Virginia

Recommendation: Relocate the Naval Information Systems Management Center from leased space in Arlington, Virginia, to the Washington Navy Yard, Washington, D.C.

Justification: The resource levels of administrative activities are dependent upon the level of forces they support. The continuing decline in force levels shown in the FY 2001 Force Structure Plan coupled with the effects of the National Performance Review result in further reductions of personnel in administrative activities. This relocation reduces excess capacity and achieves savings by the movement from leased space to government-owned space, and furthers the Department's policy decision to merge this activity with the Information Technology Acquisition Center which is already housed in the Navy Yard.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$0.1 million. The net of all costs and savings during the implementation period is a savings of \$0.3 million. Annual recurring savings after implementation are \$0.1 million with a return on investment expected in two years. The net present value of the costs and savings over 20 years is a savings of \$1.7 million.

Impacts:

Economic Impact on Communities: This recommendation will not result in a change in employment in the Washington, DC-Maryland-Virginia-West Virginia PMSA economic area because all affected jobs will remain in that economic area.

Community Infrastructure Impact: There is no known community infrastructure impact at any receiving installation.

Environmental Impact: The relocation of this activity from leased space in the NCR to the Washington Navy Yard will not adversely impact the environment because it is an administrative activity and the relocation concerns only a small number of personnel and office support equipment. There is no adverse impact on threatened/endangered species, sensitive habitat and wetlands, or cultural/historical resources occasioned by this recommendation.

Naval Management Systems Support Office, Chesapeake, Virginia

Recommendation: Disestablish the Naval Management Systems Support Office (NAVMASSO), Chesapeake, Virginia, and relocate its functions and necessary personnel and equipment as a detachment of Naval Command, Control and Ocean Surveillance Center, San Diego, California, in government-owned spaces in Norfolk, Virginia.

Justification: There is an overall reduction in operational forces and a sharp decline of the DON budget through FY 2001. Specific reductions for technical centers are difficult to determine, because these activities are supported through customer orders. However, the level of forces and the budget are reliable indicators of sharp declines in technical center workload through FY 2001, which leads to a recognition of excess capacity in these activities. This excess and the imbalance in force and resource levels dictate closure/realignment or consolidation of activities wherever practicable. The disestablishment of this activity permits the elimination of the command and support structure of this activity and the consolidation of certain functions with a major technical center. This recommendation also provides for the movement out of leased space into government-owned space, a move which had been intended to occur as part of the DON BRAC 93 recommended consolidation of the Naval Electronic Systems Engineering Centers in Portsmouth, which the 1993 Commission disapproved.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$2.2 million. The net of all costs and savings during the implementation period is a savings of \$9 million. Annual recurring savings after implementation are \$2.7 million with a return on investment expected in one year. The net present value of the costs and savings over 20 years is a savings of \$34.9 million.

Impacts:

Economic Impact on Communities: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 50 jobs (21 direct jobs and 29 indirect jobs) over the 1996-to-2001 period in the Norfolk-Virginia Beach-Newport News, Virginia-North Carolina MSA economic area, which is less than 0.1 percent of economic area employment. The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in the economic area over the 1994-to-2001 period could result in a maximum potential increase equal to 1.0 percent of employment in the economic area.

Community Infrastructure Impact: There is no known community infrastructure impact at any receiving installation.

Environmental Impact: The disestablishment of NAVMASSO will not impact the environment. NAVMASSO is an administrative activity that is currently located in leased space only 18 miles from its gaining site, the Norfolk Naval Station. These additional personnel readily can be handled by the utility infrastructure at the gaining site. Also, there is no adverse impact on threatened/endangered species, sensitive habitats and wetlands, or cultural/historical resources occasioned by this recommendation.

Reserve Centers/Commands

Recommendation:

Close the following Naval Reserve Centers:

Stockton, California
Pomona, California
Santa Ana, Irvine, California
Laredo, Texas
Sheboygan, Wisconsin
Cadillac, Michigan
Staten Island, New York
Huntsville, Alabama

Close the following Naval Air Reserve Center:

Olathe, Kansas

Close the following Naval Reserve Readiness Commands:

Region Seven - Charleston, South Carolina
Region Ten - New Orleans, Louisiana

Justification: Existing capacity in support of the Reserve component continues to be in excess of the force structure requirements for the year 2001. These Reserve Centers scored low in military value, among other things, because there were a fewer number of drilling reservists than the number of billets available (suggesting a lesser demographic pool from which to recruit sailors), or because there was a poor use of facilities (for instance, only one drill weekend per month). Readiness Command (REDCOM) 7 has management responsibility for the fewest number of Reserve Centers of the thirteen REDCOMs, while REDCOM 10 has management responsibility for the fewest number of Selected Reservists. In 1994, nearly three-fourths of the authorized SELRES billets at REDCOM 10 were unfilled, suggesting a demographic shortfall. In addition, both REDCOMs have high ratios of active duty personnel when compared to SELRES supported. The declining Reserve force structure necessitates more effective utilization of resources and therefore justifies closing these two REDCOMs. In arriving at the recommendation to close these Reserve Centers/Commands, specific analysis was conducted to ensure that there was either an alternate location available to accommodate the affected Reserve population or demographic support for purpose of force recruiting in the areas to which units were being relocated. This specific analysis, verified by the COBRA analysis, supports these closures.

Return on Investment: The total estimated one-time cost to implement the closure of NRC Stockton is \$45 thousand. The net of all costs and savings during the implementation period is a savings of \$2 million. Annual recurring savings after implementation are \$0.4 million with an immediate return on investment expected. The net present value of the costs and savings over 20 years is a savings of \$5.4 million.

The total estimated one-time cost to implement the closure of NRC Pomona is \$48 thousand. The net of all costs and savings during the implementation period is a savings of \$1.9 million. Annual recurring savings after implementation are \$0.3 million with an immediate return on investment expected. The net present value of the costs and savings over 20 years is a savings of \$5.1 million.

The total estimated one-time cost to implement the closure of NRC Santa Ana is \$41 thousand. The net of all costs and savings during the implementation period is a savings of \$3 million. Annual recurring savings after implementation are \$0.5 million with an immediate return on investment expected. The net present value of the costs and savings over 20 years is a savings of \$8.1 million.

The total estimated one-time cost to implement the closure of NRC Laredo is \$27 thousand. The net of all costs and savings during the implementation period is a savings of \$1.4 million. Annual recurring savings after implementation are \$0.3 million with an immediate return on investment expected. The net present value of the costs and savings over 20 years is a savings of \$3.8 million.

The total estimated one-time cost to implement the closure of NRC Sheboygan is \$31 thousand. The net of all costs and savings during the implementation period is a savings of \$1.5 million. Annual recurring savings after implementation are \$0.3 million with an immediate return on investment expected. The net present value of the costs and savings over 20 years is a savings of \$4.1 million.

The total estimated one-time cost to implement the closure of NRC Cadillac is \$46 thousand. The net of all costs and savings during the implementation period is a savings of \$1.8 million. Annual recurring savings after implementation are \$0.3 million with an immediate return on investment expected. The net present value of the costs and savings over 20 years is a savings of \$5 million.

The total estimated one-time cost to implement the closure of NRC Staten Island is \$43 thousand. The net of all costs and savings during the implementation period is a savings of \$4.5 million. Annual recurring savings after implementation are \$0.6 million with an immediate return on investment expected. The net present value of the costs and savings over 20 years is a savings of \$9.8 million.

The total estimated one-time cost to implement the closure of NRC Huntsville is \$51 thousand. The net of all costs and savings during the implementation period is a savings of \$2.6 million. Annual recurring savings after implementation are \$0.5 million with an immediate return on investment expected. The net present value of the costs and savings over 20 years is a savings of \$7.2 million.

The total estimated one-time cost to implement the closure of NARCEN Olathe is \$0.2 million. The net of all costs and savings during the implementation period is a savings of \$3.9 million. Annual recurring savings after implementation are \$0.7 million with an immediate return on investment expected. The net present value of the costs and savings over 20 years is a savings of \$10.9 million.

The total estimated one-time cost to implement the closure of NRRC Charleston is \$0.5 million. The net of all costs and savings during the implementation period is a savings of \$14.4 million. Annual recurring savings after implementation are \$2.7 million with an immediate return on investment expected. The net present value of the costs and savings over 20 years is a savings of \$39.9 million.

The total estimated one-time cost to implement the closure of NRRC New Orleans is \$0.6 million. The net of all costs and savings during the implementation period is a savings of \$6 million. Annual recurring savings after implementation are \$1.9 million with an immediate return on investment expected. The net present value of the costs and savings over 20 years is a savings of \$23.8 million.

Impacts:

Economic Impact on Communities: Assuming no economic recovery, the closure of NRC Stockton could result in a maximum potential reduction of 10 jobs (7 direct jobs and 3 indirect jobs) over the 1996-to-2001 period in the Stockton-Lodi, California MSA economic area, which is less than 0.1 percent of economic area employment. The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in the economic area over the 1994-to-2001 period could result in a maximum potential increase equal to 0.6 percent of employment in the economic area.

Assuming no economic recovery, the closure of NRC Pomona could result in a maximum potential reduction of 15 jobs (10 direct jobs and 5 indirect jobs) over the 1996-to-2001 period in the Los Angeles-Long Beach, California PMSA economic area, which is less than 0.1 percent of economic area employment. The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in the economic area over the 1994-to-2001 period could result in a maximum potential decrease equal to 0.4 percent of employment in the economic area.

Assuming no economic recovery, the closure of NRC Santa Ana could result in a maximum potential reduction of 21 jobs (14 direct jobs and 7 indirect jobs) over the 1996-to-2001 period in the Orange County, California PMSA economic area, which is less than 0.1 percent of economic area employment. The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in the economic area over the 1994-to-2001 period could result in a maximum potential decrease equal to 1.1 percent of employment in the economic area.

Assuming no economic recovery, the closure of NRF Laredo could result in a maximum potential reduction of 8 jobs (6 direct jobs and 2 indirect jobs) over the 1996-to-2001 period in the Laredo, Texas MSA economic area, which is less than 0.1 percent of economic area employment.

Assuming no economic recovery, the closure of NRC Sheboygan could result in a maximum potential reduction of 8 jobs (6 direct jobs and 2 indirect jobs) over the 1996-to-2001 period in the Sheboygan, Wisconsin MSA economic area, which is less than 0.1 percent of economic area employment.

Assuming no economic recovery, the closure of NRC Cadillac could result in a maximum potential reduction of 10 jobs (8 direct jobs and 2 indirect jobs) over the 1996-to-2001 period in the Wexford County, Michigan economic area, which is 0.1 percent of economic area employment.

Assuming no economic recovery, the closure of NRC Staten Island could result in a maximum potential reduction of 21 jobs (14 direct jobs and 7 indirect jobs) over the 1996-to-2001 period in the New York, New York PMSA economic area, which is less than 0.1 percent of economic area employment. The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in the economic area over the 1994-to-2001 period could result in a maximum potential decrease equal to 0.1 percent of employment in the economic area.

Assuming no economic recovery, the closure of NRC Huntsville could result in a maximum potential reduction of 26 jobs (19 direct jobs and 7 indirect jobs) over the 1996-to-2001 period in the Madison County, Alabama economic area, which is less than 0.1 percent of economic area employment. The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in the economic area over the 1994-to-2001 period could result in a maximum potential increase equal to 2.7 percent of employment in the economic area.

Assuming no economic recovery, the closure of NARCEN Olathe could result in a maximum potential reduction of 22 jobs (14 direct jobs and 8 indirect jobs) over the 1996-to-2001 period in the Kansas City, Missouri-Kansas MSA economic area, which is less than 0.1 percent of economic area employment. The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in the economic area over the 1994-to-2001 period could result in a maximum potential decrease equal to 0.1 percent of employment in the economic area.

Assuming no economic recovery, the closure of NRRC Charleston could result in a maximum potential reduction of 67 jobs (46 direct jobs and 21 indirect jobs) over the 1996-to-2001 period in the Charleston-North Charleston, South Carolina MSA economic area, which is less than 0.1 percent of economic area employment. The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in the economic area over the 1994-to-2001 period could result in a maximum potential decrease equal to 8.4 percent of employment in the economic area.

Assuming no economic recovery, the closure of NRRC New Orleans could result in a maximum potential reduction of 73 jobs (47 direct jobs and 26 indirect jobs) over the 1996-to-2001 period in the New Orleans, Louisiana MSA economic area, which is less than 0.1 percent of economic area employment. The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in the economic area over the 1994-to-2001 period could result in a maximum potential decrease equal to less than 0.1 percent of employment in the economic area.

Community Infrastructure Impact: There is no known community infrastructure impact at any receiving installation.

Environmental Impact: The closure of these Reserve Centers and Readiness Commands generally will have a positive impact on the environment since, with the exception of REDCOM 10, they concern closures with no attendant realignments of personnel or functions. In the case of REDCOM 10, the movement of less than 10 military personnel to REDCOM 11, Dallas, Texas, is not of such a size as to impact the environment. Further, there is no adverse impact on threatened/endangered species, sensitive habitats and wetlands, or cultural/historical resources occasioned by this recommendation.

Marine Corps Air Station, El Toro, California, and Marine Corps Air Station, Tustin, California

Recommendation: Change the receiving sites for "squadrons and related activities at NAS Miramar" specified by the 1993 Commission (1993 Commission Report, at page 1-18) from "NAS Lemoore and NAS Fallon" to "other naval air stations, primarily NAS Oceana, Virginia, NAS North Island, California, and NAS Fallon, Nevada." Change the receiving sites for MCAS Tustin, California, specified by the 1993 Commission from "NAS North Island, NAS Miramar, or MCAS Camp Pendleton" to "other naval air stations, primarily MCAS New River, North Carolina; MCB Hawaii (MCAF Kaneohe Bay); MCAS Camp Pendleton, California; and NAS Miramar, California."

Justification: This recommendation furthers the restructuring initiatives of operational bases commenced in BRAC 93 and also recognizes that the FY 2001 Force Structure Plan further reduced force levels from those in the FY 1999 Force Structure Plan applicable to BRAC 93. These force level reductions required the Department of the Navy not only to eliminate additional excess capacity but to do so in a way that retained only the infrastructure necessary to support future force levels and did not impede operational flexibility for the deployment of that force. Full implementation of the BRAC 93 recommendations relating to operational air stations would require the construction of substantial new capacity at installations on both coasts, which only exacerbates the level of excess capacity in this subcategory of installations. Revising the receiving sites for assets from these installations in this and other air station recommendations eliminates the need for this construction of new capacity, such that the total savings are equivalent to the replacement plant value of an existing tactical aviation naval air station. Further, within the context of the FY 2001 Force Structure Plan, the mix of operational air stations and the assets they support resulting from these recommendations provides substantial operational flexibility. For instance, the single siting of F-14s at Naval Air Station, Oceana, Virginia, fully utilizes that installation's capacity and avoids the need to provide support on both coasts for this aircraft series which is scheduled to leave the active inventory. This recommendation also permits the relocation of Marine Corps helicopter squadrons in the manner best able to meet operational imperatives.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$90.2 million. The net of all costs and savings during the implementation period is a savings of \$293 million. Annual recurring savings after implementation are \$6.9 million with an immediate return on investment expected. The net present value of the costs and savings over 20 years is a savings of \$346.8 million.

Impacts:

Economic Impact on Communities: Since this action affects unexecuted relocations resulting from prior BRAC recommendations, it causes no net change in current employment in either the San Diego MSA or the Kings County, California economic areas. However, the anticipated 10.9% increase in the Kings County employment base and the anticipated 0.1% increase in the San Diego employment base will not occur.

Community Infrastructure Impact: There is no known community infrastructure impact at any receiving installation.

Environmental Impact: The relocation of Navy and Marine Corps aviation assets in this recommendation generally will have a positive impact on the environment, particularly on the air quality in the areas in which NAS Lemoore and MCAS Miramar are located. The introduction of additional aircraft and personnel to the Norfolk, Virginia, area is not expected to have an adverse impact on the air quality of this area in that the net effect of adding these aircraft and personnel, when compared to force structure reductions by FY 2001, is a reduction from FY 1990 levels. However, a conformity determination will be required that takes into account any impact these actions may have on the air quality of these areas. Further, the utility infrastructure at each receiving site has sufficient capacity to handle these additional personnel. There is no adverse impact on threatened/endangered species, sensitive habitats and wetlands, or cultural/historical resources occasioned by this recommendation.

Naval Air Station, Alameda, California

Recommendation: Change the receiving sites specified by the 1993 Commission for the closure of Naval Air Station, Alameda, California (1993 Commission Report, at page 1-35) for "aircraft along with the dedicated personnel, equipment and support" and "reserve aviation assets" from "NAS North Island" and "NASA Ames/Moffett Field," respectively, to "other naval air stations, primarily the Naval Air Facility, Corpus Christi, Texas, to support the Mine Warfare Center of Excellence, Naval Station, Ingleside, Texas."

Justification: The decision to collocate all mine warfare assets, including air assets, at the Mine Warfare Center of Excellence at Naval Station, Ingleside, Texas, coupled with the lack of existing facilities at Naval Air Station, North Island, support this movement of mine warfare helicopter assets to Texas. With this collocation of assets, the Navy can conduct training and operations with the full spectrum of mine warfare assets from one location, significantly enhancing its mine warfare countermeasures capability. This action is also consistent with the Department's approach for other naval air stations of eliminating capacity by not building new capacity.

Return on Investment: The return on investment data below applies to the closure of NAS Meridian, the closure of NTTC Meridian, the realignment of NAS Corpus Christi to a NAF, and the NAS Alameda redirect. The total estimated one-time cost to implement these recommendations is \$83.4 million. The net of all costs and savings during the implementation period is a savings of \$158.8 million. Annual recurring savings after implementation are \$33.4 million with an immediate return on investment expected. The net present value of the costs and savings over 20 years is a savings of \$471.2 million.

Impacts:

Economic Impact on Communities: Since this action affects unexecuted relocations resulting from prior BRAC recommendations, it causes no net change in employment in the San Diego, California MSA economic area. However, the anticipated small increase in the employment base in this economic area will not occur.

Community Infrastructure Impact: There is no known community infrastructure impact at any receiving installation.

Environmental Impact: This redirection involves only the relocation of the mine warfare helicopter assets (both active and reserve aircraft) to the Naval Air Facility, Corpus Christi, Texas, in support of the Mine Warfare Center of Excellence at Naval Station, Ingleside, Texas, instead of to Naval Air Station, North Island, California. Therefore, this relocation will have a positive impact on the environment. The Corpus Christi area is in attainment for all of the major air pollutants, while the San Diego area is in severe non-attainment for ozone. The addition of these assets to the Corpus Christi area is not expected to have an impact on the environment. However, if a conformity determination is required to assess the impact of this move on the local air quality, one will be performed. There are no adverse impacts on threatened/endangered species, sensitive habitats and wetlands, or cultural/historic resources occasioned by this recommendation.

Naval Recruiting District, San Diego, California

Recommendation: Change the receiving site for the Naval Recruiting District, San Diego, California, specified by the 1993 Commission (1993 Commission Report, at page 1-39) from "Naval Air Station North Island" to "other government-owned space in San Diego, California."

Justification: The North Island site is somewhat isolated and not necessarily conducive to the discharge of a recruiting mission. Moving this activity to government-owned space in a more central and accessible location enhances its operations. Additionally, with the additional assets being placed in NAS North Island in this round of closures and realignments, there is a need for the space previously allocated to this activity.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$0.3 million. The net of all costs and savings during the implementation period is a savings of \$0.1 million. There are no annual recurring savings after implementation, and a return on investment is expected in one year. The net present value of the costs and savings over 20 years is a savings of \$89 thousand.

Impacts:

Economic Impact on Communities: This recommendation will not result in a change in employment in the San Diego, California MSA economic area because all affected jobs will remain in that economic area.

Community Infrastructure Impact: There is no known community infrastructure impact at any receiving installation.

Environmental Impact: The relocation of this activity within its local area generally will have a positive impact on the environment because new facilities will not have to be constructed at NAS North Island. Also, there is no adverse impact on threatened/endangered species, sensitive habitats and wetlands, or cultural/historical resources occasioned by this recommendation.

Naval Training Centers

Recommendation: Change the recommendation of the 1993 Commission (1993 Commission Report, at page 1-38) concerning the closure of Naval Training Center, Orlando, Florida, by deleting all references to Service School Command from the list of major tenants. Change the recommendation of the 1993 Commission (1993 Commission Report, at page 1-39) concerning the closure of Naval Training Center, San Diego, California, by deleting all references to Service School Command, including Service School Command (Electronic Warfare) and Service School Command (Surface), from the list of major tenants.

Justification: Service School Command is a major component command reporting directly to the Commanding Officer, Naval Training Center, and, as such, is not a tenant of the Naval Training Center. Its relocation and that of its component courses can and should be accomplished in a manner "consistent with training requirements," as specified by the 1993 Commission recommendation language for the major elements of the Naval Training Centers. For instance, while the command structure of the Service School Command at Naval Training Center, Orlando Florida, is relocating to the Naval Training Center, Great Lakes, Illinois, the Torpedoman "C" School can be relocated to available facilities at the Naval Underwater Weapons Center, Keyport, Washington, and thus be adjacent to the facility that supports the type of weapon that is the subject of the training. Similarly, since the Integrated Voice Communication School at the Naval Training Center, San Diego, California, uses contract instructors, placing it at Fleet Training Center, San Diego, necessitates only the local movement of equipment at a savings in the cost otherwise to be incurred to move such equipment to the Naval Training Center, Great Lakes, Illinois. Likewise, the relocation of the Messman "A" School at Naval Training Center, San Diego, to Lackland Air Force Base results in consolidation of the same type of training for all services at one location, consistent with Department goals, and avoids military construction costs at Naval Air Station, Pensacola.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$5.9 million. The net of all costs and savings during the implementation period is a savings of \$24.8 million. Annual recurring savings after implementation are \$0.2 million with an immediate return on investment expected. The net present value of the costs and savings over 20 years is a savings of \$25.8 million.

Impacts:

Economic Impact on Communities: Since this action affects unexecuted relocations resulting from prior BRAC recommendations, it causes no net change in employment in either the Lake County, Illinois, or the Pensacola, Florida MSA economic areas. However, the anticipated 0.1 percent increase in the Lake County employment base and the anticipated 0.1 percent increase in Pensacola, Florida the employment base will not occur.

Community Infrastructure Impact: There is no known community infrastructure impact at any receiving installation.

Environmental Impact: The relocation of individual schools will have a minimal impact on the environment. Each is a tenant command and not a property owner. Each of the receiving sites was reviewed for impact on threatened/endangered species, sensitive habitats and wetlands, and cultural/historic resources, and no adverse impact was found. None of these schools are expected to have an adverse impact on the air quality of the areas to which it is relocating. The receiving sites have adequate capacity in their utility infrastructure to handle the additional personnel relocated by this recommendation.

Naval Air Station, Cecil Field, Florida

Recommendation: Change the receiving sites specified by the 1993 Commission (1993 Commission Report, at page 1-20) from "Marine Corps Air Station, Cherry Point, North Carolina; Naval Air Station, Oceana, Virginia; and Marine Corps Air Station, Beaufort, South Carolina" to "other naval air stations, primarily Naval Air Station, Oceana, Virginia; Marine Corps Air Station, Beaufort, South Carolina; Naval Air Station, Jacksonville, Florida; and Naval Air Station, Atlanta, Georgia; or other Navy or Marine Corps Air Stations with the necessary capacity and support infrastructure." In addition, add the following: "To support Naval Air Station, Jacksonville, retain OLF Whitehouse, the Pinecastle target complex, and the Yellow Water family housing area."

Justification: Despite the large reduction in operational infrastructure accomplished during the 1993 round of base closure and realignment, since DON force structure experiences a reduction of over 10 percent by the year 2001, there continues to be additional excess capacity that must be eliminated. In evaluating operational bases, the goal was to retain only that infrastructure necessary to support the future force structure without impeding operational flexibility for deployment of that force. This recommended redirect achieves several important aims in furtherance of current Departmental policy and operational needs. First, it avoids the substantial new construction at MCAS Cherry Point that would be required if the F/A-18s from NAS Cecil Field were relocated there, which would add to existing excess capacity, and utilizes existing capacity at NAS Oceana. This avoidance and similar actions taken regarding other air stations are equivalent to the replacement plant value of an existing tactical aviation naval air station. Second, it permits collocation of all fixed wing carrier-based anti-submarine warfare (ASW) air assets in the Atlantic Fleet with the other aviation ASW assets at NAS Jacksonville and NAVSTA Mayport and support for those assets. Third, it permits recognition of the superior demographics for the Navy and Marine Corps reserves by relocation of reserve assets to Atlanta, Georgia.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$66.6 million. The net of all costs and savings during the implementation period is a savings of \$335.1 million. Annual recurring savings after implementation are \$11.5 million with an immediate return on investment expected. The net present value of the costs and savings over 20 years is a savings of \$437.8 million.

Impacts:

Economic Impact on Communities: Since this action affects unexecuted relocations resulting from prior BRAC recommendations, it causes no net change in current employment in the Craven and Carteret Counties, North Carolina economic area. However, the anticipated 7.5 percent increase in the employment base in this economic area will not occur.

Community Infrastructure Impact: There is no known community infrastructure impact at any receiving installation.

Environmental Impact: The reallocation of Navy and Marine Corps aviation assets in this recommendation will have a generally positive impact on the environment, particularly on the air quality at Cherry Point, North Carolina, and Jacksonville, Florida. The introduction of additional aircraft and personnel to the Norfolk, Virginia, area is not expected to have an adverse impact on the air quality of that area since the net effect of moving these particular assets, when compared to the force structure reductions by FY 2001, is a reduction of personnel and aircraft from FY 1990 levels at this receiving activity. However, it is expected that conformity determinations will be required for the movements to NAS Oceana and NAS Atlanta. The utility infrastructure at each of the receiving sites is sufficient to handle the additional personnel. At none of the receiving sites will there be an adverse impact on threatened/endangered species, sensitive habitats and wetlands, or cultural/historical resources occasioned by this recommendation.

Naval Aviation Depot, Pensacola, Florida

Recommendation: Change the recommendation of the 1993 Commission (1993 Commission Report, at pages 1-42/43) by striking the following: "In addition, the Commission recommends that the whirl tower and dynamic components facility be moved to Cherry Point Navy or Corpus Christi Army Depots or the private sector, in lieu of the Navy's plan to retain these operations in a stand-alone facility at NADEP Pensacola."

Justification: Despite substantial reductions in depot maintenance capability accomplished in prior base closure evolutions, as force levels continue to decline, there is additional excess capacity that needs to be eliminated. Naval Aviation Depot, Pensacola, was closed in BRAC 93, except for the whirl tower and dynamic components facility. Subsequent to that decision, no requirement for the facility has been identified within either the Army or the Navy, and insufficient private sector interest in that facility has been expressed. Additionally, the Depot Maintenance Joint Cross-Service Group (JCSG-DM) examined these functions in response to Congressional interest in reexamining the BRAC 93 action. The JCSG-DM determined that the Pensacola facilities could not independently fulfill the entire future DoD requirement, but that the Army facilities at Corpus Christi Army Depot, combined with the Navy facilities at NADEP Cherry Point, could. This recommendation will allow the disposal of the whirl tower and the rehabilitation of the dynamic components facility buildings for use by the Naval Air Technical Training Center.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$1.5 million. The net of all costs and savings during the implementation period is a savings of \$2.4 million. Annual recurring savings after implementation are \$0.2 million with an immediate return on investment expected. The net present value of the costs and savings over 20 years is a savings of \$3.8 million.

Impacts:

Economic Impact on Communities: This recommendation will not affect any jobs in the Pensacola, Florida MSA economic area.

Community Infrastructure Impact: There is no community infrastructure impact since there are no receiving installations for this recommendation.

Environmental Impact: There are no known environmental impacts attendant to the disposal of these assets in place required by this recommendation, including impacts on air quality, threatened/endangered species, sensitive habitats and wetlands, or cultural/historical resources.

**Navy Nuclear Power Propulsion Training Center,
Naval Training Center, Orlando, Florida**

Recommendation: Change the receiving site specified by the 1993 Commission (1993 Commission Report, at page 1-38) for the "Nuclear Power School" (or the Navy Nuclear Power Propulsion Training Center) from "the Submarine School at the Naval Submarine Base (NSB), New London" to "Naval Weapons Station, Charleston, South Carolina."

Justification: The decision of the 1993 Commission to retain the submarine piers at Naval Submarine Base New London, Connecticut, meant that some of the facilities designated for occupancy by the Navy Nuclear Power Propulsion Training Center were no longer available. Locating this school with the Nuclear Propulsion Training Unit of the Naval Weapons Station, Charleston achieves an enhanced training capability, provides ready access to the moored training ships now at the Weapons Station, and avoids the significant costs of building and/or renovating facilities at New London.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$147.9 million. The net of all costs and savings during the implementation period is a savings of \$19.5 million. Annual recurring savings after implementation are \$5.3 million with a return on investment expected in one year. The net present value of the costs and savings over 20 years is a savings of \$71.1 million.

Impacts:

Economic Impact on Communities: Since this action affects unexecuted relocations resulting from prior BRAC recommendations, it causes no net change in employment in the New London-Norwich, Connecticut NECMA economic area. However, the anticipated 2.3 percent increase in the employment base in this economic area will not occur.

Community Infrastructure Impact: There is no known community infrastructure impact at any receiving installation.

Environmental Impact: The relocation of the Navy Nuclear Power Propulsion Training Center generally will have a positive impact on the environment. The receiving site is in an air quality district that is in attainment for carbon monoxide, ozone and PM-10, and this relocation is not expected to have an adverse impact on that air quality status. Also, the utility infrastructure of the receiving site is sufficient to handle the additional personnel. There is no adverse impact on threatened/endangered species, sensitive habitats and wetlands, or cultural/historic resources occasioned by this recommendation.

Naval Air Station, Agana, Guam

Recommendation: Change the receiving site specified by the 1993 Commission (1993 Commission Report, at page 1-21) for "the aircraft, personnel, and associated equipment" from the closing Naval Air Station, Agana, Guam from "Andersen AFB, Guam" to "other naval or DoD air stations in the Continental United States and Hawaii."

Justification: Other BRAC 95 actions recommended the partial closure of Naval Activities, Guam, with retention of the waterfront assets, and the relocation of all of the vessels currently homeported at Naval Activities, Guam to Hawaii. Among the aircraft at Naval Activities, Guam is a squadron of helicopters performing logistics functions in support of these vessels. This redirect would collocate these helicopters with the vessels they support. Similarly, regarding the other aircraft at the closing Naval Air Station, the Fleet Commander-in-Chief desires operational synergies for his surveillance aircraft, which results in movement away from Guam. This redirect more centrally collocates those aircraft with similar assets in Hawaii and on the West Coast, while avoiding the new construction costs required in order to house these aircraft at Andersen Air Force Base, Guam, consistent with the Department's approach of eliminating capacity by not building new capacity.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$43.8 million. The net of all costs and savings during the implementation period is a savings of \$213.8 million. Annual recurring savings after implementation are \$21.7 million with an immediate return on investment expected. The net present value of the costs and savings over 20 years is a savings of \$418 million.

Impacts:

Economic Impact on Communities: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 1,641 jobs (1,272 direct jobs and 369 indirect jobs) over the 1996-to-2001 period in the Agana, Guam economic area, which is 2.5 percent of economic area employment. The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in the economic area over the 1994-to-2001 period could result in a maximum potential decrease equal to 10.6 percent of employment in the economic area. However, much of this impact involves the inclusion of MSC mariners in the job loss statement, which does not reflect the temporary nature of their presence on Guam.

Community Infrastructure Impact: There is no known community infrastructure impact at any receiving installation.

Environmental Impact: The Guam Air Pollution Control District is in attainment for carbon monoxide, ozone, and PM-10. Relocation of these aviation assets will remove a source of air emissions thus enhancing the air quality of Guam. Both NAS Whidbey Island and MCB/MCAF Hawaii are in an attainment area for carbon monoxide, ozone, and PM-10, and thus this relocation will not require a conformity determination. NAS North Island, on the other hand, is in an area which is in moderate non-attainment for carbon monoxide and severe non-attainment

for ozone. Thus, a conformity determination may be required to evaluate the impact on air quality. Plans to disestablish current active squadrons support the ability to obtain a conformity determination. Adequate utility support and undeveloped property for expansion exist at NAS North Island. Similarly, at NAS Whidbey Island, force downsizing over the next six years will be in excess of the additional personnel and aircraft from this action. There will be no adverse impact to threatened/endangered species, sensitive habitats and wetlands, or cultural/historical resources occasioned by this recommendation.

Naval Air Station, Barbers Point, Hawaii

Recommendation: Change the recommendation of the 1993 Commission regarding items excepted from the closure of Naval Air Station, Barbers Point, Hawaii (1993 Commission, at page 1-19) from "Retain the family housing as needed for multi-service use" to "Retain the family housing as needed for multi-service use, including the following family housing support facilities: commissary facilities, Public Works Center compound with its sanitary landfill, and beach recreational areas, known as Nimitz Beach and White Plains Beach."

Justification: While specific mention was made of retention of family housing in the BRAC 93 recommendation relating to NAS Barbers Point, certain aspects conducive to supporting personnel in family housing were not specifically mentioned, which is required for their retention. Quality of life interests require either that these facilities be retained or that new ones be built to provide these services. Another advantage of retaining these facilities to support multi-service use is the avoidance of the costs of closing the existing landfill and either developing another one on other property on the island of Oahu or incurring the costs of shipping waste to a site off-island.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$37 thousand. The net of all costs and savings during the implementation period is a savings of \$17.6 million. Annual recurring savings after implementation are \$0.1 million with an immediate return on investment expected. The net present value of the costs and savings over 20 years is a savings of \$18.4 million.

Impacts:

Economic Impact on Communities: This recommendation will not affect any jobs in the Honolulu, Hawaii MSA economic area.

Community Infrastructure Impact: There is no community infrastructure impact since there are no receiving installations for this recommendation.

Environmental Impact: The importance of this recommendation from the perspective of environmental impact is the retention of the existing landfill. Without this recommendation, the landfill would have to be closed and capped, and, until a replacement site is established, waste water treatment sludge, for instance, would have to be exported off-island for disposal. Further, by avoiding the need for new construction of facilities for the public works center compound and the commissary, this recommendation will eliminate any air emissions occasioned by such new construction and the need to use scarce real property resources to replace these facilities. Also, there is no adverse impact on threatened/endangered species, sensitive habitats and wetlands, or cultural/historical resources occasioned by this recommendation.

Naval Air Facility, Detroit, Michigan

Recommendation: Change the receiving site specified by the 1993 Commission (1993 Commission Report, at page 1-25) for the Mt. Clemons, Michigan Marine Corps Reserve Center, including MWSG-47 and supporting units, from "Marine Corps Reserve Center, Twin Cities, Minnesota" to "Air National Guard Base, Selfridge, Michigan."

Justification: In addition to avoiding the costs of relocating the reserve unit from this reserve center to Minnesota, this redirect maintains a Marine Corps recruiting presence in the Detroit area, which is a demographically rich recruiting area, and realizes a principal objective of the Department of Defense to effect multi-service use of facilities.

Return on Investment: There are no one-time costs to implement this recommendation. The net of all costs and savings during the implementation period is a savings of \$9.4 million. There are no annual recurring savings, and an immediate return on investment is obtained. The net present value of the costs and savings over 20 years is a savings of \$9.3 million.

Impacts:

Economic Impact on Communities: Since this action affects unexecuted relocations resulting from prior BRAC recommendations, it causes no net change in current employment in the Minneapolis-St. Paul, Minnesota-Wisconsin MSA economic area. However, the anticipated small increase in the employment base in this economic area will not occur.

Community Infrastructure Impact: There is no known community infrastructure impact at any receiving installation.

Environmental Impact: The collocation of MWSG-47 and supporting units to National Guard facilities permits this activity to remain in its present location. Both the Air National Guard Base, Selfridge and the closing Naval Air Facility Detroit are in the same Air Quality Control District. Therefore, there will be no air quality changes on account of this recommendation. The elimination of the transfer of this Reserve Center to NARCEN Twin Cities will have a positive effect on the air quality of the Minneapolis/St. Paul Air Quality Control District.

Naval Shipyard, Norfolk Detachment, Philadelphia, Pennsylvania

Recommendations: Change the recommendation of the 1991 Commission relating to the closure of the Philadelphia Naval Shipyard (1991 Commission Report, at page 5-28) to delete "and preservation" (line 5) and "for emergent requirements"(lines 6-7).

Justification: Despite substantial reductions in depot maintenance capability accomplished in prior base closure evolutions, as force levels continue to decline, there is additional excess capacity that needs to be eliminated. The contingency seen in 1991 for which the facilities at this closed shipyard were being retained no longer exists, and their continued retention is neither necessary nor consistent with the DON objective to divest itself of unnecessary infrastructure.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$32 thousand. The net of all costs and savings during the implementation period is a savings of \$51.9 million. Annual recurring savings after implementation are \$8.8 million with an immediate return on investment expected. The net present value of the costs and savings over 20 years is a savings of \$134.7 million.

Impacts:

Economic Impact on Communities: This recommendation will not affect any jobs in the Philadelphia, Pennsylvania-New Jersey PMSA economic area.

Community Infrastructure Impact: There is no community infrastructure impact since there are no receiving installations for this recommendation.

Environmental Impact: This recommendation completes the closure of the Philadelphia Naval Shipyard which began with BRAC 91. Since this is a closure with no realignment of functions, personnel or workload, there is no impact to threatened/endangered species, sensitive habitats and wetlands, or cultural/historical resources occasioned by this recommendation.

Naval Sea Systems Command, Arlington, Virginia

Recommendation: Change the receiving sites specified by the 1993 Commission (1993 Commission Report, at page 1-59) for the relocation of the Naval Sea Systems Command, including the Nuclear Propulsion Directorate (SEA 08), the Human Resources Office supporting the Naval Sea Systems Command, and associated PEOs and DRPMs, from "the Navy Annex, Arlington, Virginia; Washington Navy Yard, Washington, D.C.; 3801 Nebraska Avenue, Washington, D.C.; Marine Corps Combat Development Command, Quantico, Virginia; or the White Oak facility, Silver Spring, Maryland" to "the Washington Navy Yard, Washington, D.C. or other government-owned property in the metropolitan Washington, D.C. area."

Justification: The resource levels of administrative activities are dependent upon the level of forces they support. The continuing decline in force levels shown in the FY 2001 Force Structure Plan coupled with the effects of the National Performance Review result in further reductions of personnel in administrative activities. As a result, the capacity at the White Oak facility in Silver Spring, Maryland, or at the Navy Annex, Arlington, Virginia is no longer required to meet DON administrative space needs. This change in receiving sites eliminates substantial expenditures otherwise required to rehabilitate both White Oak and the Navy Annex. The net effect of this and the White Oak recommendation is a decrease of excess administrative space by more than 1,000,000 square feet.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$159.7 million. The net of all costs and savings during the implementation period is a savings of \$47.6 million. Annual recurring savings after implementation are \$9.4 million with an immediate return on investment expected. The net present value of the costs and savings over 20 years is a savings of \$144 million.

Impacts:

Economic Impact on Communities: This recommendation will not result in a change in employment in the Washington, DC-Maryland-Virginia-West Virginia PMSA economic area because all affected jobs will remain in that economic area.

Community Infrastructure Impact: There is no known community infrastructure impact at any receiving installation.

Environmental Impact: The relocation of NAVSEA from leased space in the NCR to the Washington Navy Yard generally will have a positive impact on the environment, principally due to the avoidance of the construction of new facilities and the rehabilitation of existing facilities at NSWC White Oak, Maryland, which is closing in its entirety. The Washington Navy Yard has sufficient facilities which can be rehabilitated to house these activities, and the utility infrastructure capacity is sufficient to handle the additional personnel. There is no adverse impact on threatened/endangered species, sensitive habitat and wetlands, or cultural/historical resources occasioned by this recommendation.

Office of Naval Research, Arlington, Virginia

Recommendation: Change the recommendation of the 1993 Commission (1993 Commission Report, at pages 1-59/60) by deleting the Office of Naval Research from the list of National Capital Region activities to relocate from leased space to Government-owned space within the NCR.

Justification: Because of other BRAC 95 actions, space designated for this activity pursuant to the BRAC 93 decision is no longer available. Other Navy-owned space in the NCR would require substantial new construction in order to house this activity. Permitting the Office of Naval Research to remain in its present location not only avoids this new construction, but also realizes the synergy obtained by having the activity located in proximity to the Advanced Research Projects Agency and the National Science Foundation. Further, this action provides the opportunity for future collocation of like activities from the other Military Departments, with the attendant joint synergies which could be realized. While this action results in a recurring cost, the cost is minimal in light of the importance of these two significant opportunities.

Return on Investment: While the annual costs for this activity to remain in leased space are higher than operating costs paid for government-owned space, relocation to government-owned space would require new construction. The cost of that new construction is more than would be saved by this move over a twenty-year period. COBRA analysis of the BRAC 93 recommendation in view of the changed circumstances regarding availability of space in the National Capital Region reveals that relocation of this activity would not result in a reasonable return on investment.

Impacts:

Economic Impact on Communities: This recommendation will not result in a change in employment in the Washington, DC-Maryland-Virginia-West Virginia PMSA economic area because all affected jobs will remain in that economic area.

Community Infrastructure Impact: There is no known community infrastructure impact at any receiving installation.

Environmental Impact: Locating this activity in Arlington, Virginia, instead of at either the Washington Navy Yard or Nebraska Avenue generally will have a positive impact on the environment because new facilities will not have to be constructed. Both the current site and the sites considered as receivers are in the same air quality district; thus, there will be no impact on air quality. There is no adverse impact on threatened/endangered species, sensitive habitat and wetlands, or cultural/historical resources occasioned by this recommendation.

Space and Naval Warfare Systems Command, Arlington, Virginia

Recommendation: Change the recommendation for the Space and Naval Warfare Systems Command, Arlington, Virginia, specified by the 1993 Commission (Commission Report, at page 1-59) from "[r]elocate...from leased space to Government-owned space within the NCR, to include the Navy Annex, Arlington, Virginia; Washington Navy Yard, Washington, D.C.; 3801 Nebraska Avenue, Washington, D.C.; Marine Corps Combat Development Command, Quantico, Virginia; or the White Oak facility, Silver Spring, Maryland" to "Relocate...from leased space to Government-owned space in San Diego, California, to allow consolidation of the Naval Command, Control and Ocean Surveillance Center, with the Space and Naval Warfare Command headquarters. This relocation does not include SPAWAR Code 40, which is located at NRL, or the Program Executive Officer for Space Communication Sensors and his immediate staff who will remain in Navy-owned space in the National Capital Region."

Justification: The resource levels of administrative activities are dependent upon the level of forces they support. The continuing decline in force levels shown in the FY 2001 Force Structure Plan coupled with the effects of the National Performance Review result in further reductions in administrative activities. Space available in San Diego resulting from personnel changes and work consolidation permits further consolidation of the SPAWAR command structure and the elimination of levels of command structure. This consolidation will achieve not only significant savings from elimination of unnecessary command structure but also efficiencies and economies of operation. In addition, by relocating to San Diego instead of the NCR, there will be sufficient readily available space in the Washington Navy Yard for the Naval Sea Systems Command.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$24 million. The net of all costs and savings during the implementation period is a savings of \$120 million. Annual recurring savings after implementation are \$25.3 million with an immediate return on investment expected. The net present value of the costs and savings over 20 years is a savings of \$360 million.

Impacts:

Economic Impact on Communities: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 1,821 jobs (1,133 direct jobs and 681 indirect jobs) over the 1996-to-2001 period in the Washington, DC-Maryland-Virginia-West Virginia PMSA economic area, which is 0.1 percent of economic area employment. The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in the economic area over the 1994-to-2001 period could result in a maximum potential decrease equal to 0.6 percent of employment in the economic area.

Community Infrastructure Impact: There is no known community infrastructure impact at any receiving installation.

Environmental Impact: The relocation of this activity from leased space in the NCR to San Diego, California, likely will not have an adverse impact on the environment. Because San Diego is in a moderate non-attainment area for carbon monoxide, a conformity determination may be required to evaluate air quality impacts. There is no adverse impact on threatened/endangered species, sensitive habitats and wetlands, or cultural/historical resources occasioned by this recommendation.

Naval Recruiting Command, Washington, D.C.

Recommendation: Change the receiving site for the Naval Recruiting Command, Washington, D.C., specified by the 1993 Commission (1993 Commission Report, at page 1-59) from "Naval Training Center, Great Lakes, Illinois" to "Naval Support Activity, Memphis, Tennessee."

Justification: This relocation permits the single-siting of the Department's personnel recruiting and personnel management headquarters-level activities, enhancing their close coordination, and supporting the Department's policy of maximizing the use of government-owned space. It also reduces the requirement to effect new construction, and reduces resulting potential building congestion, at NTC Great Lakes.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$6.5 million. The net of all costs and savings during the implementation period is a savings of \$1.1 million. There are no annual recurring savings after implementation, and an immediate return on investment is expected. The net present value of the costs and savings over 20 years is a savings of \$1.2 million.

Impacts:

Economic Impact on Communities: Since this action affects unexecuted relocations resulting from prior BRAC recommendations, it causes no net change in employment in the Lake County, Illinois economic area. However, the anticipated 0.2 percent increase in the employment base in this economic area will not occur.

Community Infrastructure Impact: There is no known community infrastructure impact at any receiving installation.

Environmental Impact: The movement of this activity to Naval Support Activity, Memphis generally will have a positive impact on the environment because new facilities will not have to be constructed at NTC Great Lakes, Illinois. The additional personnel are not expected to have an adverse impact on the environment in that the utility infrastructure capacity at the receiving site is sufficient to handle this additional loading. There is no adverse impact on threatened/endangered species, sensitive habitats and wetlands, or cultural/historical resources occasioned by this recommendation.

**Naval Security Group Command Detachment Potomac,
Washington, D.C.**

Recommendation: Change the receiving site for the Naval Security Group Command Detachment Potomac, Washington, D.C., from "National Security Agency, Ft. Meade, Maryland" specified by the 1993 Commission (1993 Commission Report, at page 1-59) to "Naval Research Laboratory, Washington, D.C."

Justification: The mission of this activity requires that it be collocated with space surveillance hardware. This can most effectively be accomplished by housing this activity at the Naval Research Laboratory. By this redirect, the cost of moving this activity to Fort Meade can be avoided.

Return on Investment: There are no estimated one-time costs to implement this recommendation. The net of all costs and savings during the implementation period is a savings of \$4 thousand. There are no annual recurring savings after implementation, and an immediate return on investment is expected. The net present value of the costs and savings over 20 years is a savings of \$4 thousand.

Impacts:

Economic Impact on Communities: Since this action affects unexecuted relocations resulting from prior BRAC recommendations, it causes no net change in current employment in the Baltimore, Maryland PMSA economic area. However, the anticipated small increase in the employment base in this economic area will not occur.

Community Infrastructure Impact: There is no known community infrastructure impact at any receiving installation.

Environmental Impact: The relocation of this activity from Ft. Meade, Maryland, to the Naval Research Laboratory, Washington, D.C., generally will have a positive impact on the environment. Both the losing site and the gaining site are in the same air quality district; thus, movement of this activity within that district will no impact on air quality. There is no adverse impact on threatened/endangered species, sensitive habitat and wetlands, or cultural/historical resources occasioned by this recommendation.

Department of the Air Force Selection Process

Introduction

The Air Force 1995 selection process shares the fundamental approach used in the 1991 and 1993 Air Force base realignment and closure (BRAC) processes.

The basis for selection of closure and realignment recommendations was the DoD force structure and the final selection criteria. The Secretary of the Air Force appointed a Base Closure Executive Group of six general officers and seven comparable (Senior Executive Service) civilians. Areas of expertise included environment; facilities and construction; finance; law; logistics; programs; operations; personnel and training; reserve components; plus research, development and acquisition. Additionally, an Air Staff-level Base Closure Working Group was formed to provide staff support and additional detailed expertise for the Executive Group. Plans and Programs General Officers from the Major Commands (MAJCOM) met on several occasions with the Executive Group to provide mission specific expertise and greater base-level information. Also, potential sister-service impacts were coordinated by a special inter-service working group.

The Executive Group developed a Base Closure Internal Control Plan that was approved by the Secretary of the Air Force. This plan provides structure and guidance for all participants in the base closure process, including procedures for data gathering and certification.

The Selection Process

The Executive Group reviewed all Active and Air Reserve Component (ARC) installations in the United States that met or exceeded the Section 2687, Title 10 U.S.C. threshold of 300 direct-hire civilians authorized to be employed. Data on all applicable bases was collected via a comprehensive and detailed questionnaire answered at base level with validation by the Major Commands and Air Staff. All data was evaluated and certified in accordance with the Air Force Internal Control Plan. As an additional control measure, the Air Force Audit Agency was tasked to continuously review the Air Force process for consistency with the law and DoD policy and to ensure that the data collection and validation process was adequate. A baseline capacity analysis was also performed that evaluated the physical capability of a base to accommodate additional force structure and other activities (excess capacity) beyond that programmed to be stationed at the base.

The Executive Group occasionally questioned the data, where appropriate, when the information was revised or more detailed data provided. Data determined to be inaccurate was corrected. All data used in the preparation and submission of information and recommendations concerning the closure or realignment of military installations was certified as to its accuracy and completeness by appropriate officials at base, MAJCOM, and headquarters level. In addition, the Executive Group and the Secretary of the Air Force certified that all information contained in the Air Force Detailed Analysis and all supporting data were accurate and complete to the best of their knowledge and belief.

The Executive Group placed all bases in categories, based on the installation's predominant mission. When considered by category, the results of the baseline capacity analysis represented the maximum potential base closures that could be achieved within each category. The results of the baseline excess capacity analysis were then used in conjunction with the approved DoD force structure plan in determining base structure requirements. Other factors were also considered to determine actual capabilities for base reductions. The capacity analysis was also used to identify cost effective opportunities for the beddown of activities and aircraft dislocated from bases recommended for closure and realignment.

Bases deemed militarily or geographically unique or mission-essential were approved by the Secretary of the Air Force for exclusion from further closure consideration. Capacity was analyzed by category, based on a study of current base capacity and the future requirements imposed by the force structure plan. Categories and subcategories having no excess capacity were recommended to and approved by the Secretary of the Air Force for exclusion from further study.

All non-excluded Active Component bases in the remaining categories were individually examined on the basis of all eight selection criteria established by the Secretary of Defense, with over 250 subelements to the grading criteria. These subelements were developed by the Air Force to provide specific data points for each criterion.

Under Deputy Secretary of Defense direction, the Executive Group and the Secretary of the Air Force considered and analyzed the results of the efforts of Joint Cross-Service Groups in the areas of Depot Maintenance, Laboratories, Test and Evaluation, Undergraduate Pilot Training, and Military Treatment Facilities including Graduate Medical Education. The Joint Cross-Service Groups established data elements, measures of merit, and methods of analysis for their functional areas. The Air Force collected data as requested by the joint groups, following the Air Force's Internal Control Plan. After receiving data provided by each of the Services, the joint groups developed functional values and alternatives for the activities under their consideration. These alternatives were reported to the Military Departments for consideration in their processes. In turn, the Military Departments responded with comments and cost analyses of the alternatives, and engaged in a dialogue with the joint groups regarding potential closure and realignment actions, consistent with the internal analytical processes of each Military Department.

The Air Reserve Component (ARC) category, comprised of Air National Guard and Air Force Reserve bases, warrants further explanation. First, these bases do not readily compete against each other, as ARC units enjoy a special relationship with their respective states and local communities. Under federal law, relocating Guard units across State boundaries is not a practical alternative. In addition, careful consideration must be given to the recruiting needs of these units. However, realignment of ARC units onto active or civilian, or other ARC installations could prove cost effective. Therefore, the ARC category was examined for cost effective relocations to other bases.

Information, base groupings, excess capacity, and options resulting from the Executive Group analysis were presented to the Secretary of the Air Force and Chief of Staff of the Air Force by the Executive Group. Based on the force structure plan and the eight selection criteria, with consideration given to excess capacity, efficiencies in base utilization, and concepts of force structure organization and basing, the Secretary of the Air Force, in consultation with the Air Force Chief of Staff, and using the analysis of the Executive Group, selected the bases recommended for closure and realignment.

North Highlands Air Guard Station, California

Recommendation: Close North Highlands Air Guard Station (AGS) and relocate the 162nd Combat Communications Group (CCG) and the 149th Combat Communications Squadron (CCS) to McClellan AFB, California.

Justification: Relocation of the 162nd CCG and 149th CCS onto McClellan AFB will provide a more cost-effective basing arrangement than presently exists by avoiding some of the costs associated with maintaining the installation. Because of the very short distance from the unit's present location in North Highlands to McClellan AFB, most of the personnel will remain with the unit.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$1.3 million. The net of all costs and savings during the implementation period is a cost of \$0.5 million. Annual recurring savings after implementation are \$0.2 million with a return on investment expected in eight years. The net present value of the costs and savings over 20 years is a savings of \$1.5 million.

Impacts: This recommendation will not result in a change in the employment in the Sacramento, California Primary Metropolitan Statistical Area because all affected jobs will remain in that economic area. Review of demographic data projects no negative impact on recruiting. This action will have minimal environmental impact.

Ontario International Airport Air Guard Station, California

Recommendation: Close Ontario International Airport Air Guard Station (AGS) and relocate the 148th Combat Communications Squadron (CCS) and the 210th Weather Flight to March ARB, California.

Justification: Relocation of the 148th CCS and the 210th Weather Flight onto March ARB will provide a more cost-effective basing arrangement by avoiding some of the costs associated with maintaining the installation. Because of the short distance from the unit's present location on Ontario International Airport AGS, most of the personnel will remain with the unit.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$0.8 million. The net of all costs and savings during the implementation period is a cost of \$0.3 million. Annual recurring savings after implementation are \$0.1 million with a return on investment expected in eight years. The net present value of the costs and savings over 20 years is a savings of \$0.9 million.

Impacts: This recommendation will not result in a change in the employment in the Riverside-San Bernardino, California Primary Metropolitan Statistical Area because all affected jobs will remain in the economic area. Review of demographic data projects no negative impact on recruiting. Environmental impact from this action is minimal.

Rome Laboratory, New York

Recommendation: Close Rome Laboratory, Rome, New York. Rome Laboratory activities will relocate to Fort Monmouth, New Jersey, and Hanscom AFB, Massachusetts. Specifically, the Photonics, Electromagnetic & Reliability (except Test Site O&M operations), Computer Systems, Radio Communications and Communications Network activities, with their share of the Rome Lab staff activities, will relocate to Fort Monmouth. The Surveillance, Intelligence & Reconnaissance Software Technology, Advanced C2 Concepts, and Space Communications activities, with their share of the Rome Laboratory staff activities, will relocate to Hanscom AFB. The Test Site (e.g., Stockbridge and Newport) O&M operations will remain at its present location but will report to Hanscom AFB.

Justification: The Air Force has more laboratory capacity than necessary to support current and projected Air Force research requirements. The Laboratory Joint Cross-Service Group analysis recommended the Air Force consider the closure of Rome Laboratory. Collocation of part of the Rome Laboratory with the Army's Communications Electronics Research Development Evaluation Command at Fort Monmouth will reduce excess laboratory capacity and increase inter-Service cooperation and common C3 research. In addition, Fort Monmouth's location near unique civilian research activities offers potential for shared research activities. Those activities relocated to Hanscom AFB will strengthen Air Force C3I RDT&E activities by collocating common research efforts. This action will result in substantial savings and furthers the DoD goal of cross-service utilization of common support assets.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$52.8 million. The net of all costs and savings during the implementation period is a cost of \$15.1 million. Annual recurring savings after implementation are \$11.5 million with a return on investment expected in four years. The net present value of the costs and savings over 20 years is a savings of \$98.4 million.

Impacts: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 2,345 jobs (1,067 direct jobs and 1,278 indirect jobs) over the 1996-to-2001 period in the Utica-Rome, New York Metropolitan Statistical Area, which is 1.5 percent of the economic area's employment. The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in the economic area over the 1994-to-2001 period could result in a maximum potential decrease equal to 6.2 percent of employment in the economic area. Environmental impact from this action is minimal and ongoing restoration of Rome Laboratory and Griffiss AFB will continue.

Roslyn Air Guard Station, New York

Recommendation: Close Roslyn Air Guard Station (AGS) and relocate the 213th Electronic Installation Squadron (ANG) and the 274th Combat Communications Group (ANG) to Stewart International Airport AGS, Newburg, New York. The 722nd Aeromedical Staging Squadron (AFRES) will relocate to suitable leased space within the current recruiting area.

Justification: Relocation of the 213th Electronic Installation Squadron and 274th Combat Communications Group to Stewart International Airport AGS will produce a more efficient and cost-effective basing structure by avoiding some of the costs associated with maintaining the installation.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$2.4 million. The net of all costs and savings during the implementation period is a savings of \$0.7 million. Annual recurring savings after implementation are \$0.7 million with a return on investment expected in four years. The net present value of the costs and savings over 20 years is a savings of \$7.6 million.

Impacts: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 71 jobs (44 direct jobs and 27 indirect jobs) over the 1996-to-2001 period in the Nassau-Suffolk, New York Metropolitan Statistical Area, which is less than 0.1 percent of the area's employment. The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in the economic area over the 1994-to-2001 period could result in a maximum potential increase equal to less than 0.1 percent of employment in the Nassau-Suffolk, New York Metropolitan Statistical Area. Review of demographic data projects no negative impact on recruiting. Environmental impact from this action is minimal and ongoing restoration will continue.

Springfield-Beckley Municipal Airport Air Guard Station, Ohio

Recommendation: Close Springfield-Beckley Municipal Airport Air Guard Station (AGS) and relocate the 178th Fighter Group (ANG), the 251st Combat Communications Group (ANG), and the 269th Combat Communications Squadron (ANG) to Wright-Patterson AFB, Ohio.

Justification: The 178th Fighter Group provides crash, fire and rescue, security police, and other base operating support services for ANG activities at Springfield-Beckley Municipal Airport. By relocating to Wright-Patterson AFB, significant manpower and other savings will be realized by avoiding some of the costs associated with the installation.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$23.4 million. The net of all costs and savings during the implementation period is a cost of \$5.6 million. Annual recurring savings after implementation are \$4.2 million with a return on investment expected in six years. The net present value of the costs and savings over 20 years is a savings of \$35.1 million.

Impacts: This recommendation will not result in a change in the employment in the Riverside-Dayton-Springfield, Ohio Metropolitan Statistical Area because all affected jobs will remain in that economic area. Review of demographic data projects no negative impact on recruiting. Environmental impact from this action is minimal.

Greater Pittsburgh IAP Air Reserve Station, Pennsylvania

Recommendation: Close Greater Pittsburgh IAP Air Reserve Station (ARS). The 911th Airlift Wing will inactivate and its C-130 aircraft will be distributed to Air Force Reserve C-130 units at Dobbins ARB, Georgia, and Peterson AFB, Colorado.

Justification: The Air Force Reserve has more C-130 operating locations than necessary to effectively support the Reserve C-130 aircraft in the Department of Defense (DoD) Force Structure Plan. Although Greater Pittsburgh ARS is effective at supporting its mission, its evaluation overall under the eight criteria supports its closure. Its operating costs are the greatest among Air Force Reserve C-130 operations at civilian airfields. In addition, its location near a number of AFRES and Air National Guard units provides opportunities for its personnel to transfer and continue their service without extended travel.

Return On Investment: The total estimated one-time cost to implement this recommendation is \$22.3 million. The net of all costs and savings during the implementation period is a savings of \$36.3 million. Annual recurring savings after implementation are \$13.1 million with a return on investment expected in two years. The net present value of the costs and savings over 20 years is a savings of \$161.1 million.

Impacts: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 631 jobs (387 direct jobs and 244 indirect jobs) over the 1996-to-2001 period in the Allegheny, Fayette, Washington, and Westmoreland, Pennsylvania, counties economic area, which is 0.1 percent of economic area employment. Review of demographic data projects no negative impact on recruiting. The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in the economic area over the 1994-to-2001 period could result in a maximum potential decrease equal to 0.1 percent of employment in the economic area. Environmental impact from this action is minimal, and restoration of the Greater Pittsburgh IAP ARS will continue.

Bergstrom Air Reserve Base, Texas

Recommendation: Close Bergstrom ARB. The 924th Fighter Wing (AFRES) will inactivate. The Wing's F-16 aircraft will be redistributed or retire. Headquarters, 10th Air Force (AFRES), will relocate to Naval Air Station Fort Worth, Joint Reserve Base, Texas.

Justification: Due to Air Force Reserve fighter force drawdown, the Air Force Reserve has an excess of F-16 fighter locations. The closure of Bergstrom ARB is the most cost effective option for the Air Force Reserve. The relocation of Headquarters, 10th Air Force to NAS Fort Worth will also collocate the unit with one of its major subordinate units.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$13.3 million. The net of all costs and savings during the implementation period is a savings of \$93.4 million. Annual recurring savings after implementation are \$20.9 million with an immediate return on investment. The net present value of the costs and savings over 20 years is a savings of \$291.4 million.

Impacts: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 954 jobs (585 direct jobs and 369 indirect jobs) over the 1996-to-2001 period in the Austin, Texas Metropolitan Statistical Area, which is 0.2 percent of the area's employment. The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in the economic area over the 1994-to-2001 period could result in a maximum potential decrease equal to 0.2 percent of employment in the Austin, Texas Metropolitan Statistical Area. Review of demographic data projects no negative impact on recruiting. Environmental impact from this action is minimal and ongoing restoration of Bergstrom ARB will continue.

Brooks Air Force Base, Texas

Recommendation: Close Brooks AFB. The Human Systems Center, including the School of Aerospace Medicine and Armstrong Laboratory, will relocate to Wright-Patterson AFB, Ohio, however, some portion of the Manpower and Personnel function, and the Air Force Drug Test laboratory, may relocate to other locations. The 68th Intelligence Squadron will relocate to Kelly AFB, Texas. The Air Force Center for Environmental Excellence will relocate to Tyndall AFB, Florida. The 710th Intelligence Flight (AFRES) will relocate to Lackland AFB, Texas. The hyperbaric chamber operation, including associated personnel, will relocate to Lackland AFB, Texas. All activities and facilities at the base including family housing and the medical facility will close.

Justification: The Air Force has more laboratory capacity than necessary to support current and projected Air Force research requirements. When compared to the attributes desirable in laboratory activities, the Armstrong Lab and Human Systems Center operations at Brooks AFB contributed less to Air Force needs as measured by such areas as workload requirements, facilities, and personnel. As an installation, Brooks AFB ranked lower than the other bases in the Laboratory and Product Center subcategory.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$185.5 million. The net of all costs and savings during the implementation period is a cost of \$138.7 million. Annual recurring savings after implementation are \$27.4 million with a return on investment expected in seven years. The net present value of the costs and savings over 20 years is a savings of \$142.1 million.

Impacts: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 7,879 jobs (3,759 direct jobs and 4,120 indirect jobs) over the 1996-to-2001 period in the San Antonio, Texas Metropolitan Statistical Area, which is 1.1 percent of the economic area's employment. The cumulative economic impact of all BRAC 95 recommendations, including the relocation of some Air Force activities into the San Antonio area, and all prior-round BRAC actions in the economic area over the 1994-to-2001 period could result in a maximum potential decrease equal to 0.9 percent of employment in the economic area. Environmental impact from this action is minimal and ongoing restoration of Brooks AFB will continue.

Reese Air Force Base, Texas

Recommendation: Close Reese AFB. The 64th Flying Training Wing will inactivate and its assigned aircraft will be redistributed or retired. All activities and facilities at the base including family housing and the hospital will close.

Justification: The Air Force has more Undergraduate Flying Training (UFT) bases than necessary to support Air Force pilot training requirements consistent with the Department of Defense (DoD) Force Structure Plan. When all eight criteria are applied to the bases in the UFT category, Reese AFB ranks low relative to the other bases in the category. Reese AFB ranked lower when compared to other UFT bases when evaluated on such factors as weather (e.g., crosswinds, density altitude) and airspace availability (e.g., amount of airspace available for training, distance to training areas). Reese AFB was also recommended for closure in each alternative recommended by the DoD Joint Cross-Service Group for Undergraduate Pilot Training.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$37.3 million. The net of all costs and savings during the implementation period is a savings of \$51.9 million. Annual recurring savings after implementation are \$21.5 million with a return on investment expected in two years. The net present value of the costs and savings over 20 years is a savings of \$256.8 million.

Impacts: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 2,891 jobs (2,083 direct jobs and 808 indirect jobs) over the 1996-to-2001 period in the Lubbock, Texas Metropolitan Statistical Area, which is 2.2 percent of the economic area's employment. Environmental impact from this action is minimal and ongoing restoration of Reese AFB will continue.

Onizuka Air Station, California

Recommendation: Realign Onizuka AS. The 750th Space Group will inactivate and its functions will relocate to Falcon AFB, Colorado. Detachment 2, Space and Missile Systems Center (AFMC) will relocate to Falcon AFB, Colorado. Some tenants will remain in existing facilities. All activities and facilities associated with the 750th Space Group including family housing and the clinic will close.

Justification: The Air Force has one more satellite control installation than is needed to support projected future Air Force satellite control requirements consistent with the Department of Defense (DoD) Force Structure Plan. When all eight criteria are applied to the bases in the Satellite Control subcategory, Onizuka AS ranked lower than the other base in the subcategory. Among other factors, Falcon AFB has superior protection against current and future electronic encroachment, reduced risks associated with security and mission-disrupting contingencies, and significantly higher closure costs.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$124.2 million. The net of all costs and savings during the implementation period is a cost of \$125.7 million. Annual recurring savings after implementation are \$30.3 million with a return on investment expected in eight years. The net present value of the costs and savings over 20 years is a savings of \$181.6 million.

Impacts: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 2,969 jobs (1,875 direct jobs and 1,094 indirect jobs) over the 1996-to-2001 period in the San Jose, California, Primary Metropolitan Statistical Area, which is 0.3 percent of the economic area's employment. The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in the economic area over the 1994-to-2001 period could result in a maximum potential decrease equal to 0.5 percent of employment in the economic area. Environmental impact from this action is minimal and ongoing restoration of Onizuka AS will continue.

Eglin Air Force Base, Florida

Recommendation: Realign Eglin AFB, Florida. The Electromagnetic Test Environment (EMTE), consisting of eight Electronic Combat (EC) threat simulator systems and two EC pod systems will relocate to the Nellis AFB Complex, Nevada. Those emitter-only systems at the Air Force Development Test Center (AFDTC) at Eglin AFB necessary to support Air Force Special Operations Command (AFSOC), the USAF Air Warfare Center, and Air Force Materiel Command Armaments/Weapons Test and Evaluation activities will be retained. All other activities and facilities associated with Eglin will remain open.

Justification: Air Force EC open air range workload requirements can be satisfied by one range. Available capacity exists at the Nellis AFB Complex to absorb EMTE's projected EC workload. To ensure the Air Force retains the capability to effectively test and realistically train in the Armaments/Weapons functional category, necessary emitter-only threat systems will remain at Eglin AFB. This action is consistent with Air Force and DoD efforts to consolidate workload where possible to achieve cost and mission efficiencies.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$2.2 million. The net of all costs and savings during the implementation period is a savings of \$6.3 million. Annual recurring savings after implementation are \$2.6 million with a return on investment expected in one year. The net present value of the costs and savings over 20 years is a savings of \$31.4 million.

Impacts: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 85 jobs (52 direct jobs and 33 indirect jobs) over the 1996-to-2001 period in the Fort Walton Beach, Florida Metropolitan Statistical Area, which is 0.1 percent of economic area employment. The cumulative economic impact of all BRAC 95 recommendations, including the relocation of some Air Force activities into the Fort Walton Beach, Florida Metropolitan Statistical Area, and all prior-round BRAC actions in the economic area over the 1994-to-2001 period could result in a maximum potential increase equal to 1.3 percent of employment in the economic area. Environmental impact from this action is minimal, and ongoing restoration of Eglin AFB will continue.

Malmstrom Air Force Base, Montana

Recommendation: Realign Malmstrom AFB. The 43rd Air Refueling Group and its KC-135 aircraft will relocate to MacDill AFB, Florida. All fixed-wing aircraft flying operations at Malmstrom AFB will cease and the airfield will be closed. A small airfield operational area will continue to be available to support the helicopter operations of the 40th Rescue Flight which will remain to support missile wing operations. All base activities and facilities associated with the 341st Missile Wing will remain.

Justification: Although the missile field at Malmstrom AFB ranked very high, its airfield resources can efficiently support only a small number of tanker aircraft. Its ability to support other large aircraft missions (bomber and airlift) is limited and closure of the airfield will generate substantial savings.

During the 1995 process, the Air Force analysis highlighted a shortage of refueling aircraft in the southeastern United States. The OSD direction to support the Unified Commands located at MacDill AFB creates an opportunity to relocate a tanker unit from the greater tanker resources of the northwestern United States to the southeast. Movement of the refueling unit from Malmstrom AFB to MacDill AFB will also maximize the cost-effectiveness of that airfield.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$17.4 million. The net of all costs and savings during the implementation period is a savings of \$5.2 million. Annual recurring savings after implementation are \$5.1 million with a return on investment expected in four years. The net present value of the costs and savings over 20 years is a savings of \$54.3 million.

Impacts: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 1,013 jobs (779 direct jobs and 234 indirect jobs) over the 1996-to-2001 period in the Great Falls, Montana Metropolitan Statistical Area, which is 2.3 percent of the economic area's employment. The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in the economic area over the 1994-to-2001 period could result in a maximum potential decrease equal to 2.3 percent of employment in the economic area. Environmental impact from this action is minimal and ongoing restoration of Malmstrom AFB will continue.

Kirtland Air Force Base, New Mexico

Recommendation: Realign Kirtland AFB. The 58th Special Operations Wing will relocate to Holloman AFB, New Mexico. The AF Operational Test and Evaluation Center (AFOTEC) will relocate to Eglin AFB, Florida. The AF Office of Security Police (AFOSP) will relocate to Lackland AFB, Texas. The AF Inspection Agency and the AF Safety Agency will relocate to Kelly AFB, Texas. The Defense Nuclear Agency (DNA) will relocate to Kelly AFB, Texas (Field Command) and Nellis AFB, Nevada (High Explosive Testing). Some DNA personnel (Radiation Simulator operations) will remain in place. The Phillips Laboratory and the 898th Munitions Squadron will remain in cantonment. The AFRES and ANG activities will remain in existing facilities. The 377th ABW inactivates and all other activities and facilities at Kirtland AFB, including family housing will close. Air Force medical activities located in the Veterans Administration Hospital will terminate.

Justification: As an installation, Kirtland AFB rated low relative to other bases in the Laboratory and Product Center subcategory when all eight selection criteria were considered. The Laboratory Joint Cross-Service Group, however, gave the Phillips Laboratory operation a high functional value. This realignment will close most of the base, but retain the Phillips Laboratory, which has a high functional value and the 898th Munitions Squadron, which is not practical to relocate. Both of these activities are capable of operating with minimal military support. Also, the Sandia National Laboratory can be cantoned in its present location. This approach reduces infrastructure and produces significant annual savings, while maintaining those activities essential to the Air Force and the Department of Defense.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$277.5 million. The net of all costs and savings during the implementation period is a cost of \$158.8 million. Annual recurring savings after implementation are \$62 million with a return on investment-expected in three years. The net present value of the costs and savings over 20 years is a savings of \$464.5 million.

Impacts: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 11,916 jobs (6,850 direct jobs and 5,066 indirect jobs) over the 1996-to-2001 period in the Bernalillo County, New Mexico economic area, which is 3.6 percent of the economic area's employment. Environmental impact from this action is minimal and ongoing restoration of Kirtland AFB will continue.

Grand Forks Air Force Base, North Dakota

Recommendation: Realign Grand Forks AFB. The 321st Missile Group will inactivate, unless prior to December 1996, the Secretary of Defense determines that the need to retain ballistic missile defense (BMD) options effectively precludes this action. If the Secretary of Defense makes such a determination, Minot AFB, North Dakota, will be realigned and the 91st Missile Group will inactivate.

If Grand Forks AFB is realigned, the 321st Missile Group will inactivate. Minuteman III missiles will relocate to Malmstrom AFB, Montana, be maintained at depot facilities, or be retired. A small number of silo launchers at Grand Forks may be retained if required. The 319th Air Refueling Wing will remain in place. All activities and facilities at the base associated with the 319th Air Refueling Wing, including family housing, the hospital, commissary, and base exchange will remain open.

If Minot AFB is realigned, the 91st Missile Group will inactivate. Minuteman III missiles will relocate to Malmstrom AFB, Montana, be maintained at depot facilities, or be retired. The 5th Bomb Wing will remain in place. All activities and facilities at the base associated with the 5th Bomb Wing, including family housing, the hospital, commissary, and base exchange will remain open.

Justification: A reduction in ICBM force structure requires the inactivation of one missile group within the Air Force. The missile field at Grand Forks AFB ranked lowest due to operational concerns resulting from local geographic, geologic, and facility characteristics. Grand Forks AFB also ranked low when all eight criteria are applied to bases in the large aircraft subcategory. The airfield will be retained to satisfy operational requirements and maintain consolidated tanker resources.

If the Secretary of Defense determines that the need to retain BMD options effectively precludes realigning Grand Forks, then Minot AFB will be realigned. The missile field at Minot AFB ranked next lowest due to operational concerns resulting from spacing, ranging and geological characteristics. Minot AFB ranked in the middle tier when all eight criteria are applied to bases in the large aircraft subcategory. The airfield will be retained to satisfy operational requirements.

Return on Investment: For Grand Forks, the total estimated one-time cost to implement this recommendation is \$11.9 million. The net of all costs and savings during the implementation period is a savings of \$111.8 million. Annual recurring savings after implementation are \$35.2 million with an immediate return on investment. The net present value of the costs and savings over 20 years is a savings of \$447.0 million. Savings associated with the inactivation of a missile field were previously programmed in the Air Force budget.

Return on Investment: If Minot AFB is selected, the total estimated one-time cost to implement this recommendation is \$12.0 million. The net of all costs and savings during the implementation period is a savings of \$114.8 million. Annual recurring savings after implementation are \$36.1 million with an immediate return on investment. The net present value of the costs and savings

over 20 years is a savings of \$458.6 million. Savings associated with the closure of a missile field were previously programmed in the Air Force budget.

Impacts: For Grand Forks AFB, assuming no economic recovery, this recommendation could result in a maximum potential reduction of 2,113 jobs (1,625 direct jobs and 488 indirect jobs) over the 1996-to-2001 period in the Grand Forks County, North Dakota economic area, which is 4.7 percent of the economic area's employment. Environmental impact from this action is minimal and ongoing restoration at Grand Forks AFB will continue.

Impacts: If Minot is selected, assuming no economic recovery, this recommendation could result in a maximum potential reduction of 2,172 jobs (1,666 direct jobs and 506 indirect jobs) over the 1996-to-2001 period in the Minot County, North Dakota economic area, which is 6.1 percent of the economic area's employment. Environmental impact from this action is minimal and ongoing restoration at Minot AFB will continue.

Hill Air Force Base, Utah

Recommendation: Realign Hill AFB, Utah. The permanent Air Force Materiel Command (AFMC) test range activity at Utah Test and Training Range (UTTR) will be disestablished. Management responsibility for operation of the UTTR will transfer from AFMC to Air Combat Command (ACC). Personnel, equipment and systems required for use by ACC to support the training range will be transferred to ACC. Additional AFMC manpower associated with operation of the range will be eliminated. Some armament/weapons Test and Evaluation (T&E) workload will transfer to the Air Force Development Test Center (AFDTC), Eglin AFB, Florida, and the Air Force Flight Test Center (AFFTC), Edwards AFB, California.

Justification: Most of the current T&E activities can be accomplished at other T&E activities (AFFTC and AFDTC). Disestablishing the AFMC test range activities and transferring the range to ACC will reduce excess T&E capacity within the Air Force. Retaining the range as a training range will preserve the considerable training value offered by the range and is consistent with the current 82 percent training use of the range. Retention of the range as a training facility will also allow large footprint weapons to undergo test and evaluation using mobile equipment.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$3.2 million. The net of all costs and savings during the implementation period is a savings of \$62.4 million. Annual recurring savings after implementation are \$12.4 million with an immediate return on investment. The net present value of the costs and savings over 20 years is a savings of \$179.9 million.

Impacts: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 168 jobs (104 direct jobs and 64 indirect jobs) over the 1996-to-2001 period in the Tooele County, Utah economic area, which is 1.3 percent of the economic area's employment. The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in the economic area over the 1994-to-2001 period could result in a maximum potential decrease equal to 36.6 percent of employment in the economic area. Environmental impact from this action is minimal and ongoing restoration of the UTTR will continue.

Air Logistics Centers

Recommendation: Realign the Air Logistics Centers (ALC) at Hill AFB, Utah; Kelly AFB, Texas; McClellan AFB, California; Robins AFB, Georgia; and Tinker AFB, Oklahoma. Consolidate the followings workloads at the designated receiver locations:

<u>Commodity/Workload</u>	<u>Receiving Locations</u>
Composites and plastics	SM-ALC, McClellan AFB
Hydraulics	SM-ALC, McClellan AFB
Tubing manufacturing	WR-ALC, Robins AFB
Airborne electronic automatic equipment software	WR-ALC, Robins AFB, OC-ALC, Tinker AFB, OO-ALC, Hill AFB
Sheet metal repair and manufacturing	OO-ALC, Hill AFB, WR-ALC, Robins AFB
Machining manufacturing	OC-ALC, Tinker AFB, WR-ALC, Robins AFB
Foundry operations	SA-ALC, Kelly AFB, OO-ALC, Hill AFB
Instruments/displays	SM-ALC, McClellan AFB (some unique work remains at OO-ALC, Hill AFB and WR-ALC, Robins AFB)
Airborne electronics	WR-ALC, Robins AFB, OC-ALC, Tinker AFB, OO-ALC, Hill AFB
Electronic manufacturing (printed wire boards)	WR-ALC, Robins AFB
Electrical/mechanical support equipment	SM-ALC, McClellan AFB
Injection molding	SM-ALC, McClellan AFB
Industrial plant equipment software	SA-ALC, Kelly AFB
Plating	OC-ALC, Tinker AFB, OO-ALC, Hill AFB, SA-ALC, Kelly AFB, WR-ALC, Robins AFB

Move the required equipment and any required personnel to the receiving location. These actions will create or strengthen Technical Repair Centers at the receiving locations in the respective commodities. Minimal workload in each of the commodities may continue to be performed at the other ALCs as required.

Justification: Reductions in force structure have resulted in excess depot maintenance capacity across Air Force depots. The recommended realignments will consolidate production lines and move workload to a minimum number of locations, allowing the reduction of personnel, infrastructure, and other costs. The net effect of the realignments is to transfer approximately 3.5

million direct labor hours and to eliminate 37 product lines across the five depots. These actions will allow the Air Force to demolish or mothball facilities, or to make them available for use by other agencies. These consolidations will reduce excess capacity, enhance efficiencies, and produce substantial cost savings without the extraordinary one-time costs associated with closing a single depot.

This action is part of a broader Air Force effort to downsize, reduce depot capacity and infrastructure, and achieve cost savings in a financially prudent manner consistent with mission requirements. Programmed work reductions, downsizing through contracting or transfer to other Service depots, and the consolidation of workloads recommended above result in the reduction of real property infrastructure equal to 1.5 depots, and a reduction in manhour capacity equivalent to about two depots. The proposed moves also make available over 25 million cubic feet of space to the Defense Logistics Agency for storage and other purposes, plus space to accept part of the Defense Nuclear Agency and other displaced Air Force missions. This approach enhances the cost effectiveness of the overall Department of Defense's closure and realignment recommendations. The downsizing of all depots is consistent with DoD efforts to reduce excess maintenance capacity, reduce cost, improve efficiency of depot management, and increase contractor support for DoD requirements.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$183 million. The net of all costs and savings during the implementation period is a savings of \$138.7 million. Annual recurring savings after implementation are \$89 million with a return on investment expected in two years. The net present value of the costs and savings over 20 years is a savings of \$991.2 million.

TINKER

Impacts: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 3,040 jobs (1,180 direct jobs and 1,860 indirect jobs) over the 1996-to-2001 period in the Oklahoma City, Oklahoma Metropolitan Statistical Area, which is 0.5 percent of the economic area's employment. The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in the economic area over the 1994-to-2001 period could result in a maximum potential decrease equal to 0.3 percent of employment in the economic area. Environmental impact from this action is minimal and ongoing restoration of Tinker AFB will continue.

ROBINS

Impacts: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 1,168 jobs (534 direct jobs and 634 indirect jobs) over the 1996-to-2001 period in the Macon, Georgia Metropolitan Statistical Area, which is 0.7 percent of the economic area's employment. The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in the economic area over the 1994-to-2001 period could result in a maximum potential decrease equal to 0.7 percent of employment in the economic area. Environmental impact from this action is minimal and ongoing restoration of Robins AFB will continue.

KELLY

Impacts: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 1,446 jobs (555 direct jobs and 891 indirect jobs) over the 1996-to-2001 period in the San Antonio, Texas Metropolitan Statistical Area, which is 0.2 percent of the economic area's employment. The cumulative economic impact of all BRAC 95 recommendations, including the relocation of some Air Force activities into the San Antonio area, and all prior-round BRAC actions in the economic area over the 1994-to-2001 period could result in a maximum potential decrease equal to 0.9 percent of employment in the economic area. Environmental impact from this action is minimal and ongoing restoration will continue.

McCLELLAN and HILL

Impacts: The recommendations pertaining to consolidations of workloads at these two centers are not anticipated to result in employment losses or significant environmental impact.

Moffett Federal Airfield Air Guard Station, California

Recommendation: Close Moffett Federal Airfield Air Guard Station. Relocate the 129th Rescue Group and associated aircraft to McClellan AFB, California.

Justification: At Moffett Federal Airfield, the 129th Rescue Group (RQG) provides manpower for the airfield's crash, fire and rescue, air traffic control, and security police services, and pays a portion of the total associated costs. The ANG also pays a share of other base operating support costs. These costs to the ANG have risen significantly since NAS Moffett realigned to Moffett Federal Airfield, and can be avoided if the unit is moved to an active duty airfield.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$15.2 million. The net of all costs and savings during the implementation period is a savings of \$4.4 million. Annual recurring savings after implementation are \$4.8 million with a return on investment expected in four years. The net present value of the costs and savings over 20 years is a savings of \$50.1 million.

Impacts: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 507 jobs (318 direct jobs and 189 indirect jobs) over the 1996-to-2001 period in the San Jose, California Primary Metropolitan Statistical Area, which is 0.1 percent of the economic area's employment. The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in the economic area over the 1994-to-2001 period could result in a maximum potential decrease equal to 0.5 percent of employment in the economic area. Review of demographic data projects no negative impact on recruiting. This action will have minimal environmental impact.

Real-Time Digitally Controlled Analyzer Processor Activity, Buffalo, New York

Recommendation: Disestablish the Real-Time Digitally Controlled Analyzer Processor activity (REDCAP) at Buffalo, New York. Required test activities and necessary support equipment will be relocated to the Air Force Flight Test Center (AFFTC) at Edwards AFB, California. Any remaining equipment will be disposed of.

Justification: The Test and Evaluation Joint Cross-Service Group (JCSG) recommended that REDCAP's capabilities be relocated to an existing facility at an installation with a Major Range and Test Facility Base (MRTFB) open air range. Projected workload for REDCAP is only 10 percent of its available capacity. AFFTC has capacity sufficient to absorb REDCAP's workload. REDCAP's basic hardware-in-the-loop infrastructure is duplicated at other Air Force T&E facilities. This action achieves significant cost savings and workload consolidation.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$1.7 million. The net of all costs and savings during the implementation period is a savings of \$1.9 million. Annual recurring savings after implementation are \$0.9 million with a return on investment expected in one year. The net present value of the costs and savings over 20 years is a savings of \$11.0 million.

Impacts: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 5 jobs (3 direct jobs and 2 indirect jobs) over the 1996-to-2001 period in the Erie County, New York economic area, which is less than 0.1 percent of economic area employment. This action will have minimal environmental impact.

Air Force Electronic Warfare Evaluation Simulator Activity, Fort Worth, Texas

Recommendation: Disestablish the Air Force Electronic Warfare Evaluation Simulator (AFEWES) activity in Fort Worth. Essential AFEWES capabilities and the required test activities will relocate to the Air Force Flight Test Center (AFFTC), Edwards AFB, California. Workload and selected equipment from AFEWES will be transferred to AFFTC. AFEWES will be disestablished and any remaining equipment will be disposed of.

Justification: The Test and Evaluation Joint Cross-Service Group (JCSG) recommended that AFEWES's capabilities be relocated to an existing facility at an installation possessing a Major Range and Test Facility Base (MRTFB) open air range. Projected workload for AFEWES was only 28 percent of its available capacity. Available capacity at AFFTC is sufficient to absorb AFEWES's workload. AFEWES's basic hardware-in-the-loop infrastructure is duplicated at other Air Force Test and Evaluation facilities. This action achieves significant cost savings and workload consolidation.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$5.8 million. The net of all costs and savings during the implementation period is a cost of \$2.6 million. Annual recurring savings after implementation are \$0.8 million with a return on investment expected in seven years. The net present value of the costs and savings over 20 years is a savings of \$5.8 million.

Impacts: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 9 jobs (5 direct jobs and 4 indirect jobs) over the 1996-to-2001 period in the Fort Worth-Arlington, Texas Primary Metropolitan Statistical Area, which is less than 0.1 percent of the economic area's employment. This action will have minimal environmental impact.

Williams Air Force Base, Arizona

Recommendation: Change the recommendation of the 1991 Commission regarding the relocation of Williams AFB's Armstrong Laboratory Aircrew Training Research Facility to Orlando, Florida, as follows: The Armstrong Laboratory Aircrew Training Research Facility at Mesa, Arizona, will remain at its present location as a stand-alone activity.

Justification: The 1991 Defense Base Closure and Realignment Commission recommended that the Armstrong Laboratory Aircrew Training Research Facility located at Williams AFB, Arizona, be relocated to Orlando, Florida. This recommendation, was based on assumptions regarding Navy training activities and the availability of facilities. Subsequent to that Commission's report, it was discovered that the facilities were not available at the estimated cost. In addition, Navy actions in the 1993 BRAC reduced the pilot resources necessary for this facility's work.

In light of these changes, the Air Force recommends the activity remain at its current location. First, it is largely a civilian operation that is well-suited to remain in a stand-alone configuration. It has operated in that capacity since the closure of the rest of Williams AFB in September 1993. Second, its proximity to Luke AFB provides a ready source of fighter aircraft pilots who can support the research activities as consultants and subjects. Third, the present facilities are consolidated and well-suited to the research activities, including a large secure facility. Finally, the activities are consistent with the community's plans for redevelopment of the Williams AFB property, including a university and research park.

Return on Investment: The total estimated one-time cost to implement this recommendation is zero. The net of all costs and savings during the implementation period is a savings of \$18.4 million. Annual recurring savings after implementation are \$0.3 million with an immediate return on investment. The net present value of the costs and savings over 20 years is a savings of \$21.0 million.

Impacts: Since this action affects unexecuted relocations resulting from prior BRAC recommendations, it causes no net change in employment in the Orange, Osceola, and Seminole, Florida counties economic area. As a result of Armstrong Laboratory being retained at Mesa, Arizona, this action results in the retention of 38 direct jobs the Phoenix-Mesa, Arizona Metropolitan Statistical Area.

Lowry Air Force Base, Colorado

Recommendation: Change the recommendation of the 1991 Commission regarding the cantonment of the 1001st Space Support Squadron at the Lowry Support Center as follows: Inactivate the 1001st Space Systems Squadron, now designated Detachment 1, Space Systems Support Group (SSSG). Some Detachment 1 personnel and equipment will relocate to Peterson AFB, Colorado, under the Space Systems Support Group while the remainder of the positions will be eliminated.

Justification: The 1991 Commission recommended that the 1001st Space Systems Squadron, now designated Detachment 1, SSSG, be retained in a cantonment area at the Lowry Support Center. Air Force Materiel Command is consolidating space and warning systems software support at the SSSG at Peterson AFB. The inactivation of Detachment 1, SSSG, and movement of its functions will further consolidate software support at Peterson AFB, and result in the elimination of some personnel positions and cost savings.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$1.7 million. The net of all costs and savings during the implementation period is a savings of \$10.9 million. Annual recurring savings after implementation are \$3.0 million with a return on investment expected in one year. The net present value of the costs and savings over 20 years is a savings of \$39.0 million.

Impacts: Assuming no economic recovery, this recommendation could result in a potential reduction of 135 jobs (89 direct jobs and 46 indirect jobs) over the 1996 to 2001 in the Denver, Colorado Primary Metropolitan Statistical Area, which is less than 0.1 percent of economic area's employment. The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in the Denver, Colorado Primary Metropolitan Statistical Area in the 1994 to 2001 period could result in a potential decrease equal to 0.8 percent of employment in the economic area. Environmental impact from this action is minimal and ongoing restoration of Lowry AFB will continue.

Homestead Air Force Base , Florida
301st Rescue Squadron (AFRES)

Recommendation: Change the recommendation of the 1993 Commission regarding Homestead AFB as follows: Redirect the 301st Rescue Squadron (AFRES) with its associated aircraft to relocate to Patrick AFB, Florida.

Justification: The 301st Rescue Squadron (RQS) is temporarily located at Patrick AFB, pending reconstruction of its facilities at Homestead AFB which were destroyed by Hurricane Andrew. As part of the initiative to have reserve forces assume a greater role in DoD peacetime missions, the 301st RQS has assumed primary responsibility for Space Shuttle support and range clearing operations at Patrick AFB. This reduces mission load on the active duty force structure. Although the 301st RQS could perform this duty from the Homestead Air Reserve Station, doing so would require expensive temporary duty arrangements, extensive scheduling difficulties, and the dislocation of the unit's mission from its beddown site. The redirect will enable the Air Force to perform this mission more efficiently and at less cost, with less disruption to the unit and mission.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$4.6 million. The net of all costs and savings during the implementation period is a savings of \$1.5 million. Annual recurring savings after implementation are \$1.5 million with a return on investment expected in four years. The net present value of the costs and savings over 20 years is a savings of \$15.4 million.

Impacts: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 341 jobs (214 direct jobs and 127 indirect jobs) over the 1996-to-2001 period in the Miami, Florida Primary Metropolitan Statistical Area, which is less than 0.1 percent of economic area employment. Review of demographic data projects no negative impact on recruiting. There will be minimal environmental impact from this action at Homestead or Patrick Air Force Bases.

Homestead Air Force Base , Florida
726th Air Control Squadron

Recommendation: Change the recommendation of the 1993 Commission regarding the relocation of the 726th Air Control Squadron (ACS) from Homestead AFB to Shaw AFB, South Carolina, as follows: Redirect the 726th ACS to Mountain Home AFB, Idaho.

Justification: The 726th ACS was permanently assigned to Homestead AFB. In the aftermath of Hurricane Andrew, the 726th ACS was temporarily moved to Shaw AFB, as the first available site for that unit. In March 1993, the Secretary of Defense recommended the closure of Homestead AFB and the permanent beddown of the 726th ACS at Shaw AFB. Since the 1993 Commission agreed with that recommendation, experience has shown that Shaw AFB does not provide adequate radar coverage of training airspace needed to support the training mission and sustained combat readiness.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$7.4 million. The net of all costs and savings during the implementation period is a savings of \$2.3 million. Annual recurring savings after implementation are \$0.23 million with an immediate return on investment. The net present value of the costs and savings over 20 years is a savings of \$4.6 million.

Impacts: This action affects temporary relocations resulting from prior BRAC recommendations. Assuming no economic recovery, this recommendation could result in a potential reduction of 163 jobs (126 direct jobs and 37 indirect jobs) over the 1996 to 2001 period in the Sumter, South Carolina Metropolitan Statistical Area which is 0.3 percent of the economic area's employment. Environmental impact from this action is minimal and ongoing restoration will continue.

MacDill Air Force Base, Florida

Recommendation: Change the recommendations of the 1991 and 1993 Commissions regarding the closure and transfer of the MacDill AFB airfield to the Department of Commerce (DoC) as follows: Redirect the retention of the MacDill airfield as part of MacDill AFB. The Air Force will continue to operate the runway and its associated activities. DoC will remain as a tenant.

Justification: Since the 1993 Commission, the Deputy Secretary of Defense and the Chairman of the Joint Chiefs of Staff have validated airfield requirements of the two Unified Commands at MacDill AFB and the Air Force has the responsibility to support those requirements. Studies indicate that Tampa International Airport cannot support the Unified Commands' airfield needs. These validated DoD requirements will constitute approximately 95 percent of the planned airfield operations and associated costs. Given the requirement to support the vast majority of airfield operations, it is more efficient for the Air Force to operate the airfield from the existing active duty support base. Additional cost savings will be achieved when the KC-135 aircraft and associated personnel are relocated from Malmstrom AFB in an associated action.

Return on Investment: The cost and savings data associated with this redirect are reflected in the Malmstrom AFB realignment recommendation. There will be no costs to implement this action, even if the Malmstrom AFB action does not occur, compared to Air Force support of a DoC-owned airfield.

Impacts: There is no economic or environmental impact associated with this action.

**Griffiss Air Force Base, New York
Airfield Support for 10th Infantry (Light) Division**

Recommendation: Change the recommendation of the 1993 Commission regarding support of the 10th Infantry (Light) Division, Fort Drum, New York, at Griffiss AFB, as follows: Close the minimum essential airfield that was to be maintained by a contractor at Griffiss AFB and provide the mobility/contingency/training support to the 10th Infantry (Light) Division from the Fort Drum airfield. Mission essential equipment from the minimum essential airfield at Griffiss AFB will transfer to Fort Drum.

Justification: Operation of the minimum essential airfield to support Fort Drum operations after the closure of Griffiss AFB has proven to far exceed earlier cost estimates. Significant recurring operations and maintenance savings can be achieved by moving the mobility/contingency/training support for the 10th Infantry (Light) Division to Fort Drum and closing the minimum essential airfield operation at Griffiss. This redirect will permit the Air Force to meet the mobility/contingency/training support requirements of the 10th Infantry (Light) Division at a reduced cost to the Air Force. Having airfield support at its home location will improve 10th Infantry (Light) Division's response capabilities, and will avoid the necessity of traveling significant distances, sometimes during winter weather, to its mobility support location. Support at Fort Drum can be accomplished by improvement of the existing Fort Drum airfield and facilities

Return on Investment: The total estimated one-time cost to implement this recommendation is \$51.3 million. The net of all costs and savings during the implementation period is a cost of \$12.9 million. Annual recurring savings after implementation are \$12.7 million with a return on investment expected in five years. The net present value of the costs and savings over 20 years is a savings of \$110.8 million.

Impacts: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 216 jobs (150 direct jobs and 66 indirect jobs) over the 1996 to 2001 period in the Utica-Rome, New York Metropolitan Statistical Area, which is 0.1 percent of economic area employment. The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in the economic area over the 1994 to 2001 period could result in a maximum potential increase equal to 6.2 percent of the employment in the economic area. Environmental impact will be minimal; ongoing restoration will continue.

**Griffiss Air Force Base, New York
485th Engineering Installation Group**

Recommendation: Change the recommendation of the 1993 Commission regarding the transfer of the 485th Engineering Installation Group (EIG) from Griffiss AFB, New York, to Hill AFB, Utah, as follows: Inactivate the 485th EIG. Transfer its engineering functions to the 38th EIG at Tinker AFB, Oklahoma. Transfer its installation function to the 838th Electronic Installation Squadron (EIS) at Kelly AFB, Texas, and to the 938th EIS, McClellan AFB, California.

Justification: Reorganization of the installation and engineering functions will achieve additional personnel overhead savings by inactivating the 485th EIG and redistributing the remaining activities to other units. The originally planned receiver site for the 485th EIG at Hill AFB has proven to require costly renovation. This redirect avoids these additional, unforeseen costs while providing a more efficient allocation of work.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$0.5 million. The net of all costs and savings during the implementation period is a savings of \$26.8 million. Annual recurring savings after implementation are \$2.9 million with an immediate return on investment. The net present value of the costs and savings over 20 years is a savings of \$53.6 million.

Impacts: Since this action affects unexecuted relocations resulting from prior BRAC recommendations, it causes no net change in employment in the Salt Lake City-Ogden, Utah, Metropolitan Statistical Area. However, the anticipated 0.2 percent increase in the employment base in this economic area will not occur. There will be no environmental impact from this action at Hill Air Force Base, and minimal environmental impact at Kelly AFB, Tinker AFB, and McClellan AFB.

Defense Logistics Agency Selection Process

Introduction

The Defense Logistics Agency (DLA) 1995 Base Realignment and Closure study process was guided by existing legislation, the DoD Force Structure Plan and by Department of Defense policy. As DLA is not directly identified in the DoD Force Structure Plan, Concepts of Operations were developed to translate the effects of the Force Structure Plan within the Agency's mission planning.

The Director, DLA established a Base Realignment and Closure Executive Group comprised of appropriate senior executives from the Agency's business and staff areas. The Group included both senior level civilian and military personnel, and was chaired by the Principal Deputy Director.

The Executive Group served as senior advisors to direct the 1995 study effort and present activity realignment and closure candidates for the Director's final recommendation to the Secretary of Defense. A BRAC Working Group was also established under the direction of the Executive Group. The Working Group developed analytical tools, collected and analyzed certified data, developed and evaluated alternative scenarios for Executive Group consideration, conducted sensitivity analyses, and compiled documentation to support the final recommendations.

The DLA BRAC analysis process ensured that all of the Agency's activities were evaluated fairly and equitably. Formal charters were developed for the Executive Group and the Working Group, and audit and internal control plans were developed to document the collection and use of accurate certified data.

The Selection Process

The Executive Group aggregated activities into categories and subcategories based on similarity of mission, capabilities, and attributes. From these, the following categories were defined: Distribution Depots, Inventory Control Points, Service/Support, and Command and Control Activities. Subcategories were defined within the categories to ensure that the activities were evaluated in a fair and consistent manner. Where possible, activities were compared to peers of similar function and size. Also, activities identified for closure as a result of previous BRAC decisions were not evaluated.

Collect Data

Comprehensive data calls were designed to support analysis of excess capacity, military value, and economic, environmental and community impacts with certified data. The data call questionnaires were carefully designed to ensure uniform interpretation of questions, level of detail, and documentation requirements. Sources for the data were specified to the greatest extent practical.

Evaluate Excess Capacity

DLA conducted an excess capacity analysis for each of the BRAC activity categories and subcategories. Where significant amounts of excess capacity were found, these sites could be considered as possible receiver sites in potential realignment recommendations.

Analyze Military Value

The purpose of the military value analysis was to determine the relative ranking of each activity with respect to other activities in the same category or subcategory. OSD provided the Military Departments and the Defense Agencies with a list of selection criteria to be used as part of the military value analysis. The Executive Group determined that more distinctive measures should be developed to assess the military value of DLA activities and developed the Measures of Merit shown below:

Mission Scope (DoD Selection Criteria 1 and 3). The mission assigned to the installation/activity plays an essential role within DoD and additionally benefits non-DoD customers. The functions performed in accomplishing the missions(s) may be unique. The strategic location of the facility and span of control are important to effective mission accomplishment.

Mission Suitability (DoD Selection Criteria 1, 2, 3). The installation/activity supports assigned missions. Suitability includes the age and condition of facilities, quality of life, location, and proximity to transportation links.

Operational Efficiencies (DoD Selection Criteria 2 and 4). The installation/activity's mission is performed economically. Installation/activity operation costs include: transportation, mechanical system, (mechanized material handling equipment, etc.), space utilization, and personnel costs, and facility operating costs.

Expandability (DoD Selection Criteria 1, 2, 3). The installation/activity can accommodate new missions and increased workload, including sustained contingencies. Expandability considerations included requirements for space and infrastructure, community encroachment, and increased workload.

Develop Alternatives

The next step in the analysis sequence was to identify potential realignment or closure candidates and eliminate the remaining activities from further consideration. Military value, in conjunction with military judgment, was the primary consideration in determining prospective realignment or closure candidates. Once an alternative was conceived, it was evaluated for reasonableness and then either refined or abandoned. DLA worked closely with each Military Department during this process to identify and consider potential excess space for joint use, to evaluate the impact of Military Department recommendations on its activities and to ensure that the impact of Military Department recommendations was appropriately factored into the Agency's recommendations.

Analyze Return on Investment

The DLA BRAC Working Group evaluated potential realignment and closure scenarios using the Cost of Base Realignment Actions (COBRA) model. Data for the model consists of DoD standard factors, DLA standard factors, static base data, and scenario-specific data which describes the actions and costs involved in a realignment or closure scenario. DoD standard factors used in the model were developed by a DoD Joint Process Action Team. Agency-wide standard factors were developed from field-certified data and data collected and certified by Headquarters organizations. Activity static information was gathered from field-certified data and OSD policy memo guidance.

Develop Recommendations

After base realignment and closure scenarios were evaluated with the COBRA model, the analysis results were reviewed by the BRAC Working Group and presented to the Executive Group for further consideration.

Each scenario was considered in terms of its overall risk, benefit, and cost to the strategic direction of DLA and the interests of DoD. Based on its review and best military judgment, the Executive Group made individual recommendations to the Director. After the approval of the Director, the recommendations were then returned to the Working Group for economic, community infrastructure, and environmental impact assessments. The Working Group reported its findings to the Executive Group for further consideration as appropriate.

Role of Internal Controls and External Audits

An Internal Control Plan for the collection and analysis of data was developed for the BRAC 95 process. The plan, issued 23 May 1994, was reviewed and approved by the DoD Inspector General (IG) and the General Accounting Office (GAO).

DoDIG personnel were responsible for data validation, and fully participated in the Executive and Working Group meetings and observed the Working Group analysis process.

GAO representatives also participated in the DLA BRAC 95 process and attended Executive Group meetings, observed the Working Group analysis process, and visited selected field activities to observe the data collection and data validation process.

Finalize Recommendations

Upon completion of the impact assessments, recommendations were returned to the Executive Group. The Working Group presented the results of the impact analyses and supported additional Executive Group deliberations. The Executive Group discussed the impact assessments, conducted an extensive review of each recommendation, and approved selected recommendations.

The final approved recommendations were then prepared for inclusion in this report. Preparation included gathering supporting documentation, writing narrative descriptions of the analysis process, and submission to OSD.

Defense Distribution Depot Memphis, Tennessee (DDMT)

Recommendation: Close Defense Distribution Depot Memphis, Tennessee. Material remaining at DDMT at the time of closure will be relocated to optimum storage space within the DoD Distribution System. As a result of the closure of DDMT, all DLA activity will cease at this location and DDMT will be excess to DLA needs.

Justification: Defense Distribution Depot Memphis, is a Stand-Alone Depot that supports the two large east and west coast depots and is used primarily for storage capability and local area demand. It is also the host for the Memphis complex. The decision to close the Memphis depot was based on declining storage requirements and capacity estimates for FY 01 and on the need to reduce infrastructure within the Agency.

Memphis tied for third place out of the six Stand-Alone Depots in the military value analysis. The higher scores for the Susquehanna and San Joaquin distribution depots in this analysis removed them from further consideration for closure. The variance of only 37 points out of a possible 1,000 between the third and sixth place depots in the military value analysis for this category reinforced the importance of military judgment and compliance with the DLA BRAC 95 Decision Rules in the decision-making process.

A further consideration was the Agency's desire to minimize distribution infrastructure costs. Closure of an entire installation will allow DLA to reduce infrastructure significantly more than disestablishment of a tenant depot (DDCO at Columbus, OH, and DDRV at Richmond, VA). Memphis was rated six out of six in the Installation Military Value analysis. The Columbus installation ranked the highest. The facilities at Richmond are the best maintained of any in DLA. Both Columbus and Richmond take advantage of the synergy of a collocated Inventory Control Point. This closure action conforms to the Decision Rules to maximize the use of shared overhead and make optimum use of retained DLA-operated facilities, while closing an installation.

In addition, the Strategic Analysis of Integrated Logistics Systems (SAILS) model optimized system-wide costs for distribution when the Ogden and Memphis depots were the two Stand-Alone Depots chosen for closure. Sufficient throughput and storage capacity are available in the remaining depots to accommodate projected workload and storage requirements. Closing DDMT is consistent with the DLA BRAC 95 Decision Rules and the Distribution Concept of Operations. Therefore, military judgment determined that it is in the best interest of DLA and DoD to close DDMT.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$85.7 million. The net of all costs and savings during the implementation period is a savings of \$14.8 million. Annual recurring savings after implementation are \$23.8 million with a return on investment expected in three years. The net present value of the costs and savings over 20 years is a savings of \$244.3 million.

Impacts: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 3,349 jobs (1,300 direct jobs and 2,049 indirect jobs) over the 1996-to-2001 period in the Memphis, Tennessee-Arkansas-Mississippi Metropolitan Statistical Area, which is 0.6 percent of the area's employment. The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in the area over the 1994-to-2001 period could result in a maximum potential decrease equal to 1.5 percent of employment in the area.

The Executive Group determined that receiving communities could absorb the additional forces, missions, and personnel proposed, and concluded that environmental considerations do not prohibit this recommendation from being implemented.

Defense Distribution Depot Ogden, Utah (DDOU)

Recommendation: Close Defense Distribution Depot Ogden, Utah, except for a 36,000 square foot cantonment for Army Reserve personnel. Material remaining at DDOU at the time of closure will be relocated to optimum storage space within the DoD Distribution System. As a result of the closure of DDOU, all DLA activity will cease at this location and DDOU will be excess to DLA needs.

Justification: The Defense Distribution Depot Ogden is a Stand-Alone Depot that supports the two large east and west coast depots and is used primarily for storage capability and local area demand. It is also the host for the Ogden complex. The decision to close the Ogden depot was based on declining storage requirements and capacity estimates for FY 01 and on the need to reduce infrastructure within the Agency.

Ogden tied for third place out of the six Stand-Alone Depots in the military value analysis. The higher scores for the Susquehanna and San Joaquin distribution depots in this analysis removed them from further consideration for closure. The variance of only 37 points out of a possible 1,000 between the third and sixth place depots in military value ranking for this category reinforced the importance of compliance with the DLA BRAC 95 Decision Rules and military judgment in the decision-making process.

A further consideration was DLA's desire to minimize distribution infrastructure costs. Closure of an entire installation will allow DLA to reduce infrastructure significantly more than disestablishment of a tenant depot (DDCO at Columbus, OH, and DDRV at Richmond, VA). The Ogden depot was rated five of six in the Military Value Installation analysis. The Columbus installation ranked the highest. The facilities at Richmond are the best maintained of any in DLA. Both Columbus and Richmond take advantage of the synergy of a collocated Inventory Control Point. This action conforms to the DLA Decision Rules to maximize the use of shared overhead and make optimum use of retained DLA-operated facilities while closing an installation.

In addition, the Strategic Analysis of Integrated Logistics Systems (SAILS) model optimized system-wide costs for Distribution when Ogden and Memphis were the two Stand-Alone Depots chosen for closure. Sufficient throughput and storage capacity are available in the remaining depots to accommodate projected workload. Closing the Ogden depot is consistent with the DLA BRAC 95 Decision Rules and the Distribution Concept of Operations. Military judgment determined that it is in the best interest of DLA and DoD to close DDOU.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$110.8 million. The net of all costs and savings during the implementation period is a cost of \$27.8 million. Annual recurring savings after implementation are \$21.3 million with a return on investment expected in four years. The net present value of the costs and savings over 20 years is a savings of \$180.9 million.

Impacts: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 2,947 jobs (1,113 direct jobs and 1,834 indirect jobs) over the 1996-to-2001 period in the Salt Lake City-Ogden, Utah Metropolitan Statistical Area, which is 0.4 percent of the area's employment. The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in the area over the 1994-to-2001 period could result in a maximum potential decrease equal to 0.3 percent of the employment in the area.

The Executive Group determined that the receiving community could absorb the additional forces, missions, and personnel proposed and that environmental considerations do not prohibit this recommendation from being implemented.

Defense Contract Management District South (DCMDS) Marietta, Georgia

Recommendation: Disestablish DCMD South and relocate missions to DCMD Northeast and DCMD West.

Justification: The Contract Management Districts provide command and control, operational support, and management oversight for 90 Defense Contract Management Area Operations (DCMAOs) and Defense Plant Representative Offices (DPROs) located throughout the continental United States. Due to the impact of the DoD Force Structure drawdown, budget cuts and the resulting decline in acquisition workload, a number of Area Operations Offices and Plant Representative Offices have been disestablished thereby reducing the span of control responsibility at the Districts. As the drawdown continues, the number of Area Operations Offices and Plant Representative Offices is expected to decline even further. Based on the above, the closure of a district and realignment of assigned Area Operations Offices and Plant Representative Offices to the remaining two districts is feasible with only a moderate risk. Although the difference between second and third place was not sufficiently broad to dictate a clear decision by itself, DCMD South received the lowest military value score.

Military judgment determined that a single contract management district presence on each coast is necessary. A west coast district is required because of the high dollar value of contracts and the significant weapon-systems related workload located on the west coast.

There is a higher concentration of workload in the northeast, in terms of span of control, field personnel provided support services, numbers of contractors, and value of contract dollars obligated, than in the south. In addition, the northeast district supports its Area Operations Offices and Plant Representative Offices with a lower ratio of headquarters to field personnel than DCMD South. On the east coast, due to the higher concentration of workload in DCMD Northeast, as well as its significantly higher military value score, there is a clear indication that DCMD South is the disestablishment candidate. As a result, the BRAC Executive Group recommended to the DLA Director, and he approved, the disestablishment of DCMD South.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$3.8 million. The net of all costs and savings during the implementation period is a savings of \$17.9 million. Annual recurring savings after implementation are \$6.1 million with a return on investment expected immediately. The net present value of the costs and savings over 20 years is a savings of \$75.8 million.

Impacts: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 275 jobs (169 direct jobs and 106 indirect jobs) over the 1996-to-2001 period in the Atlanta, Georgia Metropolitan Statistical Area, which is less than 0.1 percent of the area's employment. The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in the area over the 1994-to-2001 period could result in a maximum potential increase equal to less than 0.1 percent of employment in the area.

The Executive Group concluded that the data did not present any evidence or indication that would preclude the recommended receiving communities from absorbing the additional forces, missions, and personnel proposed in the recommended realignment scenarios. The environmental considerations present at these installations do not prohibit this recommendation from being implemented.

**Defense Contract Management Command International (DCMCI)
Dayton, Ohio**

Recommendation: Realign the DCMCI (Gentile AFS), Dayton, Ohio, and merge its mission into the Defense Contract Management Command Headquarters (DCMC HQ), Ft. Belvoir, Virginia.

Justification: The mission of the DCMCI is to provide command and control, including operational and management control and oversight, for 13 overseas Defense Contract Management Area Operations (DCMAO) offices located outside of the continental United States. The Command's mission could be performed from any locality. Military judgment concluded that merging the mission with the headquarters affords the opportunity to capitalize on operational and management oversight and to maximize use of shared overhead with DCMC. It also affords the opportunity to take advantage of the close proximity to the State Department and the international support infrastructure in Washington, DC, and surrounding areas. This decision is consistent with DLA BRAC 95 Decision Rules, the DCMC Concept of Operations and the Force Structure Plan.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$3.1 million. The net of all costs and savings during the implementation period is a savings of \$8.7 million. Annual recurring savings after implementation are \$3.1 million with a return on investment expected in one year. The net present value of the costs and savings over 20 years is a savings of \$38.7 million.

Impacts: Since this action affects unexecuted relocations resulting from prior BRAC recommendations, it causes no net change in employment in the Columbus, Ohio Metropolitan Statistical Area. However, the anticipated employment increase of less than 0.1 percent in the employment base in this area will not occur.

The Executive Group concluded that the data did not present any evidence or indication that would preclude the recommended receiving community from absorbing the additional forces, missions, and personnel proposed in the recommended realignment scenarios. The environmental considerations present at the receiving installations do not prohibit this recommendation from being implemented.

Defense Distribution Depot Columbus, Ohio (DDCO)

Recommendation: Realign the Defense Distribution Depot Columbus, Ohio, and designate it as a storage site for slow moving/war reserve material. Active material remaining at DDCO at the time of realignment will be attrited. Stock replenishment will be stored in optimum space within the distribution system.

Justification: Defense Distribution Distribution Depot Columbus, is a Stand-Alone Depot that supports the two large east/west coast depots and is used primarily for storage capability and local area demand. The decision to realign the Columbus depot was based on storage requirements and capacity estimates for FY 01 and the need to comply with BRAC 95 Decision Rules. Columbus ranked sixth of six depots in military value for the Stand-Alone Depot category.

The other Stand-Alone Depots were not considered for realignment for the following reasons. The higher military value of both the Susquehanna (DDSC) and San Joaquin (DDJC) depots removed them from consideration for closure or realignment. The Richmond Depot (DDRV) was not selected for realignment because of the large amount of conforming hazardous material storage space, new construction and mechanization, and collocation with supply center, which has the best maintained facilities of any in DLA. Both the Ogden and Memphis distribution depots were selected for closure.

The decision to realign rather than close the Columbus depot was based on the need for inactive storage capacity in the overall system and with the long-range intent of minimizing use of this site as storage requirements decline. Moving highly active stock to San Joaquin and Susquehanna will allow DLA to take advantage of economies of scale from large distribution operations. The decision was also based on the further consideration that Columbus, the highest ranking DLA location in the Installation Military Value analysis, will remain open and most likely expand its operations, thereby allowing DLA to maximize the use of shared overhead and optimize the use of retained DLA-operated facilities. In addition, the Strategic Analysis of Integrated Logistics Systems (SAILS) model favored the retention of Columbus over either Ogden or Memphis. Realigning the Columbus depot is consistent with the DLA BRAC 95 Decision Rules and the Distribution Concept of Operations. Military judgment determined that it is in the best interest of DLA and DoD to realign DDCO.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$7.9 million. The net of all costs and savings during the implementation period is a savings of \$51.2 million. Annual recurring savings after implementation are \$11.6 million with a return on investment expected in the first year. The net present value of the costs and savings over 20 years is a savings of \$161.0 million.

Impacts: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 997 jobs (365 direct jobs and 632 indirect jobs) over the 1996-to-2001 period in the Columbus, Ohio Metropolitan Statistical Area, which is 0.1 percent of the area's

employment. The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in the area over the 1994-to-2001 period could result in a maximum potential decrease equal to 0.1 percent of employment in the area.

The Executive Group determined that the receiving community could absorb the additional forces, missions, and personnel proposed, and concluded that environmental considerations do not prohibit this recommendation from being implemented.

Defense Distribution Depot Letterkenny, Pennsylvania (DDLDP)

Recommendation: Disestablish the Defense Distribution Depot Letterkenny, Pennsylvania. Material remaining at DDLDP at the time of disestablishment will be relocated to the Defense Distribution Depot Anniston, Alabama (DDAA) and to optimum storage space within the DoD Distribution System.

Justification: The Defense Distribution Depot Letterkenny is collocated with an Army maintenance depot, its largest customer. While Collocated Depots may support other nearby customers and provide limited world-wide distribution support, Letterkenny's primary function is to provide rapid response in support of the maintenance operation. The Distribution Concept of Operations states that DLA's distribution system will support the size and configuration of the Defense Depot Maintenance System. Thus, if depot maintenance activities are disestablished, Collocated Depots will also be disestablished.

The recommendation to disestablish the Letterkenny depot was driven by the Army recommendation to realign Letterkenny Army Depot, Letterkenny's primary customer, and the Agency's need to reduce infrastructure. The Letterkenny depot was rated 3 of 17 in the Collocated Depot military value matrix. However, that military value ranking was based on support to the maintenance missions. With the realignment of the Army's maintenance mission to the Anniston Army Depot that value decreases significantly. Other customers within the Letterkenny area can be supported from nearby distribution depots. Production and physical space requirements can also be met by fully utilizing other depots in the distribution system.

Disestablishing DDLDP is consistent with both the DLA BRAC 95 Decision Rules and the Distribution Concept of Operations. Military judgment determined that it is in the best interest of DLA and DoD to disestablish DDLDP.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$44.9 million. The net of all costs and savings during the implementation period is a cost of \$21.2 million. Annual recurring savings after implementation are \$12.4 million with a return on investment expected in three years. The net present value of costs and savings over 20 years is a savings of \$102.1 million.

Impacts: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 748 jobs (378 direct jobs and 370 indirect jobs) over the 1996-to-2001 period in the Franklin County, Pennsylvania economic area, which is 1.2 percent of the area's employment. The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in the area over the 1994-to-2001 period could result in a maximum potential decrease equal to 8.5 percent of employment in the area.

The DLA Executive Group determined that receiving communities could absorb the additional forces, missions, and personnel proposed, and concluded that environmental considerations do not prohibit this recommendation from being implemented.

Defense Industrial Supply Center (DISC) Philadelphia, Pennsylvania

Recommendation: The Defense Industrial Supply Center is disestablished. Distribute the management of Federal Supply Classes (FSC) within the remaining DLA Inventory Control Points (ICP). Create one ICP for the management of troop and general support items at the Defense Personnel Support Center (DPSC) in Philadelphia, PA. Create two ICPs for the management of weapon system-related FSCs at the Defense Construction Supply Center (DCSC), Columbus, OH and the Defense General Supply Center (DGSC), Richmond, VA.

Justification: Four of the five Inventory Control Points manage differing mixes of weapon system, troop support, and general support items. Troop and general support items largely have different industry and customer bases than weapon system items. They are also more conducive to commercial support, and are thus managed differently than weapon system items. Consolidating management of items by the method of management required will improve oversight, streamline the supply management process, increase internal efficiency, and reduce overhead.

DLA manages nearly five times as many weapon system items as troop and general support items. A single troop and general support ICP is adequate, but two weapon system ICPs are necessary. DPSC is almost entirely a troop support ICP. No other ICP currently manages troop support items. The percentage of general support items at other ICPs is relatively small. Singling-up troop and general support items under DPSC management is the most logical course of action.

DISC had the lowest military value of the three hardware ICPs. The Columbus and Richmond centers are host activities of compounds which house a number of DLA and non-DLA activities, conforming to the DLA decision rules concerning maximizing the use of shared overhead and making optimum use of retained DLA-operated facilities. Both the Richmond and Columbus sites have high installation military value, and take advantage of the synergy of a Collocated Depot. Both also have considerable expansion capability. The facilities at Columbus are the best maintained of any in DLA, and Richmond has several new buildings completed or in progress. DISC is a tenant on a Navy compound. Disestablishing DISC allows the Agency to achieve a substantial cost avoidance by back-filling the space already occupied by DISC and substantially reducing the amount of conversion required to existing warehouse space. Based on the above, military judgment concluded that disestablishing DISC is in the best interest of DLA and DoD.

Return on Investment: The total estimated one-time costs to implement the recommendation is \$16.9 million. The net of all costs and savings during the implementation period is a savings of \$59.3 million. Annual recurring savings after implementation are \$18.4 million, with a return on investment expected immediately. The net present value of the costs and savings over 20 years is a savings of \$236.5 million.

Impacts: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 1,198 jobs (385 direct jobs and 813 indirect jobs) over the 1996-to-2001 period in the Philadelphia, Pennsylvania-New Jersey Metropolitan Statistical Area, which is less than 0.1 percent of the area's employment. The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in the area over the 1994-to-2001 period could result in a maximum potential decrease equal to 1.2 percent of employment in the area. Assuming no economic recovery, this recommendation could also result in a maximum potential reduction of 981 jobs (358 direct jobs and 623 indirect jobs) over the 1996-to-2001 period in the Columbus, Ohio Metropolitan Statistical Area, which is 0.1 percent of the area's employment. The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in the area over the 1994-to-2001 period could result in a maximum potential decrease equal to 0.1 percent of employment in the area.

The Executive Group concluded that the data did not present any evidence or indication that would preclude the recommended receiving community from absorbing the additional forces, missions, and personnel proposed in the recommended realignment scenario. The environmental considerations present at the receiving installations do not prohibit this recommendation from being implemented.

Defense Distribution Depot Red River, Texas (DDRT)

Recommendation: Disestablish the Defense Distribution Depot Red River, Texas. Material remaining at DDRT at the time of disestablishment will be relocated to the Defense Distribution Depot Anniston, Alabama, (DDAA) and to optimum storage space within the DoD Distribution System.

Justification: The Defense Distribution Depot Red River is collocated with an Army maintenance depot, its largest customer. While Collocated Depots may support other nearby customers and provide limited world-wide distribution support, Red River's primary function is to provide rapid response in support of the maintenance operation. The Distribution Concept of Operations states that DLA's distribution system will support the size and configuration of the Defense Depot Maintenance System. Thus, if depot maintenance activities are disestablished, Collocated Depots will also be disestablished.

The recommendation to disestablish the Red River depot was driven by the Army recommendation to realign its Red River Army Depot, Red River's primary customer, and the Agency's need to reduce infrastructure. DDRT was rated 5 of 17 in the Collocated Depot military value matrix. However, that military value ranking was based on support to the maintenance missions. With the realignment of the Army's maintenance mission to Anniston, Alabama, that value decreases significantly. Other customers within the DDRT area can be supported from nearby distribution depots. Production and physical space requirements can also be met by fully utilizing other depots in the distribution system.

Disestablishing DDRT is consistent with both the DLA BRAC 95 Decision Rules and the Distribution Concept of Operations. Military judgment determined that it is in the best interest of DLA and DoD to disestablish DDRT.

Return on Investment: The total estimated one-time cost to implement this recommendation is \$58.9 million. The net of all costs and savings during the implementation period is a cost of \$0.8 million. Annual recurring savings after implementation are \$18.9 million with a return on investment expected in two years. The net present value of the costs and savings over 20 years is a savings of \$186.1 million.

Impacts: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 1,602 jobs (821 direct jobs and 781 indirect jobs) over the 1996-to-2001 period in the Texarkana, Texas-Arkansas Metropolitan Statistical Area, which is 2.7 percent of the area's employment. The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in the area over the 1994-to-2001 period could result in a maximum potential decrease equal to 7.7 percent of the employment in the area.

The DLA Executive Group determined that receiving communities could absorb the additional forces, missions, and personnel proposed, and concluded that environmental considerations do not prohibit this recommendation from being implemented.

**Defense Contract Management District West (DCMDW)
El Segundo, California**

Recommendation: This is a redirect of the following BRAC 93 Commission recommendation: "Relocate the Defense Contract Management District, El Segundo, California, to Long Beach Naval Shipyard, Los Angeles, California, or space obtained from exchange of land for space between the Navy and the Port Authority/City of Long Beach." The current recommendation is expanded to read: Relocate the DCMD, El Segundo, CA, (a) to Government property in the Los Angeles/Long Beach area, or, (b) to space obtained from exchange of land between the Navy and Port Authority/City of Long Beach, or (c) to a purchased office building, whichever is the most cost-effective for DoD.

Justification: The Defense Contract Management District West is currently located in GSA-leased administrative space in El Segundo, CA. The BRAC 93 Commission found it was cost effective for DCMD West to move from leased space to DoD-owned property. The Navy has been involved in exploratory discussions on behalf of DLA. However, the President's Five-Point Revitalization Plan, which affords communities the opportunity to obtain installations without substantial compensation, has significantly impacted the Navy's ability to consummate a land exchange at Long Beach with the Port Authority/City of Long Beach. The Long Beach Naval Shipyard, another option, has been placed on the BRAC 95 list for closure. In order to attain the significant savings which will result by moving the organization into DoD space, the BRAC 93 recommendation is revised/expanded. This redirect eliminates the cost of a warehouse and reflects the requirement for reduced administrative space. This recommendation is consistent with the DCMC Concept of Operations and the DLA BRAC 95 Decision Rules.

Return on Investment: This is a redirect of a BRAC 93 recommendation. The total estimated one-time cost to implement this recommendation is \$10.3 million. The net of all costs and savings during the implementation period is a savings of \$10.9 million. Annual recurring savings after implementation are \$4.2 million with a return on investment expected immediately. The net present value of the costs and savings over 20 years is a savings of \$51.2 million.

Impacts: This recommendation will not result in a change in employment in the Los Angeles-Long Beach, California Primary Metropolitan Statistical Area because all affected jobs will remain in that area. The cumulative economic impact of all BRAC 95 recommendations and all prior-round BRAC actions in this area over the 1994-to-2001 period could result in a maximum potential decrease equal to 0.4 percent of employment in the area.

Defensive Investigative Service Selection Process

Introduction

The 1995 DIS Base Realignment and Closure (BRAC) study process was guided by existing BRAC legislation and guidance provided by the Office of the Secretary of Defense (OSD).

The Director, DIS, established a Base Realignment and Closure Executive Group comprised of appropriate heads of headquarters Principal Staff Elements (PSE), and chaired by the Deputy Director, Resources. The Executive Group acted as senior advisors to direct the analysis effort and present the Director's final recommendations to the Secretary of Defense. A BRAC Working Group was established under the direction of the Executive Group. The Working Group was comprised of four headquarters elements and two Investigations Control and Automation elements. Other specific elements of DIS technical areas were consulted as appropriate. The Working Group adapted the DoD process and procedures to the BRAC effort; collected and analyzed certified data; developed and evaluated recommendations for the Executive Group's consideration, and compiled documentation to support the final recommendation.

In October 1994, GAO began its review of the DIS BRAC 1995 process. The Chairman of the Working Group served as an audit liaison with the GAO representatives throughout the analysis process.

The Selection Process

The process followed the requirements of law and OSD policy guidance to ensure that all data were correctly collected and verified. DIS first developed and implemented a general plan and operating instructions that would guide the efforts of the Executive and Working Groups. An Internal Control Plan was developed to ensure that data was consistent and standardized, accurate and complete, certifiable, verifiable, auditable by external audit and inspection agencies, and replicable using documentation developed during data collection.

The selection process consisted of five steps to gather data and conduct analyses:

1) collect data, 2) analyze military value, 3) develop alternatives, 4) perform COBRA analyses, and 5) determine impacts.

Collect Data

Data elements were identified by the Working Group, and for the most part, collected by the Working Group.

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FEDERAL REGISTER PAGES AND DATES, MARCH

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CFR PARTS AFFECTED DURING MARCH

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

TABLE OF EFFECTIVE DATES AND TIME PERIODS—MARCH 1995

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in

agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

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March 1	March 16	March 31	April 17	May 1	May 30
March 2	March 17	April 3	April 17	May 1	May 31
March 3	March 20	April 3	April 17	May 2	June 1
March 6	March 21	April 5	April 20	May 5	June 5
March 7	March 22	April 6	April 21	May 8	June 6
March 8	March 23	April 7	April 24	May 8	June 6
March 9	March 24	April 10	April 24	May 8	June 7
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March 13	March 28	April 12	April 27	May 12	June 12
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March 21	April 5	April 20	May 5	May 22	June 19
March 22	April 6	April 21	May 8	May 22	June 20
March 23	April 7	April 24	May 8	May 22	June 21
March 24	April 10	April 24	May 8	May 23	June 22
March 27	April 11	April 26	May 11	May 26	June 26
March 28	April 12	April 27	May 12	May 30	June 26
March 29	April 13	April 28	May 15	May 30	June 27
March 30	April 14	May 1	May 15	May 30	June 28
March 31	April 17	May 1	May 15	May 30	June 29