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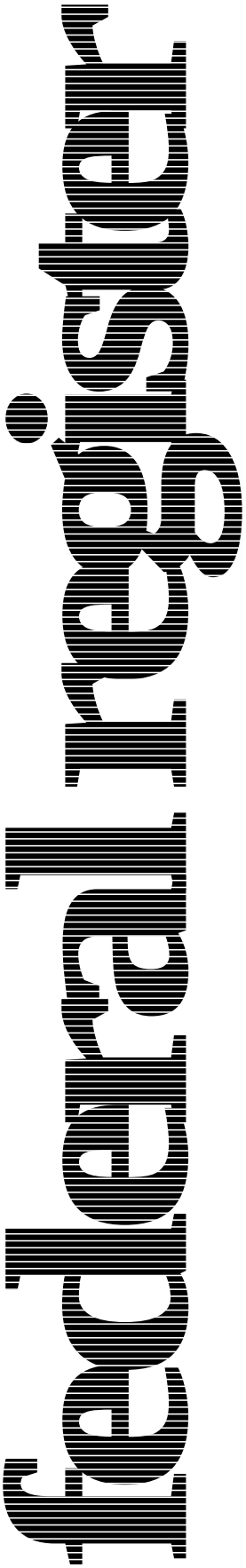
Wednesday
June 14, 1995



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CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Federal Register
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Presidential Documents

Title 3—

The President

Proclamation 6808 of June 9, 1995

Flag Day and National Flag Week, 1995

By the President of the United States of America

A Proclamation

This week, Americans celebrate the Flag of the United States, which for more than two centuries has brought our people together in a common bond of citizenship. We reaffirm our allegiance to freedom's banner—''Old Glory''—and to the proud history it has inspired. We honor the valor and sacrifices of all who have defended it—in public service and on battlegrounds around the world. And we rededicate ourselves to the democratic ideals stitched forever into the fabric of America.

In towns and cities across the country, public buildings fly the Stars and Stripes as a symbol of our Nation's spirit of community. That spirit was never more evident than this past April in Oklahoma, where the flag appeared on the sleeves of rescue workers, emergency personnel, and volunteers from throughout the land. A shining badge of honor, it reminded all who mourned that we Americans have seen countless trials and have emerged from each one stronger than ever.

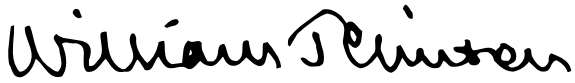
Earlier this year, in expressing our gratitude to the men and women who served in uniform during the Second World War, the Nation observed the fiftieth anniversary of the Battle of Iwo Jima. We recalled the day, immortalized in sculpture, when a team of brave Americans beat all odds and hoisted aloft the American flag. May we, the heirs of the freedom they fought to defend, always remember their courage and serve as loyal standard-bearers for the cause of liberty.

To commemorate the adoption of our flag, the Congress, by a joint resolution approved August 3, 1949 (63 Stat. 492), designated June 14 of each year as ''Flag Day'' and requested the President to issue an annual Proclamation calling for its observance and for the display of the Flag of the United States on all Government buildings. The Congress also requested the President, by joint resolution approved June 9, 1966 (80 Stat. 194), to issue annually a Proclamation designating the week in which June 14 occurs as ''National Flag Week,'' and calling upon all citizens of the United States to display the flag during that week.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim June 14, 1995, as Flag Day and the week beginning June 11, 1995, as National Flag Week. I direct the appropriate officials of the Government to display the Flag of the United States on all Government buildings during that week. I urge Americans to observe Flag Day, June 14, and Flag Week by flying the Stars and Stripes from their homes and other suitable places.

I also call upon the American people to observe with pride and all due ceremony those days from Flag Day through Independence Day, also set aside by the Congress (89 Stat. 211), as a time to honor America and to celebrate our heritage in public gatherings and activities and to publicly recite the Pledge of Allegiance to the Flag of the United States of America.

IN WITNESS WHEREOF, I have hereunto set my hand this ninth day of June, in the year of our Lord nineteen hundred and ninety-five, and of the Independence of the United States of America the two hundred and nineteenth.



[FR Doc. 95–14731
Filed 6–12–95; 3:12 pm]
Billing code 3195–01–P

Rules and Regulations

Federal Register
Vol. 60, No. 114
Wednesday, June 14, 1995

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 971

[Docket No. FV95–971–1FR]

Termination of Marketing Order 971; Lettuce Grown in the Lower Rio Grande Valley in South Texas

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Termination order.

SUMMARY: This action terminates the Federal marketing order for lettuce grown in the Lower Rio Grande Valley in South Texas (order) and the rules and regulations issued thereunder. The Secretary of Agriculture (Secretary) has determined that the order no longer tends to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937 (Act). In recent years, this industry has declined significantly in numbers of producers and handlers. In 1980, there were 42 producers and 11 handlers. In 1992, there were three producers and one handler. All known commercial production and handling of South Texas lettuce has ceased since 1992 and there are no indications that the industry will be revived.

EFFECTIVE DATE: July 14, 1995.

FOR FURTHER INFORMATION CONTACT: Jim Wendland, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456, telephone 202–720–2170, or Belinda G. Garza, McAllen Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 1313 East Hackberry, McAllen, Texas, 78501, telephone 210–682–2833.

SUPPLEMENTARY INFORMATION: This action is governed by the provisions of section 8c(16)(A) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

The Department of Agriculture (Department) is issuing this action in conformance with Executive Order 12866.

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

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has a principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

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

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

In recent years, this industry has declined significantly in numbers of producers and handlers. During the first year the order was in effect, there were 68 producers and 31 handlers. In 1980, there were 42 producers and 11 handlers. In 1992, there were three producers and one handler. All known commercial production and handling of South Texas lettuce has since ceased. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. The majority of the former South Texas lettuce producers and handlers had been classified as small entities.

The South Texas Lettuce Committee (committee) met on May 29, 1991, and unanimously recommended that the order's handling regulation that was currently in effect be suspended for the 1991–92 lettuce marketing period. The recommendation was made to eliminate the continued expense of administering the order. The Department issued an interim final rule, which was published in the October 31, 1991, issue of the **Federal Register** (56 FR 55986). The rule suspended the 1991–92 handling regulation in effect under the order and invited public comment through December 2, 1991. No comments were received.

On July 13, 1992, the Department issued a suspension order, which was published in the July 17, 1992, issue of the **Federal Register** (57 FR 31631). The action suspended all of the provisions of and established pursuant to the order from July 17, 1992, through July 17, 1995, because the Secretary determined that the order no longer tended to effectuate the declared policy of the Act. The action also indicated that, during this period, the Department would monitor lettuce production and the number of active producers and handlers in the production area. At the end of that period an evaluation would be made by the Secretary on whether there was a revival in lettuce production and whether to reactivate the order or begin termination proceedings.

As an interim step in this evaluation, in December 1992, the Department conducted a survey of former industry handlers to determine whether they expected a revival of South Texas lettuce production in the next two years, and if not, whether they wanted a refund of excess reserve funds prior to the end of the evaluation period.

The overwhelming consensus of the respondents was that they did not plan to resume lettuce production and the

handlers wanted all but $3,000 of the reserve fund to be refunded to them as soon as practicable. On February 26, 1993, the Department issued refund checks totaling approximately $25,000 to handlers based on their pro rata share of assessments paid during the 1988–89 through 1990–91 marketing seasons. The remaining $3,000 reserve was considered sufficient to cover unforeseen expenses during the period of suspension and to cover necessary expenses of liquidation in the event the marketing order would be terminated.

Commercial production and handling of South Texas lettuce ceased in 1992; there are currently no indications that the industry will be revived. Without a sufficient number of producers and handlers, it is impossible for the Secretary to appoint the required committee or otherwise continue the operation of the order.

Therefore, based on the foregoing considerations, pursuant to section 8c(16)(A) of the Act and § 971.84 of the order, it is found that Marketing Order No. 971, covering lettuce grown in the Lower Rio Grande Valley in South Texas, does not tend to effectuate the declared policy of the Act and is hereby terminated. The trustees appointed by the Secretary shall continue in the capacity of concluding and liquidating the affairs of the former committee, until discharged by the Secretary.

Section 8c(16)(A) of the Act requires the Secretary to notify Congress 60 days in advance of the termination of a Federal marketing order. Congress was so notified on March 15, 1995.

Pursuant to 5 U.S.C. 553, it is also found and determined, upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give additional preliminary notice, or to engage in further procedure with respect to this action, because: (1) This action relieves all restrictions on handlers by terminating the provisions of part 971; (2) in 1992, the Department issued a rule suspending all provisions of the order for two years to allow sufficient time for a possible revival of the lettuce industry before termination of the order; and (3) such commercial lettuce production and handling cease in 1992 and when former industry members were polled, they did not expect a revival of the industry, and the consensus was that the order should be terminated.

List of Subjects in 7 CFR Part 971

Lettuce, Marketing agreements, Reporting and recordkeeping requirements.

PART 971—[REMOVED]

1. The authority citation for 7 CFR part 971 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Accordingly, 7 CFR part 971 is removed.

Dated: June 6, 1995.

David R. Shipman,

Acting Deputy Assistant Secretary, Marketing and Regulatory Programs.

[FR Doc. 95–14473 Filed 6–12–95; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–63–AD; Amendment 39–9272; AD 95–12–20]

Airworthiness Directives; Airbus Model A330 and A340 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A330 and A340 series airplanes. This action requires a one-time inspection to determine the torque value of all wing slat track stop pins, and correction of discrepancies. This amendment is prompted by a report of a fuel leak that was caused by an incorrectly torqued slat track stop pin that punctured the slat canister. The actions specified in this AD are intended to prevent such fuel leakage conditions, which could result in inadequate fuel for completing a flight and could pose a fire hazard.

DATES: Effective June 29, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 29, 1995.

Comments for inclusion in the Rules Docket must be received on or before August 14, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–63–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Stephen Slotte, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2797; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION: The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on certain Airbus Model A330 and A340 series airplanes. The DGAC advises that, during preflight refueling of a Model A340–300 airplane, a fuel leak was discovered in slat canister number 11 on the left wing of the airplane. Closer inspection revealed that the two parts of the slat track stop pin assembly at the end of the slat track had become loose and had separated from each other. This caused the length of the pin to increase by more than the width of the canister, thus puncturing the side of the slat canister close to the front of the spar attachment flange. The stop pin was found to be bent and detached from the slat track.

A subsequent visual inspection of the pins at the other slat track positions on both the left and right wings of the incident airplane revealed excess lateral movement. A certain amount of lateral movement of the pins in the slat track is normal (0.2 mm to 0.3 mm, or 0.0079 inch to 0.0118 inch). However, the pins that were inspected indicated lateral movement up to 12 mm (0.472 inch). A torque check of the pins revealed zero torque. No additional damage to the slat canister was found.

The slat track stop pin assembly consists of two parts (male and female), which are installed at the end of each of the slat tracks. Their purpose is to provide a positive stop in case of over-extension of the slats. The torque loading applied during installation of this two-part assembly provides the primary locking feature; a five-point internal circlip ring provides a secondary locking feature. Incorrect installation of these items may have contributed to the pins coming loose on the incident airplane. The installation procedure was corrected on all airplanes delivered after June 15, 1994.

Excessive lateral movement of the stop pins can result in damage to the slat canister during extension or retraction of the slats. Excessive damage to the canister could lead to a running

fuel leak. Such a fuel leak could result in inadequate fuel for completing a flight and could pose a fire hazard.

Airbus Industrie has issued All Operators Telex (AOT) 57–08, Revision 1, dated June 28, 1994, which describes procedures for a one-time torque check of all wing slat track stop pins (32 positions), and retorquing, as necessary. The AOT also describes procedures for conducting a borescope inspection for signs of damage or wear in situations where more than five complete turns of the pin are needed to reach the required torque value. The AOT contains procedures for an alternative inspection procedure in which the more critically positioned pins are inspected initially, and the remainder of the pins are inspected no later than the airplane's next scheduled ''C'' check. The DGAC classified this service bulletin as mandatory and issued French airworthiness directives 97–146–003(B) (applicable to Model A330 series airplanes) and 94–147–009(B) (applicable to Model A340 series airplanes), both dated July 6, 1994, in order to assure the continued airworthiness of these airplanes in France.

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.19) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, this AD is being issued to prevent fuel leakage caused by incorrectly torqued slat track stop pins puncturing the slat canister. This condition could result in inadequate fuel for completing a flight and could pose a fire hazard. This AD requires a one-time torque check of all wing slat track stop pins, and retorquing, as necessary. It also requires a borescope inspection for signs of damage or wear in situations where more than five complete turns of the pin are needed to reach the required torque value. The AD provides for an alternative inspection procedure in which inspection of the pins is conducted in two stages. The actions are required to be accomplished in accordance with the service bulletin described previously.

There currently are no affected Model A330 or A340 series airplanes on the U.S. Register. All airplanes included in the applicability of this rule currently are operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, the FAA considers that this rule is necessary to ensure that the unsafe condition is addressed in the event that any of these subject airplanes are imported and placed on the U.S. Register in the future.

Should an affected airplane be imported and placed on the U.S. Register in the future, it would require approximately 20 work hours to accomplish the required actions, at an average labor charge of $60 per work hour. Based on these figures, the total cost impact of this AD would be $1,200 per airplane.

Since this AD action does not affect any airplane that is currently on the U.S. register, it has no adverse economic impact and imposes no additional burden on any person. Therefore, notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days after publication in the **Federal Register**.

Comments Invited

Although this action is in the form of a final rule and was not preceded by notice and opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 95–NM–63–AD.'' The postcard will be date stamped and returned to the commenter.

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:

95–12–20 Airbus Industrie: Amendment 39–9272. Docket 95–NM–63–AD.

Applicability: Model A330–301 series airplanes that were delivered prior to June

15, 1994; and Model A340–211, –311, –212, and –312 series airplanes that were delivered prior to June 15, 1994; 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 (c) 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 fuel leaks caused by an incorrectly torqued slat track stop puncturing the slat canister, which can result in inadequate fuel for completing a flight and can pose a fire hazard, accomplish the following:

(a) Except as provided by paragraph (b) of this AD: Within 10 days after the effective date of this AD, perform an inspection to determine the torque value of all wing slat track stop pins (32 positions), in accordance with Airbus All Operators Telex (AOT) 57–08, Revision 1, dated June 28, 1994.

(1) If the torque value of all wing slat track stop pins is within the acceptable range specified in the AOT, no further action is required by this AD.

(2) If any slat track stop pin is loose, or there is excessive axial movement (in excess of 0.3 mm or 0.118 inch), prior to further flight, retorque the pin in accordance with the AOT.

(3) If a slat track stop pin is loose, and requires more than five complete turns of the pin to reach the required torque value, prior to further flight, perform a borescope inspection to detect damage or wear of the internal sides of the slat canisters, in accordance with the AOT.

(i) If the borescope inspection reveals no signs of damage or wear, no further action is required by this AD.

(ii) If the borescope inspection reveals evidence of damage or wear, but the canister is not perforated, repair the canister in accordance with paragraph 4.1.3(B) of the AOT within 450 flight cycles after the borescope inspection.

(iii) If the borescope inspection reveals that the canister is perforated, prior to further flight, either repair in accordance with PMS 01–04–02 or replace the canister in accordance with the AOT.

(b) As an alternative to the requirements of paragraph (a) of this AD, operators may accomplish the following: Within 10 days after the effective date of this AD, perform an inspection to determine the torque value of the slat track stop pins at positions 4, 5, 10, and 11 (immediately inboard and outboard of the pylons), in accordance with Airbus AOT 57–08, Revision 1, dated June 28, 1994.

(1) If the torque value of each of the slat track stop pins at positions 4, 5, 10, and 11 is found to be is within the acceptable range specified in the AOT, within 450 flight cycles, perform an inspection to determine the torque value of the remainder of the slat track stop pins on both wings, in accordance with the AOT.

(2) If any of the slat track stop pins at positions 4, 5, 10, and 11 is found to be loose, prior to further flight, perform an inspection to determine the torque value of the remainder of the slat track stop pins on both wings, in accordance with the AOT.

(3) If any slat track stop pin is found to be loose during any inspection required by this paragraph, or if there is excessive axial movement (in excess of 0.3 mm or 0.118 inch), prior to further flight, retorque the pin in accordance with the AOT.

(4) If any slat track stop pin is loose during any inspection required by this paragraph, and requires more than five complete turns of the pin to reach the required torque value, prior to further flight, perform a borescope inspection to detect damage or wear of the internal sides of the slat canisters, in accordance with the AOT.

(i) If the borescope inspection reveals no signs of damage or wear, no further action is required by this AD.

(ii) If the borescope inspection reveals evidence of damage or wear, but the canister is not perforated, repair the canister in accordance with paragraph 4.1.3(B) of the AOT within 450 flight cycles after the borescope inspection.

(iii) If the borescope inspection reveals that the canister is perforated, prior to further flight, either repair in accordance with PMS 01–04–02, or replace the canister in accordance with the AOT.

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

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

(e) The inspections, retorquing procedures, and replacement actions shall be done in accordance with Airbus All Operators Telex 57–08, Revision 1, dated June 28, 1994. 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 Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on June 29, 1995.

Issued in Renton, Washington, on June 6, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–14315 Filed 6–13–95; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 95–NM–61–AD; Amendment 39–9274; AD 95–12–22]

Airworthiness Directives; Airbus Model A340–211, –212, –311, and –312 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A340 series airplanes. This action requires installation of a reinforcement modification on the structure of the left- and right-hand cowls of the thrust reversers. This amendment is prompted by the results of a full-scale fatigue test, conducted by the manufacturer, which indicated that fatigue cracks can occur between the 3 and 9 o'clock thrust reverser beams and the forward frame/''J''-ring. The actions specified in this AD are intended to prevent loss of the use of the thrust reversers as a result of the problems associated with fatigue cracking in their cowling structure.

DATES: Effective June 29, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 29, 1995.

Comments for inclusion in the Rules Docket must be received on or before August 14, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–61–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at

the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Stephen Slotte, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2797; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION: The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on certain Airbus Model A340–211, –212, –311, and –312 series airplanes. The DGAC advises that results of a full-scale fatigue test, which was conducted by Airbus Industrie, indicate that fatigue cracking can occur between the 3 and 9 o'clock thrust reverser beams and the forward frame/''J''-ring in the thrust reversers' cowling structure. This condition, if not corrected, could result in loss of the use of the thrust reversers as a result of the problems associated with fatigue cracking in their cowling structure.

Airbus Industrie has issued Service Bulletin A340–78–4002, Revision 2, dated October 14, 1994, which describes procedures for installing a reinforcement modification on the structure of the left- and right-hand cowls of the thrust reversers. This modification consists of the installation of modified fittings between the forward frame and the 3 and 9 o'clock thrust reverser beams, and between the 3 and 9 o'clock beams and the internal fixed structure of the thrust reverser. This modification is intended to improve the load transfer between the 3 and 9 o'clock thrust reverser beams and the forward frame/''J''-ring. The DGAC classified this service bulletin as mandatory and issued French Airworthiness Directive (CN) 94–055–006(B)(R1), dated April 13, 1994, in order to assure the continued airworthiness of these airplanes in France.

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.19) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, this AD is being issued to prevent loss of the use of the thrust reversers as a result of the problems associated with fatigue cracking in their cowling structure. This AD requires installation of a reinforcement modification on the structure of the left- and right-hand cowls of the thrust reversers. The actions are required to be accomplished in accordance with the service bulletin described previously.

The modification of the right-hand cowl of the thrust reverser unit having serial number 3062, which is installed on the affected airplane having manufacturer's serial number (MSN) 011, is required at an interval sooner than the modification of the other cowls. That particular cowl section is required to be modified at 900 landings, whereas, the other cowl sections are required to be modified at 4,000 landings. This difference in these compliance times is due to the fact that the right-hand thrust reverser cowl section having serial number 3062 has an established life-limit of 900 cycles. In order to maintain the structural integrity of that part, it is necessary that it be modified before its currently-established life-limit is attained.

There currently are no Model A340–211, –212, –311, or –312 series airplanes on the U.S. Register. All airplanes included in the applicability of this rule currently are operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, the FAA considers that this rule is necessary to ensure that the unsafe condition is addressed in the event that any of these subject airplanes are imported and placed on the U.S. Register in the future.

Should an affected airplane be imported and placed on the U.S. Register in the future, it would require approximately 92 work hours to accomplish the required actions, at an average labor charge of $60 per work hour. Required parts would be provided by the manufacturer at no cost to operators. Based on these figures, the total cost impact of this AD would be $5,520 per airplane.

Since this AD action does not affect any airplane that is currently on the U.S. Register, it has no adverse economic impact and imposes no additional burden on any person. Therefore, notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days after publication in the **Federal Register**.

Comments Invited

Although this action is in the form of a final rule and was not preceded by notice and opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 95–NM–61–AD.'' The postcard will be date stamped and returned to the commenter.

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:

95–12–22 Airbus: Amendment 39–9274. Docket 95–NM–61–AD.

Applicability: Model A340–211, –212, –311, and –312 series airplanes; as listed in Airbus Service Bulletin A340–78–4002, Revision 2, dated October 14, 1994; on which Modification No. 42445 has not been installed; 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 (c) 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 loss of the use of the thrust reversers as a result of the problems associated with fatigue cracking in their cowling structure, accomplish the following:

(a) Except as required by paragraph (b) of this AD: Prior to the accumulation of 4,000 total flight cycles or within 48 months after the effective date of this AD, whichever occurs later, install the reinforcement modification on the structure of the left- and right-hand thrust reverser cowls in accordance with Airbus Service Bulletin A340–78–4002, Revision 2, dated October 14, 1994.

(b) This paragraph applies to the right-hand cowl of the thrust reverser installed on the affected airplane having manufacturer's serial number (MSN) 011: Prior to the accumulation of 900 total flight cycles or within 12 months after the effective date of this AD, whichever occurs later, install the reinforcement modification on the structure of the right-hand cowl of the thrust reverser unit, serial number 3062, in accordance with Airbus Service Bulletin A340–78–4002, Revision 2, dated October 14, 1994.

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

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

(e) The installation of the modification shall be done in accordance with Airbus Service Bulletin A340–78–4002, Revision 2, dated October 14, 1994. 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 Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on June 29, 1995.

Issued in Renton, Washington, on June 6, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–14317 Filed 6–13–95; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 95–NM–62–AD; Amendment 39–9273; AD 95–12–21]

Airworthiness Directives; Airbus Model A340–211 and –311 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A340–211 and –311 series airplanes. This action requires the installation of doublers on certain stringers located in the center fuselage. This amendment is prompted by the results of the manufacturer's full-scale fatigue test which indicate that fatigue cracking can occur at these stringer locations. The actions specified in this AD are intended to prevent reduced structural integrity of the fuselage due to the problems associated with fatigue cracks in the subject stringers.

DATES: Effective June 29, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 29, 1995.

Comments for inclusion in the Rules Docket must be received on or before August 14, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–62–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Stephen Slotte, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2797; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION: The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on certain Airbus Model A340–211 and –311 series airplanes. The DGAC

advises that the results of a full-scale fatigue test, conducted by Airbus Industrie, indicate that fatigue cracks were found on stringer 39 at frame 53–2 (left and right sides). These stringers are located in the center fuselage area of the airplane. Such fatigue cracking, if not detected and corrected in a timely manner, could result in reduced structural integrity of the fuselage.

Airbus Industrie has issued Service Bulletin A340–53–4009, dated August 2, 1994, which describes procedures for installing a doubler on stringer 39 at frame 53–2 (left and right sides). This doubler is intended to reinforce the frame, and prevent the initiation and propagation of damage due to fatigue cracking in this area. The DGAC classified this service bulletin as mandatory and issued French Airworthiness Directive (CN) 94–209–010(B), dated September 14, 1994, in order to assure the continued airworthiness of these airplanes in France.

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.19) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, this AD is being issued to prevent reduced structural integrity of the fuselage due to the problems associated with fatigue cracking at stringer 39. This AD requires the installation of a doubler on stringer 39 at frame 53–2 (left and right sides). The actions are required to be accomplished in accordance with the service bulletin described previously.

There currently are no Model A340–211 and –311 series airplanes on the U.S. Register. All airplanes included in the applicability of this rule currently are operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, the FAA considers that this rule is necessary to ensure that the unsafe condition is addressed in the event that any of these subject airplanes are imported and placed on the U.S. Register in the future.

Should an affected airplane be imported and placed on the U.S. Register in the future, it would require approximately 8 work hours to accomplish the required actions, at an average labor charge of $60 per work hour. Required parts would be supplied by the manufacturer at no cost to operators. Based on these figures, the total cost impact of this AD would be $480 per airplane.

Since this AD action does not affect any airplane that is currently on the U.S. register, it has no adverse economic impact and imposes no additional burden on any person. Therefore, notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days after publication in the **Federal Register**.

Comments Invited

Although this action is in the form of a final rule and was not preceded by notice and opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 95–NM–62–AD.'' The postcard will be date stamped and returned to the commenter.

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:

95–12–21 Airbus: Amendment 39–9273. Docket 95–NM–62–AD.

Applicability: Model A340–211 and –311 series airplanes; as listed in Airbus Service Bulletin A340–53–4009, dated August 2, 1994; 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 (b) 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 reduced structural integrity of the fuselage due to the problems associated with fatigue cracks at stringer 39, accomplish the following:

(a) Prior to the accumulation of 1,700 flight cycles after the effective date of this AD, or within 36 months after the effective date of this AD, whichever occurs first, install a doubler on stringer 39 at frame 53–2, left and right sides, in accordance with Airbus Service Bulletin A340–53–4009, dated August 2, 1994.

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

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

(d) The installation shall be done in accordance with Airbus Service Bulletin A340–53–4009, dated August 2, 1994. 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 Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on June 29, 1995.

Issued in Renton, Washington, on June 6, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–14318 Filed 6–13–95; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 94–SW–27–AD; Amendment 39–9276; AD 95–06–03]

Airworthiness Directives; Robinson Helicopter Company Model R22 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting Airworthiness Directive (AD) 95–06–03 which was sent previously to all known U.S. owners and operators of Robinson Helicopter Company (Robinson) Model R22 helicopters by individual letters. This AD requires an inspection and modification of the main rotor (M/R) gearbox. This amendment is prompted by a report of an incident involving a Model R22 helicopter in which the two M/R mast spanner nuts (nuts) became loose, resulting in failure of the M/R mast support structure. The actions specified by this AD are intended to prevent M/R separation and subsequent loss of control of the helicopter.

DATES: Effective on June 29, 1995, to all persons except those persons to whom it was made immediately effective by priority letter AD 95–06–03, issued on March 8, 1995, which contained the requirements of this amendment.

Comments for inclusion in the Rules Docket must be received on or before August 14, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Assistant Chief Counsel, Attention: Rules Docket No. 94–SW–27–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth Bumann, Aerospace Engineer, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Blvd., Lakewood, California 90712, telephone (310) 627–5265, fax (310) 627–5210.

SUPPLEMENTARY INFORMATION: On March 8, 1995, the FAA issued priority letter AD 95–06–03, applicable to Robinson R22 helicopters, which requires, within 25 hours time-in-service (TIS) after the effective date of this AD, removal and disassembly of the M/R gearbox; measurement of the break-loose torque value of the upper spanner nut; replacement of the lock washers; increasing the torque values of the two spanner nuts; reassembly and reinstallation of the M/R gearbox; and verification of the M/R balance in accordance with the applicable maintenance manual. That action was prompted by an incident reported by the Civil Aviation Authority (CAA) of New Zealand involving failure of the main rotor (M/R) mast support structure. An investigation revealed that the two M/R mast spanner nuts (nuts) became loose and allowed the M/R shaft to pull through the retention bearing in the M/R gearbox. As the loads transferred from the M/R gearbox bearing to the top of the mast, the rivets that attach the mast bearing outer housing to the M/R shaft sheared, resulting in failure of the M/R mast support structure.

Prior to June 15, 1992, the M/R gearbox assembly, P/N A006–1 Revisions A through Z, may have been assembled with paint on the clamping surface of the M/R shaft, preventing a good clamping surface for the nuts. Two earlier incidents in Australia prompted the Commonwealth of Australia CAA to issue CAA AD/R22/35, dated September 1992, to inspect the nuts for looseness and increase the nut torque values. The FAA did not issue an AD at that time due to inconclusive information from the two isolated incidents. The compliance procedure of this AD differs from CAA AD/R22/35 by requiring replacement of the lock washer, part number (P/N) A269–1, located between the mast bearing and the upper nut, with a different lock washer, P/N A269–2. The torque values on both nuts have also been increased. The FAA has determined that under-torqued nuts may become loose and create an unsafe condition. Due to the criticality of ensuring that the nuts are properly torqued, this AD is being issued immediately to correct an unsafe condition. That condition, if not corrected, could result in M/R separation and subsequent loss of control of the helicopter.

Since the unsafe condition described is likely to exist or develop on other Robinson Model R22 helicopters of the same type design, the FAA issued priority letter AD 95–06–03 to prevent M/R separation and subsequent loss of control of the helicopter. The AD requires, within 25 hours time-in-service (TIS), removal and disassembly of the M/R gearbox; measurement of the break-loose torque value of the upper spanner nut; replacement of the lock washers; increasing the torque values of the two spanner nuts; reassembly and reinstallation of the M/R gearbox; and verification of the M/R balance in accordance with the applicable maintenance manual.

Since the issuance of that AD, the FAA has received information that Robinson Helicopter Company may not

be providing to all individuals the MT–124 tool required to remove and install the nuts. The relevant AD Note has been revised to state that individuals may request an alternative method of compliance to use a different nut socket in lieu of the MT–124 tool. Also, Note 1 has been added to the AD clarifying the applicability to helicopters that have been modified, altered, or repaired in the area subject to the requirements of this AD. The addition of this note changed the numbering of the subsequent notes. Paragraph (a) of the AD has also been changed to allow use of an unserviceable M/R hub bolt or 5/8-inch diameter bolt to counteract torque when removing the nuts. Finally, nomenclature and part numbers have been added throughout the AD for clarification. The FAA has determined that these minor changes will neither change the meaning or scope of the AD nor increase any burden on any operator.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual letters issued on March 8, 1995, to all known U.S. owners and operators of Robinson Model R22 helicopters. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective to all persons.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 94–SW–27–AD.'' The postcard will be date stamped and returned to the commenter.

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.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, 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, 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 a new airworthiness directive to read as follows:

95–06–03 Robinson Helicopter Company: Amendment 39–9276. Docket No. 94–SW–27–AD.

Applicability: Model R22 helicopters with main rotor gearbox (gearbox), part number (P/N) A006–1, Revisions A through Z, manufactured or overhauled prior to June 15, 1992, installed, certificated in any category.

Note 1: This AD applies to each helicopter 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 helicopters 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 (b) 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 helicopter from the applicability of this AD.

Note 2: The revision level (revision letter) of the gearbox can be found on the data plate next to the sight glass.

Compliance: Required as indicated, unless accomplished previously. To prevent main rotor (M/R) separation and subsequent loss of control of the helicopter, accomplish the following:

(a) Within 25 hours time-in-service after the effective date of this AD, inspect and modify the gearbox in accordance with the following:

(1) Remove the gearbox in accordance with the applicable maintenance manual.

(2) Drain the gearbox by removing the chip detector housing.

(3) Perform the following inspection and torquing of the shaft retaining nuts.

Note 3: A special tool, a spanner nut socket, P/N MT124–1, may be obtained from Robinson Helicopter Company. If that tool is not available, individuals may propose using a different nut socket in accordance with paragraph (b) of this AD.

(i) Lay the gearbox on its side using care to prevent damage to the slider tube. Remove the eight NAS1291–4 nuts and two MS20074–04–10 hex head cap screws holding the sump in place.

(ii) Gently remove the sump and discard the O-ring, using care to keep all washer-shims on their respective bolts. With the bolts still attached to the sump, replace the sump nuts on the bolts to retain the washer-shims (the washer-shim stack is the same at each location). Hand-tighten the nuts.

(iii) Bend back the two lock washer tabs locking the lower nut, P/N A153–1. Insert an

unserviceable M/R hub bolt or a 5/8-inch diameter bolt through the teeter hinge bolt hole in the M/R shaft to counteract torque. Clamp the unserviceable M/R hub bolt or the 5/8-inch diameter bolt in a vise or otherwise fasten it to a workbench. Do not clamp the M/R shaft. Remove the lower nut from the M/R shaft using a socket, P/N MT124–1, or an FAA-approved equivalent tool. Remove and discard the lower lock washer, P/N A269–1.

(iv) Bend back the two lock washer tabs locking the upper nut, P/N A153–1. Remove the upper nut, measuring the torque required to break the nut loose. Remove and discard the upper lock washer, P/N A269–1.

(v) If the upper nut required more than 10 ft.-lb. torque to break loose, proceed to paragraph (a)(3)(vi). If the upper nut required 10 ft.-lb. torque or less to break loose, report within 5 days the M/R gearbox P/N and break-loose torque value to the Propulsion Manager, Los Angeles Aircraft Certification Office, 3960 Paramount Blvd., Lakewood, California 90712. Reporting requirements have been approved by the Office of Management and Budget and assigned OMB control number 2120–0056. Remove the gear carrier from the M/R shaft. Inspect the splines and clamping surfaces on both the shaft and gear carrier for pitting, galling, or scoring of surfaces. Replace any unairworthy parts. If the inspection revealed no pitting, galling, or scoring of surfaces, remove any paint from the clamping surface on the shaft using either paint remover or a plastic or wooden scraper, and ensure the surface is smooth and clean. Reassemble the gear carrier to the shaft.

(vi) Inspect the two dowels or roll pins in the gear carrier for damaged surfaces. Dowels or roll pins must protrude 0.045 to 0.055 inches for proper engagement with the lock washer, P/N A269–2. Also clean the nuts, M/R shaft threads, and sump, using methyl-ethyl-ketone (MEK) or Trichlorethane (1,1,1, TCE) before reassembly.

(vii) Install a lock washer, P/N A269–2. Apply anti-seize (Loctite Anti-seize 767), P/N A257–9, to the M/R shaft threads and to the chamfered-side face and threads of one nut and install the nut with the chamfered side against the lock washer. Verify that the dowels or roll pins are aligned with the holes in the lock washer. Torque the nut to between 170 and 200 ft.-lb., as required to align two lock washer tabs (tabs) with the nut. Do not untorque the nut to align the lock washer tabs with the nut. For the two tabs that are aligned with the recessed areas, bend down the tabs into the recessed areas of the nut and inspect the edges of the bent tabs for cracks.

(viii) Before installing the lock washer, P/N A269–1, note that the edges are sharp on one side and rounded on the other. De-burr the sharp edges on two opposite tabs (see figure 1). This will reduce the chance of cracking when these tabs are bent up. Install the lock washer with the rounded edges toward the installed nut.

(ix) Apply anti-seize, P/N A257–9, to the chamfered-side face and threads of the lower nut. Align the two de-burred tabs with the upper nut and install the lower nut with the chamfered side against the lock washer. Hand-tighten the nut to hold the washer in place. Bend the two de-burred tabs up to lock with the upper nut. Torque the lower nut to between 90 and 120 ft.-lb., as required to align the two additional tabs. Do not untorque the nut to align the lock washer tabs with the nut. For the two tabs that are aligned with the recessed areas, bend down the tabs into the recessed areas of the nut to lock the lower nut.

(x) Verify that all six bent tabs properly engage the nuts (four tabs to the upper nut and two to the lower nut), and inspect the edges of the bent tabs for cracks. Replace any cracked lock washers. Remove excess anti-seize compound.

(xi) Lubricate the O-ring, P/N A215–271, with oil, P/N A257–2, and install the O-ring on the sump. Clean and inspect the sealing surface of the gearbox housing for smoothness. Lightly lubricate the sealing surface with oil, P/N A257–2.

(xii) Reinstall the sump onto the gearbox housing using the same washer-shim stacks that were removed in accordance with paragraph (a)(3)(ii) of this AD. Torque the sump bolts and chip detector as follows:

(A) For the eight NAS1291–4 nuts on the AN4 bolts for the sump: 90 in.-lb. of torque (includes nut self-locking torque);

(B) For the two cap screws, P/N MS20074: 60 in.-lb. of torque and install safety wire;

(C) For the chip detector, P/N A7260, (large nut): 150 in.-lb. of torque and install safety wire;

(D) For the chip detector, P/N A7260, (small nut): 75 in.-lb. of torque and install safety wire.

Note 4: Be sure to install ground wires under the nut located aft of the forward right-hand mount.

(4) Reinstall the gearbox in accordance with the applicable maintenance manual.

(5) Fill the gearbox with oil, P/N A257–2, to the middle of the sight glass.

(6) Verify the M/R balance in accordance with the applicable maintenance manual.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Los Angeles Aircraft Certification Office.

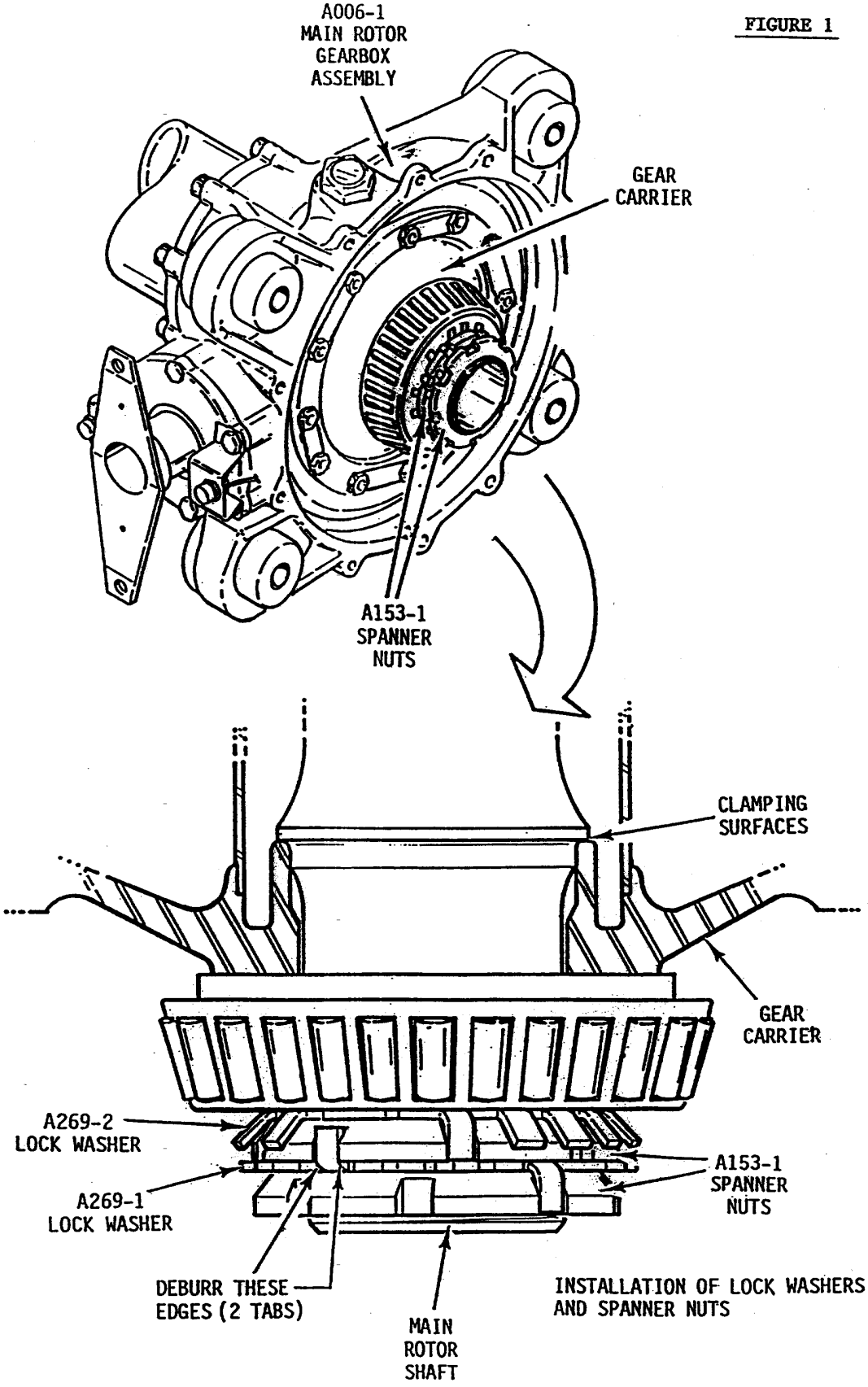
Note 5: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles Aircraft Certification Office.

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

(d) This amendment becomes effective on June 29, 1995, to all persons except those persons to whom it was made immediately effective by Priority Letter AD 95–06–03, issued March 8, 1995, which contained the requirements of this amendment.

BILLING CODE 4910–13–P

FIGURE 1



BILLING CODE 4910–13–C

Issued in Fort Worth, Texas, on June 7, 1995.

Mark R. Schilling,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 95–14445 Filed 6–13–95; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 39

[Docket No. 95–CE–24–AD; Amendment 39–9267; AD 95–12–16]

Airworthiness Directives; Mooney Aircraft Corporation Model M20R Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes priority letter Airworthiness Directive (AD) 95–07–04, which currently requires the following on certain Mooney Aircraft Corporation (Mooney) Model M20R airplanes: repetitively inspecting the exhaust system for cracks, replacing the exhaust system if any cracks are found, and reporting to the Federal Aviation Administration (FAA) any cracks found. This action retains the repetitive inspection requirement of AD 95–07–04 until the exhaust system is modified, and requires eventual modification of the exhaust system on the affected airplanes. Several reports of exhaust system cracks on Mooney Model M20R airplanes prompted this action. The actions specified by this AD are intended to prevent an airplane engine fire that could result from exhaust system cracks.

DATES: Effective June 22, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 22, 1995. Comments for inclusion in the Rules Docket must be received on or before August 14, 1995.

ADDRESSES: Submit comments in triplicate to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket 95–CE–24–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Service information that applies to this AD may be obtained from the Mooney Aircraft Corporation, Louis Schreiner Field, Kerrville, Texas 78028. This information may also be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket 95–CE–24–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Alma Ramirez-Hodge, Aerospace Engineer, FAA, Airplane Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone (817) 222–5147; facsimile (817) 223–5960.

SUPPLEMENTARY INFORMATION: On March 24, 1995, the FAA issued priority letter AD 95–07–04, which currently requires the following on certain Mooney Model M20R airplanes:

- Repetitively inspecting the exhaust system for cracks;
- Replacing the exhaust system if any cracks are found; and
- Reporting to the FAA any cracks found.

Accomplishment of this action is in accordance with section 5 and section 81 of the Mooney Model M20R Service and Maintenance Manual (section 78 in Service and Maintenance Manual revisions issued after April 1995).

Several (13) reports of exhaust system cracks on the affected airplanes prompted priority letter AD 95–07–04. The service time of the airplanes with cracks found was as low as 8 hours time-in-service. Investigation of the cracked exhaust systems revealed that these cracks formed in the exhaust header assembly, the muffler assembly, and the exhaust tailpipe assembly, specifically at the spot welds.

The exhaust system header assembly on the Model M20R airplanes is located near the fuel lines. The high temperatures emanating from exhaust system cracks could cause an airplane fire with this close proximity to the fuel lines.

Mooney issued Service Bulletin M20–257, Revision A, dated March 21, 1995, which references repetitive inspections of the exhaust system on the affected Model M20R airplanes. The exhaust system on the affected airplanes consists of the following parts:

- Exhaust Header Assembly: part number 630079–501/–502
- Muffler Assembly: part number 630088–501; and
- Exhaust Tail Pipe Assembly: part number 630087–501/–502

Since the FAA issued priority letter AD 95–07–04, Mooney has developed an exhaust system modification that, when incorporated, would eliminate the need for the repetitive inspections required by the current AD. Mooney issued Instructions—Retrofit Kit, part number (P/N) 940095–501–1, dated March 31, 1995, and Special Letter 95–1, dated April 20, 1995, which specify instructions for incorporating this exhaust system modification on Mooney Model M20R airplanes. In addition, Mooney incorporated the instructions of both the above documents in Instructions–Retrofit Kit, P/N 940095–501–1, Revised April 21, 1995. This modification is referenced in Mooney Service Bulletin M20–257, Revision B, dated April 5, 1995.

After examining the circumstances and reviewing all available information related to the accidents described above, the FAA has determined that the modification described above should be incorporated on certain Mooney Model M20R airplanes, and that AD action should be taken in order to prevent an airplane engine fire that could result from exhaust system cracks.

Since an unsafe condition has been identified that is likely to exist or develop in other Mooney M20R airplanes of the same type design, this AD supersedes priority letter AD 95–07–04 with a new AD that (1) retains the requirement of repetitively inspecting the exhaust system for cracks until the exhaust system is modified; and (2) requires modifying the exhaust system if cracks are found and at a certain time period if cracks aren't found. This exhaust system modification eliminates the repetitive inspection requirement. Accomplishment of the exhaust system modification is in accordance with either (1) Mooney Instructions-Retrofit Kit, P/N 940095–501–1, Revised April 21, 1995; or (2) both Mooney Instructions—Retrofit Kit, P/N 940095–501–1, dated March 31, 1995, and Mooney Special Letter 95–1, dated April 20, 1995.

Since a situation exists (possible exhaust leaks near the fuel lines) that requires the immediate adoption of this regulation, it is found that notice and opportunity for public prior comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting immediate flight safety and, thus, was not preceded by notice and opportunity to comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that

supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 95–CE–24–AD.'' The postcard will be date stamped and returned to the commenter.

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.

The FAA has determined that this regulation is an emergency regulation and that it must be issued immediately to correct an unsafe condition in aircraft, and is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

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 a new airworthiness directive to read as follows:

95–12–16 Mooney Aircraft Corporation: Amendment 39–9267; Docket No. 95–CE–24–AD. Supersedes priority letter AD 95–07–04.

Applicability: Model M20R Airplanes, serial numbers 29–0002 through 29–0035, 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 (d) of this AD 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 in the body of this AD, unless already accomplished.

To prevent an airplane engine fire that could result from exhaust system cracks, accomplish the following:

(a) Within the next 5 hours time-in-service (TIS) after the effective date of this AD, unless the modification specified in paragraph (b) of this AD is incorporated, and thereafter at intervals not to exceed 5 hours TIS until compliance with paragraph (b) of this AD, inspect the exhaust system for cracks in accordance with section 5 and section 81 of the Mooney Model M20R Service and Maintenance Manual (section 78 in Service and Maintenance Manual revisions issued after April 1995). The original exhaust system consists of the following:

(1) Exhaust Header Assembly: part number 630079–501/–502;

(2) Muffler Assembly: part number 630088–501; and

(3) Exhaust Tail Pipe Assembly: part number 630087–501/–502.

Note 2: The inspections required by this AD are also referenced in Mooney Service Bulletin M20–257, Revision A, dated March 21, 1995, and Revision B, dated April 5, 1995.

(b) Prior to further flight on any airplane with a cracked exhaust system or within the next 25 hours TIS after the effective date of this AD on any airplane without a cracked exhaust system, whichever occurs first, modify the exhaust system in accordance with the documents specified in either paragraph (b)(1) or (b)(2) below:

(1) Mooney Instructions—Retrofit Kit, part number (P/N) 940095–501–1, dated March 31, 1995, and Mooney Special Letter 95–1, dated April 20, 1995; or

(2) Mooney Instructions–Retrofit Kit, P/N 940095–501–1, Revised April 21, 1995.

(c) The repetitive inspections required by paragraph (a) of this AD are no longer required after the incorporation of the modification required by paragraph (b) of this AD.

(d) An alternative method of compliance or adjustment of the compliance times that provides an equivalent level of safety may be approved by the Manager, ACO, FAA, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Fort Worth ACO.

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

(e) The modification required by this AD shall be done in accordance with Mooney Instructions-Retrofit Kit, part number 940095–501–1, Revised April 21, 1995; or both Mooney Instructions-Retrofit Kit, part number 940095–501–1, dated March 31, 1995, and Mooney Special Letter 95–1, dated April 20, 1995. 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 the Mooney Aircraft Corporation, Louis Schreiner Field, Kerrville, Texas 78028. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., 7th Floor, suite 700, Washington, DC.

(f) This amendment (39–9267) supersedes priority letter AD 95–07–04.

(g) This amendment (39–9267) becomes effective on June 22, 1995.

Issued in Kansas City, Missouri, on June 2, 1995.

Henry A. Armstrong,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–14041 Filed 6–13–95; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 94–CE–29–AD; Amendment 39–9275; AD 95–12–23]

Airworthiness Directives; Twin Commander Aircraft Corporation Models 690C and 695 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Twin Commander Aircraft Corporation (Twin Commander) Models 690C and 695 airplanes. This action requires initially inspecting the wing structure for cracks, modifying any cracked wing structure, and, if not cracked, either repetitively inspecting or modifying the wing structure. Results of full-scale fatigue testing that indicated areas in the wing that are subject to fatigue cracks prompted this action. The actions specified by this AD are intended to prevent wing damage caused by fatigue cracking, which, if not detected and corrected, could progress to the point of structural failure.

DATES: Effective July 30, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 30, 1995.

ADDRESSES: Service information that applies to this AD may be obtained from the Twin Commander Aircraft Corporation, 19010 59th Drive, NE., Arlington, Washington 98223. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. David D. Swartz, Aerospace Engineer, FAA, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2624; facsimile (206) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Twin Commander Models 690C and 695 airplanes was published in the **Federal Register** on February 10, 1995 (60 FR 6459). The action proposed to require initially inspecting the wing structure for cracks, modifying any cracked wing structure, and, if not cracked, either repetitively inspecting or modifying the wing structure. Accomplishment of the proposed action would be in accordance with Twin Commander Service Bulletin No. 213, dated July 29, 1994.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

The FAA established the compliance time of the initial and first repetitive inspection to coincide with the 6,000-hour Major Inspection Guide I and 7,500-hour Major Inspection Guide II inspections, respectively.

The FAA estimates that 86 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 66 workhours per airplane to accomplish the required inspection, and that the average labor rate is approximately $60 an hour. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $340,560. This figure does not take into account the cost of repetitive inspections or the cost of any modifications that may be needed based on the inspection results. The FAA has no way of determining how many wing structures may be cracked and need modification, or how many repetitive inspections each owner/operator may incur over the life of the airplane.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, 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 a new AD to read as follows:

95–12–23 Twin Commander Aircraft Corporation: Amendment 39–9275; Docket No. 94–CE–29–AD.

Applicability: The following airplane models and serial numbers, certificated in any category:

Model	Serial Nos.
690C	11600 through 11735.
695	95000 through 95084.

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 (g) of this AD 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 upon the accumulation of 6,000 hours time-in-service (TIS) or within the next 50 hours TIS after the effective date of this AD, whichever occurs later, unless already accomplished,

and thereafter as indicated in the body of this AD.

To prevent wing damage caused by fatigue cracking, which, if not detected and corrected, could progress to the point of structural failure, accomplish the following:

(a) For all affected serial number Model 695 airplanes, and any Model 690C airplane incorporating a serial number in the 11600 through 11730 range, inspect the wing structure for cracks in accordance with the PART I ACCOMPLISHMENT INSTRUCTIONS (INSPECTIONS) section of Twin Commander Service Bulletin (SB) No. 213, dated July 29, 1994.

(b) For any Model 690C airplane incorporating a serial number in the 11731 through 11735 range, inspect the wing structure for cracks in accordance with Item 10 of the PART I ACCOMPLISHMENT INSTRUCTIONS (INSPECTIONS) section of Twin Commander SB No. 213, dated July 29, 1994.

(c) If, during the inspections required in paragraphs (a) and (b) of this AD, cracks are found in the areas referenced in Figures 1 through 5 and the instructions of the service information referenced above, prior to further flight, replace the damaged structure and modify the wing structure in accordance with the PART II ACCOMPLISHMENT INSTRUCTIONS (MODIFICATIONS) section of Twin Commander SB No. 213, dated July 29, 1994.

(d) If no cracks are found, accomplish one of the following:

(1) For all airplanes, upon the accumulation of 7,500 hours TIS or within 1,000 hours TIS after the initial inspection, whichever occurs later, reinspect the structure in accordance with either paragraph (a) or (b) of this AD, as applicable, and reinspect thereafter at intervals not to exceed 1,000 hours TIS, and, if applicable, replace any damaged part or modify the wing structure as specified in paragraph (c) of this AD; or

(2) For Model 695 airplanes and any Model 690C airplane incorporating a serial number in the 11600 through 11730 range, prior to further flight, modify the wing structure in accordance with the PART II ACCOMPLISHMENT INSTRUCTIONS (MODIFICATIONS) section of Twin Commander SB No. 213, dated July 29, 1994.

(e) For all affected Model 695 airplanes and any Model 690C airplane incorporating a serial number in the 11600 through 11730 range, the modification referenced in paragraphs (c) and (d)(2) of this AD may be accomplished any time after the initial inspection as terminating action for the repetitive inspection requirement of this AD, except for the inspection of the doublers at the wing attach fittings located in the Fuselage Station 144 frame (Item 10 of PART I ACCOMPLISHMENT INSTRUCTIONS section of the Twin Commander SB No. 213, dated July 29, 1994). All affected model and serial number airplanes must inspect in this area at every 1,000 hours TIS.

Note 2: For those airplanes that have not accumulated 6,000 hours TIS, the initial and first repetitive inspection required by this AD were established to coincide with the 6,000-hour Major Inspection Guide I and 7,500-hour Major Inspection Guide II inspections, respectively, so that the operator may schedule the required action in accordance with these major inspections.

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

(g) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Northwest Mountain Region, 1601 Lind Avenue S.W., Renton, Washington 98055–4056. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(h) The inspections and modification required by this AD shall be done in accordance with Twin Commander Service Bulletin No. 213, dated July 29, 1994. 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 Twin Commander Aircraft Corporation, 19003 59th Drive, NE., Arlington, Washington 98223. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(i) This amendment (39–9275) becomes effective on July 30, 1995.

Issued in Kansas City, Missouri, on June 7, 1995.

Gerald W. Pierce,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–14404 Filed 6–13–95; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 94F–0451]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of copper chromite black spinel as a colorant for all polymers intended to contact food. This action is in response to a petition filed by The Shepherd Color Co.

DATES: Effective June 14, 1995; written objections and request for a hearing by July 14, 1995.

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

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of January 12, 1995 (60 FR 2976), FDA announced that a food additive petition (FAP 5B4446) had been filed by The Shepherd Color Co., 4539 Dues Dr., Cincinnati, OH 45246. The petition proposed to amend the food additive regulations in § 178.3297 *Colorants for polymers* (21 CFR 178.3297) to provide for the safe use of copper chromite black spinel (C.I. Pigment Black 28) as a colorant in all polymers intended to contact food.

FDA has evaluated the data in the petition and other relevant material. The agency concludes that the proposed use of the additive is safe and that the regulations in § 178.3297 should be amended as set forth below.

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

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may at any time on or before July 14, 1995, file with the Dockets Management Branch (address above) written objections

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

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR part 178 continues to read as follows:

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

2. Section 178.3297 is amended in the table in paragraph (e) by alphabetically adding a new entry under the headings ''Substances'' and ''Limitations'' to read as follows:

§ 178.3297 Colorants for polymers.

* * * * *

(e) * * *

Substances	Limitations
* * *	* * * *
Copper chromite black spinel (C.I. Pigment Black 28, CAS Reg. No. 68186–91–4).	For use at levels not to exceed 5 percent by weight of polymers. The finished articles are to contact food only under conditions of use A through H as described in Table 2 of § 176.170(c) of this chapter.
* * *	* * * *

Dated: May 26, 1995.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 95–14464 Filed 6–13–95; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF JUSTICE

28 CFR Part 0

[Tax Division Directive No. 105]

Redelegation of Authority To Compromise and Close Civil Claims

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This directive increases the settlement authority of the Chiefs of the Civil Trial Sections, the Court of Federal Claims Section, the Appellate Section, the Office of Review, the Deputy Assistant Attorneys General, and the United States Attorneys to compromise and close civil claims. In addition, this directive provides for discretionary redelegation of limited authority by a section chief to his or her assistant chiefs and reviewers. This latter redelegation is subject to the limitation that the assistant chief or reviewer may not be the attorney-of-record in the case. This directive also eliminates the separate redelegation to the Attorney-in-Charge of the Dallas Field Office as that office, now the Southwestern Civil Trial Section, is covered under the general redelegation of authority to Chiefs of Civil Trial Sections. This directive supersedes Directive No. 95.

EFFECTIVE DATE: June 14, 1995.

FOR FURTHER INFORMATION CONTACT: Milan Karlan, Tax Division, Department of Justice, Washington, DC 20530 (202) 307–6567.

SUPPLEMENTARY INFORMATION: This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity for comments are not required, and this rule may be made effective less than 30 days after publication in the **Federal Register**. This regulation is not a major rule within the meaning of Executive Order 12291. Therefore, a regulatory impact analysis has not been prepared. Finally, this regulation does not have an impact on small entities and, therefore, is not subject to the Regulatory Flexibility Act.

List of Subjects in 28 CFR Part 0

Authority Delegations (Government Agencies), Government Employees, Organization and Functions (Government Agencies).

Accordingly, 28 CFR Part 0 is amended as follows:

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

1. The authority citation for part 0 continues to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510, 515–19.

2. The Appendix to subpart Y of part 0 is amended by removing Tax Division Directive No. 95.

3. Tax Division Directive No. 105 is added to read as follows:

[Directive No. 105]

By virtue of the authority vested in me by Part 0 of Title 28 of the Code of Federal Regulations, particularly Sections 0.70, 0.160, 0.162, 0.164, 0.166, and 0.168, It Is Hereby Ordered As Follows:

Section 1. The Chiefs of the Civil Trial Sections, the Court of Federal Claims Section, and the Appellate Section are authorized to reject offers in compromise, regardless of amount, provided that such action is not opposed by the agency or agencies involved.

Section 2. Subject to the conditions and limitations set forth in Section 8 hereof, the Chiefs of the Civil Trial Sections and the Court of Federal Claims Section are authorized to:

(A) Accept offers in compromise in all civil cases, other than:

(i) Cases involving liability under Section 6672 of the Internal revenue Code; and

(ii) Cases in which judgments in favor of the United States have been entered, in which the amount of the Government's concession, exclusive of statutory interest, does not exceed $300,000;

(B) Approve administrative settlements of civil claims against the United States in all cases, other than cases involving liability under Section 6672 of the Internal Revenue Code, in which the amount of the Government's concession, exclusive of statutory interest, does not exceed $200,000;

(C) Approve concessions (other than by compromise) of civil claims asserted by the United States in all cases, other than cases involving liability under Section 6672 of the Internal Revenue Code, in which the gross amount of the original claim does not exceed $200,000;

(D) In civil cases involving liability under Section 6672 of the Internal Revenue Code, (i) accept offers in compromise in which the amount of the Government's concession, exclusive of statutory interest, does not exceed $500,000; (ii) approve administrative settlements of claims against the United States in which the amount of the Government's concession, exclusive of statutory interest, does not exceed $350,000; and (iii) approve concessions (other than by compromise) of claims asserted by the United States in which the gross amount of the original claim does not exceed $350,000;

(E) Accept offers in compromise of judgments in favor of the United States in all civil cases in which the amount of the Government's concession, exclusive of statutory interest, does not exceed $500,000;

(F) Accept offers in compromise in injunction or declaratory judgment suits against the United States in which the principal amount of the related liability, if any, does not exceed $300,000; and

(G) Accept offers in compromise in all other nonmonetary cases;

provided that such action is not opposed by the agency or agencies involved, and provided further that the proposed compromise, administrative settlement, or concession is not subject to reference to the Joint Committee on Taxation.

Section 3. The Chiefs of the Civil Trial Sections and the Court of Federal Claims Section are authorized on a case-by-case basis to redelegate in writing to their respective Assistant Section Chiefs or Reviewers the authority delegated to them in Section 1 hereof to reject offers, and in Section 2 hereof,

(A) to accept offers in compromise in which the amount of the Government's concession, exclusive of statutory interest, does not exceed $100,000;

(B) to approve administrative settlements of civil claims against the United States in which the amount of the Government's concession, exclusive of statutory interest, does not exceed $100,000; and

(C) to approve concessions (other than by compromise) of civil claims asserted by the United States in which the gross amount of the original claim does not exceed $100,000;

provided that such redelegation is not made to the attorney-of-record in the case. The redelegations pursuant to this section shall be by memorandum signed by the Section Chief, which shall be placed in the Department of Justice file for the applicable case.

Section 4. Subject to the conditions and limitations set forth in Section 8 hereof, the Chief of the Appellate Section is authorized to:

(A) Accept offers in compromise with reference to litigating hazards of the issues on appeal in all civil cases in which the amount of the Government's concession, exclusive of statutory interest, does not exceed $300,000;

(B) Accept offers in compromise in declaratory judgment suits against the United States in which the principal amount of the related liability, if any, does not exceed $300,000; and

(C) Accept offers in compromise in all other nonmonetary cases which do not involve issues concerning collectibility;

provided that (i) such acceptance is not opposed by the agency or agencies involved or the chief of the section in which the case originated, and (ii) the proposed compromise is not subject to reference to the Joint Committee on Taxation.

Section 5. Subject to the conditions and limitations set forth in Section 8 hereof, the Chief of the Office of Review is authorized to:

(A) Accept offers in compromise of claims against the United States in all civil cases in which the amount of the Government's concession, exclusive of statutory interest, does not exceed $1,500,000;

(B) Accept offers in compromise of claims on behalf of the United States in all civil cases in which the difference between the gross amount of the original claim and the proposed settlement does not exceed $1,500,000 or 15 percent of the original claim, whichever is greater;

(C) Approve administrative settlements of civil claims against the United States in all cases in which the amount of the Government's concession, exclusive of statutory interest, does not exceed $1,000,000;

(D) Approve concessions (other than by compromise) of civil claims asserted by the United States in all cases in which the gross amount of the original claim does not exceed $1,000,000;

(E) Accept offers in compromise in all nonmonetary cases; and

(F) Reject offers in compromise or disapprove administrative settlements or concessions, regardless of amount,

provided that such action is not opposed by the agency or agencies involved or the chief of the section to which the case is assigned, and provided further that the proposed compromise, administrative settlement, or concession is not subject to reference to the Joint Committee on Taxation.

Section 6. Subject to the conditions and limitations set forth in Section 8 hereof, each of the Deputy Assistant Attorneys General is authorized to:

(A) Accept offers in compromise of claims against the United States in all civil cases in which the amount of the Government's concession, exclusive of statutory interest, does not exceed $2,000,000;

(B) Accept offers in compromise of claims on behalf of the United States in all civil cases in which the difference between the gross amount of the original claim and the proposed settlement does not exceed $2,000,000 or 15 percent of the original claim, whichever is greater;

(C) Approve administrative settlements of civil claims against the United States in all cases in which the amount of the Government's concession does not exceed $1,500,000, exclusive of statutory interest;

(D) Approve concessions (other than by compromise) of civil claims asserted by the United States in all cases in which the gross amount of the original claim does not exceed $1,500,000;

(E) Accept offers in compromise in all nonmonetary cases; and

(F) Reject offers in compromise or disapprove administrative settlements or concessions, regardless of amount,

provided that such action is not opposed by the agency or agencies involved and the proposed compromise, administrative settlement, or concession is not subject to reference to the Joint Committee on Taxation.

Section 7. Subject to the conditions and limitations set forth in Section 8 hereof, United States Attorneys are authorized to:

(A) Reject offers in compromise of judgments in favor of the United States, regardless of amount;

(B) Accept offers in compromise of judgments in favor of the United States

where the amount of the judgment does not exceed $300,000; and

(C) Terminate collection activity by his or her office as to judgments in favor of the United States which do not exceed $300,000 if the United States Attorney concludes that the judgment is uncollectible;

provided that such action has the concurrence in writing of the agency or agencies involved, and provided further that this authorization extends only to judgments which have been formally referred to the United States Attorney for collection.

Section 8. The authority redelegated herein shall be subject to the following conditions and limitations:

(A) When, for any reason, the compromise, administrative settlement, or concession of a particular claim, as a practical matter, will control or adversely influence the disposition of other claims totalling more than the respective amounts designated in Sections 2, 3, 4, 5, 6, and 7 hereof, the case shall be forwarded for review at the appropriate level for the cumulative amount of the affected claims;

(B) When, because of the importance of a question of law or policy presented, the position taken by the agency or agencies or by the United States Attorney involved, or any other considerations, the person otherwise authorized herein to take final action is of the opinion that the proposed disposition should be reviewed at a higher level, the case shall be forwarded for such review;

(C) If the Department has previously submitted a case to the Joint Committee on Taxation leaving one or more issues unresolved, any subsequent compromise, administrative settlement, or concession in that case must be submitted to the Joint Committee, whether or not the overpayment exceeds the amount specified in Section 6405 of the Internal Revenue Code;

(D) Nothing in this Directive shall be construed as altering any provision of Subpart Y of Part O of Title 28 of the Code of Federal Regulations requiring the submission of certain cases to the Attorney General, the Associate Attorney General, or the Solicitor General.

(E) Authority to approve recommendations that the Government confess error or make administrative settlements in cases on appeal is excepted from the foregoing redelegations; and

(F) The Assistant Attorney General, at any time, may withdraw any authority delegated by this Directive as it relates to any particular case or category of cases, or to any part thereof.

Section 9. This Directive supersedes Tax Division Directive No. 95, effective February 21, 1992.

Section 10. This Directive is effective on June 14, 1995.

Dated: November 22, 1994.

Loretta C. Argrett,

Assistant Attorney General.

Approved:

Dated: June 8, 1995.

Jamie Gorelick,

Deputy Attorney General.

[FR Doc. 95–14442 Filed 6–13–95; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD05–95–023]

RIN 2115–AE47

Drawbridge Operation Regulations; York River, Yorktown, VA

AGENCY: Coast Guard, DOT.

ACTION: Interim rule with request for comments.

SUMMARY: At the request of the Virginia Department of Transportation, the Coast Guard is changing the regulations that govern the operation of the drawbridge across York River, mile 7.0, at Yorktown, Virginia, by extending the periods of restricted bridge openings during the morning and evening rush hours. This is intended to provide relief to highway traffic during the extended rush hours on the roads and highways linked by this drawbridge, while still providing for the reasonable needs of navigation.

EFFECTIVE DATES: This rule is effective on June 14, 1995. Comments must be received on or before September 12, 1995.

ADDRESSES: Comments may be mailed to Commander (ob), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, or may be delivered to Room 109 at the same address between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The telephone number is (804) 398–6222. Comments will become part of this docket and will be available for inspection at Room 109, Fifth Coast Guard District.

FOR FURTHER INFORMATION CONTACT: Ann B. Deaton, Bridge Administrator, Fifth Coast Guard District, at (804) 398–6222.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD5–95–023) and the specific section of this rule to which each comment applies, and give the reason for each comment. The Coast Guard requests that all comments and attachments be submitted in an unbound format suitable for copying and electronic filing. If not practical, a second copy of any bound material is requested. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this rule in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Commander (ob) at the address under **ADDRESSES.** The request should include reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Drafting Information. The principal persons involved in drafting this document are Linda L. Gilliam, Project Manager, Bridge Section, and LCDR C. A. Abel, Project Counsel, Fifth Coast Guard District Legal Office.

Regulatory Information

This rule is being published as an interim rule and is being made effective on the date of publication. Under 5 U.S.C. 553(b), this rule is being promulgated without an NPRM because the need to relieve highway traffic congestion due to current circumstances is immediate, and vessel traffic will not be unduly burdened. Further, this rule should be made effective in less than 30 days after publication under 5 U.S.C. 553(d) because to delay the effective date would further exacerbate already serious highway traffic problems, and the Coast Guard believes it is in the overall public interest to do so. For these reasons, the Coast Guard for good cause finds, under 5 U.S.C. 553 (b)(B) and (d)(3), that notice, and public procedure on the notice, before the effective date of this rule are unnecessary and that this rule should be made effective in less than 30 days after publication.

Background and Purpose

The Virginia Department of Transportation has requested that openings of the George P. Coleman Memorial Bridge across York River, mile 7.0 at Yorktown, Virginia, be further limited by extending the morning and evening rush hour closure periods to all vessel traffic, while continuing to open on signal at all other times.

Currently, the Coleman Bridge is closed to vessel traffic from 6 a.m. to 8 a.m. and 3 p.m. to 6 p.m. Monday through Friday, except Federal holidays, year round. The draw opens on signal at all other times. This rule will extend the morning and evening rush hour restrictions by requiring the bridge to remain closed from 5 a.m. to 8 a.m. and from 3 p.m. to 7 p.m., Monday through Friday, except Federal holidays, year round. Vessels in distress, or in an emergency situation will be allowed passage through the bridge at any time.

The Virginia Department of Transportation's request is based on traffic problems associated with current construction of a new bridge at this location, as well as on an increase in highway traffic crossing the bridge since the Park Service recently closed access to Route 17 at the Colonial Parkway. Finally, Newport News Shipbuilding and Drydock has changed its hours of operation, resulting in motorists crossing the bridge earlier in the morning and later in the evening. The Virginia Pilots Association was informed of the Coast Guard's decision to further restrict openings of the Coleman Bridge. They stated that although they do not support bridge closures in general, they understand the need to extend the hours of restriction for this bridge. The U.S. Navy was contacted and supports the extended periods of restrictions during rush hours.

The Coast Guard believes these restrictions will not unduly restrict vessel passage through the bridge, as vessel operators can plan transits around the interim schedule. The interim rule will remain in effect until three months after completion of construction and renovation of the Coleman bridge. Leaving this rule in effect three months after the work is completed will allow for an evaluation period to gather highway traffic data with the four-lane structure in service. This evaluation period will give VDOT and the Coast Guard information needed to determine if the extended hours of restriction should be made a permanent part of the regulations. The Coast Guard believes it is in the public interest to further limit openings of the Coleman Bridge and that vessel traffic will not be unduly burdened.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the U.S. Coast Guard must consider the economic impact on small entities of a rule for which a general notice of proposed rulemaking is required. ''Small entities'' include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as ''small business concerns'' under section 3 of the Small Business Act (15 U.S.C. 632). This rule does not require a general notice of proposed rulemaking and, therefore, is exempt from the regulatory flexibility requirements. Although exempt, the Coast Guard has reviewed this rule for potential impact on small entities. Because it expects the impact of this rule to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. If, however, you think that your business qualifies as a small entity and that this rule will have a significant economic impact on your business, please submit a comment (see **ADDRESSES**) explaining why you think your business qualifies and in what way and to what degree this rule will affect your business economically.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

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

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under section 2.B.2.e.(32)(e) of Commandant Instruction M16475.1B, (as amended, 59 FR 38654, 29 July 1994), this rule is categorically excluded from further environmental documentation. A Categorical Exclusion Determination statement and checklist has been prepared and placed in the rulemaking docket.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, the Coast Guard is amending Part 117 of Title 33, Code of Federal Regulations to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); Section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Section 117.1025(a) is revised to read as follows:

§ 117.1025 York River.

(a) The Coleman Memorial bridge, mile 7.0, at Yorktown, shall open on signal; except from 5 a.m. to 8 a.m. and 3 p.m. to 7 p.m., Monday through Friday, except Federal holidays, the bridge shall remain closed to navigation.

(b) * * *

Dated: May 22, 1995.

W.J. Ecker,

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

[FR Doc. 95–14555 Filed 6–13–95; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[COTP St. Louis 95–007]

RIN 2115–AA97

Safety Zone; Upper Mississippi River, Mile 167.0 to 241.0

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone on the Upper Mississippi River between mile 167.0 and 241.0. This regulation is needed to protect vessels from the hazards

associated with operating in high water conditions. This regulation will restrict general navigation in the regulated area for the safety of vessel traffic and the protection of life and property along the shore.

EFFECTIVE DATES: This regulation is effective on May 25, 1995 and will remain in effect until June 24, 1995 unless terminated sooner by the Captain of the Port.

FOR FURTHER INFORMATION CONTACT: LT Robert Siddall, Operations Officer, Captain of the Port, St. Louis, Missouri at (314) 539–3823.

SUPPLEMENTARY INFORMATION: Drafting Information. The drafters of this regulation are LTJG A. B. Cheney, Project Officer, Marine Safety Office, St. Louis, Missouri and LT S.M. Moody, Project Attorney, Second Coast Guard District Legal Office.

Regulatory History

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for this regulation and good cause exists for making it effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impracticable. Specifically, recent heavy rainfall on already saturated ground in portions of the Upper Mississippi River Basin has caused tributaries and the southern portion of the Upper Mississippi River to approach and exceed flood stages, leaving insufficient time to publish a proposed rulemaking. The Coast Guard deems it to be in the public's interest to issue a regulation without waiting for comment period since high water conditions present immediate hazard.

Background and Purpose

The Upper Mississippi River in the vicinity of St. Louis Harbor has seen a rapid rise in the water level and has been above flood stage since May 13, 1995. Recent torrential downpours, predominately in Missouri and southern Illinois, caused a very rapid rise in river stages. Water conditions that cause rapid and sharp rises in river stages also cause treacherous currents in the vicinity of bridges within St. Louis Harbor. These currents make the approach to the bridges more critical since the time to impose course corrections are diminished. Additionally, the high water conditions reduce both the vertical and horizontal clearances available to the navigating tow.

This rule is required for the safety and protection of vessels transiting the safety zone and for the protection of levees and property along the Upper Mississippi River.

Regulatory Evaluation

This regulation is not major under Executive Order 12291 and not significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979), it will not have a significant economic impact on a substantial number of small entities, and it contains no collection of information requirements.

The Coast Guard expects the impact of this regulation to be so minimal that a Regulatory Evaluation is unnecessary. The imposed restrictions are anticipated to be of short duration. Captain of the Port, St. Louis, Missouri will monitor river conditions and will authorize entry into the closed area as conditions permit. Changes will be announced by Marine Safety Information Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHZ). Mariners may also call the Port Operations Officer, Captain of the Port, St. Louis, Missouri at (314) 539–3823 for current information.

Small Entities

The Coast Guard finds that the impact on small entities, if any, is not substantial. Therefore, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this temporary rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501).

Federalism Assessment

Under the principles and criteria of Executive Order 12612, this rule does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard considered the environmental impact of this rule and concluded that, under section 2.B.2.g.[5] of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation as an action to protect public safety. A Categorical Exclusion Determination has been prepared and placed in the rulemaking docket.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (Water), Records and recordkeeping, Security measures, Vessels, Waterways.

Temporary Regulation

In consideration of the foregoing, Subpart C of Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5

2. A temporary section 165.T02–040 is added, to read as follows:

§ 165.T02–040 Safety Zone: Upper Mississippi River.

(a) *Location.* The Upper Mississippi River between mile 167.0 and 241.0 is established as a safety zone.

(b) *Effective Dates.* This section is effective on May 25, 1995 and will terminate on June 24, 1995, unless terminated sooner by the Captain of the Port.

(c) *Regulations.* The general regulations under § 165.23 of this part which prohibit vessel entry within the described zone without authority of the Captain of the Port apply. The Captain of the Port, St. Louis, Missouri will authorize entry into and operations within the described zone under certain conditions and limitations as announced by Marine Safety Information Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHZ).

Dated: May 25, 1995.

S.P. Cooper,

Commander, U.S. Coast Guard, Captain of the Port, St. Louis, Missouri.

[FR Doc. 95–14560 Filed 6–13–95; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[COTP St. Louis 95–008]

RIN 2115–AA97

Safety Zone; Upper Mississippi River, Mile 110.0 to 130.0

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone on the Upper Mississippi River between mile 110.0 and 130.0. The regulation is required for the prevention of damage to levees and protection of flooded areas. This

regulation will restrict general navigation in the regulated area for the protection of life and property along the shore.

EFFECTIVE DATES: This regulation is effective on May 22, 1995 and will remain in effect until June 21, 1995 unless terminated sooner by the Captain of the Port.

FOR FURTHER INFORMATION CONTACT: LT Robert Siddall, Operations Officer, Captain of the Port, St. Louis, Missouri at (314) 539–3823.

SUPPLEMENTARY INFORMATION: Drafting Information. The drafters of this regulation are LTJG A.B. Cheney, Project Officer, Marine Safety Office, St. Louis, Missouri and LT S.M. Moody, Project Attorney, Second Coast Guard District Legal Office.

Regulatory History

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for this rule and good cause exists for making it effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impracticable. Specifically, recent heavy rainfall on already saturated ground in portions of the Upper Mississippi River Basin has caused portions of the Upper Mississippi River to approach and exceed flood stages, leaving insufficient time to publish a proposed rulemaking. The Coast Guard deems it to be in the public's interest to issue a rule without waiting for comment period since high water conditions present an immediate hazard.

Background and Purpose

The Upper Mississippi River from the mouth, mile 110.0 to mile 130.0, has seen a rapid rise in the water level and is above flood stage. This rule is required to protect saturated levees, therefore, all vessels are restricted from the regulated area.

Regulatory Evaluation

This regulation is not major under Executive Order 12291 and not significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979), it will not have a significant economic impact on a substantial number of small entities, and it contains no collection of information requirements.

The Coast Guard expects the impact of this regulation to be so minimal that a Regulatory Evaluation is unnecessary. The imposed restrictions are anticipated to be of short duration. Captain of the Port, St. Louis, Missouri will monitor river conditions and will authorize entry into the closed area as conditions permit. Changes will be announced by Marine Safety Information Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHZ). Mariners may also call the Port Operations Officer, Captain of the Port, St. Louis, Missouri at (314) 539–3823 for current information.

Small Entities

The Coast Guard finds that the impact on small entities, if any, is not substantial. Therefore, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this temporary rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501).

Federalism Assessment

Under the principles and criteria of Executive Order 12612, this rule does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard considered the environmental impact of this rule and concluded that, under section 2.B.2.g.[5] of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation as an action to protect public safety. A Categorical Exclusion Determination has been prepared and placed in the rulemaking docket.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (Water), Records and recordkeeping, Security measures, Vessels, Waterways.

Temporary Regulation

In consideration of the foregoing, Subpart C of Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5.

2. A temporary section 165.102–041 is added, to read as follows:

§ 165.T02–041 Safety Zone: Upper Mississippi River.

(a) *Location.* The Upper Mississippi River between mile 110.0 and 130.0 is established as a safety zone.

(b) *Effective Dates.* This section is effective on May 22, 1995 and will terminate on June 21, 1995, unless terminated sooner by the Captain of the Port.

(c) *Regulations.* The general regulations under § 165.23 of this part which prohibit vessel entry within the described zone without authority of the Captain of the Port apply. The Captain of the Port, St. Louis, Missouri will authorize entry into and operations within the described zone under certain conditions and limitations as announced by Marine Safety Information Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHZ).

Dated: May 22, 1995.

S.P. Cooper,

Commander, U.S. Coast Guard, Captain of the Port, St. Louis, Missouri.

[FR Doc. 95–14559 Filed 6–13–95; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[COTP St. Louis 95–009]

RIN 2115–AA97

Safety Zone; Illinois River, Mile 0.0 to 187.3

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone on the Illinois River between mile 0.0 and 187.3. This regulation is required for the prevention of damage to levees and protection of flooded areas. This regulation will restrict general navigation in the regulated area for the protection of life and property along the shore.

EFFECTIVE DATES: This regulation is effective on May 25, 1995 and will remain in effect until June 24, 1995 unless terminated sooner by the Captain of the Port.

FOR FURTHER INFORMATION CONTACT: LT Robert Siddall, Operations Officer, Captain of the Port, St. Louis, Missouri at (314) 539–3823.

SUPPLEMENTARY INFORMATION: Drafting Information. The drafters of this regulation at LTJG A.B. Cheney, Project Officer, Marine Safety Office, St. Louis, Missouri and LT S.M. Moody, Project Attorney, Second Coast Guard District Legal Office.

Regulatory History

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for this rule and good cause exists for making it effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impracticable. Specifically, recent heavy rainfall on already saturated ground in portions of the Illinois River Basin has caused portions of the Illinois River to approach and exceed flood stages, leaving insufficient time to publish a proposed rulemaking. The Coast Guard deems it to be in the public's interest to issue a rule without waiting for comment period since high water conditions present an immediate hazard.

Background and Purpose

The Illinois River from the mouth, mile 0.0, to mile 187.3, has seen a rapid rise in the water level and is above flood stage. This rule is required to protect saturated levees, therefore, all vessels are restricted from the regulated area.

Regulatory Evaluation

This regulation is not major under Executive Order 12291 and not significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979), it will not have a significant economic impact on a substantial number of small entities, and it contains no collection of information requirements.

The Coast Guard expects the impact of this regulation to be so minimal that a Regulatory Evaluation is unnecessary. The imposed restrictions are anticipated to be of short duration. Captain of the Port, St. Louis, Missouri will monitor river conditions and will authorize entry into the closed area as conditions permit. Changes will be announced by Marine Safety Information Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHZ). Mariners may also call the Port Operations Officer, Captain of the Port, St. Louis, Missouri at (314) 539–3823 for current information.

Small Entities

The Coast Guard finds that the impact on small entities, if any, is not substantial. Therefore, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this temporary rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501).

Federalism Assessment

Under the principles and criteria of Executive Order 12612, this rule does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard considered the environmental impact of this rule and concluded that, under section 2.B.2.g[5] of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation as an action to protect public safety. A Categorical Exclusion Determination has been prepared and placed in the rulemaking docket.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Records and recordkeeping, Security measures, Vessels, Waterways.

Temporary Regulation

In consideration of the foregoing, Subpart C of Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5.

2. A temporary section 165.T02–042 is added, to read as follows:

§ 165.T02–042 Safety Zone: Illinois River.

(a) *Location.* The Illinois River between mile 0.0 and 187.3 is established as a safety zone.

(b) *Effective Dates.* This section is effective on May 25, 1995 and will terminate on June 24, 1995, unless terminated sooner by the Captain of the Port.

(c) *Regulations.* The general regulations under § 165.23 of this part which prohibit vessel entry within the described zone without authority of the Captain of the Port apply. The Captain of the Port, St. Louis, Missouri will authorize entry into and operations within the described zone under certain conditions and limitations as announced by Marine Safety Information Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHZ).

Dated: May 25 1995.

S.P. Cooper,

Commander, U.S. Coast Guard, Captain of the Port, St. Louis, Missouri.

[FR Doc. 95–14558 Filed 6–13–95; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AH04

Disease Subject to Presumptive Service Connection (Radiation Risk Activity)

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends Department of Veterans Affairs (VA) adjudication regulations concerning diseases presumed to be the result of exposure to ionizing radiation. This amendment is necessary to implement Public Law 103–446, the Veterans' Benefits Improvements Act, which provides that the term ''radiation risk activity'' includes the onsite participation in a test involving the atmospheric detonation of a nuclear device by the United States and by other governments. The intended effect of this amendment is to extend the presumption of service connection for radiogenic disabilities to those veterans exposed to radiation during active military service due to onsite participation in atmospheric nuclear tests conducted by nations other than the United States.

EFFECTIVE DATE: This amendment is effective November 2, 1994, the date of enactment of Public Law 103–446.

FOR FURTHER INFORMATION CONTACT: Lorna Weston, Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, telephone (202) 273–7210.

SUPPLEMENTARY INFORMATION: The Radiation-Exposed Veterans Compensation Act of 1988, Public Law 100–321, which was enacted May 20, 1988, established a presumption of service connection for specific radiogenic diseases arising in veterans who had been present at the occupation of Hiroshima or Nagasaki, who had potentially been exposed to ionizing radiation as prisoners of war in Japan during World War II, or who had participated onsite in a test involving the atmospheric detonation of a nuclear device.

On June 21, 1989, VA published regulations at 38 CFR 3.309 to implement the provisions of Pub. L. 100–321. The introductory language of the statute had indicated that it was to apply to veterans ''who participated in atmospheric or underwater nuclear tests as part of the United States nuclear weapons testing program.'' In formulating the regulations, therefore, VA defined radiation risk activity as including onsite participation in a test involving the atmospheric detonation of a nuclear device by the United States. The effect of that rulemaking was to exclude those veterans exposed to ionizing radiation during atmospheric nuclear testing by governments other than the United States from the presumption of service connection.

The Secretary determined that this rule should be revised to allow consideration of service connection on the same presumptive basis for these veterans as for veterans exposed to ionizing radiation due to atmospheric nuclear detonations conducted as a part of the U.S. testing program. Accordingly, on September 8, 1994, VA published a proposal in the **Federal Register** (59 FR 46379–46380) to amend its adjudication regulations at 38 CFR 3.309(d)(3) to extend the presumption that specified diseases are the result of in-service exposure to ionizing radiation to veterans who were present at atmospheric nuclear tests conducted by any government allied with the United States during World War II. Interested persons were invited to submit written comments, suggestions or objections on or before November 7, 1994.

On November 2, 1994, the President signed Pub. L. 103–446, the Veterans' Benefits Improvements Act. Section 501(a) of that law clarified Congressional intent on this issue by amending 38 U.S.C. 1112(c)(3)(B) to define the term ''radiation-risk activity'' to include onsite participation in a test involving the atmospheric detonation of a nuclear device ''without regard to whether the nation conducting the test was the United States or another nation.''

We received two comments in response to the proposed rule published September 8, 1994. Both comments suggested that the amendment should apply to any nuclear tests to which military personnel were assigned and that the phrases ''any government allied with the United States during World War II'' and ''atmospheric nuclear tests conducted by allied governments'' are therefore too restrictive.

We not only agree, but the suggestion is consistent with section 501 of Public Law 103–446, the Veterans' Benefits Improvements Act of 1994. We have revised the regulation accordingly.

One comment expressed concern that literal interpretation of the phrase ''onsite participation'' could disqualify those veterans involved in aerial sampling, ground support and decontamination activities and suggested we expand the term ''atmospheric nuclear test'' to include ''test activities'' without requiring that the veteran had literally been present at the test site itself.

The term ''onsite participation'' is a statutory term (See 38 U.S.C. 1112 (c)(3)(B)(i)) that VA has interpreted to mean presence at a test site, performance of official military duties in direct support of the nuclear test during the operational period of the test itself, and duties performed during the six-month period following a test in connection with test-related projects, including decontamination activities. (See 38 CFR 3.309(d)(3)(iii)) This definition clearly precludes the possibility that veterans engaged in aerial sampling, ground support or decontamination activities would be ineligible for consideration under this regulation. In our judgment, that definition of the term ''onsite participation'' is sufficiently broad to assure inclusion of all veterans engaged in test activities including support, clean up, decontamination and follow-up duties, and no change in the current language of the regulation is warranted.

One comment stated that dosimeter records are not available for all tests and suggested that we revise the regulation to include an alternate method for reconstructing radiation exposure.

The statute and this implementing regulation establish the presumption that specific radiogenic diseases arising in veterans who participated in specific radiation risk activities are service-connected regardless of the amount of radiation to which the veteran was exposed. For this reason, inclusion of dose reconstruction methods in this regulation would be both unnecessary and inappropriate.

One comment recommended that we add language to the regulation setting out evidentiary requirements for establishing a veteran's participation in a test, to include review of military orders, unit history and the veteran's affidavit supported by adequate lay testimony.

Neither 38 U.S.C. 1112(c) nor 38 CFR 3.309(d) set forth specific evidentiary requirements for establishing a veteran's presence at Hiroshima, Nagasaki or an atmospheric nuclear test. Eligibility for VA benefits is determined based on the preponderance of evidence. Any evidence that the veteran offers, whether it is documentary, testimonial or in some other form, is included in the record and considered (See 38 CFR 3.103(d)) and a veteran's statement is clearly evidence which VA must consider along with service records and all other evidence of record. In addition, by regulation VA must resolve reasonable doubt as to service origin or any other point in favor of the claimant. (See 38 CFR 3.102.) In our judgment, these provisions adequately address the concerns expressed in the comment and there is therefore no need to add language to this regulation setting forth specific evidentiary requirements.

VA appreciates both comments received in response to the proposed regulatory amendment, which is now adopted with changes as noted above. The effective date of the amendment is November 2, 1994, the date Public Law 103–446 was enacted.

The Secretary certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This amendment will directly affect VA beneficiaries but will not directly affect small business. Therefore, pursuant to 5 U.S.C. 606(b), this final rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

This regulatory action has been reviewed by the Office of Management and Budget under Executive Order 12866.

The Catalog of Federal Domestic Assistance program numbers are 64.101, 64.109 and 64.110.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Health care, Individuals with disabilities, Pensions, Veterans.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 38 CFR part 3 is amended to read as follows:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1. The authority citation for part 3, subpart A, continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

§ 3.309 Disease subject to presumptive service connection. [Amended]

2. In § 3.309, paragraph (d)(3)(ii)(A) is amended by removing the words ''by the United States''.

3. In § 3.309, paragraph (d)(3)(v) is amended by removing the word ''The'' at the beginning of the sentence, and adding in its place the words ''For tests conducted by the United States, the''.

4. The authority citation following § 3.309(d)(3)(vii)(D) is revised to read as follows:

Authority: 38 U.S.C. 1110, 1112, 1131.

[FR Doc. 95–14480 Filed 6–13–95; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300384A; FRL–4955–6]

RIN 2070–AB78

Oleyl Alcohol; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document exempts oleyl alcohol (CAS Reg. No. 143-28-2) from the requirement of a tolerance when used as a cosolvent in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest. Henkel Corp., Emery Group, requested this regulation pursuant the Federal Food, Drug and Cosmetic Act (FFDCA).

EFFECTIVE DATE: This regulation becomes effective June 14, 1995.

ADDRESSES: Written objections and hearing requests, identified by the document control number, [OPP-300384A], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket number [OPP-300384A]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Amelia M. Acierto, Registration Support Branch, Registration Division (7505W), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 6th Floor, 2800 Crystal Drive, North Tower, Arlington, VA 22202, (703)-308-8375; e-mail: acierto.amelia@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 12, 1995 (60 FR 18557), EPA issued a proposed rule that gave notice that Henkel Corp., Emery Group, 4900 Este Ave., Cincinnati, OH 45232-1491, had submitted pesticide petition (PP) 4E4335 to EPA requesting that the Administrator, pursuant to section 408(e) of the FFDCA, 21 U.S.C. 346a(e), amend 40 CFR 180.1001(c) by establishing an exemption from the requirement of a tolerance for oleyl alcohol when used as an inert ingredient (cosolvent) in pesticide formulations applied to growing crops or raw agricultural commodities after harvest.

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125, and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceouse earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term ''inert'' is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted with the proposal and other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerance exemption will protect the public health. Therefore, the tolerance exemption 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).

A record has been established for this rulemaking under docket number [OPP-300384A] (including any objections and hearing requests submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of

Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Written objections and hearing requests, identified by the document control number [OPP-300384A], may be submitted to the Hearing Clerk (1900), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

A copy of electronic objections and hearing requests filed with the Hearing Clerk can be sent directly to EPA at:

opp-Docket@epamail.epa.gov

A copy of electronic objections and hearing requests filed with the Hearing Clerk must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all objections and hearing requests submitted directly in writing. The official rulemaking record is the paper record maintained at the address in **ADDRESSES** at the beginning of this document.

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 of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

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

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

List of Subjects in 40 CFR Part 180

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

Dated: May 22, 1995.

Stephen L. Johnson,

Director, Registration Division, 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. Section 180.1001(c) is amended in the table therein by adding and alphabetically inserting the inert ingredient, to read as follows:

§ 180.1001 Exemptions from the requirements of a tolerance.

* * * * *

(c) * * *

Inert ingredient	Limits	Uses
* * * * * * *		
Oleyl alcohol (CAS Reg. No. 143-28-2)	15%	Cosolvent
* * * * * * *		

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[FR Doc. 95–14061 Filed 6–13–95; 8:45 am]
BILLING CODE 6560–50–F

40 CFR Part 180

[PP 3E4241/R2130; FRL–4952–4]

RIN 2070–AB78

Imazethapyr; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes tolerances with regional registration for the sum of the residues of the herbicide imazethapyr, as its ammonium salt, and its metabolite in or on the raw agricultural commodities lettuce and endive. The Interregional Research Project No. 4 (IR-4) requested this regulation pursuant to the Federal Food, Drug and Cosmetic Act (FFDCA).

EFFECTIVE DATE: This regulation becomes effective June 14, 1995.

ADDRESSES: Written objections and hearing requests, identified by the document control number, [PP 3E4241/R2130], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. 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. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to EPA's Office of Pesticide Programs at: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

An electronic copy of objections and hearing requests may also be submitted to OPP electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of electronic objections and hearing requests must be submitted as an ASCII

file avoiding the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket number [PP 3E4241/R2130]. No Confidential Business Information (CBI) should be submitted through e-mail. Copies of electronic objections and hearing requests on this rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Hoyt L. Jamerson, Registration Division (7505W), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Sixth Floor, Crystal Station #1, 2800 Jefferson Davis Hwy., Arlington, VA 22202, (703)-308-8783; e-mail: jamerson.hoyt@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 22, 1995 (60 FR 15110), EPA issued a proposed rule that gave notice that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition (PP) 3E4241 to EPA on behalf of the vegetable growers of Florida. The petition requests that the Administrator, pursuant to section 408(e) of the FFDCA, 21 U.S.C. 346a(e), amend 40 CFR 180.447 by establishing tolerances with regional registration for residues of the herbicide imazethapyr, 2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1*H*-imidazol-2-yl]-5-ethyl-3-pyridine carboxylic acid, as its ammonium salt, and its metabolite, 2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1*H*-imidazol-2-yl]-5-(1-hydroxyethyl-3-pyridine carboxylic acid), free and conjugated, in or on the raw agricultural commodities lettuce (head and leaf) and endive (escarole) at 0.1 part per million (ppm). The petitioner proposed that use of imazethapyr on lettuce and endive be limited to Florida based on the geographical representation of the residue data submitted. Additional residue data will be required to expand the area of usage. Persons seeking geographically broader registration should contact the Agency's Registration Division at the address provided above.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted with the proposal and other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerances 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 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).

A record has been established for this rulemaking under docket number [PP 3E4241/R2130] (including any comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

A copy of electronic objections and hearing requests filed with the Hearing Clerk can be sent directly to OPP at:

opp-Docket@epamail.epa.gov.

A copy of electronic objections and hearing requests filed with the Hearing Clerk must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in **ADDRESSES** at the beginning of this document.

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 of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial

number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

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

Dated: May 26, 1995.

Peter Caulkins,

Acting Director, Registration Division, 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 § 180.447, by adding new paragraph (d), to read as follows:

§ 180.447 Imazethapyr; tolerances for residues.

* * * * *

(d) Tolerances with regional registration, as defined in § 180.1(n) of this chapter, are established for the sum of residues of the herbicide imazethapyr, 2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1*H*-imidazol-2-yl]-5-ethyl-3-pyridine carboxylic acid, as its ammonium salt, and its metabolite, 2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1*H*-imidazol-2-yl]-5-(1-hydroxyethyl)-3-pyridine carboxylic acid, both free and conjugated, in or on the following raw agricultural commodities:

Commodity	Parts per million
Endive (escarole)	0.1
Lettuce (head and leaf)	0.1

[FR Doc. 95–14062 Filed 6–13–95; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 180

[OPP–300388; FRL–4958–1]

RIN 2070–AB78

Diphenylamine; Technical Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical amendment.

SUMMARY: EPA is issuing a technical amendment to a regulation on diphenylamine to change its designation from a ''fungicide'' to a ''plant regulator.'' EPA is making this technical amendment to better characterize the chemical.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Tompkins, Fungicide/Herbicide Branch (7505C), Registration Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 239, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703)-305-6250; e-mail: tompkins.james@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Diphenylamine is currently registered for use on apples to prevent the appearance of the skin discoloration known as ''storage scald.'' Storage scald is an abiotic disorder not caused by fungus, bacterium, or living agent. The most widely accepted theory is that a substance known as alpha-farnescene is given off by the apple which when combined with oxygen leads to the formation of free radicals resulting in the destruction of cell substance compartmentalization and death of the skin cells. Diphenylamine applied to the skin of the apple acts as an antioxidant to prevent the combination of alpha-farnescene with oxygen. The term ''plant regulator'' is a better descriptive term than ''fungicide'' to describe the use of diphenylamine on apples to prevent the appearance of storage scald.

This document contains a technical amendment only and does not require notice and comment, 5 U.S.C. 553.

List of Subjects in 40 CFR Part 180

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

Dated: May 25, 1995.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

Therefore, a technical amendment is made in 40 CFR part 180 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.

§ 180.190 [Amended]

2. In § 180.190, by making a technical amendment to the introductory text by changing ''fungicide'' to read ''plant regulator''.

[FR Doc. 95–14063 Filed 6–13–95; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[FCC 95–112]

Delegation of Authority to Issue Subpoenas

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document delegates authority to the Chief, Compliance and Information Bureau to issue subpoenas for the production of documents and testimony in support of Commission investigations of all types. This action is necessary to empower the Compliance and Information Bureau to obtain evidence in all situations involving violations of the Commission's Rules. The effect of this action is better informed Commission actions.

EFFECTIVE DATE: June 14, 1995.

FOR FURTHER INFORMATION CONTACT: Wayne T. McKee, Compliance and Information Bureau, (202) 418–1100.

SUPPLEMENTARY INFORMATION: The complete text of the Commission's Order, Adopted March 14, 1995, and released April 6, 1995, follows:

1. Section 409(e) of the Communications Act of 1934 (Act), as amended, 47 U.S.C. 409(e), grants the Commission express authority to issue subpoenas to require, among other things, the production of information relating to any matter under investigation. In this connection, the courts have held that the Commission may issue subpoenas to, among others, private entities not subject to the agency's jurisdiction.[1]

2. Section 5(c)(1) of the Act, 47 U.S.C. 155(c)(1), affords the Commission authority to delegate the subpoena power conferred by Section 409(e). In accordance with Section 5(c)(1), we previously delegated to the Chief, Compliance and Information Bureau (formerly the Field Operations Bureau) authority to issue administrative subpoenas in connection with investigation of cases involving violations of Sections 301 (unlicensed operation) or 302(a) (illegal marketing of radio frequency devices capable of

[1] *See* FCC v. Cohn, 154 F. Supp. 899 (S.D.N.Y. 1957).

causing harmful interference) of the Act.[2] *See* 47 U.S.C. 301 and 302(a). We believe that the mission and proper functioning of the Compliance and Information Bureau will be enhanced by a broader delegation of our subpoena authority to that Bureau.

3. Accordingly, it is ordered that, pursuant to Section 5(c)(1) of the Communications Act of 1934, as amended, 47 U.S.C. 155(c)(1), authority is delegated to the Chief, Compliance and Information Bureau, to require by administrative subpoena the attendance and testimony of witnesses and the production of books, papers, correspondence, and any other records relating to any matter under investigation.

4. It is further ordered that Section 0.311(f) of the Commission's rules, 47 CFR 0.311(f), is amended to reflect the foregoing delegation of authority to the Chief, Compliance and Information Bureau. This amendment to the Commission's rules is contained below. The requirements set forth in 5 U.S.C. 553(b) pertaining to notice and comment and effective date in rule making proceedings do not apply to this amendment because it concerns matters of agency organization, procedure, or practice. *See* 5 U.S.C. 553(b)(A), 553(d).

5. It is further ordered that this amendment of Section 0.311(f) as set forth below is effective upon the date of publication in the **Federal Register**.

List of Subjects in 47 CFR Part 0

Organization and functions (Government agencies)

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rule Changes

Title 47 of the Code of Federal Regulations, part 0, is amended as follows:

PART 0—COMMISSION ORGANIZATION

1. The authority citation for part 0 continues to read as follows:

Authority: Sec. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155.

2. Section 0.311(f) and its preceding center heading are revised to read as follows:

Compliance and Information Bureau

§ 0.311 Authority delegated.

* * * * *

(f) The Chief of the Compliance and Information Bureau is authorized to issue subpoenas for the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, and other records relating to investigations under authority of the Communications Act of 1934, as amended.

* * * * *

[FR Doc. 95–14511 Filed 6–13–95; 8:45 am]

BILLING CODE 6712–01–M

[2] *See* Authority to Issue Subpoenas, 8 FCC Rcd 8763 (1993).

47 CFR Part 73

[MM Docket No. 93–229; RM–8296, RM–8463]

Radio Broadcasting Services; Midway, Panacea, and Quincy, FL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 264C3 for Channel 264A at Quincy, Florida, reallots Channel 264C3 from Quincy to Midway, Florida, and modifies the construction permit for Station WTPS(FM) to specify Channel 264C3, Midway, Florida, as its community of license, at the request of Bitner-James Partnership. *See* 58 FR 42923, August 12, 1993. The allotment of Channel 264C3 to Midway, Florida, will provide that community with its first local transmission service, in accordance with Section 1.420(i) of the Commission's Rules. Channel 264C3 can be allotted to Midway in compliance with the Commission's minimum distance separation requirements at petitioner's specified transmitter site. The coordinates for Channel 264C3 at Midway, Florida, are North Latitude 30–32–22 and West Longitude 84–21–54. With this action, this proceeding is terminated.

EFFECTIVE DATE: July 24, 1995.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MM Docket No. 93–229, adopted June 2, 1995, and released June 9, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1919 M Street, NW., Room 246, or 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

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

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Florida, is amended by removing Channel 264A at Quincy, and by adding Midway, Channel 264C3.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 95–14516 Filed 6–13–95; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 94–41; RM–8443; RM–8504; RM–8505]

Radio Broadcasting Services; Cordova and Dora, AL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 237A for Channel 223A at Cordova, Alabama, and modifies the authorization of New Century Radio, Inc. for Station WFFN(FM), as requested. Additionally, in response to counterproposals filed on behalf of New Century Radio, Inc. (RM–8504) and Goodling Broadcasting Company (RM–8505), Channel 223A is allotted to Dora, Alabama, as that community's first local FM service. Coordinates used for Channel 237A at Cordova are 33–49–01 and 87–11–55 and for Channel 223A at Dora, Alabama, 33–40–26 and 87–06–55. With this action, the proceeding is terminated.

DATES: Effective July 24, 1995. The window period for filing applications on Channel 223A at Dora, Alabama, will open on July 24, 1995, and close on August 24, 1995.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180. Questions related to the window application filing process for Channel 223A at Dora, Alabama, should be addressed to the Audio Services Division, FM Branch, (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report*

and Order, MM Docket No. 94–41, adopted June 1, 1995, and released June 9, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, located at 1919 M Street, NW., Room 246, or 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

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

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Alabama, is amended by removing Channel 223A and adding Channel 237A at Cordova; and by adding Dora, Channel 223A.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 95–14517 Filed 6–13–95; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 93–228; RM–8295]

Radio Broadcasting Services; Tawas City, MI

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for reconsideration.

SUMMARY: The Commission dismisses the petition filed by Patricia Mason for reconsideration of the *Report and Order* in MM Docket 93–228, 59 FR 46932, September 13, 1994. In that proceeding, Ives Broadcasting, Inc., licensee of Station WHST-FM, Tawas City, Michigan, was modified to operate on Channel 291A in lieu of Channel 297A. In response to Patricia Mason's interest in Channel 291A, Channel 277A was allotted to Tawas City as an additional channel. Mason's petition for reconsideration argues that Channel 277A is not an equivalent channel, and, therefore, Channel 291A should be made available for application to all parties. The Commission considers channels of the same class to be equivalent unless showings have been made that a station cannot be constructed for reasons such as environmental consequences or hazard to air navigation. Since no showings were made, we have dismissed the petition for reconsideration.

EFFECTIVE DATE: June 14, 1995.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Douglas W. Webbink,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95–14518 Filed 6–13–95; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 89–500; RM–6070]

Radio Broadcasting Services; Stephenson, MI

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for reconsideration.

SUMMARY: The Commission dismisses a Petition for Reconsideration filed by Value Radio Corporation (Value). Value sought reconsideration of the action taken by the Chief, Allocations Branch in MM Docket No. 89–500 on the basis that the action precluded its proposal, in another proceeding, for amendment of the Commission's FM Table of Allotments. *See* 56 FR 19039 (April 25, 1991). The Commission dismissed Value's petition as moot in light of the fact that Value's rulemaking proposal was subsequently approved and was not precluded by the action taken in MM Docket 89–500.

EFFECTIVE DATE: June 14, 1995.

FOR FURTHER INFORMATION CONTACT: Alan E. Aronowitz, Mass Media Bureau, (202) 776–1653.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Memorandum Opinion and Order,* MM Docket No. 89–500, adopted June 1, 1995, and released on June 9, 1995. The full text of this Commission decision is available for public inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Douglas W. Webbink,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95–14522 Filed 6–13–95; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 89–497; RM–6877 and RM–7269]

Radio Broadcasting Services; Apalachicola and Carrabelle, FL

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for reconsideration.

SUMMARY: This document denies the petition for reconsideration filed by Richard L. Plessinger of the *Report and Order* in MM Docket No. 89–497, 56 FR 64209, December 2, 1991, which allotted Channel 293C1 to Carrabelle, Florida, as that community's first local transmission service. The Commission has determined that Plessinger has not presented any new arguments or facts in this proceeding. Therefore, we will deny the petition for reconsideration. With this action, this proceeding is terminated.

EFFECTIVE DATE: June 14, 1995.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Memorandum Opinion and Order,* MM Docket No. 89–497, adopted June 2, 1995, and released June 9, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1919 M Street, NW., Room 246, or 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Douglas W. Webbink,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95–14523 Filed 6–13–95; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 93–311; RM–8382]

Radio Broadcasting Services; Bagdad, AZ

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 276C3 to Bagdad, Arizona, as that community's second local aural transmission service, in response to a petition for rule making filed by Chris Sarros. *See* 59 FR 43, January 3, 1994. Bagdad is located within 320 kilometers (199 miles) of the United States-Mexico border and therefore, concurrence of the Mexican government in this proposal was obtained. Coordinates used for Channel 276C3 at Bagdad are 34–28–50 and 113–20–08. With this action, the proceeding is terminated.

DATES: Effective July 24, 1995. The window period for filing applications on Channel 276C3 at Bagdad, Arizona, will open on July 24, 1995, and close on August 24, 1995.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180. Questions related to the window application filing process for Channel 276C3 at Bagdad should be addressed to the Audio Services Division, FM Branch, (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MM Docket No. 93–311, adopted June 2, 1995, and released June 9, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, located at 1919 M Street, NW., Room 246, or 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

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

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Arizona is amended by adding Channel 276C3 at Bagdad.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 95–14524 Filed 6–13–95; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 92–246, RM–8091]

Television Broadcasting Services; Ridgecrest, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for reconsideration.

SUMMARY: This document denies the petition for reconsideration filed by Valley Public Television of the *Report and Order,* 58 FR 58833 (November 4, 1993), in which the Commission dismissed Valley's proposal either to substitute Channel *41 for Channel *25 or place a site restriction on Channel *25 at Ridgecrest, California, after Valley requested and was granted dismissal of the application which it intended to accommodate. The Commission determined that the reason given in support of the petition for reconsideration, to accommodate Valley's future plan to apply for Channel *39 at Bakersfield, California, was speculative and did not warrant reconsideration of its action dismissing the Ridgecrest proposal. With this action, this proceeding is terminated.

EFFECTIVE DATE: June 14, 1995.

FOR FURTHER INFORMATION CONTACT: Victoria M. McCauley, Mass Media Bureau, (202) 776–1653.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Memorandum Opinion and Order,* MM Docket No. 92–246. adopted June 1, 1995 and released June 9, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Federal Communications Commission.

Douglas W. Webbink,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95–14525 Filed 6–13–95; 8:45 am]

BILLING CODE 6712–01–F

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 18

RIN 1018–AD21

Marine Mammals; Incidental Take During Specified Activities

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Fish and Wildlife Service (Service) hereby extends for an additional 60 days through August 15, 1995, the final regulations that authorize and govern the incidental, unintentional take of small numbers of polar bear and walrus during year-around oil and gas industry operations (exploration, development, and production) in the Beaufort Sea and adjacent north coast of Alaska.

DATES: This rule will be effective on June 14, 1995. It extends the effective period of regulations that appear at 50 CFR Part 18, Subpart J, for 60 days through August 15, 1995.

FOR FURTHER INFORMATION CONTACT: David McGillivary, Supervisor, Office of Marine Mammals Management, Anchorage, AK, at (907) 786–3800; or Jeff Horwath, U.S. Fish and Wildlife Service, at (703) 385–1718.

SUPPLEMENTARY INFORMATION: Under provisions of section 101(a)(5)(A) of the Marine Mammal Protection Act of 1972, as amended (MMPA), the taking of small numbers of marine mammals may be allowed incidental to specified activities other than commercial fishing if the Director of the Service finds, based on the best scientific evidence available, that the cumulative total of such taking over a five-year period will have negligible effect on these species and will not have an unmitigable adverse impact on the availability of these species for subsistence uses by Alaskan Natives. If these findings are made, the Service is required to establish specific regulations for the

activity that set forth: permissible methods of taking; means of effecting the least practicable adverse impact on the species and their habitat and on the availability of the species for subsistence uses; and requirements for monitoring and reporting.

On December 17, 1994, BP Exploration (Alaska), Inc., for itself and on behalf of 14 other energy related entities (hereafter collectively referred to as ''Industry'') petitioned the Service to promulgate regulations pursuant to section 101(a)(5)(A) of the MMPA. A proposed rule was published by the Service on December 30, 1992 (57 FR 62283), with a 75-day comment period that expired on March 15, 1993.

The proposed rule announced that the Service had prepared a draft Environmental Assessment in conjunction with the rulemaking action; and that when a final decision was made on the Industry applications for incidental take authority, the Service would decide whether this was a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA). On April 26, 1993, following the close of the proposed rule's comment period, the Service concluded in a Finding of No Significant Impact (FONSI) that this was not a major Federal action under the NEPA and preparation of an Environmental Impact Statement was not required.

Subsequently, on November 16, 1993, the Service published final regulations in the **Federal Register** (58 FR 60402) effective December 16, 1993, to authorize and govern the incidental, unintentional take of small numbers of polar bear and walrus during Industry operations (exploration, development, and production) year-round in the Beaufort Sea and adjacent northern coast of Alaska. The Service concluded in the final rule, based on the best scientific evidence available, that the cumulative total of such taking by Industry over a five-year period would have a negligible effect on these species and would not have an unmitigable adverse impact on the availability of these species for subsistence used by Alaskan Natives.

However, although the MMPA authorizes regulations to be used for periods of up to five years, the Service's final regulations were initially effective only for an 18-month period through June 16, 1995, as a result of additional provisions in the final regulations. These provisions stipulate that extension of the final regulations for an additional 42 months for the full five-year term authorized by the MMPA (through December 15, 1998) is contingent upon the following: (1) Within a period of 18 months from the effective date of this rulemaking, the Service must develop and begin implementing a Polar Bear Habitat Conservation Strategy (Strategy), pursuant to the management planning process in section 115 of the MMPA, and in furtherance of the goals of Article II of the 1973 International Agreement on the Conservation of Polar Bears (1973 Agreement); (2) the identification and designation of special considerations of closures of any polar bear habitat components to be further protected; (3) public notice and comment on those considerations of closures; (4) affirmative findings of the Secretary of the Interior; and (5) public notice and comment on the Secretary's intention to extend the term of the incidental take regulations for a period not to exceed a total of five years.

The final rule explained the additional requirement to develop a Strategy as follows:

> In addition to its responsibilities under the [MMPA], the Department of the Interior has further responsibilities under the 1973 multilateral Polar Bear Agreement. Specifically, Article II of the Agreement requires that:
>
> Each contracting Party shall take appropriate action to protect the ecosystems of which polar bears are a part, with special attention to habitat components such as denning and feeding sites and migration patterns * * *
>
> In comport with, and to meet more fully the intent of the Agreement, under this final rulemaking, within 18 months of its effective date, the Service has been directed by the Secretary of the Interior to develop and begin implementing a strategy for the identification and protection of important polar bear habitats. Development of such strategy will be done as part of the Service's management plan process pursuant to Section 115 of the [MMPA], and in cooperation with signatories to the Polar Bear Agreement, the Department of State, the State of Alaska, Alaskan Natives, Industry, conservation organizations, and academia.

The Service has developed a draft Strategy, published notice of its availability in the **Federal Register** (February 28, 1995, at 60 FR 10868), and sought review and comment on it. The draft Strategy was developed with the involvement and input of Alaskan Natives, Industry, the National Biological Service, that State of Alaska, conservation organizations, academia, and others. Its includes Native traditional knowledge on polar bear behavior and habitat use.

The draft Strategy identifies and designates important polar bear feeding and denning areas and proposes measures for enhanced consideration of these areas from oil and gas exploration, development, and production. It also proposes additional measures for polar bear habitat protection in furtherance of the goals of the 1973 Agreement. These measures consist of a proposed Native Village Communication Plan, creation and support of a Polar Bear Advisory Council, and development of International Conservation Initiatives. The draft Strategy also identifies research needs related to habitat use and relative importance of habitat types, and effects of contaminants and industrial activities on polar bears.

The original 60-day period to comment on the draft Strategy would have expired on May 1, 1995. However, on May 8, 1995, the Service announced in the **Federal Register** (60 FR 22584) that it had extended the comment period for an additional 15 days through May 16, 1995. It was extended in response to several April 28, 1995 letters that requested a 30-day extension; those requests stated that additional time was needed to complete a review of the draft Strategy.

While the Service agreed to extend the comment period, it was determined that a 30-day extension would not allow us adequate time to analyze comments and to make a decision on the draft Strategy and on the associated proposed rule that was published in the **Federal Register** on March 17, 1995, (60 FR 14408) to extend the effective period of incidental take regulations at 50 CFR Part 18, Subpart J. Because of the short timeframes involved, it was determined that the draft Strategy's comment period could only be extended for 15 days through May 16, 1995. This deadline also coincided with the close of the comment period on the proposed rule to extend the incidental take regulations at 50 CFR Part 18, Subpart J for an additional 42 months.

For the reasons set out in the Service's proposed rule of March 17, 1995, (as identified in the previous paragraph) to extend the effective period of incidental take regulations, and in the final Beaufort Sea rule published on November 16, 1993, the Service proposed to extend the regulations in 50 CFR Part 18, Subpart J for the full five-year term authorized by the MMPA. Thus, the regulations currently in effect from December 16, 1993, through June 16, 1995, would not expire but rather would be extended through December 15, 1998. The proposal to extend the final Beaufort Sea regulations was made on the basis that the Service's draft Strategy, if adopted, would meet the stipulations in those regulations. The Service believes that the total expected

takings of polar bear and walrus during energy operations will have a negligible impact on these species, and there will be no unmitigable adverse impacts on the availability of these species for subsistence uses by Alaskan Natives. If the provisions of the draft Strategy are adopted, and its implementation is initiated, the requirements of the Beaufort Sea regulations will have been met, and they can extend for an additional 42 months.

However, the Service has determined that completion of the final Strategy cannot be achieved by June 16, 1995, because of extensive public interest and the substantial number of comments received concerning the draft Strategy. Under current circumstances, which indicate that Beaufort Sea oil and gas activities continue to pose no more than a negligible impact to polar bear and walrus, a short-term extension of the incidental take regulations is in order so that a full and fair review of all public comments on the draft Strategy can be made. The Service finds that an extension of 60 days will not affect its ''negligible impact'' finding or its finding that oil and gas activities in the Beaufort Sea will not have an unmitigable adverse effect on the availability of polar bear and walrus for subsistence uses. The Service therefore is extending the effective period of the Beaufort Sea regulations for an additional 60 days through August 15, 1995. This is a prudent and justifiable action that will allow time to adequately review comments, finalize the Strategy, and begin its implementation.

This final rule action neither reopens the comment period on either the draft Strategy or the proposed rule to extend the period of effectiveness of the Beaufort Sea regulations through December 15, 1998, nor does it complete the Service's decision making on the March 17, 1995, proposed rule to extend the effective date of those final regulations through December 15, 1998. It merely extends for 60 days the effectiveness of the Beaufort Sea regulations during which time the Service will analyze public comments and make final decisions on the Strategy and the March 17, 1995, proposed rule. The new final decision date of August 15, 1995, will be the same for both documents (i.e., the Strategy and the proposed rule).

This 60-day extension of the Beaufort Sea regulations is effective immediately. The Service believes there is good cause to take this immediate action because of extensive public interest, the need to thoroughly consider the substantial number of comments that were submitted and to make any necessary and appropriate changes to the draft Strategy prior to making final decisions on both the draft Strategy and proposed rule to extend the Beaufort Sea regulations, and because to do otherwise would cause the Beaufort Sea regulations to lapse, thereby denying Industry the basic protections afforded by the MMPA's section 101(a)(5)(A). While prudent policy calls for further deliberation on the draft Strategy, there is no biological justification for allowing the Beaufort Sea regulations to expire.

Required Determinations

During the rulemaking process to develop Beaufort Sea regulations, the Service prepared an Environmental Assessment with a FONSI on Industry's proposed actions. This rule was not subject to review by the Office of Management and Budget under Executive Order 12866. Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, it was also determined the rule would not have a significant economic effect on a substantial number of small entities. Furthermore, the final rule was not expected to have a potential takings implication under Executive Order 12630 because it authorized incidental, but not intentional, take of polar bear and walrus by Industry and thereby exempts them from civil and criminal liability. The rule also did not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 12612. The above identified required determinations associated with the Service's original rulemaking process associated with the Beaufort Sea are still valid for this current final rule.

The collections of information associated with this final rule have been approved by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and assigned clearance number 1018–0070.

List of Subjects in 50 CFR Part 18

Administrative practice and procedure, Imports, Indians, Marine mammals, Transportation.

For the reasons set forth in the preamble, Part 18, Subchapter B of Chapter 1, Title 50 of the Code of Federal Regulations is amended as set forth below:

PART 18—MARINE MAMMALS

1. The authority citation for 50 CFR Part 18 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*

2. Section 18.122 of Subpart J is revised to read as follows:

§ 18.122 Effective dates.

Regulations in this subpart, originally effective for an 18-month period from December 16, 1993, through June 16, 1995, will continue in effect for an additional 60-day period through August 15, 1995, for oil and gas exploration, development, and production activities.

Dated: June 5, 1995.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 95–14512 Filed 6–13–95; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 301

[Docket No. 950106003–5070–02; I.D. 060895A]

Pacific Halibut Fisheries

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

ACTION: Inseason action; non-treaty commercial fishing period limits in Area 2A.

SUMMARY: The Assistant Administrator for Fisheries, NOAA, on behalf of the International Pacific Halibut Commission (IPHC), publishes this inseason action pursuant to IPHC regulations approved by the U.S. Government to govern the Pacific halibut fishery. This action is intended to enhance the conservation of the Pacific halibut stock in order to help sustain it at an adequate level in the northern Pacific Ocean and Bering Sea.

EFFECTIVE DATE: 8:00 a.m. through 6:00 p.m., July 5, 1995.

FOR FURTHER INFORMATION CONTACT: Steven Pennoyer, 907–586–7221; William W. Stelle, Jr., 206–526–6140; or Donald McCaughran, 206–634–1838.

SUPPLEMENTARY INFORMATION: The IPHC, under the Convention between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea (signed at Ottawa, Ontario, on March 2, 1953), as amended by a Protocol Amending the Convention (signed at Washington, DC, on March 29, 1979), has issued this inseason action pursuant to IPHC regulations governing the Pacific halibut fishery. The regulations have been approved by NMFS (60 FR 14651, March 20, 1995).

On behalf of the IPHC, this inseason action is published in the **Federal Register** to provide additional notice of its effectiveness, and to inform persons subject to the inseason action of the restrictions and requirements established therein.

Inseason Action

1995 Halibut Landing Report Number 2

Non-Treaty Commercial Fishing Period Limits in Area 2A

The IPHC has determined that fishing period limits will be required during the 10-hour, July 5, 1995, non-treaty directed commercial fishing period in Area 2A to avoid exceeding the 91,052 pounds (41.30 metric tons) catch limit. Fishing period limits as indicated in the following table will be in effect for this opening. Note that the fishing period limits for the three smallest vessel classes have all been set at the same level.

Vessel class		Fishing period limit (pounds)	
Length	Letter	Dressed, head on	Dressed, head off*
0–25	A	225	200
26–30	B	225	200
31–35	C	225	200
36–40	D	530	465
41–45	E	570	500
46–50	F	675	595
51–55	G	755	665
56+	H	1,135	1,000

*Weights are after 2 percent has been deducted for ice and slime if fish are not washed prior to weighing.

The appropriate vessel length class and letter is printed on each halibut license.

The fishing period limit is shown in terms of dressed, head-off weight as well as dressed, head-on weight although fishermen are reminded that regulations require that all halibut from Area 2A be landed with the head on.

The fishing period limit applies to the vessel, not the individual fisherman, and any landings over the vessel limit will be subject to forfeiture and fine.

Dated: June 9, 1995.

Richard W. Surdi,

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

[FR Doc. 95–14552 Filed 6–13–95; 8:45 am]

BILLING CODE 3510–22–W

Proposed Rules

Federal Register
Vol. 60, No. 114
Wednesday, June 14, 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.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 357 and 382

[Docket No. RM95–12–000]

Minimum Filing Requirements for FERC Form No. 6, Annual Report for Oil Pipelines

June 8, 1995.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Commission is proposing to revise the filing requirements for FERC Form No. 6, Annual Report of Oil Pipeline Companies, and to exempt certain oil pipeline companies with minimal jurisdictional revenues from paying annual charges. The proposed rule would exempt from filing Form No. 6 those pipelines whose jurisdictional operating revenues are at or below $100,000 for each of the three preceding calendar years. Those companies that will be exempt from filing Form No. 6 must nevertheless prepare and file page 700 of Form No. 6. The Commission also proposes to relieve those companies not required to file Form No. 6 from the obligation to pay annual charges to the Commission.

DATES: Comments are due on or before July 14, 1995.

ADDRESSES: An original and 14 copies of written comments on this proposed rule must be filed in Docket No. RM95–12–000 and should be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Harris S. Wood, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, Telephone: (202) 208–0224.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in Room 3104, 941 North Capitol Street, NE., Washington, DC 20426. The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208–1397. To access CIPS, set your communications software to 19200, 14400, 12000, 9600, 7200, 4800, 2400 or 1200 bps, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this document will be available on CIPS for 60 days from the date of issuance in ASCII and WordPerfect 5.1 format. After 60 days the document will be archived, but still accessible.

The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in Room 3104, 941 North Capitol Street, NE., Washington, DC 20426.

Notice of Proposed Rulemaking

The Federal Energy Regulatory Commission (Commission) proposes to revise the filing requirements for FERC Form No. 6, Annual Report of Oil Pipeline Companies (Form No. 6), and exempt certain oil pipeline companies with minimal jurisdictional revenues from the requirement for paying annual charges. These changes are proposed to become effective 30 days after the publication of a final rule in this proceeding in the **Federal Register**.

The Commission proposes to exempt from the requirements to prepare and file Form No. 6, those pipelines whose jurisdictional operating revenues are at or below $100,000 for each of the three preceding calendar years.[1] For the reasons appearing below, those companies that will be exempt from filing Form No. 6 must nevertheless prepare and file page 700 of Form No. 6.

The Commission also proposes to relieve those companies not required to file Form No. 6 from the obligation to pay annual charges to the Commission.

I. Background

Order No. 561[2] was issued on October 22, 1993, to comply with the Energy Policy Act of 1992 (Act of 1992),[3] which required that the Commission establish a simplified and generally applicable method of oil pipeline rate regulation. Thereafter, on October 28, 1994, the Commission issued Order No. 571, which established certain filing requirements for oil pipelines seeking cost-of-service rate treatment and promulgated changes to Form No. 6.[4]

The Commission's regulations currently require each jurisdictional oil pipeline company to submit Form No. 6 annually, reflecting the operating results and the financial condition of the company involved, irrespective of the size of the company.[5]

II. Public Reporting Burden

The Commission estimates the public reporting burden for the collections of information under the proposed rule will be reduced for Form No. 6 by about 14 percent. These estimates include the time for reviewing instructions, researching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The current annual reporting burden associated with these information collection requirements is as follows:

Form No. 6: 22,572 hours, 148 responses, and 148 respondents.[6]

The proposed rule will reduce the existing reporting burden associated with Form No. 6 by an estimated 2,838 hours annually, or an average of 129 hours per response based on an

[1] Notwithstanding the Commission's proposal to establish a threshold exemption from filing FERC Form No. 6, all jurisdictional oil pipelines will continue to be subject to the Commission's accounting and recordkeeping requirements (*e.g.*, 18 CFR Parts 351, 352, and 356).

[2] Revisions to Oil Pipeline Regulations Pursuant to the Energy Policy Act of 1992, Order No. 561, III FERC Stats. & Regs. ¶ 30,985 (1993); Order on Rehearing, Order No. 561–A, III FERC Stats. & Regs. ¶ 31,000 (1994).

[3] 42 U.S.C. 7172 note (West Supp. 1993).

[4] Cost-of-Service Reporting and Filing Requirements for Oil Pipelines, III FERC Stats. & Regs. ¶ 31,006 (1994).

[5] 18 CFR 357.2.

[6] These numbers are based on an average of respondents expected to file Form No. 6. The number of respondents actually filing the Form No. 6 may vary slightly each year.

estimated 22 oil pipelines who will be exempt from the filing requirements of Form No. 6 but not from the filing requirements of page 700.

Comments regarding these burden estimates or any other aspect of these collections of information, including suggestions for reducing this burden, can be sent to the Federal Energy Regulatory Commission, 941 North Capitol Street, N.E., Washington, DC 20426 [Attention: Michael Miller, Information Services Division, (202) 208–1415]; and to the Office of Information and Regulatory Affairs of OMB (Attention: Desk Officer for Federal Energy Regulatory Commission), FAX: (202) 395–5167.

III. Discussion

A. Form No. 6

Form No. 6 provides the Commission with financial and operational data for the proper administration of the Commission's responsibilities for rate regulation of oil pipelines under the Interstate Commerce Act, as amended,[7] and the Act of 1992. In a like manner, the Commission requires the other entities it regulates to submit annual financial and operational data. However, the Commission has established minimum filing thresholds for submission of annual reports for both electric utilities and natural gas companies.[8] For example, a natural gas pipeline is only required to submit an annual report if its total gas sales or volumes transported exceeds 200,000 Mcf in each of the three previous calendar years. This has allowed the Commission to maintain data on the more significant pipelines and yet has allowed those whose operations are minimal to avoid the regulatory expense and burden of filing reports which would be of limited statistical importance to the Commission. The Commission here intends to provide the same type of relief from the annual filing burden and expense for oil pipelines with limited jurisdictional activity.

The Commission proposes to establish a filing threshold for Form No. 6 based on the annual jurisdictional operating revenues of an oil pipeline company. While the filing thresholds for electric utilities and natural gas companies are stated in volumes, the Commission believes that a volumetric threshold is not appropriate for oil pipelines.[9]

Analysis of the 146 oil pipelines that filed Form No. 6 for the 1993 reporting year indicates three natural breaks in jurisdictional operating revenues that could be used to establish a minimum filing threshold:

$100,000 level—22 oil pipelines, or 15 percent of the 1993 total, had jurisdictional operating revenues at or below this level.

$300,000 level—32 oil pipelines, or 22 percent of the 1993 total, had jurisdictional operating revenues at or below this level.

$1,000,000 level—38 oil pipelines, or 26 percent of the 1993 total, had jurisdictional operating revenues at or below this level.

The Commission proposes to establish the minimum reporting threshold for oil pipeline companies to file Form No. 6 at the $100,000 level of jurisdictional operating revenues. This level will exempt companies with minimal jurisdictional transactions from the burdens associated with preparation of the annual report, yet the Commission should continue to have statistically valid data for its use in oil pipeline rate regulation.

For both electric utilities and natural gas companies, the Commission's regulations require a company to look to its three immediately preceding reporting years to determine, *inter alia*, whether it is exempt from filing an annual report with the Commission.[10] If a regulated company had been exempt from reporting and exceeds the minimum filing threshold for each of the three immediately preceding calendar years, it would be required to file an annual report for the current reporting year. Thereafter, the company would be required to file an annual report until the level of its operations falls below the established threshold for the three immediately preceding calendar years, at which time it would again become exempt from the annual report requirement. This three-year approach was established to guard against anomalies in the operations of a regulated company and to provide some measure of stability in the annual reports, while not imposing an undue burden on companies which were clearly showing a pattern of operations below the established minimum thresholds.

The Commission proposes to require the same three-year test for oil pipelines to see if they meet the minimum exemption. That is, a pipeline will be exempt from preparing and filing FERC Form No. 6 if its jurisdictional operating revenues for the three calendar years immediately preceding the current reporting year were $100,000 or less per reporting year. For a newly established pipeline without three years of operations, the company, as is now required for electric utilities and natural gas companies, would use projected data to determine whether Form No. 6 needs to be filed.

Order No. 571 amended Form No. 6 by requiring, *inter alia*, that a new page 700 be incorporated into Form No. 6. This page requires an oil pipeline to report its total annual cost of service as calculated under the Opinion No. 154–B methodology,[11] its operating income, and its throughput in barrels and barrel-miles. This page is an integral part of the Commission's data collection efforts to ensure that the index prescribed by Order No. 561 properly tracks industry costs. Page 700 provides shippers with the necessary information to serve as a preliminary screening tool for pipeline rate filings. It is designed to enable shippers to compare proposed changes in rates against the change in the level of a pipeline's cost of service, to compare the change in a shipper's individual rate with the change in a pipeline's average company-wide barrel-mile rate, and to determine whether to challenge a pipeline's indexed rate increase filings. As such, page 700 provides the Commission and the public with information beyond the financial and accounting data found in the rest of Form No. 6. Because the information found on page 700 is not readily available elsewhere, the Commission proposes to require those pipelines that would be exempt from filing Form No. 6 to prepare and file page 700 at the time that other pipelines are required to

[7] 49 App. U.S.C. 1 (1988).

[8] For electric utilities and licensees, see 18 CFR 141.1 and 141.2 and General Instruction 1, Classification of Utilities of the Uniform System of Accounts Prescribed for Public Utilities and Licensees, 18 CFR Part 101.

For natural gas companies, see 18 CFR 260.1 and 260.2 and General Instruction 1, Classification of Utilities of the Uniform System of Accounts Prescribed for Natural Gas Companies, 18 CFR Part 201.

[9] In establishing annual charges for the companies it regulates, the Commission considered the use of a volumetric standard in setting annual charges for oil pipelines, but rejected such an approach. It found, for the reasons stated in that proceeding, that the operating revenue approach for setting annual fees would most fairly and equitably distribute the oil program cost. See Annual Charges Under the Omnibus Budget Reconciliation Act of 1986, FERC Stats. & Regs., Preambles (1986–1990) ¶ 30,746 (1987) at pp. 30,631–30,634. For the reasons stated in that proceeding, the Commission believes that jurisdictional operating revenues is the appropriate basis for exemption of filing Form No. 6.

[10] In the case of a newly established jurisdictional entity, the projected data of the company would be the basis for determining whether an annual report would be required for its first year of operations. See 18 CFR Parts 101 and 201, General Instruction 1, Classification of Utilities, paragraph C.

[11] The Opinion No. 154–B methodology is derived from the Commission's opinions in Williams Pipe Line Company, Opinion No. 154–B, 31 FERC ¶ 61,377 (1985), on rehearing, Opinion No. 154–C, Williams Pipeline Company, 33 FERC ¶ 61,327 (1985); and ARCO Pipe Line Company, Opinion No. 351, 52 FERC ¶ 61,055 (1990), on rehearing, Opinion No. 351–A, ARCO Pipe Line Company, 53 FERC ¶ 61,398 (1990).

file Form No. 6 (*i.e.*, on or before March 31st of each year for the previous calendar year).

B. Annual Charges

Annual charges are assessed on all jurisdictional companies who file annual reports with the Commission to assist in defraying the cost of regulation of those companies. For public utilities and natural gas companies, those companies who fall below the reporting thresholds for those industries are not required to file annual reports, and therefore they do not pay annual charges to the Commission. Currently, all oil pipelines reporting jurisdictional operating revenues in Form No. 6 are subject to annual charges.[12] The Commission proposes to provide the same type of relief from annual charges as it provides with respect to other entities it regulates, by exempting from the requirement to pay annual charges those oil pipelines whose annual jurisdictional revenues are at or below the $100,000 threshold.

Annual charges for oil pipelines are calculated on the basis of jurisdictional operating revenues. If an oil pipeline company has no jurisdictional operating revenues, it pays no annual charge. For the 1993 reporting year, 22 of the 146 oil pipeline companies filing Form No. 6 either had no jurisdictional operating revenues, or their jurisdictional operating revenues were under $100,000. The remaining 124 oil pipelines with jurisdictional operating revenues over $100,000 paid annual charges with the smallest annual charge amount being $132. If the proposed change in filing requirements for Form No. 6 had been in effect for that reporting year, 22 companies would have been exempted from paying annual charges. The total annual charges involved based on 1993 jurisdictional operating revenues would amount to $77 for those companies, a *de minimis* amount.

Based on the foregoing, the Commission proposes to require annual charges only of those oil pipelines that are required to file Form No. 6. This would be consistent with the treatment accorded public utilities and natural gas companies.

IV. Environmental Analysis

The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[13] The Commission has categorically excluded certain actions from these requirements as not having a significant effect on the human environment.[14] The action proposed here is procedural in nature and therefore falls within the categorical exclusions provided in the Commission's regulations.[15] Therefore, neither an environmental impact statement nor an environmental assessment is necessary and will not be prepared in this rulemaking.

V. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act[16] generally requires the Commission to describe the impact that a proposed rule would have on small entities or to certify that the rule will not have a significant economic impact on a substantial number of small entities. An analysis is not required if a proposed rule will not have such an impact.[17]

Pursuant to section 605(b), the Commission certifies that the proposed rules and amendments, if promulgated, will not have a significant adverse economic impact on a substantial number of small entities. Rather, the proposed rules will relieve small entities of the burden of preparing and filing annual reports and of paying annual charges to the Commission.

VI. Comment Procedures

Copies of this notice of proposed rulemaking can be obtained from the Office of Public Information, Room 3104, 941 North Capitol Street, N.E., Washington, D.C. 20426. Any person desiring to file comments should submit an original and fourteen (14) copies of such comments to the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, not later than 30 days after the date of publication in the **Federal Register**.

The full text of this notice of proposed rulemaking also is available through the Commission Issuance Posting System (CIPS), an electronic bulletin board service, which provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208–1397. To access CIPS, communications software should be set to use 300, 1200, or 2400 bps, full duplex, no parity, 8 data bits, and 1 stop bit. CIPS can also be accessed at 9600 bps by dialing (202) 208–1781. The full text of this notice will be available on CIPS for 30 days from the date of issuance. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in Room 3104, 941 North Capitol Street, N.E., Washington, D.C. 20426.

VII. Information Collection Requirements

Office of Management and Budget (OMB) regulations require OMB to approve certain information collection requirements imposed by agency rules.[18] While these proposed rules and amendments contain no new information collection requirements, we expect the proposed rule will revise and reduce the reporting requirements under existing Form No. 6.

The Commission uses the data collected under Form No. 6 to monitor the financial and operating data of oil pipeline companies subject to its jurisdiction, and to assist in determining the reasonableness of rates.

Because of the proposed revisions and expected reduction in public reporting burden under Form No. 6, the Commission is submitting a copy of the proposed rule to OMB for its review and approval. Interested persons may obtain information on these reporting requirements by contacting the Federal Energy Regulatory Commission, 941 North Capitol Street NE, Washington, D.C. 20426 (Attention: Michael Miller), Information Policy and Standards Branch, (202) 208–1415, FAX (202) 208–2425; and to the Office of Information and Regulatory Affairs, Office of Management and Budget (Attention: Desk Officer for Federal Energy Regulatory Commission), Washington, D.C. 20503.

List of Subjects

18 CFR Part 357

Pipelines, Reporting and recordkeeping requirements, Uniform System of Accounts.

18 CFR Part 382

Annual Charges.

By direction of the Commission.

Lois D. Cashell,

Secretary.

In consideration of the foregoing, the Commission gives notice of its proposal to amend Parts 357 and 382, Chapter I,

[12] However, on a case by case basis, certain oil pipelines have been granted waiver of the Form 6 filing requirements.

[13] Order No. 486, Regulations Implementing the National Environmental Policy Act, 52 FR 47897 (Dec. 17, 1987), FERC Statutes and Regulations, Regulations Preambles 1986–1990 ¶ 30,783 (1987).

[14] 18 CFR 380.4.

[15] See 18 CFR 380.4(a)(2)(ii).

[16] 5 U.S.C. 601–612.

[17] 5 U.S.C. 605(b).

[18] 5 CFR 1320.13.

Title 18, Code of Federal Regulations, as set forth below.

PART 357—ANNUAL SPECIAL OR PERIODIC REPORTS: CARRIERS SUBJECT TO PART I OF THE INTERSTATE COMMERCE ACT

1. The authority citation for Part 357 is revised to read as follows:

Authority: 42 U.S.C. 7101–7352; 49 U.S.C. 60502; 49 App. U.S.C. 1–85.

2. Section 357.2 is revised to read as follows:

§ 357.2 FERC Form No. 6, Annual Report of Oil Pipeline Companies.

Each pipeline carrier subject to the provisions of section 20 of the Interstate Commerce Act whose annual jurisdictional operating revenues has been more than $100,000 for each of the three previous calendar years must prepare and file with the Commission copies of FERC Form No. 6, ''Annual Report of Oil Pipeline Companies,'' pursuant to the General Instructions set out in that form. This report must be filed on or before March 31st of each year for the previous calendar year. Newly established entities must use projected data to determine whether FERC Form No. 6 must be filed. One copy of the report must be retained by the respondent in its files. The conformed copies may be produced by any legible means of reproduction. Notwithstanding the exemption provided above, those carriers exempt from filing Form No. 6 must prepare and file page 700 of FERC Form No. 6 on or before March 31st of each year for the previous calendar year, beginning with the year ending December 31, 1995, including the subscription required by § 385.2005(a) of this chapter.

PART 382—ANNUAL CHARGES

1. The authority citation for Part 382 continues to read as follows:

Authority: 5 U.S.C. 551–557; 15 U.S.C. 717–717w; 3301–3432; 16 U.S.C. 791a-825r, 2601–2645; 42 U.S.C. 7101–7352; 49 U.S.C. 60502; 49 App. U.S.C. 1–85.

2. Section 382.102(c) is revised to read as follows:

§ 382.102 Definitions.

* * * * *

(c) *Oil pipeline company* means any person engaged in the transportation of crude oil and petroleum products subject to the Commission's jurisdiction under the Interstate Commerce Act with annual operating revenues greater than $100,000 in any of the three calendar years immediately preceding the fiscal year for which the Commission is assessing annual charges.

* * * * *

[FR Doc. 95–14532 Filed 6–13–95; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 950

Wyoming Regulatory Program

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

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Wyoming regulatory program (hereinafter, the ''Wyoming program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to the Wyoming Environmental Quality Act pertaining to procedures for providing public notice for coal mining permit applications. The amendment is intended to reduce costs to the Wyoming program and retain consistency with the corresponding Federal regulations and SMCRA.

DATES: Written comments must be received by 4:00 p.m., m.d.t., July 14, 1995. If requested, a public hearing on the proposed amendment will be held on July 10, 1995. Requests to present oral testimony at the hearing must be received by 4:00 p.m., m.d.t., on June 29, 1995.

ADDRESSES: Written comments should be mailed or hand delivered to Guy V. Padgett, Casper Field Office Director at the address listed below.

Copies of the Wyoming program, the proposed amendment, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Casper Field Office.

Guy V. Padgett, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, Federal Building, Rm. 2128, 100 East ''B'' Street, Casper, Wyoming 82601–1918

Dennis Hemmer, Director, Department of Environmental Quality, Herschler Building—4th Floor West, 125 West 25th Street, Cheyenne, Wyoming 82002, Telephone: (307) 777–7938

FOR FURTHER INFORMATION CONTACT: Guy V. Padgett, Telephone: (307) 261–5824.

SUPPLEMENTARY INFORMATION:

I. Background on the Wyoming Program

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

II. Proposed Amendment

By letter dated June 2, 1995, Wyoming submitted a proposed amendment to its program pursuant to SMCRA (revision to the public notice procedures, Administrative Record No. WY–30–01). Wyoming submitted the proposed amendment at its own initiative. The provision of Environmental Quality Act that Wyoming proposes to revise is section Wyoming Statute (W.S.) 35–11–406(j) [public notice procedures for permit applications].

Specifically, Wyoming proposes to revise subsection (j) as follows: (1) By adding to the beginning of the third sentence ''[f]or initial applications or additions of new lands * * *;'' (2) by removing from the end of the third sentence the language ''* * * and to the operator of any oil and gas well within the permit area or, if there is no oil and gas well, to the lessee of record of any oil and gas lease within the permit area * * *; (3) by adding, prior to the last sentence, the sentence ''[t]he applicant shall mail a copy of the application mining plan map within five (5) days after first publication to the Wyoming oil and gas commission;'' and (4) by adding to the last sentence the language ''* * * sworn statement of * * *.''

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Wyoming program.

1. Written Comments

Written comments should be specific, pertain only to the issues proposed in

this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Casper Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

2. Public Hearing

Persons wishing to testify at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., m.d.t. on June 29, 1995. Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT.** The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to testify at the public hearing, the hearing will not be held.

Filing a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to testify have been heard. Persons in the audience who have not been scheduled to testify, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to testify have been heard.

3. Public Meeting

If only one person requests an opportunity to testify at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES.** A written summary of each meeting will be made a part of the administrative record.

IV. Procedural Determinations

1. Executive Order 12866

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

2. Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 12550) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

3. National Environmental Policy Act

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

4. Paperwork Reduction Act

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

5. Regulatory Flexibility Act

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

List of Subjects in 30 CFR Part 950

Intergovernmental relations, Surface mining, Underground mining.

Dated: June 8, 1995.

Russell F. Price,

Acting Regional Director, Western Regional Coordinating Center.

[FR Doc. 95–14531 Filed 6–13–95; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 311

Privacy Program

AGENCY: Office of the Secretary, DOD.

ACTION: Proposed rule.

SUMMARY: The Office of the Secretary of Defense proposes to exempt a system of records identified as DWHS 29, entitled Personnel Security Adjudications File, from certain provisions of 5 U.S.C. 552a. Exemption is needed to comply with prohibitions against disclosure of information provided the government under a promise of confidentiality and to protect privacy rights of individuals identified in the system of records.

DATE(S): Comments must be received no later than August 14, 1995, to be considered by the agency.

ADDRESSES: Send comments to the OSD Privacy Act Officer, Washington Headquarter Services, Correspondence and Directives Division, Records Management Division, 1155 Defense Pentagon, Washington, DC 20301–1155.

FOR FURTHER INFORMATION CONTACT: Mr. Dan Cragg at (703) 695–0970.

SUPPLEMENTARY INFORMATION: Executive Order 12866. The Director, Administration and Management, Office of the Secretary of Defense has determined that this proposed Privacy Act rule for the Department of Defense does not constitute 'significant regulatory action'. Analysis of the rule indicates that it does not have an annual effect on the economy of $100 million or more; does not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; does not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; does not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866 (1993).

Regulatory Flexibility Act of 1980. The Director, Administration and

Management, Office of the Secretary of Defense certifies that this Privacy Act rule for the Department of Defense does not have significant economic impact on a substantial number of small entities because it is concerned only with the administration of Privacy Act systems of records within the Department of Defense.

Paperwork Reduction Act

The Director, Administration and Management, Office of the Secretary of Defense certifies that this Privacy Act proposed rule for the Department of Defense imposes no information requirements beyond the Department of Defense and that the information collected within the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act of 1974.

List of Subjects in 32 CFR part 311

Privacy.

Accordingly, 32 CFR part 311 is amended as follows:

1. The authority citation for 32 CFR part 311 continues to read as follows:

Authority: Pub. L. 93–579, 88 Stat 1896 (5 U.S.C.552a).

2. In Section 311.7, add a new paragraph (c)(8) as follows:

§ 311.7 Procedures for exemptions.

* * * * *

(c) *Specific exemptions.* * * *

(8) *System identifier and name*-DWHS P29, Personnel Security Adjudications File.

Exemption. Portions of this system of records that fall within the provisions of 5 U.S.C. 552a(k)(5) may be exempt from the following subsections (d)(1) through (d)(5).

Authority. 5 U.S.C. 552a(k)(5).

Reasons. From (d)(1) through (d)(5) because the agency is required to protect the confidentiality of sources who furnished information to the Government under an expressed promise of confidentiality or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. This confidentiality is needed to maintain the Government's continued access to information from persons who otherwise might refuse to give it. This exemption is limited to disclosures that would reveal the identity of a confidential source. At the time of the request for a record, a determination will be made concerning whether a right, privilege, or benefit is denied or specific information would reveal the identity of a source.

* * * * *

Dated: June 1, 1995.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense

[FR Doc. 95–14582 Filed 6–13–95; 8:45 am]

BILLING CODE 5000–04–F

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 1

[CGD 94–105]

RIN 2115–AE99

Coast Guard Rulemaking Procedures

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to revise the regulations describing its rulemaking procedures to provide for a ''direct final rule'' process for use with noncontroversial rules. Under the direct final rule procedure, a rule would become effective 60 days after publication in the **Federal Register** unless the Coast Guard receives written adverse comment within thirty days. This new procedure should expedite the promulgation of routine, noncontroversial rules by reducing the time necessary to develop, review, clear, and publish separate proposed and final rules.

DATES: Comments must be received on or before July 14, 1995.

ADDRESSES: Comments may be mailed to the Executive Secretary, Marine Safety Council (G–LRA/3406) (CGD 94–105), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, or may be delivered to room 3406 at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477.

The Executive Secretary maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT R. Goldberg, Staff Attorney, Regulations and Administrative Law Division, Office of Chief Counsel, U.S. Coast Guard Headquarters, (202) 267–6004.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD 94–105) and the specific section of this proposal to which each comment applies, and give the reason for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments.

This rulemaking informs the public of the Coast Guard's intention to use direct final rulemaking in appropriate cases. Since this rulemaking would not impose any substantive requirements on the public, a comment period of 30 days is considered sufficient. The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Marine Safety Council at the address under **ADDRESSES**. The request should include the reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Drafting Information: The principal persons involved in drafting this document are LT R. Goldberg, Project Manager, Office of Chief Counsel, and CDR T. Cahill, Project Counsel, Office of Chief Counsel.

Discussion of Proposed Rules

The Coast Guard is proposing to establish a new direct final rulemaking procedure for noncontroversial rules. This process is consistent with the goals of the National Performance Review, a recent Presidential initiative to reorganize and streamline the Federal government. The process is also consistent with recommendations of the Administrative Conference of the United States and meets the requirements for providing an opportunity for public notice and comment under the Administrative Procedure Act (APA) (5 U.S.C. 553).

Under this procedure, the Coast Guard would publish direct final rules in the final rule section of the **Federal Register**. The preamble to a direct final rule would indicate that no adverse

comment is anticipated and that the rule would become effective not less than 60 days after publication unless written adverse comment or written intent to submit adverse comment is received within a specified time, usually not less than 30 days. This procedure would ensure that, as required by the APA, the public will be given notice of Coast Guard rulemaking actions and will have an opportunity to participate in the rulemaking by submitting comments.

If no written adverse comment or written notice of intent to submit an adverse comment is received in response to the publication of a direct final rule, the Coast Guard would then publish a notice in the **Federal Register** stating that no adverse comment was received and confirming that the rule will become effective as scheduled. However, if the Coast Guard receives any written adverse comment or any written notice of intent to submit an adverse comment, then the Coast Guard would publish a notice in the final rule section of the **Federal Register** to announce withdrawal of the direct final rule. If adverse comments clearly apply to only part of a rule, and that part is severable from the remaining portions, as for example, a rule that deletes several unrelated regulations, the Coast Guard may adopt as final those parts of the rule on which no adverse comments were received. The part of the rule that was the subject of adverse comment would be withdrawn. If the Coast Guard decides to proceed with a rulemaking following receipt of adverse comments, a separate Notice of Proposed Rulemaking (NPRM) would be published, unless an exception to the APA requirement for notice and comment applies.

A comment would be considered ''adverse'' if it objects to the rule as written. A comment submitted in support of a rule would obviously not be considered adverse. Additionally, a comment suggesting that the policy or requirements of the rule should or should not be extended to other Coast Guard programs outside the scope of the rule would not be considered as adverse.

Rules for which the Coast Guard believes that the direct final rulemaking procedures may be appropriate include, but are not limited to, noncontroversial rules that (1) affect internal procedures of the Coast Guard, (2) are nonsubstantive clarifications or corrections to existing rules, (3) govern the internal organization of the Coast Guard, such as spheres of responsibilities, organizational structure, lines of authority and delegation of powers and duties, (6) make changes to the rules implementing the Privacy Act, (7) adopt technical standards set by outside organizations, (8) are statements of Coast Guard policy, (9) waive navigation and vessel inspection laws and regulations, (10) implement Bridge to Bridge Radiotelephone regulations, (11) govern the regulations of aids to navigation, (12) set out international or inland navigation rules, (13) govern individual regattas and marine parades, (14) regulate or describe anchorage areas, (15) regulate or prescribe shipping safety fairways, (16) regulate or describe offshore traffic separation schemes, (17) delete unnecessary and obsolete regulations, (18) set boundary lines of Coast Guard authority, (19) regulate the compatibility of cargoes, and (20) describe or regulate safety or security zones.

Regulatory Evaluation

This proposal is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedure of DOT is unnecessary. The proposed change in procedure will not impose any costs on the public. In cases where the rule would result in cost savings, the cost savings would occur sooner with the use of direct final rule procedure.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal, if adopted, will have a significant economic impact on a substantial number of small entities. ''Small entities'' may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000. The Coast Guard has evaluated this proposal under the Regulatory Flexibility Act. If adopted, this proposal will not have substantive impact on the public. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This proposal contains no collection-of-information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this proposal under the principles and criteria contained in Executive Order 12612 and has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that, under paragraph 2.B.2 of Commandant Instruction M16475.1B (as revised by 59 FR 38654, July 29, 1994), this proposal is categorically excluded from further environmental documentation as a regulation of a procedural nature. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 1

Administrative practice and procedures, Authority delegations (Government agencies), Coast Guard, Freedom of Information, Penalties.

For the reasons set out in the preamble, the Coast Guard proposes to amend Subpart 1.05 of Part 1 of Title 33, Code of Federal Regulations follows:

PART 1—GENERAL REVISIONS

Subpart 1.05—[Amended]

1. The authority citation for Subpart 1.05 is revised to read as follows:

Authority: 5 U.S.C. 552, 553, App. 2; 14 U.S.C. 2, 631, 632, and 633; 33 U.S.C. 471, 499; 49 U.S.C. 101, 322; 49 CFR 1.4(b), 1.45(b), and 1.46.

2. Section 1.05–35 is added to read as follows:

§ 1.05–35 Direct final rule.

(a) A direct final rule may be issued to allow speedier finalization of noncontroversial rules that are unlikely to result in adverse public comment.

(b) A direct final rule will be published in the **Federal Register** with an effective date that is generally at least 60 days after the date of publication.

(c) The public will usually be given at least 30 days from the date of publication in which to submit adverse comments or a notice of intent to submit

adverse comments. A comment is considered adverse if it objects to adoption of the rule as written.

(d) If not adverse comments or notice of intent to submit adverse comments are received within the specified period, the Coast Guard will publish a notice in the **Federal Register** to confirm that the rule will go into effect as scheduled.

(e) If the Coast Guard receives written adverse comment or written notice of intent to submit adverse comment, the Coast Guard will publish a notice in the final rule section of the **Federal Register** to announce withdrawal of the direct final rule. If adverse comments clearly apply to only part of a rule, and it is possible to remove that part without affecting the remaining portions, the Coast Guard may adopt as final those parts of the rule on which no adverse comments were received. The part of the rule that is the subject of adverse comment will be withdrawn. If the Coast Guard decides to proceed with a rulemaking following receipt of adverse comments, a separate Notice of Proposed Rulemaking (NPRM) will be published unless an exception to the Administrative Procedure Act requirements for notice and comment applies.

Dated: June 2, 1995.

J.E. Shkor,

Rear Admiral, U.S. Coast Guard, Chief Counsel.

[FR Doc. 95–14554 Filed 6–13–95; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[FRL–5219–4]

Request for Opt-Out of the Reformulated Gasoline Program: Jefferson County, Albany and Buffalo, New York; Twenty-Eight Counties in Pennsylvania; and Hancock and Waldo Counties in Maine, General Procedures for Future Opt-Outs and Extension of Stay

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: In today's action, EPA is proposing to remove Jefferson County and the Albany and Buffalo areas in New York; twenty-eight counties in Pennsylvania; and Hancock and Waldo counties in Maine from the list of covered areas identified in section 80.70 of the reformulated gasoline rule. This is based on requests from the Governors of New York, Pennsylvania and Maine that these areas opt out of this federal program. In a separate action signed by the EPA Administrator on December 29, 1994, EPA stayed the application of the reformulated gasoline regulations in Jefferson County and the Albany and Buffalo areas of New York; the twenty-eight opt-in counties in Pennsylvania; and Hancock and Waldo counties in Maine effective January 1, 1995 until July 1, 1995, to allow finalization of this rulemaking. Today's notice also proposes to extend this stay during the pendency of this rulemaking, until the agency takes final action on the proposed opt-out for these areas. This action does not affect the necessity for these areas to comply with the requirements of the anti-dumping program.

EPA is also proposing general rules establishing the criteria and procedures for states to opt-out of the RFG program.

DATES: Regarding the proposal to extend the stay of the reformulated gasoline regulations in the designated New York, Pennsylvania, and Maine counties, no public hearing will be held. Comments must be received by June 28, 1995.

If a public hearing is held on the opt-out of the designated New York, Pennsylvania, and Maine counties or on the general procedures for future opt-outs, comments must be received by August 4, 1995. If a hearing is not held, comments must be received by July 14, 1995. Please direct all correspondence to the addresses shown below.

The Agency will hold a public hearing on the proposed opt-out of the designated New York, Pennsylvania, and Maine counties or on the general procedures for future opt-outs if one is requested by June 21, 1995. If a public hearing is held, it will take place on July 5, 1995. To request a hearing, or to find if and where a hearing will be held, please call Mark Coryell at (202) 233–9014.

ADDRESSES: Comments should be submitted (in duplicate, if possible) to Air Docket Section, Mail Code 6102, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. A copy should also be sent to Mr. Mark Coryell at U.S. Environmental Protection Agency, Office of Air and Radiation, 401 M Street, SW (6406J), Washington, DC 20460.

Materials relevant to this notice have been placed in Docket A–94–68. The docket is located at the Air Docket Section, Mail Code 6102, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, in room M–1500 Waterside Mall. Documents may be inspected from 8:00 a.m. to 4:00 p.m. A reasonable fee may be charged for copying docket material.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Coryell, U.S. Environmental Protection Agency Office of Air and Radiation, 401 M Street, SW (6406J), Washington, DC 20460, (202) 233–9014.

SUPPLEMENTARY INFORMATION: A copy of this action is available on the OAQPS Technology Transfer Network Bulletin Board System (TTNBBS). The TTNBBS can be accessed with a dial-in phone line and a high-speed modem (PH# 919–541–5742). The parity of your modem should be set to none, the data bits to 8, and the stop bits to 1. Either a 1200, 2400, or 9600 baud modem should be used. When first signing on, the user will be required to answer some basic informational questions for registration purposes. After completing the registration process, proceed through the following series of menus:

(M) OMS
(K) Rulemaking and Reporting
(3) Fuels
(9) Reformulated gasoline

A list of ZIP files will be shown, all of which are related to the reformulated gasoline rulemaking process. Today's action will be in the form of a ZIP file and can be identified by the following title: OPTOUT.ZIP. To download this file, type the instructions below and transfer according to the appropriate software on your computer:

<D>ownload, <P>rotocol, <E>xamine, <N>ew, <L>ist, or <H>elp Selection or <CR> to exit: D filename.zip

You will be given a list of transfer protocols from which you must choose one that matches with the terminal software on your own computer. The software should then be opened and directed to receive the file using the same protocol. Programs and instructions for de-archiving compressed files can be found via <S>ystems Utilities from the top menu, under <A>rchivers/de-archivers. Please note that due to differences between the software used to develop the document and the software into which the document may be downloaded, changes in format, page length, etc. may occur.

I. Introduction

This notice describes EPA's proposed action to remove Jefferson County and the Albany and Buffalo areas in New York (a total of nine counties in New York); the twenty-eight opt-in counties in Pennsylvania; and Hancock and Waldo counties in Maine from the list of covered areas defined by § 80.70 of the reformulated gasoline rule per the request of the States of New York, Pennsylvania and Maine. It also

describes the Agency's proposal for general rules concerning criteria and procedures for states to opt out of the reformulated gasoline program. Finally, today's notice also proposes to extend the stay of application of the reformulated gasoline regulations in the designated counties during the pendency of this rulemaking, until the agency takes final action on the proposed opt-out for these areas.

II. Background

The reformulated gasoline (RFG) program is designed to reduce ozone levels in the largest metropolitan areas of the U.S. with the worst ground level ozone problems by reducing vehicle emissions of the ozone precursors, specifically volatile organic compounds (VOC), through fuel reformulation. Reformulated gasoline also achieves a significant reduction in air toxics. In Phase II of the program nitrogen oxides (NO_X), another precursor of ozone, are also reduced. The 1990 Amendments to the Clean Air Act requires reformulated gasoline in the nine cities with the highest levels of ozone. In section 211(k)(6), Congress provided the opportunity for states to choose to opt-in to the RFG program for their other nonattainment areas. Opting in under this provision is relatively straightforward. The only area of discretion for EPA involves establishing an appropriate effective date for the start of the program in the opt-in area. To date, EPA has acted under this provision on a case-by-case basis, given that the lead time needed to supply a new area is often dependent on the specific refineries that would supply the area and the specific distributional infrastructure available between the refineries and the local retail stations. While EPA is not now proposing regulations that would establish the effective date for an opt-in area, EPA is interested in receiving comment on the need and benefit of having such regulatory provisions, as well as the most appropriate provisions.

EPA recognizes that there is considerable interest in allowing attainment areas to participate in the federal reformulated gasoline program. The Ozone Transport Commission, established under section 184 of the Act to assess the degree of interstate transport of ozone throughout the ozone transport region,[1] is reviewing the viability of a region-wide reformulated gasoline program. Other areas which are currently classified attainment for the ozone air quality standard but which have ozone monitoring data close to the federal ozone standard are considering various ozone control measures to mitigate the risk of future ozone violations. One such control measure is the reformulated gasoline program. In light of the expressed interest in allowing attainment areas to participate in the reformulated gasoline program, EPA is soliciting comment on the feasibilty of and need for attainment area opt-in.

EPA questions whether section 211(k) of the Act provides the Agency with the discretion to allow attainment areas to opt-in to this federal program. For example, section 211(k)(6) specifies that EPA shall extend the prohibition of section 211(k)(5) to ozone nonattainment areas upon the request of a governor. In addition, section 211(k)(1) authorizes EPA to establish requirements for reformulated gasoline to be used in specified nonattainment areas. EPA invites comment on its authority under section 211(k). EPA also invites comment on whether the Agency has authority under section 211(c) of the Act to establish a requirement that federally certified RFG be sold in attainment areas that ''opt-in'' under such a program.

EPA issued final rules establishing requirements for reformulated gasoline on December 15, 1993. 59 FR 7716 (February 16, 1994). During the development of the RFG rule a number of States inquired as to whether they would be permitted to opt-out of the RFG program at a future date, or opt-out of certain of the requirements. This was based on their concern that the air quality benefits of RFG, given their specific needs, might not warrant the cost of the program, specifically focusing on the more stringent standards in Phase II of the program (starting in the year 2000). Such States wished to retain their ability to opt-out of the program. Other States indicated they viewed RFG as an interim strategy to help bring their nonattainment areas into attainment sooner than would otherwise be the case.

The regulation issued on December 15, 1993 did not include procedures for opting out of the RFG program because EPA had not proposed and was not ready to adopt such procedures. However, the Agency did indicate that it intended to propose such procedures in a separate rule.

Jefferson County and the other eight New York counties affected by this proposal were included as covered areas in EPA's reformulated gasoline regulations based on Governor Mario Cuomo's request of October 28, 1991, that these areas be included under the Act's opt-in provision for ozone nonattainment areas (57 FR 7926, March 5, 1992). See 40 CFR 80.70(j)(10)(vi). On November 29, 1994, EPA received a petition from the Commissioner of New York's Department of Environmental Conservation, Mr. Langdon Marsh, to remove Jefferson County from the list of areas covered by the requirements of the reformulated gasoline program. EPA understands that Commissioner Marsh is acting for Governor Cuomo in this matter. The Administrator responded to the State's request in a letter to Commissioner Marsh dated December 12, 1994, stating EPA's intention to grant New York's request, and conduct rulemaking to implement this. In the letter of December 12, addressing the opt-out request for Jefferson County, the Administrator also indicated that effective January 1, 1995, and until the rulemaking to remove Jefferson County from the list of covered areas is completed, EPA would not enforce the reformulated gasoline requirements in Jefferson County for reformulated gasoline violations arising after January 1, 1995. This was based on the particular circumstances in Jefferson County.

On December 23, 1994, Commissioner Marsh of New York's Department of Environmental Conservation wrote to further request the opt-out of the Albany and Buffalo areas which include the counties of Albany, Greene, Montgomery, Rennsselaer, Saratoga, Schenectady, Erie and Niagara. EPA Assistant Administrator for Air and Radiation, Mary Nichols, responded to the state's request in a letter to Commissioner Marsh dated December 28, 1994, stating EPA's intention to grant New York's request, and conduct rulemaking to implement this. The December 28 letter also indicated EPA's intent to stay the reformulated gasoline regulations from January 1, 1995, until July 1, 1995, in the specified counties while the Agency completes rulemaking to appropriately change the regulations. The letter stated, however, that the requirements of the reformulated gasoline program would apply in these areas until the stay becomes effective January 1, 1995.

Twenty-eight counties in Pennsylvania were included as covered areas in EPA's reformulated gasoline regulations based on Governor Robert P. Casey's request dated September 25, 1991. See 40 CFR 80.70(j)(11) (i) through (xxviii). The counties referred to are listed as follows: Adams, Allegheny, Armstrong, Beaver, Berks, Blair, Butler, Cambria, Carbon, Columbia,

[1] The ozone transport region is comprised of the following states: Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and the District of Columbia.

Cumberland, Dauphin, Erie, Fayette, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Mercer, Monroe, Somerset, Northhampton, Perry, Washington, Westmoreland, Wyoming and York. On December 1, 1994, EPA received a petition from Governor Casey to remove these twenty-eight counties from the list of covered areas defined by § 80.70 of the reformulated gasoline rule. As with New York's request, the Administrator responded to the State's request in a letter to Governor Casey dated December 12, 1994, stating EPA's intention to grant Pennsylvania's request, and conduct rulemaking to implement this. Effective January 1, 1995, and until formal rulemaking to remove the twenty-eight counties from the list of covered areas is completed, EPA would not enforce the reformulated gasoline requirements in these twenty-eight counties for reformulated gasoline violations arising after January 1, 1995. This was based on the particular circumstances in Pennsylvania. EPA has reserved its authority to enforce the reformulated gasoline program for violations that may have occurred prior to January 1, 1995.

Hancock and Waldo Counties in Maine were included as covered areas in EPA's reformulated gasoline regulation based on Governor John R. McKernan's request of June 26, 1991, that these counties be included under the Act's opt-in provision for ozone nonattainment areas. (56 FR 46119, September 10, 1991) See 40 CFR 80.70(j)(5) (viii) and (ix). On December 27, EPA received a petition from the Acting Commissioner of Maine's Department of Environmental Protection, Ms. Deborah Garrett, to remove Hancock and Waldo Counties in Maine from the list of areas covered by the requirements of the reformulated gasoline program. EPA understands that Commissioner Garrett is acting for Governor McKernan in this matter. EPA Assistant Administrator for Air and Radiation, Mary Nichols, responded to the state's request in a letter to Commissioner Garrett, dated December 28, 1994, stating EPA's intention to grant Maine's request, and conduct rulemaking to implement this. The December 28 letter also stated EPA's intent to stay the reformulated gasoline regulations from January 1, 1995 until July 1, 1995, in the specified counties while the Agency completes rulemaking to appropriately change the regulations. However, EPA has reserved its authority to enforce the reformulated gasoline program for violations that may have occurred prior to January 1, 1995.

III. EPA's Proposal To Grant New York's, Pennsylvania's and Maine's Requests To Remove Selected Opt-In Areas From the Requirements of the Reformulated Gasoline Program and Extension of the Stay of Application of the Reformulated Gasoline Regulations

EPA believes that it is reasonable to construe section 211(k) as authorizing the Agency to establish procedures and requirements for states to opt out of the reformulated gasoline program. This would only apply to areas that have previously opted in under section 211(k)(6); the mandatory covered areas would not be allowed to opt out of the program.

In section 211(k)(6), Congress expressed its clear intention regarding state opt-in to this program. That paragraph establishes that ''upon the application of the Governor of a State, the Administrator shall apply the prohibition set forth in paragraph (5) in any (ozone nonattainment) area in the State * * * The Administrator shall establish an effective date for such prohibition * * *.'' [2] However, with respect to opting out, ''the statute is silent or ambiguous with respect to the specific issue'' and the question is whether EPA's interpretation ''is based on a permissible construction of the statute.'' *Chevron U.S.A. Inc.* v. *Natural Resources Defense Council, Inc.*, 467 U.S. 837, 843 (1984). In addition, ''[i]f Congress has explicitly left a gap for the Agency to fill, there is an express delegation of authority to the Agency to elucidate a specific provision of the statute by regulation.'' *Id.* at 843–44. If the delegation is implicit, the Agency may adopt a reasonable interpretation of the statute. *Id.* at 844.

Section 211(k)(1) provides that EPA is to promulgate ''regulations establishing requirements for reformulated gasoline.'' This provision therefore delegates to EPA the authority to define the requirements for reformulated gasoline. Clean Air Act section 301(a)(1) also delegates to EPA the general authority to promulgate ''such regulations as are necessary'' for EPA to carry out its function under the Act. Given these delegations of legislative rulemaking authority, EPA's interpretation of section 211(k) with respect to opting out should be upheld unless manifestly contrary to the Act. *Chevron*, 467 U.S. at 843–44.

EPA believes that it is appropriate to interpret section 211(k) as authorizing states to opt-out of this program, provided that a process is established for a reasonable transition out of the program.[3] There are really two aspects to this, the first being whether states should be allowed to opt out at all, the second being what conditions, if any, should be placed on opting out. With respect to the former, the ability to opt out is consistent with the Act's recognition that states have the primary responsibility to develop a mix of appropriate control strategies needed to reach attainment with the NAAQS. While various mandatory control strategies were established under the Clean Air Act, the Act still evidences a clear commitment to allowing states the flexibility to determine the appropriate mix of other measures needed to meet their air pollution goals. Section 211(k)'s opt-in provision reflects this deference to state choice, providing that opt-in will occur upon application by the governor. The only discretion EPA retains regarding opt-in is in setting or extending the effective date. Allowing states the ability to opt-out is a logical extension of these considerations of deference to state decision making.

Given such deference, it follows that opting out should be accomplished through application of the governor. It also follows that the conditions on opting out should be geared towards achieving a reasonable transition out of the reformulated gasoline program, as compared to requiring a state to justify its decision. EPA has identified two principal areas of concern in this regard. The first involves coordination of air quality planning. For example, reformulated gasoline in opt-in areas has been relied upon by several states in their State Implementation Plan submissions or in their redesignation requests. The second involves appropriate lead time for industry to transition out of the program.

With respect to air quality planning, EPA believes there is no reason to delay the removal of the 39 affected counties, or portions of counties, in New York, Pennsylvania and Maine. The 39 counties have not had an ozone exceedance over a consecutive three-year period. Certain of these thirty-nine

[2] Paragraph 5 of section 211(k) prohibits the sale of conventional, or non-reformulated gasoline, in covered areas.

[3] The preamble to the December 15, 1993, final regulations failed to provide a clear discussion of EPA's views on this issue. While EPA noted that it ''may pursue a separate action in the future that would allow states to opt out of the RFG program, provided sufficient notice is given,'' the preamble also indicated there were concerns over whether EPA had authority to allow states to opt-out. 59 FR 7808 (February 16, 1994). The context for these statements, however, makes it clear that EPA's concerns were based on issues surrounding questions of opting-in for only Phase I of the reformulated gasoline program. See 59 FR 7809. As noted above, EPA believes that it does have authority to establish requirements that allow states to opt-out of this program.

counties have pending requests with EPA for redesignation to attainment status, and the remaining areas intend to seek such redesignation. The State Implementation Plans for these areas do not include or rely on reformulated gasoline as a control measure. For the moderate areas in Pennsylvania, reformulated gasoline is included in the redesignation plan as a contingency measure in the maintenance plan. Allowing the areas to opt-out now would not interfere with implementing that contingency. The areas could opt into the reformulated gasoline program in the future, if necessary.

EPA's letters of December 12 and 28, 1994, to the States of New York, Pennsylvania and Maine state that reformulated gasoline will no longer be required in the specified areas effective January 1, 1995, pending completion of the rulemaking to remove the affected counties. These letters, combined with the requests from New York, Pennsylvania and Maine to opt-out, have given the industries involved in the supply, distribution and sale of reformulated gasoline to these areas notice of the Agency's intent to remove these areas from the reformulated gasoline program. This has provided time for industry to plan for the transition from reformulated gasoline to conventional gasoline in the affected areas. In a separate notice signed by the EPA Administrator on December 29, 1994, and for the reasons described therein, EPA has stayed the program in these thirty-nine counties, or portions thereof, effective January 1, 1995, until July 1, 1995. Based on this chronology, EPA proposes that these areas be removed from the reformulated gasoline program effective upon the issuance of final action in this rulemaking.

As mentioned above, on December 29, 1994, EPA issued a final rule staying the application of the reformulated gasoline regulations for certain areas that had opted in to the reformulated gasoline program. 60 FR 2696 (January 11, 1995). This stay applied to Jefferson County and the Albany and Buffalo areas of New York, the twenty eight opt-in counties in Pennsylvania, and Hancock and Waldo counties in Maine. It stayed the regulations in these areas effective January 1, 1995 until July 1, 1995. EPA now proposes to extend this stay during the pendency of this rulemaking, until the agency takes final action on the proposed opt-out for these areas. This extension of the stay is based on the reasons described in the December 29, 1994 rule, and the fact that EPA will not be able to complete the opt-out rulemaking for these areas prior to July 1, 1995.

EPA intends to take final action on the proposed extension of the stay before July 1, 1995, to avoid the serious disruption to the gasoline distribution system, the regulated industry and the public that would be caused by a temporary imposition of the reformulated gasoline requirements in these areas. Based on this potential for serious disruption, and the reasons noted by EPA when it issued the stay in December 29, 1994 (60 FR 2698, January 11, 1995), EPA has determined that there is good cause under 5 U.S.C. 553(b) and Clean Air Act section 307(d)(1) to limit the public comment period on the proposed extension of the stay to June 28, 1995, and to not provide an opportunity for a public hearing on this proposed extension. EPA finds that additional notice and public procedure would be impracticable, unnecessary, and contrary to the public interest.

IV. General Procedures for EPA's Processing of Future Opt-Out Requests

EPA is also proposing general rules to cover future opt-out requests by states. EPA's proposal would authorize the Administrator to approve a petition to opt-out all or a portion of an opt-in area. Such a petition would have to be submitted by the governor, or their authorized representative, and would need to include information describing how, if at all, reformulated gasoline has been relied upon by the state in its State Implementation Plans, revisions to such plans, or redesignation requests, both pending or already approved. This would include, for example, attainment as well as maintenance plans.

If a state did rely on reformulated gasoline as a control measure in such plans or requests, then the state would have to describe if and how it intended to replace reformulated gasoline as a control measure. In addition, the state would need to identify whether it intended to submit a revision to its Plan or request for redesignation, the current schedule for submitting any revised submission, and the current status of state action on such revised submission, and if not, the reasons for not submitting a revision. This would include, for example, the status of any legislative or administrative action, including notice and comment on such a revision.

The Administrator would have authority to establish an appropriate effective date for removal of an area from the list of covered areas defined in § 80.70 of the reformulated gasoline rule, subject to certain important limitations. For example, if reformulated gasoline was relied upon as a control measure in an approved plan, then the opt-out would not become effective until 30 days after the Agency had approved an appropriate revision to the state plan. Likewise, if reformulated gasoline was not relied upon in an approved or pending SIP, SIP revision, or redesignation request, then the opt-out would become effective 30 days from receipt of a complete opt-out petition. If reformulated gasoline was relied upon as a control measure in a plan that had been submitted to the Agency but is still pending, and the Agency has found the plan to be complete and/or made a protectiveness finding under 40 CRF 51.448 and 93.128, then the opt-out would become effective 120 days from the date a complete petition is received. When the state has a pending plan that the Agency has determined complete and/or for which the Agency has made a protectiveness finding and the state has decided to withdraw the submission or has indicated to the Agency the state's intention to submit a revision, then the opt-out would become effective 30 days from receipt of a complete petition from the state, as described above and specified in the proposed regulatory language.

Under this proposal, the regulated community would typically have thirty days lead time to transition out of the program for that area, from the point a complete opt-out petition had been received by EPA. Where a state's approved SIP includes reformulated gasoline as a control measure, there would typically be a longer period of notice, as the opt-out would not be effective until 30 days from the effective date for EPA approval of a revised SIP which removes reformulated gasoline as a control measure. EPA's experience to date with the current opt-out requests indicates that the regulated community can, in most cases, act relatively quickly to reroute supplies and change plans. It also is clear that a short transition period will avoid problems of market uncertainty and market disruptions. Some representatives of industry have communicated to EPA their concern for sufficient lead time for affected industries to make adjustments to their infrastructure and the need for a period of public comment on each reformulated gasoline program covered area opt-out request. Some have suggested that opt-out not be effective until 90 days after a governor's request is received by EPA, while others have suggested that the opt-out timeframe be dealt with on a case-by-case basis. EPA will consider this suggestion and specifically requests comments on these issues and other suggestions.

The proposal is structured so that the effective date for opting out is based on coordination with the state's air quality planning. Where no state SIP or redesignation request relies on reformulated gasoline, no further coordination is needed. Where a submission pending before the Agency contains reformulated gasoline as a control measure, and the Agency has not taken final action on the submission, it would be appropriate to allow opt-out to occur quickly where the state either withdraws the pending SIP submission or indicates its intention to make a substitute for RFG at some future date. This would provide flexibility for the states and allow for orderly state planning, as the state's planning would be consistent with the use of RFG in the area. On the other hand, where the Agency has taken final action approving a SIP, it is appropriate for the Agency to maintain the status quo until the state submits and EPA approves a revision removing RFG as a control measure in the approved SIP. This recognizes the requirement that states implement an approved plan until such time EPA approves its revision. Finally, where a plan submission is pending before EPA, and EPA has made a protectiveness finding for purposes of conformity and/or the submission has been found or deemed complete, then opt-out should be delayed for 120 days to provide the Agency an adequate opportunity to review the current completeness determination and/or protectiveness finding on the SIP submission without the use of RFG as a control measure and to communicate to the state any potential change in SIP status.

EPA believes that it is important that a state choosing to opt-out of the reformulated gasoline program should plan to make any appropriate revisions to its SIP, if necessary, to replace the reformulated gasoline program as a control measure. Careful planning is needed by the state as EPA analysis indicates that reductions from other sources are often much less practicable. Reformulated gasoline is one of the most cost-effective measures for ozone control available and also yields significant air toxic benefits.

EPA specifically reserves its authority to monitor compliance with the reformulated gasoline program and to take appropriate action to address violations that may occur prior to the effective date for any opt-out.

V. Environmental Impact

If an area opts out of the reformulated gasoline program, it will not receive the reductions in volatile organic compounds, oxides of nitrogen (NO_X), and air toxics that are expected from this program. Instead, the areas would be subject to the federal controls on Reid vapor pressure for gasoline in the summertime, and would receive control of NO_X and air toxics through the requirements of the conventional gasoline anti-dumping program. These latter requirements are designed to ensure that gasoline quality does not degrade from the levels found in 1990. The specific areas covered by this rule have data showing compliance with the National Ambient Air Quality Standard (NAAQS) for ozone for three or more consecutive years. With regard to the general rule for opt-out, EPA is proposing that before opt-out is allowed, States requesting opt-out must provide information on substitutes for the reformulated gasoline program or in some cases have substitutes approved, depending on the status of EPA's processing of the SIP. EPA expects that this and the SIP process will ensure that our air quality is maintained. However, these areas would be foregoing the additional air quality benefits obtained from the use of reformulated gasoline.

VI. Economic Impact

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Administrator certifies that this rule will not have a significant impact on a substantial number of small entities. This proposed rule is not expected to result in any additional compliance cost to regulated parties and in fact is expected to decrease compliance costs and decrease costs to consumers in the affected areas.

VII. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993) the Agency must determine whether a regulation is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review.

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, EPA must obtain Office of Management and Budget (OMB) clearance for any activity that will involve collecting substantially the same information from 10 or more non-Federal respondents. While this proposed rule does require information from a state requesting opt-out, EPA does not believe it will receive more than nine opt-out requests per year. If EPA determines that 10 or more states will be affected in any year, EPA will prepare an Information Collection Request and make it available for public review and comment.

Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the action promulgated today does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. Therefore, the requirements of the Unfunded Mandates Act do not apply to this action.

VIII. Statutory Authority

The statutory authority for the action in this rule is granted to EPA by sections 211 (c) and (k) and section 301(a) of the Clean Air Act as amended, 42 U.S.C. 7545 (c) and (k) and 7601(a).

List of Subjects in 40 CFR Part 80

Environmental protection, Air pollution control, Fuel additives, Gasoline, Motor vehicle pollution.

Dated: June 2, 1995.

Carol M. Browner,

Administrator.

40 CFR part 80 is proposed to be amended as follows:

PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

1. The authority citation for part 80 continues to read as follows:

Authority: Sections 114, 211 and 301(a) of the Clean Air Act as amended (42 U.S.C. 7414, 7545, and 7601(a)).

2. Section 80.2 is amended by adding paragraph (vv) to read as follows:

§ 80.2 Definitions.

* * * * *

(vv) *Opt-in area.* An area which becomes a covered area under § 80.70 pursuant to section 211(k)(6) of the Clean Air Act.

3. Section 80.70 is amended by revising the first sentence of paragraph (j) introductory text to read as follows:

§ 80.70 Covered areas.

* * * * *

(j) The ozone nonattainment areas listed in this paragraph (j) of this section are covered areas beginning on January 1, 1995, except that those areas listed in paragraphs (j)(5)(viii) and (ix), (j)(10)(i), (iii) and (v) through (xi) and (j)(11) of this section shall not be covered areas until EPA takes final action on the proposal to remove these areas as covered areas. * * *

* * * * *

§ 80.70 [Amended]

4. Section 80.70 is amended by removing paragraphs (j)(5)(viii) and (ix).

5. Section 80.70 is amended by removing paragraphs (j)(10)(i), (iii) and (v) through (xi), and redesignating paragraphs (j)(10)(ii) and (iv) as (j)(10)(i) and (ii).

6. Section 80.70 is amended by removing paragraph (j)(11) and redesignating paragraphs (j)(12) through (15) as (11) through (14).

7. Section 80.70 is amended by adding paragraph (l) to read as follows:

§ 80.70 Covered areas.

* * * * *

(l) Upon the effective date for removal under § 80.72(a), the geographic area covered by such approval shall no longer be considered a covered area for purposes of subparts D, E and F of this part.

8. Section 80.72 is added to read as follows:

§ 80.72 Procedures for opting out of the covered areas.

(a) In accordance with paragraph (b) of this section, the Administrator may approve a petition from a state asking for removal of any opt-in area, or portion of an opt-in area, from inclusion as a covered area under § 80.70. In approving any such petition, the Administrator shall establish an appropriate effective date for such removal, pursuant to paragraph (c) of this section.

(b) To be approved under paragraph (a) of this section, a petition must be signed by the governor of a state, or his or her authorized representative, and must include the following:

(1) A geographic description of each opt-in area, or portion of each opt-in area, which is covered by the petition;

(2) A description of all ways in which reformulated gasoline is relied upon as a control measure in any approved state or local implementation plan or plan revision, or in any submission to the Agency containing any proposed plan or plan revision (and any associated request for redesignation) that is pending before the Agency when the petition is submitted; and

(3) For any opt-in areas covered by the petition for which reformulated gasoline is relied upon as a control measure as described under paragraph (b)(2) of this section, the petition shall include the following information:

(i) Identify whether the state is withdrawing any such pending plan submission;

(ii)(A) Identify whether the state intends to submit a revision to any such approved plan provision or pending plan submission that does not rely on reformulated gasoline as a control measure, and describe the alternative air quality measures, if any, that the state plans to use to replace reformulated gasoline as a control measure;

(B) A description of the current status of any proposed revision to any such approved plan provision or pending plan submission, as well as a projected schedule for submission of such proposed revision;

(C) If the state is not withdrawing any such pending plan submission and does not intend to submit a revision to any such approved plan provision or pending plan submission, describe why no revision is necessary;

(D) If reformulated gasoline is relied upon in any pending plan submission, other than as a contingency measure consisting of a future opt-in, and the Agency has found such pending plan submission complete or made a protectiveness finding under 40 CFR 51.448 and 93.128, demonstrate whether the removal of the reformulated gasoline program will affect the completeness and/or protectiveness determinations;

(4) Upon request by the Adminstrator, the Governor of a State, or his or her authorized representative, shall submit additional information upon request of the Administrator

(c) (1) Except as provided in paragraph (c)(2) and (3) of this section, the Administrator shall set an effective date for removal of an area under paragraph (a) of this section of 30 days from receipt of a complete petition by EPA.

(2) If reformulated gasoline is contained as an element of any plan or plan revision that has been approved by the Agency, other than as a contingency measure consisting of a future opt-in, then the effective date under paragraph (a) of this section shall be 30 days from the effective date for Agency approval of a revision to the plan that removes reformulated gasoline as a control measure.

(3) Unless the state has withdrawn the submission or indicated its intention to submit a revision, if reformulated gasoline is contained as an element in any plan or plan revision that has been submitted to and is pending approval by the Agency, other than as a contingency measure consisting of a future opt-in, and where such pending plan or plan revision has been found or deemed to be complete and/or the Agency has made a protectiveness finding under 40 CFR 51.448 and 93.128 concerning such submission, then the effective date under paragraph (a) of this section shall be 120 days from the date a complete petition is received by the Agency.

(d) The Administrator shall publish a notice in the **Federal Register** of any petition approved under paragraph (a) of this section, announcing the effective date for removal.

[FR Doc. 95–14573 Filed 6–13–95; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 69

[CC Docket No. 95–72; FCC95–212]

End User Common Line Charges

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This Notice of Proposed Rulemaking seeks comment on the application of End User Common Line Charges, hereinafter referred to as

Subscriber Line Charges (SLCs), to local loops used with Integrated Services Digital Network (ISDN) and other services that permit the provision of multiple voice-grade-equivalent channels to a customer over a single facility. This proceeding was instituted to give the Commission an opportunity to reexamine existing rules and make changes in light of new technologies and services.

DATES: Comments are to be filed on or before June 29, 1995, and replies are to be filed on or before July 14, 1995.

FOR FURTHER INFORMATION CONTACT: Claudia Pabo, (202) 418–1595, Common Carrier Bureau, Policy and Program Planning Division.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rulemaking in CC Docket No. 95–72, adopted May 24, 1995 and released May 30, 1995.

The complete text of this Notice of Proposed Rulemaking is available for inspection and copying during normal business hours in the FCC Reference Center, Room 239, 1919 M St. NW., Washington, D.C. 20554, and may be purchased from the Commission's copy contractor, International Transcription Service, Inc., at (202) 857–3800, 1919 M Street NW., room 246, Washington, D.C. 20554.

Synopsis of Notice of Proposed Rulemaking

I. Introduction

1. In this Notice of Proposed Rulemaking, we seek comment on the application of End User Common Line Charges, hereinafter referred to as Subscriber Line Charges (SLCs), to local loops used with Integrated Services Digital Network (ISDN) and other services that permit the provision of multiple voice-grade-equivalent channels to a customer over a single facility. We believe that the question of SLCs for ISDN and similar services must be considered in the broader context of competitive developments in the interstate access market, and the resulting pressure to reduce unnecessary support flows in order to ensure fair competition and preserve universal service.

II. Background

A. ISDN and Other Derived Channel Technology and Services

2. ISDN permits digital transmission over ordinary local loops and T–1 facilities through the use of advanced central office equipment and customer premises equipment (CPE). Currently, LECs offer two basic types of ISDN service. Basic Rate Interface (BRI) Service allows a subscriber to obtain two voice-grade-equivalent channels and a signalling/data channel over an ordinary local loop, which is generally provided over a single twisted pair of copper wires. Primary Rate Interface (PRI) Service allows subscribers to obtain 23 voice-grade-equivalent channels and one signalling/data channel over a single T–1 facility with two pairs of twisted copper wires.

3. There are services in addition to ISDN that use derived channel technology to provide multiple channels over a single facility. The LECs also use derived channel technologies within their networks to provide customers with individual local loops, as opposed to BRI or PRI ISDN. In such situations, the end user would not be aware that the LEC was using this technology to provide their local loop.

B. Subscriber Line Charges

4. In the 1983 Access Charge Order, 48 FR 10319, March 11, 1983, the Commission adopted rules prescribing a comprehensive system of tariffed access charges for the recovery of LEC costs associated with the origination and termination of interstate calls. The access charge rules called for recovery of a major portion of the local loop costs assigned to the interstate jurisdiction through SLCs. The remainder of local loop costs are recovered from interexchange carriers (IXCs) through the per minute CCL charge. The CCL charges paid by the IXCs are reflected in the charges paid by interstate toll users.

5. Multiline business SLCs are currently capped at $6.00 per line per month. Residential and single line business SLCs are capped at $3.50 per line per month. The basic interstate toll rate decreased approximately 34% between 1984 and the end of 1992, much of this due to the shift in the recovery of common line costs from CCL rates to SLCs and the resulting stimulation in demand.

C. Recent Decisions on SLCs for ISDN

6. The Commission first addressed the application of SLCs to ISDN and other technologies that permit the provision of multiple voice grade channels over a two- or four-wire facility in 1992 when the Common Carrier Bureau adopted an order concluding the local exchange carriers must apply a SLC to each derived channel even when the channels were provided over a single facility. The Commission subsequently affirmed the Bureau's order. At the same time, the Commission recognized that this question involved policy issues best considered in the context of a rulemaking proceeding.

D. Competition

7. The interstate access market has changed since the Commission adopted the access charge rules at issue here. Alternative service providers such as Teleport, which is owned by a group of large cable companies, and MFS have deployed fiber optic networks in core business areas of many large cities, providing interstate access services, and, in some areas, local exchange service as well. Cable television companies, in addition to those with an ownership interest in Teleport, have also entered the local telephone and/or interstate access market in certain areas, and have expressed an intention to enter the telephone market on a broader basis. Interexchange carriers, such as MCI and AT&T, have also entered the market or announced an intention to do so. In addition, the Commission has required expanded interconnection for the provision of special access service and switched transport. New York State has also required LECs to unbundle their local loops in order to permit the competitive provision of local exchange service, and a number of other states are considering similar measures.

8. The developments tend to bring pressure to bear on support flows in the current access charge structure. LEC rates that significantly exceed cost will tend to attract new entrants who may be able to offer service at lower rates. As a result, it may be necessary to reduce support flows that are not specifically tailored to produce social benefits.

III. Discussion

A. Overview

9. In this proceeding, we seek comment on the proper application of SLCs to BRI and PRI ISDN service provided to residential and business customers as well as to other services that permit the provision of multiple derived channels over a single facility.

B. Analytical Framework

10. We believe that several basic principles should guide our resolution of these issues. While these considerations are sometimes in potential conflict with one another, we believe that they all must be considered to assure a sound, principled resolution of the issues before us in this proceeding.

11. This rulemaking proceeding gives the Commission an opportunity to reexamine existing rules, and make changes in light of new technologies and services. We must be careful to

avoid erecting regulatory barriers to the development of beneficial new technologies. This is particularly important when these services and technologies can facilitate access to the benefits of the National Information Infrastructure. At the same time, we should not amend our rules to favor new technologies and services simply because they are new. Any difference in the regulatory treatment of new technologies and services must have a sound basis in public policy.

12. We also believe that it is desirable to avoid measures that could reduce the level of nontraffic sensitive (NTS) local loop costs now recovered through flat charges. Any reduction in SLC revenues will tend to increase interstate toll rates because lower SLC revenues will cause LECs to seek to recover additional revenues through the per minute CCL charge. We also believe that policies that would appear to reduce dramatically SLC charges to large business customers, but not to residential customers, must be carefully examined.

13. Resolution of the issues in this proceeding should also take into account competitive developments in the interstate access market, and the accompanying need to identify and reduce unnecessary support flows. In light of competitive developments in the interstate access market, rule changes that could result in lower SLC revenues and higher CCL rates, thus potentially increasing support flows, must be carefully examined. Increasingly, IXCs and large business customers have alternatives to use of LEC facilities and can avoid support flows inherent in the current access charge rate structure, including the CCL charge. In the long run, inefficient bypass of the LEC networks by high volume toll customers could threaten to undermine the support flows that foster universal service.

C. Options

1. Overview

14. There are potentially many ways that the number of SLCs for ISDN and similar derived channel services could be computed. At one extreme, we might require customers to pay one SLC for each physical facility serving a given customer, such as a standard local loop or T–1 facility. At the other extreme, we could maintain the current rule under which an SLC is applied to each derived communications channel.

15. There are also intermediate options. For example, the number of SLCs to be applied to ISDN facilities could be based on a ratio of the average LEC cost of providing a derived channel service, such as a BRI or PRI ISDN connection, to the average cost of providing an ordinary local loop or T–1 connection, including the line or trunk card costs in both cases. Under this option, a PRI customer would, for example, pay six SLCs if the average LEC cost of providing an ISDN T–1 connection, including line cards, is six times the average cost of providing an ordinary T–1 facility. It would also be possible to apply one SLC for every two derived channels, an option that would reduce by 50 percent the SLC revenues that would be generated under the current requirement that one SLC be assessed for each derived channel.

16. Another set of options would focus on the increasingly competitive interstate access market in determining how to compute the SLC to be paid by customers of derived channel services. One possibility is to combine a reduction in the currently required level of SLC charges for derived channel services with a small increase in the per-channel SLC for all local loops. Another option involves giving the LECs some flexibility in setting SLC rates for derived channel services, but modifying the price cap rules so that any reduction in SLC flat rate recovery does not increase the CCL rate.

2. The Per-Facility Approach

17. Under this approach, customers pay a single SLC per derived channel service connection. Thus, under this option, both BRI and PRI ISDN customers would pay a single SLC. Under a variation on this option, an ISDN BRI customer with one copper pair would pay a single SLC, and a PRI customer with two copper pairs would pay two SLCs.

3. Intermediate Options

18. An option that may represent a potential middle ground between the per facility and the per derived channel approaches would be to charge SLCs based on a ratio of the average LEC cost of providing a derived channel service, including line or trunk cards, to the average LEC cost of providing an ordinary local loop or T–1 facility. Under this approach, a PRI customer, for example, would pay six SLCs if the LEC cost of providing an ISDN T–1 connection, including line or trunk cards, is six times the cost of providing an ordinary T–1 facility. This approach also includes the cost of the line cards in developing the cost relationship between ISDN connections and non-ISDN connections even though line cards are treated as switching, not local loop facilities for jurisdictional separations and Part 69 cost allocation purposes.

19. Reducing SLCs for derived channel connections to 50 percent of the level required by the current rules is another intermediate option between the per-facility and per-derived channel approaches. Under this approach, the LECs would charge one SLC for every two derived channels.

4. The Per-Derived Channel Approach

20. The existing rules require that the LECs charge a SLC for each derived channel in the case of ISDN and other similar services.

5. Additional Options

21. There are also several other options that combine reductions in the number of SLCs that our current rules impose on derived channel services with measures to ensure that this does not increase per minute CCL charges, putting upward pressure on interstate toll rates. One such option would be to permit the LECs to impose a reduced number of SLCs for derived channel services, accompanied by a small increase in SLC rates. For example, the current caps on SLCs could be increased by $.25 per month for all subscribers. A second approach would be to permit, but not require, the LECs to apply fewer SLCs for derived channel services than the current rules require, but to adjust the price cap rule to prevent a reduction in SLC revenues from causing an increase in CCL rates.

6. Request for Comments

22. We ask interested parties to comment on the analytical framework and options for defining the SLCs that subscribers to ISDN and other derived channel services must pay. We also seek comment on our analysis of the various options described in this Notice. Commenting parties are urged to suggest additional or different policy goals as part of the analytical framework for evaluating options as well as to present additional options for the Commission's consideration. We also seek comment on whether any new rules for the application of SLCs for ISDN and similar derived channel services should apply to all local loops provisioned by the telephone company through the use of derived channel technology, regardless of whether the use of derived channel technology in the provisioning of the loop is apparent to the subscriber or not.

23. In addition, we note that it would be helpful if interested parties provide us with specific information concerning the perceived elasticity of demand for ISDN services, the various ISDN service

options available in the marketplace, the total intrastate charges for each of these service options, as well as the advantages and disadvantages of alternative service and equipment configurations that offer communications capabilities comparable to those of ISDN. Moreover, certain of the options for applying SLCs under our part 69 access charge rules described above would use a definition of the term ''line'' that differs from the current separations definition in Part 36.[1] We seek comment on whether we should initiate the process of considering conforming separations changes through a referral to a Joint Board in the event that we adopt such an approach. In light of competitive developments in the interstate access market, interested parties may also wish to take this opportunity to comment more generally on the need for additional changes to the way carriers can recover the interstate assignment of local loop costs and local switching or other costs that the parties view as NTS.

IV. Ex Parte Presentations

24. This proceeding is a non-restricted notice and comment rulemaking. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided that they are disclosed as provided in the Commission's rules.

V. Regulatory Flexibility Analysis

25. We certify that the Regulatory Flexibility Act is not applicable to the rule changes we are proposing in this proceeding. The Secretary shall send a copy of the Notice to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 603(a) of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*

VI. Comment Filing Dates

26. Interested parties may file comments with the Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554 on or before June 29, 1995, and reply comments on or before July 14, 1995. Parties are to provide a copy of any filings in this proceeding to Peggy Reitzel of the Policy and Program Planning Division, Common Carrier Bureau, Room 544, 1919 M Street, N.W., Washington, D.C. 20554. Parties are also to file one copy of any documents in this docket with the Commission's copy contractor, International Transcription Services, Inc., 2100 M Street, N.W., Suite 140, Washington, D.C. 20037.

[1] See para. 11 *supra.*

VII. Ordering Clauses

27. Accordingly, *it is ordered* That, pursuant to the authority contained in Sections 1, 4, and 201–205 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154, & 201–205, a *Notice of Proposed Rulemaking is Hereby Adopted.*

List of Subjects in 47 CFR Part 69

Communications common carriers, Reporting and record keeping requirements, Telephone.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–14509 Filed 6–13–95; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 95–78, RM–8619]

Radio Broadcasting Services; Stonewall, MS

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Mary C. Glass proposing the allotment of Channel 295A to Stonewall, Mississippi, as the community's first local aural transmission service. Channel 295A can be allotted to Stonewall in compliance with the Commission's minimum distance separation requirements with a site restriction of 14.l kilometers (8.7 miles) northeast in order to avoid a short-spacing conflict with the licensed site of Station WSTZ(FM), Channel 294C, Vicksburg, Mississippi. The coordinates for Channel 295A at Stonewall are 32–11–37 and 88–39–48.

DATES: Comments must be filed on or before July 31, 1995, and reply comments on or before August 15, 1995.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Mary C. Glass, P.O. Box 848, Stonewall, Mississippi 39363 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making,* MM Docket No. 95–78, adopted June 2, 1995, and released June 9, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 95–14514 Filed 6–13–95; 8:45 am]

BILLING CODE 6712–01–F

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47 CFR Part 73

[MM Docket No. 95–79, RM–8620]

Radio Broadcasting Services; De Kalb, MS

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Choctaw Broadcasting, proposing the allotment of Channel 289C2 to De Kalb, Mississippi, as the community's first local FM service. Channel 289C2 can be allotted to De Kalb in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for Channel 289C2 at De Kalb are 32–46–03 and 88–39–03.

DATES: Comments must be filed on or before July 31, 1995, and reply comments on or before August 15, 1995.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Thomas L. Goldman, Choctaw Broadcasting, P.O. Box 3160,

Meridian, Mississippi 39302 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making,* MM Docket No. 95–79, adopted June 1, 1995, and released June 9, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 95–14515 Filed 6–13–95; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 95–76, RM–8611]

Radio Broadcasting Services; Homestead and North Miami Beach, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by New Age Broadcasting, Inc., licensee of Station WXDJ(FM), Channel 239C1, Homestead, Florida, proposing to downgrade Station WXDJ(FM) from Channel 239C1 to Channel 239C2, and the reallotment of Channel 239C2 from Homestead to North Miami Beach, Florida, and the modification of its license to specify North Miami Beach as its community of license, in accordance with Section 1.420(i) of the Commission's rules. Channel 239C2 can be allotted to North Miami Beach in compliance with the Commission's minimum distance separation requirements with a site restriction of 23.8 kilometers (14.8 miles) south of the community. The coordinates for Channel 239C2 at North Miami Beach are North Latitude 25–42–55 and West Longitude 80–09–17.

DATES: Comments must be filed on or before July 31, 1995, and reply comments on or before August 15, 1995.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Carl R. Ramey, Todd M. Stansbury, Wiley, Rein & Fielding, 1776 K Street, NW., Washington, DC 20006 (Attorneys for Petitioner).

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making,* MM Docket No. 95–76, adopted May 30, 1995, and released June 9, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1919 M Street, NW., Room 246, or 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 95–14521 Filed 6–13–95; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 95–77, RM–8616]

TV Broadcasting Services; Virginia Beach, VA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Lockwood Broadcasting, Inc., proposing the allotment of Channel 21 to Virginia Beach, Virginia. Channel 21 can be allotted to Virginia Beach consistent with the minimum distance separation requirements of Sections 73.610 and 73.698 of the Commission's Rules with a site restriction of 4.0 kilometers (2.5 miles) south to avoid the freeze zone surrounding Washington, DC. The coordinates for UHF Channel 21 at Virginia Beach are 36–48–38 and 75–58–30.

DATES: Comments must be filed on or before July 31, 1995, and reply comments on or before August 15, 1995.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Mark J. Prak, Esq., Brooks, Pierce, McLendon, Humphrey & Leonard, P.O. Box 1800, Raleigh, North Carolina 27602 (Counsel for petitioner).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making,* MM Docket No. 95–77, adopted June 2, 1995, and released June 9, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed

Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 95–14520 Filed 6–13–95; 8:45 am]

BILLING CODE 6712–01–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 652

[I.D. 060195F]

Mid-Atlantic Fishery Management Council; Public Hearings

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

ACTION: Public hearings.

SUMMARY: The Mid-Atlantic Fishery Management Council (Council) will hold public hearings to allow for input on Amendment 7 to the Fishery Management Plan for the Summer Flounder Fishery (FMP).

DATES: Written comments will be accepted until June 22, 1995. All hearings will begin at 7 p.m. except the New York hearing, which begins at 7:30 p.m., as follows:

1. June 19, 1995, in Virginia Beach, VA.
2. June 21, 1995, in Ronkonkoma, NY.
3. June 21, 1995, in Toms River, NJ.

ADDRESSES: Send comments to David R. Keifer, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115 Federal Building, 300 South New Street, Dover, DE 19904–6790.

The hearings will be held at the following locations:

1. Virginia Beach—Days Inn, 5807 Northampton Boulevard, Virginia Beach, VA.
2. Ronkonkoma—Holiday Inn, 3845 Veterans Memorial Highway, Ronkonkoma, NY.
3. Toms River—Holiday Inn, 290 Highway 37 East, Toms River, NJ.

FOR FURTHER INFORMATION CONTACT: David R. Keifer, (302) 674–2331; fax (302) 674–5399).

SUPPLEMENTARY INFORMATION: The FMP currently contains a fishing mortality rate reduction strategy that requires a reduction to a fishing mortality rate of 0.23 beginning in 1996. The purpose of Amendment 7 is to revise that schedule to require a fishing mortality rate of 0.41 in 1996, 0.30 in 1997, and 0.23 in 1998 and thereafter. In addition, the total coastwide quota (commercial and recreational) in 1996 and 1997 may not exceed 18.51 million pounds (8.40 m. kg) unless such a higher quota would result in a fishing mortality rate of 0.23 or less.

All hearings will be tape recorded and the tapes will be filed as the official transcript of the hearings.

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Joanna Davis at 302–674–2331 at least 5 days prior to the hearing dates.

Dated: June 8, 1995.

Richard W. Surdi,

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

[FR Doc. 95–14475 Filed 6–13–95; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register

Vol. 60, No. 114

Wednesday, June 14, 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

Forest Service

Yakima Provincial Interagency Executive Committee (PIEC), Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Yakima PIEC Advisory Committee will meet on June 28, 1995 at the Yakima Public Schools Administration Office located at 104 N. Fourth Avenue, Yakima, Washington. The meeting will begin at 9 a.m. and continue until 4 p.m. This meeting will focus on areas of the President's Forest Plan implementation which agencies are finding most challenging to implement. Agenda items to be covered include: (1) Any problems we are having in implementing the Plan, (2) update on Snoqualmie Pass Management Area planning, (3) update on legislation that may influence implementation of the Plan. All Yakima Province Advisory Committee meetings are open to the public. Interested citizens are welcome to attend.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Paul Hart, Designated Federal Official, USDA, Wenatchee National Forest, P.O. Box 811, Wenatchee, Washington 98807, 509–662–4335.

Dated: June 7, 1995.

Sonny J. O'Neal,

Forest Supervisor, Wenatchee National Forest.

[FR Doc. 95–11485 Filed 6–13–95; 8:45 am]

BILLING CODE 3410–11–M

Eastern Washington Cascades Provincial Interagency Executive Committee (PIEC), Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Eastern Washington Cascades PIEC Advisory Committee will meet on June 29, 1995 in Campbell's Conference Center (Ballroom #3), 104 W. Wooden, Chelan, Washington. The meeting will begin at 9 a.m. and continue until 4 p.m. This session will focus on areas of the President's Forest Plan implementation which agencies are finding most challenging to implement. Agenda items to be covered include: (1) Clarify the role of the Committee, (2) President's Forest Plan implementation strategy, (3) identify challenges the agencies see in implementing the President's Forest Plan. All Eastern Washington Cascades Province Advisory Committee meetings are open to the public. Interested citizens are welcome to attend.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Paul Hart, Designated Federal Official, USDA, Wenatchee National Forest, P.O. Box 811, Wenatchee, Washington 98807, 509–662–4335.

Dated: June 7, 1995.

Sonny J. O'Neal,

Forest Supervisor, Wenatchee National Forest.

[FR Doc. 95–14486 Filed 6–13–95; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Agency Forms Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: International Trade Administration.

Title: U.S–Japan Semiconductor Arrangement Data Collection Program.

Agency Form Number: ITA–4115P.

OMB Approval Number: 0625–0211.

Type of Request: Extension of the expiration date of a currently approved collection.

Burden: 1,476 hours.

Number of Respondents: 41 respondents submitting 492 responses.

Avg Hours Per Response: 1 hour for reporting requirements and 24 hours for recordkeeping requirements.

Needs and Uses: Under the terms of the U.S.–Japan Semiconductor Arrangement, the Department of Commerce is required to gather information on U.S. semiconductor sales in Japan. The information provided by the respondents will allow for calculation of market share in the Japanese semiconductor market.

Affected Public: Businesses or other for–profit organizations.

Frequency: Monthly and recordkeeping.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Don Arbuckle, (202) 395–7340.

Agency: National Oceanic and Atmospheric Administration.

Title: Coast Pilot Report.

Agency Form Number: NOAA 77–6.

OMB Approval Number: 0648–0007.

Type of Request: Extension of the expiration date of a currently approved collection.

Burden: 50 hours.

Number of Respondents: 100.

Avg Hours Per Response: 30 minutes.

Needs and Uses: The National Ocean Service Coast Pilot is a series of nine books that supplement the marine nautical charts. The Coast Pilot contains essential marine information important to navigators of U.S. coastal and intracoastal waters, but which cannot be graphically displayed on charts. Without this form, it would be difficult for the public to voluntarily provide information to assist in keeping the publications current.

Affected Public: Individuals.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Don Arbuckle, (202) 395–7340.

Copies of the above information collection proposals can be obtained by calling or writing Gerald Tache, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, Room 5327, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collections should be sent to Don Arbuckle, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, D.C. 20503.

Dated: June 5, 1995.

Gerald Tache,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 95–14484 Filed 6–13–95; 8:45 am]

BILLING CODE 3510–CW–F

International Trade Administration

[A–570–840]

Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Manganese Metal From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: June 14, 1995.

FOR FURTHER INFORMATION CONTACT: David Boyland or Sue Strumbel, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–4198 or (202) 482–1442.

Preliminary Determination

We preliminarily determine that manganese metal from the People's Republic of China (PRC) is being, or is likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930 (''the Act''), as amended. The estimated margins are shown in the ''Suspension of Liquidation'' section of this notice.

Case History

Since the initiation of this investigation on November 28, 1994 (59 FR 61869, December 2, 1994), the following events have occurred: On December 23, 1994, the United States International Trade Commission (ITC) issued an affirmative preliminary injury determination (see ITC Investigation No. 731–TA–724). On December 30, 1994, we sent a letter to the Ministry of Foreign Trade and Economic Cooperation (MOFTEC) and to the China Chamber of Commerce for Metals, Minerals, and Chemical Products (CCCMMCP) requesting names and addresses of PRC producers and exporters of manganese metal sold in the United States. On February 13, 1995, we received a list of producers and exporters of manganese metal from the Beijing Foreign Economic Relations and Trade Commission. This list indicated the number of exporters of manganese metal during the period of investigation.

On February 15, 1995, we postponed the preliminary determination until June 6, 1995 (60 FR 10065, February 23, 1995). On February 6 and 23, 1995, responses to the Department's questionnaire were received from the following exporters of manganese metal: China Hunan International Economic Development Corporation (HIED), China Metallurgical Import and Export Hunan Corporation (CMIECHN), China National Electronic Import and Export Hunan Company (CEIEC), Great Wall Industry Import and Export Corporation (GWIIEC), Hunan Golden Globe Import and Export Company (HGG), and Minmetal Precious and Rare Minerals Import and Export Company (Minmetals). On April 14, 1995, we sent supplemental questionnaires to the respondents, as well as questionnaires regarding sales to intermediate countries. Responses to the intermediate and supplemental questionnaires were received on April 24 and May 10, 1995, respectively. Based on the April 24, 1995 responses to the Department's intermediate country questionnaires, the Department sent out questionnaires on May 15, 1995, to those companies in third countries that purchased subject merchandise from respondent companies during the POI. To date the Department has received three responses from these third-country purchasers.

Postponement of Final Determination

Pursuant to section 735(a)(2)(A) of the Act, on June 2, 1995, the PRC respondents in this investigation requested that, in the event of an affirmative preliminary determination in these proceedings, the Department postpone the final determination in these proceedings to 135 days after the date of publication of the affirmative determination in the **Federal Register**. Given that there is no compelling reason not to do so, we are postponing the final determination.

Scope of the Investigation

The subject merchandise in this investigation is manganese metal, which is composed principally of manganese, by weight, but also contains some impurities such as carbon, sulfur, phosphorous, iron and silicon. Manganese metal contains by weight not less than 95 percent manganese. All compositions, forms and sizes of manganese metal are included within the scope of this investigation, including metal flake, powder, compressed powder, and fines. The subject merchandise is currently classifiable under subheadings 8111.00.45.00 and 8111.00.60.00 of the Harmonized Tariff schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Period of Investigation

The period of investigation (POI) is June 1 through November 30, 1994.

Nonmarket Economy Country Status

The Department has treated the PRC as a nonmarket economy country (NME) in all past antidumping investigations (see Notice of Final Determination of Sales at Less than Fair Value: Saccharin from the PRC (59 FR 58818, November 15, 1994)). No information has been provided in this proceeding that would lead us to overturn our former determinations. Therefore, in accordance with section 771(18)(C) of the Act, we have treated the PRC as an NME for purposes of this investigation.

Where the Department is investigating imports from an NME, section 773(c)(1) of the Act directs us when possible to base foreign market value (FMV) on the NME producers' factors of production, valued in a market economy that is at a level of economic development comparable to that of the NME under investigation and that is a significant producer of comparable merchandise. We have done so in this preliminary determination. The sources of individual factor prices are discussed in the FMV section below.

Intermediate Country Resellers

Based on the responses to the Department's May 5, 1995 questionnaires to third-country purchasers of subject merchandise from the PRC, none of the subject merchandise that such parties purchased from the PRC during the POI was subsequently sold to the United States.

Separate Rates

All six respondent companies have requested separate antidumping duty rates. For the reasons indicated in the June 6, 1995, concurrence memorandum to the Deputy Assistant Secretary, the Department does not consider HGG to be the seller of subject merchandise for the sales activity reported by that company. Accordingly, HGG's request for a separate rate is not considered below. Its exports will be subject to the PRC-wide margin.

In cases involving nonmarket economies, the Department's policy is to assign a separate rate only when an exporter can demonstrate the absence of both *de jure* and *de facto* governmental control over export activities. In determining whether companies should receive separate rates, we focus our attention on the exporter rather than the manufacturer, as our concern is the manipulation of export prices.

HIED is ''owned by all the people.'' It is the parent company of China Hunan International Economic Development Corporation, Zhuhai Corporation (Zhuhai) and China Hunan International Economic Development Ming Hua Trading Corporation (Ming Hua). Both Zhuhai and Ming Hua reportedly exported subject merchandise during the POI. Although Zhuhai and Ming Hua have been identified individually as being ''owned by all the people,'' HIED states that it consolidates the financial statements of these companies into its own financial statements. Additionally, the higher level management of both companies are assigned and approved by HIED.

GWIIEC is an exporter of subject merchandise. The corporate structure provided by GWIIEC identifies the company as a ''subsidiary'' of a larger holding company. This holding company (the first tier-holding company) is in turn a ''subsidiary'' of another company (the second-tier holding company) which reportedly received its initial capital from a government ministry. GWIIEC and the first-tier holding company have been identified as being ''owned by all the people.'' The submissions do not state whether the second-tier holding company is ''owned by all the people.''

CMIECHN and ''Hunan Nonferrous Metals Import & Export Associated Co. (CNIECHN) exported the subject merchandise during the POI. Although each is individually ''owned by all the people'' and has its own business license, CMIECHN and CNIECHN reportedly share the same high level management, business address, and accounting department.

Minmetals is the exporter of subject merchandise and was identified in its response as being ''owned by all the people.'' The president and vice president of Minmetals hold these same positions at another company which is reportedly a separate business entity and which is not involved in the manufacture or sale of subject merchandise.

CEIEC is the exporter of subject merchandise and is reportedly ''owned by all people.'' This company claims to have three subsidiaries which are not involved in the manufacture or sale of subject merchandise.

In the Final Determination of Sales at Less than Fair Value: Silicon Carbide from the PRC (Silicon Carbide) (59 FR 22585, May 2, 1994), the Department stated that ''ownership of a company by all the people does not require the application of a single rate.'' Accordingly, these companies are eligible for consideration for a separate rate under our criteria. However, as discussed below, the business structures of the respondent companies, as well as the manner in which they have requested separate rates, raises certain issues concerning which company should be considered the recipient of the separate rate.

To establish whether a firm is entitled to a separate rate, the Department analyzes each exporting entity under a test arising out of the Final Determination of Sales at Less Than Fair Value: Sparklers from the PRC (Sparklers) (56 FR 20588, May 6, 1991) and amplified in Silicon Carbide. Under the separate rates criteria, the Department assigns separate rates only where respondents can demonstrate the absence of both *de jure* and *de facto* governmental control over export activities.

1. Absence of De Jure Control

The respondents submitted a number of documents to demonstrate the absence of *de jure* control of their business activities by the PRC central government. The documents include the following:

- *Law of the People's Republic of China on Industrial Enterprises Owned by the Whole People* (April 13, 1988) This law granted autonomy to state-owned enterprises by separating ownership and control (Article 2). It also granted enterprises the right to set prices and the right to decide what type of commodity to produce (Article 22–26).
- *Excerpts from PRC's States Council Decree: Provisions on Changing the System of Business Operation for States Owned Enterprises* (December 31, 1992) This decree superseded the April 13, 1988 law and codified existing practice. It also gave state-owned enterprises the right to establish ''production, management, and operation[al] policies;'' the right to set prices, sell products, purchase production inputs, make investment decisions, and dispose of profits and assets. These rights apply specifically to an enterprise's import and export activities (Provision 12).
- *Order from MOFERT, No. 4, 1992* and *Temporary Provision for Administration of Export Commodities (Export Provisions)* (December 21, 1992) The *Export Provisions* indicate those products subject to direct government control. Electrolytic manganese metal does not appear on the *Export Provisions* list and hence, the subject merchandise under investigation is not subject to export constraints. We note that the *Emergent Notice on Changes in Issuing Authority for Export Licenses Regarding Public Bidding Quota for Certain Commodities* (MOFTEC #140) (Effective April 1994) cancelled previous export licenses for certain commodities. Manganese metal was not among these commodities.

Consistent with *Silicon Carbide* and subsequent PRC determinations, we determine that the existence of the laws cited to above demonstrates that the respondent companies are not subject to *de jure* central government control with respect to export sales and pricing decisions. In addition to the above laws and regulations, respondents provided the following documents.

- *PRC's Enterprise Legal Person Registration Administrative Regulations* (June 13, 1988) This regulation sets forth the procedure for registering enterprises as legal persons.
- *Law of the People's Republic of China on Enterprise Bankruptcy* (December 2, 1986) This law sets forth bankruptcy procedures for state-owned enterprises.
- *GATT Document Concerning Transparency of China's Foreign Trade Regime* (February 12, 1992) This document listed the PRC central government's response to questions by a GATT committee regarding the PRC's foreign trade regime.

We note that there is some evidence that the provisions of the above-cited laws and regulations have not been implemented uniformly among different sectors and/or jurisdictions within the PRC (see ''PRC Government Findings on Enterprise Autonomy,'' in Foreign Broadcast Information Service-China-93–133 (July 14, 1993)). As such, the Department has determined that a *de facto* analysis is necessary to determine whether HIED, GWIIEC, CMIECHN/CNIECHN, Minmetals, and CEIEC are subject to central government control over export sales and pricing decisions.

2. Absence of De Facto Control

The Department typically considers four factors when evaluating whether a respondent is subject to *de facto* government control of its export functions: (1) Whether the export prices are set by, or subject to the approval of, a governmental authority; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses (see Silicon Carbide).

Normally, to determine whether a respondent is entitled to a separate rate,

we apply the separate rate test to individual companies ''owned by all the people.'' However, in this case, groups of individual companies ''owned by all the people'' are presenting themselves as single business units. The relationship between these companies (*i.e.*, CMIECHN and CNIECHN, and HIED and its ''subsidiaries'' Zhuhai and Ming Hua) appears to be ''corporate '' in nature. We are uncertain of what significance we should attach to these corporate relationships in the PRC. Thus, for purposes of the preliminary determination, when the facts presented to the Department indicate that respondents are operating as individual business units, we have applied the Department's separate rates analysis to the business unit (*i.e.*, two or more ''owned by all the people'' companies operating in unison), as opposed to the individual companies ''owned by all the people.''

HIED and its subsidiaries, Zhuhai and Ming Hua, are treated as one business entity in HIED's response. Similarly, the responses of CMIECHN/CNIECHN characterize these two companies as a single business entity. The information provided in the questionnaire and supplemental questionnaire responses appears to support these characterizations. Accordingly, the Department considers HIED and its subsidiaries (Zhuhai and Ming Hua), and CMIECHN/CNIECHN to be single business entities for purposes of the preliminary determination.

In response to our questionnaires, HIED, GWIIEC, CMIECHN/CNIECHN, MINMETALS, and CEIEC have each asserted that they: (1) Are allowed to retain the proceeds from export sales; (2) maintain their own unrestricted bank accounts, including foreign exchange earnings which have been converted into remninbi (RMB); (3) are able to sell assets; (4) set prices independently of government direction; (5) base the prices charged customers on arm's length negotiations without governmental interference; (6) are not subject to foreign exchange targets set by either the central or provincial governments; and (7) select their own management without outside interference.

Based on these claims and information regarding their operations, we have determined that HIED, CMIECHN/CNIECHN, MINMETALS, and CEIEC, have preliminarily met the criteria for the application of separate rates. With respect to HIED and its subsidiaries (Zhuhai and Ming Hua), and CMIECHN/CNIECHN, we will examine at verification the extent to which these companies operate as single business entities.

For this preliminary determination, we have denied GWIIEC's claim for a separate rate. The standard for a separate rate claim requires that respondent demonstrate, inter alia, that the company has autonomy from the government in making decisions regarding selection of management. In its response, GWIIEC asserted that the government does not exercise control over the company's decision making either directly or indirectly through its first and second tier holding companies. GWIIEC's response indicates that the company's president is selected internally. However, the response also indicates that the president is appointed by one or both of the first and second tier holding companies. Moreover, GWIIEC's response indicates that the senior management of the first and second tier holding companies is ''selected under the auspices'' of a government ministry. Although the Department requested that this statement be clarified, the role of the government in the selection process remains unclear at this time. Further, the nature and function of the appointment process for GWIIEC's president is unclear. Accordingly, GWIIEC has not demonstrated to the Department's satisfaction that the company has autonomy from the government in making decisions regarding selection of management, and thus has not met the standard for the Department to grant a separate rate for purposes of this preliminary determination.

Surrogate Country

Section 773(c)(4) of the Act requires the Department to value the NME producers' factors of production, to the extent possible, in one or more market economies that (1) Are at a level of economic development comparable to that of the NME country and (2) are significant producers of comparable merchandise. The Department has determined that India is the most suitable surrogate for purposes of this investigation. Based on available statistical information, India is at a level of economic development comparable to that of the PRC, and Indian export statistics indicate that the country is a significant producer of comparable merchandise.

Fair Value Comparisons

To determine whether sales of manganese metal from the PRC by HIED, GWIIEC, CMIECHN/CNIECHN, MINMETALS, and CEIEC were made at less than fair value, we compared the United States price (USP) to the foreign market value (FMV), as specified in the United States Price and Foreign Market Value sections of the notice.

United States Price

For all respondents, we based USP on purchase price, in accordance with section 772(b) of the Act, because manganese metal was sold directly to unrelated parties in the United States prior to importation into the United States, and because exporter's sales price (ESP) methodology was not indicated by other circumstances. Where appropriate, we calculated purchase price based on packed, FOB-port, C&F, and CIF prices to unrelated purchasers in the United States. We made deductions to these prices for foreign inland freight, containerization, loading, port handling expenses, and marine insurance, as appropriate. Generally, costs for these items were valued in the surrogate country. However, where transportation services were purchased from market economy suppliers and paid for in a market economy currency, we used the cost actually incurred by the exporter.

Foreign Market Value

In accordance with section 773(c) of the Act, we calculated FMV based on factors of production reported by the factories in the PRC which produced the subject merchandise for the five exporters analyzed in this determination. The factors used to produce manganese metal include materials, labor and energy. To calculate FMV, the reported factor quantities were multiplied by the appropriate surrogate values from India for those inputs purchased domestically from PRC suppliers. Where a respondent failed to provide certain factor information in a usable form, we have relied upon publicly available information from the petition as best information available in valuing these factors.

In determining which surrogate value to use for each factor of production, we selected, where possible, an average non-export value, which was representative of a range of prices within the POI, or most contemporaneous with the POI, specific to the input in question, and tax-exclusive.

With the exception of the manganese ore and one other input, the identity of which is business proprietary, we obtained surrogate material values from the following sources: the *Monthly Trade Statistics of Foreign Trade of India, Volume II—Imports,* August 1994, *(Indian Import Statistics); The Analyst: Import Reference 1993, Chemical and*

Pharmaceutical Products; and the *Indian Chemical Weekly* (July–November 1993). For the business proprietary input referenced above, we relied upon information submitted by the petitioners (taken from the June–October 1994 Chemical Marketing Report) for a similar input.

To value the manganese ore, we used a 1992 contract price for low-grade manganese ore (26–28% Mn content) between an Indian mine and Japanese purchasers, as published in the July 7, 1992, TEX Report. Although it is our normal practice to apply an inflation adjustment to prices predating the period of investigation, in this case, we have information which indicates that prices for this product have fallen over time. Therefore, we adjusted this price to account for declining manganese ore prices between 1992 and our POI.

To value electricity, we used the April 1992 through March 1993 average tax-exclusive price for industrial electricity in India, as provided by the World Bank. To value labor amounts, we used labor rates in *Investing, Licensing, and Technology November 1994* (India) as published by the Economist Intelligence Unit. We adjusted the factor values, when necessary, to the POI using wholesale price indices (WPI's) published by the International Monetary Fund (IMF).

To value factory overhead, we calculated the ratio of factory overhead expenses to the cost of material, labor, and energy for industries involved in ''Processing and Manufacture—Metals, Chemicals and products thereof,'' as reported in the September 1994 Reserve Bank of India Bulletin's (RBI Bulletin). This same source was used to calculate expense (SG&A) as a percentage of cost of manufacturing. Because the RBI percentage was greater than the minimum 10 percent required by the statute, we used the SG&A percentage calculated from the RBI Bulletin. With respect to profit, we used the statutory minimum of 8 percent of materials, labor, energy, overhead, and SG&A costs calculated for each factory.

Best Information Available

Potential exporters identified by MOFTEC failed to respond to our questionnaire. In the absence of responses from these and other PRC exporters during the POI, we are basing the PRC-wide rate on the best information available (BIA). When a company refuses to provide information requested in the form required, or otherwise significantly impedes the Department's investigation, it is appropriate for the Department to assign to the company the higher of (a) the highest margin alleged in the petition, or (b) the highest calculated rate of any respondent in the investigation (*see Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, and Certain Cut-to-Length Carbon Steel Plate from Belgium (Belgium Steel*) 58 FR 37083, July 9, 1993). Since some PRC exporters failed to respond to our questionnaire, we are assigning any exporter not granted a separate rate the highest margin alleged in the November 8, 1994 petition.

Verification

As provided in section 776(b) of the Act, we will verify information relied upon in making our final determination.

Suspension of Liquidation

In accordance with section 733(d)(1) of the Act, we are directing the Customs Service to suspend liquidation of all entries of manganese metal from the PRC, as defined in the ''Scope of the Investigation'' section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. The Customs Service shall require a cash deposit or posting of a bond equal to the estimated dumping margins, as shown below. This suspension of liquidation will remain in effect until further notice. The weighted-average dumping margins are as follows:

Manufacture/producer/exporter	Margin percent
CEIEC	132.22
CMIECHN/CNIECHN	82.44
HIED	148.82
Minmetals	148.24
PRC-Wide Rate	148.82

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry within 75 days after our final determination.

Public Comment

Interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room B–099, within ten days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. In accordance with 19 CFR 353.38, case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary no later than September 27, 1995, and rebuttal briefs no later than September 29, 1995. A hearing, if requested, will be held on October 3, 1995, at 2:00 p.m. at the U.S. Department of Commerce in Room 1815. Parties should confirm by telephone the time, date, and place of the hearing 48 hours prior to the scheduled time. In accordance with 19 CFR 353.38(b), oral presentations will be limited to issues raised in the briefs. We will make our final determination not later than 135 days after the publication of this preliminary determination in the **Federal Register**. This determination is published pursuant to section 733(f) of the Act and 19 CFR 353.15(a).

Dated: June 5, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–14567 Filed 6–13–95; 8:45 am]

BILLING CODE 3510–DS–P

Department of Energy, Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

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

Docket Number: 95–008. *Applicant:* U.S. Department of Energy, Washington, DC 20585. *Instrument:* Fuel Cell. *Manufacturer:* Fuji Electric Company, Japan. *Intended Use:* See notice at 60 FR 13699, March 14, 1995. *Reasons:* The foreign instrument, the last of three ordered on July 13, 1992, provides a liquid cooled phosphoric acid fuel cell with a net power output of 47.5kW that is suitable for propulsion of a passenger bus prototype. *Advice Received From:* The Jet Propulsion Laboratory, November 10, 1993.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, was being manufactured in the United States at the time the foreign instrument was ordered.

The Jet Propulsion Laboratory advises that (1) this capability is pertinent to the

applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which was being manufactured in the United States at the time it was ordered.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 95–14568 Filed 6–13–95; 8:45 am]

BILLING CODE 3510–DS–F

COMMODITY FUTURES TRADING COMMISSION

Coffee, Sugar & Cocoa Exchange: Proposed Amendments to the Sugar No. 11 (World Raw Sugar) Futures Contract Increasing the Minimum Daily Loading Rate for Futures Delivery Sugar and Increasing the Minimum Depth of Berths or Anchorages Required at Delivery Ports

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of Proposed Contract Market Rule Changes.

SUMMARY: The Coffee, Sugar & Cocoa Exchange (''CSCE'') has submitted proposed amendments to its Sugar No. 11 (world raw sugar) futures contract that would increase the minimum daily loading rate for sugar delivered against the futures contract and increase the minimum depth of berths or anchorages required at delivery ports. In accordance with Section 5a(a)(12) of the Commodity Exchange Act, and acting pursuant to the authority delegated by Commission Regulation 140.96, the Acting Director of the Division of Economic Analysis (''Division'') of the Commodity Futures Trading Commission (''Commission'') has determined, on behalf of the Commission, that the proposed amendments are of major economic significance and that publication of the proposed amendments would be in the public interest. On behalf of the Commission, the Division is requesting comment on this proposal.

DATES: Comments must be received on or before July 14, 1995.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW, Washington, D.C. 20581. Reference should be made to the proposed amendments increasing the minimum loading rate and the minimum depth of berths or anchorages that must be provided at delivery ports for sugar No. 11 futures contract deliveries.

FOR FURTHER INFORMATION CONTACT: Frederick V. Linse, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street NW, Washington, D.C. 20581, telephone (202) 254–7303.

SUPPLEMENTARY INFORMATION: The existing terms of the sugar No. 11 futures contract provide that raw sugar is to be loaded into the receiver's vessel at a port nominated by the deliverer that is customarily used for shipping the particular growth of sugar being delivered.[1] The contract's terms require that deliverers load at least 750 long tons of raw sugar per weather working day (stevedoring holidays excluded) for despatch and demurrage purposes; provided the vessel being loaded is capable of receiving at this rate, and provided that the vessel has a minimum of four hatches available and accessible. If less than four hatches are available and accessible, or if the vessel is otherwise incapable of being loaded at the aforesaid loading rate, the loading rate is reduced proportionately. The current terms of the contract also require that the port nominated by the deliverer must be capable of providing a berth or anchorage that will enable vessels drawing 28 feet of water to proceed to and depart from such berth or anchorage always safely afloat.

The proposed amendments would increase to 1,500 from 750 long tons the minimum amount of raw sugar that a deliverer would be required to load per weather working day (stevedoring holidays excluded). The proposed amendments would also increase to 30 from 28 feet the minimum depth of berths or anchorages that ports nominated by a deliverer must be capable of providing.

In support of the proposed amendments, the CSCE indicated that increased use of mechanical loading at most of the delivery ports used for the delivery of sugar has made the proposed loading rate of 1,500 long tons of sugar per weather working day the commonly used loading rate in the sugar industry. The CSCE also indicated that the proposed minimum depth of berths or anchorages required at delivery ports is necessary to accommodate the larger vessels now generally being built and chartered for the transportation of raw sugar.

The CSCE proposes to make the proposed amendment increasing the minimum loading rate effective following Commission approval with respect to the May 1996 contract month and all delivery months listed thereafter. The CSCE proposes to make the proposed amendment increasing the minimum depth of berths or anchorages required at delivery ports effective upon Commission approval beginning with the first contract month following the last contract month in which there is an open position and for all contract months listed thereafter.

On behalf of the Commission, the Division is requesting comment on the proposed amendments. In particular, the Division is seeking comment regarding the extent to which the proposed amendments reflect cash market practices. In addition, commenters are requested to address the effect that the proposed amendments may have on the number of ports eligible for futures delivery purposes and the availability of economically deliverable supplies of raw sugar for the futures contract.

Copies of the proposed amendments will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street NW, Washington, D.C. 20581. Copies of the amended terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by telephone at (202) 254–6314.

The materials submitted by the CSCE in support of the proposed amendments may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR part 145 (1987)). Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the proposed amendments should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW, Washington, D.C. 20581 by the specified date.

Issued in Washington, D.C. on June 8, 1995.

Blake Imel,

Acting Director.

[FR Doc. 95–14530 Filed 6–13–95; 8:45 am]

BILLING CODE 6351–01–P

[1] The futures contract provides for the delivery of raw sugar produced in 29 countries.

DEPARTMENT OF DEFENSE

Department of the Air Force

Cost Comparison Studies

The Air Force is conducting the following cost comparison studies in accordance with OMB Circular A–76, Performance of Commercial Activities.

Installation	Cost comparison study
Maxwell AFB, Alabama.	Fuels Management.
Maxwell AFB, Alabama.	Grounds Maintenance.
Maxwell AFB, Alabama.	Refuse Collection.
Little Rock AFB, Arkansas.	Transient Aircraft Maintenance.
Davis Monthan AFB, Arizona.	Military Family Housing Maintenance.
Travis AFB, California.	Military Family Housing Maintenance.
Buckley ANG Base, Colorado.	Airfield Management.
Tyndall AFB, Florida.	Multi-Functional Study: Base Operating Support & Backshop Aircraft Maintenance.
Andersen AFB, Guam.	Refuse Collection.
Andrews AFB, Maryland.	Administrative Support.
Columbus AFB, Mississippi.	Base Operating Support.
Keesler AFB, Mississippi.	Grounds Maintenance.
Altus AFB, Oklahoma.	Aircraft Maintenance.
Tinker AFB, Oklahoma.	Grounds Maintenance.
Goodfellow AFB, Texas.	Grounds Maintenance.
Kelly AFB, Texas.	Environmental.
Lackland AFB, Texas.	Trainer Fabrication.
Laughlin AFB, Texas.	Base Operating Support.
Hill AFB, Utah	Child Care Center.
Bolling AFB, Washington, DC.	Military Family Housing Maintenance.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 95–14469 Filed 6–13–95; 8:45 am]

BILLING CODE 3910–01–M

Air Force Academy Board of Visitors Meeting

Pursuant to Section 9355, Title 10, United States Code, the Air Force Academy Board of Visitors will meet at the US Air Force Academy, Colorado, 22–23 July 1995. The purpose of the meeting is to consider morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, academic methods, and other matters relating to the Academy.

A portion of the meeting will be open to the public on Saturday morning, 22 July 1995. Other portions of the meeting will be closed to the public to discuss matters listed in Subsections (2), (4), and (6) of Section 552b(c), Title 5, United States Code. These closed sessions will include attendance at cadet training programs and discussions with cadets, military staff, and faculty officers which include personal information, financial information, and information relating solely to internal personnel rules and practices of the Board of Visitors and the Academy. Meeting sessions will be held in various facilities throughout the cadet area.

For further information, contact Lt. Col. David O. DiMarchi, Policy, Plans, and Programs, HQ USAFA/XPP, 2304 Cadet Drive, Suite 350, USAF Academy, CO 80840–5002, at (719) 472–3933.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 95–14468 Filed 6–13–95; 8:45 am]

BILLING CODE 3910–01–M

Department of the Army

Privacy Act of 1974; Add a system of records

AGENCY: Department of the Army, DOD.

ACTION: Add a System of Records.

SUMMARY: The Department of the Army proposes to add a new record system to its existing inventory of systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on July 10, 1995, unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to U.S. Army Information Systems Command, ATTN: ASOP-MP, Fort Huachuca, AZ 85613–5000.

FOR FURTHER INFORMATION CONTACT: Ms. Pat Turner at (602) 538–6856 or DSN 879–6856.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

A new system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, was submitted on May 30, 1995, to the House Committee on Government Reform and Oversight, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4b of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated July 15, 1994 (59 FR 37906, July 25, 1994)

Dated: June 2, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0040–57aDASG

SYSTEM NAME:

DOD DNA Registry.

SYSTEM LOCATION:

Primary location: Armed Forces Institute of Pathology, Building No. 54, Walter Reed Army Medical Center, 6825 16th Street, NW, Washington, DC 20306–6000.

Secondary location: Service members's medical record. Civilian family member's or other's medical records.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Department of Defense military personnel (active and reserve).

Civilian family members of Department of Defense military personnel (active and reserve) who voluntarily provide specimens for DNA typing for purpose of identifying the human remains of family members.

DoD civilian personnel deploying with the armed forces.

Other individuals may also be included in this system when the Armed Forces Institute of Pathology (AFIP) is requested by Federal, state, local and foreign authorities to identify human remains.

CATEGORIES OF RECORDS IN THE SYSTEM:

Specimen collections (oral swabs, blood and blood stains, bone, and tissue) from which a DNA typing can be obtained, and the DNA typing results. Accession number, specimen locator information, collection date, place of collection, individual's name, Social Security Number, right index fingerprint, signature, branch of service, sex, race and ethnic origin, address, place and date of birth, and relevant kindred information, past and present.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 10 U.S.C. 176, 177, and 3012; E.O. 9397; Deputy Secretary of Defense memo dated December 16, 1991; and Assistant Secretary of Defense

(Health Affairs) memo dated January 5, 1993.

PURPOSE(S):

Information in this system of records will be used for the identification of human remains.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To Federal, state, local and foreign authorities when the Armed Forces Institute of Pathology (AFIP) is requested to identify human remains.

The Army's 'Blanket Routine Uses' *do not* apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored manually and electronically.

RETRIEVABILITY:

By individual's surname, sponsor's Social Security Number, date of birth, and specimen reference or AFIP accession number.

SAFEGUARDS:

Access to the Armed Forces Institute of Pathology and DNA Registry is controlled. Computerized records are maintained in controlled areas accessible only to authorized personnel. Entry to these areas is restricted to those personnel with a valid requirement and authorization to enter. All personnel whose duties require access to, or processing and maintenance of personnel information are trained in the proper safeguarding and use of the information. Any DNA typing information obtained will be handled as confidential medical information.

RETENTION AND DISPOSAL:

Primary location: Records are maintained 75 years and then destroyed by shredding or incineration. Statistical data used for research and educational projects are destroyed after end of project.

Secondary location: Records are destroyed when no longer needed for reference.

SYSTEM MANAGER(S) AND ADDRESS:

The Surgeon General, Headquarters, Department of the Army, 5109 Leesburg Pike, Falls Church, VA 22041–3258.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Administrator, Repository and Research Services, ATTN: DOD DNA Registry, Armed Forces Institute of Pathology, Walter Reed Army Medical Center, Washington, DC 20306–6000.

Requesting individual must submit full name, Social Security Number and date of birth of military member and branch of military service, if applicable, or accession/reference number assigned by the Armed Forces Institute of Pathology, if known. For requests made in person, identification such as military ID card or valid driver's license is required.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves or deceased family members contained in this system should address written inquiries to the Administrator, Repository and Research Services, ATTN: DOD DNA Registry, Armed Forces Institute of Pathology, Walter Reed Army Medical Center, Washington, DC 20306–6000.

Requesting individual must submit full name, Social Security Number and date of birth of military member and branch of military service, if applicable, or accession/reference number assigned by the Armed Forces Institute of Pathology, if known.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, contesting contents, and appealing initial determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual, family member, diagnostic test, other available administrative or medical records obtained from civilian or military sources.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 95–14583 Filed 6–13–95; 8:45 am]

BILLING CODE 5000–04–F

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Director, Information Resources Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before July 14, 1995.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok: Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–9915. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Group, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: June 9, 1995.

Gloria Parker,

Director, Information Resources Group.

Office of Special Education and Rehabilitative Services

Type of Review: Revision

Title: State plan under Part B of the Individuals With Disabilities Education Act (IDEA)

Frequency: Annually
Affected Public: State or Local or Tribal Governments
Reporting Burden:
Responses: 1
Burden Hours: 475
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0
Abstract: State educational agencies are required to submit a State Plan to the U.S. Department of Education in order to receive funds under Part B of the Individuals with Disabilities.

[FR Doc. 95–14528 Filed 6–13–95; 8:45 am]
BILLING CODE 4000–01–M

Proposed Information Collection Request

AGENCY: Department of Education.
ACTION: Notice of Proposed Information Collection Request.

SUMMARY: The Director, Information Resources Group, invites comments on the proposed information collection request as required by the Paperwork Reduction Act of 1980.

DATES: An emergency review has been requested in accordance with the Act, since allowing for the normal review period would adversely affect the public interest. Approval by the Office of Management and Budget (OMB) has been requested by June 23, 1995.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer: Department of Education, Office of Management and Budget, 726 Jackson Place, NW., Room 3208, New Executive Office Building, Washington, D.C. 20503. Requests for copies of the proposed information collection request should be addressed to Patrick J. Sherrill, Department of Education, 7th & D Streets, S.W., Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–9915. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 3517) requires that the Director of OMB provide interested Federal agencies and persons an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director, Information Resources Group, publishes this notice with attached proposed information collection requests prior to submission to OMB. For each proposed information collection request, grouped by office, this notice contains the following information: (1) Type of review requested, e.g., new, revision, extension, existing, or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting and/or Recordkeeping burden; and (6) Abstract. Because an emergency review is requested, the additional information to be requested in this collection is included in the section on ''Additional Information'' in this notice.

Dated: June 9, 1995.

Gloria Parker,

Director, Information Resources Group.

Office of Bilingual Education and Minority Languages Affairs

Type of Review: Emergency
Title: Notice inviting applications for new awards for fiscal year FY 1995 academic excellence awards
Abstract: The Department needs and uses this information to make grants. The respondents are State and local educational agencies, institutions of higher education, and nonprofit organizations. The respondents are required to provide this information in applying for grants.
Additional Information: The Department requests a ninety-day emergency approval of the application package to enable grants to be awarded with available FY 1995 funds before the end of the fiscal year. The lateness of this request is due to the fact that a proposed rescission of FY 1995 funds that would have eliminated funds for new grants under the Academic Excellence Awards program was not modified by Congress until late May. OMB approval of the application package is needed by June 23 to enable the Department to publish the notice containing the application in the **Federal Register** by June 30. The deadline date for transmittal of applications must be no later than July 31 to enable the Department to evaluate them and make grant awards be the end of the fiscal year.
Frequency: One Time
Affected Public: Not for Profit Institutions & State, Local or Tribal government
Reporting Burden:
Responses: 50
Burden Hours: 5,000
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0

[FR Doc. 95–14527 Filed 6–13–95; 8:45 am]
BILLING CODE 4000–01–M

Arbitration Panel Decision Under the Randolph-Sheppard Act

AGENCY: Department of Education.
ACTION: Notice of arbitration panel decision under the Randolph-Sheppard Act.

SUMMARY: Notice is hereby given that on November 13, 1992, an arbitration panel rendered a decision in the matter of *James E. Waldie* v. *Alabama Division of Rehabilitation Services (Docket No. R–S/89–8).* This panel was convened by the Secretary of the U.S. Department of Education pursuant to 20 U.S.C. 107d–1(a), upon receipt of a complaint filed by petitioner, James E. Waldie, on April 12, 1989. The Randolph-Sheppard Act provides a priority for blind individuals to operate vending facilities on Federal property. Under this section of the Randolph-Sheppard Act (the Act), a blind licensee dissatisfied with the State's operation or administration of the vending facility program authorized under the Act may request a full evidentiary fair hearing from the State licensing agency (SLA). If the licensee is dissatisfied with the State agency's decision, the licensee may file a complaint with the Secretary of the U.S. Department of Education, who then is required to convene an arbitration panel to resolve the dispute.

FOR FURTHER INFORMATION CONTACT: A copy of the full text of the arbitration panel decision may be obtained from George F. Arsnow, U.S. Department of Education, 600 Independence Avenue, SW., Room 3230, Switzer Building, Washington, DC 20202–2738. Telephone: (202) 205–9317. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–8298.

SUPPLEMENTARY INFORMATION: Pursuant to the Randolph-Sheppard Act (20 U.S.C. 107d–2(c)), the Secretary publishes a synopsis of arbitration panel decisions affecting the administration of vending facilities on Federal property.

Background

The complainant, James E. Waldie, is a blind vendor licensed by the

respondent, the Alabama Division of Rehabilitation Services (ADRS), pursuant to the Randolph-Sheppard Act. ADRS is the SLA responsible for the operation of the Alabama vending facility program for blind individuals. The purpose of the program is to establish and support blind vendors operating vending facilities on Federal property. Beginning in May of 1985, Mr. Waldie operated a vending facility located in the Lyster Army Hospital, Fort Rucker, Alabama (Lyster Facility). Mr. Waldie alleged in his complaint that there was a problem with excessively high temperatures in the Lyster Facility. He also raised two other issues regarding facility safety and the sale of tobacco products. In addition, sometime late in 1985 or early in 1986, Mr. Waldie expressed a desire to expand into three buildings that were located near the Lyster Army Hospital building.

Because these issues were not resolved by ADRS to Mr. Waldie's satisfaction, the complainant initiated administrative proceedings under ADRS regulations. On April 11, 1988, pursuant to ADRS rules and regulations, a fair hearing was conducted at Mr. Waldie's request. The decision rendered after the hearing was unfavorable to the complainant who subsequently requested a full evidentiary hearing, which was held on May 26, 1988. The State hearing officer upheld the administrative decision of ADRS in his opinion of August 2, 1988. The hearing officer stated that (1) the record did not indicate that Mr. Waldie had been denied the opportunity to expand his facility; (2) the determination of which product lines are to be sold at a vending facility is a decision to be made by the SLA and the Federal property manager; and (3) the ventilation and air circulation problems are the result of new product lines requiring machines that generate heat. Further, the hearing officer stated that the permit was not violated by the Federal agency, that ADRS had not violated its rules and regulations, and that evidence presented failed to establish a violation of any rule or regulation governing the Business Enterprise Program and did not prove any erroneous application of that program. The SLA's decision was affirmed.

Mr. Waldie requested that the Secretary of Education convene an arbitration panel to review the issues. The arbitration hearing was held on June 27, 1991 and January 28, 1992. Two of the issues, the facility security and sale of tobacco products, were resolved during pre-hearing negotiations.

Arbitration Panel Decision

The panel found that the main issue in this case concerned the question of whether the SLA had improperly dealt with the air circulation and ventilation at the Lyster Facility. After hearing testimony, the panel found that, in fact, the Lyster Facility did not provide proper ventilation. In determining whose responsibility it was to rectify the problem, the panel turned to the concept of satisfactory site as used in the Act and the regulations. Satisfactory site is defined in the Act in 20 U.S.C. 107a(d)(3) and in the regulations in 34 CFR 395.1(q).

The panel set out the two different circumstances under which a vending facility can be established. First, the panel considered 34 CFR 395.30(a), which requires that Federal property managers take all steps necessary to assure that, wherever feasible, one or more vending facilities for operation by blind licensees shall be located on all Federal property. The second circumstance in which the establishment of a vending facility is discussed is in 34 CFR 395.31, which requires that, when a Federal property owner acquires or substantially renovates a property, the Federal property owner is required to provide a satisfactory site for the operation of a vending facility by a blind vendor.

Because the Act and the regulations use the term ''satisfactory site'' only in the latter circumstance, the panel concluded that, if the Lyster Facility was established under the first circumstance, the definition of satisfactory site would not apply. While the panel found that no evidence was submitted at the hearing as to the circumstances under which the Lyster Facility was established, the panel reasoned that, even if the Lyster Facility was established under 34 CFR 395.30, the definition of satisfactory site found in the regulations would apply for two reasons. First, the parties have proceeded since the outset on the assumption that this language applies to the Lyster Facility. Second, the panel noted that both the SLA and the Federal property manager agreed, at the time the permit was issued, that the Lyster Facility constituted a satisfactory site.

The panel concluded that there is a general ongoing obligation on the part of the Federal property manager to provide a satisfactory site. The panel further determined that the Lyster Facility must be properly cooled in order to be considered a satisfactory site.

In recognizing that the Federal agency was not a party to the arbitration proceeding, the panel turned to the responsibilities of the ADRS in ensuring that the vending facility was a satisfactory site. The panel determined that, although the ADRS was not responsible for providing an air conditioning unit, it was obligated to urge the Federal agency to rectify the problem. Consequently, ADRS was directed to use vigorous means, including the use of arbitration under the Act, to compel the Federal property manager to provide sufficient cooling for the Lyster Facility.

In considering the action of ADRS in responding to Mr. Waldie's request for expansion, the panel determined that ADRS has the obligation to reasonably pursue expansion sites for blind vendors and to use reasonable judgment in distributing any of those locations among qualified blind vendors. The panel concluded that ADRS acted reasonably in response to Mr. Waldie's request even though no expansion occurred, notwithstanding the plans to move the vending facility at some future date. Consequently, the panel delayed remedy on the matter for a period of time to determine whether a move of the facility would rectify the situation.

Finally, the panel addressed the issue of retroactive damages and an award of attorney's fees raised by Mr. Waldie. The panel concluded, based on reasoning of the majority opinion in *McNabb* v. *U.S. Department of Education*, 862 F.2d 681 (8th Cir., 1988), that Mr. Waldie was not entitled to retroactive damages under the Act. The panel determined, as well, based on the decision in *Alyeska Pipeline Service* v. *Wilderness Society*, 421 U.S. 240 (1975), that an express provision in the Act was required to award attorney's fees to Mr. Waldie and that no such provision existed in the Randolph-Sheppard Act.

One panel member dissented from the opinion of the majority as to the temperature issue. A second panel member dissented with respect to the expansion issue and the issue of the right of the blind vendor to seek retroactive damages and attorney's fees.

The views and opinions expressed by the panel do not necessarily represent the views and opinions of the United States Department of Education.

Dated: June 8, 1995.

Judith E. Heumann,

Assistant Secretary, Office of Special Education and Rehabilitative Services.

[FR Doc. 95–14474 Filed 6–13–95; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Stockpile Stewardship and Management Programmatic Environmental Impact Statement

AGENCY: Department of Energy.

ACTION: Notice of intent.

SUMMARY: The Department of Energy (DOE) announces its intent to prepare a Stockpile Stewardship and Management Programmatic Environmental Impact Statement (SSM PEIS). The end of the Cold War has brought about significant changes in the requirements for the nation's nuclear deterrent, including substantial reductions in the nuclear weapons stockpile. To fulfill its responsibilities for ensuring the safety and reliability of the stockpile without underground nuclear testing, DOE proposes the Stockpile Stewardship and Management Program.

Stockpile Stewardship includes activities required to maintain a high level of confidence in the safety and reliability of nuclear weapons in the absence of underground nuclear testing, and to be prepared to resume nuclear testing if so directed by the President. Stockpile Management activities include dismantlement, maintenance, evaluation, and repair or replacement of weapons and their components in the existing stockpile.

This Notice of Intent, the initial step in the National Environmental Policy Act (NEPA) process, informs the public of the PEIS proposal, announces the schedule for scoping meetings, and solicits public input. Following the scoping period, the Department will prepare and issue an Implementation Plan (IP) to describe the scope of the PEIS, the alternatives that will be analyzed, and the schedule for completing the PEIS.

DATES: Comments on the proposed scope of the SSM PEIS are invited from the public. To ensure consideration in the preparation of the IP, comments must be postmarked by August 11, 1995. Late comments will be considered to the extent practicable. DOE will hold interactive public scoping meetings at sites that may be affected by the proposed action to discuss issues and receive oral and written comments on the scope of the PEIS. These meetings will provide the public with an opportunity to present comments, ask questions, and discuss concerns with DOE officials regarding SSM activities. The locations, dates, and times for these public meetings are included in the Supplementary Information section of this notice, and will be announced by additional appropriate means.

The Department is also requesting federal agencies that desire to be designated as cooperating agencies on the SSM PEIS to contact the Office of Reconfiguration at the address listed below by August 11, 1995.

ADDRESSES: General questions concerning the SSM program can be asked by calling the toll-free telephone number at 1–800–776–2765, or by writing to: Stephen M. Sohinki, Director, Office of Reconfiguration, U.S. Department of Energy, P.O. Box 3417, Alexandria, VA 22302.

As an alternative, comments can also be submitted electronically by using the Federal Information Exchange bulletin board and following the instructions listed below:

Modem: Dial Toll Free (800) 783–3349. Local (301) 258–0953. (Modem parameters set at: '8' data bits, '1' stop bit and 'N' parity at 1200, 2400 or 9600 baud.)

InterNet: Telnet or Gopher to: fedix.fie.com or 192.111.228.33

Hours: Available 24 hours a day. A Help Line, (301) 975–0103, is available weekdays between 8:30 a.m. and 5:00 p.m. EST, except Federal holidays.

Costs: Free, no cost to users. No telephone, registration, access, or downloading fees.

FOR FURTHER INFORMATION CONTACT: For general information on the DOE NEPA process, please contact: Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance, EH–42, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–4600 or 1–800–472–2756.

SUPPLEMENTARY INFORMATION:

Background

In January 1991, the then-Secretary of Energy announced that the Department would prepare a PEIS examining alternatives for the reconfiguration of the Department's nuclear weapons complex (the Complex). The framework for the Reconfiguration PEIS was described in the January 1991 Nuclear Weapons Complex Reconfiguration Study (Reconfiguration Study), a detailed examination of alternatives for the future Complex. Because of significant changes in the world since January 1991, especially with regard to projected future requirements for the United States' nuclear weapons stockpile, the Department concluded in October 1994 that the framework described in the Reconfiguration Study no longer fit current circumstances or supported any realistic proposal for reconfiguration of the Complex (59 FR 54175, October 28, 1994). Contributing factors to that conclusion included public comments at the September-October 1993 Reconfiguration PEIS scoping meetings, the fact that no production of new nuclear weapons types was required for the foreseeable future, budget constraints, and the Department's decision to prepare a separate PEIS on Storage and Disposition of Weapons-Usable Fissile Nuclear Materials (Notice of Intent published June 21, 1994, 59 FR 17344).

As a result of these changed circumstances, the Department separated the previously planned Reconfiguration PEIS into two new PEISs: (1) a Tritium Supply and Recycling PEIS; and (2) a Stockpile Stewardship and Management PEIS. The Draft PEIS for Tritium Supply and Recycling was issued in March 1995 (60 FR 14433, March 17, 1995), public hearings were held in April 1995, and a Final PEIS for Tritium Supply and Recycling is expected in October 1995.

With regard to the SSM PEIS, during the past six months the Department has been developing the new framework to support the SSM program. That resulting framework, described in a DOE report entitled ''The Stockpile Stewardship and Management Program'' (May 1995), is available on the Internet under DOE's Home Page for Defense Programs (www.dp.doe.gov). That document was mailed to individuals who had previously requested information on the SSM program. Other individuals who would like to receive that document can contact the Office of Reconfiguration at the address listed above or by calling the program's toll free number at 1–800–776–2765.

On May 19, 1995, the Department held a pre-scoping workshop with interested members of the public to discuss the framework of the SSM program and the information contained in ''The Stockpile Stewardship and Management Program''. While a wide range of specific issues were discussed during that meeting, general concerns centered on: Future stockpile planning, including the basis for selecting the baseline stockpile size of the future; whether the Department would evaluate a range of stockpile sizes in the PEIS; the relationship between the SSM PEIS and the Department's other Programmatic and Site-Wide EISs; and whether the Department would evaluate underground nuclear testing in the PEIS. Comments received from that pre-scoping workshop have been taken into account in developing this NOI.

Purpose and Need for the SSM Program. Under the Atomic Energy Act of 1954, as amended (42 USC 2011 *et seq.*), DOE is charged with providing

nuclear weapons to support the United States' nuclear deterrent policy. The mission of the DOE nuclear weapons complex is to provide the nation with safe and reliable nuclear weapons and components so that an effective nuclear deterrent can be maintained into the foreseeable future, and to accomplish this in a way that protects the environment and the health and safety of workers and the public.

Recent changes in national security needs have necessitated corresponding changes in the way the Department must meet its responsibilities regarding the nation's nuclear weapons. As a result of international arms-control agreements (the START I treaty and the START II protocol) and unilateral decisions by the United States, the nation's stockpile will be significantly reduced by the year 2003. Consequently, the nation has halted the development of new nuclear weapons, has begun closing portions of the Complex, and is considering further consolidation or downsizing of the remaining elements in the Complex. In addition, the nation is observing a moratorium on nuclear testing and is pursuing a Comprehensive Test Ban Treaty.

However, international dangers remain and, as the President has emphasized, nuclear deterrence will continue to be a cornerstone of the United States' national security policy. Thus, the Department's responsibilities for ensuring the safety and reliability of the nation's nuclear weapons stockpile will also continue for the foreseeable future.

Because of the moratorium on nuclear testing, the termination of new nuclear weapons development and production, and the closure of several production facilities, a new approach to ensure confidence in the stockpile is needed. In announcing the indefinite extension of the nuclear testing moratorium (July 1993), President Clinton reaffirmed the importance of maintaining confidence in the enduring United States nuclear stockpile and the need to ensure that the nation's nuclear deterrent remains unquestioned during a test ban. By Presidential Decision Directive and Act of Congress (Pub. L. 103–160), the Department of Energy was directed to establish a stewardship program to ensure the preservation of the core intellectual and technical competencies of the United States in nuclear weapons in the absence of nuclear testing.

Without nuclear testing, this new approach must rely on scientific understanding and expert judgment to predict, identify, and correct problems affecting the safety and reliability of the stockpile. This program is essential if the nation is to properly safeguard its nuclear weapons and maintain an unquestioned nuclear deterrent.

The SSM program is being developed to meet the challenges involved in ensuring the safety and reliability of the stockpile. Three particular challenges must be met:

- Fully supporting, at all times, the nation's nuclear deterrent with safe and reliable nuclear weapons, while transforming the nuclear weapons complex (laboratories and production facilities) to one that is more appropriate for the smaller stockpile.
- Preserving the core intellectual and technical competencies of the weapons laboratories. Without nuclear testing, confidence in the nation's nuclear deterrent will depend largely on the continued competency of the people who must make the scientific and technical judgments related to the safety and reliability of nuclear weapons.
- Ensuring that the activities needed to maintain the nation's nuclear deterrent are consistent with the nation's arms-control and nonproliferation objectives.

DOE Nuclear Weapons Complex: The current DOE nuclear weapons complex consists of 8 major facilities located in 7 states. Currently, the Complex maintains a limited capability to design and manufacture nuclear weapons; provides surveillance of and maintains nuclear weapons in the stockpile; and retires and disposes of nuclear weapons. Major facilities and their primary responsibilities within the Complex are listed below:

Pantex Plant (Amarillo, Texas)—Dismantles retired weapons; fabricates high explosives components; assembles high explosives, nuclear components, and nonnuclear components into nuclear weapons; repairs and modifies weapons; evaluates and performs nonnuclear testing of nuclear weapons.

Savannah River Site (SRS) (Aiken, South Carolina)—Tritium loading/unloading and surveillance of tritium reservoirs.

Y–12 Plant (Oak Ridge, Tennessee)—Maintains the capability to produce and assemble uranium and lithium components; recovers uranium and lithium materials from the component fabrication process and retired weapons; produces nonnuclear weapon components.

Kansas City Plant (KCP) (Kansas City, Missouri)—Manufactures nonnuclear weapons components.

Lawrence Livermore National Laboratory (LLNL) (Livermore, California)—Conducts research and development of nuclear weapons; designs and tests advanced technology concepts; maintains a weapons design program; maintains a limited capability to fabricate plutonium components; provides safety and reliability assessments of the stockpile.

Los Alamos National Laboratory (LANL) (Los Alamos, New Mexico)—Conducts research and development of nuclear weapons; designs and tests advanced technology concepts; maintains a weapons design program; maintains a limited capability to fabricate plutonium components; provides safety and reliability assessments of the stockpile.

Sandia National Laboratories (SNL) (Albuquerque, New Mexico)—Conducts system engineering of nuclear weapons; designs and develops nonnuclear components; conducts field and laboratory nonnuclear testing; manufactures nonnuclear weapons components; and provides safety and reliability assessments of the stockpile.

Nevada Test Site (NTS) (Las Vegas, Nevada)—Maintains capability to conduct underground nuclear testing and nonnuclear experiments.

SSM Program Foundational Framework. In the SSM program and SSM PEIS, DOE will:

- Emphasize compliance with applicable laws and regulations, and accepted practices regarding industrial and weapons safety; safeguarding the health of Complex workers and the general public; protecting the environment; and ensuring the security of nuclear materials and weapons components.
- Safely and reliably maintain the nuclear weapons stockpile as directed by the President and mandated by Congress.
- Analyze alternatives for configuration of the nuclear weapons complex that are reflective of, and consistent with, policy direction from the Nuclear Posture Review.
- Maximize efficiency and minimize costs associated with the maintenance of the weapons stockpile.
- Maximize the transfer of nonnuclear materials production activities to the private sector.
- Maintain core intellectual and technical competencies in nuclear weapons.
- Sustain confidence in safety and reliability of the stockpile in the absence of underground nuclear testing.
- Minimize the use of hazardous materials and the number and volume of waste streams.

PEIS Decisions. In addition to the PEIS, supporting cost, technical, and schedule studies will be prepared for the SSM program. The PEIS and these other studies will be balanced with

policy and strategic objectives to support the Record of Decision (ROD). The ROD will:

- Identify the future missions of the SSM program; and
- Determine the configuration (facility locations) of the nuclear weapons complex to accomplish the SSM program missions.

Project-specific NEPA documents will be prepared as necessary to implement any programmatic alternatives chosen in the ROD.

An analysis of the sensitivity of the proposed SSM program configuration to a range of hypothetical stockpile sizes will also be performed. DOE expects to use the stockpile size consistent with the START II protocol (approximately 3,500 weapons) as the baseline for the PEIS analysis since this is the current planning guidance for the Department and is consistent with the recently completed Nuclear Posture Review. Upper and lower excursion cases are also expected to be analyzed.

The SSM Program

Stockpile Management. Stockpile Management activities include dismantlement, maintenance, evaluation, and repair or replacement of weapons and weapons components in the existing stockpile. In the past, a large weapons production complex provided the capability and capacity to rapidly fix any problems found in the stockpile. However, the existing production complex may be inefficient and ineffective for a much smaller stockpile. Therefore, one of the primary goals of the Stockpile Management proposal will be to downsize and/or consolidate functions to provide an effective and efficient production capability for the smaller stockpile. The capabilities needed by the Department to carry out its Stockpile Management responsibilities are described below:

Weapons Assembly/Disassembly. Provides the capability to: dismantle retired weapons; assemble high explosives, nuclear components, and nonnuclear components into nuclear weapons; repair and modify weapons; perform weapons surveillance; and store strategic reserves of nuclear components (pits and secondaries).

Nonnuclear Components. Provides the capability to: fabricate nonnuclear components and perform nonnuclear component surveillance.

Nuclear Components. Provides the capability to: fabricate nuclear components; perform nuclear component surveillance; stage and store nuclear materials and components. Alternatives will be assessed for:

Pit Reuse (minor). Nonintrusive modification and recertification of existing pits.

Replacement Pit Fabrication and Reuse (major). Fabrication of replacement pits and/or intrusive modification and recertification of existing pits.

Secondaries and Cases. Fabrication of replacement secondaries and cases.

High Explosives. Provides the capability to fabricate high explosives components and perform high explosives component surveillance.

Stockpile Stewardship. Stockpile Stewardship includes activities required to maintain a high level of confidence in the safety and reliability of nuclear weapons in the absence of underground nuclear testing, and to be prepared to resume testing if so directed by the President. While the nation's nuclear weapons stockpile is currently judged to be safe, secure, and reliable, the average age of the stockpile has never significantly exceeded the current age of 12 to 13 years. Furthermore, very few data exist for weapons older than 25 years. Because the Department cannot predict with certainty when age-related changes affecting weapon safety or reliability will occur, a conservative assumption would be that problems will arise more frequently as the weapons age beyond their original 20- to 25-year design lifetimes.

Historically, nuclear testing has provided unambiguous confidence in the safety and performance of weapons in the stockpile. Without underground nuclear testing, the Department must rely on experimental and computational capabilities, especially in weapons physics, to predict the consequences of the complex problems that are likely to occur in an aging stockpile.

Enhanced aboveground experimental and computational capabilities are needed to assess and predict the consequences of these problems. An improved science-based program with enhanced experimental and computational capabilities is necessary to maintain confidence in the safety and reliability of the nation's stockpile without nuclear testing. This program must be of sufficient technical challenge to attract the high-quality scientific and technical talent needed for future stewardship of the stockpile.

Substantial advances in experimental and computational capabilities are needed to fill in those areas of nuclear weapon science that are incomplete, particularly gaps in our understanding of physics and gaps in the data needed for computational simulations of weapons performance and model-based assessments of safety and reliability. Upgraded or new experimental capabilities are required to validate improved or new computational models.

Without these enhanced capabilities, the Department will lack the ability to evaluate some safety and reliability issues, which could significantly affect the stockpile. It is also possible that, without these enhanced capabilities, the Department would not be able to certify the acceptability of weapons components that had been repaired or modified to address future safety or reliability issues.

The capabilities needed by the Department to carry out its Stockpile Stewardship responsibilities are described below, along with a brief description of proposed facilities for each capability.

Primary Physics Issues. The study of issues related to the safety and reliability of the primary portion of nuclear weapons. Issues include physics validation, material behavior, improved understanding of implosion, and ability to assess age-related defects. The facilities proposed or under consideration are:

Contained Firing Facility. An addition to the Flash X-Ray hydrodynamic test facility at LLNL, this facility would provide hydrodynamic test capabilities and new diagnostics for improved studies of the behavior of weapons material. The PEIS will contain a full evaluation for site-specific construction and operational impacts.

Advanced Hydrotest Facility. If proposed, this facility would provide up to eight radiographic views of the primary's implosion symmetry. In the longer term, this facility may be essential for assuring weapon reliability and safety without nuclear testing.

Secondary Physics Issues. The study of issues related to the safety and reliability of the secondary portion of nuclear weapons. Issues include physics validation, material behavior, improved understanding of thermonuclear ignition, and ability to assess age-related defects. Some of these facilities may also investigate physics phenomena that relate to primaries. The facilities proposed or under consideration are:

National Ignition Facility (NIF). This facility would make it possible in the laboratory, for the first time ever, to study radiation physics in a regime close to that of nuclear weapon detonations. The PEIS will contain a full evaluation for site selection, and for site-specific construction and operational impacts.

High Explosive Pulsed-Power Facility (HEPPF). If proposed, the HEPPF would provide experimental capabilities for

studying secondary physics issues at shock pressures and velocities approaching those of actual weapon conditions.

Atlas Facility. The Atlas Facility at LANL would be used for hydrodynamic experiments to resolve issues related to boost-gas mixing and other primary physics, and improving the predictive capabilities related to the aging, reliability, and performance of secondaries. The facility builds on special existing equipment at LANL. The PEIS will contain a full evaluation for site-specific construction and operational impacts.

X-Ray Hardness. The study of radiation-effects science and materials certification. The facility under consideration is:

Jupiter Facility. If proposed, Jupiter would provide an x-ray environment to enhance the ability to certify that critical weapon components meet military requirements for x-ray hardness.

Computational Capabilities. To handle simulations of weapon performance and assessments of weapons safety without underground nuclear testing, improved computational capabilities are needed. However, because there are not expected to be any environmental impacts from this activity, the PEIS is not expected to provide any assessment of these capabilities.

PEIS Alternatives. Preliminary Stockpile Management and Stockpile Stewardship alternatives have been developed for public comment and are described below.

Stockpile Management. The PEIS will assess the alternatives for conducting the Stockpile Management mission. Based upon the capabilities and facilities that already exist in the Complex, no major new production facilities are currently proposed. Instead, the PEIS will evaluate upgrading and/or downsizing facilities at the sites where the Stockpile Management capabilities are currently located, as well as transferring the functions to other sites which have existing facilities that could be modified to perform the capability. Based upon an evaluation of the existing capabilities and facilities at the sites in the Complex, the following matrix of proposed alternatives has been developed for Stockpile Management:

Capability	Site alternatives							
	KCP	LANL	LLNL	NTS	Y–12	PX	SNL	SRS
Weapons assembly/disassembly				X		X		
Nonnuclear components	X	X	X				X	
Nuclear components:								
—Pit reuse (minor)		X		X		X		X
—Replacement pit fabrication and reuse (major)		X						X
—Secondaries and cases		X	X		X			
High explosives components		X	X			X		

In addition, the PEIS will also evaluate the no action alternative. For Stockpile Management, no action is described by the following matrix:

Capability	Sites							
	KCP	LANL	LLNL	NTS	Y–12	PX	SNL	SRS
Weapons assembly/disassembly						X		
Nonnuclear components	X	X					X	
Nuclear components:								
—Replacement pit fabrication and reuse (major)		X	X					
—Secondaries and cases					X			
High explosives components						X		

Stockpile Stewardship. The PEIS will assess the alternatives for conducting the Stockpile Stewardship mission. New facilities and upgraded facilities that will enable the Department to maintain confidence in the safety and reliability of the stockpile in the absence of underground nuclear testing will be assessed in the PEIS. Because the nuclear weapons testing mission has always been a primary responsibility of the weapons laboratories and the NTS, the Department does not believe it is reasonable to expand the stockpile stewardship mission to other sites. Therefore, only the three weapons laboratories (LANL, LLNL, and SNL) and the NTS are expected to be considered for new Stockpile Stewardship facilities. This is also consistent with one of the Stockpile Stewardship program's main purposes to preserve the core intellectual and technical competencies of the weapons laboratories. Because there is currently a moratorium on underground nuclear testing, and because the nation is pursuing a Comprehensive Test Ban Treaty, the Department has not made a decision whether it is reasonable to include underground nuclear testing as an alternative in the SSM PEIS to fulfill the Stockpile Stewardship mission. Comments on this issue are specifically invited during the scoping period.

The following matrix of proposed alternatives and facilities under consideration for proposal has been developed for Stockpile Stewardship:

Capability	Facility	Site alternatives			
		LANL	LLNL	NTS	SNL
Primary physics issues	Contained firing facility	.....	X	.....	.....
Primary physics issues	Advanced hydrotest facility	X	X	X	X
Secondary physics issues	National ignition facility	X	X	X	X
Secondary physics issues	High explosive pulsed-power facility	X	X	X	X
Secondary physics issues	Atlas facility	X	.....	.....	.....
X-Ray hardness	Jupiter facility	X	X	X	X

Of these facilities, the Advanced Hydrotest Facility, the High Explosive Pulsed-Power Facility, and the Jupiter Facility are under consideration for proposal in the SSM PEIS. The Department may elect to proceed with only some of the facilities in this matrix.

The PEIS will also evaluate the no action alternative of not constructing new facilities or upgrading existing facilities. For Stockpile Stewardship, no action is described by the following matrix:

Capability	Facility	Sites			
		LANL	LLNL	NTS	SNL
Primary physics issues	Hydrotest facilities	X	X	X	.....
Secondary physics issues	NOVA	.....	X	.....	.....
Secondary physics issues	Pegasus	X	.....	.....	.....
Radiation hardness	Test facilities	.....	.....	.....	X

Site-Specific NEPA Reviews. The SSM PEIS will provide a programmatic assessment of environmental impacts to support programmatic decisions to: (1) identify the future missions of the SSM program; and (2) determine the facility locations. More detailed project-specific and site-specific NEPA analyses for individual activities and facilities generally would tier from the PEIS as necessary to implement the PEIS decisions. However, for the NIF, the Contained Firing Facility (CFF), and the Atlas Facility, the PEIS will include both a programmatic assessment, and a site-specific assessment of the construction and operation impacts at the reasonable candidate sites. The programmatic assessment will consider the cumulative and synergistic impacts associated with siting these facilities, and will provide a basis for deciding whether to proceed with the facilities. For NIF, the programmatic assessment will also provide a basis for selecting a site for NIF since there are four candidate sites for that facility. However, for the CFF at LLNL, which is an upgrade to an existing facility, and for the Atlas Facility at LANL, which builds on special existing equipment at LANL, there are no alternative sites. If a decision is made to proceed with the NIF, CFF, or the Atlas Facility, the site-specific analyses in the SSM PEIS would provide the necessary NEPA analysis to decide where on the selected site to construct the facility, if relevant, and how to operate it.

Relationship to Other DOE NEPA Activities. In addition to the SSM PEIS, the Department is currently conducting NEPA reviews of other activities. The relationship between the SSM PEIS and other relevant major NEPA documents is discussed below.

Site-Wide EISs. DOE is currently preparing site-wide EISs for the Pantex Plant, NTS, and LANL. The site-wide EISs will address continued operations for current and reasonably foreseeable program missions at these sites. Programmatic issues such as what long-term capabilities are required to carry out DOE's Stockpile Stewardship and Management program, and the location for these long-term capabilities, will be addressed in the SSM PEIS.

Waste Management PEIS. This PEIS is analyzing alternatives for the long-term management and safe treatment, storage, and disposal of radioactive, hazardous, and mixed wastes. The SSM PEIS will assure that all wastes generated as a result of SSM activities are compatible with treatment, storage, and disposal decisions resulting from the Waste Management PEIS.

Storage and Disposition of Weapons Usable Fissile Material PEIS. This PEIS is analyzing alternatives for the long-term storage of all weapons-usable fissile materials, primarily plutonium and highly enriched uranium (HEU), and the disposition of excess plutonium. There is a potential overlap with the SSM PEIS regarding storage of strategic reserves of plutonium and HEU. Preparation of these PEISs will be closely coordinated to prevent conflicting analysis and to ensure that an appropriate decision on strategic reserve storage is reached.

Interim Actions. Two proposals that are within the scope of the SSM PEIS will proceed to separate Records of Decision, in accordance with Council on Environmental Quality regulations for interim actions (40 CFR 1506.1). These are the Dual-Axis Radiographic Hydrodynamic Test (DARHT) Facility EIS, and the Tritium Supply and Recycling PEIS. In the case of the DARHT EIS, DOE will continue with its ongoing hydrodynamic testing program and has proposed to provide an enhanced hydrodynamic test capability in the near term regardless of the decisions to be made following this SSM PEIS. In the case of the Tritium Supply and Recycling PEIS, DOE needs to establish a long-term tritium supply regardless of the decisions to be made following this SSM PEIS. Thus, the DOE's decisions regarding these two proposals would not prejudice the outcome of the SSM PEIS.

Scoping Meetings. Public scoping meetings will be held at each site that may be affected by the proposed action. The interactive scoping meetings will provide the public with an opportunity to present comments, ask questions, and discuss concerns regarding SSM activities with DOE officials, and for the Department to receive oral and written comments on the scope of the PEIS. Input from the scoping meetings will assist DOE in formulating the Implementation Plan for the SSM PEIS and refining PEIS alternatives. The locations, dates, and starting times for these public meetings are as follows:

Lawrence Livermore National Laboratory—June 29, 12:00 noon and 6:00 p.m., Villa

Tassajara, 6363 Tassajara Road, Pleasanton, CA 94566.
Sandia National Laboratory—July 11, 12:00 noon and 6:00 p.m., Albuquerque Convention Center, 401 Second Street, N.W., Albuquerque, NM 87102.
Los Alamos National Laboratory—July 13, 12:00 noon and 6:00 p.m., Fuller Lodge, 2132 Central Avenue, Los Alamos, NM 87544.
Kansas City Plant—July 18, 9:00 a.m. and 6:00 p.m., Rockhurst College, Massman Hall, 1100 Rockhurst Road, 53rd & Troost, Kansas City, MO 64110.
Pantex—July 20, 12:00 noon and 7:00 p.m., Sunset Convention Center, 3601 West 15th, Amarillo, TX 79102.
Y–12, Oak Ridge—July 25, 12:00 noon and 6:00 p.m., Pollard Auditorium, Badger Avenue, Oak Ridge, TN 37830.
Savannah River Site—July 27, 12:00 noon and 6:00 p.m., The Aiken Municipal Center, 214 Park Avenue, S.W., Aiken, SC 29801.
Nevada Test Site—August 3 & 4, August 3: 6:00 p.m. and August 4: 8:30 a.m., Community College of Southern Nevada/ Cheyenne Campus, 3200 East Cheyenne Avenue, North Las Vegas, NV 89030.

Scoping Meeting Format. The Department intends to hold a plenary session at the beginning of each scoping hearing in which DOE officials will more fully explain the framework for the proposed SSM program, including preliminary alternatives for Stockpile Management, Stockpile Stewardship, and the NIF project. Following the plenary session, the Department intends to discuss relevant issues in more detail. Each scoping meeting is expected to last approximately three to four hours.

Issued in Washington, D.C. this 9th day of June 1995, for the United States Department of Energy.

Peter N. Brush,

Principal Deputy Assistant Secretary Environment, Safety and Health.

[FR Doc. 95–14544 Filed 6–13–95; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. EG95–54–000, et al.]

Entergy Power Holding I, Ltd., et al.; Electric Rate and Corporate Regulation Filings

June 7, 1995.

Take notice that the following filings have been made with the Commission:

1. Entergy Power Holding I, Ltd.

[Docket No. EG95–54–000]

Take notice that on June 1, 1995, Entergy Power Holding I, Ltd., Three Financial Centre, Suite 210, 900 South Shackleford Road, Little Rock, Arkansas 72211, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Section 32(a)(1) of the Public Utility Holding Company Act of 1935, as amended by Section 711 of the Energy Policy Act of 1992.

According to its application, Entergy Power Holding I, Ltd. (Applicant) is a corporation that seeks wholesale generator status with regard to its investment in eligible facilities in Pakistan and India. The Pakistani facilities consist of four 323 MW oil-fired generating units located in the province of Balochistan, approximately 40 kilometers northwest of Karachi. The Indian facilities consist of an approximately 695 MW distillate oil-fired electric generating facility located in the State of Maharashtra. Applicant states that it also seeks assurances that it may engage in various project development activities and may acquire interests in additional project companies and operating companies.

Comment date: June 26, 1995, in accordance with Standard Paragraph E at the end of this notice.

2. United States Department of Energy—Bonneville Power Administration

[Docket No. EF95–2101–000]

Take notice that on June 5, 1995, the Bonneville Power Administration (BPA) tendered for filing proposed rate adjustments for its charges under the Pacific Northwest Coordination Agreement (PNCA) pursuant to Section 7(a)(2) of the Pacific Northwest Electric Power Planning and Conservation Act, 16 U.S.C. 839e(a)(2). BPA seeks interim approval of its proposed revised PNCA rates effective August 4, 1995, pursuant to § 300.20 of the Commission's regulations, 18 CFR 300.20. BPA seeks interim approval of the revised PNCA rates pending review of BPA's 1995 Wholesale Power and Transmission Rates to be filed on or before August 1, 1995. BPA will then request final approval of the revised PNCA rates pursuant to § 300.21 of the Commission's regulations, 18 CFR 300.21, and continuing until such time as a party to the PNCA requests Commission approval of revised charges.

The proposed increases to the respective charges under the PNCA are uniform charges for all parties to the PNCA. All of the charges are based on negotiations among all parties to the PNCA, held under Section 14(j) of the Coordination Agreement.

Comment date: June 19, 1995, in accordance with Standard Paragraph E at the end of this notice.

3. Allegheny Generating Company

[Docket Nos. ER92–242–001, EL92–10–001, and EL94–24–002]

Take notice that on May 2, 1995, Allegheny Generating Company tendered for filing its refund report in the above-referenced dockets.

Comment date: June 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

4. Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company

[Docket No. ER95–276–001]

Take notice that on April 5, 1995, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company tendered for filing its compliance filing in the above-referenced docket.

Comment date: June 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

5. Peak Energy, Inc.

[Docket No. ER95–379–001]

Take notice that on May 22, 1995, Peak Energy, Inc. (Peak Energy) filed certain information as required by the Commission's letter order issued February 24, 1995, in Docket No. ER95–379–000. Copies of Peak Energy's informational filing are on file with the Commission and are available for public inspection.

6. Boston Edison Company

[Docket Nos. ER95–773–000, ER95–774–000 and ER95–775–000]

Take notice that on June 2, 1995, Boston Edison Company (Edison) tendered for filing First Revised Page No. 1 to Schedule III of its Original Volume No. 6, Power Sales and Exchange Tariff (Tariff). Boston Edison also filed Certificates of Concurrence for Electric Clearinghouse, Inc., ENRON Power Marketing, Inc., and Louis Dreyfus Electric Power Inc. The Revised Page No. 1 updates the cost informational originally filed with the Tariff.

Edison states that it has served a copy of this filing on all parties with Service Agreements under the Tariff and with the Massachusetts Department of Public Utilities.

Comment date: June 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

7. Idaho Power Company

[Docket No. ER95–821–000]

Take notice that on May 22, 1995, Idaho Power Company tendered for filing an amendment to its March 30,

1995, filing in the above-referenced docket.

Comment date: June 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

8. Atlantic City Electric Company

[Docket No. ER95–881–000]

Take notice that on June 2, 1995, Atlantic City Electric Company (ACE) tendered for filing supplemental material in Docket No. ER95–881–000.

Copies of the filing were served on the New Jersey Board of Regulatory Commissioners.

Comment date: June 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

9. Northern Indiana Public Service Company

[Docket No. ER95–902–000]

Take notice that on May 24, 1995, Northern Indiana Public Service Company (Northern) tendered for filing Revised Exhibits A and B and an Addendum to the Interchange Agreement Between Northern and Wisconsin Electric Power Company.

The Revised Exhibit A to the Interchange Agreement clarifies certain provisions for General Purpose transactions or Negotiated Capacity transactions. Revised Exhibits A and B clarify that the rates for energy from Northern's system shall not exceed $48.00 per megawatt, and provides a cap on seven consecutive daily purchases of capacity by Northern at the others weekly capacity purchase rate. The Addendum specifies the treatment of the emissions allowance costs included as out-of-pocket costs for sales by Northern.

Copies of this filing have been sent to Wisconsin Electric Power Company and the Indiana Utility Regulatory Commission.

Comment date: June 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

10. Northern Indiana Public Service Company

[Docket No. ER95–903–000]

Take notice that on May 24, 1995, Northern Indiana Public Service Company (Northern) tendered for filing Revised Exhibit A and an Addendum to the Interchange Agreement Between Northern and Wisconsin Electric Power Company.

The Revised Exhibit A to the Interchange Agreement clarifies certain provisions for General Purpose transactions and Negotiated Capacity transactions. Revised Exhibits A clarifies that the rates for energy shall not be less than Northern's out-of-pocket costs, provides a cap on seven consecutive daily purchases of capacity at the weekly capacity purchase rate, provides that the rate for energy associated with purchased power, if any, shall be the cost of such energy to Northern plus on mill and states that third party purchase-resale transactions are not anticipated for General Purpose transactions. The Addendum specifies the treatment of emissions allowance costs included as out-of-pocket costs for sales by Northern.

Copies of this filing have been sent to LG&E Power Marketing, Inc. and the Indiana Utility Regulatory Commission.

Comment date: June 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

11. Florida Power & Light Company

[Docket No. ER95–1095–000]

Take notice that on May 25, 1995, Florida Power & Light Company (FPL) tendered for filing proposed Service Agreements with the City of Key West for transmission service under FPL's Transmission Tariff Nos. 2 and 3.

FPL requests that the proposed Service Agreements be permitted to become effective on June 1, 1995, or as soon thereafter as practicable.

FPL states that this filing is in accordance with Part 35 of the Commission's Regulations.

Comment date: June 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

12. PacifiCorp Power Marketing, Inc.

[Docket No. ER95–1096–000]

Take notice that on May 25, 1995, PacifiCorp Power Marketing, Inc. (PPM), tendered for filing pursuant to Rule 205, 18 CFR 385.205, an Application for waivers and blanket approvals under various regulations of the Commission and for an order accepting its FERC Electric Rate Schedule No. 1 to be effective the earlier of July 25, 1995 or the date the Commission issues an Order in this Docket.

PPM intends to engage in electric power and energy transactions as a marketer and a broker. In transactions where PPM sells electric energy outside of the Western Systems Coordinating Council, it proposes to make such sales on rates, terms, and conditions to be mutually agreed to with the purchasing party. PPM is not in the business of generating, transmitting, or distributing electric power.

Comment date: June 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

13. West Texas Utilities Company

[Docket No. ER95–1097–000]

Take notice that on May 25, 1995, West Texas Utilities Company (WTU), tendered for filing a Letter Agreement between WTU and the City of Coleman, Texas (Coleman). Under the Letter Agreement, WTU will make additional energy available to Coleman during the on-peak hours of the summer months of 1995, pursuant to a Supplemental Sales Agreement between WTU and Coleman, previously filed with the Commission.

WTU requests waiver of the notice requirements in order that the Letter Agreement may become effective as of June 1, 1995.

Comment date: June 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

14. Portland General Electric Company

[Docket No. ER95–1098–000]

Take notice that on May 24, 1995, Portland General Electric Company (PGE), tendered for filing revisions to FERC Rate Schedule No. 185 to allow the integration of the Coyote Springs Generating Project.

Comment date: June 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

15. Oklahoma Gas and Electric Company

[Docket No. ER95–1099–000]

Take notice that on May 25, 1995, Oklahoma Gas and Electric Company (OG&E), tendered for filing a modification to its Fuel Cost Adjustment provisions that are included in its Rate Schedule WM–1, Firm Power (Municipalities); Rate Schedule WC–1, Firm Power (Cooperatives); and Rate Schedule WM–2, Supplemental Service (Municipalities) all of which is included in the Oklahoma Gas and Electric Company FERC Electric Tariff, 1st Revised Volume No. 1, as well as modification to the fuel cost adjustment provisions contained in contracts with AES Power, Inc.; City Water & Light of Jonesboro, Arkansas; Oklahoma Municipal Power Authority; and Southwestern Power Administration.

The proposed modification to the Fuel Cost Adjustment provisions on the above referenced Rate Schedule Sheets is necessary due the possibility that OG&E may purchase fuel from its wholly-owned subsidiary, ENOGEX, Inc. to provide electricity to its customers and because ENOGEX, Inc. transports natural gas to OG&E. The purchase price and related costs of fuel purchased from ENOGEX, Inc. are subject to review and approval by the Oklahoma Corporation Commission.

Copies of this filing have been sent to the Oklahoma Corporation Commission and the Arkansas Public Service Commission and to the affected customers.

Comment date: June 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

16. PECO Energy Company

[Docket No. ER95–1105–000]

Take notice that on May 26, 1995, PECO Energy Company (PECO), tendered for filing an Agreement between PECO and PEPCO Services, Incorporated (PEPCO) dated June 1, 1995.

PECO states that the Agreement sets forth the terms and conditions for the sale of system energy which it expects to have available for sale from time to time and the purchase of which will be economically advantageous to PEPCO. In order to optimize the economic advantage to both PECO and PEPCO, PECO requests that the Commission waive its customary notice period and permit the agreement to become effective on June 1, 1995.

PECO states that a copy of this filing has been sent to PEPCO and will be furnished to the Pennsylvania Public Utility Commission.

Comment date: June 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

17. Southern Company Services, Inc.

[Docket No. ER95–1106–000]

Take notice that on May 26, 1995, Southern Company Services, Inc. (SCS), acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (collectively referred to as ''Southern Companies'') filed a Service Agreement dated as of May 5, 1995 between Catex Vitol Electric, L.L.C. and SCS (as agent for Southern Companies) for service under the Short-Term Non-Firm Transmission Service Tariff of Southern Companies.

Comment date: June 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

18. LTV Steel Mining Company A Limited Partnership

[Docket No. ER95–1107–000]

Take notice that on May 26, 1995, LTV Steel Mining Company (LTV Mining), a limited partnership organized under the laws of Minnesota, tendered for filing proposed changes in its FERC Electric Service, Tariff No. 0001. The proposed changes modify the rate for the sale of capacity and associated energy, as well as inadvertent power flows, from LTV Mining to Minnesota Power & Light.

The proposed changes are being made in order to update the pricing and operating procedures governing the sale of capacity and associated energy from LTV Mining to Minnesota Power & Light, thus providing an efficient solution to meet the long term needs of both LTV Mining and Minnesota Power & Light.

Copies of the filing were served upon Minnesota Power & Light.

Comment date: June 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

18a. Louisville Gas and Electric Company

[Docket No. ER95–1108–000]

Take notice that on May 30, 1995, Louisville Gas and Electric Company, tendered for filing a copy of a service agreement between Louisville Gas and Electric Company and Rainbow Energy Marketing Corporation under Rate GSS.

Comment date: June 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

19. Madison Gas and Electric Company

[Docket No. ER95–1109–000]

Take notice that on May 30, 1995, Madison Gas and Electric Company (MGE), tendered for filing a service agreement with Citizens Lehman Power Sales under MGE's Power Sales Tariff. MGE requests an effective date 60 days from the filing date.

Comment date: June 22, 1995, in accordance with Standard Paragraph E at the end of this notice.

20. Madison Gas and Electric Company

[Docket No. ER95–1110–000]

Take notice that on May 30, 1995, Madison Gas and Electric Company (MGE), tendered for filing a service agreement with CNG Power Services Corporation under MGE's Power Sales Tariff. MGE requests an effective date 60 days from the filing date.

Comment date: June 22, 1995, in accordance with Standard Paragraph E at the end of this notice.

21. Madison Gas and Electric Company

[Docket No. ER95–1111–000]

Take notice that on May 30, 1995, Madison Gas and Electric Company (MGE), tendered for filing a service agreement with Imprimis Corporation under MGE's Power Sales Tariff. MGE requests an effective date 60 days from the filing date.

Comment date: June 22, 1995, in accordance with Standard Paragraph E at the end of this notice.

22. Central Vermont Public Service Corporation

[Docket No. ER95–1112–000]

Take notice that on May 30, 1995, Central Vermont Public Service Corporation (CVPS), tendered for filing a service agreement for provision of transmission service under FERC Electric Tariff, Original Volume No. 3 to New Hampshire Electric Cooperative, Inc. (NHEC) effective May 1, 1995.

Comment date: June 22, 1995, in accordance with Standard Paragraph E at the end of this notice.

23. Central Vermont Public Service Corporation

[Docket No. ER95–1113–000]

Take notice that on May 30, 1995, Central Vermont Public Service Corporation (CVPS), tendered for filing the Actual 1994 Cost Report in accordance with Article IV, Section A(2) of the North Hartland Transmission Service Contract (Agreement) between Central Vermont Public Service Corporation (CVPS or Company) and the Vermont Electric Generation and Transmission Cooperative, Inc. (VG&T) under which CVPS transmits the output of the VG&T's 4.0 MW hydroelectric generating facility located in North Hartland, Vermont via a 12.5 kV circuit owned and maintained by CVPS to CVPS's substation in Quechee, Vermont. The North Hartland Transmission Service Contract was filed with the Commission on September 6, 1984 in Docket No. ER84–674–000 and was designated as Rate Schedule FERC No. 121.

Under Article IV, Section A(2) of the Agreement, the annual charges to VG&T are based on estimated data which are subject to a reconciliation or ''true-up'', after the year is over, using actual data as reported in the Company's FERC Form No. 1.

Comment date: June 22, 1995, in accordance with Standard Paragraph E at the end of this notice.

24. Central Vermont Public Service Corporation

[Docket No. ER95–1114–000]

Take notice that on May 30, 1995, Central Vermont Public Service Corporation (CVPS) tendered for filing the Actual 1994 Cost Report required under Article 2.4 on Second Revised Sheet No. 18 of FERC Electric Tariff, Original Volume No. 3, of Central Vermont under which Central Vermont provides transmission and distribution services to the following Customers:

Vermont Electric Cooperative, Inc.
Lyndonville Electric Department

Village of Ludlow Electric Light Department
Village of Johnson Water and Light Department
Village of Hyde Park Water and Light Department
Rochester Electric Light and Power Company
Woodsville Fire District Water and Light Department

Comment date: June 22, 1995, in accordance with Standard Paragraph E at the end of this notice.

25. Central Vermont Public Service Corporation

[Docket No. ER95–1115–000]

Take notice that on May 30, 1995, Central Vermont Public Service Corporation (CVPS), tendered for filing the Actual 1994 Cost Report required under Paragraph Q–1 on Original Sheet No. 18 of the Rate Schedule FERC No. 135 (RS–2 rate schedule) under which Central Vermont Public Service Corporation (Company) sells electric power to Connecticut Valley Electric Company Inc. (Customer). The Company states that the Cost Report reflects changes to the RS–2 rate schedule which were approved by the Commission's June 6, 1989 order in Docket No. ER88–456–000.

Comment date: June 22, 1995, in accordance with Standard Paragraph E at the end of this notice.

26. PECO Energy Company

[Docket No. ER95–1116–000]

Take notice that on May 30, 1995, PECO Energy Company (PECO) tendered for filing an Agreement between PECO and TVA Services, Incorporated (TVA) dated April 26, 1995.

PECO states that the Agreement sets forth the terms and conditions for the sale of system energy which it expects to have available for sale from time to time and the purchase of which will be economically advantageous to TVA. In order to optimize the economic advantage to both PECO and TVA, PECO requests that the Commission waive its customary notice period and permit the agreement to become effective on June 1, 1995.

PECO states that a copy of this filing has been sent to TVA and will be furnished to the Pennsylvania Public Utility Commission.

Comment date: June 22, 1995, in accordance with Standard Paragraph E at the end of this notice.

27. Birchwood Power Partners, L.P.

[Docket No. QF93–126–001]

On May 26, 1995, Birchwood Power Partners, L.P. (Applicant) submitted for filing an amendment to its filing in this docket.

The amendment provides additional information pertaining to the ownership and location of its cogeneration facility. No determination has been made that the submittal constitutes a complete filing.

Comment date: June 27, 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 the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–14533 Filed 6–13–95; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. RP95–334–000]

Georgia-Pacific Corp. v. NorAm Gas Transmission Co.; Complaint

June 8, 1995.

Take notice that on June 5, 1995, Georgia-Pacific Corporation (Georgia-Pacific) submitted for filing with the Commission a Complaint and Emergency Motion concerning NorAm Gas Transmission Company's (NorAm) charging Georgia-Pacific market lateral fees.

Georgia-Pacific argues that: (1) NorAm has no authority under its FERC Gas Tariff to charge Georgia-Pacific a market lateral fee for firm transportation service performed since February 1, 1995; (2) NorAm has no authority under its FERC Gas Tariff to charge Georgia-Pacific a market lateral fee prospectively; and (3) NorAm must make a rate filing pursuant to Section 4 of the Natural Gas Act before it may seek to charge Georgia-Pacific (and any transportation customer) a market lateral fee.

Georgia-Pacific also contends that its nonpayment of NorAm's charged market lateral fees does not authorize NorAm to suspend service to Georgia-Pacific under its FERC Gas Tariff. Georgia-Pacific, therefore moves the Commission to expeditiously issue an order forbidding NorAm to suspend or terminate service to Georgia-Pacific during the pendency of this complaint.

Georgia-Pacific states that it has served a copy of the complaint to NorAm.

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 June 29, 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 June 29, 1995.

Lois D. Cashell,

Secretary.

[FR Doc. 95–14479 Filed 6–13–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM95–4–49–000]

Williston Basin Interstate Pipeline Co.; Annual Supply Realignment Reconciliation Filing

June 8, 1995.

Take notice that on May 31, 1995, Williston Basin Interstate Pipeline Company (Williston Basin) tendered for filing its Annual Gas Supply Realignment Reconciliation Filing pursuant to § 39.3.3 of the General Terms and Conditions of its FERC Gas Tariff, Second Revised Volume No. 1. More specifically, Williston Basin filed the following tariff sheets:

Twelfth Revised Sheet No. 15
Fifteenth Revised Sheet No. 16
Twelfth Revised Sheet No. 18

Williston Basin has requested that the Commission accept the filing to become effective July 1, 1995.

Williston Basin states that the revised tariff sheets reflect the annual reconciliation of the latest GSR cost recovery period and establishment of new reservation charge surcharge applicable to service under Rate Schedules FT–1 and ST–1 and a new

base rate unit cost applicable to service under Rate Schedule IT–1.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's rules and regulations. All such motions or protests should be filed on or before June 15, 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 in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–14478 Filed 6–13–95; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5221–2]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before July 14, 1995.

FOR FURTHER INFORMATION OR A COPY CALL: Sandy Farmer at EPA, (202) 260–2740, and refer to EPA ICR No. 0226.12.

SUPPLEMENTARY INFORMATION:

Office of Water

Title: Applications for the National Pollutant Discharge Elimination System (NPDES) Permit and the Sewage-Sludge Management Permit (OMB Control No. 2040–0086; EPA ICR No. 0226.12). This is a request for extension of a currently approved information collection.

Abstract: Under the Clean Water Act, EPA or a delegated State regulatory authority issues permits to facilities discharging pollutants into the waters of the United States under the National Pollutant Discharge Elimination System (NPDES) program. The Act also authorizes EPA to issue permits for the use and disposal of sewage sludge. Most information is supplied on standard application forms, with different forms corresponding to different types of applicants. This ICR includes justification for all the information requirements relating to facilities applying for such permits.

Burden Statement: The public reporting and recordkeeping burden for this collection of information is estimated to average 7 hours per respondent. 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.

Respondents: Facilities that discharge wastewater or use or dispose of sewage sludge.

Estimated No. of Respondents: 101,988.

Estimated Total Annual Burden on Respondents: 622,628 hours.

Frequency of Collection: On occasion.

Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to the following addresses. Please refer to EPA ICR No. 0226.12 and OMB Control No. 2040–0086 in any correspondence.

Ms. Sandy Farmer, EPA ICR No. 0226.12, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2136), 401 M Street SW., Washington, DC 20460

and

Mr. Tim Hunt, OMB Control No. 2040–0086, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street NW., Washington, DC 20503.

Dated: June 1, 1995.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 95–14547 Filed 6–13–95; 8:45 am]

BILLING CODE 6560–50–M

[OPPTS–00171; FRL–4961–8]

Uniform Reporting of Environmental Data; Facility Key Identifiers Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Open Meeting.

SUMMARY: EPA has established the Facility Key Identifiers Project to streamline access to and development of a uniform reporting structure for environmental data. The Facility Key Identifiers Project Staff of the Office of Pollution Prevention and Toxics, is announcing a public meeting to discuss the scope of the project and anticipated proposed regulations.

DATES: The meeting will be held on June 23, 1995. The first session will be held from 9 a.m. to 11 a.m. and the second session will be held from 1 p.m. to 3 p.m. The agenda for both sessions will be the same, although the first will be focussed more on environmentalist and public access issues, while the second will be focussed on industry reporting issues.

ADDRESSES: The meeting will be held at the Environmental Protection Agency, 401 M St., SW., Washington, DC in the Washington Information Center, room North 3.

FOR FURTHER INFORMATION CONTACT: Diane Sheridan, Office of Pollution Prevention and Toxics (7407), US Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, telephone: (202) 260–3435. E-mail, sheridan.diane@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA has established the Facility Key Identifiers Project to streamline access to and develop a uniform reporting structure for environmental data by establishing a uniform set of ''place-based'' identifier information for use by EPA, State environmental agencies, and the public. The scope of the project, proposed structure of the Key Identifiers, anticipated proposed regulations and the infrastructure needed to make the system operational will be discussed at the meeting.

List of Subjects

Environmental protection.

Dated: June 9, 1995.

Steven D. Newburg-Rinn,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 95–14678 Filed 6–13–95; 8:45 am]

BILLING CODE 6560–50–F

[OPP–260055; FRL–4944–2]

Pesticide Tolerances; Partial Response to Petition to Modify EPA Policy

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; Response to Petition.

SUMMARY: This notice responds in part to a petition filed with EPA by the

National Food Processors Association and other food and grower trade associations. That petition sought the repeal or revision of several EPA policies and interpretations related to how EPA coordinated actions under its various statutory authorities over pesticide residues in food. EPA regulates pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act and sections 408 and 409 of the Federal Food, Drug, and Cosmetic Act. Although EPA has not resolved all of the policy questions raised by the NFPA petition, EPA has concluded that changes are warranted to its policy concerning when FFDCA section 409 is applicable to a pesticide use and several related legal interpretations.

FOR FURTHER INFORMATION CONTACT: By mail: Niloufar Nazmi, Special Review and Reregistration Division (7508W) or Jean Frane, Policy and Special Projects Staff (7501C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Telephone numbers: 703-308-8028 or 703-305-5944; e-mail: nazmi.niloufar@epamail.epa.gov. or frane.jean@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

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I. Introduction

In *Les v. Reilly*, 968 F.2d 985 (9th Cir. 1992), *cert. denied*, 113 S.Ct. 1361 (1993), the Ninth Circuit U.S. Court of Appeals held that the Delaney anti-cancer clause in the food additives provision of the Federal Food, Drug, and Cosmetic Act was not subject to an exception for pesticide uses which pose a *de minimis* cancer risk. Prior to the decision becoming final, food processors and growers filed a petition with EPA challenging a number of policies and interpretations relating to how EPA implements its authority under the FFDCA. The petition proposes policies and interpretations that would reduce the impact of the *Les* decision. This notice responds to the petition in part.

II. Background

A. Statutory Background

Pesticide residues in human and animal food in the United States are regulated under provisions of the Federal Food, Drug and Cosmetic Act (FFDCA) and the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA). The interplay between sections 402, 408 and 409 of the FFDCA and, to a more limited extent, between the FFDCA and FIFRA, have created a complex, and sometimes contradictory, statutory framework underlying residue regulation in food.

Before a pesticide may be sold or distributed, it must be registered under the FIFRA. 7 U.S.C. 136 et seq. To qualify for registration, a pesticide must, among other things, perform its intended function without causing ''unreasonable adverse effects on the environment.'' 7 U.S.C. 136a(c)(5). The term ''unreasonable adverse affects on the environment'' is defined as ''any unreasonable risk to man or the environment taking into account the economic, social and environmental costs and benefits of the use of any pesticide.'' 7 U.S.C. 136(bb).

The FFDCA, 21 U.S.C. 301 *et seq.*, authorizes the establishment by regulation of maximum permissible levels of pesticides in foods. Such regulations are commonly referred to as ''tolerances.'' Without such a tolerance or an exemption from the requirement of a tolerance, a food containing a pesticide residue is ''adulterated'' under section 402 of the FFDCA and may not be legally moved in interstate commerce. 21 U.S.C. 331, 342. EPA was authorized to establish pesticide tolerances under Reorganization Plan No. 3 of 1970. 5 U.S.C. App at 1343 (1988). Monitoring and enforcement of pesticide tolerances are carried out by the U.S. Food and Drug Administration (FDA) and the United States Department of Agriculture (USDA).

The FFDCA has separate provisions for tolerances for pesticide residues on raw agricultural commodities (RACs) and for residues on processed food. For pesticide residues in or on RACs, EPA establishes tolerances, or exemptions from tolerances when appropriate, under section 408. 21 U.S.C. 346a. EPA regulates pesticide residues in processed foods under section 409 which pertains to ''food additives.'' 21 U.S.C. 348. Maximum residue regulations established under section 409 are commonly referred to as food additive tolerances or food additive regulations (FARs). Section 409 FARs are needed, however, only for certain pesticide residues in processed food. Under section 402(a)(2) of the FFDCA, a pesticide residue in processed food generally will not render the food adulterated if the residue results from application of the pesticide to a RAC and the residue in the processed food when ''ready to eat'' is below the RAC tolerance set under section 408. This exemption in section 402(a)(2) is commonly referred to as the ''flow-through'' provision because it allows the section 408 raw food tolerance to flow through to the processed food form. Thus, a section 409 FAR is only necessary to prevent foods from being deemed adulterated when the concentration of the pesticide residue in a processed food when ''ready to eat'' is greater than the tolerance prescribed for the RAC, or if the processed food itself is treated or comes in contact with a pesticide.

To establish a tolerance regulation under section 408, EPA must find that the regulation would ''protect the public health.'' 21 U.S.C. 346a(b). In reaching this determination, EPA is directed to consider, among other things, the ''necessity for the production of an adequate, wholesome, and economical food supply.'' *Id*. Prior to establishing a food additive tolerance under section 409, EPA must determine that the ''proposed use of the food additive [pesticide], under the conditions of use to be specified in the regulation, will be safe.'' 21 U.S.C. 348(c)(3). Section 409 specifically addresses the safety of carcinogenic substances in the so-called Delaney clause which provides that ''no additive shall be deemed safe if it has been found to induce cancer when ingested by man or animal or if it is found, after tests which are appropriate for the evaluation of the safety of food additives, to induce cancer in man or animal * * *.'' *Id*. Although EPA has interpreted the general standard under section 408 to require a balancing of risks and benefits, where a pesticide which is an animal or human carcinogen is involved, the section 409

Delaney clause, in contrast to section 408 and FIFRA, explicitly bars such balancing no matter how infinitesimal the potential human cancer risk. *Les* v. *Reilly*, 968 F.2d at 989.

B. EPA Coordination of the Statutory Provisions Governing Pesticides

In its administration of FIFRA and FFDCA sections 408 and 409, EPA has specified that FIFRA registrations for food-use pesticides will not be approved until all necessary tolerances and food additive tolerances have been obtained. 40 CFR 152.112(g). As a policy matter, EPA has taken a similar approach to FFDCA sections 408 and 409, not granting section 408 tolerances until needed section 409 FARs have been granted.

This linkage of its statutory authorities has been described by EPA as its coordination policy. Basically, EPA's coordination policy is an expression of EPA's intent to take into account all of the applicable provisions governing pesticides in taking action under any one of the three. EPA's view has been that it should not be approving pesticide uses under one of the three provisions if an approval needed under one of the other provisions cannot be obtained.

EPA's concentration policy establishes the criterion as to when approval is needed for food-use pesticides under FFDCA section 409, and hence when the Delaney clause applies. Generally, EPA has used a ''concentration in fact'' standard as the test of whether a use needs a section 409 FAR. The concentration in fact standard focuses on the level of the pesticide residue in the processed food, measured on a weight to weight basis, compared to the level of the residue in the precursor raw agricultural commodity. If a processing study shows that the level of pesticide residue in the processed food exceeds the level of residue in the precursor raw agricultural commodity, EPA would conclude there has been a concentration in fact of the pesticide residues in the processed food.

EPA believes the concentration in fact test is relevant to the inquiry of whether a section 409 FAR is needed because residues in the raw crop may be at or near the section 408 tolerance level. Residues in the raw crop may be close to the section 408 tolerance level because section 408 tolerance levels are established based on actual field trials and designed to be set no higher than necessary given approved usage directions for the pesticide established in the FIFRA registration. Under EPA regulations, the section 408 tolerance level should ''reasonably reflect the amount of residue likely to result when the pesticide chemical is used in the manner proposed.'' 40 CFR 180.4. If residue levels in the raw crop are at or near the section 408 tolerance level and concentration in fact occurs during processing, the residue level in the processed food is likely to exceed the section 408 tolerance. The National Academy of Sciences (NAS) has acknowledged the logic behind EPA's reliance on a concentration in fact standard:

> In determining whether a section 409 food additive tolerance is required, the EPA focuses on whether residues in any processed product exceed those found on the unprocessed crop, not whether residues concentrate above some hypothetical section 408 tolerance.
>
> The logic of the EPA's practice is clear. A section 408 tolerance represents a residue level that may in some cases be realized. A section 409 tolerance must reflect the possible residue levels in processed foods derived from that raw commodity.

National Research Council, Regulating Pesticides in Food: Delaney Paradox 28 (1987).

III. The NFPA Petition

On September 11, 1992, the National Food Processors Association (NFPA), the United Fresh Fruit and Vegetable Association, the Florida Fruit and Vegetable Association, the Northwest Horticultural Council, and the Western Growers Association filed a petition with EPA challenging the policies followed by EPA in linking its regulatory activities under the various pesticide provisions of FIFRA and FFDCA. (Petition to the Environmental Protection Agency, Office of Pesticide Programs, Concerning EPA's Pesticide Concentration Policy (1992)) (hereinafter cited as ''NFPA petition''). The NFPA petition explicitly attacks what it calls EPA's ''concentration policy.'' In actuality, the petition is a challenge to two interrelated policies described by EPA as its coordination and concentration policies. The NFPA petition argues that the coordination and concentration policies are both unlawful and unnecessary. The petition requests that the EPA coordination policy be repealed so that section 408 tolerances can remain in effect (or can be established) for pesticide uses even if, under the *Les* decision, the associated section 409 FARs have to be revoked (or cannot be established). The petition asks that the concentration policy be modified so that it takes into account factors beyond the concentration in fact test. Additionally, the petition requests that EPA apply the term ''ready to eat'' in the flow-through provision according to what NFPA asserts is its plain meaning.

EPA sought public comment on the petition (58 FR 7470, Feb. 5, 1993). Extensive public comment was received, and significant comments are discussed in this notice. Several more narrowly focused comments are discussed in a separate document that has been included in the docket.

IV. Summary of EPA's Partial Response to NFPA Petition

Sections V through VII below set forth EPA's partial response to the NFPA petition. EPA has not reached a decision on NFPA's challenge to the coordination policy. EPA, however, has completed evaluation of NFPA's contentions regarding the concentration policy and EPA's interpretation of the term ''ready to eat.'' This document responds to the NFPA petition on these two issues. In brief, EPA agrees with NFPA and many of the commenters that modifications should be made to its concentration policy so that it is a better predictor of the likelihood that residues in processed food may exceed the applicable section 408 tolerance. EPA, however, cannot accept all of NFPA's suggested changes to the concentration policy. As to interpretation of the phrase ''ready to eat,'' EPA agrees that such term must be given its common-sense meaning.

V. Concentration Policy

A. General Issues

EPA's concentration policy is the trigger for when a pesticide use needs a section 409 FAR. EPA has treated a pesticide use as needing a section 409 FAR generally whenever a processing study shows that pesticide residues are greater in the processed food than in the raw agricultural commodity before processing. In other words, EPA looks to see if the pesticide ''concentrates in fact.'' EPA has used concentration in fact as the trigger for when a food additive regulation is needed because, in theory, RAC tolerances are set at levels no higher than necessary to cover maximum legal usage under the FIFRA registration. RAC tolerances are established based on field trial data showing the range of residues likely to result from maximum legal application of the pesticide. Generally, the RAC tolerance level is set just slightly above the maximum residue value found in the field trials. Thus, if concentration in fact occurs during processing, overtolerance residues in processed food can result if the RACs used for processing contain pesticide residues reflecting maximum legal usage.

NFPA challenges EPA's concentration policy on two grounds. First, NFPA claims that all available data support the view that food additive regulations are unnecessary to avoid adulterated processed food. Second, NFPA argues that EPA has ignored the ''ready to eat'' requirement in the flow-through provision. EPA's interpretation of the term ''ready to eat'' will be addressed in the following section.

B. Monitoring Data and the Concentration Policy

NFPA cites various data sources which it claims show residues on both raw and processed foods generally to be well below the level of the RAC tolerance. NFPA argues that residues in processed foods generally fall below RAC tolerances because of the careful attention paid to the flow-through provision by food processors.

> When the flow-through provision was adopted and as it operated for a number of years, processors clearly understood that it was their obligation to produce a processed product that stayed within the raw product tolerance. This obligation could be met through any number of steps, including supervision of growers' pesticide practices, careful and informed buying practices, analysis of raw product, handling, cleaning and treatment of the raw product, and testing of the finished produce to assure that it would be in compliance with the Act * * *. [T]hey recognized that if their process involved some degree of concentration [and the food is consumed in the concentrated form], they were well advised to use raw product that at the time of processing was below the prescribed tolerance levels, and that failure to take such steps could possibly result in adulteration and a costly enforcement action.

(Comments of NFPA at 37–38).

NFPA asserts that the steps taken by processors to avoid overtolerance residues show that EPA's reliance on processing studies to require food additive regulations is unwarranted.

The data relied upon by NFPA do show that pesticide residues in raw and processed food generally are below section 408 tolerance levels. On the other hand, EPA is often presented with processing studies by pesticide manufacturers that demonstrate that particular pesticides concentrate in processed food to levels 2 times, 10 times, or even 50 times above the level found in the raw crop. EPA has examined carefully the factors cited by NFPA and commenters as an explanation for the low levels of residues to determine whether any adjustments to the concentration policy are appropriate. Although EPA has concluded that some adjustment to the concentration policy is warranted, EPA believes that the basic rationale of the concentration policy with its focus on concentration in fact is sound. As the National Academy of Sciences has found:

> The logic of EPA's practice is clear. A section 408 tolerance represents a residue level that may in some cases be realized. A section 409 tolerance must reflect the possible residue levels in processed foods derived from that commodity.

National Research Council, Regulating Pesticides in Food: Delaney Paradox 28 (1987)

At the same time, EPA recognizes that reliance solely on processing studies may not, in some circumstances, accurately ''reflect the possible residue levels in processed foods.''

In challenging the concentration policy, some commenters argue that EPA's policy is a theoretical exercise with no basis on actual data and that this is confirmed by EPA's description of its policy in its request for comment on the NFPA petition. EPA did not mean to suggest in that notice that its concentration policy focuses on theoretical possibilities. EPA's policy has always sought to determine whether residues greater than the section 408 tolerance can occur in processed food. EPA makes this determination based on hard data— actual processing studies involving, in most cases, the pesticide and crop in question. EPA's revisions to its policy do not change the basic focus of the concentration policy. Rather, as explained below, EPA has expanded the range of data and other information it will consider in determining whether residues greater than the section 408 tolerance can occur in processed food.

It is worth noting that the same data relied upon by NFPA to show that most food, whether raw or processed, is well below section 408 tolerance levels also reinforces EPA's judgment that many section 408 tolerances may currently be set higher than necessary and may need to be lowered so that they reasonably reflect actual residues. If section 408 tolerances are lowered, the chances of residues over the section 408 tolerance in processed foods where residues concentrate in fact would be greater.

C. Revisions to the Concentration Policy

1. *Introduction and summary.* EPA's concentration policy is designed to evaluate when residues in processed food may exceed the raw food tolerance due to concentration during processing. Generally, in implementing its concentration policy, EPA has used a test of concentration in fact as an indicator that residues over the section 408 tolerance may occur because residue levels in the RAC may exist at the tolerance level. EPA, however, also has historically considered, to a limited extent, at least two other factors in evaluating whether a processing study showing concentration of residues indicates there is a real possibility of residues over the section 408 tolerance. Below, EPA discusses those factors and other factors that may prevent the occurrence of residues over the section 408 tolerance.

EPA concludes that it has too rigidly applied its concentration in fact test. EPA continues to believe that information from processing studies is generally the most important single piece of information is assessing the likelihood that residues in processed food could exceed the section 408 tolerance. EPA will also continue to consider factors such as the variability of the analytical method and the degree of rounding used in establishing the section 408 tolerance. In a departure from past practice, EPA will, as explained below, take into account, where appropriate, information pertaining to the averaging of residues during processing. EPA will also, where appropriate, consider information obtained from properly designed market basket surveys. EPA, however, is not convinced at this time by the NFPA suggestion that, despite data showing residues concentrate during processing, processors can insure residue levels stay below section 408 tolerance levels.

2. *Factors relied upon by EPA in determining whether a pesticide which concentrates in fact is likely to produce residues in exceedance of the section 408 tolerance.* As noted, EPA follows a concentration in fact test to determine if section 409 FARs are necessary. For the most part, EPA's concentration in fact test is applied based on the results from data from processing studies. Historically, EPA has also occasionally considered two other factors in determining whether a processing study which shows concentration in fact does show that residues in processed food can exceed the appropriate section 408 tolerance.

The first of these factors is the degree of rounding that was used in setting the RAC tolerance. To a limited extent, EPA has considered the degree of rounding in past decisions on whether a section 409 FAR is needed. Generally, the highest value obtained from field trials is rounded up in selecting the tolerance level. For example, if the highest value from field trials was 8 parts per million (ppm), that data point might be rounded to 10 ppm for the tolerance value. Where rounding increases the observed residue level by 25 percent, the pesticide would have to concentrate by

a factor of greater than 25 percent (1.25X) to produce residues over the section 408 tolerance.

The second factor currently relied upon by EPA is the degree of variability in the analytical method used to measure residue levels in the field and processing studies and for enforcement of the tolerance. If residues do not concentrate to a greater degree than the variability in the methods, no residues over the section 408 tolerance could be reliably detected.

3. *Other factors potentially relevant to whether residues exceed the section 408 tolerance.* In the past, EPA has generally not taken into consideration various other factors that may explain why, despite the fact that a processing study suggests there is a possibility of residues greater than the RAC tolerance, that event seems to occur infrequently. One factor that lessens the possibility of residues over the section 408 tolerance in processed food is that EPA's judgment concerning whether such residues could occur assumes that the pesticide will be used at the maximum label rate and applied the maximum number of times permitted, and that the crop will be harvested at the shortest preharvest interval allowed. Frequently, however, these maximum application and harvest practices are not followed resulting in residues far below tolerance levels in the raw crop, with correspondingly lower levels in the processed food.

A second factor that serves to result in lower residue levels is that tolerance values are set to reflect the maximum residue level that could result from maximum legal application and harvest practices but field trials generally show a wide range of residue levels even when maximum legal application and harvest practices used in each trial. Thus, average residue values from such field trials tend generally to be significantly below the maximum residue level found in field trials and, thus, also significantly below the tolerance level.

A third factor that may explain lower observed residues in processed foods is that the processing of many crops involves mixing or blending of large amounts of the raw crop. Oftentimes this can result in significant lowering of residue values as untreated crop is blended with treated crop. Further, this blending accentuates the above two factors as lightly treated crops are mixed with crops having received maximum treatment and high and low level residues from crops receiving maximum treatment are mixed.

Another reason why residues over the section 408 tolerance may not occur in processed food is that pesticides often degrade significantly during the time in which the crop is transported and stored prior to processing. Thus, even if crops bearing tolerance level residues at harvest were the only ingredient used in food processing, any concentration of residues might be offset by normal degradation of residues.

NFPA suggests additionally that the chance of residues over the section 408 tolerance is not great because of various steps taken by food processors. NFPA cites ''supervision of growers' pesticide practices, careful and informed buying practices, [and] analysis of raw product'' as actions which serve to reduce residues. Further, various commenters have contended that residues over the section 408 tolerance in some processed foods could be avoided by restrictions on pesticide use to crops grown for the fresh market.

4. *Evaluation of factors.* Below, EPA evaluates its concentration policy including EPA's use of processing studies, the factors considered by EPA in evaluating whether processing studies show the possibility of residues over the section 408 tolerance, and the relevance of the various reasons noted above why overtolerance residues infrequently occur.

Processing studies. EPA guidelines on residue data specify that processing studies should ''simulate commercial processing as closely as possible.'' Pesticide Assessment Guidelines, Subdivision O at 21 (1982). Data from such studies, EPA believes, remain the most relevant information in determining whether residues over the section 408 tolerance may occur. Because section 408 tolerance values represent a level of residues which field trial studies show can occur, data from a processing study showing concentration can be a good indicator regarding the possibility of overtolerance residues in processed food. EPA has not issued extensive industry-by-industry guidance on what constitutes ''commercial processing'' but rather has left it to the pesticide manufacturer to insure that modern commercial processing is reflected in the processing studies. Thus, EPA disagrees with comments by NFPA and other commenters which suggest it is EPA which is at fault for not taking into account practices such as washing and peeling that routinely occur during processing. If those practices are a part of commercial processing for certain foods and are not reflected in the processing studies designed and submitted by pesticide manufacturers, the pesticide manufacturers need to provide EPA with data that are truly representative of the industry practice.

Rounding. To a limited extent, EPA has considered the rounding up that occurs in the selection of the section 408 tolerance value in making concentration determinations. EPA believes the degree of rounding remains a legitimate consideration in determining the likelihood that processing may produce residues in processed food greater than the section 408 tolerance. Moreover, as noted below, EPA believes it is appropriate to consider the difference between residue levels that can occur on crops and the section 408 tolerance level in evaluating the possibility of residues over the section 408 tolerance in processed food.

But EPA is concerned that its past practice of rounding up has resulted in section 408 tolerances being set at a level higher than is necessary to cover legally treated crops. EPA is currently examining whether older section 408 tolerances have been set at inappropriately high levels owing to rounding or for other reasons. EPA is also exploring whether there might not be statistical techniques for better assigning section 408 tolerance levels. To the extent EPA alters its approach to selecting section 408 tolerance levels, these revised section 408 levels will need to be considered in making determinations under the concentration policy.

Variability of methods. EPA continues to believe that the variability of the analytical method should be evaluated in determining whether residues over the section 408 tolerance are likely to be reliably detected despite a processing study showing concentration in fact. The aim of the concentration policy is to identify those uses which can produce residues over the section 408 tolerance in processed food. If any possible concentration is so low that it could not be clearly identified by the relevant analytical method, then, in fact, instances of residues over the section 408 tolerance in processed food would not be expected. The degree of variability in analytical methods must be assessed on a case-by-case basis. Generally, the variability in analytical methods suggests that residues over the section 408 tolerance are not likely to be reliably detected where processing studies show concentration factors in the range of 1.1X to 1.5X.

Treatment rates and processor control. EPA believes that it is appropriate to assume that some growers will treat a portion of their crop at the maximum treatment rate allowed by the label. EPA's experience has shown that due to unexpected weather

and pest pressures it is unrealistic to assume that no grower will treat his or her crop with a pesticide in the manner that yields the highest lawful residues.

Moreover, where residues do concentrate during processing, EPA questions the ability of the processor or grower to manage pesticide residue levels so as not to produce over-tolerance residues in processed food. Although processors may know the concentration factor of residues from processing studies, the concentration factor does not suggest with any precision how processors could instruct growers to change their pesticide application procedures so that residues over the section 408 tolerance will not result in processed food. Levels of residues in raw crops are dependent not only on how much pesticide is applied but on when and how the pesticide is applied. Little data exist that describe the effect of varying any of these procedures on residue levels. Similarly, EPA believes little information is available concerning how changes in their manufacturing processes affect residue levels in processed food. Finally, as discussed below, the comments received on the NFPA petition reinforce EPA's experience that farmers often do not know the ultimate destination of their crop. Therefore, EPA believes it would be very difficult for growers or processors to manipulate residue levels in processed food.

EPA would be open to considering further industry proposals laying out a potential policy framework that more specifically delineates how processor practices could be taken into account in determining the likelihood that residues in processed food would exceed the applicable section 408 tolerance. It would be helpful if such policy proposals contained criteria for evaluating whether specific processor claims regarding pesticide/commodity combinations are reasonable. Among other things, these criteria should address (1) what data would be submitted to EPA to verify residue levels, (2) how the practicality of the proposed scheme would be evaluated (e.g., degree of concentration of processing operations and ability to separate raw food streams), and (3) whether processor control of residue levels for a specific pesticide/commodity combination could be feasibly enforced. If such further policy proposals are received, EPA would seek public input before making any decision on the merits of the proposals and using the proposed criteria in evaluating specific pesticide uses.

Mixing and blending. EPA believes that in many instances it would be appropriate to take into account mixing and blending in determining the likelihood that residues over the section 408 tolerance could result. This change in practice is warranted, EPA believes, because EPA's prior assumption, i.e., that all raw food have the potential to have residues at or near the section 408 tolerance level, does not adequately take into account the realities of food processing. Because of the way EPA sets section 408 tolerances, individual raw commodities do have the potential of having residues at or near the tolerance level. The data from field residue trials show, however, that residue values even from a single field can vary significantly. When individual raw commodities are mixed in processing operations, it is realistic to expect that there will be an averaging effect on the residues in the processed food.

Accordingly, if EPA determines that there is a sufficient degree of mixing or blending during processing such that the normal variation among individual samples from a field will be substantially evened out, EPA will consider comparing some ''average'' residue value from field trials times the concentration factor to the RAC tolerance level in determining the likelihood of residues over the section 408 tolerance. EPA generally believes that the most relevant ''average'' residue value from crop field trials is the highest average residue value from the series of individual field trials. Using an average of all samples from all field trials in all regions of the U.S. would tend to suppress the variability in residue values to a greater extent than can be expected by mixing or blending. Generally, crops grown in different regions of the U.S. are not mixed prior to processing. Rather, crops are often processed field-by-field as they are harvested by the grower.

There are a number of constraints EPA thinks are critical here. First, considering average field trial residues is only appropriate where the values being averaged are from field trials involving maximum treatment rates. In other words, averaging may be used to take into account the variation in residues which occurs in crops receiving maximum treatment and minimum preharvest intervals but not residue variations as result of different levels of treatment. As laid out above, EPA has no basis on which to make assumptions about whether crops in specific instances would be treated at rates lower than the maximum permitted on the pesticide label or what residues those lower rates would produce. Second, whether considering blending would be appropriate would depend on the quality of the data base. Consideration of any ''average value'' would be less appropriate where adequate data from all representative regions of the country are not available. Finally, even where it would be appropriate to consider average residues, EPA believes a simple calculation showing that the average residue multiplied by the concentration factor from a processing study is less than the RAC tolerance alone may not conclusively show that residues over the section 408 tolerance could not result. In appropriate circumstances, EPA may need to consider a number of other factors, such as the variability in the field trial data, in determining the likelihood of residues over the section 408 tolerance.

Degradation of residues. Although EPA recognizes that degradation of residues frequently occurs, it is not apparent how EPA could take that phenomenon into account in its concentration policy other than to the extent the effects of degradation are captured in processing studies. EPA would need detailed data on the degradation rates of pesticides as well as on the minimum time between the harvesting of crops and when such crops are manufactured into ready-to-eat processed foods. Without such information, it would be difficult to establish a tolerance level that would assure that legally treated crops did not result in illegal food.

Some comments filed in response to the NFPA petition suggest that marketplace survey or FDA monitoring data would be relevant to whether there is a likelihood of residues over the section 408 tolerance. Certainly, data from marketplace studies have some degree of relevance to the question of whether residues in processed food may exceed the section 408 tolerance. The relevance of marketplace studies, however, depends on how the marketplace study was performed. For example, the principal reason marketplace studies have been conducted in the past is to obtain better data concerning actual residue values close to the point at which food is consumed. Thus, marketplace studies generally involve sampling commodities in retail grocery stores. A tolerance for processed food would not only apply to food in retail stores but at all prior points at which the food moved in interstate commerce. This fact would have to be taken into account in assessing the relevance of a marketplace study in determining the likelihood of residues in processed food in excess of the section 408 tolerance. Monitoring data can also be relevant to determining

the likelihood of residues in processed food exceeding the section 408 tolerance. However, FDA monitoring data, especially monitoring data on processed foods, generally has been limited and thus may not be a reliable predictor of the level of residues of a particular pesticide in a particular processed food.

Market segregation. Several commenters contend that, even where residues could be expected to concentrate in processed food above the section 408 tolerance, if EPA were to permit pesticides to be labeled solely for crops grown for fresh market, no section 409 FAR would be needed for such pesticide uses. These commenters claim that certain crops are so specialized that they are grown specifically for the fresh or processed market, and, in some instances, that even different pesticides are used on crops depending on whether they are intended for the fresh or processed market. Thus, these commenters argue that allowing pesticides to be labeled for crops grown only for the fresh market where a specialized crop has been developed solely for the fresh market would not pose an enforcement problem. On the other hand, EPA received other comments stating that placing such label restrictions on pesticides would subject growers to a form of ''Russian Roulette.'' EPA's observations indicate that it is difficult to achieve total market segregation; however, if a party can show that a market for a specific crop can be segregated and that such segregation can be feasibly monitored, EPA will not require a section 409 FAR for a pesticide on that crop.

5. *Conclusion*. In sum, EPA's concentration policy will continue to focus on ''possible residues'' in the processed food. EPA will place primary emphasis on whether processing studies show that the processing of a commodity results in a level of residues in the processed food which is greater than the level of residues in the raw food. EPA will also consider the variability of the analytical method, the degree of rounding involved in establishing the section 408 tolerance, and, where circumstances permit, information concerning blending of crops and average field trial values, and market basket surveys. EPA will consider information concerning potential market segregation and pesticide segregation, but such segregation must be established by clear evidence. But EPA remains unconvinced at this time that it should give much weight at all to degradation information or the possibility that farmers are applying pesticides at lower application rates or that processors will control whether residues over the section 408 tolerance occur.

VI. Ready To Eat

A. NFPA's Argument and Views of Commenters

The NFPA petition argues that EPA has failed to take into account language in the flow-through provision of FFDCA section 402 specifying that processed food is to be evaluated at the ''ready-to-eat'' stage in determining whether the food exceeds the relevant section 408 tolerance. According to NFPA, the ''ready to eat'' language was added to the statute to ''take care of any particular problem that might be raised with respect to a product that was concentrated or dehydrated.'' (NFPA Petition at 34). In its comments, NFPA proposed a definition of not ready-to-eat food as food ''customarily reconstituted by the consumer or food manufacturer, or [food] sold for use as an ingredient in the preparation of finished foods.'' (Comments of NFPA at 12). Further, NFPA cites several examples from the Code of Federal Regulations and the **Federal Register** in which Federal agencies have used the term ''ready to eat'' to distinguish between various foods.

Except for two comments from State agencies (Florida Department of Agriculture and North Dakota Department of Agriculture), most of the commenters on the NFPA petition assert that EPA's approach of treating any food available for sale as ''ready to eat'' is violative of the plain words of the statute. Many of these commenters also contend that EPA overstated the enforcement difficulties of construing the term ''ready to eat'' more narrowly.

As to the definitional issue, numerous commenters contend that the literal or plain meaning of the term ''ready to eat'' food is food consumed ''as is.'' One commenter quotes the dictionary definitions of ''ready'' and ''eat'' to derive a definition of ''ready to eat'' food as ''prepared for immediate taking through the mouth as food.'' (Comments of Catherine Clay at 1). Many commenters mention specific foods and assert that they were not consumed ''as is.'' In their comments, fruit growers are particularly adamant that juice concentrates are not ''ready to eat.'' (See, e.g., comments of Sun-Diamond Growers at 7 (''People simply do not consume a quart of prune juice concentrate or even a cup of concentrate.'')). Another commenter contends that EPA should focus on what the usual practice was as to foods:

> We suggest that for those food items that are never or seldom consumed in their concentrated forms (e.g., tomato paste, oils, flour, and juice concentrates), Section 402 should be followed * * *. Those few situations in which product might be consumed in the concentrated form do not present an imminent hazard and will not add significantly to the risk calculation.

(Comments of Del Monte Foods at 1).

As to potential enforcement difficulties with following a consumed ''as is'' approach to ''ready to eat,'' several commenters argue that EPA could adopt action levels to determine if processed not ready-to-eat food is adulterated. (Comments of Monsanto; Grocery Manufacturers Association; NFPA). Such action levels would be established using dilution factors that take into account the dilution of pesticide residues as a food is mixed with other foods in processing operations. The dilution factors, these commenters urge, should be based on the most concentrated form of ready-to-eat food that the not- ready-to-eat food was used to produce.

Finally, several commenters claim that commodities such as fruit pomaces and seed hulls which are commonly used as animal feeds are not ''ready to eat.'' According to these commenters, most animal feeds are a blend of different ingredients because commodities such as pomaces and hulls are both nutritionally deficient and unpalatable.

B. EPA's Response

1. *The definitional issue*. EPA has considered NFPA's arguments and the comments received and has examined the previous uses of the term ''ready to eat'' by EPA and other Federal agencies. EPA agrees that the term ''ready to eat'' food has a common-sense meaning of food which is consumed without further preparation. EPA intends to apply that interpretation in future actions. Basically, EPA believes that food should be considered ''ready to eat'' if it is consumed ''as is'' or is added to other ready-to-eat foods (e.g., condiments). Use of this interpretation, of course, will not clarify all issues regarding ''ready to eat'' foods. EPA envisions that this definition may be difficult to apply in many instances.

Some foods will be easier to classify than others. EPA has, in the past, established section 409 FARs for some foods that clearly do not meet a common-sense interpretation of ''ready to eat'', and EPA did so without closely considering what level of residue would occur in derivative foods which are ''ready to eat.'' Examples would include dried hops, mint oil, citrus oil, and guar

gum. These foods are not generally available to consumers in grocery stores and, even if a consumer could purchase such a food, it would not be consumed ''as is'' but would be further processed (e.g., dried hops used in brewing beer) or used as an ingredient in a food product. Other foods for which EPA has set food additive regulations, such as raisins, olives, and potato chips, clearly are ''ready to eat.''

EPA generally believes that foods that are mixed prior to consumption are not ''ready to eat.'' Mixing generally involves the combining of foods with the intent of creating a different food product. For example, combining a tea bag with hot water is intended to create a new food product, the beverage tea. Thus, the dried tea in the tea bag would not be considered ''ready to eat.'' On the other hand, EPA does not believe this mixing principle applies to condiments. Condiments are consumed as a supplement to other ''ready to eat'' food. A condiment is also consumed ''as is.''

There remain, however, many commodities for which EPA has traditionally set food additive regulations which are not so easily characterized under the ''ready to eat'' standard and which will require a case-by-case inquiry. One of the reasons for the fact-intensive nature of this inquiry is that foods have many uses and eating habits vary widely in the United States. Thus, determining whether a food is ''ready to eat'' involves identifying all significant uses of a food and then determining if any of those uses meets the definition of ''ready to eat.'' For example, perhaps the most common use of vegetable oil is as a cooking medium or as an ingredient in baked products. However, another use of vegetable oil is as a ''dressing'' for a green salad. When used in this manner, oil is directly added to the salad as a condiment, and thus oil generally would qualify as ''ready to eat.'' Additionally, EPA will need to explore whether some foods which have traditionally not been consumed without further preparation, are actually being consumed on an ''as is'' basis. Comments submitted by DuPont Agricultural Products support this approach:

> We appreciate that some concentrated products can be consumed without mixing. The likelihood of occurrence of this consumption pattern is a factor which should be considered in determining which form is best viewed as the ready-to-eat stage. In our view, a reasonable approach would be to weigh such a consumption pattern based on the frequency of occurrence. If the consumption of the concentrate occurs with great infrequency, the appropriate ready-to-eat food would still be the diluted product. (Comments of DuPont Agricultural Products at 8).

In circumstances where EPA's revised approach to the term ''ready to eat'' results in particular food forms of a commodity being dropped from the category of ''ready to eat,'' EPA will need to explore whether there is a possibility of concentration of residues above the section 408 tolerance in any other, ready-to-eat forms of that commodity. In many instances further preparation of a not-ready-to-eat commodity will so significantly reduce residues that, even if the not-ready-to-eat precursor processed food contained residues over the section 408 tolerance, the ready-to-eat commodity will not. Use of citrus oil as a flavoring in ice cream may be an example of this phenomenon. Citrus oil may be such a small proportion of the total product that any residues over the section 408 tolerance in the oil would be diluted below the section 408 tolerance in the ice cream. However, in other instances, the dilution involved in further preparation of a not-ready-to-eat processed food is not so dramatic. For example, flour, assuming it is found to be a not-ready-to-eat food, is prepared into commodities such as crackers or tortillas in which the dilution factor may be fairly modest. In situations such as this, EPA will have to determine whether it should be setting section 409 FARs on different commodities than has been EPA's traditional practice.

2. *Enforcement approach*. EPA's revised approach to the term ''ready to eat'' will make enforcement of the FFDCA more challenging as regards foods no longer considered ''ready to eat.'' EPA does not view as satisfactory NFPA's suggestion that for enforcement purposes EPA should develop dilution tables and from such tables promulgate action levels to evaluate the legality of not-ready-to-eat processed food. Although this is a possibility, EPA regards it as cumbersome and lacking the enforcement ease of binding tolerances. An action level is not binding on anyone and thus even though use of a dilution table may suggest that a food is adulterated, FDA could only successfully proceed against the food if it could prove in court that the level of residue found in the not-ready-to-eat food would render ready-to-eat food adulterated.

Instead, EPA has decided to use its general rule-writing authority under FFDCA section 701 to establish maximum residue levels for not-ready-to-eat processed food. Section 701 grants EPA the authority ''to promulgate regulations for the efficient enforcement of this Act.'' 21 U.S.C. 371. These maximum residue levels would be set no higher than the levels which could result in the processed food assuming legal residues in the raw food and that good manufacturing practices were followed.

EPA's authority to set such maximum residue levels arises from the flow-through provision. The flow-through provision does not legalize residues in ready-to-eat processed food unless three criteria are met: (1) the residues are at or below the applicable section 408 tolerance; (2) the precursor raw food had residues within the section 408 tolerance; and (3) good manufacturing practices were followed in preparing the processed food. The maximum residue levels set under section 701 would establish binding regulations as to when the two latter criteria of the flow-through provision are met for a specific pesticide use. If such a maximum residue level were exceeded in a processed food, then as a matter of law the flow-through provision would not apply to the food (whatever the residues in the food when it is ''ready to eat''), and thus the food would be adulterated as a matter of law under FFDCA section 402(a)(2)(C).

3. *Animal feeds*. As noted, a number of commenters claimed that food processing byproducts such as grape pomace, soybean hulls, etc. are not ''ready to eat'' either because they are unpalatable or nutritionally deficient or because they are not a significant portion of the diet of animals. EPA generally intends to apply a similar approach to processing byproducts used as animal feeds as it will to human foods in determining whether the byproducts are ''ready to eat'' and will also use section 701 maximum residue levels, as described above, where appropriate. Determinations on specific processing byproducts will have to be made on a case-by-case basis. To the extent it can be shown that any individual processing byproduct is unpalatable when fed ''as is'' or that for other reasons the processing byproduct is generally not fed absent further processing or mixing, EPA would not categorize that particular byproduct as ''ready to eat.'' EPA believes this showing probably can be made for a substantial number of processing byproducts.

In response to comments stating that EPA required examination of processing byproducts not currently used as animal feeds (e.g., apple pomace), EPA would note that it has recently revised its guidelines on what processing byproducts are used as animal feeds. This revision followed a comprehensive survey of animal feed practices. EPA has

also sought public comment on those guideline revisions and will continue to consider comments on this issue.

4. *Future actions.* EPA intends to apply its revised approach to the term ''ready to eat'' in all future tolerance actions. When any action is taken based on EPA's revised approach, EPA will seek public comment on designations for specific commodities prior to making any final determinations.

VII. Are EPA's Policies Rules That Have Not Been Properly Promulagted?

NFPA contends in its petition that EPA's coordination and concentration policies are not in compliance with the Administrative Procedure Act (APA) because they have not been promulgated as a binding regulation through notice and comment procedures. As to the concentration policy, EPA has in this notice announced a revised concentration policy that EPA believes is fully consistent with the requirements of the APA. This revised policy is not intended to be of controlling effect either on EPA or regulated parties. Rather, it is intended as guidance for EPA in administering its authority under FFDCA. For example, EPA has explained in some detail in its revised concentration policy what types of data it intends to place primary reliance upon in determining whether section 409 FARs are needed. However, EPA has noted its willingness to consider other information and arguments. Thus, because the revised concentration policy is not intended as a binding regulation, it need not be promulgated through notice and comment rulemaking.

List of Subjects

Environmental protection, Agricultural commodities, Food additives, Feed additives, Pesticides and pests.

Dated: June 9, 1995.

Lynn R. Goldman,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 95–14683 Filed 6–12–95; 12:20 pm]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2078]

Petition for Reconsideration of Actions in Rulemaking Proceedings

June 9, 1995.

Petition for reconsideration have been filed in the Commission rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of this document are available for viewing and copying in Room 239, 1919 M Street, NW., Washington, DC or may be purchased from the Commission's copy contractor ITS, Inc. (202) 857–3800. Opposition to this petition must be filed on or before June 29, 1995. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Price Cap Performance Review for Local Exchange Carries. (CC Docket No. 94–1)

Number of Petitions Filed: 3.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–14510 Filed 6–13–95; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1054–DR]

Missouri; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Missouri (FEMA–1054–DR), dated June 2, 1995, and related determinations.

EFFECTIVE DATE: June 2, 1995.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated June 2, 1995, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Missouri, resulting from severe storms, hail, tornadoes and flooding on May 13, 1995, and continuing is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (''the Stafford Act''). I, therefore, declare that such a major disaster exists in the State of Missouri.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance and Hazard Mitigation Assistance in the designated areas. Individual Assistance may be provided at a later date, if warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance and Hazard Mitigation measures will be limited to 75 percent of the total eligible and reasonable costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date for this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Warren M. Pugh of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Missouri to have been affected adversely by this declared major disaster:

Benton, Boone, Cole, Gasconade, Franklin, Jefferson, Johnson, Miller, St. Charles, St. Clair, Ste. Genevieve and St. Louis Counties.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

James L. Witt,

Director.

[FR Doc. 95–14542 Filed 6–13–95; 8:45 am]

BILLING CODE 6718–02–M

FEDERAL MEDIATION AND CONCILIATION SERVICE

Grants Program Review and Advisory Committee; Notice of Postponing Meeting

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Notice of postponing meeting.

SUMMARY: The Federal Mediation and Conciliation Service announces the postponing of the Grants Program Review and Advisory Committee meeting. The meeting was originally scheduled for June 19, 1995 through June 23, 1995 in Washington, DC. The new meeting date for the Committee is to be announced.

FOR FURTHER INFORMATION CONTACT: Peter Regner, Grants Program Manager, Federal Mediation and Conciliation, 2100 K Street NW., Washington, DC 20427, (202) 606–8181.

Dated: June 8, 1995.

John Calhoun Wells,

Director.

[FR Doc. 95–14570 Filed 6–13–95; 8:45 am]

BILLING CODE 6372–01–M

FEDERAL RESERVE SYSTEM

Bank South Corporation, Notice to engage de novo in certain nonbanking activities

Bank South Corporation, Atlanta, Georgia (Applicant), has filed notice pursuant to § 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) (BHC Act) and § 225.21 of the Board's Regulation Y (12 CFR 225.21(a)(2)), to engage *de novo* through Bank South Securities Corporation, Atlanta, Georgia (Company), a subsidiary of Applicant, in underwriting, to a limited extent, certain ''private ownership'' industrial development revenue bonds, which are issued for the provision of the following governmental services: water facilities, sewer facilities, solid waste disposal facilities, electric energy and gas facilities, and local district heating or cooling facilities. Applicant previously has received Board approval to engage through Company in, among other things, underwriting and dealing in municipal revenue bonds pursuant to the prudential limitations and other conditions set forth in *Citicorp, J.P. Morgan & Co. Incorporated, and Bankers Trust New York Corporation*, 73 Federal Reserve Bulletin 473 (1987) as modified by *Order Approving Modifications to Section 20 Orders*, 75 Federal Reserve Bulletin 751 (1989). *Bank South Corporation*, 79 Federal Reserve Bulletin 716 (1993) (''*Bank South*'').

Applicant also has requested limited relief from a condition in *Bank South* to allow Company to underwrite certain unrated municipal revenue bonds. Applicant has committed that Company will comply with the limitations and conditions previously relied on by the Board (*Letter Interpreting Section 20 Orders, 81 Federal Reserve Bulletin 198 (1995*)) except that Applicant proposes that any single issue of unrated municipal revenue bonds underwritten by Company will not exceed $10 million.

Among the conditions to which Applicant is subject pursuant to *Bank South* is that any industrial development bonds underwritten by Company will be limited to ''public ownership'' industrial development bonds (i.e., those tax exempt bonds where the issuer, or the governmental unit on behalf of which the bonds are issued, is the sole owner, for federal income tax purposes, of the financed facility). Applicant is now seeking approval to engage through Company in underwriting ''private ownership'' industrial development revenue bonds issued for the provision of the governmental services noted above, pursuant to the same prudential limitations and other conditions that Applicant agreed to in *Bank South*.

Section 4(c)(8) of the BHC Act provides that a bank holding company may, with Board approval, engage in any activity which the Board, after due notice and opportunity for hearing, has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto. This statutory test requires that two separate tests be met for an activity to be permissible for a bank holding company. First, the Board must determine that the activity is, as a general matter, closely related to banking. Second, the Board must find in a particular case that the performance of the activity by the applicant bank holding company may reasonably be expected to produce public benefits that outweigh possible adverse effects.

A particular activity may be found to meet the ''closely related to banking'' test if it is demonstrated that banks have generally provided the proposed activity; that banks generally provide services that are operationally or functionally similar to the proposed activity so as to equip them particularly well to provide the proposed activity; or that banks generally provide services that are so integrally related to the proposed activity as to require their provision in a specialized form. *National Courier Ass'n v. Board of Governors*, 516 F.2d 1229, 1237 (D.C. Cir. 1975). In addition, the Board may consider any other basis that may demonstrate that the activity has a reasonable or close relationship to banking or managing or controlling banks. Board Statement Regarding Regulation Y, 49 Federal Register 806 (1984).

Applicant maintains that the Board previously has determined that underwriting private ownership industrial development bonds to a limited extent is closely related to banking. *J.P. Morgan & Co. Incorporated, et al.*, 75 Federal Reserve Bulletin 192 (1989) (1989 Section 20 Order), *as modified by* Order dated September 21, 1989, 75 Federal Reserve Bulletin 751 (1989) (Modification Order). Applicant has stated, however that it will conduct the activity using the methods and procedures, and subject to the prudential limitations to which it agreed in *Bank South*. This includes the Board's 10 percent revenue limitation on such activities, and for this reason, Applicant contends that approval of the application would not be barred by section 20 of the Glass-Steagall Act (12 U.S.C. 377), which prohibits the affiliation of a state member bank with any company principally engaged in the underwriting, public sale, or distribution of securities.

In order to satisfy the proper incident to banking test, section 4(c)(8) of the BHC Act requires the Board to find that the performance of the activity by Company can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices.

In this regard, Applicant believes that ''private ownership'' industrial development bonds issued for projects that provide the governmental services listed above are substantially the same from a risk analysis standpoint as ''public ownership'' industrial development bonds. Applicant notes that the revenue streams that pay debt service in the case of both types of bonds are derived from fees collected for providing services traditionally provided by governmental entities or through a contract between a private company and a governmental entity. Accordingly, Applicant believes that the prudential limitations and other conditions to which it is subject pursuant to *Bank South* are adequate to mitigate any potential adverse effects that may arise from the proposed activity. Applicant also believes that approval of this proposal will promote competition and enable Company to provide a wider range of services and added convenience to its customers.

In publishing the proposal for comment, the Board does not take a position on issues raised by the proposal. Notice of the proposal is published solely in order to seek the views of interested persons on the issues presented by the notice and does not represent a determination by the Board that the proposal meets, or is likely to meet, the standards of the BHC Act.

Any comments or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than June 30, 1995. Any request for a hearing on this

application must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of the reasons why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

This notice may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Atlanta.

Board of Governors of the Federal Reserve System, June 8, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–14499 Filed 6–13–95; 8:45 am]

BILLING CODE 6210–01–F

Commercial Bancgroup, Inc, et al.; Notice of Applications to Engage de novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.'' Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 28, 1995.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Commercial Bancgroup, Inc., Harrogate, Tennessee; to engage *de novo* through its subsidiary, Tennessee Finance Company, Inc., Harrogate, Tennessee, in consumer finance activities, pursuant § 225.25(b)(1)(i) of the Board's Regulation Y.

B. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Guaranty Bancshares, Inc., Oklahoma City, Oklahoma; to engage *de novo* through its subsidiary, First Oklahoma Finance Company, Inc., Bethany, Oklahoma, in making and servicing consumer finance loans, pursuant to § 225.25(b)(1)(ii) of the Board's Regulation Y; and, in the sale of credit related life, accident, health and property/casualty insurance, directly related to financing by a finance company subsidiary pursuant to § 225.25(b)(8)(ii)(A),(B), and (C) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, June 8, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–14498 Filed 6–13–95; 8:45 am]

BILLING CODE 6210–01–F

Hibernia Corporation, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than July 7, 1995.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Hibernia Corporation, New Orleans, Louisiana; to acquire 100 percent of the voting shares of Delta Bank & Trust Company, Belle Chasse, Louisiana.

B. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Davis Bancshares, Inc., McClusky, North Dakota; to become a bank holding company by acquiring at least 74.7 percent of the voting shares of First National Bank of McClusky, McClusky, North Dakota.

C. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Southwestern Bancshares, Inc., Glen Rose, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Southwestern Delaware Financial Corporation, Dover, Delaware, and thereby indirectly acquire First National Bank, Glen Rose, Texas.

In connection with this application, Southwestern Delaware Financial Corporation, Dover, Delaware, also has applied to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank, Glen Rose, Texas.

Board of Governors of the Federal Reserve System, June 8, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–14497 Filed 6–13–95; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committees; Ad Hoc Advisory Committee on Creutzfeldt-Jakob Disease; Establishment

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the establishment by the Secretary of Health and Human Services (the Secretary), of the Ad Hoc Advisory Committee on Creutzfeldt-Jakob Disease.

DATES: Authorization for the Committee being established will end on June 9, 1996.

FOR FURTHER INFORMATION CONTACT: Donna M. Combs, Committee Management Office (HFA–306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2765.

SUPPLEMENTARY INFORMATION: Under the Federal Advisory Committee Act of October 6, 1972, Pub. L. 92–463, as amended (5 U.S.C. app. 2), and 21 CFR 14.40(b), FDA is announcing the establishment by the Secretary of the Ad Hoc Advisory Committee on Creutzfeldt-Jacob Disease.

The Ad Hoc Advisory Committee on Creutzfeldt-Jakob Disease will review and evaluate available data concerning the safety of blood products obtained from, a donor who, after donation, was diagnosed with Creutzfeldt-Jakob Disease, and make recommendations regarding the disposition of such blood products to the Commissioner of Food and Drugs.

Dated: June 12, 1995.

David A. Kessler,

Commissioner of Food and Drugs.

[FR Doc. 95–14654 Filed 6–12–95; 10:56 am]

BILLING CODE 4160–01–F

Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meeting and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

FDA has established an Advisory Committee Information Hotline (the hotline) using a voice-mail telephone system. The hotline provides the public with access to the most current information on FDA advisory committee meetings. The advisory committee hotline, which will disseminate current information and information updates, can be accessed by dialing 1–800–741–8138 or 301–443–0572. Each advisory committee is assigned a 5-digit number. This 5-digit number will appear in each individual notice of meeting. The hotline will enable the public to obtain information about a particular advisory committee by using the committee's 5-digit number. Information in the hotline is preliminary and may change before a meeting is actually held. The hotline will be updated when such changes are made.

MEETINGS: The following advisory committee meeting is announced:

Ad Hoc Advisory Committee on Creutzfeldt-Jakob Disease

Date, time, and place. June 22, 1995, 8 a.m., Marriott Hotel—Bethesda, Congressional Salons I, II, and III, 5151 Pooks Hill Rd., Bethesda, MD.

Type of meeting and contact person. Open committee discussion, 8 a.m. to 11:50 p.m.; open public hearing, 11:50 a.m. to 12:50 p.m., unless public participation does not last that long; open committee discussion, 12:50 p.m. to 5 p.m.; Linda A. Smallwood, Office of Blood Research and Review, Center for Biologics Evaluation and Research (HFM–350), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–594–6700, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Ad Hoc Advisory Committee on Creutzfeldt-Jakob Disease code 12388.

General function of the committee. The Committee will review and evaluate available data concerning the safety of blood products obtained from, or prepared from one or more donations from, a donor who, after donation, was diagnosed with Creutzfeldt-Jakob Disease and make appropriate recommendations to the Commissioner of Food and Drugs regarding the appropriate disposition of such blood products.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before June 16, 1995, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee reviews and provides recommendations on the public health issue of Creutzfeldt-Jakob Disease concerning blood products, especially those derived from pooled plasma.

FDA is giving less than 15 days public notice of this Ad Hoc Advisory Committee meeting because of the urgent need to address the potential risk of this disease to public health safety. The agency decided that it was in the public interest to hold this scientific discussion on June 22, 1995, even if there was not sufficient time for the customary 15-day public notice.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the

beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting may be requested in writing from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

Dated: June 12, 1995.

David A. Kessler,

Commissioner of Food and Drugs.

[FR Doc. 95–14655 Filed 6–12–95; 10:56 am]

BILLING CODE 4160–01–F

Office of the Secretary

Findings of Scientific Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Office of Research Integrity (ORI) has made final findings of scientific misconduct in the following case:

Barbara Jones, St. Mary's Hospital, Montreal: The Office of Research Integrity (ORI) conducted an investigation into possible scientific misconduct on the part of Ms. Barbara Jones while a data coordinator at St. Mary's Hospital, Montreal, Quebec. ORI concluded that Ms. Jones committed scientific misconduct by falsifying and fabricating the dates of tests or examinations required prior to study entry for two women entered on the Breast Cancer Prevention Trial (BCPT). The BCPT is coordinated by the National Surgical Adjuvant Breast and Bowel Project (NSABP) and supported by the National Cancer Institute and the National Heart, Lung, and Blood Institute. Because the BCPT is still in progress, no conclusions or results have been published and no clinical recommendations have been based on the results of the study.

Ms. Jones did not contest the ORI findings or administrative actions which require that, for a period of three years, any institution which proposes Ms. Jones' participation in PHS-supported research must submit a supervisory plan designed to ensure the scientific integrity of her contribution. Ms. Jones is also prohibited from serving in any advisory capacity to the PHS for a period of three years.

FOR FURTHER INFORMATION, CONTACT: Director, Division of Research Investigations, Office of Research Integrity, 301–443–5330.

Lyle W. Bivens,

Director, Office of Research Integrity.

[FR Doc. 95–14505 Filed 6–13–95; 8:45 am]

BILLING CODE 4160–17–M

Administration for Children and Families

New and Pending Demonstration Project Proposals Submitted Pursuant to Section 1115(a) of the Social Security Act: May 1995

AGENCY: Administration for Children and Families, HHS.

ACTION: Notice.

SUMMARY: This notice lists new proposals for welfare reform and combined welfare reform/Medicaid demonstration projects submitted to the Department of Health and Human Services for the month of May, 1995. Federal approval for the proposals has been requested pursuant to section 1115 of the Social Security Act. This notice also lists proposals that were previously submitted and are still pending a decision and projects that have been approved since May 1, 1995. The Health Care Financing Administration is publishing a separate notice for Medicaid only demonstration projects.

COMMENTS: We will accept written comments on these proposals. We will, if feasible, acknowledge receipt of all comments, but we will not provide written responses to comments. We will, however, neither approve nor disapprove any new proposal for at least 30 days after the date of this notice to allow time to receive and consider comments. Direct comments as indicated below.

ADDRESSES: For specific information or questions on the content of a project contact the State contact listed for that project.

Comments on a proposal or requests for copies of a proposal should be addressed to: Howard Rolston, Administration for Children and Families, 370 L'Enfant Promenade, SW., Aerospace Building, 7th Floor West, Washington, DC 20447. FAX: (202) 205–3598 PHONE: (202) 401–9220

SUPPLEMENTARY INFORMATION:

I. Background

Under Section 1115 of the Social Security Act (the Act), the Secretary of Health and Human Services (HHS) may approve research and demonstration project proposals with a broad range of policy objectives.

In exercising her discretionary authority, the Secretary has developed a number of policies and procedures for reviewing proposals. On September 27, 1994, we published a notice in the **Federal Register** (59 FR 49249) that specified (1) The principles that we ordinarily will consider when approving or disapproving demonstration projects under the authority in section 1115(a) of the Act; (2) the procedures we expect States to use in involving the public in the development of proposed demonstration projects under section 1115; and (3) the procedures we ordinarily will follow in reviewing demonstration proposals. We are committed to a thorough and expeditious review of State requests to conduct such demonstrations.

II. Listing of New and Pending Proposals for the Month of May, 1995

As part of our procedures, we are publishing a monthly notice in the **Federal Register** of all new and pending proposals. This notice contains proposals for the month of May, 1995.

Project Title: California—Work Pays Demonstration Project (Amendment).

Description: Would amend Work Pays Demonstration Project by adding provisions to: reduce benefit levels by 10% (but retaining the need level); reduce benefits an additional 15% after 6 months on assistance for cases with an able-bodied adult; time-limit assistance to able-bodied adults to 24 months, and not increase benefits for children conceived while receiving AFDC.

Date Received: 3/14/94.

Type: AFDC.

Current Status: Pending.

Contact Person: Glen Brooks, (916) 657–3291.

Project Title: California—Assistance Payments Demonstration Project (Amendment).

Description: Would amend the Assistance Payments Demonstration Project by: exempting certain categories of AFDC families from the State's benefit cuts; paying the exempt cases based on grant levels in effect in California on November 1, 1992; and renewing the waiver of the Medicaid maintenance of effort provision at section 1902(c)(1) of the Social Security Act, which was vacated by the Ninth Circuit Court of Appeals in its decision in *Beno* v. *Shalala*.

Date Received: 8/26/94.

Type: Combined AFDC/Medicaid.

Current Status: Pending.

Contact Person: Michael C. Genest, (916) 657–3546.

Project Title: California—Work Pays Demonstration Project (Amendment).

Description: Would amend the Work Pays Demonstration Project by adding provisions to not increasing AFDC benefits to families for additional children conceived while receiving AFDC.

Date Received: 11/9/94.

Type: AFDC.

Current Status: Pending.

Contact Person: Eloise Anderson, (916) 657–2598.

Project Title: California—School Attendance Demonstration Project.

Description: In San Diego County, require AFDC recipients ages 16–18 to attend school or participate in JOBS.

Date Received: 12/5/94.

Type: AFDC.

Current Status: Pending.

Contact Person: Michael C. Genest (916) 657–3546.

Project Title: California—Incentive to Self-Sufficiency Demonstration.

Description: Statewide, would require 100 hours CWEP participation per month for JOBS mandatory individuals who have received AFDC for 22 of the last 24 months and are working fewer than 15 hours per week after two years from JOBS assessment and: have failed to comply with JOBS without good cause, have completed CWEP or are in CWEP less than 100 hours per month, or have completed or had an opportunity to complete post-assessment education and training; provide Transitional Child Care and Transitional Medicaid to families who become ineligible for AFDC due to increased assets or income resulting from marriage or the reuniting of spouses; increase the duration of sanctions for certain acts of fraud.

Date Received: 12/28/94.

Type: Combined AFDC/Medicaid.

Current Status: Pending.

Contact Person: Michael C. Genest (916) 657–3546.

Project Title: Georgia—Work for Welfare Project.

Description: Work for Welfare Project. In 10 pilot counties would require every non-exempt recipient and non-supporting parent to work up to 20 hours per month in a state, local government, federal agency or nonprofit organization; extends job search; and increases sanctions for JOBS noncompliance. On a statewide basis, would increase the automobile exemption to $4,500 and disregard earned income of children who are full-time students.

Date Received: 6/30/94.

Type: AFDC.

Current Status: Pending.

Contact Person: Nancy Meszaros, (404) 657–3608.

Project Title: Hawaii—Families Are Better Together

Description: Statewide, would eliminate 100-hour, attachment to the work force, 30 day unemployment and principal wage earner criteria for AFDC-UP families.

Date Received: 5/22/95.

Type: AFDC.

Current Status: New.

Contact Person: Patricia Murakami, (808) 586–5230.

Project Title: Kansas—Actively Creating Tomorrow for Families Demonstration

Description: Would, after 30 months of participation in JOBS, make adults ineligible for AFDC for 3 years; replace $30 and ⅓ income disregard with continuous 40% disregard; disregard lump sum income and income and resources of children in school; count income and resources of family members who receive SSI; exempt one vehicle without regard for equity value if used to produce income; allow only half AFDC benefit increase for births of a second child to families where the parent is not working and eliminate increase for the birth of any child if families already have at least two children; eliminate 100-hour rule and work history requirements for UP cases; expand AFDC eligibility to pregnant women in 1st and 2nd trimesters; extend Medicaid transitional benefits to 24 months; eliminate various JOBS requirements, including those related to target groups, participation rate of UP cases and the 20-hour work requirement limit for parents with children under 6; require school attendance; require minors in AFDC and NPA Food Stamps cases to live with a guardian; make work requirements and penalties in the AFDC and Food Stamp programs more uniform; and increase sanctions for not cooperating with child support enforcement activities.

Date Received: 7/26/94.

Type: Combined AFDC/Medicaid.

Current Status: Pending.

Contact Person: Faith Spencer, (913) 296–0775.

Project Title: Maine—Project Opportunity.

Description: Increase participation in Work Supplementation to 18 months; use Work Supplementation for any opening; use diverted grant funds for vouchers for education, training or support services; and extend transitional Medicaid and child care to 24 months.

Date Received: 8/5/94.

Type: Combined AFDC/Medicaid.

Current Status: Pending.

Contact Person: Susan L. Dustin, (207) 287–3106.

Project Title: Maryland—Welfare Reform Project.

Description: Statewide, require minor parents to reside with a guardian; eliminate increased AFDC benefit for additional children conceived while receiving AFDC, with provision for third party payment or voucher/vendor payment for amount of the difference make rent vendor payments to local housing authority when delinquency exceeds 30 days; and issue AFDC benefits 14 days after date of application. In pilot sites, eliminate JOBS exemptions for having a child under age 3 and for having a medical disability of more than 12 months, unless the recipient applies for SSI; require able-bodied recipients who have received AFDC for 3 months to meet a work requirement (unless there is good cause) which will consist of full-time unsubsidized employment, 30 hours of subsidized employment, or a total of at least 20 hours of community service and employment; impose full-family sanction when JOBS non-exempt parent fails to comply with JOBS for 6 months and require parent to comply with JOBS for 30 days before reopening case; provide three more months of aid through a third party payment after full-family sanction is imposed; eliminate work supplementation program restriction from filling unfilled positions; eliminate work history and 100-hour rule requirements for AFDC-UP; require minimum of 20 hours of CWEP after three months of benefit receipt; disregard stepparent income if below 100% of poverty, reduce grant by 50 percent of need standard if income is between 100 and 150% of poverty, and make case ineligible if income is

above 150% of poverty; base grant for families with earnings at 85 percent of difference between need standard and earnings; increase both auto and resource limits to $5000; disregard income of dependent children; provide one-time payment in lieu of AFDC benefits; require teen parents to attend family health and parenting classes; extend JOBS services to unemployed non-custodial parents; and cash-out food stamps for work supplementation cases.

Date Received: 3/1/94 and 5/16/95 (Amendments).

Type: AFDC.

Current Status: New (Amendments).

Contact Person: Katherine L. Cook, (410) 767–7338.

Project Title: Massachusetts—Welfare Reform '95.

Description: Statewide, would limit AFDC assistance to 24 months in a 60-month period, with provisions for extensions, for all non-exempt recipients; reduce benefits for non-exempt recipients by 2.75 percent, while increasing earned income disregard to $30 and one-half indefinitely; establish the Work Program designed to end cash assistance to non-exempt families, requiring recipients who cannot find at least 20 hours per week of paid employment after 60 days of AFDC receipt to do community service and job search to earn a cash ''subsidy'' that would make family income equal to applicable payment standard; fund subsidized jobs from value of AFDC grant plus cash value of Food Stamps for limited number of volunteer recipients; sanction individuals who fail to comply with the Work Program by a reduction in assistance equal to the parent's portion of the grant; establish an Employment Development Plan (EDP) for non-exempt participants not required to participate in the Work Program, requiring community service for second failure to comply with EDP and full-family sanction for second failure to comply with community service; require teen parents to live with guardian or in supportive living arrangements and attend school; require children under age 14 to attend school; eliminate grandparent-deeming; strengthen paternity establishment requirements and allow the IV–D agency to determine if participants are cooperating; allow courts to order parents unable to pay child support to community service programs; exclude from the grant calculation children born to mothers while on AFDC; require child immunization; pay rent directly to landlords where caretaker has fallen behind six weeks in payments; increase asset level to $2,500; increase equity value of a vehicle to $5,000; establish wage assignment in cases of fraud or other overpayments; increased penalties for individuals who commit fraud, release AFDC fraud conviction information to Department of Revenue and the Social Security Administration for cross-check, and deny benefits to individuals with an outstanding default warrant issued by a State court; allow State to issue a clothing allowance voucher for each child; disregard the first $600 of lump sum income; require direct deposit of benefits for recipients with bank accounts; and disregard the 100-hour rule for eligibility for two-parent families.

Date Received: 4/4/95.

Type: AFDC.

Current Status: Pending.

Contact Person: Valerie Foretra, (617) 348–5508.

Project Title: Mississippi—A New Direction Demonstration Program—Amendment.

Description: Statewide, would amend previously approved New Direction Demonstration Program by adding provision that a family's benefits would not increase as a result of additional children conceived while receiving AFDC.

Date Received: 2/17/95.

Type: AFDC.

Current Status: Pending.

Contact Person: Larry Temple, (601) 359–4476.

Project Title: New Hampshire—Earned Income Disregard Demonstration Project.

Description: AFDC applicants and recipients would have the first $200 plus ½ the remaining earned income disregarded.

Date Received: 9/20/93.

Type: AFDC.

Current Status: Pending.

Contact Person: Avis L. Crane, (603) 271–4255.

Waiver Title: New Mexico—Untitled Project.

Description: Would increase vehicle asset limit to $4,500; disregard earned income of students; develop an AFDC Intentional Program Violation procedure identical to Food Stamps; and allow one individual to sign declaration of citizenship for entire case.

Date Received: 7/7/94.

Type: AFDC.

Current Status: Pending.

Contact Person: Scott Chamberlin, (505) 827–7254.

Project Title: North Dakota—Training, Education, Employment and Management Project.

Description: Would require families to develop a social contract specifying time-limit for becoming self-sufficient; combine AFDC, Food Stamps and LIHEAP into single cash payment with simplified uniform income, expense and resource exclusions; increase income disregards and exempt stepparent's income for six months; increase resource limit to $5,000 for one recipient and $8,000 for families with two or more recipients; exempt value of one vehicle; eliminate 100-hour rule for AFDC–UP; impose a progressive sanction for non-cooperation in JOBS or with child support; require a minimum of 32 hours of paid employment and non-paid work; require participation in EPSDT; and eliminate child support pass-through.

Date Received: 9/9/94.

Type: AFDC.

Current Status: Pending.

Contact Person: Kevin Iverson, (701) 224–2729.

Project Title: Oregon—Expansion of the Transitional Child Care Program.

Description: Provide transitional child care benefits without regard to months of prior receipt of AFDC and provide benefits for 24 months.

Date Received: 8/8/94.

Type: AFDC.

Current Status: Pending.

Contact Person: Jim Neely, (503) 945–5607.

Waiver Title: Oregon—Increased AFDC Motor Vehicle Limit.

Description: Would increase automobile asset limit to $9,000.

Date Received: 11/12/93.

Type: AFDC.

Current Status: Pending.

Contact Person: Jim Neely, (503) 945–5607.

Project Title: Pennsylvania—School Attendance Improvement Program.

Description: In 7 sites, would require school attendance as condition of eligibility.

Date Received: 9/12/94.

Type: AFDC.

Current Status: Pending.

Contact Person: Patricia H. O'Neal, (717) 787–4081.

Project Title: Pennsylvania—Savings for Education Program.

Description: Statewide, would exempt as resources college savings bonds and funds in savings accounts earmarked for vocational or secondary education and disregard interest income earned from such accounts.

Date Received: 12/29/94.

Type: AFDC.

Current Status: Pending.

Contact Person: Patricia H. O'Neal, (717) 787–4081.

Project Title: Texas—Promoting Child Health in Texas.

Description: Statewide, would require that children age 5 and under be immunized.

Date Received: 4/11/95.

Type: AFDC.

Current Status: Pending.

Contact Person: Kent Gummerman (512) 450–3743.

Project Title: Utah—Single Parent Employment Demonstration Program (Amendments).

Description: In designated pilot sites, would amend previously approved Single Parent Employment Demonstration Project by applying full-family sanction for repeated non-participation in JOBS; and, for two years after leaving AFDC, provide transitional JOBS support services, expanded income disregards and auto equity limits for Food Stamps, and optional Food Stamp cash-out.

Date Received: 5/17/95.

Type: AFDC.

Current Status: New.

Contact Person: Bill Biggs, (801) 538–4337.

Project Title: Virginia—Virginia Independence Program.

Description: Statewide, would provide one-time diversion payments to qualified applicants instead of AFDC; change first time JOBS non-compliance sanction to at least one month continuing until compliance and remove conciliation requirement; make paternity establishment within 6 months a condition of eligibility; suspend grant if mother is not cooperating in paternity establishment; require minor parents to live with adult guardian; eliminate benefit increase for children born while a family receives AFDC; require AFDC caretakers without a high school diploma, aged 24 and under, and children, aged 18 and under, to attend school; require child immunization; allow $5,000 resource exemption for savings for starting business; increase Transitional Child Care and Transitional Medicaid eligibility; and eliminate deeming requirement for aliens when their sponsor receives food stamps. Also, VIP would phase in statewide over 4 years a work component (VIEW) that will require participants to sign an Agreement of Personal Responsibility as a condition of eligibility; assign participants to a work activity within 90 days of benefit receipt; time-limit AFDC benefits to 24 consecutive months; increase earned income disregards for continued eligibility up to the federal poverty level; disregard value of one vehicle up to $7,500; provide 12 months transitional transportation assistance; modify current JOBS participation exemption criteria; eliminate limitation on job search; assign participants involuntarily to subsidized work placements; apply full-family sanction for refusal to cooperate with work programs; subject unemployed parents to same work requirements as single recipients; and provide employer subsidies from AFDC plus the value of Food Stamps.

Date Received: 12/2/94 and 3/28/95 (Amendments).

Type: Combined AFDC/Medicaid.

Current Status: Pending.

Contact Person: Barbara Cotter, (804) 692–1811.

Project Title: Washington—Success Through Employment Program.

Description: Statewide, would eliminate the 100-hour rule for AFDC–UP families; impose a 10 percent grant reduction for AFDC recipients who have received assistance for 48 out of 60 months, and impose an additional 10 percent grant reduction for every additional 12 months thereafter, and budget earnings against the original payment standard; and hold the food stamp benefit level constant for cases whose AFDC benefits are reduced due to length of stay on assistance.

Date Received: 2/1/95.

Type: AFDC.

Current Status: Pending.

Contact Person: Liz Begert Dunbar, (206) 438–8350.

Project Title: West Virginia—Joint opportunities for independence (JOIN).

Description: Statewide, would require one parent in an unemployed AFDC–UP applicant or recipient case, with exceptions, to participate 38 hours per week in work and job search activities; sanction the entire family when an individual does not comply; deny Food Stamps to sanctioned families and deny Medicaid to sanctioned adults, except for pregnant women; and freeze the level of Food Stamps benefits for sanctioned families at the pre-sanction level.

Date Received: 4/11/95.

Type: Combined AFDC/Medicaid.

Current Status: Pending.

Contact Person: Sharon Paterno (304) 558–3186.

Project Title: Wisconsin—Self Sufficiency First (SSF).

Description: Statewide, would require applicant adults, as a condition of eligibility, to meet with a financial planning resource specialist prior to completing an application to examine alternatives to welfare; with some exceptions. If the applicant still wants to apply for assistance, as a condition of eligibility, individual must engage in at least 60 hours of JOB search activities during the 30 day application period. Would also limit JOBS exemptions.

Date Received: 4/18/95.

Type: AFDC.

Current Status: Pending.

Contact Person: Jean Sheil (608) 266–0613.

Project Title: Wisconsin—Pay for Performance (PFP).

Description: Statewide, adult recipients will be required to participate in JOBS up to 40 hours per week; for each hour of non-participation the AFDC grant will be reduced by the federal minimum wage rate; if the AFDC grant is fully exhausted then the remaining sanction will be taken against the Food Stamp (FS) allotment; FS allotments will not be adjusted to account for AFDC reductions resulting from not participating in JOBS activities; if hours of participation fall below 25% of assigned hours without good cause then no AFDC grant will be awarded and the FS amount will be $10. Would also limit JOBS exemptions.

Date Received: 4/18/95.

Type: AFDC.

Current Status: Pending.

Contact Person: Jean Sheil (608) 266–0613.

III. Listing of Approved Proposals Since May 1, 1995

Project Title: Arizona—Employing and Moving People Off Welfare and Encouraging Responsibility Program.

Contact Person: Elliot Hibbs, (602) 542–4702.

Project Title: Delaware: A Better Chance.

Contact Person: Elaine Archangelo, (302) 577–4400.

IV. Requests for Copies of a Proposal

Requests for copies of an AFDC or combined AFDC/Medicaid proposal should be directed to the Administration for Children and Families (ACF) at the address listed above. Questions concerning the content of a proposal should be directed to the State contact listed for the proposal.

(Catalog of Federal Domestic Assistance Program, No. 93562; Assistance Payments—Research.)

Dated: June 7, 1995.

Howard Rolston,

Director, Office of Policy and Evaluation.

[FR Doc. 95–14571 Filed 6–13–95; 8:45 am]

BILLING CODE 4184–01–P

Centers for Disease Control and Prevention

[Announcement 557]

Cooperative Agreement for Occupational Safety and Health Silicosis Prevention Partnership

Introduction

The Centers for Disease Control and Prevention (CDC), National Institute for Occupational Safety and Health (NIOSH), announces the availability of funds for fiscal year (FY) 1995 for a cooperative agreement program for occupational safety and health silicosis prevention partnership.

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 to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Occupational Safety and Health. (For ordering Healthy People 2000 see the Section Where To Obtain Additional Information.)

Authority

This program is authorized under Sections 20(a) and 22(e)(7) of the Occupational Safety and Health Act of 1970 [29 U.S.C. 669(a) and 671(e)(7)].

Smoke-Free Workplace

The PHS 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 facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

Eligible Applicants

Applications may be submitted by public and private, non-profit and for-profit organizations and governments and their agencies. Thus, universities, colleges, research institutions, hospitals, other public and private organizations, State and local health departments or their bona fide agents, federally recognized Indian tribal governments, Indian tribes or Indian tribal organizations, and small, minority- and/or women-owned businesses are eligible to apply.

Availability of Funds

Approximately $250,000 is available in FY 1995 to fund one to two awards. It is expected that the award(s) will begin on or about September 30, 1995, for a 12-month budget period within a project period of up to three years. Funding estimates may vary and are subject to change.

Continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds.

Purpose

The purpose of this agreement is to conduct a program of applied research to identify barriers to the successful application of recognized prevention methods and identify effective measures that will promote the prevention of silicosis.

Potential areas of exploration include, but are not limited to: (1) Work organization and behavioral factors which influence the acceptance of (or resistance to) occupational exposure to silica dust; (2) economic incentives and disincentives for silicosis prevention, especially those which are built into existing or alternative systems for controlling dust exposures, providing health care, purchasing insurance, and compensating disabled workers; (3) educational materials and technical manuals available to workers, employers, and design engineers with roles in preventing silicosis; and (4) successes and shortcomings of current inspection and enforcement activities. Exploration of these areas will require a variety of approaches which might include scientific comparisons of the effectiveness of alternative prevention strategies, including lessons learned from the control of other hazardous materials; statistical analyses of existing data; focus groups; and theoretical and observational studies by behavioral and other social scientists, engineers, and educators.

Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for conducting activities under A.(Recipient Activities), and CDC/NIOSH will be responsible for conducting activities under B.(CDC/NIOSH Activities).

A. Recipient Activities

1. Identify existing barriers to implementation of known effective silicosis prevention methods based on available information and on data collected as a part of this agreement, when necessary.

2. Identify potential promotion strategies to test for their effectiveness in removing the barriers to successful prevention of silicosis.

3. Develop and carry out protocols for implementing and evaluating the effectiveness of the selected promotion methods in various exposure situations for which they were designed.

4. Based on the results of testing the promotion strategies and available data from any sources deemed appropriate, recommend effective measures or programs (sets of measures) available and applicable for use and that others can take for improved, broad implementation of silicosis preventions. These measures should be comprised of the most effective job- and industry-specific actions, based on their ability to remove the barriers to silicosis prevention, actually result in a reduction of silica exposure, and prevent silicosis.

B. CDC/NIOSH Activities

1. Participate in selection of strategies most appropriate for testing;

2. Assist in the development of the overall plan of study design for this project; lending technical expertise on industrial hygiene, control technology engineering, education, information dissemination, behavioral and social science, human factors, intervention (i.e., program) evaluation, both qualitative and quantitative research methods; and

3. Provide assistance on the methods for the collection of data, including participating in field studies, as well as in the analysis and publication of data related to the project.

Evaluation Criteria

Applications will be reviewed and evaluated according to the following criteria:

1. Responsiveness to the application content specified above, as well as demonstration of an understanding of the objectives of the proposed cooperative agreement, and the relevance of the proposal to the objectives. (40%)

2. Feasibility of meeting the proposed objectives of the cooperative agreement, including a proposed schedule for initiating and accomplishing each of the objectives of the cooperative agreement, and a proposed method for evaluating the accomplishments. (20%)

3. Training and experience of the proposed Program Director and staff, demonstrating that the Program Director is a recognized technical expert appropriate to the task and staff has training or experience sufficient to accomplish the proposed objectives. (20%)

4. The extent to which the institution has a program of recognized, documented expertise in publication, information collection, and information dissemination in the area of preventing occupational disease. (10%)

5. Efficiency of resources and uniqueness of program including the efficient use of existing and proposed personnel with assurance of a major time commitment of the Program Director to the program. Evidence of partnership or collaboration with outside organizations (e.g., universities, industries, or government agencies) using shared resources toward common goals. (10%)

6. The extent to which the program budget is reasonable, clearly justified, and consistent with the intended use of funds. (Not Scored)

Executive Order 12372

This program is not subject to the Executive Order 12372 review.

Public Health System Reporting Requirements

This program is not subject to the Public Health System Reporting Requirements.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number for this program is 93.262.

Other Requirements

Paperwork Reduction Act

Programs that involve the collection of information from 10 or more individuals and funded by the cooperative agreement will be subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Human Subjects

If the proposed project involves research on human subjects, the applicant must comply with the Department of Health and Human Services Regulations, 45 CFR Part 46, regarding the protection of human subjects. Assurance must be provided to demonstrate that the program will be subject to initial and continuing review by an appropriate institutional review committee. The applicant will be responsible for providing assurance in accordance with the appropriate guidelines and form provided in the application kit.

In addition to other applicable committees, Indian Health Service (IHS) institutional review committees also must review the project if any component of IHS will be involved or will support the research. If any American Indian community is involved, its tribal government must also approve that portion of the project applicable to it.

Application Submission and Deadline

The original and two copies of the application PHS Form 5161–1 (Revised 7/92, OMB Number 0937–0189) must be submitted to Henry S. Cassell, III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), Mailstop E–13, 255 East Paces Ferry Road, NE, Room 300, Atlanta, GA 30305, on or before July 26, 1995.

1. *Deadline:* Applications will be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date; or

(b) Sent on or before the deadline date and received in time for submission to the objective review group. (Applicants must 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 will not be acceptable as proof of timely mailing).

2. *Late Applications:* Applications which do not meet the criteria in 1.(a) or 1.(b) above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Where To Obtain Additional Information

To receive additional written information, call (404) 332–4561. You will be asked to leave your name, address, and telephone number and will need to refer to Announcement Number 557. You will receive a complete program description, information on application procedures, and application forms.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from Oppie Byrd, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Atlanta, GA 30305, telephone (404) 842–6546. Programmatic technical assistance may be obtained from Michael A. McCawley, Ph.D., Environmental Investigations Branch, Division of Respiratory Disease Studies, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention (CDC), 1095 Willowdale Road, Morgantown, WV 26505–2888, telephone (304) 285–5744.

Please refer to Announcement 557 when requesting information and submitting an application.

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) referenced in the **Introduction** Section through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, telephone (202) 512–1800.

Dated: June 8, 1995.

Diane D. Porter,

Acting Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–14491 Filed 6–13–95; 8:45 am]

BILLING CODE 4163–19–P

[Announcement 571]

Prevention of Silicosis in Surface Miners

Introduction

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1995 funds for a cooperative agreement program for prevention of silicosis in surface miners.

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 to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Occupational Safety and Health (Objective 10.11). (For ordering a copy of Healthy People 2000, see the Section Where to Obtain Additional Information.)

Authority

This program is authorized under sections 20(a) and 22(e)(7) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 669(a) and 671(e)(7)) and Section 501(g) of the Federal Mine Safety and Health Act (30 U.S.C. 951(g)).

Smoke-Free Workplace

The PHS 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 facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

Eligible Applicants

Applications may be submitted by public and private, non-profit and for-profit organizations and governments

and their agencies. Thus, universities, colleges, research institutions, hospitals, other public and private organizations, State and local governments or their bona fide agents, federally recognized Indian tribal governments, Indian tribes or Indian tribal organizations, and small, minority- and/or women-owned businesses are eligible to apply.

Availability of Funds

Approximately $85,000 is available in FY 95 to fund one award. It is expected that the awards will begin on or about September 30, 1995, and will be made for a 12-month budget period within a project period of up to three years. Funding estimates may vary and are subject to change.

Continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds.

Purpose

The purpose of this project is to contribute to silicosis prevention efforts as follows:

1. Identification of high silicosis-risk metal/nonmetal and coal surface mine drilling workers/operations and development of a plan to assess the effectiveness of the 1970 engineering control-based metal-nonmetal surface mine drilling standard in preventing silicosis. (Phase I)

2. Assessment of training effectiveness in a limited number of metal/nonmetal and coal surface mine drilling operations for purposes of targeting operations for intervention surveillance (e.g., work practices, maintenance, engineering controls). (Phase II)

3. Follow-up surveillance to evaluate the effectiveness of the interventions. (Phase III)

Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under A. (Recipient Activities), and CDC/NIOSH will be responsible for the activities listed under B. (CDC/NIOSH Activities).

A. Recipient Activities

1. Design a study to identify high silicosis-risk populations of metal/nonmetal and coal surface mine drillers; including small and large employers, contractors, unionized and nonunionized operations.

2. Identify a sample of present or former surface mine drillers who have been diagnosed with silicosis; provide ''case study'' reports.

3. Evaluate current work practices and exposure conditions at a variety of operations. This evaluation should include an assessment of the effectiveness of current training efforts, maintenance programs, engineering controls and driller work practices.

4. Recommend new or modified training efforts, maintenance programs, engineering controls or driller work practices which will reduce worker exposures to silica.

5. Evaluate the effectiveness of interventions which are implemented.

6. Publish results of the study.

B. CDC/NIOSH Activities

1. Provide scientific, epidemiologic, engineering, environmental, and clinical technical assistance (as needed) to the recipient for successful completion of this project.

2. Assist in the development of the overall plan or study design for this project.

3. Collaborate with the recipient on the methods for collection, tabulation, analysis, and publication of data related to the project.

4. In consultation with Mine Safety and Health Administration (MSHA) obtain and provide available information on MSHA sampling results, MSHA survey data, training videos, etc.

5. May provide (within the limits of available funding, manpower restraints and privacy/regulatory considerations) health screening (chest radiographs) for a limited number of targeted surface miners.

6. Assist in the design and implementation of the evaluation plan for the project.

Evaluation Criteria

Applications will be reviewed and evaluated according to the following criteria:

1. The qualifications and efficient use of current and proposed project personnel, with assurance of a major time commitment of the program director to the program. Technical qualifications of importance include, but are not limited to, experience in conducting investigations of the mining industry, knowledge of the technical aspects of drilling, and experience with worker education and training (to include evaluations of worker training program effectiveness). (35%)

2. The adequacy of the applicant's facilities and resources for purposes of evaluating surface mine driller training. Important qualifications include program/facility history of developing and implementing worker training programs. (10%)

3. The adequacy of the project plan or methodology. The proposed plan and methods should demonstrate a clear understanding and application of the goals and objectives for this program. Novel approaches and ideas that contribute to attainment of the program's goals and objectives are encouraged. Important components include the method of identification of high silicosis-risk surface mine drilling operations and the plan for assessment of effectiveness of the intervention strategies being used. How closely the project's objectives fit the objectives for which applications were invited. (40%)

4. Efficient use of resources and uniqueness of program. Evidence of collaboration with outside organizations (e.g., labor, universities, government agencies) using shared resources towards common goals and the demonstrated ability to solicit and receive financial resources from outside the organization. (15%)

5. Budget and justification. (not scored)

The budget will be evaluated to the extent that it is reasonable, clearly justified, and consistent with the intended use of the funds.

Executive Order 12372 Review

This program is not subject to the Executive Order 12372, Intergovernmental Review of Federal Programs.

Public Health System Reporting Requirements

This program is not subject to the Public Health System Reporting Requirements.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number for this program is 93.283.

Other Requirements

Paperwork Reduction Act

Projects that involve the collection of information from ten or more individuals and funded by this cooperative agreement will be subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Human Subjects

If the proposed project involves research on human subjects, the applicant must comply with the Department of Health and Human Services Regulations, 45 CFR part 46, regarding the protection of human subjects. Assurance must be provided to demonstrate the project will be subject to initial and continuing review by an appropriate institutional review

committee. The applicant will be responsible for providing assurance in accordance with the appropriate guidelines and form provided in the application kit.

In addition to other applicable committees, Indian Health Service (IHS) institutional review committees also must review the project if any component of IHS will be involved or will support the research. If any American Indian community is involved, its tribal government must also approve that portion of the project applicable to it.

Application Submission and Deadline

The original and two copies of the application PHS Form 5161–1 (Revised 7/92, OMB Number 0937–0189) must be submitted to Henry S. Cassell, III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E–13, Atlanta, GA 30305, on or before July 26, 1995.

1. Deadline: Applications shall be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date; or

(b) Sent on or before the deadline date and received in time for submission to the objective review group. (Applicants must 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.)

2. Late Applications: Applications which do not meet the criteria in 1.(a) or 1.(b) above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Where To Obtain Additional Information

A complete program description and information on application procedures are contained in the application package. Business management technical assistance may be obtained from Oppie Byrd, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E–13, Atlanta, GA 30305, telephone (404) 842–6546.

Programmatic technical assistance may be obtained from Joseph Cocalis, National Institute for Occupational Safety and Health, Centers for Disease and Control Prevention (CDC), 1095 Willowdale Road, Mailstop H–120, Morgantown, WV 26505–2888, telephone (304) 285–5754.

Please refer to Announcement 571 when requesting information and submitting an application.

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) referenced in the Introduction Section through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, telephone (202) 512–1800.

Dated: June 8, 1995.

Diane D. Porter,

Acting Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–14492 Filed 6–13–95; 8:45 am]

BILLING CODE 4163–19–P

Electronic Filing of Part 84 Respirator Approval and Certification Applications; Meetings

The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC) announces the following meeting.

Name: Electronic Filing of Part 84 Respirator Approval and Certification Applications.

Date: Thursday, June 29, 1995; Friday, June 30, 1995, 8–a.m.–3:30 p.m., NIOSH Facility, 1095 Willowdale Road, Room 138, Morgantown, West Virginia 26505.

Time: 8 a.m.–3:30 p.m.

Place: Lakeview Resort & Conference Center, Governor's Ball, Rooms 1–3, Morgantown, West Virginia 26505.

Status: Open to the public, limited only by the space available.

Purpose: NIOSH has authority to certify respiratory protective equipment under 42 CFR 84. The purpose of this meeting is to review recent program improvements to initiate electronic application procedures for respirator certification and to demonstrate NIOSH software and requirements for electronic filing.

NIOSH has determined that savings and improved efficiency will be achieved by both NIOSH and manufacturers when an electronic application submittal process is available. Changes in the new 42 CFR Part 84 respirator approval application requirements also will be reviewed and program developments related to approval labels and engineering drawings required in the approval application will be discussed.

Contact Person for Additional Information: John M. Dower, NIOSH, CDC, 1095 Willowdale Road, Mailstop P04/1138, Morgantown, West Virginia 26505–2888, telephone 304/285–5954 or 5907.

Dated: June 8, 1995.

Julia M. Fuller,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–14493 Filed 6–13–95; 8:45 am]

BILLING CODE 4163–19–M

Injury Research Grant Review Committee; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Injury Research Grant Review Committee (IRGRC).

Time and Date: 9 a.m.–5 p.m., July 10, 1995.

Place: Hotel Sofitel Chicago, 5550 North River Road, Rosemont, Illinois 60018.

Status: Open: 9 a.m.–9:20 a.m., July 10, 1995. Closed: 9:20 a.m.–5 p.m., July 10, 1995.

Purpose: This committee is charged with advising the Secretary of Health and Human Services, the Assistant Secretary for Health, and the Director, CDC, regarding the scientific merit and technical feasibility of grant applications relating to the support of injury control research program projects.

Matters To Be Discussed: Agenda items for the meeting will include announcements, discussion of review procedures, future meeting dates, and review of grant applications.

Beginning at 9:20 a.m., through 5 p.m., July 10, the committee will meet to conduct a review of grant applications. This portion of the meeting will be closed to the public in accordance with provisions set forth in section 552b(c) (4) and (6), title 5 U.S.C., and the Determination of the Associate Director for Management and Operations, CDC, pursuant to Public Law 92–463.

Agenda items are subject to change as priorities dictate.

Contact Person For More Information: Richard W. Sattin, M.D., Executive Secretary, IRGRC, National Center for Injury Prevention and Control, CDC, 4770 Buford Highway, NE, Mailstop K58, Atlanta, Georgia 30341–3724, telephone 404/488–4580.

Dated June 8, 1995.

Julia M. Fuller,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–14494 Filed 6–13–95; 8:45 am]

BILLING CODE 4163–18–M

Food and Drug Administration

[Docket No. 95F–0111]

Lonza, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Lonza, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of a mixture of 1-bromo-3-chloro-5,5-dimethylhydantoin; 1,3-dichloro-5,5-dimethylhydantoin; and 1,3-dichloro-5-ethyl-5-methylhydantoin as a slimicide in the manufacture of paper and paperboard intended to contact food.

DATES: Written comments on the petitioner's environmental assessment by July 14, 1995.

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

FOR FURTHER INFORMATION CONTACT: Mitchell A. Cheeseman, Center for Food Safety and Applied Nutrition (HFS–217), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3083.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 3B4382) has been filed by Lonza, Inc., c/o Delta Analytical Corp., 7910 Woodmont Ave., Bethesda, MD 20814. The petition proposes to amend the food additive regulations in § 176.300 *Slimicides* (21 CFR 176.300) to provide for the safe use of a mixture of 1-bromo-3-chloro-5,5-dimethylhydantoin; 1,3-dichloro-5,5-dimethylhydantoin; and 1,3-dichloro-5-ethyl-5-methylhydantoin as a slimicide in the manufacture of paper and paperboard intended to contact food.

The potential environmental impact of this action is being reviewed. To encourage public participation consistent with regulations promulgated under the National Environmental Policy Act (40 CFR 1501.4 (b)), the agency is placing the environmental assessment submitted with the petition that is the subject of this notice on public display at the Dockets Management Branch (address above) for public review and comment. Interested persons may, on or before July 14, 1995, submit to the Docket Management Branch (address above) written comments. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. FDA will also place on public display any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the **Federal Register**. If, based on its review, the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: May 24, 1995.

Alan M. Rulis,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 95–14463 Filed 6–13–95; 8:45 am]

BILLING CODE 4160–01–F

National Institutes of Health

Division of Research Grants; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual grant applications

Name of SEP: Clinical Sciences.

Date: June 25, 1995.

Time: 1:00 p.m.

Place: NIH, Rockledge II, Room 4140 Telephone Conference.

Contact Person: Dr. Larry Pinkus, Scientific Review Administrator, 6701 Rockledge Drive, Room 4140, Bethesda, MD 20892, (301) 435–1214.

Name of SEP: Clinical Sciences.

Date: June 26, 1995.

Time: 1:30 p.m.

Place: NIH, Rockledge II, Room 4140 Telephone Conference.

Contact Person: Dr. Larry Pinkus, Scientific Review Administrator, 6701 Rockledge Drive, Room 4140, Bethesda, MD 20892, (301) 435–1214.

Purpose/Agenda: To review Small Business Innovation Research Program grant applications.

Name of SEP: Multidisciplinary Sciences.

Date: July 10–11, 1995.

Time: 1:00 p.m.

Place: Crowne Plaza, Rockville, MD.

Contact Person: Dr. Harish Chopra, Scientific Review Admin., 6701 Rockledge Drive, Room 5112, Bethesda, MD 20892, (301) 435–51160.

The meetings will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the grant review cycle.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 7, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–14535 Filed 6–13–95; 8:45 am]

BILLING CODE 4140–01–M

National Institutes of Health; National Cancer Institute; Notice of Closed Meetings

Pursuant to Sec. 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings:

Purpose/Agenda: Review, discussion and evaluation of individual grant applications.

Committee Name: Subcommittee B of the Cancer Research Manpower and Education Review Committee.

Contact Person: Dr. Neil B. West, Room 611D, Executive Plaza North, 6130 Executive Blvd., Bethesda, MD 20892, Telephone: (301) 402–2785.

Date of Meeting: June 20–21, 1995.

Place of Meeting: The Georgetown Inn, 1310 Wisconsin Avenue, NW., Washington, DC 20007.

Time: 8 a.m.

Committee Name: Subcommittee D of the Cancer Centers and Research Programs Review Committee.

Contact Person: Dr. John Abrell, Room 635B, Executive Plaza North , 6130 Executive Blvd., Bethesda, MD 20892, Telephone: (301) 496–9767.

Date of Meeting: July 31–August 1, 1995.

Place of Meeting: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.

Time: 8 a.m.

Committee Name: Subcommittee A of the Cancer Centers and Research Programs Review Committee.

Contact Person: Dr. David E. Maslow, Room 643A, Executive Plaza North, 6130 Executive Blvd., Bethesda, MD 20892, Telephone: (301) 496–2330.

Date of Meeting: August 3–4, 1995.

Place of Meeting: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.

Time: 8 a.m.

The meetings will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and the discussions could reveal confidential trade secrets or commercial property such as patentable

material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93,396, Cancer Biology Research; 93.397, Cancer Centers Support, 93.398, Cancer Research Manpower; 93.399, Cancer Control)

Dated: June 7, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–14534 Filed 6–13–95; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Notice of a Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meeting:

Purpose/Agenda: To review individual grant applications.

Name of SEP: Behavioral and Neurosciences.

Date: June 13, 1995.

Time: 7:00 p.m.

Place: Georgetown Inn, Washington, DC.

Contact Person: Dr. Carole Jelsema, Scientific Review Admin., 6701 Rockledge Drive, Room 5176, Bethesda, MD 20892, (301) 435–1248.

The meeting will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the grant review cycle.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 7, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–14536 Filed 6–13–95; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT–803337

Applicant: Thomas J. Moore, III, Ingram, TX

The applicant requests a permit to authorize interstate and foreign commerce, export, and cull of excess male barasingha (*Cervus duvauceli*) from his captive herd for the purpose of enhancement of survival of the species.

PRT–803105

Applicant: New England Regional Primate Research, Southborough, MA

The applicant request a permit to take from Cotton-top Tamarins (*Saquinus oedipus*) (1) 2ml of blood every two weeks, and (2) obtain a single lymph node when required by using usual anesthetic and surgical procedures. The applicant intends to enhance the survival of the species through scientific research.

PRT–694123

Applicant: National Institute of Health, National Cancer Institute, Frederick, MD

The applicant requests a renewal of their permit to take, import and purchase in interstate and foreign commerce blood, semen, skin biopsy, organ and other tissue samples from many endangered and threatened mammals held in captivity for scientific genetic research. Live animals will be purchased occasionally in interstate commerce. No animals will be intentionally captured or harmed during any part of the research; all tissue sampling techniques are non-life threatening. This permit will be valid for five (5) years.

PRT–803553

Applicant: John Hocking, Marietta, GA

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from the captive herd maintained by Mr. Austin, ''Spitzkop'', Grahamstown, Republic of South Africa, for the purpose of enhancement of survival of the species.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 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: June 9, 1995.

Mary Ellen Amtower,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 95–14543 Filed 6–13–95; 8:45 am]

BILLING CODE 4310–55–M

Bureau of Land Management

[CA–066–00–5440–10-ZBBB; CACA–30070; CACA–25594; CACA–31926]

Proposed Land Exchange and Rights-of-Way for Eagle Mountain Non-Hazardous Municipal Solid Waste Landfill and Recycling Center; Correction

In notice document 95–11645, beginning on page 25243, in the issue of Thursday, May 11, 1995, make the following correction:

1. On page 25243, in the third column, third line, ''CACA–30079'' should read ''CACA–30070''.

2. On page 25243, in the third column, fourth line, ''CACA–3192]'' should read ''CACA–31926]''.

Dated: June 6, 1995.

Julia Dougan,

Area Manager.

[FR Doc. 95–14495 Filed 6–13–95; 8:45 am]

BILLING CODE 4310–40–U

[AZ–933–95–5410–A105, A122, & A124; AZA 29074, AZA 27532, AZA 29036]

Realty Actions; Sales, Leases, etc.: Arizona

AGENCY: Bureau of Land Management.

ACTION: Notice of minerals segregation.

SUMMARY: The mineral interests in the private lands described below, are segregated and made unavailable for filings under the general mining laws and the mineral leasing laws to determine their suitability for conveyance of the reserved mineral

interest pursuant to section 209 of the Federal Land Policy and Management Act of 1976.

AZA 29074 Gila and Salt River Meridian, Arizona

T. 17 N., R. 1 W.,
Sec. 7, lots 9 and 10;
Sec. 8, lot 3, SW¼NW¼, SW¼;
Sec. 17, W½;
Sec. 18, All;
Sec. 19, All;
Sec. 20, NW¼, W½SW¼;

Excepting any portion within the right-of-way of the Atchison, Topeka and Santa Fe Railroad.

T. 17 N., R. 2 W.,
Sec. 13, E½, E½W½, NW¼NW¼;
Sec. 23, SW¼NE¼, S½NW¼, SW¼, W½SE¼, SE¼SE¼;
Sec. 24, E½, E½W½, W½SW¼;
Sec. 25, All;
Sec. 26, N½N½, SE¼NE¼, SE¼SW¼; SE¼SE¼SE¼;
Sec. 35, NE¼, E½NW¼, SW¼SW¼, N½SE¼, SE¼SE¼;

Excepting any portion within the right-of-way of the Atchison, Topeka and Santa Fe Railroad.

Containing 4,871.88 acres.

AZA 27532 Gila and Salt River Meridian, Arizona

T. 11 N., R. 5 W.,
Sec. 27, W½NW¼;
Sec. 28, lots 1, 4, portion of W½NE¼.

Containing 153.12 acres.

AZA 29036 Gila and Salt River Meridian, Arizona

T. 11 N., R. 6 W.,
Sec. 8, E½, SW¼;
Sec. 9, lots 1, 6–7, 12, E½, E½W½;
Sec. 17, E½E½, NW¼;
Sec. 19, lots 3,4, E½SW¼, W½SE¼;
Sec. 20, lots 1, 8, 9;
Sec. 21, lots, 1–6, 8–9, E½, NE¼NW¼;
Sec. 28, lots 1–2, 4–12, E½;
Sec. 29, lots 2–17;
Sec. 30, 11–12;
Sec. 33, lots 1–3, NE¼, SE¼NW¼.

Containing 4001.48 acres.

Upon publication of this notice in the **Federal Register**, the mineral interests owned by the United States in the private lands shall be segregated to the extent that they will not be subject to appropriation under the mining and mineral leasing laws. The segregation will terminate upon (a) issuance of a patent for the mineral interests (b) rejection of the application, or (c) two years from the date of this publication, whichever occurs first.

ADDRESSES: Bureau of Land Management, Arizona State Office, P.O. Box 16563, Phoenix, AZ 85011.

FOR FURTHER INFORMATION CONTACT: Laura Rowdabaugh, Bureau of Land Management, Arizona State Office, (602) 650–0360.

Dated: June 7, 1995.

Mary Jo Yoas,

Chief, Lands and Minerals Operations Section.

[FR Doc. 95–14487 Filed 6–13–95; 8:45 am]

BILLING CODE 4310–32–P

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 32711]

Ohio & Pennsylvania Railroad Company—Lease and Operation Exemption—P&LE Properties, Inc.

Ohio & Pennsylvania Railroad Company (OPRC), a noncarrier, has filed a verified notice under 49 CFR part 1150, Subpart D—*Exempt Transactions* to lease from P&LE Properties, Inc., 39.24 miles of rail line between milepost 0.0, at Youngstown, OH, and milepost 35.7, at Darlington, PA, including short segments of line in Youngstown (1.9 miles) and Negley (1.0 mile), OH, and between Youngstown and Struthers, PA (0.64 mile). OPRC will transport local traffic and will interchange overhead traffic with CSX Transportation, Inc., or Consolidated Rail Corporation at Youngstown. The transaction was to have been consummated promptly upon the exemption's May 29, 1995, effective date.

This proceeding is related to *Summit View Corporation—Continuance in Control Exemption—Ohio & Pennsylvania Railroad Company*, Finance Docket No. 32712, wherein Summit View Corporation has concurrently filed a verified notice to continue to control Ohio & Pennsylvania Railroad Company upon its becoming a rail carrier.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of appetition to reopen will not stay the exemption's effectiveness. An original and 10 copies of all pleadings, referring to Finance Docket No. 32711, must be filed with the Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423. In addition, a copy of each pleading must be served on Kelvin J. Dowd, SLOVER & LOFTUS, 1224 Seventeenth Street, N.W., Washington, DC 20036.

Decided: June 8, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–14466 Filed 6–13–95; 8:45 am]

BILLING CODE 7035–01–P

[Finance Docket No. 32686 (Sub-No. 1)]

Richard D. Robey—Continuance in Control Exemption—Union County Industrial Railroad Company

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: Under 49 U.S.C. 10505, the Commission exempts from the prior approval requirements of 49 U.S.C. 11343–11344 the continuance in control by Richard D. Robey of Union County Industrial Railroad Company (Union) upon its becoming a class III rail carrier. Union's acquisition and operation of a 3.9-mile rail line, between milepost 169.7, at or near New Columbia, and milepost 173.6, at or near Milton, in Union County, PA, owned by Consolidated Rail Corporation, was exempted in *Union County Industrial Railroad Company—Acquisition and Operation Exemption—Consolidated Rail Corporation, Finance Docket No. 32686 (ICC served Apr. 20, 1995). The continuance in control exemption is subject to employee protective conditions.*

DATES: This exemption will be effective on July 14, 1995. Petitions for stay must be filed by June 26, 1995. Petitions to reopen must be filed by July 5, 1995.

ADDRESSES: Send pleadings referring to Finance Docket No. 32686 (Sub-No. 1) to: (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission Building, 1201 Constitution Avenue, N.W., Washington, DC 20423; and (2) Richard R. Wilson, VUONO, LAVELLE & GRAY, 2310 Grant Building, Pittsburgh, PA 15219.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar (202) 927–5660. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, 1201 Constitution Avenue, N.W., Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 927–5721.]

Decided: June 2, 1995.

By the Commission, Chairman Morgan, Vice Chairman Owen, and Commissioners Simmons and McDonald.

Vernon A. Williams,

Secretary.

[FR Doc. 95–14465 Filed 6–13–95; 8:45 am]

BILLING CODE 7035–01–P

[Finance Docket No. 32712]

Summit View Corporation—Continuance and Control Exemption—Ohio & Pennsylvania Railroad Company

Summit View Corporation (Summit), a noncarrier, has filed a verified notice under 49 CFR 1180.2(d)(2) to continue to control Ohio & Pennsylvania Railroad Company (OPRC) on OPRC's becoming a class III rail carrier. Summit already controls four class III rail carriers: Ohio Central Railroad, Inc., Ohio Southern Railroad, Inc., Youngstown & Austintown Railroad, Inc., and Warren & Trumbull Railroad. The transaction was to have been consummated on or after the exemption's May 29, 1995, effective date.

OPRC has concurrently filed a verified notice in *Ohio & Pennsylvania Railroad Company—Lease and Operation Exemption—P&LE Properties, Inc.*, Finance Docket No. 32711, to lease from P&LE Properties, Inc., and operate 39.24 miles of line between Youngstown, OH, and Darlington, PA.

The transaction is exempt from the prior approval requirements of 49 U.S.C. 11343 because: (1) The properties of OPRC will not connect with any other railroad in the Summit corporate family; (2) the continuance in control is not part of a series of anticipated transactions that would connect OPRC with any other railroad in the Summit corporate family; and (3) the transaction does not involve a class I carrier.

As a condition to this exemption, any employees adversely affected by the transaction will be protected under *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979).

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to reopen will not stay the exemption's effectiveness. An original and 10 copies of all pleadings, referring to Finance Docket No. 32712, must be filed with the Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423. In addition, a copy of each pleading must be served on Kelvin J. Dowd, Slover & Loftus, 1224 Seventeenth Street, NW., Washington, DC 20036.

Decided: June 8, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–14467 Filed 6–13–95; 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 for review under the provisions of the Paperwork Reduction Act (44 USC 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 95–511 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.

Extension of a Currently Approved Collection

(1) Application for Individual Manufacturing Quota for a Basic Class of Controlled Substance.

(2) DEA Form 189. Drug Enforcement Administration, United States Department of Justice.

(3) Primary: Business or other for Profit. Others: None. Title 21, CFR, 1303.21 requires registered bulk manufacturers who wish to manufacture controlled substances in Schedule I or II to apply on a Drug Enforcement Administration Form 189 for an individual manufacturing quota in order to limit the extent of manufacture. The information collected is used for establishing the individual manufacturing quotas and controlling manufacture thereof.

(4) 175 annual respondents at 0.5 hours per response.

(5) 87.5 annual burden hours.

(6) Not applicable under Section 3504(h) of Public Law 96–511.

Public comment on this item is encouraged.

Dated: June 8, 1995.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 95–14476 Filed 6–13–95; 8:45 am]

BILLING CODE 4410–09–M

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection.

(3) 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.

Revision of a Currently Approved Collection

(1) Application for Naturalization—Supplement A (Attached).

(2) INS Form N–400 Supplement A. Immigration and Naturalization Service, United States Department of Justice.

(3) Primary: Individuals or households. Others: None. The N–400 is provided to the public by the Immigration and Naturalization Service (INS) for use by an applicant for naturalization. Lawful permanent residents seeking to become naturalized United States Citizens must file INS Form N–400. The proposed supplement of seven yes or no questions will allow the INS to fast track qualifying persons seeking this benefit, saving time for the Government and the applicant.

(4) 580,632 annual respondents at 4.5 hours per response.

(5) 2,612,884 annual burden hours.

(6) Not applicable under Section 3504(h) of Public Law 96–511.

Public comment on this item is encouraged.

Dated: June 8, 1995.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

BILLING CODE 4410–10–M

U.S. Department of Justice
Immigration and Naturalization Service

DRAFT

N-400, Application for Naturalization
Supplement A

PART A. INSTRUCTIONS

Please complete this supplement and file it with your application *(Form N-400)* to help us better process your request. If you have already filed your application, you may complete and submit this supplement to the Office where your application is pending.

If you are submitting this supplement with your application, sign your name in ink on the side of your photographs, but **DO NOT** write over your face. Sign your name as shown on your green card unless you are seeking to change your name, in which case please sign your full name as you indicated it in question 7.

Public Report Burden for this supplement is estimated to average 10 minutes per response. *(See Form N-400 for more information on reporting burden hours.)*

This supplement is considered part of your application for naturalization. All the information provided must be true and correct.

PART B. ADDITIONAL INFORMATION ABOUT YOU. *(The applicant for naturalization.)*

Last Name	First Name		Middle Name
Daytime Phone # ( ) _____ - _____	Alien Registration #	Date of Birth *(Month/Day/Year)*	Date you became a permanent resident *(Month/Day/Year)*

1. A. Did you graduate from an accredited college in the U.S.? ☐ Yes ☐ No
   B. Did you graduate from college outside the U.S.? ☐ Yes ☐ No
   • If Yes to either question, check the highest level of college degree you received: ☐ Associate's ☐ Bachelor's ☐ Master's ☐ Doctorate
   (Attach a copy of your highest degree to this supplement.)

2. Did you graduate from high school in the U.S.? ☐ Yes ☐ No
   • If Yes, how many years of high school did you attend in the U.S.? ☐ Less than 1 ☐ One ☐ Two ☐ Three ☐ Four or more
   (Attach a copy of your high school diploma to this supplement or complete the following.)
   Name of School _____ Year Graduated _____
   Location *(City, State)* _____

3. Have you already passed an INS approved citizenship test? ☐ Yes ☐ No
   (If Yes, attach a copy of the test results.)

4. Have you completed an INS approved Adult Education Course? ☐ Yes ☐ No
   (If Yes, attach a copy of the certificate of completion.)

5. Within the past 5 years have you been required to pay child support through a separation agreement, divorce decree or other court order? ☐ Yes ☐ No *(If No, skip to question 6)*

   If YES:
   - At any time during the past 5 years were you more than 2 weeks behind in these payments? ☐ Yes ☐ No
   - Are you currently more than 2 weeks behind? ☐ Yes ☐ No

6. Naturalization involves a formal ceremony. This ceremony can be conducted by INS or by certain courts. In many parts of the country both INS and the courts conduct ceremonies. However, you may request that you only be naturalized in a court ceremony. This would mean you would not be scheduled for an INS ceremony even if one were available.
   - Would you like to be scheduled only for a court ceremony? ☐ Yes ☐ I have no preference

7. Your name as shown on your green card will normally be used when you naturalize. However, if you have changed your name through divorce or marriage since receiving your last green card, we will update our records and issue your certificate in your current name. Any applicant also has the option of requesting a change of name when naturalizing; however. If you do request a name change, we will schedule you for a court ceremony since only the court can grant a change of name.
   - Do you want to change your name as a result of your marriage or divorce? ☐ Yes ☐ No
     (If Yes, attach a copy of the marriage or divorce decree.)
   - Do you otherwise want to change your name when you naturalize? ☐ Yes ☐ No

   If you want to use a name other than the one on your current green card, clearly write it below:

Last Name	First Name	Middle Name

[FR Doc. 95–14477 Filed 6–13–95; 8:45 am]
BILLING CODE 4410–10–C

NUCLEAR REGULATORY COMMISSION

Proposed Generic Communication; 10 CFR 50.54(p) Process for Changes to Security Plans Without Prior NRC Approval

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of opportunity for public comment.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to issue a generic letter to clarify the process for changes to security plans under the provisions of Section 54(p) of Part 50 of Title 10 of the Code of Federal Regulations (10 CFR 50.54(p)). The NRC is seeking comment from interested parties regarding both the technical and regulatory aspects of the proposed generic letter presented under the Supplementary Information heading. This proposed generic letter was endorsed by the Committee to Review Generic Requirements (CRGR) to be published for comment. The relevant information that was sent to the CRGR to support their review of the proposed generic letter will be made available in the NRC Public Document Room. The NRC will consider comments received from interested parties in the final evaluation of the proposed generic letter. The NRC's final evaluation will include a review of the technical position and, when appropriate, an analysis of the value/impact on licensees. Should this generic letter be issued by the NRC, it will become available for public inspection in the NRC Public Document Room.

DATES: Comment period expires on July 14, 1995. Comments submitted after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except for comments received on or before this date.

ADDRESSES: Submit written comments to Chief, Rules Review and Directives Branch, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Written comments may also be delivered to 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, 2120 L Street, NW. (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Robert Skelton at (301) 415–3208.

SUPPLEMENTARY INFORMATION:

NRC Generic Letter 95–XX: 10 CFR 50.54(p) Process for Changes to Security Plans Without Prior NRC Approval

Addressees

All holders of operating licenses and construction permits for nuclear power plants.

Purpose

The U.S. Nuclear Regulatory Commission (NRC) is issuing this generic letter to notify you of a clarification of the procedures used by licensees to process 10 CFR 50.54(p) changes to security plans. It is expected that recipients will review the information for applicability to their facilities and consider actions, as appropriate. However, suggestions contained in this generic letter are not NRC requirements; therefore, no specific actions or written response is required.

Description of Circumstances

On January 4, 1993, the Executive Director for Operations established a Regulatory Review Group (RRG). The RRG conducted a review of power reactor regulations and related processes, programs, and practices. One RRG recommendation was to change the current practice to enable licensees to make changes to their security plans without prior NRC approval (i.e., using the provisions of 10 CFR 50.54(p)). The plan developed by the staff for implementing RRG recommendations (SECY 94–003, January 4, 1994) was not to change the regulations, but to clarify the process by providing a screening criterion that would ensure consistency of security plan changes without prior NRC approval.

Discussion

Some confusion and inconsistencies have apparently occurred in the past regarding implementation of 10 CFR 50.54(p) by licensees without NRC approval. This generic letter restates the original criterion for judging the acceptability of changes made pursuant to 10 CFR 50.54(p). That criterion has allowed that the ''test'' for determining if a change decreases the effectiveness of the plan has been the determination that the overall effectiveness of the plan is not decreased. This generic letter clarifies the language in 10 CFR 50.54(p) that licensees shall ''make no change which would decrease the effectiveness of a security plan, or guard training and qualification, * * * or safeguards contingency plan.''

The following is a clarification of this language. Changes that meet the following screening criteria may be made without prior NRC approval.

- A change in any of the three security plans is deemed not to decrease the effectiveness of the plan if the change does not decrease the ability of the onsite physical protection system and security organization, as described in paragraphs (b) through (h) of 10 CFR 73.55, or equivalent measures approved under 10 CFR 73.55(a), to protect with high assurance against the design basis threat as stated in 10 CFR 73.1(a). The change cannot delete or replace any of the regulatory capabilities, as described in paragraphs (b) through (h) or in Appendixes B and C to 10 CFR Part 73.
- A change that increases the effectiveness of any plan.

Use of these screening criteria would allow licensees to reduce certain commitments that have exceeded regulatory requirements or published guidance if the overall effectiveness of the plan is not reduced. Each issue is reviewed against the overall assurance levels contained in the plan and not against the specific individual changes. Latitude has always existed in that improvements in one area of the program may offset reductions in other areas. Overall assurance levels of the plans must be maintained, and this clarification is not intended to reduce plan commitments to levels less than the overall high-assurance objectives stated in 10 CFR 73.55(a).

NRC has expected that licensees would judiciously make the proper determination regarding 10 CFR 50.54(p) changes and implement those changes as permitted by the regulations. This position was the original intent of the Commission and remains so today. The NRC believes that, with the use of these screening criteria and expertise of the licensee staff, licensees should implement changes made pursuant to 10 CFR 50.54(p) without prior NRC approval.

Licensees should note that some of the safeguards-related regulatory guidance has become dated and superseded in recent years, and caution should be exercised by licensees when screening changes, particularly regarding specific guidance issues. The original intent of 10 CFR 50.54(p) has been to screen changes in terms of their overall impact on the security program. Guidance specified in NRC publications are not requirements and should not be interpreted as the only possible method for satisfying regulatory requirements. The screening criteria contained herein are the fundamental criteria necessary for determining the acceptability of a change made pursuant to 10 CFR 50.54(p). NUREG–0908, ''Acceptance

Criteria for the Evaluation of Nuclear Power Reactor Security Plans,'' is an example of a document that should not be used verbatim to make individual acceptability determines.

The screening criteria presented herein are not applicable to plan changes that would eliminate or replace security plan commitments to specific security measures stated in 10 CFR 73.55 (b) through (h). NRC approval of such changes may need to be submitted as exemption or license amendment (i.e., 10 CFR 50.90) requests.

A suggested outline for applying the screening criteria for the evaluation of a proposed security plan change is presented in Attachment 1. An evaluation of any proposed security plan change using the suggested outline should lead to a determination as to whether or not the change can be made without prior NRC approval.

Changes made pursuant to 10 CFR 50.54(p) and this generic letter may be made to physical security plans, guard training and qualification plans, and contingency plans. Licensees that successfully meet the screening criteria in Attachment 1 should conclude that a particular change would be acceptable without NRC approval. Use of the screening criteria format, while strictly voluntary, would document the licensees determination of no decrease in effectiveness as described in 10 CFR 50.54(p)(2). The burden for the submittal of information associated with the use of 10 CFR 50.54(p) is included in OMB Clearance 3150–0011. This generic letter does not increase that burden.

Changes must be appropriate for particular site programs, and use of the screening criteria does not guarantee acceptance by the NRC or applicability to all sites. The licensee bears the responsibility for changes made without NRC approval.

The three security plans remain the ''enforceable documents,'' and inspections will be based upon the commitments contained within those plans. It is incumbent upon licensees to keep their plans accurate and meet the timing requirements for updating plans as stated in 10 CFR 50.54(p).

As in the past, the NRC regional staff will continue to screen all changes and will refer policy-related changes to the Office of Nuclear Reactor Regulation (NRR). In the future the NRC regional staff will forward all questionable changes to NRR for review and disposition to ensure staff consistency.

Attachment 2 contains 10 examples of previously accepted changes made by licensees without NRC approval pursuant to 10 CFR 50.54(p), and Attachment 3 contains a list of 10 changes that have been found to be unacceptable for inclusion in security related plans unless approved by the NRC on a case by case basis pursuant to 10 CFR 50.90 or as an exemption request to 10 CFR 73.55.

Attachment 1—Screening Criteria Outline (Assessment of Acceptability of 10 CFR 50.54(p) Plan Change)

Section/Title

List the section and title of where the change is proposed.

Proposed Commitment

Specify the relevant existing and revised commitments. Address any offsetting provisions.

Impact on Effectiveness on a Generic Plan

This section of the outline asks a series of questions. If the response to each question is ''no'' and the rationale supports a ''no'' response, the change may be processed using the provisions of 10 CFR 50.54(p) without NRC prior approval. The questions are as follows:

1. ☐ Yes ☐ No Does this change delete or contradict any regulatory requirement?
2. ☐ Yes ☐ No Would the change decrease the overall level of security system performance as described in paragraphs (b) through (h) of 10 CFR 73.55 to protect with the objective of high assurance against the design basis threat of radiological sabotage as stated in 10 CFR 73.1(a)?

   Rationale: Explain the rationale.
3. ☐ Yes ☐ No Does this change any unique site-specific commitments?

   Rationale: (Explain why the change does not decrease the overall effectiveness of the plan while taking into consideration existing unique site-specific security features. Consider historical reasons why specific commitments were included in the security plans. Were there specific counterbalancing commitments and has that counterbalance been changed negatively?)

Attachment 2—Acceptable 10 CFR 50.54(p) Changes

Screening Criteria Form

(Assessment of Acceptability of 10 CFR 50.54(p) Plan Change)

Example I

Weapons Training

Section/Title

This is an example. In an actual 50.54(p) determination, this section would give specific references to the parts of the security plan the licensee proposes to change.

Proposed Commitment

Currently, some licensees train each security officer on all types of weapons maintained at their site. The licensee would now require individual security officer training only for the specific weapon types (i.e., shotguns and handguns or rifles and handguns) that individual security officers would use for assigned duties. Weapons training would be more specific to weapons used to carry out the specific assigned duties which would reduce training costs. Training of security officers on weapons that are not assigned to or used by them in routine or response duties wastes training resources and funding that could be used for additional training on assigned weapons. Response weaponry and training would remain unchanged.

Impact on Effectiveness on a Generic Plan

1. ☐Yes ☐No Does this change delete or contradict any regulatory requirement?
2. ☐Yes ☐No Would the change decrease the overall level of security system performance as described in paragraphs (b) through (h) of 10 CFR 73.55 to protect with the objective of high assurance against the design basis threat of radiological sabotage as stated in 10 CFR 73.1(a)?

   Rationale: Training security officers in use of weapons not deployed in routine or response activities provides no benefit to their responsive capability.
3. ☐Yes ☐No Does this change any unique site-specific commitments?

   Rationale: (Explain why the change does not decrease the overall effectiveness of the plan while taking into consideration existing unique site-specific security features. Consider historical reasons why specific commitments were included in the security plans. Were there specific counterbalancing commitments and has that counterbalance been changed negatively?)

Screening Criteria Form

(Assessment of Acceptability of 10 CFR 50.54(p) Plan Change)

Example II

Vehicle Entry and Search

Section/Title

This is an example. In an actual 50.54(p) determination, this section would give specific references to the parts of the security plan the licensee proposes to change.

Proposed Commitment

Currently, two armed security officers are required by the security plan to be present when a protected area barrier is opened. Allow one armed officer to open the protected area barrier for vehicle access and search of that vehicle. This would be acceptable if that portal is under observation by closed circuit television (CCTV) from the central alarm station (CAS) or secondary alarm station (SAS). If CCTV is not available, two security officers are required, but only one of the two needs to be armed. This change would allow more efficient use of security force resources. If the CAS or SAS were to witness an incident at the vehicle gate, they would be in the best position to dispatch armed responders.

Impact on Effectiveness on a Generic Plan

1. ☐Yes ☐No Does this change delete or contradict any regulatory requirement?
2. ☐Yes ☐No Would the change decrease the overall level of security system performance as described in paragraphs (b) through (h) of 10 CFR 73.55 to protect with the objective of high assurance against the

design basis threat of radiological sabotage as stated in 10 CFR 73.1(a)?

Rationale: This change would allow better utilization of security force resources and would help maintain current levels of assurance. Having a second armed security officer present during a vehicle search provides little, if any, additional deterrence to a potential adversary. CCTV coverage of vehicle access control and searches has a deterrence similar to the presence of the second officer.

3. ☐ Yes ☐ No Does this change any unique site-specific commitments?

Rationale: (Explain why the change does not decrease the overall effectiveness of the plan while taking into consideration existing unique site-specific security features. Consider historical reasons why specific commitments were included in the security plans. Were there specific counterbalancing commitments and has that counterbalance been changed negatively?)

Screening Criteria Form

(Assessment of Acceptability of 10 CFR 50.54(p) Plan Change)

Example III

Safeguards Information

Section/Title

This is an example. In an actual 50.54(p) determination, this section would give specific references to the parts of the security plan the licensee proposes to change.

Proposed Commitment

Currently, all lists of vital equipment are controlled as safeguards information (SGI). The following criterion defines what information needs to be controlled as SGI.

The following three elements must be present before ''documents or other matter'' are designated SGI in accordance with 10 CFR 73.21(b)(1)(vii):

(1) the safety-related equipment must be designated as vital equipment or be specified as being located in a vital area in either the licensee's physical security plan (PSP), the safeguards contingency plan (SCP) or, if applicable, any licensee-generated plant-specific safeguards analyses; and

(2) the equipment or area must be specifically designated as ''vital'' in the ''documents or other matter'' being reviewed; and

(3) the physical protection measures (other than any general regulatory requirement stated in 10 CFR 73.55) afforded the equipment or area, as described in either a licensee's PSP, a SCP, or a plant-specific safeguards analysis,* must also be specifically described in the ''documents or other matter.''

*Plant-specific sabotage scenarios or vulnerabilities in the physical protection system are considered SGI.

Impact on Effectiveness on a Generic Plan

1. ☐ Yes ☐ No Does this change delete or contradict any regulatory requirement?
2. ☐ Yes ☐ No Would the change decrease the overall level of security system performance as described in paragraphs (b) through (h) of 10 CFR 73.55 to protect with the objective of high assurance against the design basis threat of radiological sabotage as stated in 10 CFR 73.1(a)?

Rationale: This change allows the licensee to include a list of vital areas in training documents for licensee operations personnel without treating the documents as SGI. This change would also reduce the amount of SGI generated, handled, and stored. A non-SGI list does not decrease the effectiveness of the plan due to the absence of the above criteria and the fact that safety equipment lists are available from other sources.

3. ☐ Yes ☐ No Does this change any unique site-specific commitments?

Rationale: (Explain why the change does not decrease the overall effectiveness of the plan while taking into consideration existing unique site-specific security features. Consider historical reasons why specific commitments were included in the security plans. Were there specific counterbalancing commitments and has that counterbalance been changed negatively?)

Screening Criteria Form

(Assessment of Acceptability of 10 CFR 50.54(p) Plan Change)

Example IV

Protected Area Patrols

Section/Title

This is an example. In an actual 50.54(p) determination, this section would give specific references to the parts of the security plan the licensee proposes to change.

Proposed Commitment

Reduce frequency of protected area (PA) patrols. Patrol frequency would be reduced to a minimum of two patrols per shift (8 hours) or no less than once every 4 hours. Additional patrols contribute minimally to security effectiveness. Reduction of number of patrols would provide for more effective use of personnel resources. The consideration that all employees, as well as security force members, are trained to report any suspicious individuals or materials in the protected area decreases the importance of more frequent patrols.

Impact on Effectiveness on a Generic Plan

1. ☐ Yes ☐ No Does this change delete or contradict any regulatory requirement?
2. ☐ Yes ☐ No Would the change decrease the overall level of security system performance as described in paragraphs (b) through (h) of 10 CFR 73.55 to protect with the objective of high assurance against the design basis threat of radiological sabotage as stated in 10 CFR 73.1(a)?

Rationale: Previously issued guidance states that a patrol at least every 4 hours meets the performance requirements of the regulation.

☐ Yes ☐ No Does this change any unique site-specific commitments?

Rationale: (Explain why the change does not decrease the overall effectiveness of the plan while taking into consideration existing unique site-specific security features. Consider historical reasons why specific commitments were included in the security plans. Were there specific counterbalancing commitments and has that counterbalance been changed negatively?)

Screening Criteria Form

(Assessment of Acceptability of 10 CFR 50.54(p) Plan Change)

Example V

Security Organizational Changes

Section/Title

This is an example. In an actual 50.54(p) determination, this section would give specific references to the parts of the security plan the licensee proposes to change.

Proposed Commitment

Two levels of management would be eliminated, reducing the number of vertical layers of security staff organization. The change provides for more efficient management and possible savings in manpower resources. The number of guards for each shift directly involved in implementing the security plan would not be affected. Historically the NRC staff has not specified organizational or managerial structures. Published guidance is silent on the number of managers and the type of organizational structure for the security operation. Security management is judged by its performance and not by the number or type of managers.

Impact on Effectiveness on a Generic Plan

1. ☐ Yes ☐ No Does this change delete or contradict any regulatory requirement?
☐ Yes ☐ No Would the change decrease the overall level of security system performance as described in paragraphs (b) through (h) of 10 CFR 73.55 to protect with the objective of high assurance against the design basis threat of radiological sabotage as stated in 10 CFR 73.1(a)?

Rationale: With the actual number of on-duty security force members remaining unchanged, the implementation of the security plan should remain unchanged.

3. ☐ Yes ☐ No Does this change any unique site-specific commitments?

Rationale: (Explain why the change does not decrease the overall effectiveness of the plan while taking into consideration existing unique site-specific security features. Consider historical reasons why specific commitments were included in the security plans. Were there specific counterbalancing commitments and has that counterbalance been changed negatively?)

Screening Criteria Form

(Assessment of Acceptability of 10 CFR 50.54(p) Plan Change)

Example VI

Armed Responder Duties

Section/Title

This is an example. In an actual 50.54(p) determination, this section would give specific references to the parts of the security plan the licensee proposes to change.

Proposed Commitment

Assign duties other than armed response to security officers designated as members of the response team. Armed responders would

be assigned additional duties that would not interfere with their contingency response. Assigned duties would be only ones that could be immediately abandoned for response purposes. This change allows for more efficient resource management. This change should not affect the security officers' ability to perform their duties as members of the response team. Use of response officers to perform additional duties has been an acceptable practice under current guidance. What has not been acceptable, as discussed in IN 86–88, is assigning responders to routine duties that cannot be abandoned during a security event when response is necessary.

Impact on Effectiveness on a Generic Plan

1. ☐ Yes ☐ No Does this change delete or contradict any regulatory requirement?
2. ☐ Yes ☐ No Would the change decrease the overall level of security system performance as described in paragraphs (b) through (h) of 10 CFR 73.55 to protect with the objective of high assurance against the design basis threat of radiological sabotage as stated in 10 CFR 73.1(a)?

Rationale: Ability to abandon duties and respond will be demonstrated and documented. The number of armed responders is not reduced and their ability to respond is not affected.

3. ☐ Yes ☐ No Does this change any unique site-specific commitments?

Rationale: (Explain why the change does not decrease the overall effectiveness of the plan while taking into consideration existing unique site-specific security features. Consider historical reasons why specific commitments were included in the security plans. Were there specific counterbalancing commitments and has that counterbalance been changed negatively?)

Screening Criteria Form

(Assessment of Acceptability of 10 CFR 50.54(p) Plan Change)

Example VII

Requalification Schedule

Section/Title

This is an example. In an actual 50.54(p) determination, this section would give specific references to the parts of the security plan the licensee proposes to change.

Proposed Commitment

The current plan specifies that security audits and weapons training (required by Appendix B to 73.55) be completed 1 year or less after the audit or training was last accomplished. This results in the due date of audits and training being adjusted each year and the audits and training, over a period of years, being completed more than once each 12 months. This change provides scheduling latitude in performing annually required security audits and weapons training. It allows use of a ''tech spec'' formula to provide flexibility in meeting audit and weapons training commitments. The revised commitment would allow fixed dates in the plan with a provision for extending the audit or training interval beyond 1 year (e.g., a maximum allowable extension not to exceed 25% of the surveillance interval, but the combined time interval for any 3 consecutive surveillance intervals shall not exceed 3.25 time the specific surveillance interval).

Impact on Effectiveness on a Generic Plan

1. ☐ Yes ☐ No Does this change delete or contradict any regulatory requirement?
2. ☐ Yes ☐ No Would the change decrease the overall level of security system performance as described in paragraphs (b) through (h) of 10 CFR 73.55 to protect with the objective of high assurance against the design basis threat of radiological sabotage as stated in 10 CFR 73.1(a)?

Rationale: There would be no impact on performance capabilities of the security program or security officer weapons proficiency. Audits and security training would still be conducted on an annual basis with only minor variations.

3. ☐ Yes ☐ No Does this change any unique site-specific commitments?

Rationale: (Explain why the change does not decrease the overall effectiveness of the plan while taking into consideration existing unique site-specific security features. Consider historical reasons why specific commitments were included in the security plans. Were there specific counterbalancing commitments and has that counterbalance been changed negatively?)

Screening Criteria Form

(Assessment of Acceptability of 10 CFR 50.54(p) Plan Change)

Example VIII

Guard/Watchman Duties

Section/Title

This is an example. In an actual 50.54(p) determination, this section would give specific references to the parts of the security plan the licensee proposes to change.

Proposed Commitment

Some security plans list numerous positions within the security organization and specifically identify whether a position is filled by an armed guard or unarmed watchman. For example, a plan may specify that operators of search equipment in the gatehouse and SAS/CAS officers will be armed. This change would allow certain security officer positions to be filled by unarmed watchmen rather than armed guards. Watchmen would be allowed to operate search equipment in the gatehouse, to man the CAS and SAS, and to escort individuals in the protected and vital areas.

Impact on Effectiveness on a Generic Plan

1. ☐ Yes ☐ No Does this change delete or contradict any regulatory requirement?
2. ☐ Yes ☐ No Would the change decrease the overall level of security system performance as described in paragraphs (b) through (h) of 10 CFR 73.55 to protect with the objective of high assurance against the design basis threat of radiological sabotage as stated in 10 CFR 73.1(a)?

Rationale: This change does not involve any of the armed response force members. Consequently the response to security contingencies would remain the same.

3. ☐ Yes ☐ No Does this change any unique site-specific commitments?

Rationale: (Explain why the change does not decrease the overall effectiveness of the plan while taking into consideration existing unique site-specific security features. Consider historical reasons why specific commitments were included in the security plans. Were there specific counterbalancing commitments and has that counterbalance been changed negatively?)

Screening Criteria Form

(Assessment of Acceptability of 10 CFR 50.54(p) Plan Change)

Example IX

Vital Area Door Controls

Section/Title

This is an example. In an actual 50.54(p) determination, this section would give specific references to the parts of the security plan the licensee proposes to change.

Proposed Commitment

Some licensees have committed to placement of vital areas within vital areas. This arrangement results in doors, identified as vital area doors, being located within other vital areas. This change would allow the number of doors controlled as vital to be reduced. Vital area doors located within vital areas (with the exception of the control room and the alarm stations) would no longer be designated as vital.

Impact on Effectiveness on a Generic Plan

1. ☐ Yes ☐ No Does this change delete or contradict any regulatory requirement?
2. ☐ Yes ☐ No Would the change decrease the overall level of security system performance as described in paragraphs (b) through (h) of 10 CFR 73.55 to protect with the objective of high assurance against the design basis threat of radiological sabotage as stated in 10 CFR 73.1(a)?

Rationale: Unless the current response strategy to an external threat relies on delay or detection at internal vital area doors, elimination of their vital designation would not affect licensee response to a design basis external threat.

3. ☐ Yes ☐ No Does this change any unique site-specific commitments?

Rationale: (Explain why the change does not decrease the overall effectiveness of the plan while taking into consideration existing unique site-specific security features. Consider historical reasons why specific commitments were included in the security plans. Were there specific counterbalancing commitments and has that counterbalance been changed negatively?)

Screening Criteria Form

(Assessment of Acceptability of 10 CFR 50.54(p) Plan Change)

Example X

Security Vehicles

Section/Title

This is an example. In an actual 50.54(p) determination, this section would give specific references to the parts of the security plan the licensee proposes to change.

Proposed Commitment

Eliminate a requirement that a 4-wheel drive vehicle be used as a patrol and response vehicle. This reduction would need to be balanced by a commitment to verify that the response strategy to address the design basis threat did not rely on the use of a 4-wheel drive vehicle. This change would eliminate the costs of purchasing and maintaining 4-wheel drive vehicles that are not required for protection against the design basis external threat.

Impact on Effectiveness on a Generic Plan

1. ☐ Yes ☐ No Does this change delete or contradict any regulatory requirement?
2. ☐ Yes ☐ No Would the change decrease the overall level of security system performance as described in paragraphs (b) through (h) of 10 CFR 73.55 to protect with the objective of high assurance against the design basis threat of radiological sabotage as stated in 10 CFR 73.1(a)?

Rationale: The demonstration of protective strategies that do not require the use of a 4-wheel drive vehicle would confirm the ability of a site's protection strategy to protect the facility against the design basis threat.

3. ☐ Yes ☐ No Does this change any unique site-specific commitments?

Rationale: (Explain why the change does not decrease the overall effectiveness of the plan while taking into consideration existing unique site-specific security features. Consider historical reasons why specific commitments were included in the security plans. Were there specific counterbalancing commitments and has that counterbalance been changed negatively?)

Attachment 3—Unacceptable 10 CFR 50.54(p) Changes

The following is a listing of 10 CFR 50.54(p) changes that have been proposed or submitted but were determined to decrease the effectiveness of their respective plans. Changes would be reviewed on a case-by-case basis if submitted as noted for amendments or exemptions.

1. A change was submitted that would allow a ''designated vehicle'' to be stored outside the protected area in an unsecured manner. This change is considered to be decrease in overall effectiveness of the plan and would require an exemption request since it is contrary to the provisions of 10 CFR 73.55(d)(4).

2. A change was submitted by which any vehicle entering the protected area that is driven by an individual with unescorted access would not have to be escorted by an armed member of the security force. This change would decrease the overall effectiveness of the plan and require an exemption request since it is contrary to the provisions of 10 CFR 73.55(d)(4) and specific implementation guidance provided to the staff in SECY 93–326.

3. A change was submitted that would allow materials destined for the protected area to be searched and stored in an unsecured, owner-controlled warehouse. This change is considered a decrease in overall effectiveness of the plan and would require an exemption request since it is contrary to the provisions of 10 CFR 73.55(d)(3).

4. A change was submitted that requested that security officers be qualified on other than assigned weapons or ''duty'' ammunition. The change would be considered a decrease in overall effectiveness of the plan. This change could be submitted pursuant to 10 CFR 50.90.

5. A generic change was proposed during public meetings that would eliminate the secondary alarm station. This change would decrease the overall effectiveness of the plan and require an exemption request since it is contrary to the provisions of 10 CFR 73.55(e)(1).

6. A generic change was proposed during public meetings that would reduce the number of armed responders below the minimum required by the regulation. This change would decrease that overall effectiveness of the plan and require an exemption request since it is contrary to the provisions of 10 CFR 73.55(h)(3).

7. A change was submitted that did not specify which positions within the security organization would be armed or unarmed. As written, the staff had to assume the overall effectiveness of the plan was decreased. The licensee would need to resubmit this change to clarify which positions would be armed to confirm that regulatory requirements were being met.

8. A generic change was proposed during public meetings that would allow visitor escorting to be determined at the licensee's discretion. No specifics were provided regarding how this change was to be implemented. This change would decrease the overall effectiveness of the plan and require an exemption request since it is contrary to the provisions of 10 CFR 73.55(d)(6).

9. A generic change was proposed during public meetings that would give an alarm station operator the discretion to determine the need for compensatory measures for failed intrusion detection equipment. This change would decrease the overall effectiveness of the plan and require an exemption request since it is contrary to the provisions of 10 CFR 73.55(g)(1). Compensatory measures for vital area doors are contained in proposed rulemaking currently being processed by the staff.

10. A generic change was proposed during public meetings that would not require compensatory measures for 72 hours on a vital area door that had only a functional lock. This change would decrease the overall effectiveness of the plan and require an exemption request since it is contrary to the provisions of 73.55(g)(1).

Dated at Rockville, Maryland, this 7th day of June 1995.

For the Nuclear Regulatory Commission.

Brian K. Grimes,

Director, Division of Project Support, Office of Nuclear Reactor Regulation.

[FR Doc. 95–14501 Filed 6–13–95; 8:45 am]

BILLING CODE 7590–01–M

Commonwealth Edison Company, Zion Nuclear Power Station, Units 1 and 2; Correction to Director's Decision Under 10 CFR 2.206 (DD–95–09)

In the Notice beginning on page 28808 in the issue of Friday, June 2, 1995, make the following correction:

On page 28811, Section *E. Potential Threats,* in the second paragraph, the fourth sentence should read:

On a daily basis, the staff evaluates threat-related information to ensure the design basis threat statements in the regulations remain a valid basis for safeguards system design.

For the Nuclear Regulatory Commission,

Clyde Y. Shiraki,

Project Manager, Project Directorate III–2, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 95–14500 Filed 6–13–95; 8:45 am]

BILLING CODE 7590–01–M

[Docket No 50–458 (License No. NPF–47)]

Gulf States Utilities Entergy Corporation, Entergy Operations, Inc., (River Bend Station, Unit 1); Order Approving Transfers and Notice of Issuance of License Amendments

I

On November 20, 1985, pursuant to 10 CFR part 50, License No. NPF–47 was issued, under which Gulf States Utilities Company (GSU) is authorized to operate and hold a 70 percent ownership share in River Bend Station, Unit 1 (River Bend), which is located in West Feliciana Parish, Louisiana.

II

In June 1992, GSU and Entergy Corporation (Entergy) entered into an agreement providing for the combination of the businesses of their companies. In accordance with the merger plan, GSU, following the merger, will continue to operate as an electric utility, but as a subsidiary of a new holding company to be named Entergy Corporation, with its electric operations fully intergrated with those of the Entergy System. Upon consummation of the proposed business combination and subject to the receipt of the ncessary approvals, Entergy Operations Inc. (EOI), on behalf of the owners, will assume operations and managerial responsibility for River Bend.

III

To implement the business combination, GSU appled to the U.S. Nuclear Regulatory Commission (NRC) for two license amendments to license NPF–47, by two letters dated January

13, 1993, as supplemented by later filings. Under these requested license amendment, the license would reflect the transfer of ownership of GSU to become a wholly-owned susbisdiary of Entergy as a result of a merger between GSU and Entergy, and control over the operation of River Bend would be transferred from GSU to EOI, another wholly-owned subsidiary of Entergy. Notice of these applications for transfer and proporsed no significant hazards consideration determinations were published in the **Federal Register** on July 7, 1993 (58 FR 36435 and 58 FR 36436).

IV

This Order was originally issued on December 16, 1993. By other dated March 14, 1995, the Court of Appeals for the D.C. Circuit ordered that the two orders for (1) the merger of Gulf States Utilities and Entergy and (2) the operation of River Bend Station by EOI be vacted and the case remanded to the NRC.

V

The transfer of rights under license NPF–47 is subject to the NRC's approval under 10 CFR 50.80. Based on information provided by GSU and Entergy, and other information before the Commission, it is determined that the proposed transfer of the control of operations of River Bend from GSU to EOI, and the proposed transfer of ownership of GSU to Entergy, subject to the conditions set forth herein, are in the public interest and are consistent with the applicable provisions of law, regulations and orders issued by the Commission. These actions were evaluated by the staff as documented in Safety Evaluations, dated December 16, 1993, which contain final no significant hazards consideration determinations. The conditions of the transfer, to which GSU has not objected, are:

2.C.(3) Antitrust Conditions

a. GSU shall comply with the antitrust license conditions set forth in Appendix C, attached hereto and incorporated in this license.

b. EOI shall not market or broker power or energy from River Bend Station, Unit 1. GSU is responsible and accountable for the actions of its agent, EOI, to the extent said agent's actions affect the marketing or brokering of power or energy from River Bend Station, Unit 1 and, in any way, contravene the antitrust conditions of this paragraph or Appendix C of this license.

2.C.(16) Merger Related Reports

GSU shall inform the Director, NRR:

a. Sixty days prior to a transfer (excluding grants of security interests or liens) from GSU to Entergy or any other entity of facilities for the production, transmission or distribution of electric energy having a depreciated book value exceeding one percent (1%) of GSU's consolidated net utility plant, as recorded on GSU's books of account.

b. Of an award of damages in litigation initiated against GSU by Cajun Electric Power Cooperative regarding River Bend within 30 days of the award.

VI

Accordingly, pursuant to sections 103, 105, 161b, 161i, and 187 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2201 et seq. and 10 CFR part 50, *it is hereby ordered* That the transfers to Entergy Corporation and Entergy Operations Inc., discussed above, are approved, and notice is given that license amendments providing for the transfer of control of operation of River Bend to EOI, subject to the license conditions set our and herein, and the transfer of ownership of GSU to Entergy are issued, effective immediately.

Dated at Rockville, MD., this 8th day of June 1995.

William T. Russell,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 95–14502 Filed 6–13–95; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–267; License No. DPR–34]

Public Service Company of Colorado, (Fort St. Vrain Nuclear Generating Station); Exemption

I

The Public Service Company of Colorado (PSC or the licensee) is the holder of Possession-Only License (POL) No. DPR–34, which authorized possessions and maintenance of the Fort St. Vrain Nuclear Generating Station (FSV). The license provides, among other things, that the plant is subject to all rules, regulations, and Orders of the Nuclear Regulatory Commission (NRC) now or hereafter in effect.

FSV is a high-temperature, gas-cooled reactor that is located at the licensee's site in Weld County, Colorado. FSV operated from January 31, 1974, to August 18, 1989. PSC shut down FSV because of control rod drive failures and subsequently made the shutdown permanent because of a discovery of degradation of the steam generator ring headers. On November 5, 1990, PSC submitted a Decommissioning Plan (DP) pursuant to § 50.82 of title 10, Code of Federal Regulations (10 CFR 50.82) that proposed the dismantling of FSV. On May 21, 1991, the NRC revised License No. DPR–34 to a POL, which allows possession but not operation of FSV. The DP was approved by NRC Order dated, November 23, 1993. PSC is actively dismantling FSV and decommissioning is approximately 65 percent complete. In addition, FSV has been defueled and all fuel was transferred to the PSC independent spent fuel storage installation (ISFSI). The ISFSI (Materials License No. SNM–2504) is licensed under 10 CFR part 72.

II

By letter dated February 16, 1995, PSC requested an exemption in accordance with 10 CFR 50.12 from the requirements of 10 CFR 50.54(w) to maintain onsite property damage insurance. This rule states the following:

* * * Each electric utility licensee under this part for a production or utilization facility of the type described in 10 CFR 50.21(b) and 10 CFR 50.22 shall take reasonable steps to obtain insurance available at reasonable costs and on reasonable terms from private sources or to demonstrate to the satisfaction of the Commission that it possesses an equivalent amount of protection covering the licensee's obligation in the event of an accident at the licensee's reactor, to stabilize and decontaminate the reactor and the reactor station site at which the reactor experiencing the accident is located, provided that: * * *.

III

The justification presented by the licensee for the exemption request is that FSV is not authorized to operate, all nuclear fuel has been removed from the reactor facility and transferred to the ISFSI, decommissioning of FSV is approximately 65 percent complete, and the risk of accident resulting in a radiological release is now considerably less than during plant operation. The licensee contends that with all nuclear fuel removed from the reactor facility, and with the activated graphite blocks removed from the reactor building and disposed of at an authorized low-level waste disposal facility, the potential accidents as evaluated in the FSV DP only involve events such as fires, electrical power outages, and the dropping of activated or contaminated materials during dismantling. PSC concludes that any events at the facility would only result in doses to individuals located at the emergency planning zone boundary. In addition, PSC concludes these doses would be orders of magnitude below 10 CFR part

100 guidelines and are a small fraction of the U.S. Environmental Protection Agency's (EPA) ''Protection Action Guidelines'' (PAG). The NRC staff's Safety Evaluation of the FSV DP (NRC Decommissioning Order dated November 23, 1992) confirmed PSC's conclusion. Because the risk of an accident requiring reactor stabilization or extensive decontamination of the reactor facility does not exist at FSV, the annual cost of $250,000 per year for insurance is unwarranted and poses an undue hardship on FSV.

The NRC will not consider granting an exemption unless special circumstances warrant it. In the licensee's letter of August 2, 1993, these special circumstances were addressed as follows:

* * * (ii) Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule; or (iii) Compliance would result in undue hardship or other costs that are significantly in excess of those incurred by others similarly situated * * *.

In addition, for the FSV worst-case accident previously analyzed in Section 3.4.10 of the NRC approved Decommissioning Plan, the radiological release from the accident would result in a whole-body dose to an individual of 8.30 mrem. This dose is considerably less than 1 percent of the EPA PAG dose of 1000 mrem that requires protective action.

IV

The staff has reviewed the licensee's requests and finds that sufficient bases have been presented for NRC's approval of the request for exemption from 10 CFR 50.54(w) requirements to continue to maintain onsite property insurance.

The staff finds that the special circumstances presented by PSC satisfy the requirements of 10 CFR 50.12(a)(2)(ii) and (iii), and it would serve no purpose to meet a requirement that relates primarily to an operating reactor, where costs to stabilize and decontaminate a facility are significant in contrast to a defueled reactor such as FSV that is 65 percent decommissioned. To continue to maintain onsite property insurance would result in undue hardship to the licensee and costs in excess of those contemplated when the regulation was adopted.

Based on the above evaluation, the NRC has determined that pursuant to 10 CFR 50.12(a)(1), this exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security.

Accordingly, NRC hereby grants an exemption from 10 CFR 50.54(w). The exemption deletes the requirement to continue to maintain onsite property damage insurance.

Pursuant to 10 CFR 51.32, NRC has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (May 22, 1995, 60 FR 27140).

A copy of the licensee's request for the exemption and supporting documentation dated February 16, 1995, and the NRC staff's Safety Evaluation, included in the exemption, are available for public inspection at the NRC's Public Document Room, 2120 L Street, NW., Washington, DC 20037, and at the Weld Library District—Downtown Branch, 919 7th Street, Greeley, CO 80631.

This exemption will become effective on issuance.

Dated at Rockville, MD, this 7th day of June, 1995.

For the Nuclear Regulatory Commission,

John T. Greeves,

Director, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 95–14503 Filed 6–13–95; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 30–32493–CivP EA 93–072; ASLBP No. 95–709–02–CivP]

Radiation Oncology Center at Marlton (ROCM) Marlton, NJ, (Byproduct Materials License No. 29–28685–01); Notice of Hearing

June 7, 1995.

Notice is hereby given that, by Memorandum and Order dated June 7, 1995, the Atomic Safety and Licensing Board has granted the request of Radiation Oncology Center of Marlton (Licensee or ROCM) for a hearing in the above-titled proceeding. The hearing concerns the Order Imposing a Civil Monetary Penalty, issued by the NRC Staff on April 24, 1995 (published at 60 FR 21570, May 2, 1995). The parties to the proceeding are the Licensee and the NRC Staff.

The issues to be considered at the hearings are (a) whether the Licensee was in violation of the Commission's requirements as set forth in the violation in the Notice of Violation and Proposed Imposition of Civil Penalty, dated May 31, 1994, and the following specific examples given with the violation: Examples A.1, A.2, A.4, B.1, B.2, C and D; and (b) whether, on the basis of the violation set forth in the Notice of Violation, this Order should be sustained.

Materials concerning this proceeding are on file at the Commission's Public Document Room, 2120 L St. NW., Washington, DC 20555, and at the Commission's Region I Office, 475 Allendale Road, King of Prussia, Pennsylvania 19406–1415.

During the course of this proceeding, the Licensing Board, as necessary, will conduct one or more prehearing conferences and evidentiary hearing sessions. The time and place of these sessions will be announced in later Licensing Board Orders. Members of the public will be invited to attend any such in-person sessions.

Rockville, MD, June 7, 1995.

For the Atomic Safety and Licensing Board,

Charles Bechhoefer,

Chairman, Administrative Judge.

[FR Doc. 95–14504 Filed 6–13–95; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Generalized System of Preferences (GSP); Notice of an ''Emergency'' Review to Consider Requests for ''De Minimis'' Waivers of the Competitive Need Limits for Buffalo Leather From Thailand and for Aluminum Conductor From Venezuela; Request for Comments

AGENCY: Office of the United States Trade Representative.

ACTION: Initiation of an ''emergency'' review and solicitation of public comments with respect to requests for ''de minimis'' waivers of the competitive need limits for buffalo leather from Thailand and for aluminum conductor from Venezuela.

SUMMARY: This notice initiates an expedited review and solicits public comments with respect to requests for ''de minimis'' waivers for the competitive need limits for buffalo leather from Thailand and for aluminum conductor from Venezuela.

FOR FURTHER INFORMATION CONTACT: GSP Subcommittee, Office of the United States Trade Representative, 600 17th Street, NW., Room 518, Washington, DC 20506. The telephone number is (202) 395–6971.

SUPPLEMENTARY INFORMATION: Section 504(d)(2) of the Trade Act of 1974, as amended (''Trade Act'') (19 U.S.C. 2464(d)(2)) authorizes the President to disregard the 50-percent competitive need limit, which is provided for in section 504(c)(1)(B) of the Trade Act (19 U.S.C. 2464(c)(1)(b)), with respect to any

eligible GSP article from any beneficiary country if the value of total imports of the article during the most recent calendar year did not exceed $5 million, adjusted annually to reflect the nominal growth in U.S. GNP since 1979. The so-called adjusted ''de minimis'' limit for 1994 is $13,346,358.

In 1994, imports of buffalo leather from Thailand and imports of aluminum conductor cable from Venezuela each exceeded the competitive need limits because they accounted for more than 50 percent of total U.S. imports. However, total imports of each article were below the ''de minimis'' limit for 1994. Therefore, they are each eligible to be granted a ''de minimis'' waiver of the competitive need limits.

On April 17, 1995, the Lackawanna Leather Company filed a request for urgent consideration with the GSP Subcommittee, pursuant to 15 CFR 2007.3(b), requesting a ''de minimis'' waiver of the competitive need limits for buffalo leather from Thailand that is classified in subheading 4104.39.20 of the Harmonized Tariff Schedule of the United States (HTS). On May 3, 1995, the General Cable Corporation filed a request for urgent consideration with the GSP Subcommittee, pursuant to 15 CFR 2007.3(b), requesting a ''de minimis'' wavier of the competitive need limits for aluminum conductor from Venezuela that is classified in HTS subheading 7614.90.20.

The GSP Subcommittee has decided to accept these requests for urgent consideration. Accordingly, this notice initiates an expedited review to consider these requests. The GSP Subcommittee invites submission in support of, or in opposition to, the requests that are the subject of this notice. All such submissions should conform to 15 CFR part 2007 *et seq.* Interested parties must submit an original and fourteen (14) copies of a written statement, in English, with respect to the articles under consideration. This will be the only opportunity to submit written comments.

All submissions should be sent to the Chairman of the GSP Subcommittee, 600 17th Street, NW., Room 518, Washington, DC 20506. Comments must be received no later than 5 p.m. on Wednesday, July 19, 1995. Information submitted will be subject to public inspection by appointment only with the staff of the USTR Public Reading Room, except for information granted ''business confidential'' status pursuant to 15 CFR 2003.6 and other qualifying information submitted in confidence pursuant to 15 CFR 2007.7. If the petition contains business confidential information, an original and fourteen (14) copies of a nonconfidential version of the submission along with an original and fourteen (14) copies of the confidential version must be submitted. In addition, each copy of the submission containing confidential information should be clearly marked ''confidential'' at the top and bottom of each page of the submission. Each copy of the version that does not contain business confidential information (the public version) should also be clearly marked at the top and bottom of each page (either ''public version'' or ''nonconfidential'').

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

[FR Doc. 95–14572 Filed 6–13–95; 8:45 am]

BILLING CODE 3190–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–35777; File No. SR–PSE–95–10]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 to Proposed Rule Change by the Pacific Stock Exchange, Incorporated, Relating to its Procedure for Evaluating Options Trading Crowd Performance

May 30, 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 April 7, 1995, the Pacific Stock Exchange, Incorporated (''PSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange subsequently filed Amendment No. 1 on May 25, 1995.[1] The Commission is publishing this notice to solicit comments on the proposed rule change and Amendment No. 1 from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PSE is proposing to change its procedure for evaluating options trading crowd performance by specifying that floor broker questionnaires will be distributed semi-annually rather than quarterly.[2] 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

Options Floor Procedure Advice (''OFPA'') B–13 requires the Options Allocation Committee (''Committee'') of the Exchange to evaluate periodically the options trading crowds[3] to determine whether each has fulfilled performance standards relating to, among other things, quality of markets, competition among market makers, observance of ethical standards, and administrative factors.[4] In conducting its evaluation, the Committee may consider any relevant information, including but not limited to, the results of a trading crowd evaluation questionnaire. The questionnaires are distributed to and completed by floor brokers on the Options Trading Floor on

[1] In Amendment No. 1, the Exchange proposes to amend Rule 6.82(b)(4)(i) to provide that the Lead Market Maker (''LMM'') Appointment Committee shall review LMM appointments at least semi-annually. The rule currently provides that the LMM Appointment Committee must review LMM appointments at least quarterly. See Letter from Michael D. Pierson, Senior Attorney, Market Regulation, PSE, to James McHale, Attorney, Division of Market Regulation, Commission, dated May 23, 1995 (''Amendment No. 1'').

[2] While PSE's Options Floor Procedure Advice B–13 currently requires the trading crowd evaluation questionnaire to be distributed to and completed by the floor brokers on a three-month periodic basis, the Commission staff understands that the Exchange began distributing the questionnaire on a semi-annual basis, beginning with the questionnaire dated October 17, 1994, covering the six (6) month period between April and September 1994. Telephone conversation between Michael D. Pierson, Senior Attorney, Market Regulation, PSE, and James T. McHale, Staff Attorney, Division of Market Regulation, Commission, on May 9, 1995.

[3] Pursuant to Rule 6.82, the program is also used to conduct evaluations of LMMs on the Options Trading Floor. The Exchange, through Amendment No. 1, also proposes to amend Rule 6.82(b)(4)(i) to require the LMM Appointment Committee to review LMM appointments on a semi-annual basis. See Amendment No. 1, *supra* note 1.

[4] The Commission approved the Exchange's Options Trading Crowd Performance Evaluation Pilot Program on a permanent basis on December 30, 1993. See Exchange Act Release No. 33407, 59 FR 1043 (January 7, 1994).

a ''three-month periodic basis'' pursuant to OFPA B–13.

The Exchange is proposing to amend OFPA B–13 to provide that trading crowds will be evaluated by questionnaire semi-annually rather than quarterly. At this time, the Exchange believes that floor brokers who respond to the surveys will pay greater attention and care in responding if the evaluation were conducted on a semi-annual basis. This is based on the Exchange's belief that quarterly evaluations are overly repetitive. Consequently, the Exchange believes that the proposed change would result in better measurements of trading crowd and Lead Market Maker performance. The Exchange further believes that the proposed change would result in a better allocation of Exchange resources, and that it will serve to enhance the Options Trading Crowd Evaluation Program.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act in general, and furthers the objectives of Section 6(b)(5) in particular, in that it is designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade, and is not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes 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

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any 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–95–10 and should be submitted by July 5, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–14537 Filed 6–13–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–35822; File No. SR–PHLX–95–33]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to the Automatic Execution of National Over-the-Counter Index Options

June 8, 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 May 11, 1995, the Philadelphia Stock Exchange, Inc., (''PHLX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[5] 17 CFR 200.30–3(a)(12) (1994).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PHLX proposes to limit the eligibility of National Over-the-Counter Index (''XOC'') options for execution through the automatic execution (''AUTO–X'') feature of the PHLX's Automated Options Market (''AUTOM'') system. Specifically, the PHLX proposes to limit the AUTO–X eligibility of XOC options to XOC series where the bid is $10 or less. XOC series where the bid is greater than $10 will no longer be AUTO–X eligible and any such AUTOM-delivered orders will be subject to manual execution.

The text of the proposed rule change is available at the Office of the Secretary, PHLX, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

AUTOM, which has operated on a pilot basis since 1988 and was most recently extended through December 31, 1995,[1] is the PHLX's electronic order

[1] *See* Securities Exchange Act Release No. 35183 (December 30, 1994), 60 FR 2420 (January 9, 1995) (order approving File No. SR–PHLX–94–41). *See also* Securities Exchange Act Release Nos. 25540 (March 31, 1988), 53 FR 11390 (order approving AUTOM on a pilot basis); 25868 (June 30, 1988), 53 FR 25563 (order approving File No. SR–PHLX–88–22, extending pilot through December 31, 1988); 26354 (December 13, 1988), 53 FR 51185 (order approving File No. SR–PHLX–88–33, extending pilot program through June 30, 1989); 26522 (February 3, 1989), 54 FR 6465 (order approving File No. SR–PHLX–89–1, extending pilot through December 31, 1989); 27599 (January 9, 1990), 55 FR 1751 (order approving File No. SR–PHLX–89–03, extending pilot through June 30, 1990); 28625 (July 26, 1990), 55 FR 31274 (order approving File No. SR–PHLX–90–16, extending pilot through December 31, 1990); 28978 (March 15, 1991), 56 FR 12050 (order approving File No. SR–PHLX–90–34, extending pilot through December 31, 1991); 29662 (September 9, 1991), 56 FR 46816 (order approving File No. SR–PHLX–91–31, permitting AUTO–X orders up to 20 contracts in Duracell options only);

routing, delivery, execution and reporting system for equity and index options. AUTOM is an on-line system that allows electronic delivery of options orders from member firms directly to the appropriate specialist on the Exchange's trading floor.

Certain orders are eligible for AUTOM's automatic execution feature, AUTO–X.[2] AUTO–X orders are executed automatically at the disseminated quotation price on the Exchange and reported to the originating firm. Orders that are not eligible for AUTO–X are handled manually by the specialist.

The Commission approved the use of AUTO–X as part of the AUTOM pilot program in 1990.[3] In 1991, the Commission approved a PHLX proposal to extend AUTO–X to all equity options.[4] According to the PHLX, the Exchange initially implemented AUTO–X for all equity options and index options. The PHLX notes that in its order approving the extension of AUTO–X to all equity options, the Commission noted that the proposal would enable all PHLX equity options to be eligible for AUTO–X.[5] Accordingly, the Exchange believes that because extending AUTO–X to all options was not required nor was it filed as mandatory, the Exchange retains the ability to limit its implementation, consistent with the Act. Similarly, the Exchange states that orders for up to 25 contracts are eligible for AUTO–X, but this number is a maximum, such that different PHLX options are subject to a different AUTO–X order size cap.

Notwithstanding this ability, as part of an effort to extend the benefits of automatic execution floor-wide, the Exchange implemented Floor Procedure Advice (''Advice'') A–13, ''Auto–X Engagement/Disengagement Responsibility.''[6] The PHLX states that in Advice A–13 the Exchange adopted an affirmative obligation, punishable by a fine administered pursuant to the PHLX's minor rule plan, that AUTO–X be implemented floor-wide. In that proposal, the Exchange cited the goal of maximizing floor-wide use of AUTO–X and ensuring specialist activity during adverse market conditions. The PHLX does not believe that these goals are eroded by the proposal at hand, which is limited to certain series in one index option.

In direct contrast to the Commission's concerns with options exchanges limiting the availability of execution systems to out-of-the-money call series,[7] The PHLX is limiting AUTO–X to the most active around-the-money series. The Exchange also included in Advice A–13 the ability to disengage AUTO–X in extraordinary circumstances with Floor Official approval. Thus, the Exchange recognized that conditions may exist which warrant the limitation of AUTO–X.

At this time, the PHLX proposes to limit the use of AUTO–X for XOC orders. Under the proposal, only those XOC series where the bid is at or below $10 at the end of the trading day will be eligible for AUTO–X, effective the next trading day. The PHLX states that these lower-priced XOC series generally receive the most interest from public customers. Accordingly, the Exchange believes that these series are most appropriate for automatic execution.[8] The Exchange intends to clearly communicate to its membership and AUTOM users the proposed AUTO–X limitation for XOC options through an information circular.

The proposal is also in response to recent volatility in the over-the-counter (''OTC'') markets, which has made it increasingly difficult for specialists and market makers to monitor quotations to reflect changes in the markets for the underlying securities. The PHLX states that sufficient time is necessary for such adjustments, particularly because participation in AUTOM and AUTO–X is obligatory.

In addition to volatility, the Exchange believes that a specialist's obstacles in hedging XOC positions with underlying OTC securities, which is particularly relevant to the XOC, also warrants the proposed AUTO–X limitation. For example, in order to hedge XOC exposure, positions in OTC securities are typically purchased and sold. The PHLX states that the aggregate bid/ask differential for the XOC's component securities is often greater than $5 wide, reflecting the volatility of those markets as well as the relatively high value of the XOC itself.[9] The PHLX states that in recognition of these circumstances, the Commission recently approved an Exchange proposal to widen the quotation spread parameters applicable to the XOC.[10]

Exchange By-Law Article X, ''Standing Committee,'' Section 10–18, ''Options Committee,'' grants authority over all connections and communications on the options floor, such as AUTOM, to be Options Committee, which has authorized the proposed AUTO–X limitation. Pursuant to this authority, the Options Committee has determined, in the interest of maintaining fair and orderly markets, to amend the eligibility of XOC orders for automatic execution.

The Exchange notes that AUTOM users will continue to be afforded the advantages of automatic execution for XOC series priced at low or moderate levels. According to the PHLX, public customers (*i.e.*, ''customers'' who are not associated with broker-dealer organizations or subject to discretionary authorization by associated persons of broker-dealers) most often choose XOC series priced at $10 or less for investment.[11] The proposal does not affect the AUTO–X eligibility of any other equity or index option.

In addition, the PHLX notes that it is consistent with the practices of other options exchanges to limit automatic execution eligibility to certain series, such as near-term, at-the-money

29782 (October 3, 1991), 56 FR 55146 (order approving File No. SR–PHLX–91–33, permitting AUTO–X for all strike prices and expiration months); 29837 (October 18, 1991), 56 FR 36496 (order approving File No. SR–PHLX–90–03, extending pilot through December 31, 1993); 32906 (September 15, 1993), 58 FR 15168 (order approving File No. SR–PHLX–92–38, permitting AUTO–X orders up to 25 contracts in all options); and 33405 (December 30, 1993), 59 FR 790 (order approving File No. SR–PHLX–93–57, extending pilot through December 31, 1994).

[2] Orders for up to 100 contracts are eligible for AUTOM and public customer orders for up to 25 contracts are eligible for AUTO–X. See Securities Exchange Act Release No. 32000 (March 15, 1993), 58 FR 15168 (March 19, 1994) (order approving File No. SR–PHLX–92–38).

[3] See Securities Exchange Act Release No. 27599 (January 9, 1990), 55 FR 1751 (January 18, 1990) (order approving File No. SR–PHLX–89–03).

[4] See Securities Exchange Act Release No. 28978 (March 15, 1991), 56 FR 12050 (March 21, 1991) (order approving File No. SR–PHLX–90–34).

[5] See Securities Exchange Act Release No. 28978, *supra* note 4.

[6] See Securities Exchange Act Release No. 29575 (August 16, 1991), 56 FR 41715 (August 22, 1994) (order approving File No. SR–PHLX–91–16). Advice A–13 states that options specialists are responsible for engaging AUTO–X for an assigned option within three minutes of completing the opening or reopening rotation of that option. In addition, the Advice indicates that, under extraordinary circumstances, a specialist may be provided with an exemption from receiving orders through AUTO–X and may disengage the system upon approval by two floor officials.

[7] See The Division of Market Regulation, The October 1987 Market Break (February 1988).

[8] For example, the PHLX states that on trade date January 25, 1995, 40 XOC transactions occurred, 38 of which involved a customer. Only two of these trades involved execution prices greater than $20, while 10 trades were above $10 but less than $20; 28 customer trades were below $10. The 28 customer trades represented 439 contracts out of a total of 531 contracts.

[9] The bid/ask differential in the underlying securities is determined by adding the bids for such securities and dividing by 100 (the number of securities comprising the XOC) to arrive at the composite bid; and then similarly adding the offers and dividing by 100 to arrive at a composite, or average, offer.

[10] See Securities Exchange Act Release No. 34781 (October 3, 1994), 59 FR 51467 (October 11, 1994) (order approving File No. SR–PHLX–94–28).

[11] See note 7, *supra*. The Exchange notes similar results on trade date February 7, 1995.

series.[12] Thus, for competitive reasons, the Exchange seeks to create a level playing field with respecting automatic execution parameters.

The PHLX believes that the proposal is consistent with Section 6(b) 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 and to prevent fraudulent and manipulative acts and practices. Specifically, the Exchange believes that the aforementioned circumstances (volatility and hedging) respecting the XOC warrant an AUTO–X limitation in the interest of maintaining fair and orderly markets. The PHLX notes that option series where the bid is more than $10 may represent a premium of $1,000 ($10 multiplied by 100); accordingly, expensive errors may result from the automatic execution of a high-priced option series before the option quote has been updated to reflect a change in the price of an underlying security. According to the PHLX, in certain cases such trades occur by way of orders from professional investors, which undercut the use of market making capital, and, in turn, detrimentally affect liquidity.

(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 either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reason for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

[12] For example, on the Chicago Board Options Exchange, Inc. (''CBOE''), only the four most active puts and calls in the two near-term months in Nasdaq 100 Index options are eligible for the CBOE's Retail Automated Execution System.

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. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by July 5, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–14538 Filed 6–13–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–35827; File No. SR–Phlx–95–36]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to Restrictions on Exercise and the Definition of a European Style Option Respecting Index Options

June 8, 1995.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 6, 1995, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[13] 17 CFR 200.30–3(a)(12) (1994).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.29b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the time period in Phlx Rule 1006A during which restrictions on the exercise of index options may be in effect, making Rule 1006A consistent with a joint circular issued by the options exchanges in 1991.[3] Rule 1006A would be amended to substitute the words ''business day'' for the words ''trading day''. The Exchange also proposes to delete the remainder of Rule 1006A, which references restrictions on exercise respecting specific index options, namely the Bank Index, Big Cap Index and Value Line Index. Lastly, the Phlx proposes to amend Rule 1000A(b)(12) to correct the definition of ''European style option'' to state that such option contracts can be exercised only on the day it expires. The text of the proposed rule change is available at the Office of the Secretary, the Exchange, 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 Exchange included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in section (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to amend Phlx Rule 1006A to make it consistent with a joint circular issued by the options exchanges in 1991 regarding exercise restrictions, and similar provisions imposed by the other options exchanges and the Options Clearing Corporation (''OCC''). The Exchange proposes to amend Rule 1006A to state that restrictions on exercise may be in effect until the opening of business on the last business day (generally Friday) prior to expiration (Saturday). As a result of this proposed rule change, restrictions on exercise would be permissible on the

[3] See *e.g.*, CBOE Regulatory Circular RG91–11, dated January 14, 1991.

last trading day (Thursday) for expiring Am-settled options.

Currently, Rule 1006A provides that restrictions on exercise may be in effect until the opening of business on the last trading day before the expiration date. The last trading day before expiration is generally Friday, for PM-settled options and Thursday for AM-settled options. Thus, the current language would permit restrictions on exercise to remain in effect until the opening of business on Friday for PM-settled options, but only until Thursday for AM-settled options. The Exchange proposes to amend Rule 1006A to state that restrictions on exercise may be in effect until the opening of business on the last business day before expiration, which is generally Friday for all index options, whether AM or PM-settled. As a result, restrictions on exercise would be permissible for all index options on Thursday, but not Friday.

In support of this proposal, the Exchange notes that OCC Rules permit such restrictions on Thursday, because OCC provisions refer to the last ''business'' day.[4] Additionally, the proposed rule change is consistent with a recent proposal by the Chicago Board Options Exchange, Incorporated (''CBOE'').[5]

The Exchange also proposes to delete the remainder of Rule 1006A, which references restrictions on exercise respecting specific index options, namely the Bank Index, Big Cap Index and Value Line Index. These index options are European style, such that exercise is prohibited, by definition, until its expiration date. Any restrictions on exercise which may be imposed cannot be in effect on expiration (Saturday), because Rule 1006A would only permit such restriction until the opening on Friday. Thus, the restrictions on exercise in Rule 1006A have no effect on the ability to exercise a European style index option, which by definition, cannot be exercised until Saturday.

Following a review of index rules, the Phlx has determined that Rule 1000A requires an amendment to correct the definition of ''European style option'' to correspond to the comparable equity option provision in Rule 1000(b)(35), as well as the rules of the other options exchanges and the OCC.[6] Specifically, a European style option can only be exercised on its expiration date.

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act, in general, and furthers the objectives of Section 6(b)(5), in particular, in that it is designed to promote just and equitable principles of trade, and protect investors and the public interest, by coordinating the Exchange's ability to impose restrictions on the exercise of index options with the provisions of other options exchanges and the OCC.

(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

Because the foregoing rule change constitutes a stated policy, practice or interpretation with respect to the meaning, administration or enforcement of an existing rule of the Exchange, it has become effective pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b–4 thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to SR–Phlx–95–36 and should be submitted by July 5, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–14539 Filed 6–13–95; 8:45 am]

BILLING CODE 8010–01–M

[4] SEE OCC By-Laws, Article VI, Section 17, Exercise Restrictions.

[5] See Securities Exchange Act, Release No. 35307 (January 31, 1995), 60 FR 7606 (February 8, 1995).

[6] See OCC By-Laws, Article XVII, Section 2(b), General Rights and Obligations of Holders and Writers of Index Options.

[7] 17 CFR 200.30–3(a)(12).

[Release No. 34–35821; File No. SR–NYSE–95–11]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to Adoption of Rule 440A (''Telephone Solicitation—Recordkeeping'') and an Interpretation With Respect to Proposed Rule 440A

June 7, 1995.

On March 22, 1995, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') submitted to the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt new Rule 440A (''Telephone Solicitation-Recordkeeping'') and to add an interpretation with respect to the meaning and administration of proposed Rule 440A.

The proposed rule change was published for comment in Securities Exchange Act Release No. 35597 (April 12, 1995), 60 FR 19427. No comments were received on the proposal.

I. Description of the Proposal

The proposed rule would require members and member organizations that engage in telephone solicitations to maintain a centralized list of persons who do not wish to receive telephone solicitations. The Exchange also proposes to add an interpretation concerning the meaning and administration of proposed Rule 440A with respect to compliance with the Federal Communications Commission (''FCC'') and SEC rules relating to telemarketing practices. The Exchange proposes to publish the interpretation as an Interpretation Memorandum for

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

inclusion in the Exchange Interpretation Handbook.

II. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b).[3] In particular, the Commission believes the proposal is consistent with the Section 6(b)(5) requirement that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices in that it addresses the practices of Exchange members and member organizations who make telemarketing calls. Proposed Rule 440A and the interpretation concerning the meaning and administration of proposed Rule 440A, require a specific practice, the maintenance of a ''do-not-call'' list. The purpose of maintaining a ''do-not-call'' list is to prevent such manipulative acts by members and member organizations, such as persistent calls to investors who have expressed their desire not to receive telephone solicitations.

The Commission also believes the proposal is consistent with the Section 6(b)(5) requirement to protect investors and the public interest. Proposed Rule 440A and the interpretation thereto, protects investors and the public interest by enforcing members' and member organizations' compliance with investors' desire not to receive such calls. In addition, the proposed interpretation reminds members and member organizations that they are subject to the requirements of the rules of the FCC and the SEC relating to telemarketing practices and the rights of telephone consumers. For example, the FCC requires persons or entities making telephone solicitations to maintain a do-not-call list for the purpose of any future telephone solicitations.[4]

III. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[5] that the proposed rule change (SR–NYSE–95–11) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–14470 Filed 6–13–95; 8:45 am]

BILLING CODE 8010–01–M

[3] 15 U.S.C. 78f(b).

[4] 47 CFR 64.1200.

[5] 15 U.S.C. 78s(b)(2).

[6] 17 CFR 200.30–3(a)(12).

[Rel. No. IC–21119; File No. 812–9456]

IL Annuity and Insurance Company, et al.

June 7, 1995.

AGENCY: Securities and Exchange Commission (''Commission'' or ''SEC'').

ACTION: Notice of application for an Order under the Investment Company Act of 1940 (the ''1940 Act'').

APPLICANTS: IL Annuity and Insurance Company (''IL Annuity''), IL Annuity and Insurance Company Separate Account 1 (''IL Annuity Account''), and IL Securities, Inc.

RELEVANT 1940 ACT SECTIONS: Order requested under Section 6(c) of the 1940 Act granting exemptions from the provisions of Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act.

SUMMARY OF APPLICATION: Applicants seek an order permitting the deduction of a mortality and expense risk charge from the assets of the IL Annuity Account and other separate accounts established by IL Annuity in the future (''Other Separate Accounts'') in connection with the issuance and sale of certain flexible premium deferred variable annuity contracts (''Contracts'') and any contracts that are similar in all material respects to the Contracts (''Other Contracts''). Applicants also request that the exemptive relief extend to certain other broker-dealers which may serve in the future as a principal underwriter of the Contracts or Other Contracts (''Future Underwriters'').

FILING DATE: The application was filed on January 31, 1995, and amended on May 22, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on July 3, 1995, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requester's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Commission's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549. Applicants, Margaret H. McKinney, Esq., Associate General Counsel and Secretary, Indianapolis Life Insurance Company, 2960 North Meridian Street, Indianapolis, IN 46208.

FOR FURTHER INFORMATION CONTACT: Mark C. Amorosi, Attorney, or Wendy Finck Friedlander, Deputy Chief, at (202) 942–0670, Office of Insurance Products (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from the Commission's Public Reference Branch.

Applicants' Representations

1. IL Annuity, formerly known as Sentry Investors Life Insurance Company, is a stock life insurance company organized under the laws of the Commonwealth of Massachusetts in 1966. IL Annuity is a wholly-owned subsidiary of the Indianapolis Life Group of Companies, Inc., which is a wholly-owned subsidiary of the Indianapolis Life Insurance Company (''ILICO''). ILICO is a mutual life insurance company chartered under Indiana law. IL Annuity is authorized to conduct life insurance and annuity business in 40 states and the District of Columbia. IL Annuity is the depositor and sponsor of the IL Annuity Account.

2. The IL Annuity Account was established by IL Annuity as a separate account under the laws of Indiana on November 1, 1994 as a funding medium for variable annuity contracts. The IL Annuity Account meets the definition of a ''separate account'' under the federal securities laws and is registered under the 1940 Act as a unit investment trust. The IL Annuity Account is divided into fifteen subaccounts (the ''Variable Accounts'') each of which will invest solely in the shares of a designated series (each a ''Portfolio'') of The Alger American Fund, the Fidelity Variable Insurance Products Fund, the Fidelity Variable Insurance Products Fund II, the Quest for Value Accumulation Trust, the T. Rowe Price International Series, Inc., the T. Rowe Price Fixed Income Series, Inc., and the Van Eck Investment Trust (the ''Funds''). Each of the Funds is registered as a diversified, open-end management investment company under the 1940 Act.

3. IL Securities, Inc. (''ILS''), a broker-dealer registered under the Securities Exchange Act of 1934 and a member of the National Association of Securities Dealers, Inc., will serve as the distributor and principal underwriter for the Contracts. ILS is a wholly-owned subsidiary of the Indianapolis Life Group of Companies, Inc. Any Future Underwriter will be registered as a broker-dealer under the Securities Exchange Act of 1934 and will be a member of the National Association of Securities Dealers, Inc.

4. The Contracts are flexible premium deferred variable annuity contracts which may be sold on a non-tax qualified basis (''Non-Qualified Contracts'') or offered in connection with retirement plans which qualify for favorable federal income tax treatment (''Qualified Contracts''). The Contracts provide for, among other things: (a) Minimum initial and subsequent premium payments of $1,000; (b) several annuity payment options beginning on the annuity commencement date; and (c) if the annuitant dies during the accumulation phase, the payment of a death benefit equal to the greater of (1) the aggregate premium payments made under the Contract, less partial withdrawals, as of the date IL Annuity receives due proof of death and payment instructions, or (2) the Contract value as of the date IL Annuity receives due proof of death and payment instructions; and less applicable premium taxes not previously deducted (and less any outstanding loan amount on the date the death benefit is paid, if the Contract is a Qualified Contract).

The Contract also provides for a maturity benefit payment if the value of a particular Variable Account is less than the sum of the premium payments which were initially allocated to that Variable Account and which have remained continuously in that Variable Account for a minimum of ten years. The maturity benefit payment is equal to (a) the sum of the premium payments which have remained in a Variable Account from the time of initial payment until the maturity benefit date, provided ten years have elapsed from the time of payment until the maturity benefit date; minus (b) the value of the Variable Account on the maturity benefit date.

The Contract also provides transfer privileges, a dollar cost averaging program, an interest sweep program and an automatic account balancing program.

5. Various fees and charges are deducted under the Contracts. A quarterly contract maintenance fee of $7.50 will be deducted from Contract value at the end of each three month period measured from the date of issue until the annuity commencement date and upon a full withdrawal to reimburse IL Annuity for certain administrative expenses. A daily asset-based administration charge equal to an effective annual rate of 0.15% of the average daily separate account value will be deducted to reimburse IL Annuity for certain administrative services provided to Contract owners. These administrative fees are guaranteed not to increase for the duration of the Contract. IL Annuity permits twelve free transfers among the Variable Accounts per Contract year; however, a $25 charge will be assessed on the thirteenth and each subsequent transfer within the Contract year. IL Annuity represents that these charges will be deducted in reliance upon Rule 26a–1 under the 1940 Act and that each charge represents reimbursement only for administrative costs expected to be incurred.

6. IL Annuity will deduct premium taxes paid on behalf of a particular Contract either (a) from premium payments as received or (b) from the Contract proceeds upon (i) a partial or full surrender, (ii) application of the proceeds to a payment option or (iii) upon payment of a death benefit. Premium taxes currently range up to 3.5%.

7. No sales charge is deducted from premium payments. However, certain full or partial surrenders will be subject to a contingent deferred sales charge (''Withdrawal Charge'') of up to 8% during the first nine Contract years. Amounts subject to the Withdrawal Charge will be deemed to be first from premium payments, then from earnings. In any Contract year, a Contract owner may withdraw 10% of the Contract value as of the beginning of the Contract year without incurring a Withdrawal Charge. IL Annuity may also waive the Withdrawal Charge under other circumstances permitted under the 1940 Act.

The Withdrawal Charge covers expenses relating to the distribution and sale of the Contracts, including commissions to registered representatives, preparation of sales literature and other promotional expenses. IL Annuity does not anticipate that the Withdrawal Charge will generate sufficient revenues to pay the cost of distributing the Contracts. To the extent that the Withdrawal Charge is insufficient to cover all sales and distribution expenses, the deficiency will be met from IL Annuity's general account, which may include profits derived from the mortality and expense risk charge.

8. Shares of the Portfolios are sold to the Variable Accounts at net asset value. Each Portfolio pays its investment adviser a fee for managing its investments and business affairs. Each Portfolio is responsible for all of its operating expenses.

9. A daily charge equal to an effective annual rate of 1.25% of the average daily net assets in the IL Annuity Account will be deducted to compensate IL Annuity for bearing certain mortality and expense risks under the Contracts. Of that amount, approximately 0.90% is for mortality risks and approximately 0.35% is for the expense risk. The mortality risks arise from IL Annuity's contractual obligations (1) to make annuity payments (determined in accordance with the annuity tables and other provisions provided in the Contract) regardless of how long any individual annuitant or all annuitants may live and (2) to provide a death benefit if the annuitant dies prior to annuitization. Applicants represent that the mortality risk charge may not be increased under the Contract. The expense risk assumed by IL Annuity is the risk that IL Annuity's actual administrative costs will exceed the amount recovered through the administrative and policy maintenance charges. If the expense risk charge is insufficient to cover the actual cost of administering the Contracts and the IL Annuity Account, IL Annuity will bear the loss.

Applicants' Legal Analysis

1. Section 6(c) of the 1940 Act authorizes the Commission to grant an exemption from any provision, rule or regulation of the 1940 Act to the extent that it is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act. Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act, in relevant part, prohibit a registered unit investment trust, its depositor or principal underwriter, from selling periodic payment plan certificates unless the proceeds of all payments, other than sales loads, are deposited with a qualified bank and held under arrangements which prohibit any payment to the depositor or principal underwriter except a reasonable fee, as the Commission may prescribe, for performing bookkeeping and other administrative duties normally performed by the bank itself.

2. Applicants request exemptions from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act to the extent necessary to permit the deduction of the 1.25% charge from the assets of the IL Annuity Account to compensate IL Annuity for the assumption of mortality and expense risks. Applicants further request that such exemptive relief extend to any Other Contracts which may be issued in the future by the IL Annuity Account or any Other Separate Account established by IL Annuity. Applicants assert that the requested exemptions are necessary and appropriate in the public interest and consistent with the protection of

investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

3. IL Annuity represents that the 1.25% mortality and expense risk charge is within the range of industry practice for comparable annuity contracts. This representation is based upon IL Annuity's analysis of publicly available information about comparable industry products, taking into consideration such factors as annuity purchase rate guarantees, death benefit guarantees, other contract charges, the frequency of charges, the administrative services performed by IL Annuity with respect to the Contracts, the means of promotion, the market for the Contracts, investment options under the Contracts, purchase payment, transfer, dollar cost averaging and automatic account balancing features, and the tax status of the Contracts. IL Annuity represents that it will maintain at its home office, a memorandum, available to the Commission, setting forth in detail the products analyzed in the course of, and the methodology and results of, its comparative review.

4. Prior to issuing any Other Contracts, Applicants will determine that the mortality and expense risk charge under any Other Contracts is within the range of industry practice for comparable contracts. IL Annuity represents that the basis for this conclusion will be set forth in a memorandum which will be maintained at its home office and will be available to the Commission upon request.[1]

5. IL Annuity acknowledges that, if a profit is realized from the mortality and expense risk charge, all or a portion of such profit may be available to pay distribution expenses not reimbursed by the Withdrawal Charge. IL Annuity represents that there is a reasonable likelihood that the proposed distribution financing arrangements will benefit the IL Annuity Account and Contract owners. IL Annuity represents that the basis for that conclusion is set forth in a memorandum which will be maintained at its home office and will be available to the Commission upon request.

6. Prior to issuing any Other Contracts, Applicants will determine that there is a reasonable likelihood that the proposed distribution financing arrangement for any Other Contracts will benefit the IL Annuity Account or any Other Separate Account and Contract owners. IL Annuity represents that the basis for this conclusion will be set forth in a memorandum which will be maintained at its home office and will be available to the Commission upon request.[2]

7. Applicants assert that the terms of the future relief requested with respect to Other Separate Accounts, Other Contracts and Future Underwriters are consistent with the standards set forth in Section 6(c) of the 1940 Act. Applicants submit that, if IL Annuity were to repeatedly seek exemptive relief with respect to the same issues addressed in this application, investors would not receive additional protection or benefit. Applicants assert that the requested relief is appropriate in the public interest because the relief will promote competitiveness in the variable annuity market by eliminating the need for the filing of redundant exemptive applications, thereby reducing administrative expenses and maximizing efficient use of resources. Applicants represent that both the delay and the expense of repeatedly seeking exemptive relief would impair IL Annuity's ability to effectively take advantage of business opportunities as they arise.

8. IL Annuity also represents that the IL Annuity Account or any Other Separate Accounts will invest only in management investment companies which undertake, in the event they should adopt a plan under Rule 12b–1 of the 1940 Act to finance distribution expenses, to have a board of directors or trustees, a majority of whom are not ''interested persons'' of the company within the meaning of Section 2(a)(19) of the 1940 Act, formulate and approve any such plan.

Conclusion

For the reasons set forth above, Applicants represent that the exemptions requested are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–14471 Filed 6–13–95; 8:45 am]

BILLING CODE 8010–01–M

[1] Applicants represent that, during the Notice Period, the application will be amended to reflect this representation.

[2] Applicants represent that, during the Notice Period, the application will be amended to reflect this representation.

[Release No. IC–21124; 813–138]

Merrill Lynch KECALP L.P. 1994 and KECALP Inc.; Notice of Application

June 8, 1995.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the ''Act'').

APPLICANTS: Merrill Lynch KECALP L.P. 1994 (the ''1994 Partnership'') and KECALP Inc. (the ''General Partner'').

RELEVANT ACT SECTIONS: Order requested under sections 6(b) and 17(b) from section 17(a).

SUMMARY OF APPLICATION: Applicants request an order which would let the General Partner sell to future partnerships certain investments that were purchased and held by the General Partner on behalf of a future partnership prior to the closing of such partnership's initial offering. The order also would let the General Partner sell to the 1994 Partnership four investments that the General Partner has purchased and is holding as nominee for the 1994 Partnership.

FILING DATES: The application was filed on November 10, 1994, and was amended on February 22, 1995, May 31, 1995, and June 7, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 3, 1995 and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's request, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street N.W., Washington, D.C. 20549. Applicants, South Tower, World Financial Center, 225 Liberty Street, New York, New York 10080–6123.

FOR FURTHER INFORMATION CONTACT: Sarah A. Wagman, Staff Attorney, at (202) 942–0654, or C. David Messman, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application

may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. The 1994 Partnership is a Delaware limited partnership registered under the Act as a closed-end management investment company. The 1994 Partnership is an ''employees' securities company,'' as defined in section 2(a)(13) of the Act, and operates under the terms of an order issued in 1982 (the ''1982 Order'') that exempts under section 6(b) of the Act the Merrill Lynch KECALP Ventures Limited Partnership 1982, and future similar limited partnerships in which Merrill Lynch & Co., Inc. (''ML & Co.'') is a general partner, from certain provisions of the Act to the extent necessary to permit the partnerships to function as employees securities companies.[1] Interests in the 1994 Partnership were offered to certain employees of ML & Co. and its subsidiaries, and to non-employee directors of ML & Co. The General Partner may organize additional limited partnerships for employees of ML & Co. and its subsidiaries. Applicants request that the relief sought herein apply to these future KECALP partnerships, which will operate under the terms of the 1982 Order (each, a ''Future Partnership;'' together with the 1994 Partnership, the ''Partnerships'').

2. The General Partner is an indirect, wholly-owned subsidiary of ML & Co. The General Partner is registered as an investment adviser under the Investment Advisers Act of 1940. All investments and dispositions of investments by the Partnerships are approved by the board of directors of the General Partner.

3. Applicants request an amendment to the 1982 Order to allow the General Partner, ML & Co., and direct or indirect wholly-owned subsidiaries of ML & Co. (together, ''ML'') to acquire and hold certain investments (''Warehoused Investments'') on behalf of a Future Partnership pending the closing of the Partnership's initial offering. An investment will only qualify as a Warehoused Investment where (a) ML acquires an investment on behalf of a Future Partnership with the intention of selling such investment to the Future Partnership following the completion of its initial offering, and (b) the board of directors of the General Partner approves such investment. ML may sell a Warehoused Investment to a Partnership only during the lesser of (a) one year from the time ML purchases the Warehoused Investment, or (b) 30 days from the date of closing of a Partnership's initial offering.

4. The purchase price to be paid by the Partnership to ML for a Warehoused Investment will be the lesser of (a) the fair value of the Warehoused Investment on the date it is acquired by the Partnership or (b) the cost to ML of purchasing the Warehoused Investment. ML may only charge the Partnership carrying costs to the extent the fair value of the Warehoused Investment exceeds the cost, and such costs will accrue from the date ML acquires the Warehoused Investment on behalf of the Partnership. Carrying costs will consist of interest charges computed at the lower of (a) the prime commercial lending rate charged by Citibank, N.A. during the period for which carrying costs are being paid or (b) the effective cost of borrowings by ML & Co. during such period. The effective cost of borrowings by ML & Co. is its actual ''Average Cost of Funds,'' which it calculates on a monthly basis by dividing its consolidated financing expenses by the total amount of borrowings during the period.

5. Applicants are subject to an order issued in 1991 (the ''1991 Order'')[2] that, in relevant part, allows ML to acquire ''Merrill Lynch Investments''[3] on behalf of a KECALP partnership, and sell such investments to the partnership within 30 days of ML's acquisition of such investments. To the extent ML acquires on behalf of a KECALP partnership investments that are not Merrill Lynch investments, and that are not sold to the partnership within 30 days of ML's purchase, the partnership must obtain exemptive relief from the Commission prior to acquiring the Warehoused Investment.

6. Applicants also request an order under section 17(b) of the Act exempting them from section 17(a) in order to permit the General Partner to sell to the 1994 Partnership four investments that the General Partner has purchased and is holding as nominee for the 1994 Partnership. Applicants also request that the General Partner be permitted to recover carrying costs related to such investments, to the extent that the fair value of a Warehoused Investment on the date it is acquired by the 1994 Partnership exceeds the cost to the General Partner of purchasing and holding such investment. Each of the four Warehoused Investments was acquired by the General Partner, and upon receipt of the requested order, will be acquired by the 1994 Partnership, in accordance with the conditions to the requested order, as described below.

A. ZML Partners Limited Partnership III (''Zell III'')

1. Zell III is a limited partnership formed to act as the managing general partner of Zell/Merrill Lynch Real Estate Opportunity Partners Limited Partnership III (the ''Zell Fund''). The Zell Fund is a limited partnership formed to acquire a high quality, geographically diversified portfolio of real estate assets. Zell III has committed to invest up to $25 million in the Zell Fund. The Zell Fund closed its initial offering in March 1994 with aggregate capital commitments of approximately $680 million. On March 10, 1994, the General Partner funded $600,000 of its $2.0 million commitment in return for an 8% limited partnership interest in Zell III, held on behalf of the 1994 Partnership, pending the closing of the 1994 Partnership's initial offering and receipt of the requested order. Upon its acquisition of the investment in Zell III, the 1994 Partnership will be allocated generally its proportional share of all items of income, loss and gain, and its proportional share of distributions, received by Zell III from its investment in the Zell Fund.

2. The proposed investment in Zell III involves a joint transaction under section 17(d) of the Act, and rule 17d–1 thereunder, that is permitted by the 1982 Order. Because the 1982 Order does not provide relief to allow the General Partner to sell Warehoused Investments to the Partnerships, and because the investment in Zell III is not a Merrill Lynch Investment within the meaning of the 1991 Order, applicants seek an exemption from section 17(a) to allow the General Partner to sell the Warehoused Investment to the 1994 Partnership.

B. Gemini Holdings, Inc. (''Gemini'')

1. PCA Holding Corporation (''Holding'') is an acquisition vehicle created to acquire PC Accessories, Inc. (''PCA''), a distributor of computer accessory products. On July 28, 1994, the General Partner acquired 119,000 shares of Holding's common stock at

[1] Merrill Lynch KECALP Ventures Limited Partnership 1982, KECALP Inc., Investment Company Act Release Nos. 12290 (Mar. 11, 1982) (notice) and 12363 (Apr. 8, 1982) (order).

[2] Merrill Lynch KECALP Growth Investments Limited Partnership 1983, Investment Company Act Release Nos. 18082 (Apr. 8, 1991) (notice) and 18137 (May 7, 1991) (order).

[3] ''Merrill Lynch Investments'' consist of equity and equity-related transactions in (a) companies that are the subject of transactions commonly referred to as ''leveraged'' or ''management'' buyouts (''Buyouts'') structured by ML & Co. or an affiliate, or Buyouts with respect to which ML & Co. or an affiliate assisted in the transaction and/or (b) companies that are the subject of other transactions structured by ML & Co.'s investment banking group. In either case, ML & Co. or an affiliate must hold a long-term equity or equity-related investment as part of the transaction.

$10 per share for an aggregate of $1.19 million on behalf of the 1994 Partnership, pending the closing of the 1994 Partnership's initial offering and the receipt of the requested order. At the same time, Merrill Lynch KECALP L.P. 1991 (''KECALP 1991'') also acquired 119,000 shares of Holding's common stock at $10 per share for an aggregate of $1.19 million.

2. PCA was subsequently merged into Gemini, a producer and marketer of accessories for home electronic and entertainment systems. As a result of the merger, shares of PCA held by the General Partner on behalf of the 1994 Partnership were converted into 52,479 shares of Gemini's cumulative convertible preferred stock. At such time, KECALP 1991's shares of Holding were likewise converted into 52,479 shares of Gemini's cumulative convertible preferred stock.

3. The proposed investment in Holding involves a joint transaction under section 17(d) of the Act, and rule 17d–1 thereunder, that is permitted by the 1991 Order. Applicants seek an exemption from section 17(a) to allow the General Partner to sell the Warehoused Investment to the 1994 Partnership. The 1991 Order does not provide the necessary relief from section 17(a) because the 1994 Partnership will acquire the Warehoused Investment more than 30 days after its purchase by the General Partner.

C. Mail-Well Holdings, Inc. (''Mail-Well'')

1. Mail-Well is a manufacturer of customized envelopes and related packaging products. In February 1994, the General Partner acquired 84,112 shares of Mail-Well's common stock at a cost of $10.70 per share for an aggregate of $899,998 on behalf of the 1994 Partnership, pending the closing of the 1994 Partnership's initial offering and the receipt of the requested order. At the same time, KECALP 1991 likewise acquired 84,112 shares of Mail-Well's common stock at a cost of $10.70 per share for an aggregate of $899,998.

2. The proposed investment in Mail-Well involves a joint transaction under section 17(d) of the Act, and rule 17d–1 thereunder, that is permitted by the 1991 Order. Applicants seek an exemption from section 17(a) to allow the General Partner to sell the Warehoused Investment to the 1994 Partnership. The 1991 Order does not provide the necessary relief from section 17(a) because the 1994 Partnership will acquire the Warehoused Investment more than 30 days after its purchase by the General Partner.

D. Westlink Holdings, Inc. (''Westlink'')

1. Westlink is a telephone paging company formed in 1994 to acquire the Westlink Company. In July, 1994, the General Partner acquired 200,000 shares of Westlink's common stock for $10 per share for an aggregate of $2.0 million on behalf of the 1994 Partnership, pending the closing of the 1994 Partnership's initial offering and the receipt of the requested order. At the same time, KECALP 1991 acquired 100,000 shares of Westlink's common stock for $10 per share for an aggregate of $1.0 million.

2. The proposed investment in Westlink under section 17(d) involves a joint transaction under section 17(d) of the Act, and rule 17d–1 thereunder, that is permitted by the 1991 Order. Applicants seek an exemption from section 17(a) to allow the General Partner to sell the Warehoused Investment to the 1994 Partnership. The 1991 Order does not provide the necessary relief from section 17(a) because the 1994 Partnership will acquire the Warehoused Investment more than 30 days after its purchase by the General Partner.

Applicant's Legal Analysis

1. Section 6(b) authorizes the Commission, upon application, to exempt an employees' securities company from provisions of the Act if, and to the extent that, the exemption is consistent with the protection of investors. Section 17(a) makes it unlawful for an affiliated person of a registered investment company to sell securities to, or purchase securities, from the company.

2. The General Partner is an indirect, wholly-owned subsidiary of ML & Co. Thus, ML & Co. and each of its direct or indirect wholly-owned subsidiaries is an ''affiliated person'' of the General Partner, within meaning of section 2(a)(3)(C). In addition, the General Partner is an ''affiliated person'' of the Partnerships, within the meaning of section 2(a)(3)(D). As a result of these affiliations, ML is prohibited from selling securities to the Partnerships, and the Partnerships are prohibited from buying such securities, unless applicants obtain an exemptive order.

3. Applicants believe that the terms of the requested order are consistent with the standards set forth in sections 6(b) and 17(b). Applicants submit that the conditions to the requested order are designed to insure that sales of Warehoused Investments by ML to the Partnerships are consistent with the protection of the Partnerships' limited partners. Applicants are aware of the policies underlying section 17(a), and the potential conflicts that could arise in connection with the Partnerships' purchase of Warehoused Investments from ML. Applicants submit that the conditions to the requested order effectively address these concerns.

Applicant's Conditions

Applicants agree that the terms of relief are subject to the following conditions:

1. In order for an investment to qualify as a Warehoused Investment to be purchased pursuant to the requested relief, (a) the board of directors of the General Partner must approve such investment for the Future Partnership in the same manner in which the board would approve an investment for such Partnership prior to the time the investment is acquired by ML and (b) such investment must be acquired by ML with the intention of acquiring the Warehoused Investment for the Future Partnership and selling it to such Partnership after the completion of its initial offering. The General Partner will maintain at the Partnerships' office written records stating the General Partner's intention in acquiring such security, and stating the factors considered by the General Partner's board of directors in approving the investment.

2. Once the limited partners have contributed their capital to a Partnership, prior to the acquisition of a Warehoused Investment by the Partnership, (a) the board of directors must make the following findings: (i) The terms of the Warehoused Investment, including the consideration to be paid, are reasonable and fair and do not involve overreaching of the Partnership or its Partners on the part of any person concerned, (ii) the proposed transaction is consistent with the policy of the Partnership as indicated in its filings under the Securities Act of 1933 and its reports to Partners, and (iii) participation by the Partnership in the proposed transaction is in the best interest of the Partners of the Partnership; and (b) with respect to any Warehoused Investment that is part of a co-investment with an affiliate, the board of directors must approve the investment in accordance with the terms of any orders issued by the Commission that are applicable to such co-investment, including the required findings by the board of directors of the General Partner. The General Partner will maintain at the Partnerships' office written records of the factors considered in any decision regarding a Warehoused Investment.

3. The purchase price to be paid by the Partnership for a Warehoused

Investment shall be the lesser of (a) the fair value of the securities on the date acquired by the Partnership as determined by the General Partner or (b) the cost to ML of purchasing the Warehoused Investment (''Cost''). Carrying costs may be paid by the Partnership to ML to the extent such fair value exceeds Cost. To the extent the value of the securities is determined to be less than Cost, ML may determine not to sell the Warehoused Investment to the Partnership. The General Partner will maintain at the Partnerships' office written records of the factors considered in any determination regarding the value of a Warehoused Investment.

4. Carrying costs shall be calculated from the date ML acquired the proposed investment on behalf of the Partnership to the date of the acquisition of the proposed investment by the Partnership from ML, and shall consist of interest charges computed at the lower of (a) the prime commercial lending rate charged by Citibank, N.A., during the period for which carrying costs are permitted to be paid until the Partnership acquires the securities or (b) the effective cost of borrowings by ML & Co. during such period. The effective cost of borrowings by ML & Co. is its actual ''Average Cost of Funds,'' which it calculates on a monthly basis by dividing its consolidated financing expenses by the total amount of borrowings during this period.

5. The Partnership may only acquire a Warehoused Investment from ML during the lesser of (a) one year from the time ML purchases the Warehoused Investment or (b) 30 days from the date of closing of the Partnership's initial offering.

6. The General Partner will maintain the records required by section 57(f)(3) of the Act and will comply with the provisions of section 57(h) of the Act as if each Partnership were a business development company. All records referred to or required under these conditions will be available for inspection by the limited partners of each Partnership and the Commission.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–14472 Filed 6–13–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21125; 811–5513]

Vision Fiduciary Funds, Inc.; Notice of Application

June 8, 1995.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: Vision Fiduciary Funds, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company.

FILING DATES: The application was filed on March 7, 1995, and amended on May 26, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 3, 1995, and should be accompanied by proof of service on applicant in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549. Applicant, Federated Investors Tower, Pittsburgh, PA 15222–3779.

FOR FURTHER INFORMATION CONTACT: James M. Curtis, Senior Counsel, at (202) 942–0563, or C. David Messman, Branch Chief, (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end management investment company that was organized as a corporation under the laws of Maryland. On March 14, 1988, applicant filed a notice of registration on Form N–8A pursuant to section 8(a) of the Act. Also on March 14, 1988, applicant filed a registration statement under section 8(b) of the Act and under the Securities Act of 1933 on Form N–1A to issue an indefinite number of shares. Applicant's registration statement was declared effective on May 26, 1988, and applicant commenced its initial public offering on June 1, 1988. Manufacturers and Traders Trust Company is applicant's investment adviser (the ''Bank'').

2. Applicant was created as a separate investment vehicle for fiduciary accounts of the Bank. The Bank later determined that, under certain circumstances, banking law permitted the joint investment of the Bank's fiduciary accounts with its non-fiduciary accounts in a portfolio of Vision Group of Funds, Inc., that was created for the general public rather than in a separate investment company portfolio.

3. On November 8, 1994, applicant's board of directors authorized the dissolution of applicant, conditioned on the redemption of all applicant's shares.

4. As of December 27, 1994, applicant had 88,342,953.98 shares outstanding at a net asset value of $1.00 per share. Applicant's portfolio securities were sold to the Vision Group Money Market Fund pursuant to rule 17a–7 on or before December 28, 1994, and no brokerage commissions were paid. On December 28, 1994, all shares were voluntarily redeemed by applicant's shareholders. Each shareholder received his or her proportionate share of applicant's net assets.

5. On December 30, 1994, Federated Services Company, as applicant's sole shareholder, authorized applicant's dissolution by unanimous written consent.

6. Applicant's distributor paid all liquidation expenses incurred. Applicant believes that these costs, which included legal fees, record keeping expenses, and custodian fees, were immaterial.

7. Applicant has no security holders, assets, debts, or other liabilities. Applicant is not a party to any litigation or administrative proceeding. Applicant is not engaged and does not propose to engage in any business activity other than those necessary for the winding up of its affairs.

8. On March 21, 1995, the Maryland Department of Assessments and Taxation received and accepted applicant's Articles of Dissolution.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–14540 Filed 6–13–95; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

ACTION: Notice of Reporting Requirements Submitted for Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Comments should be submitted on or before July 14, 1995. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline

COPIES: Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: Bridget Bean (Acting), Small Business Administration, 409 3rd Street, S.W., 5th Floor, Washington, D.C. 20416, Telephone: (202) 205–6629

OMB Reviewer: Donald Arbuckle, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503

Title: Application for Certificate of Competency

Form No.: SBA Forms 74, 74A, 74B, 183

Frequency: On occasion

Description of Respondents: Small businesses

Annual Responses: 1,088

Annual Burden: 11,769.

Dated: June 7, 1995.

Calvin Jenkins,

Assistant Administrator for Administration.

[FR Doc. 95–14549 Filed 6–13–95; 8:45 am]

BILLING CODE 8025–01–M

[License No. 02/02–5538]

Notice of Revocation of License First Pacific Capital Corp.

Notice is hereby given that the license of First Pacific Capital Corporation, 273 Wyckoff Avenue, Brooklyn, New York 11237, to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (Act), has been revoked. First Pacific Capital Corporation was licensed by the Small Business Administration on May 10, 1991.

Under the authority vested by the Act and pursuant to the Regulations promulgated thereunder, the license was revoked on April 24, 1995. Accordingly, all rights, privileges and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: June 8, 1995.

Robert D. Stillman,

Associate Administrator for Investment.

[FR Doc. 95–14551 Filed 6–13–95; 8:45 am]

BILLING CODE 8025–01–M

[Application No. 99000163]

Bay Partners SBIC, L.P.; Notice of Filing of an Application for a License to Operate as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to Section 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1994)) by Bay Partners SBIC, L.P. at 10600 North De Anza Boulevard, Suite 100, Cupertino, California 95014 for a license to operate as a small business investment company (SBIC) under the Small Business Investment Act of 1958, as amended (15 U.S.C. *et seq.*), and the Rules and Regulations promulgated thereunder. Its principal area of operation will generally be in Northern California and the Pacific Northwest. In addition, the Fund will consider investment opportunities in other parts of the United States including Southern California and New England.

Bay Partners SBIC, L.P., a California limited partnership, will be managed by Bay Management Company 1995, a California general partnership and sole general partner of the Partnership. The individual General Partners of Bay Management Company 1995 are: John Freidenrich, Neal Dempsey III and Marcella Tamaki Yano. Skills possessed by the General Partners include sales and marketing, financial management, strategic planning, research and development, investment banking, legal and portfolio management. In addition, each of these General Partners has had experience with severely troubled companies.

The following limited partners will own 10 percent or more of the proposed SBIC:

Name	Percentage of ownership
The Freidenrich Family Partnership, 10600 North De Anza Blvd., Suite 100, Cupertino, California 95014	50.00
J.F. Shea & Company, Inc., 655 Brea Canyon Road, Walnut, California 91789	20.00
The Clumeck Family Trust, P.O. Box 1557, Ross, California 94957	10.00
The Gerson Bakar 1984 Trust, 201 Filbert Street, 7th Floor, San Francisco, California 94133	10.00

The applicant will begin operations with Regulatory Capital of $10 million and will primarily be a source of start-up and early stage equity investments in technology-based small companies with significant growth potential. The applicant's typical client will need funds to develop or complete development of a product or service, ramp up production, recruit personnel and execute its sales and marketing strategy.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including profitability and financial soundness in accordance with the Act and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Associate Administrator for Investment, Small Business Administration, 409 3rd Street, SW, Washington, DC 20416.

A copy of this Notice will be published in a newspaper of general circulation in San Francisco, California.

(Catalog of Federal Domestic Assistance Programs No. 59.011, Small Business Investment Companies).

Dated: June 7, 1995.

Robert D. Stillman,

Associate Administrator for Investment.

[FR Doc. 95–14550 Filed 6–13–95; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

[Docket 37554]

Order Adjusting the Standard Foreign Fare Level Index

Section 41509(e) of Title 49 of the United States Code requires that the

Department, as successor to the Civil Aeronautics Board, establish a Standard Foreign Fare Level (SFFL) by adjusting the SFFL base periodically by percentage changes in actual operating costs per available seat-mile (ASM). Order 80–2–69 established the first interim SFFL, and Order 95–4–2 established the currently effective two-month SFFL applicable through May 31, 1995.

In establishing the SFFL for the two-month period beginning June 1, 1995, we have projected non-fuel costs based on the year ended December 31, 1994 data, and have determined fuel prices on the basis of the latest available experienced monthly fuel cost levels as reported to the Department.

By Order 95–6–7 fares may be increased by the following adjustment factors over the October 1979 level:

Atlantic.....1.4235
Latin America 1.4368
Pacific.....1.5657

For further information contact: Keith A. Shangraw (202) 366–2439.

By the Department of Transportation: June 7, 1995.

Robert S. Goldner,

Special Counsel.

[FR Doc. 95–14489 Filed 6–13–95; 8:45 am]

BILLING CODE 4910–62–P

Notice of Order Adjusting International Cargo Rate Flexibility Level

Policy Statement PS–109, implemented by Regulation ER–1322 of the Civil Aeronautics Board and adopted by the Department, established geographic zones of cargo pricing flexibility within which certain cargo rate tariffs filed by carriers would be subject to suspension only in extraordinary circumstances.

The Standard Foreign Rate Level (SFRL) for a particular market is the rate in effect on April 1, 1982, adjusted for the cost experience of the carriers in the applicable ratemaking entity. The first adjustment was effective April 1, 1983. By Order 95–4–1, the Department established the currently effective SFRL adjustments.

In establishing the SFRL for the two-month period beginning June 1, 1995, we have projected non-fuel costs based on the year ended December 31, 1994 data, and have determined fuel prices on the basis of the latest available experienced monthly fuel cost levels as reported to the Department.

By Order 95–6–8 cargo rates may be adjusted by the following adjustment factors over the April 1, 1982 level:

Atlantic.....1.1524
Western Hemisphere 1.0715
Pacific.....1.2305

For further information contact: Keith A. Shangraw (202) 366-2439.

By the Department of Transportation: June 7, 1995.

Robert S. Goldner,

Special Counsel.

[FR Doc. 95–14490 Filed 6–13–95; 8:45 am]

BILLING CODE 4910–62–P

Coast Guard

[CGD8–95–010]

Houston/Galveston Navigation Safety Advisory Committee Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: The Houston/Galveston Navigation Safety Advisory Committee (HOGANSAC) will meet to discuss waterway improvements, aids to navigation, current meters, and various other navigation safety matters affecting the Houston/Galveston area. The meeting will be open to the public.

DATES: The meeting will be held from 9 a.m. to approximately 1 p.m. on Thursday, July 20, 1995.

ADDRESSES: The meeting will be held in the conference room of the Houston Pilots Office, 8150 South Loop East, Houston, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. M. M. Ledet, Recording Secretary, Commander, Eighth Coast Guard District (oan), Room 1211, Hale Boggs Federal Building, 501 Magazine Street, New Orleans, LA 70130–3396, telephone (504) 589–4686.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. 2 § 1 et seq. The meeting is open to the public. Members of the public may present written or oral statements at the meeting.

The tentative agenda for the meeting will consist of the following items:

(1) Various Coast Guard aid to navigation improvement initiatives and waterway analysis studies.

(2) Updates from the U.S. Army Corps on various waterway improvement projects.

(3) Discussion on deployment of NOAA real-time current meters.

(4) Update from NOAA on the Hydrographic Survey of the area.

(5) Discussion and recommendation on NAVSAC Federal Register Notice regarding barge lighting requirements.

Dated: May 24, 1995.

R.C. North,

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

[FR Doc. 95–14556 Filed 6–13–95; 8:45 am]

BILLING CODE 4910–14–M

National Highway Traffic Safety Administration

[Docket No. 95–11; Notice 2]

Ford Motor Company; Grant of Application for Decision of Inconsequential Noncompliance

Ford Motor Company (Ford) of Dearborn, Michigan, has determined that some of its windows fail to comply with the light transmittance requirements of 49 CFR 571.205, Federal Motor Vehicle Safety Standard (FMVSS) No. 205, ''Glazing Materials,'' and has filed an appropriate report pursuant to 49 CFR Part 573, ''Defect and Noncompliance Reports.'' Ford has also applied to be exempted from the notification and remedy requirements of 49 U.S.C. Chapter 301—''Motor Vehicle Safety'' on the basis that the noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of the application was published on March 10, 1995 (60 FR 13204). This notice grants the application.

Standard No. 205 incorporates by reference the American National Standards Institute's (ANSI) ''Safety Code for Safety Glazing Materials for Glazing Motor Vehicles Operating on Land Highways,'' Z–26.1–1977, January 26, 1977, as supplemented by Z26.1a, July 3, 1980 (ANS Z–26.1). Standard No. 205 specifies that automotive glazing materials used in front, side and rear windows of passenger cars shall have a regular luminous transmittance of not less than 70 percent of the light, at normal incidence, when measured in accordance with ''Light Transmittance, Test 2'' of ANSI Z–26.1–1980.

From the beginning of model year 1995 production in October 1994, through January 21, 1995, Ford manufactured approximately 8,250 1995 Continental vehicles on which the front door windows had a luminous transmittance of approximately 68 percent. According to Ford, miscommunication between Ford Glass production and fabrication plants concerning the properties and intended use of the glass resulted in its being used in the fabrication of windows for Continental production. Beginning with vehicle production on January 23, 1995, front door windows with a luminous

transmittance of greater than 70 percent have been installed.

Ford supports its application for inconsequential noncompliance with the following:

In Ford's judgement, the condition is inconsequential as it relates to motor vehicle safety. Computer modeling studies and in-car evaluations previously conducted by Ford to assess the effect of reduced light transmittance windshields showed that even a 5 point reduction in the percentage of light transmittance, from 65 to 60 percent, resulted in a reduction in seeing distance of only 1 to 2 percent during night time driving, and little or no reduction in seeing distance during dusk and daytime driving. Based on these studies, the subject Continental front door windows with 68 percent light transmittance (67.5 percent at the door window installed angle) would be expected to result in no significant reduction (less than 1 percent) in seeing distance during night time driving, and virtually no reduction during dusk and daytime driving, compared to glass with a 70 percent transmittance. Reductions in seeing distances 2 percent or less have no practical or perceivable effect on driver visibility based on observers'' reports in vehicle evaluations by Ford of windshields with line-of-sight transmittance in the 60 to 65 percent range.

The stated purpose of FMVSS No. 205 to which the light transmittance requirements are directed is ''to ensure a necessary degree of transparency in motor vehicle windows for driver visibility.'' NHTSA, in its March, 1991 ''Report to Congress on Tinting of Motor Vehicle Windows,'' concluded that the light transmittance of windows of the then new passenger cars that complied with Standard No. 205 did not present an unreasonable risk of accident occurrence. The ''new passenger cars'' that were considered to not present an unreasonable risk had effective line-of-sight light transmittances through the windshields as low as approximately 63 percent (determined by a 1990 agency survey, the results of which were included in the report). While light transmittance and driver visibility through front door windows is important to safe operation of motor vehicles, it is not as important as driver visibility through vehicle windshields. It follows that if light transmittance levels as low as 63 percent through windshields do not present an unreasonable risk to safety, then the side window glass in the subject Continentals also presents no unreasonable risk to safety.

Therefore, while the use of front window glazing with luminous transmittance less than 70 percent is technically a noncompliance, we believe the condition presents no risk to motor vehicle safety.

No comments were received on the application.

In assessing the effect of reduced light transmittance in windshields via computer modeling and in-car evaluations, Ford found that a five point reduction in the percentage of light transmittance in windshields, from 65 to 60 percent, resulted in a reduction in seeing distance of one to two percent at night and little to no reduction in daylight. NHTSA concurs with Ford that these test data show that a two point reduction in the percentage of light transmittance, from 70 to 68 percent in the side windows, would reduce seeing distance negligibly.

In addition, Ford cites a 1991 NHTSA report to Congress in which the agency concluded that the light transmittance of windows in new passenger cars that comply with FMVSS No. 205 did not present an unreasonable risk of accident occurrence. While the windshields in these vehicles had 70 percent or greater light transmittance when tested according to the FMVSS No. 205 compliance test, they had effective line-of-sight light transmittances as low as 63 percent. The light transmittance values obtained when testing in the line-of-sight direction are generally lower than those obtained using the FMVSS No. 205 compliance test because the windows are tested at the angle at which they are installed. The FMVSS No. 205 compliance test specifies that the light transmittance be tested perpendicularly to the surface of the window. When tested at the installation angle, less light is transmitted. The subject windows have a line-of-sight light transmittance of 67.5 percent. NHTSA agrees with Ford that this information supports granting its petition.

In consideration of the foregoing, NHTSA finds that the applicant has met its burden of persuasion that the noncompliance herein described is inconsequential to safety. Accordingly, its application is granted, and the applicant is exempted from providing the notification of the noncompliance that is required by 49 U.S.C. 30118, and from remedying the noncompliance, as required by 49 U.S.C. 30120.

(15 U.S.C. 1417; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: June 8, 1995.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 95–14488 Filed 6–13–95; 8:45 am]

BILLING CODE 4910–59–P

Research and Special Programs Administration

International Standards on the Transport of Dangerous Goods; Public Meeting

AGENCY: Research and Special Programs Administration (RSPA), Department of Transportation.

ACTION: Notice of public meeting.

SUMMARY: This notice is to advise interested persons that RSPA will conduct a public meeting to exchange views on proposals submitted to the tenth session of the United Nation's Sub-Committee of Experts on the Transport of Dangerous Goods.

DATES: July 6, 1995 at 9:30 a.m.

ADDRESSES: Room 6200, Nassif Building, 400 Seventh Street SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Frits Wybenga, International Standards Coordinator, Office of Hazardous Materials Safety, Department of Transportation, Washington, DC 20590; (202) 366–0656.

SUPPLEMENTARY INFORMATION: This meeting will be held in preparation for the tenth session of the Sub-Committee of Experts on the Transport of Dangerous Goods to be held July 10 to 21, 1995 in Geneva, Switzerland. During this public meeting U.S. positions on proposals submitted to the tenth session of the Sub-Committee will be discussed. Topics to be covered include matters related to explosives including the United Nations (UN) External Fire (Bonfire) Test, restructuring the UN Recommendations on the Transport of Dangerous Goods into a model rule, criteria for environmentally hazardous substances, review of intermodal portable tank requirements, review of the requirements applicable to small quantities of hazardous materials in transport (limited quantities), classification of individual substances, requirements for bulk and non-bulk packagings used to transport hazardous materials, infectious substances international harmonization of classification criteria.

The public is invited to attend without prior notification.

Documents

Copies of documents submitted to the tenth session of the UN Sub-Committee meeting may be obtained from RSPA. A listing of these documents is available on the Hazardous Materials Information Exchange (HMIX), RSPA's computer bulletin board. Documents may be ordered by filling out an on-line request form on the HMIX or by contacting RSPA's Dockets Unit (202–366–5046). For more information on the use of the HMIX system, contact the HMIX information center; 1–800–PLANFOR (752–6367); in Illinois, 1–800–367–9592; Monday through Friday, 8:30 a.m. to 5 p.m. Central time. The HMIX may also be accessed via the Internet at hmix.dis.anl.gov.

After the meeting, a summary of the public meeting will also be available

from the Hazardous Materials Advisory Council, Suite 250, 1110 Vermont Ave., NW., Washington, DC 20005; telephone number (202) 289–4550.

Issued in Washington, DC, on June 9, 1995.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 95–14563 Filed 6–13–95; 8:45 am]

BILLING CODE 4910–60–M

[Docket No. HM–208; Notice No. 95–8]

Hazardous Materials Transportation; Registration and Fee Assessment Program

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of filing requirements.

SUMMARY: The Hazardous Materials Registration Program will enter Registration Year 1995–96 on July 1, 1995. Persons who transport or offer for transportation certain hazardous materials are required to annually file a registration statement and pay a fee to the Department of Transportation. Persons who registered for the 1994–95 Registration Year were mailed a Registration Statement form and informational brochure.

FOR FURTHER INFORMATION CONTACT: David W. Donaldson, Office of Hazardous Materials Planning and Analysis (202–366–4109), Hazardous Materials Safety, 400 Seventh Street SW., Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION: This notice is intended to notify persons who transport or offer for transportation certain hazardous materials of an annual requirement to register with the Department of Transportation. Each person, as defined by the Federal hazardous materials transportation law (49 U.S.C. 5101 *et seq.*), who engages in any of the specified activities relating to the transportation of hazardous materials is required to register annually with the Department of Transportation and pay a $250 registration fee (plus a separate $50 processing fee). The regulations implementing this program are in Title 49, Code of Federal Regulations, § § 107.601–107.620.

Proceeds are used to fund grants to State and Indian tribal governments for emergency response training and planning. Grants were awarded to all states, five territories, and 11 Native American tribes during FY 1994. By law, 75 percent of the Federal grant monies is further distributed to local emergency response and planning agencies. The FY 1993 funds helped to provide (1) over 500 commodity flow studies and hazard analyses, (2) over 1,000 emergency response plans updated or written for the first time, (3) assistance to over 1,200 local emergency planning committees, (4) over 600 emergency exercises, and (5) training for over 200,000 emergency response personnel.

The persons affected by these requirements are those who offer or transport in commerce any of the following materials:

A. Any highway route-controlled quantity of a Class 7 (radioactive) material;

B. More than 25 kilograms (55 pounds) of a Division 1.1, 1.2, or 1.3 (explosive) material in a motor vehicle, rail car, or freight container;

C. More than one liter (1.06 quarts) per package of a material extremely toxic by inhalation (Division 2.3, Hazard Zone A, or Division 6.1, Packing Group I, Hazard Zone A);

D. A hazardous material in a bulk packaging having a capacity equal to or greater than 13,248 liters (3,500 gallons) for liquids or gases or more than 13.24 cubic meters (468 cubic feet) for solids; or

E. A shipment, in other than a bulk packaging, of 2,268 kilograms (5,000 pounds) gross weight or more of a class of hazardous materials for which placarding of a vehicle, rail car, or freight container is required for that class.

The 1994–95 registration year ends on June 30, 1995. The 1995–96 Registration Year will begin on July 1, 1995, and end on June 30, 1996. Any person who engages in any of the specified activities during that period must file a Registration Statement and pay the associated fee of $300.00 before July 1, 1995, or before engaging in any of the activities, whichever is later. All persons who registered for the 1994–95 Registration Year have been mailed a Registration Statement form and an informational brochure. Other persons wishing to obtain the form and any other information relating to this program should contact the program number given above.

The Registration Statement has not been revised for the 1995–96 Registration Year. The informational brochure has been revised to be more customer oriented and to provide some information that was not previously included in the brochure. Registrants should file a registration statement and pay the associated fee in advance of July 1, 1995, in order to ensure that a 1995–96 Certificate of Registration has been provided by that date to comply with the recordkeeping requirements, including the requirement that the registration number be made available on board each truck and truck tractor (not including trailers and semi-trailers) and each vessel used to transport hazardous materials subject to the registration requirements. A Certificate of Registration is generally mailed within three weeks of RSPA's receipt of a Registration Statement.

Persons who engage in any of the specified activities during a Registration Year are required to register for that year. Persons who engaged in these activities during Registration Year 1992–93 (September 16, 1992, through June 30, 1993), 1993–94 (July 1, 1993, through June 30, 1994), or 1994–95 (July 1, 1994, through June 30, 1995) and have not filed a registration statement and paid the associated fee of $300.00 for each year for which registration is required should contact RSPA to obtain the required form (DOT F 5800.2). A copy of the form being distributed for the 1995–96 Registration Year may be used to register for previous years. Persons who fail to register for any registration year in which they engaged in such activities are subject to civil penalties for each day a covered activity is performed. The legal obligation to register for a year in which any specified activity was conducted does not end with the registration year. Registration after the completion of a registration year may also involve the imposition of a late fee and interest in addition to a civil penalty.

During the 1995–96 Registration Year, RSPA is continuing to participate with the Public Utilities Commission of Ohio (PUCO) in a pilot test of an alternate procedure for filing the Federal Registration Statement for motor carriers who are also subject to the State of Ohio's registration program. Ohio Revised Code Section 4905.80 requires that motor carriers transporting in or through Ohio hazardous materials that must be placarded, require the display of vehicle markings, or must be manifested register with PUCO. Motor carriers who are subject to both the Federal registration requirements and the PUCO requirements may obtain further information from the PUCO at 614–466–7232.

On January 30, 1995, RSPA published a notice of proposed rulemaking in the **Federal Register** requesting comments on several proposed changes to the registration program. Over 350 comments were submitted in response. After reviewing the comments and evaluating the options available to the Department, RSPA decided to maintain the total fee for registration and processing at $300 rather than to implement a graduated fee schedule

based on measurements of involvement in the transportation of hazardous materials. Two minor changes will be adopted for the 1996–97 Registration Year: (1) Foreign offerors will be permanently excepted from the registration requirement as long as the country in which they are domiciled does not impose a registration or a fee upon U.S. companies for offering hazardous materials into that country, and (2) the definition of ''materials extremely toxic by inhalation'' will be expanded to include all materials poisonous by inhalation that meet the criteria for hazard zone A. For more information, see the Final Rule on Docket HM–208B published in the **Federal Register** on May 23, 1995 (60 FR 27231).

Dated: June 9, 1995.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 95–14565 Filed 6–13–95; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Customs Service

Dates and Draft Agenda of the Ninth Session of the Scientific Subcommittee of the World Customs Organization

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

ACTION: Publication of the dates and draft agenda of the ninth session of the Scientific Subcommittee of the World Customs Organization.

SUMMARY: This notice sets forth the dates and draft agenda for the next session of the Scientific Subcommittee of the World Customs Organization.

DATES: June 7, 1995.

FOR FURTHER INFORMATION CONTACT: Ira Reese, Office of Laboratories and Scientific Services, U.S. Customs Service (202–927–1060).

SUPPLEMENTARY INFORMATION:

Background

The United States is a contracting party to the International Convention on the Harmonized Commodity Description and Coding System (''Harmonized System Convention''). The Harmonized Commodity Description and Coding System (''Harmonized System''), an international nomenclature system, forms the core of the U.S. tariff, the Harmonized Tariff Schedule of the United States. The Harmonized System Convention is under the jurisdiction of the World Customs Organization (''WCO'') (established as the Customs Cooperation Council).

Article 6 of the Harmonized System Convention establishes a Harmonized System Committee (''HSC''). The HSC is composed of representatives from each of the contracting parties to the Harmonized System Convention. The HSC's responsibilities include issuing classification decisions on the interpretation of the Harmonized System. Those decisions may take the form of published tariff classification opinions concerning the classification of an article under the Harmonized System or amendments to the Explanatory Notes to the Harmonized System. The HSC also considers amendments to the legal text of the Harmonized System. The HSC meets twice a year in Brussels, Belgium.

The HSC is often assisted in its technical work by the Scientific Subcommittee (''SSC''). The SSC is an advisory body of the WCO on questions involving technical matters. Generally, its members are representatives from the customs laboratories of WCO members. The SSC assists the HSC by providing technical advice on questions referred to it by the HSC. The SSC usually meets once a year in Brussels, Belgium. This year, however, it will meet twice (as it already met last January). The next session of the SSC will be its ninth, and it will be held from June 26 to June 30, 1995.

The U.S. Department of the Treasury, represented by the U.S. Customs Service, will represent the U.S. government at the sessions of the SSC.

Set forth below is the draft agenda for the next session of the SSC. Copies of available agenda-item documents may be obtained from the above-listed individual. Comments on agenda items may be directed to that same individual.

Lyal V.S. Hood,

Acting Director, Office of Laboratories and Scientific Services.

Attachment: Attachment A

Draft Agenda for the Ninth Session of the Scientific Sub-Committee

From: Monday, 26 June 1995 (10 a.m.)
To: Friday, 30 June 1995

I. *Adoption of the Agenda*
Draft Agenda ..... Doc. 39.433
II. *Technical Questions*
1. Classification of quartz derived from acid- and heat-treated alaskite ores ..... Doc. 39.453
2. Possible amendments to the Nomenclature to clarify the classification of butyl titanate ..... Doc. 39.435
3. Scope of the term ''sugars'' ..... Doc. 39.436
4. Classification of certain vitamin-based preparations ..... Doc. 39.438
5. Possible amendments to the Explanatory Note to heading 29.22 ..... Doc. 39.439
6. Analytical methods and criteria for distinguishing between concentrated and normal fruit juices ..... Doc. 39.440
7. Possible amendments to the Explanatory Note to heading 29.38: glycosides ..... Doc. 39.441
8. Classification of ''Gamma Grip'' and ''Gamma Hi-Tech'' ..... Doc. 39.452
9. Divergent classification concerning certain INN products and pharmaceutical intermediates ..... Doc. 39.379
10. Classification and chemical nomenclature of certain toxic/dangerous chemicals controlled by the Chemical Weapons Convention. Doc. 39.446
11. Scope of the term ''derivatives'' ..... Doc. 39.444
12. Draft Recommendation and possible amendments to the Explanatory Notes concerning narcotic drugs, and psychotropic substances and their precursors. Doc. 39.445
13. Amendments to the Explanatory Notes concerning the chemical names ..... Doc. 39.454
III. *General Questions*
1. Draft Sections of the Customs Laboratory Guide:
a. Operation activities (I) of a standard Customs laboratory ..... Doc. 39.359
b. Operation activities (II) of a standard Customs laboratory ..... Doc. 39.448
c. Laboratory equipment, instruments and apparatus ..... Doc. 39.449
d. Illicit Drug analysis ..... Doc. 39.450
2. Technical Assistance regarding the Establishment or Improvement of Customs Laboratories in Developing Countries:
Demand for Technical Assistance by Developing Countries ..... Doc. 39.451

[FR Doc. 95–14548 Filed 6–13–95; 8:45 am]

BILLING CODE 4820–02–P

Sunshine Act Meetings

Federal Register

Vol. 60, No. 114

Wednesday, June 14, 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).

NATIONAL SCIENCE FOUNDATION

National Science Board

DATE AND TIME:

June 22, 1995, 9:00 a.m., Open Session
June 22, 1995, 2:00 p.m., Closed Session
June 23, 1995, 9:00 a.m., Closed Session
June 23, 1995, 9:45 a.m., Open Session

PLACE: National Science Foundation, 4201 Wilson Boulevard, Room 1235, Arlington, Virginia 22230.

STATUS:

Part of this meeting will be open to the public.

Part of this meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Thursday, June 22, 1995

Open Session (9:00 a.m.–12:30 p.m.)

—Forefront Science Examples
—Integration of Research and Education
—International Presentation

Thursday, June 22, 1995

Closed Session (2:00 p.m.–3:00 p.m.)

—Facilities Planning

Friday, June 23, 1995

Closed Session (9:00 a.m.–9:45 a.m.)

—Minutes, May 1995 Meeting
—NSB Nominees
—Budget
—Grants and Contracts

Friday, June 23, 1995

Open Session (9:45 a.m.–12:00 p.m.)

—Minutes, May 1995 Meeting
—Closed Session Agenda Items for July 1995 Meeting
—Chairman's Report
—Director's Report
—Director's Merit Review Report
—Reports from Committees
—Briefing: COSEPUP Graduate Education Report
—Electronic Scientific Journal on Mosiac
—Other Business/Adjourn

[FR Doc. 95–14622 Filed 6–12–95; 8:45 am]

BILLING CODE 7555–01–M

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

Board of Directors Meeting

ACTION: The Pennsylvania Avenue Development Corporation announces the date of their forthcoming quarterly meeting of the Board of Directors.

DATES: A regular open meeting will be held Wednesday, June 28, 1995, at 10:00 a.m., followed by a closed Executive Session.

ADDRESSES: The meeting will be held at the Pennsylvania Avenue Development Corporation, Suite 1220 North, 1331 Pennsylvania Avenue, NW., Washington, DC.

SUPPLEMENTARY INFORMATION: This meeting is held in accordance with 36 Code of Federal Regulations Part 901, and is open to the public, with the exception of the Executive Session.

Dated: June 6, 1995.

Lester M. Hunkele III,

Executive Director.

[FR Doc. 95–14623 Filed 6–12–95; 8:45 am]

BILLING CODE 7630–01–M

Corrections

Federal Register

Vol. 60, No. 114

Wednesday, June 14, 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.

COMMODITY FUTURES TRADING COMMISSION

Membership of the Commission's Performance Review Board

Correction

In notice document 95–13119 appearing on page 28089 in the issue of Tuesday, May 30, 1995, make the following correction:

On page 28089, in the second column, under **SUMMARY**, in the third paragraph, in the fifth line, ''Elisse Water'' should read ''Elisse Walter''.

BILLING CODE 1505–01–D

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

Correction

In rule document 95–12475 beginning on page 27025 in the issue of Monday, May 22, 1995 make the following correction:

§706.2 [Corrected]

On page 27025, in the third column, in the table, under the heading ''Obstruction angle relative ship's headings'' in the first line, ''1.05.06 thru'' should read ''105.06 thru''.

BILLING CODE 1505–01–D

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[WT Docket No. 95-69 FCC 95-202]

Auctionable Services

Correction

In proposed rule document 95–12462 beginning on page 26860 in the issue of Friday, May 19, 1995 make the following correction:

On page 26860, in the third column, under **DATES:**, in the last line, ''June 6, 1995.'' should read ''June 5, 1995.''

BILLING CODE 1505–01–D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO-050-1220-00]

Shooting Closure on Public Lands in Fremont County, Colorado

Correction

In notice document 95–12168, appearing on page 26452, in the issue of Wednesday, May 17, 1995, make the following correction:

In the first column, under **EFFECTIVE DATE**, ''May 22, 1955'' should read ''May 22, 1995''.

BILLING CODE 1505–01–D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY-920-05-1320-01; WYW136447]

Invitation for Coal Exploration License; Campbell County, WY

Correction

In notice document 95–12701 beginning on page 27545, in the issue of Wednesday, May 24, 1995, make the following correction:

On page 27545, in the third column, in the land description, in T. 41 N., R. 71 W., 6th P.M., Wyoming, ''Containing approximately 33.60 acres.'' should read ''Containing approximately 333.60 acres.''.

BILLING CODE 1505–01–D

Federal Register

Wednesday
June 14, 1995

Part II

Department of Education

The National Assessment of Educational Progress Program; Notice

DEPARTMENT OF EDUCATION

[CFDA No.: 84.999G]

The National Assessment of Educational Progress (NAEP) Program Notice Inviting Applications for New Awards for Fiscal Year 1995

Purpose of Program: To conduct scoring, analysis, and reporting for the national and State components of NAEP in 1996 and 1998; to conduct scoring, analysis, and reporting for the national assessment in 1997; and to develop the assessment instruments for the national and State components of the 1998 assessment. It is anticipated that the 1996 NAEP will be conducted at the national level in reading, mathematics, and science in grades 4, 8 and 12 and at the State level in mathematics and science in grades 4 and 8. The 1997 NAEP will be a national assessment of the arts (dance, theater, music, visual arts) conducted in grade 8 only, with a smaller than normal sample of students. (However, increases in the scope of the arts assessment are possible.) It is anticipated that the 1998 NAEP will assess reading, writing, and civics at the national level, and reading and writing at the State level in grades 4, 8, and 12. NAEP supports the National Education Goals by providing measures of progress toward student competency over challenging subject matter.

Eligible Applicants: Public, private, for-profit, and non-profit institutions, agencies, and other qualified organizations or consortia of such institutions, agencies, and organizations.

Deadline for Transmittal of Applications: July 24, 1995.

Applications Available: June 15, 1995.

Available Funds: The Department estimates that about $1,000,000 can be made available in fiscal year 1995 for this project.

Estimated Number of Awards: 1.

Project Period: Up to 60 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) 34 CFR Parts 74, 75, 77, 80, 81, 82, 85, 86; and (b) The regulations in 34 CFR Part 98 (Students Rights in Research, Experimental Activities, and Testing).

Supplementary Information: The National Assessment of Educational Progress is authorized by Section 411 of the National Education Statistics Act of 1994, Title IV of the Improving America's Schools Act (20 U.S.C. 9010). Section 412 (20 U.S.C. § 9011) of this law provides for the establishment of the National Assessment Governing Board (NAGB). The law requires NAGB, among other responsibilities, to formulate the policy guidelines for the National Assessment and select the subject areas to be assessed. Copies of these guidelines are available from the Department. One cooperative agreement is currently in effect to develop, field test, revise, and prepare for the national and State components of NAEP in 1996. There was a separate announcement for the collection of data from the 1996, 1997, and 1998 assessments. This notice is limited to seeking applications for scoring, analysis and reporting activities in connection with the 1996, 1997, and 1998 NAEP assessments, as well as development activities for the 1998 assessment.

Priorities

Absolute Priority: Under 34 CFR 75.105(c)(3) and 20 U.S.C. 9010–9011, the Secretary gives an absolute preference to applications that meet the following priority. The Secretary, under 20 U.S.C. 9010–9011, funds under this competition only applications that meet this absolute priority:

Scoring, analysis and reporting of data for the national and State components of the 1996 and 1998 assessments, scoring, analysis and reporting of the national assessment in 1997, and developing instruments for the 1998 assessment.

The grantee must perform these activities in accordance with guidelines developed by the NAGB.

Selection Criteria: Applications are evaluated according to the selection criteria in 34 CFR 75.210. Under 34 CFR 75.210(c), the Secretary is authorized to distribute an additional 15 points among the selection criteria to bring the total possible points to a maximum of 100 points. For the purpose of this competition, the Secretary will distribute the additional points as follows:

Plan of operation (34 CFR 75.210(b)(3)). Fifteen (15) additional points will be added for a possible total of 30 points for this criterion.

For Applications or Information Contact: Steven Gorman, U.S. Department of Education, 555 New Jersey Avenue, NW., Room 402g, Washington, DC 20208–5653. Telephone: (202) 219–1761. 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.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins and Press Releases). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

Program Authority: 20 U.S.C. 9010, 9011.

Dated: June 9, 1995.

Sharon P. Robinson,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 95–14529 Filed 6–13–95; 8:45 am]

BILLING CODE 4000–01–P

federal register

Wednesday
June 14, 1995

Part III

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Decision on the Conditional Approval of Bismuth-Tin Shot as Nontoxic for the 1995–96 Season; Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018–AC66

Migratory Bird Hunting; Decision on the Conditional Approval of Bismuth-Tin Shot as Nontoxic for the 1995–96 Season

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) is publishing this proposed rule to amend Section 20.21(j) and provide for the conditional approval of bismuth-tin shot for the 1995–96 migratory bird hunting season. Concluded acute toxicity studies, ongoing toxicity reproductive studies undertaken by the Bismuth Cartridge Company, and other pertinent materials indicate that bismuth-tin shot is nontoxic when ingested by waterfowl.

DATES: Comments on this proposal must be received by July 14, 1995.

ADDRESSES: Written comments should be sent to: Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, ms 634 ARLSQ, 1849 C Street NW., Washington D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Paul R. Schmidt, Chief, or Keith Morehouse and Pete Poulos, Staff Specialists, Office of Migratory Bird Management, (703/358–1714).

SUPPLEMENTARY INFORMATION: The Service published a final regulation in the January 3, 1995, **Federal Register** (60 FR 61) to provide for conditional approval of bismuth-tin shot (in a mixture of [nominally] 97–3 percent, respectively) as nontoxic for the taking of waterfowl and coots during the 1994–1995 hunting season. This action was in response to a petition for rulemaking from the Bismuth Cartridge Company received June 24, 1994. The petition requested that the Service modify the provisions of 50 CFR section 20.21(j), to legalize the use of bismuth-tin shot on an interim, conditional basis for both the 1994–95 and the 1995–96 seasons. The petition cited the following reasons in support of the proposal: (a) Bismuth is nontoxic; (b) the proposed rule is conditional; and (c) the evidence presented in the record, i.e., the application from the Bismuth Cartridge Company. This petition acknowledged responsibility by the Bismuth Cartridge Company to complete all the nontoxic shot approval tests as outlined in 50 CFR section 20.134. The Service granted conditional approval (effective December 30, 1994) of the use of bismuth-tin shot for the 1994–95 hunting season only. For a complete review of the bismuth-tin shot application and review process, refer to the Supplementary Information Section of the January 3, 1995, **Federal Register** (60 FR 61).

This proposed regulatory action is now taken to further amend Section 20.21(j) to extend the conditional approval for bismuth-tin shot to the 1995–96 hunting season. This is based on a request made to the Fish and Wildlife Service by the Bismuth Cartridge Company on March 20, 1995. Results of the concluded 30-day acute toxicity test and progress made by the Bismuth Cartridge Company in their current reproductive toxicity testing are viewed as justification for extending conditional approval into the next hunting season.

The reproductive toxicity test is being conducted by Dr. Glenn Sanderson and follows a testing protocol reviewed and approved by the Service, with technical assistance provided by the Branch of Environmental Contaminants Research of the Patuxent Environmental Service Center. The general outline of the reproductive toxicity test given below is not a complete description of the testing protocol, but gives the basic outline of the test procedures being conducted:

The test consists of 60 male and 60 female mallards and uses No. 4 lead, steel, and candidate (bismuth-tin) shot. Males and females will be paired randomly and divided into four groups that will be dosed with lead, steel, bismuth-tin, and sham dosed. After diet and light manipulation, birds will be brought into breeding condition. Nests will be checked twice daily with recorded data including clutch initiation, number of eggs laid, egg fertility, egg hatchability, and number of ducklings produced. Eggs collection will continue until 21 uncracked eggs have been collected or until 150 days have elapsed. Eggs will be place in an incubator and after hatching, ducklings will be examined for signs of intoxication and illness. Blood will be collected with hematocrits determined and the blood analyzed. Livers, kidneys, and gonads from adults will be examined for gross and microscopic lesions, and analyzed for major elements found in the candidate shot and for major essential and trace elements. Livers and kidneys will be collected from ducklings and will be examined for gross and microscopic lesions, and analyzed for major elements contained in the candidate shot and for major essential and trace elements. Blood, liver, kidneys, and gonads will be analyzed by ICP for calcium, potassium, magnesium, zinc, copper, tin, iron, and any metal other than Bismuth or lead. Bismuth and lead in the livers, kidneys, and gonads, and blood will be analyzed by graphite furnace atomic absorption spectrometry.

Since the mid-1970s, the Service has sought to identify shot that, when spent, does not pose a significant hazard to migratory birds and other wildlife. Currently, only steel shot has been approved by the Service Director as nontoxic. The Service believes, however, that there may be other suitable candidate shot materials that could be approved for use as nontoxic shot. The Service is eager to consider these other materials for approval as nontoxic, and does not feel constrained to limit nontoxic shot options.

Resistance to the use of steel shot, however, is undoubtedly creating an unknown level of noncompliance with the requirement to use nontoxic shot for waterfowl and coot hunting. Although compliance with the use of nontoxic shot has increased moderately over the last few years, the Service believes that this level of compliance may continue to increase with the use of bismuth-tin shot in conjunction with the use of adequate field testing equipment by law enforcement personnel.

In summary, this rule extends conditional approval for the use of bismuth-tin shot for waterfowl and coot hunting to the 1995–96 season. Additionally, the applicant, wishing to obtain final unconditional approval for bismuth-tin shot as nontoxic, is required to obtain season-by-season approval until successfully completing the remaining tests required by 50 CFR section 20.134.

One additional standard will be applied to the unconditional approval of bismuth-tin shot. Since bismuth is a by-product of the smelting of iron, copper, and tin, it is not surprising that traces of lead may be present in bismuth-tin shot. The Service has initiated discussion with the Branch of Environmental Contaminants Research at the Patuxent Environmental Science Center to determine the maximum environmentally acceptable level of lead in bismuth-tin shot. Once this maximum level is determined, it will be stated in any regulation granting unconditional approval for the use of bismuth-tin shot. It will be the Service's position that any bismuth-tin shot manufactured with lead levels exceeding those stated in the regulation will be considered toxic and therefore, illegal.

We are encouraged by the progress that has been made to develop a noninvasive field testing device to assist law enforcement personnel in detecting the use of illegal shot. However, those devices currently available still appear to need refinement. We are hopeful that additional development and testing is planned since noninvasive enforcement

is an important component in the approval of any alternative shot material. Service law enforcement personnel will be asked to assess any noninvasive field testing equipment on the market to determine their utility and accuracy. Final unconditional approval, if otherwise proper, would be contingent upon the development and availability of a noninvasive field testing shot device.

NEPA Consideration

Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4332(C), and the Council on Environmental Quality's regulation for implementing NEPA (40 CFR 1500–1508), an Environmental Assessment has been prepared and is available to the public at the Office of Migratory Bird Management at the address indicated under the caption **ADDRESSES**. Based on review and evaluation of the information contained in the Environmental Assessment, the Service determined that the proposed action to amend 50 CFR 20.21(j) to allow conditional use of bismuth-tin an nontoxic shot for the 1995–96 waterfowl hunting season would not be a major Federal action that would significantly affect the quality of the human environment.

Endangered Species Act Considerations

Section 7 of the Endangered Species Act (ESA), as amended (16 U.S.C. 1531–1543; 87 Stat. 884), provides that, ''The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act'' (and) shall ''ensure that any action authorized, funded or carried out * * * is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of (critical) habitat * * *.'' Consequently, the Service will initiate Section 7 consultation under the ESA for this proposed rulemaking to legalize, on a conditional basis, the use of bismuth-tin shot for hunting waterfowl and coots during the 1995–96 seasons. When completed, the results of the Service's consultation under Section 7 of the ESA may be inspected by the public in, and will be available to the public from, the Office of Migratory Bird Management, at the address in the **ADDRESSES** section.

Regulatory Flexibility Act, Executive Order 12866, and the Paperwork Reduction Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.) requires the preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which includes small businesses, organizations and/or governmental jurisdictions. The Service has determined, however, that this rule will have no effect on small entities since the shot to be approved will merely supplement nontoxic shot already in commerce and available throughout the retail and wholesale distribution systems. No dislocation or other local effects, with regard to hunters and others, are apt to be evidenced. This rule was not subject to Office of Management and Budget (OMB) review under Executive Order 12866. This rule does not contain any information collection efforts requiring approval by the OMB under 44 U.S.C. 3504.

Authorship: The primary author of this proposed rule is Peter G. Poulos, Office of Migratory Bird Management.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

Accordingly, Part 20, Subchapter B, Chapter 1 of Title 50 of the Code of Federal Regulations is proposed to be amended as follows:

PART 20—[AMENDED]

1. The authority citation for Part 20 continues to read as follows:

Authority: Migratory Bird Treaty Act (July 3, 1918), as amended (16 U.S.C. 701–711); the Fish and Wildlife Improvement Act of 1978 (November 8, 1978); as amended, (16 U.S.C. 712); and the Fish and Wildlife Act of 1956 (August 8, 1956), as amended, (16 U.S.C. 742 a–d and e–j).

2. Section 20.21 is amended by revising paragraphs (j) introductory text and (j)(2) to read as follows:

§ 20.21 Hunting methods.

* * * * *

(j) While possessing shot (either in shotshells or as loose shot for muzzleloading) other than steel shot, bismuth-tin ([nominally] 97–3 percent, respectively) shot or such shot approved as nontoxic by the Director pursuant to procedures set forth in § 20.134.

Provided that:

(1) * * *

(2) Bismuth-tin shot is legal as nontoxic shot only during the 1995–96 season.

Dated: June 5, 1995.

George T. Frampton,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 95–14513 Filed 6–13–95; 8:45 am]

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Federal Register

Wednesday
June 14, 1995

Part IV

Federal Emergency Management Agency

Offer To Assist Insurers in Underwriting Flood Insurance Using the Standard Flood Insurance Policy; Notices

FEDERAL EMERGENCY MANAGEMENT AGENCY

Offer To Assist Insurers in Underwriting Flood Insurance Using the Standard Flood Insurance Policy

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Notice.

SUMMARY: The Federal Insurance Administration is publishing in this notice the Financial Assistance/Subsidy Arrangement for 1995–1996 governing the duties and obligations of insurers participating in the Write Your Own Program (WYO) of the National Flood Insurance Program (NFIP). The Financial Assistance/Subsidy Arrangement sets forth the responsibilities of the Government to provide financial and technical assistance to the insurers. It is verbatim with what is set out as appendix A to 44 CFR part 62 and is republished for information and convenience.

This notice relates to the final rule which was published in the **Federal Register** regarding changes in the National Flood Insurance Program's regulations dealing with the issuance of flood insurance policies and the adjustment of claims and the establishment of a program of assistance to private sector property insurance companies in underwriting flood insurance using the Standard Flood Insurance Policy. In 1985, a copy of the offer to participate in the Arrangement was incorporated in a final rule and, this year, as in the years since, a copy of the offer is being published as a Notice.

DATES: The offer is effective June 14, 1995. The Financial Assistance/Subsidy Arrangement is effective with respect to flood insurance policies written under the Arrangement with an effective date of October 1, 1995, and later.

SUPPLEMENTARY INFORMATION: By way of background, the Federal Insurance Administration (FIA), working with insurance company executives, FEMA's Office of Financial Management and FEMA's Office of the Inspector General, addressed the operating and financial control procedures for the Write Your Own Program. The Transaction Record Reporting and Processing Plan, Accounting Procedures, and the Financial Control Plan were specifically referenced in the final rule, as amended, and, in addition, procedural manuals have been issued by the FIA in aid of implementation by the WYO companies of the procedures published in the final rule, as amended, such as the Flood Insurance Manual, Flood Insurance Adjuster's Manual, and FEMA Letter of Credit Procedures, all of which comprise the operating framework for the WYO Program.

The purposes of this Notice are:

(1) To offer, publicly, financial assistance to protect against underwriting losses resulting from floods on Standard Flood Insurance Policies written by private sector insurers;

(2) To provide a method by which the offer may be accepted; and

(3) To provide notice of the duties and obligations under the Financial Assistance/Subsidy Arrangement for the Arrangement year 1995–96.

Method of Acceptance of Offer

1. Acceptance of this offer shall be by telegraphed or mailed notice of acceptance or signed Arrangement to the Administrator prior to midnight EDT September 30, 1995.

2. The telegraphed or mailed notice of acceptance to the Administrator must be authorized by an official of the insurance company who has the authority to enter into such arrangements.

3. A duly signed original copy of the Notice of Acceptance must be on file with the Administrator by November 16, 1995.

4. If 1., 2., or 3. above are not satisfied, the acceptance will be considered by the Administrator as conditional and the commitment of NFIP resources to fulfill the ''Undertakings of the Government'' under Article IV of the Arrangement will take a lower priority than those needed to fulfill the requirement of the other participating insurance companies.

5. Send all acceptances of this offer to: Federal Emergency Management Agency, Attn: Federal Insurance Administrator, WYO Program, Washington, DC 20472.

Offer To Provide Financial Assistance

Pursuant to the provisions of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4001 *et seq.*, Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329, and Executive Order 12127 of March 31, 1979, 44 FR 19367, 3 CFR, 1979 Comp., p. 376, Federal Emergency Management Agency, subject to all regulations promulgated thereunder, and to the duties, obligations and rights set forth in the Financial Assistance/Subsidy Arrangement as printed below, the Federal Insurance Administrator, herein the ''Administrator,'' offers to enter into the Financial Assistance/Subsidy Arrangement with any individual private sector property insurance company. This offer is effective only in a State in which such private sector insurance company is licensed to engage in the business of property insurance. *Federal Emergency Management Agency, Federal Insurance Administration, Financial Assistance/ Subsidy Arrangement.*

Purpose: To assist the company in underwriting flood insurance using the Standard Flood Insurance Policy.

Accounting Data: Pursuant to section 1310 of the Act, a Letter of Credit shall be issued for payment as provided for herein from the National Flood Insurance Fund.

Effective Date: October 1, 1995.

Issued By: Federal Emergency Management Agency, Federal Insurance Administration, Washington, DC 20472.

Article I—Findings, Purpose, and Authority

Whereas, the Congress in its ''Finding and Declaration of Purpose'' in the National Flood Insurance Act of 1968, as amended, (''the Act'') recognized the benefit of having the National Flood Insurance Program (the Program) ''carried out to the maximum extent practicable by the private insurance industry''; and

Whereas, the Federal Insurance Administration (FIA) recognizes this Arrangement as coming under the provisions of section 1345 of the Act; and

Whereas, the goal of the FIA is to develop a program with the insurance industry where, over time, some risk-bearing role for the industry will evolve as intended by the Congress (section 1304 of the Act); and

Whereas, the Program, as presently constituted and implemented, is subsidized, and the insurer (hereinafter the ''Company'') under this Arrangement shall charge rates established by the FIA; and

Whereas, this Arrangement will subsidize all flood policy losses by the Company; and

Whereas, this Financial Assistance/ Subsidy Arrangement has been developed to involve individual Companies in the Program, the initial step of which is to explore ways in which any interested insurer may be able to write flood insurance under its own name; and

Whereas, one of the primary objectives of the Program is to provide coverage to the maximum number of structures at risk and because the insurance industry has marketing access through its existing facilities not directly available to the FIA, it has been concluded that coverage will be extended to those who would not

otherwise be insured under the Program; and Whereas, flood insurance policies issued subject to this Arrangement shall be only that insurance written by the Company in its own name pursuant to the Act; and

Whereas, over time, the Program is designed to increase industry participation, and, accordingly, reduce or eliminate Government as the principal vehicle for delivering flood insurance to the public; and

Whereas, the direct beneficiaries of this Arrangement will be those Company policyholders and applicants for flood insurance who otherwise would not be covered against the peril of flood.

Now, therefore, the parties hereto mutually undertake the following:

Article II—Undertakings of the Company

A. In order to be eligible for assistance under this Arrangement the Company shall be responsible for:

1.0 Policy Administration, including
1.1 Community Eligibility/Rating Criteria
1.2 Policyholder Eligibility Determination
1.3 Policy Issuance
1.4 Policy Endorsements
1.5 Policy Cancellations
1.6 Policy Correspondence
1.7 Payment of Agents Commissions

The receipt, recording, control, timely deposit and disbursement of funds in connection with all the foregoing, and correspondence relating to the above in accordance with the Financial Control Plan requirements.

2.0 Claims processing in accordance with general Company standards and the Financial Control Plan. The Write Your Own Claims Manual, the Federal Emergency Management Agency Adjuster Manual, the FIA National Flood Insurance Program Policy Issuance Handbook, the Write Your Own Operational Overview, and other instructional material also provide guidance to the Company.

3.0 Reports

3.1 Monthly Financial Reporting and Statistical Transaction Reporting shall be in accordance with the requirements of National Flood Insurance Program Transaction Record Reporting and Processing Plan for the Write Your Own (WYO) Program and the Financial Control Plan for business written under the WYO Program. These data shall be validated/edited/audited in detail and shall be compared and balanced against Company financial reports.

3.2 Monthly financial reporting shall be prepared in accordance with the WYO Accounting Procedures.

3.3 The Company shall establish a program of self audit acceptable to the FIA or comply with the self audit program contained in the Financial Control Plan for business written under the WYO Program. The Company shall report the results of this self-audit to the FIA annually.

B. The Company shall use the following time standards of performance as a guide:

1.0 Application Processing - 15 days (Note: If the policy cannot be mailed due to insufficient or erroneous information or insufficient funds, a request for correction or added monies shall be mailed within 10 days);
1.1 Renewal Processing—7 days;
1.2 Endorsement Processing—7 days;
1.3 Cancellation Processing—15 days;
1.4 Correspondence, Simple and/or Status Inquiries—7 days;
1.5 Correspondence, Complex Inquiries—20 days;
1.6 Supply, Materials, and Manual Requests—7 days;
1.7 Claims Draft Processing—7 days from completion of file examination;
1.8 Claims Adjustment—45 days average from receipt of Notice of Loss (or equivalent) through completion of examination.
1.9 For the elements of work enumerated above, the elapsed time shown is from the date of receipt through the date of mail out. Days means working, *not* calendar days.

In addition to the standards for timely performance set forth above, all functions performed by the Company shall be in accordance with the highest reasonably attainable quality standards generally utilized in the insurance and data processing industries.

These standards are for guidance. Although no immediate remedy for failure to meet them is provided under this Arrangement, nevertheless, performance under these standards and the marketing guidelines provided for in Section G. below can be a factor considered by the Federal Insurance Administrator (the Administrator) in requiring corrective action by the Company, in determining the continuing participation of the Company in the Program, or in taking other action, e.g., limiting the Company's authority to write new business.

C. To ensure maximum responsiveness to the National Flood Insurance Program's (NFIP) policyholders following a catastrophic event, e.g., a hurricane, involving insured wind and flood damage to policyholders, the Company shall agree to the adjustment of the combined flood and wind losses utilizing one adjuster under an NFIP-approved Single Adjuster Program in the following cases and under procedures issued by the Administrator:

1.0 Where the flood and wind coverage is provided by the Company;
2.0 Where the flood coverage is provided by the Company and the wind coverage is provided by a participating State Property Insurance Plan, Windpool Association, Beach Plan, Joint Underwriting Association, FAIR Plan, or similar property insurance mechanism;
3.0 Where the flood coverage is provided by the Company and the wind coverage is provided by another WYO Company and the necessary information on the dual coverage is part of the Claims Coordinating Office (CCO) system; and
4.0 Where the flood coverage is provided by the Company and the wind coverage is provided by another property insurer and the State Insurance Regulator has determined that such property insurer shall, in the interest of consumers, facilitate the adjustment of its wind loss by the adjuster engaged to adjust the flood loss of the Company.

The Government shall provide for the direct business flood losses to be adjusted by a single adjuster where the wind damage coverage is insured by a state market mechanism described in 2.0, above, or by a WYO Company as described in 3.0 above, or by a property insurer, as described in 4.0 above.

Except for 1.0, above, the Company shall submit its flood losses that are reasonably believed to involve wind damage to the Single Adjuster Program's Stationary CCO in Lanham, Maryland at the following address: National Flood Insurance Program, Stationary Claims Coordinating Office, 10115 Senate Drive, Lanham, Maryland 20706.

Such flood losses shall be reported on the ACORD Notice of Loss form, ''ACORD 1 (1/93),'' or a like form calling for the reporting of losses involving both flood and wind damage arising out of a single hurricane event under the following procedures:

- Where flood losses reasonably believed to involve wind damage are reported by property insurance agents of brokers, the Company shall instruct its agents or brokers to mail or preferably send by facsimile the ACORD Notice of Loss form, with complete details regarding flood and, if available, wind insurance policies covering the property, to the Single Adjuster Program Stationary CCO for assignment to a

single adjuster. The Stationary CCO will also accept loss information directly from the agent by modem in CCO format where the Company has arranged for its agents to provide the information in this fashion.

• Where flood losses reasonably believed to involve wind damage are reported directly to the Company by its policyholders or agents, by telephone, the Company shall report the flood loss, with the wind property insurer information, if available, to the Single Adjuster Program Stationary CCO, by modem transfer in CCO format as such flood losses are reported to the Company. Transfer by facsimile from the Company can also be arranged where circumstances warrant it.

Upon receipt of the Notice of Loss, the Stationary CCO shall effect immediate entry of all relevant data into the stand-alone CCO System (i.e., not part of the NFIP mainframe computer system) for instantaneous relay to the Catastrophe CCO established in the field. At the Catastrophe CCO, which will be sited and fully operational within 24 hours of landfall, in coordination with the State Insurance Regulator, a qualified loss adjustment organization shall be promptly selected for each loss, and participating insurers shall be promptly advised of the selection for their assignment of the loss to that organization.

In respect to the foregoing, the Administrator will continue to implement existing and future CCO Arrangements with State Insurance Regulators and their State Property Insurance Plans, Windpool Associations, Beach Plans, Joint Underwriting Associations, FAIR Plans, or similar property insurance mechanisms, for example, as has been done with the Insurance Department of the State of South Carolina.

D. Policy Issuance.

1.0 The flood insurance subject to this Arrangement shall be only that insurance written by the Company in its own name pursuant to the Act.

2.0 The Company shall issue policies under the regulations prescribed by the Administrator in accordance with the Act;

3.0 All such policies of insurance shall conform to the regulations prescribed by the Administrator pursuant to the Act, and be issued on a form approved by the Administrator;

4.0 All policies shall be issued in consideration of such premiums and upon such terms and conditions and in such States or areas or subdivisions thereof as may be designated by the Administrator and only where the Company is licensed by State law to engage in the property insurance business;

5.0 The Administrator may require the Company to immediately discontinue issuing policies subject to this Arrangement in the event Congressional authorization or appropriation for the National Flood Insurance Program is withdrawn.

E. The Company shall establish a bank account, separate and apart from all other Company accounts, at a bank of its choosing for the collection, retention and disbursement of funds relating to its obligation under this Arrangement, less the Company's expenses as set forth in Article III, and the operation of the Letter of Credit established pursuant to Article IV. All funds not required to meet current expenditures shall be remitted to the United States Treasury, in accordance with the provisions of the WYO Accounting Procedures Manual.

F. The Company shall investigate, adjust, settle and defend all claims or losses arising from policies issued under this Arrangement. Payment of flood insurance claims by the Company shall be binding upon the FIA.

G. The Company shall market flood insurance policies in a manner consistent with the marketing guidelines established by the Federal Insurance Administration.

Article III—Loss Costs, Expenses, Expense Reimbursement, and Premium Refunds

A. The Company shall be liable for operating, administrative and production expenses, including any taxes, dividends, agent's commissions or any board, exchange or bureau assessments, or any other expense of whatever nature incurred by the Company in the performance of its obligations under this Arrangement.

B. The Company shall be entitled to withhold, on a provisional basis, as operating and administrative expenses, including agents' or brokers' commissions, an amount from the Company's written premium on the policies covered by this Arrangement in reimbursement of all of the Company's marketing, operating and administrative expenses, except for allocated and unallocated loss adjustment expenses described in C. of this Article, which amount shall be 32.6% of the Company's written premium on the policies covered by this Arrangement. The final amount retained by the Company shall be determined by an increase or decrease depending on the extent to which the Company meets the marketing goals for the combined 1994–1995 and 1995–1996 Arrangement years contained in marketing guidelines established pursuant to Article II. G.

The decrease or increase in the amount retained by the Company shall be made after the end of the 1995–1996 Arrangement year. Any decrease from 32.6% made as a result of a Company not meeting its marketing goals shall be directly related to the extent to which the Company's goal was not achieved, but shall not exceed two (2) percentage points (providing for a minimum of 30.6%). The amount of any decrease shall be calculated for each month, and each month's decrease shall be subject to interest compounded at rates provided for by 31 U.S.C. 3717(a)(1). Upon notice of the cumulative monthly decreases and interest, the Company agrees to promptly remit to the Government the total amount due.

The increase, which shall be distributed among the Companies exceeding their marketing goals, shall be drawn from a pool composed of the difference between 32.6% of all WYO Companies' written premium in Arrangement years 1994–1995 and 1995–1996, and the total amount, prior to the increase, provided to the Companies on the basis of the extent to which they have met their marketing goals. A distribution formula will be developed and distributed to WYO Companies which will consider the extent to which the Company has exceeded its goal and the size of the Company's book of business in relation to the total number of WYO policies. The amount of any increase shall be paid promptly to the Company after the end of the 1995–1996 Arrangement year.

If the Company does not enter into the Arrangement for 1995–1996, the extent to which the Company met its goals shall be based upon its Arrangement year 1994–1995 performance, and the final amount retained shall be determined after the end of the 1994–1995 Arrangement year, but the Company shall not be entitled to any increase above the provisional amount.

Premium income net of provisional reimbursement (net premium income) and Federal Policy Fee shall be deposited in a special account for the payment of losses and loss adjustment expenses (see Article II, Section E).

The Company, with the consent of the Administrator as to terms and costs, shall be entitled to utilize the services of a national rating organization, licensed under state law, to assist the FIA in undertaking and carrying out such studies and investigations on a community or individual risk basis, and in determining more equitable and accurate estimates of flood insurance risk premium rates as authorized under

the National Flood Insurance Act of 1968, as amended. The Company shall be reimbursed in accordance with the provisions of the WYO Accounting Procedures Manual for the charges or fees for such services.

C. Loss Adjustment Expenses shall be reimbursed as follows:

1. Unallocated loss adjustment shall be an expense reimbursement of 3.3% of the incurred loss (except that it does not include ''incurred but not reported'').

2. Allocated loss adjustment expense shall be reimbursed to the Company pursuant to Exhibit A, entitled ''Fee Schedule.''

3. Special allocated loss expenses shall be reimbursed to the Company for only those expenses the Company has obtained prior approval of the Administrator to incur.

D.1. Loss payments under policies of flood insurance shall be made by the Company from funds retained in the bank account established under Article II, Section E and, if such funds are depleted, from funds derived by drawing against the Letter of Credit established pursuant to Article IV.

2. Loss payments will include payments as a result of awards or judgments for damages arising under the scope of this Arrangement, policies of flood insurance issued pursuant to this Arrangement, and the claims processing standards and guides set forth at Article II, Section A, 2.0 of this Arrangement. Prompt notice of any claim for damages as to claims processing or other matters arising outside the scope of this section (D)(2) shall be sent to the Assistant Administrator of the FIA's Office of Insurance Policy Analysis and Technical Services (OIPATS), along with a copy of any material pertinent to the claim for damages arising outside of the scope of the matters set forth in this section (D)(2).

Following receipt of notice of such claim, the General Counsel (OGC), FEMA, shall review the cause and make a recommendation to FIA as to whether the claim is grounded in actions by the Company which are significantly outside the provisions of this section (D)(2). After reviewing the General Counsel's recommendation, the Administrator will make her decision and the Company will be notified, in writing, within thirty (30) days of the General Counsel's recommendation, if the decision is that any award or judgment for damages arising out of such actions will not be recognized under Article III of this Arrangement as a reimbursable loss cost, expense or expense reimbursement. In the event that the Company wishes to petition for reconsideration of the notification that it will not be reimbursed for the award or judgment made under the above circumstances, it may do so by mailing, within thirty days of the notice declining to recognize any such award or judgment as reimbursable under Article III, a written petition to the Chairman of the WYO Standards Committee established under the Financial Control Plan. The WYO Standards Committee will, then, consider the petition at its next regularly scheduled meeting or at a special meeting called for that purpose by the Chairman and issue a written recommendation to the Administrator, within thirty days of the meeting. The Administrator's final determination will be made, in writing, to the Company within thirty days of the recommendation made by the WYO Standards Committee.

E. Premium refunds to applicants and policyholders required pursuant to rules contained in the National Flood Insurance Program (NFIP) ''Flood Insurance Manual'' shall be made by the Company from funds retained in the bank account established under Article II, Section E and, if such funds are depleted, from funds derived by drawing against the Letter of Credit established pursuant to Article IV.

Article IV—Undertakings of the Government

A. Letter(s) of Credit shall be established by the Federal Emergency Management Agency (FEMA) against which the Company may withdraw funds daily, if needed, pursuant to prescribed procedures as implemented by FEMA. The amounts of the authorizations will be increased as necessary to meet the obligations of the Company under Article III, Sections (C), (D), and (E). Request for funds shall be made only when net premium income has been depleted. The timing and amount of cash advances shall be as close as is administratively feasible to the actual disbursements by the recipient organization for allowable Letter of Credit expenses.

Request for payment on Letters of Credit shall not ordinarily be drawn more frequently than daily nor in amounts less than $5,000, and in no case more than $5,000,000 unless so stated on the Letter of Credit. This Letter of Credit may be drawn by the Company for any of the following reasons:

1. Payment of claim as described in Article III, Section D; and

2. Refunds to applicants and policyholders for insurance premium overpayment, or if the application for insurance is rejected or when cancellation or endorsement of a policy results in a premium refund as described in Article III, Section E; and

3. Allocated and unallocated Loss Adjustment Expenses as described in Article III, Section C.

B. The FIA shall provide technical assistance to the Company as follows:

1. The FIA's policy and history concerning underwriting and claims handling.

2. A mechanism to assist in clarification of coverage and claims questions.

3. Other assistance as needed.

Article V—Commencement and Termination

A. Upon signature of authorized officials for both the Company and the FIA, this Arrangement shall be effective for the period October 1 through September 30. The FIA shall provide financial assistance only for policy applications and endorsements accepted by the Company during this period pursuant to the Program's effective date, underwriting and eligibility rules.

B. By June 1, of each year, the FIA shall publish in the **Federal Register** and make available to the Company the terms for the re-subscription of this Financial Assistance/Subsidy Arrangement. In the event the Company chooses not to re-subscribe, it shall notify the FIA to that effect by the following July 1.

C. In the event the Company elects not to participate in the Program in any subsequent fiscal year, or the FIA chooses not to renew the Company's participation, the FIA, at its option, may require (1) The continued performance of this entire Arrangement for one (1) year following the effective expiration date only for those policies issued during the original term of this Arrangement, or any renewal thereof, or (2) the transfer to the FIA of:

a. All data received, produced, and maintained through the life of the Company's participation in the Program, including certain data, as determined by FIA, in a standard format and medium; and

b. A plan for the orderly transfer to the FIA of any continuing responsibilities in administering the policies issued by the Company under the Program including provisions for coordination assistance; and

c. All claims and policy files, including those pertaining to receipts and disbursements which have occurred during the life of each policy. In the event of a transfer of the services provided, the Company shall provide the FIA with a report showing, on a policy basis, any amounts due from or

payable to insureds, agents, brokers, and others as of the transition date.

D. Financial assistance under this Arrangement may be cancelled by the FIA in its entirety upon 30 days written notice to the Company by certified mail stating one of the following reasons for such cancellation: (1) Fraud or misrepresentation by the Company subsequent to the inception of the contract, or (2) nonpayment to the FIA of any amount due the FIA. Under these very specific conditions, the FIA may require the transfer of data as shown in Section C., above. If transfer is required, the unearned expenses retained by the Company shall be remitted to the FIA.

E. In the event the Act is amended, or repealed, or expires, or if the FIA is otherwise without authority to continue the Program, financial assistance under this Arrangement may be cancelled for any new or renewal business, but the Arrangement shall continue for policies in force which shall be allowed to run their term under the Arrangement.

F. In the event that the Company is unable to, or otherwise fails to, carry out its obligations under this Arrangement by reason of any order or directive duly issued by the Department of Insurance of any Jurisdiction to which the Company is subject, the Company agrees to transfer, and the Government will accept, any and all WYO policies issued by the Company and in force as of the date of such inability or failure to perform. In such event the Government will assume all obligations and liabilities owed to policyholders under such policies arising before and after the date of transfer and the Company will immediately transfer to the Government all funds in its possession with respect to all such policies transferred and the unearned portion of the Company expenses for operating, administrative and loss adjustment on all such policies.

Article VI—Information and Annual Statements

The Company shall furnish to the FIA such summaries and analyses of information in its records as may be necessary to carry out the purposes of the National Flood Insurance Act of 1968, as amended, in such form as the FIA, in cooperation with the Company, shall prescribe. The Company shall be a property/casualty insurer domiciled in a State or territory of the United States. Upon request, the Company shall file with the FIA a true and correct copy of the Company's Fire and Casualty Annual Statement, and Insurance Expense Exhibit or amendments thereof, as filed with the State Insurance Authority of the Company's domiciliary State.

Article VII—Cash Management and Accounting

A. FEMA shall make available to the Company during the entire term of this Arrangement and any continuation period required by FIA pursuant to Article V, Section C., the Letter of Credit provided for in Article IV drawn on a repository bank within the Federal Reserve System upon which the Company may draw for reimbursement of its expenses as set forth in Article IV which exceed net written premiums collected by the Company from the effective date of this Arrangement or continuation period to the date of the draw.

B. The Company shall remit all funds not required to meet current expenditures to the United States Treasury, in accordance with the provisions of the WYO Accounting Procedures Manual.

C. In the event the Company elects not to participate in the Program in any subsequent fiscal year, the Company and FIA shall make a provisional settlement of all amounts due or owing within three months of the termination of this Arrangement. This settlement shall include net premiums collected, funds drawn on the Letter of Credit, and reserves for outstanding claims. The Company and FIA agree to make a final settlement of accounts for all obligations arising from this Arrangement within 18 months of its expiration or termination, except for contingent liabilities which shall be listed by the Company. At the time of final settlement, the balance, if any, due the FIA or the Company shall be remitted by the other immediately and the operating year under this Arrangement shall be closed.

Article VIII—Arbitration

A. If any misunderstanding or dispute arises between the Company and the FIA with reference to any factual issue under any provisions of this Arrangement or with respect to the FIA's non-renewal of the Company's participation, other than as to legal liability under or interpretation of the standard flood insurance policy, such misunderstanding or dispute may be submitted to arbitration for a determination which shall be binding upon approval by the FIA. The Company and the FIA may agree on and appoint an arbitrator who shall investigate the subject of the misunderstanding or dispute and make a determination. If the Company and the FIA cannot agree on the appointment of an arbitrator, than two arbitrators shall be appointed, one to be chosen by the Company and one by the FIA.

The two arbitrators so chosen, if they are unable to reach an agreement, shall select a third arbitrator who shall act as umpire, and such umpire's determination shall become final only upon approval by the FIA.

The Company and the FIA shall bear in equal shares all expenses of the arbitration. Findings, proposed awards, and determinations resulting from arbitration proceedings carried out under this section, upon objection by FIA or the Company, shall be inadmissible as evidence in any subsequent proceedings in any court of competent jurisdiction.

This Article shall indefinitely succeed the term of this Arrangement.

Article IX—Errors and Omissions

The parties shall not be liable to each other for damages caused by ordinary negligence arising out of any transaction or other performance under this Arrangement, nor for any inadvertent delay, error, or omission made in connection with any transaction under this Arrangement, provided that such delay, error, or omission is rectified by the responsible party as soon as possible after discovery.

However, in the event that the Company has made a claim payment to an insured without including a mortgagee (or trustee) of which the Company had actual notice prior to making payment, and subsequently determines that the mortgagee (or trustee) is also entitled to any part of said claim payment, any additional payment shall not be paid by the Company from any portion of the premium and any funds derived from any Federal Letter of Credit deposited in the bank account described in Article II, section E. In addition, the Company agrees to hold the Federal Government harmless against any claim asserted against the Federal Government by any such mortgagee (or trustee), as described in the preceding sentence, by reason of any claim payment made to any insured under the circumstances described above.

Article X—Officials Not To Benefit

No Member or Delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of this Arrangement, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this Arrangement if made with a corporation for its general benefit.

Article XI—Offset

At the settlement of accounts the Company and the FIA shall have, and may exercise, the right to offset any

balance or balances, whether on account of premiums, commissions, losses, loss adjustment expenses, salvage, or otherwise due one party to the other, it successors or assigns, hereunder or under any other Arrangements heretofore or hereafter entered into between the Company and the FIA. This right of offset shall not be affected or diminished because of insolvency of the Company.

All debts or credits of the same class, whether liquidated or unliquidated, in favor of or against either party to this Arrangement on the date of entry, or any order of conservation, receivership, or liquidation, shall be deemed to be mutual debts and credits and shall be offset with the balance only to be allowed or paid. No offset shall be allowed where a conservator, receiver, or liquidator has been appointed and where an obligation was purchased by or transferred to a party hereunder to be used as an offset. Although a claim on the part of either party against the other may be unliquidated or undetermined in amount on the date of the entry of the order, such claim will be regarded as being in existence as of the date of such order and any credits or claims of the same class then in existence and held by the other party may be offset against it.

Article XII—Equal Opportunity

The Company shall not discriminate against any applicant for insurance because of race, color, religion, sex, age, handicap, marital status, or national origin.

Article XIII—Restriction on Other Flood Insurance

As a condition of entering into this Arrangement, the Company agrees that in any area in which the Administrator authorizes the purchase of flood insurance pursuant to the Program, all flood insurance offered and sold by the Company to persons eligible to buy pursuant to the Program for coverages available under the Program shall be written pursuant to this Arrangement.

However, this restriction applies solely to policies providing only flood insurance. It does not apply to policies provided by the Company of which flood is one of the several perils covered, or where the flood insurance coverage amount is over and above the limits of liability available to the insured under the Program.

Article XIV—Access to Books and Records

The FIA and the Comptroller General of The United States, or their duly authorized representatives, for the purpose of investigation, audit, and examination shall have access to any books, documents, papers and records of the Company that are pertinent to this Arrangement. The Company shall keep records which fully disclose all matters pertinent to this Arrangement, including premiums and claims paid or payable under policies issued pursuant to this Arrangement. Records of accounts and records relating to financial assistance shall be retained and available for three (3) years after final settlement of accounts, and to financial assistance, three (3) years after final adjustment of such claims. The FIA shall have access to policyholder and claim records at all times for purposes of the review, defense, examination, adjustment, or investigation of any claim under a flood insurance policy subject to this Arrangement.

Article XV—Compliance with Act and Regulations

This Arrangement and all policies of insurance issued pursuant thereto shall be subject to the provisions of the National Flood Insurance Act of 1968, as amended, the Flood Disaster Protection Act of 1973, as amended, and Regulations issued pursuant thereto and all Regulations affecting the work that are issued pursuant thereto, during the term hereof.

Article XVI—Relationship Between the Parties (Federal Government and Company) and the Insured

Inasmuch as the Federal Government is a guarantor hereunder, the primary relationship between the Company and the Federal Government is one of a fiduciary nature, i.e., to assure that any taxpayer funds are accounted for and appropriately expended.

The Company is not the agent of the Federal Government. The Company is solely responsible for its obligations to its insured under any flood policy issued pursuant hereto.

In witness whereof, the parties hereto have accepted this Arrangement on this _____ day of _____ , 1995.

_____
Company

by _____

(Title) _____

The United States of America
Federal Emergency Management Agency

by _____

(Title) _____

EXHIBIT A—FEE SCHEDULE

Range (by covered loss)	Fee
Erroneous assignment	$40.00
Closed without payment	125.00

EXHIBIT A—FEE SCHEDULE—Continued

Range (by covered loss)	Fee
Minimum for Upton-Jones claims	800.00
$0.01 to $600.00	150.00
$600.01 to $1,000.00	175.00
$1,000.01 to $2,000.00	225.00
$2,000.01 to $3,500.00	275.00
$3,500.01 to $5,000.00	350.00
$5,000.01 to $7,000.00	425.00
$7,000.01 to $10,000.00	500.00
$10,000.01 to $15,000.00	550.00
$15,000.01 to $25,000.00	600.00
$25,000.01 to $35,000.00	675.00
$35,000.01 to $50,000.00	750.00
$50,000.01 to $100,000.00	1,000.00
$100,000.01 to $150,000.00	1,300.00
$150,000.01 to $200,000.00	1,600.00
$200,000.01 to limits	2,000.00

Allocated fee schedule entry value is the covered loss under the policy based on the standard deductibles ($500 and $500) and limited to the amount of insurance purchased.

Notice of Acceptance Form 1995–1996; Federal Emergency Management Agency; Federal Insurance Administration; Financial Assistance/Subsidy Arrangement (Arrangement)

Whereas, in 1995, there was published a Notice of Offer by the Federal Emergency Management Agency to enter into a Financial Assistance/Subsidy Arrangement (hereafter the Arrangement).

Whereas, the above cited Arrangement, as published in and reprinted from the **Federal Register**, does not provide sufficient space to type in the name of the Company.

Whereas, the Arrangement may include several individual companies within a Company Group and the Arrangement as published in and reprinted from the **Federal Register** does not provide sufficient space to type in a list of companies.

Therefore, the parties hereby agree that this Notice of Acceptance form is incorporated into and is an integral part of the entire Arrangement and is substituted in place of the signature block contained in the **Federal Register** under Article XVI of the Arrangement. The above mentioned Arrangement is effective in the States in which the insurance company (ies) listed below is (are) duly licensed to engage in the business of property insurance:

_____
_____
_____
_____
_____
_____

In witness whereof, the parties hereto have accepted this Arrangement on this _____ day of _____, 1995.

_____
Company
By: _____
Title: _____
The United States of America
Federal Emergency Management Agency
By: _____
Title: Federal Insurance Administrator
Dated: June 6, 1995.

Elaine A. McReynolds,

Administrator, Federal Insurance Administration.

[FR Doc. 95–14541 Filed 6–13–95; 8:45 am]
BILLING CODE 6718–05–P

Federal Register

Wednesday
June 14, 1995

Part V

The President

Proclamation 6809—Father's Day, 1995

Federal Register
Vol. 60, No. 114
Wednesday, June 14, 1995

Presidential Documents

Title 3—

The President

Proclamation 6809 of June 12, 1995

Father's Day, 1995

By the President of the United States of America

A Proclamation

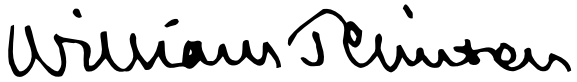
As children finish the school year and families begin to enjoy the long days of summer, Americans across the country reach out to their fathers in thanks. Every year, Father's Day gives us a chance to spend time with our families and to honor the bond between parent and child. It is a moment for dads to find joy in the blessings that fatherhood brings. And it is a day for remembering that children can grow up immeasurably stronger with the gift of a father's love.

The most fortunate among us can claim warm memories of our fathers' lessons—times when dads can be models of energy and patience. Whether encouraging their children in taking their first steps, riding a bike or meeting other challenges in life, fathers teach us the importance of balance and stand behind us until we're steady. Through the scrapes and self-doubts that every young person confronts, fathers can be our role models and heroes, soothing childhood fears and instilling the steady values of hard work and fair play. They are our guidance counselors and our best friends. Their faith inspires us to try again when we fail and fills us with pride when we succeed. As coaches and caregivers, teachers and workers, fathers who make parenthood a priority earn their families' lasting respect.

We Americans rely on our fathers for courage and compassion, and the security of having them with us gives us confidence in all of our endeavors. On this special day, let America's sons and daughters show their fathers that they care. Let us continue to strive for a world in which every child grows up safe—a world in which every child knows that though they may feel sometimes unsteady, their fathers are behind them always.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, in accordance with a joint resolution of the Congress approved April 24, 1972 (36 U.S.C. 142a), do hereby proclaim Sunday, June 18, 1995, as ''Father's Day.'' I invite the States, communities, and citizens of the United States to observe this day with appropriate ceremonies and activities that demonstrate our deep appreciation and affection for our fathers.

IN WITNESS WHEREOF, I have hereunto set my hand this twelfth day of June, in the year of our Lord nineteen hundred and ninety-five, and of the Independence of the United States of America the two hundred and nineteenth.



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Billing code 3195–01–P

Reader Aids

Federal Register

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Wednesday, June 14, 1995

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FEDERAL REGISTER PAGES AND DATES, JUNE

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