4–10–96
Vol. 61 No. 70
Pages 15875–16042

# federal register

Wednesday
April 10, 1996

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# Rules and Regulations

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

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

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### 7 CFR Part 58

**[DA–91–010B]**

### Grading and Inspection, General Specifications for Approved Plants and Standards for Grades of Dairy Products; United States Standards for Grades of Monterey (Monterey Jack) Cheese

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This document revises the United States Standards for Grades of Monterey (Monterey Jack) Cheese. The final rule action revises the standards to recognize differences in cheese characteristics resulting from technological changes in manufacturing practices and to more accurately describe consumer-acceptable product. The revision expands the permissible range of open body characteristics to include monterey (monterey jack) cheese manufactured using automated equipment. The revision was initiated at the request of the National Cheese Institute (NCI) and was developed in cooperation with NCI and other dairy trade associations.

**EFFECTIVE DATE:** May 10, 1996.

**FOR FURTHER INFORMATION CONTACT:** Roland S. Golden, Dairy Products Marketing Specialist, Dairy Standardization Branch, USDA/AMS/Dairy Division, Room 2750–S, P.O. Box 96456, Washington, DC 20090–6456, (202) 720–7473.

**SUPPLEMENTARY INFORMATION:** This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This rule does not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

The final rule also has been reviewed in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* The Administrator, Agricultural Marketing Service, has determined that the final rule does not have a significant economic impact on a substantial number of small entities because use of the standards is voluntary and the revision does not increase costs to those utilizing the standards.

The Department is issuing this rule in conformance with Executive Order 12866.

To recognize differences in cheese characteristics resulting from technological changes in the manufacture of monterey (monterey jack) cheese and to permit the assignment of U.S. grade to cheese manufactured utilizing this technology, USDA has revised the U.S. Standards for Grades of Monterey (Monterey Jack) Cheese. The revised standards have received general support from many manufacturers of monterey (monterey jack) cheese and dairy trade associations representing the cheese industry.

In view of the need for revised standards, the Department published on March 3, 1995 (60 FR 11919) a proposal to revise the United States Standards for Grades of Monterey (Monterey Jack) Cheese. The standards contained in this final rule are the same as those set forth in the proposal. The new standards establish the following:

*1. Expand Body and Texture Criteria To Permit U.S. Grade Assignment to Monterey (Monterey Jack) Cheese That Contains Less Than Numerous Mechanical Openings*

The current U.S. Standards for Grades of Monterey (Monterey Jack) Cheese became effective in 1973. When these standards were established, production procedures encouraged the formation of numerous small mechanical openings evenly distributed throughout the cheese. Since then, automated manufacturing processes have been developed which have altered traditional body characteristics. Monterey (monterey jack) cheese that is produced using automated production technology has resulted in cheese that no longer exhibits numerous mechanical openings. Cheese produced in this manner is readily available and is capturing an increasing share of the monterey cheese market. Changes in body characteristics have not altered the flavor or reduced the useability of the cheese.

Changes in the standards provide for the assignment of U.S. grades to monterey (monterey jack) cheese that contains less than numerous mechanical openings or that may be completely devoid of mechanical openings. These changes do not disallow mechanical openings in cheese produced using traditional production methods.

*2. Modify the Body Characteristics by Allowing ''Very Slight Weak'' in U.S. Grade AA Monterey (Monterey Jack) Cheese*

Compositional standards permit monterey (monterey jack) cheese to contain up to 44 percent moisture. Cheese that contains this moisture content is classified as a semisoft cheese. A very slight weak body is an acceptable characteristic in this class of cheese. The final rule adds ''very slight weak'' to the list of permissible body characteristics for U.S. Grade AA Monterey (Monterey Jack) Cheese.

*3. Increase the Minimum Aging Period Before Monterey (Monterey Jack) Cheese Can Be Graded From 5 to 10 Days*

In order to accurately evaluate cheese quality, the cheese must have completed an aging period during which quality characteristics develop. All U.S. grade standards for various other varieties of cheese require an aging period to be at least 10 days. Changes established in the final rule increase the accuracy in determining U.S. grade for monterey (monterey jack) cheese by allowing cheese quality characteristics to develop to a greater extent. This change provides consistency with the age requirements prescribed for other types of cheese.

*4. Permit the Use of Safe and Suitable Antimycotics on the Surface of Monterey (Monterey Jack) Cheese, as Sanctioned by the Food and Drug Administration*

The Food and Drug Administration (FDA) has amended the Standards of Identity for Monterey Cheese and Monterey Jack cheese (21 CFR Part 133, Cheese and Related Cheese Products,'' as issued by the Food and Drug Administration) to permit the use of

antimycotics on the surface of the cheese. The National Cheese Institute, a trade association representing U.S. cheese manufacturers, had petitioned FDA to permit the broader use of safe and suitable antimycotics. Previously, use was permitted only on cuts and slices in consumer-size packages for a number of standardized cheeses.

The provision for the use of antimycotics is beneficial in preventing or inhibiting mold development on the surface of monterey (monterey jack) cheese.

*5. Redefine Packaging Requirements*

Changes in packaging requirements provide greater clarity and expands the types of packaging methods permitted. The general-type packaging requirements outlined recognize the packaging methods (such as rinded and paraffin-dipped, rindless and wrapped, and rindless and paraffin-dipped) that are used in the cheese industry today, and provide latitude for future developments in packaging technology.

*6. Update the Terminology and Format of the Standards*

The U.S. Standards for Grades of Monterey (Monterey Jack) Cheese were established in 1973. Since that time, changes in terminology and formatting of standards have taken place. This revision updates the standards to provide consistency among the various U.S. grade standards for cheeses.

USDA grade standards are voluntary standards that are developed pursuant to the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 *et seq.*) to facilitate the marketing process. Manufacturers of dairy products are free to choose whether or not to use these grade standards. USDA grade standards for dairy products have been developed to identify the degree of quality in the various products. Quality in general refers to usefulness, desirability, and value of the product—its marketability as a commodity. When monterey (monterey jack) cheese is officially graded, the USDA regulations and standards governing the grading of manufactured or processed dairy products are used. These regulations also require a charge for the grading service provided by USDA. The Agency believes this revision more accurately identifies the useful quality characteristics of monterey (monterey jack) cheese.

Public Comments

On March 3, 1995, the Department published a proposed rule (60 FR 11919) to revise the United States Standards for Grades of Monterey (Monterey Jack) Cheese. The public comment period closed May 2, 1995. Comments were received from one monterey (monterey jack) cheese manufacturer.

Discussion of Comments

1. The commenter is concerned that expanding the body and texture criteria to permit U.S. Grade assignment to monterey (monterey jack) cheese which has altered traditional body characteristics due to automated manufacturing process lowers the standards for monterey (monterey jack) cheese.

United States grade standards assist the orderly marketing of dairy products by establishing requirements to describe quality in monterey (monterey jack) cheese. To be of greatest value, these standards must accurately describe quality in monterey (monterey jack) cheese available in the market. Changes in manufacturing procedures have resulted in monterey (monterey jack) cheese that does not exhibit the numerous mechanical openings found in monterey (monterey jack) cheese produced according to traditional manufacturing procedures. Cheese without numerous mechanical openings is currently available and consumer acceptance is evident by its increasing availability. Changes in the U.S. grade standards will more accurately define quality in consumer-acceptable product and permit the assignment of U.S. grade to more cheese currently available in the market. Cheese made by traditional methods with numerous mechanical openings is still accepted in the market and will meet the U.S. grade standards.

2. The commenter is concerned that allowing ''very slight weak'' body in U.S. Grade AA Monterey (Monterey Jack) Cheese would alter the high moisture cheese classification of the cheese.

Monterey (Monterey jack) cheese is allowed a maximum moisture content of 44 percent by weight. Cheese with this amount of moisture content will naturally have a very slight weak body. By allowing a very slight weak body in U.S. Grade AA Monterey (Monterey Jack) Cheese, cheese made by traditional methods or made by other methods that produce a similar cheese would be acceptable.

3. The commenter expressed concern that accepting monterey (monterey jack) cheese made by automated manufacturing processes would put the small manufacturers at an economic disadvantage.

United States grade standards define quality in manufactured dairy products and do not require particular manufacturing procedures. The value of monterey (monterey jack) cheese is established by the manufacturer based on cost of production and its market value. This action expands the scope of the U.S. Standards for Grades of Monterey (Monterey Jack) Cheese to include expanded high-quality monterey (monterey jack) cheese produced for today's market.

List of Subjects in 7 CFR Part 58

Dairy products, Food grades and standards, Food labeling, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR Part 58 is amended as follows:

## PART 58—[AMENDED]

1. The authority citation for 7 CFR Part 58 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

2. Subpart I—United States Standards for Grades of Monterey (Monterey Jack) Cheese is revised to read as follows:

### Subpart I—United States Standards for Grades of Monterey (Monterey Jack) Cheese

Definitions

Sec.
58.2465 Monterey (Monterey Jack) cheese.
58.2466 Types of surface protection.

U.S. Grades

58.2467 Nomenclature of U.S. grades.
58.2468 Basis for determination of U.S. grade.
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58.2470 U.S. grade not assignable.

Explanation of Terms

58.2471 Explanation of terms.

## Subpart I—United States Standards for Grades of Monterey (Monterey Jack) Cheese [1]

Definitions

### § 58.2465 Monterey (Monterey Jack) cheese.

*Monterey (Monterey Jack) cheese* is cheese made by the monterey process or by any other procedure which produces a finished cheese having the same organoleptic, physical, and chemical properties as the cheese produced by the monterey process. The cheese is made from pasteurized cow's milk. It may contain added common salt and contains not more than 44 percent moisture, its total solids content is not less than 50 percent milkfat, and it conforms to the applicable provisions of

[1] Compliance with these standards does not excuse failure to comply with the provisions of the Federal Food, Drug and Cosmetic Act.

21 CFR Part 133, ''Cheeses and Related Cheese Products,'' as issued by the Food and Drug Administration.

**§ 58.2466 Types of surface protection.**

The following are the types of surface protection for monterey (monterey jack) cheese:

(a) *Rinded and paraffin-dipped.*

The cheese that has formed a rind is dipped in a refined paraffin, amorphous wax, microcrystalline wax, or other suitable substance. Such coating is a continuous, unbroken, and uniform film adhering tightly to the entire surface of the cheese rind.

(b) *Rindless.*

(1) *Wrapped.* The cheese is completely enveloped in a tight-fitting wrapper or other protective covering, which is sealed with sufficient overlap or satisfactory closure. The wrapper or covering shall not impart color or objectionable taste or odor to the cheese. The wrapper or covering shall be of sufficiently low permeability to air so as to prevent the formation of a rind.

(2) *Paraffin-dipped.* The cheese is dipped in a refined paraffin, amorphous wax, microcrystalline wax, or other suitable substance. The paraffin shall be applied so that it is continuous, unbroken, and uniformly adheres tightly to the entire surface. If a wrapper or coating is applied to the cheese prior to paraffin dipping, it shall completely envelop the cheese and not impart color or objectionable taste or odor to the cheese.

(c) If antimycotics are used, they shall be used in accordance with the provisions of Food and Drug Administration regulations (21 CFR Part 133).

U.S. Grades

**§ 58.2467 Nomenclature of U.S. grades.**

The nomenclature of U.S. grades is as follows:

(a) U.S. Grade AA.

(b) U.S. Grade A.

(c) U.S. Grade B.

**§ 58.2468 Basis for determination of U.S. grade.**

(a) The cheese shall be graded no sooner than 10 days of age.

(b) The rating of each quality factor shall be established on the basis of characteristics present in any vat of cheese.

(c) The U.S. grades of monterey (monterey jack) cheese are determined on the basis of rating the following quality factors:

(1) Flavor.

(2) Body and Texture.

(3) Color.

(4) Finish and Appearance.

(d) The final U.S. grade shall be determined on the basis of the lowest rating of any one of the quality factors.

**§ 58.2469 Specifications for U.S. grades.**

The general requirements for the U.S. Grades of Monterey (Monterey Jack) Cheese are as follows:

(a) *U.S. Grade AA.* U.S. Grade AA Monterey (Monterey Jack) Cheese shall conform to the following requirements (See Tables I, II, III, and IV of this section):

(1) *Flavor.* The cheese shall possess a fine and highly pleasing monterey (monterey jack) cheese flavor which is free from undesirable tastes and odors; or may be lacking in flavor development. The cheese may possess a very slight acid or feed flavor. See Table I of this section.

(2) *Body and Texture.* A plug drawn from the cheese shall be reasonably firm. Dependent upon the method of manufacture, a satisfactory plug may exhibit evenly distributed small mechanical openings or a close body. The cheese shall be free from sweet holes, yeast holes, or other gas holes. The body may be very slightly weak, and the texture may be definitely curdy. See Table II of this section.

(3) *Color.* The color shall be natural, uniform, and bright. See Table III of this section.

(4) *Finish and appearance.*

(i) *Rinded and paraffin-dipped.* The bandage shall be evenly placed over the entire surface of the cheese and be free from unnecessary overlapping and wrinkles, and not burst or torn. The rind shall be sound, firm, smooth, and provide good protection to the cheese. The surface shall be smooth, bright, and have a good coating of wax or coating of paraffin that adheres firmly to all surfaces. The cheese shall be free from mold under the paraffin. The cheese shall be free from high edges, huffing, or lopsidedness, but may possess soiled surface to a very slight degree. See Table IV of this section.

(ii) *Rindless and wrapped.* The wrapper or covering shall be practically smooth and properly sealed with adequate overlapping at the seams or sealed by any other satisfactory type of closure. The wrapper or covering shall be neat and shall adequately and securely envelop the cheese, but may be slightly wrinkled. Allowance should be made for slight wrinkles caused by crimping or sealing when vacuum packaging is used. The cheese shall be free from mold under the wrapper or covering and shall not be huffed or lopsided. See Table IV of this section.

(iii) *Rindless and paraffin-dipped.* The cheese surface shall be smooth, bright, and have a good coating of paraffin that adheres firmly. If a wrapper or coating is applied prior to paraffin dipping, it shall completely envelop the cheese. The cheese shall be free from high edges, huffing, lopsidedness, or mold. The cheese may possess soiled surface to a very slight degree. The wrapper may be wrinkled to a slight degree. See Table IV of this section.

(b) *U.S. Grade A.* U.S. Grade A Monterey (Monterey Jack) Cheese shall conform to the following requirements (See Tables I, II, III, and IV of this section):

(1) *Flavor.* The cheese shall possess a pleasing monterey (monterey jack) cheese flavor which is free from undesirable tastes and odors; or may be lacking in flavor development. The cheese may possess bitter or flat flavor to a very slight degree; and acid or feed flavor to a slight degree. See Table I of this section.

(2) *Body and texture.* A plug drawn from the cheese shall be reasonably firm. Dependent upon the method of manufacture, a satisfactory plug may exhibit evenly distributed mechanical openings or a close body. The plug shall be free from sweet holes, yeast holes, or other gas holes. The body and texture may be very slightly weak or loosely knit, and definitely curdy. See Table II of this section.

(3) *Color.* The color shall be natural, fairly uniform, and bright. The cheese may possess waviness to a very slight degree. See Table III of this section.

(4) *Finish and appearance.*

(i) *Rinded and paraffin-dipped.* The bandage shall be evenly placed over the entire surface of the cheese and not be burst or torn. The rind shall be sound, firm, smooth, and provide good protection to the cheese. The surface shall be practically smooth, bright, and have a good coating of paraffin that adheres firmly to all surfaces. The cheese shall be free from mold under the paraffin. The cheese may possess the following characteristics to a very slight degree: Soiled surface or surface mold; and to a slight degree: High edges, irregular press cloth, lopsided, or rough surface. See Table IV of this section.

(ii) *Rindless and wrapped.* The wrapper or covering shall be practically smooth, properly sealed with adequate overlapping at the seams or sealed by any other satisfactory type of closure. The wrapper or covering shall be neat and adequately and securely envelop the cheese but may be slightly wrinkled. Allowance should be made for slight wrinkles caused by crimping or sealing when vacuum packaging is used. The cheese shall be free from mold under

the wrapper or covering and shall not be huffed but may possess to a slight degree: High edges, irregular press cloth, lopsided, or rough surface. See Table IV of this section.

(iii) *Rindless and paraffin-dipped.* The cheese surface shall be bright and have a good coating of paraffin that adheres firmly. If a wrapper or coating is applied prior to paraffin dipping, it shall completely envelop the cheese and have a good coating of paraffin that adheres firmly. The cheese may possess soiled surface to a very slight degree but shall be free from mold, and it may possess to a slight degree: High edges, irregular press cloth, lopsided, rough surface, or wrinkled wrapper or covering. See Table IV of this section.

(c) *U.S. Grade B.* U.S. Grade B Monterey (Monterey Jack) Cheese shall conform to the following requirements (See Tables I, II, III, and IV of this section):

(1) *Flavor.* The cheese may possess a fairly pleasing monterey (monterey jack) cheese flavor; or it may be lacking in flavor development. The cheese may possess onion or sour flavor to a very slight degree; barny, bitter, flat, fruity, malty, old milk, rancid, utensil, weedy, whey-taint, or yeasty flavor to a slight degree; and acid or feed flavor to a definite degree. See Table I of this section.

(2) *Body and texture.* A plug drawn from the cheese shall be moderately firm. Dependent upon the method of manufacture, a satisfactory plug may exhibit mechanical openings or a close body. The cheese may possess the following characteristics to a slight degree: Coarse, corky, crumbly, gassy, loosely knit, mealy, pasty, short, slitty, sweet holes, or weak; and the following to a definite degree: Curdy. See Table II of this section.

(3) *Color.* The cheese may possess the following characteristics to a slight degree: Acid-cut, dull, faded, mottled, salt spots, unnatural, or wavy. In addition, rindless monterey cheese may have a bleached surface to a slight degree. See Table III of this section.

(4) *Finish and appearance.*

(i) *Rinded and paraffin-dipped.* The bandage shall be placed over the entire surface of the cheese and may be uneven and wrinkled, but not burst or torn. The rind shall be reasonably sound and free from soft spots, rind rot, cracks, or openings of any kind. The surface may be rough and unattractive but shall possess a fairly good coating of paraffin. The paraffin may be scaly or blistered, with very slight mold under the bandage or paraffin, but there shall be no indication that mold has entered the cheese. The cheese may possess the following characteristics to a slight degree: Checked rind, defective coating, soiled surface, sour rind, surface mold, or weak rind; and to a definite degree: High edges, irregular press cloth, lopsided, or rough surface. See Table IV of this section.

(ii) *Rindless and wrapped.* The wrapper or covering shall be unbroken and shall adequately and securely envelop the cheese. The following may be present to a very slight degree: Mold under the wrapper but not entering the cheese; to a slight degree: Soiled surface or surface mold; and to a definite degree: High edges, irregular press cloth, lopsided, rough surface, or wrinkled wrapper or cover. See Table IV of this section.

(iii) *Rindless and paraffin-dipped.* The wrapper or coating applied prior to paraffin dipping shall adequately and securely envelop the cheese and have a coating of paraffin that adheres firmly to the cheese wrapper and shall be unbroken but may be definitely wrinkled. The paraffin may be scaly or blistered, with very slight mold under the paraffin, but there shall be no indication that mold has entered the cheese. The cheese may possess the following characteristics to a slight degree: Defective coating, soiled surface, or surface mold; and the following to a definite degree: High edges, irregular press cloth, lopsided, rough surface, or wrinkled wrapper or covering. See Table IV of this section.

TABLE I.—CLASSIFICATION OF FLAVOR WITH CORRESPONDING U.S. GRADE

| Flavor characteristics | AA | A | B |
|---|---|---|---|
| Acid | VS | S | D |
| Barny | - | - | S |
| Bitter | - | VS | S |
| Feed | VS | S | D |
| Flat | - | VS | S |
| Fruity | - | - | S |
| Malty | - | - | S |
| Old milk | - | - | S |
| Onion | - | - | VS |
| Rancid | - | - | S |
| Sour | - | - | VS |
| Utensil | - | - | S |
| Weedy | - | - | S |
| Whey-taint | - | - | S |
| Yeasty | - | - | S |

- = Not permitted VS = Very Slight S = Slight D = Definite.

TABLE II.—CLASSIFICATION OF BODY AND TEXTURE WITH CORRESPONDING U.S. GRADE

| Body and texture characteristics | AA | A | B |
|---|---|---|---|
| Coarse | - | - | S |
| Corky | - | - | S |
| Crumbly | - | - | S |
| Curdy | D | D | D |
| Gassy | - | - | S |
| Loosely knit | - | VS | S |
| Mealy | - | - | S |
| Pasty | - | - | S |
| Short | - | - | S |

TABLE II.—CLASSIFICATION OF BODY AND TEXTURE WITH CORRESPONDING U.S. GRADE—Continued

| Body and texture characteristics | AA | A | B |
|---|---|---|---|
| Slitty | - | - | S |
| Sweet holes | - | - | S |
| Weak | VS | VS | S |

- = Not permitted VS = Very Slight S = Slight D = Definite.

TABLE III.—CLASSIFICATION OF COLOR WITH CORRESPONDING U.S. GRADE

| Color characteristics | AA | A | B |
|---|---|---|---|
| Acid-cut | - | - | S |
| Bleached surface (rindless) | - | - | S |
| Dull or faded | - | - | S |
| Mottled | - | - | S |
| Salt spots | - | - | S |
| Unnatural | - | - | S |
| Wavy | - | VS | S |

- = Not permitted VS = Very Slight S = Slight D = Definite.

TABLE IV.—CLASSIFICATION OF FINISH AND APPEARANCE WITH CORRESPONDING U.S. GRADE

| Finish and appearance characteristics | AA | A | B |
|---|---|---|---|
| Rindless: | | | |
| Defective coating (paraffin-dipped: scaly, blistered, and checked). | - | - | S |
| High edges | - | S | D |
| Irregular press cloth (uneven, wrinkled, and improper overlapping) | - | S | D |
| Lopsided | - | S | D |
| Mold under wrapper or covering | - | - | VS |
| Rough surface | - | S | D |
| Soiled surface | - | - | S |
| Soiled surface (paraffin-dipped) | VS | VS | S |
| Surface mold | - | - | S |
| Wrinkled wrapper or covering | S | S | D |
| Rinded: | | | |
| Checked rind | - | - | S |
| Defective coating (scaly, blistered, and checked) | - | - | S |
| High edges | - | S | D |
| Irregular press cloth (uneven, wrinkled, and improper overlapping) | - | S | D |
| Lopsided | - | S | D |
| Mold under paraffin | - | - | VS |
| Rough surface | - | S | D |
| Soiled surface | VS | VS | S |
| Sour rind | - | - | S |
| Surface mold | - | VS | S |
| Weak rind | - | - | S |

- = Not permitted VS = Very Slight S = Slight D = Definite.

**§ 58.2470 U.S. grade not assignable.**

Monterey (Monterey Jack) cheese shall not be assigned a U.S. grade for one or more of the following reasons:

(a) The cheese fails to meet or exceed the requirements for U.S. Grade B.

(b) The cheese is produced in a plant that is rated ineligible for USDA grading service or is not USDA-approved.

Explanation of terms

**§ 58.2471 Explanation of Terms.**

(a) *With respect to types of surface protection:*

(1) *Paraffin.* Refined paraffin, amorphous wax, microcrystalline wax, or any combination of such or any other suitable substance.

(2) *Paraffin dipped.* Cheese that has been coated with paraffin.

(3) *Rind.* A hard coating caused by the dehydration of the surface of the cheese.

(4) *Rinded.* A protection developed by the formation of a rind.

(5) *Rindless.* Cheese which has not formed a rind due to the impervious type of wrapper, covering, or container, enclosing the cheese.

(6) *Wrapped.* Cheese that has been covered with a transparent or opaque material (plastic film type or foil) next to the surface of the cheese.

(7) *Wrapper or covering.* A plastic film or foil material next to the surface of the cheese, used as an enclosure or covering of the cheese.

(b) *With respect to flavor:*

(1) *Very slight.* Detected only upon very critical examination.

(2) *Slight.* Detected only upon critical examination.

(3) *Definite.* Not intense but detectable.

(4) *Undesirable.* Those listed in excess of the intensity permitted or those characterizing flavors not listed.

(5) *Acid.* Sharp and puckery to the taste, characteristic of lactic acid.

(6) *Barny.* A flavor characteristic of the odor of a poorly ventilated cow barn.

(7) *Bitter.* Distasteful, similar to the taste of quinine.

(8) *Feed.* Feed flavors (such as alfalfa, sweetclover, silage, or similar feed) in

milk which have carried through into the cheese.

(9) *Flat.* Insipid, practically devoid of any characteristic monterey (monterey jack) cheese flavor.

(10) *Fruity.* A fermented, sweet, fruit-like flavor resembling apples.

(11) *Lacking in flavor development.* No undesirable and very little, if any, monterey (monterey jack) cheese flavor development.

(12) *Malty.* A distinctive, harsh flavor suggestive of malt.

(13) *Old milk.* Lacks freshness.

(14) *Onion.* A flavor recognized by the peculiar taste and aroma suggestive of its name. Present in milk or cheese when the cows have eaten onions, garlic, or leeks.

(15) *Rancid.* A flavor suggestive of rancidity or butyric acid; sometimes associated with bitterness.

(16) *Sour.* An acid, pungent flavor resembling vinegar.

(17) *Utensil.* A flavor that is suggestive of improper or inadequate washing and sterilization of milking machines, utensils, or factory equipment.

(18) *Weedy.* A flavor present in cheese when cows have eaten weedy hay or grazed on weed-infested pasture.

(19) *Whey-taint.* A slightly acid flavor characteristic of fermented whey.

(20) *Yeasty.* A flavor indicating yeast fermentation.

(c) *With respect to body and texture:*

(1) *Very slight.* Detected only upon very critical examination and present only to a minute degree.

(2) *Slight.* Barely identifiable and present only to a small degree.

(3) *Definite.* Readily identifiable and present to a substantial degree.

(4) *Coarse.* Feels rough, dry, and sandy.

(5) *Corky.* Hard, tough, over-firm cheese which does not readily break down when rubbed between the thumb and fingers.

(6) *Crumbly.* Tends to fall apart when rubbed between the thumb and fingers.

(7) *Curdy.* Smooth but firm; when worked between the fingers is rubbery and not waxy or broken down.

(8) *Firm.* Feels solid, not soft or weak.

(9) *Gassy.* Gas holes of various sizes and may be scattered.

(10) *Loosely knit.* Curd particles which are not well-matted and fused together.

(11) *Mealy.* Short body, does not mold well and looks and feels like corn meal when rubbed between the thumb and fingers.

(12) *Mechanical openings.* Irregular shaped openings that are caused by variations in make procedure and not caused by gas fermentation.

(13) *Pasty.* Is usually a weak body and when the cheese is rubbed between the thumb and fingers becomes sticky and smeary.

(14) *Pinny.* Numerous very small gas holes.

(15) *Reasonably firm.* Somewhat less firm but not to the extent of being weak.

(16) *Short.* No elasticity in the cheese plug and when rubbed between the thumb and fingers, the cheese tends toward mealiness.

(17) *Slitty.* Narrow, elongated slits generally associated with a cheese that is gassy or yeasty. These slits may sometimes be referred to as ''fish-eyes.''

(18) *Sweet holes.* Spherical gas holes which are glossy in appearance and usually about the size of BB shots. These gas holes are sometimes referred to as ''shot holes.''

(19) *Weak.* The cheese plug is soft but is not necessarily sticky like a pasty cheese and requires little pressure to crush.

(d) *With respect to color:*

(1) *Very slight.* Detected only upon very critical examination and present only to a minute degree.

(2) *Slight.* Barely identifiable and present only to a small degree.

(3) *Acid-cut.* A bleached or faded color which sometimes varies throughout the cheese and appears most often around mechanical openings.

(4) *Bleached surface.* A faded color beginning at the surface and progressing inward.

(5) *Dull or faded.* A color condition lacking in luster or translucency.

(6) *Mottled.* Irregular shaped spots or blotches in which portions are not uniform in color. Also an unevenness of color due to combining the curd from two different vats, sometimes referred to as ''mixed curd.''

(7) *Natural.* White to light cream in color.

(8) *Salt spots.* Large light-colored spots or areas.

(9) *Unnatural.* Any color which is not white to light cream.

(10) *Wavy.* An unevenness of color which appears as layers or waves.

(e) *With respect to finish and appearance:*

(1) *Very slight.* Detected only upon very critical examination and present to a minute degree.

(2) *Slight.* Barely identifiable and present to a small degree.

(3) *Definite.* Readily identifiable and present to a substantial degree.

(4) *Adequately and securely enveloped.* The wrapper or covering is properly sealed and entirely encloses the cheese with sufficient adherence to the surface of the cheese to protect it from contamination or dehydration.

(5) *Bandage.* Cheese cloth used to wrap cheese prior to dipping in paraffin.

(6) *Bandage evenly placed.* Placement of the bandage so that it completely envelops the cheese and overlaps evenly about one inch.

(7) *Bright surface.* Clean, glossy surface.

(8) *Burst or torn bandage.* A severance of the bandage usually occurring at the side seam; or when the bandage is otherwise snagged or broken.

(9) *Checked rind.* Numerous small cracks or breaks in the rind which sometimes follows the outline of curd particles.

(10) *Defective coating.* A brittle coating of paraffin that breaks and peels off in the form of scales or flakes; flat or raised blisters or bubbles under the surface of the paraffin; checked paraffin, including cracks, breaks or hairline checks in the paraffin or coating of the cheese.

(11) *Firm sound rind.* A rind possessing a firmness and thickness (not easily dented or damaged) consistent with the size of the cheese and which is dry, smooth, and closely knit, sufficient to protect the interior quality from external defects; free from checks, cracks, breaks, or soft spots.

(12) *High edge.* A rim or ridge on the side of the cheese.

(13) *Huffed.* A block of cheese which is swollen because of gas fermentation. The cheese becomes rounded or oval in shape instead of having flat surfaces.

(14) *Irregular press cloth.* Press cloth improperly placed in the hoop resulting in too much press cloth on one end and insufficient on the other causing overlapping; wrinkled and loose fitting.

(15) *Lopsided.* One side of the cheese is higher than the other side.

(16) *Mold under bandage and paraffin.* Mold spots or areas under the paraffin.

(17) *Mold under wrapper or covering.* Mold spots or areas under the wrapper or covering.

(18) *Rind rot.* Soft spots on the rind that have become discolored and are decayed or decomposed.

(19) *Rough Surface.* Lacks smoothness.

(20) *Smooth surface.* Not rough or uneven.

(21) *Soft spots.* Areas soft to the touch and which are usually faded and moist.

(22) *Soiled surface.* Milkstone, rust spots, or other discoloration on the surface of the cheese.

(23) *Sour rind.* A fermented rind condition, usually confined to the faces of the cheese.

(24) *Surface mold.* Mold on the exterior of the paraffin or wrapper.

(25) *Wax or paraffin that adheres firmly to the surface of the cheese.* A

coating with no cracks, breaks, or loose areas.

(26) *Weak rind.* A thin rind which possesses little or no resistance to pressure.

Dated: April 4, 1996.

Lon Hatamiya,

*Administrator.*

[FR Doc. 96–8930 Filed 4–9–96; 8:45 am]

BILLING CODE 3410–02–P

## Commodity Credit Corporation

## 7 CFR Part 1435

**RIN 0560–AE44**

## 1995–Crop Sugarcane and Sugar Beet Price Support Loan Rates

**AGENCY:** Commodity Credit Corporation, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Sugar Price-Support Program is conducted by the Commodity Credit Corporation (CCC) in accordance with section 206 of the Agricultural Act of 1949, as amended (the 1949 Act). This final rule amends the regulation by setting forth 1995-crop loan rates to be used in administering the Sugar Price-Support Program. The national (weighted-average) loan rate for 1995-crop raw cane sugar shall be 18.00 cents per pound. The national (weighted-average) loan rate for 1995-crop refined beet sugar shall be 22.90 cents per pound.

**EFFECTIVE DATES:** April 10, 1996.

**FOR FURTHER INFORMATION CONTACT:** Daniel Colacicco, Farm Service Agency, United States Department of Agriculture (USDA), Ag Box 0516, P.O. Box 2415, Washington, DC 20013–2415, telephone 202–690–0734.

**SUPPLEMENTARY INFORMATION:**

Executive Order 12866

This rule has been determined to be economically significant and was reviewed by OMB under Executive Order 12866.

Final Regulatory Impact Analysis

The Final Regulatory Impact Analysis describing the impact of implementation of this rule is available on request from the above-named individual.

Federal Assistance Program

The title and number of the Federal Assistance Program, as found in the catalogue of Federal Domestic Assistance, to which this final rule applies are Commodity Loans and Purchases—10.051.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable because the CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Environmental Evaluation

An Environmental Evaluation with respect to the price-support loan program has been completed. It has been determined that this action will not adversely affect environmental factors such as wildlife habitat, water quality, air quality, land use, and appearance. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Paperwork Reduction Act

The amendments to 7 CFR part 1435 set forth in this final rule do not contain information collection requirements that require clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 (44 U.S.C. 35).

Executive Order 12778

This final rule has been reviewed in accordance with Executive Order 12778. The provisions of this final rule preempt State laws to the extent such laws are inconsistent with the provisions of this final rule; are not retroactive; and are not subject to administrative appeal remedies.

Background

This final rule amends 7 CFR part 1435 to set forth the 1995 national price-support levels for use in administering CCC sugar price-support programs. Section 206 of the 1949 Act provides that the Secretary of Agriculture (Secretary) shall support the price of the 1991 through 1997 domestically grown crops of sugarcane and sugar beets through nonrecourse loans. Section 206 further provides that the Secretary shall support the price of domestically grown sugarcane at such level as the Secretary determines appropriate, but not less than 18 cents per pound for raw cane sugar. The Secretary also is required to support the price of domestically grown sugar beets at a level equal to the sugarcane support level multiplied by the ratio of producer returns for sugar beets to producer returns for sugarcane, for the most recent 5-year period for which data are available, plus an amount that covers sugar beet processor fixed marketing expenses.

List of Subjects in 7 CFR Part 1435

Loan programs/agriculture, Price-support programs, Reporting and recordkeeping requirements, Sugar.

Accordingly, 7 CFR part 1435 is amended as follows:

## PART 1435—SUGAR

1. The authority citation for 7 CFR part 1435 continues to read as follows:

Authority: 7 U.S.C. 1421, 1423, 1446g; 15 U.S.C. 714b and 714c.

2. Section 1435.4 is amended by redesignating paragraph (e) as paragraph (f) and adding a new paragraph (e) to read as follows:

**§ 1435.4 Method of support and loan rates.**

* * * * *

(e) The basic (weighted average) loan rates for the 1995 crops of domestically grown:

(1) Sugarcane shall be 18 cents per pound of raw cane sugar; and

(2) Sugar beets shall be 22.90 cents per pound of refined beet sugar.

* * * * *

Signed in Washington, DC, on April 4, 1996.

Bruce R. Weber,

*Acting Executive Vice President, Commodity Credit Corporation.*

[FR Doc. 96–8928 Filed 4–9–96; 8:45 am]

BILLING CODE 3410–05–P

## Animal and Plant Health Inspection Service

## 9 CFR Part 78

**[Docket No. 95–074–2]**

## Validated Brucellosis-Free States; Georgia

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Affirmation of interim rule as final rule.

**SUMMARY:** We are adopting as a final rule, without change, an interim rule that amended the brucellosis regulations concerning the interstate movement of swine by adding Georgia to the list of validated brucellosis-free States. We have determined that Georgia meets the criteria for classification as a validated brucellosis-free State. The interim rule relieved certain restrictions on the

interstate movement of breeding swine from Georgia.

**EFFECTIVE DATE:** The interim rule was effective on December 29, 1995.

**FOR FURTHER INFORMATION CONTACT:** Dr. Arnold Taft, Senior Staff Veterinarian, National Animal Health Programs, VS, APHIS, suite 3B08, 4700 River Road Unit 43, Riverdale, MD 20737–1231, (301) 734–4916; or e-mail: ataft@aphis.usda.gov.

**SUPPLEMENTARY INFORMATION:**

Background

In an interim rule effective and published in the Federal Register on December 29, 1995 (60 FR 67320–67321, Docket No. 95–074–1), we amended the brucellosis regulations in 9 CFR Part 78 by adding Georgia to the list of validated brucellosis-free States in § 78.43.

Comments on the interim rule were required to be received on or before February 27, 1996. We did not receive any comments. The facts presented in the interim rule still provide a basis for the rule.

This action also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Orders 12372 and 12778, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived the review process required by Executive Order 12866.

List of Subjects in 9 CFR Part 78

Animal diseases, Bison, Cattle, Hogs, Quarantine, Reporting and recordkeeping requirements, Transportation.

## PART 78—BRUCELLOSIS

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 9 CFR Part 78 and that was published at 60 FR 67320–67321 on December 29, 1995.

Authority: 21 U.S.C. 111–114a–1, 114g, 115, 117, 120, 121, 123–126, 134b, and 134f; 7 CFR 2.22, 2.80, and 371.2(d).

Done in Washington, DC, this 4th day of April 1996.

Lonnie J. King,

*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 96–8903 Filed 4–9–96; 8:45 am]

**BILLING CODE 3410–34–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. 96–NM–55–AD; Amendment 39–9562; AD 96–07–51]**

### Airworthiness Directives; McDonnell Douglas Model DC–9 Series Airplanes

**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) T96–07–51 that was sent previously to all known U.S. owners and operators of McDonnell Douglas Model DC–9 series airplanes by individual telegrams. This AD requires repetitive inspections to detect corrosion and cracking of the fuselage upper skin and frames in the area of the loop antenna assemblies of the automatic direction finder (ADF), and repair, if necessary. This amendment is prompted by reports of severe corrosion and cracking found in that area. The actions specified by this AD are intended to prevent rapid decompression of the fuselage, significant structural damage, and subsequent reduced structural integrity of the airplane, due to problems associated with corrosion and fatigue cracking in the subject area.

**DATES:** Effective April 15, 1996, to all persons except those persons to whom it was made immediately effective by telegraphic AD T96–07–51, issued March 22, 1996, which contained the requirements of this amendment.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 15, 1996.

Comments for inclusion in the Rules Docket must be received on or before June 10, 1996.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–56–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Wahib Mina, Aerospace Engineer, Airframe Branch, ANM–120l, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627–5324; fax (310) 627–5210.

**SUPPLEMENTARY INFORMATION:** On March 22, 1996, the FAA issued telegraphic AD T96–07–51, which is applicable to certain McDonnell Douglas Model DC–9 series airplanes. That action was prompted by a recent report indicating that severe corrosion and a 39-inch crack of the forward fuselage upper skin was found during scheduled maintenance on a McDonnell Douglas Model DC–9–31 series airplane. The crack originated under the loop antenna assemblies of the forward and aft automatic direction finders (ADF). Subsequent inspection of the adjacent structure revealed cracking of the fuselage frame at fuselage station 275. The cracking found has been attributed to fatigue. Corrosion and fatigue cracking in these areas, if not detected and corrected in a timely manner, could result in rapid decompression of the fuselage, significant damage to adjacent structure, and subsequent reduced structural integrity of the airplane.

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin DC9–53A282, dated March 20, 1996, which describes procedures for repetitive internal visual inspections to detect corrosion and cracking of the fuselage forward upper skin, and to detect cracking of the fuselage frames in the area of the loop antenna assemblies of the forward and aft ADF. This alert service bulletin refers to the DC–9 Structural Repair Manual (SRM) for procedures to repair certain corrosion or cracking.

Since the unsafe condition described is likely to exist or develop on other airplanes of the same type design, the FAA issued Telegraphic AD T96–07–51 to prevent rapid decompression of the fuselage, significant structural damage, and subsequent reduced structural integrity of the airplane, due to problems associated with corrosion and fatigue cracking in the area of the loop antenna assemblies of the forward and aft ADF. The AD requires repetitive internal visual inspections to detect corrosion and cracking of the fuselage

forward upper skin and to detect cracking of the fuselage frames in the subject area. This AD also requires repair of any corrosion or cracking found. The inspections are required to be accomplished in accordance with the alert service bulletin described previously. If cracking or corrosion that is found that is within specified limits, it is required to be repaired in accordance with the DC–9 SRM. However, if corrosion or cracking is found that is outside specified limits, it is required to be repaired in accordance with a method approved by the FAA.

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 telegrams issued on March 22, 1996, to all known U.S. owners and operators of McDonnell Douglas Model DC–9 series airplanes. 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.

This is considered to be interim action. The manufacturer has advised that it is currently developing a modification that will positively address the unsafe condition identified by this AD. Once this modification is developed, approved, and available, the FAA may consider further rulemaking.

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 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 96–NM–55–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, 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. 106(g), 40113, 44701.

**§ 39.13 [Amended]**

2. Section 39.13 is amended by adding the following new airworthiness directive:

96–07–51 McDonnell Douglas: Amendment 39–9562. Docket 96–NM–55–AD.

*Applicability:* Model DC–9 series airplanes having fuselage numbers 001 through 631, inclusive; 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 request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

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

To prevent rapid decompression of the fuselage, significant structural damage, and subsequent reduced structural integrity of the airplane, due to problem associated with corrosion and fatigue cracking, accomplish the following:

(a) Within 15 days after the effective date of this AD: Perform an internal visual inspection to detect corrosion and cracking of the fuselage forward upper skin and to detect cracking of the fuselage frame in the area of the loop antenna assemblies of the forward and aft automatic direction finder (ADF), in accordance with McDonnell Douglas Alert Service Bulletin DC9–53A282, dated March 20, 1996.

(1) If no corrosion or cracking is detected: Repeat the inspections required by paragraph (a) of this AD thereafter at intervals not to exceed six months.

(2) If any corrosion or cracking is detected that is within the limits specified in Chapter 53–04, Figure 29, of the DC–9 Structural Repair Manual (SRM): Prior to further flight, repair in accordance with Chapter 53–04, Figure 29, of the SRM. Repeat the inspection required by paragraph (a) of this AD thereafter at intervals not to exceed six months.

(3) If any corrosion or cracking is detected in the fuselage forward upper skin, or if any cracking is detected in the fuselage frame, and that corrosion or cracking is outside the limits specified in Chapter 53–04, Figure 29, of the SRM: Prior to further flight, repair in accordance with a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

(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, Los Angeles ACO, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may

add comments and then send it to the Manager, Los Angeles ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(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 inspections shall be done in accordance with McDonnell Douglas Alert Service Bulletin DC9–53A282, dated March 20, 1996. 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 McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on April 15, 1996, to all persons except those persons to whom it was made immediately effective by telegraphic AD T96–07–51, issued on March 22, 1996, which contained the requirements of this amendment.

Issued in Renton, Washington, on March 28, 1996.

Bill R. Boxwell,

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

[FR Doc. 96–8583 Filed 4–9–96; 8:45 am]

**BILLING CODE 4910–13–U**

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 15 CFR Part 902

## 50 CFR Parts 216 and 228

**[Docket No. 950504128–6085–02; I.D. 031095A]**

**RIN 0648–AG80**

## Small Takes of Marine Mammals; Harassment Takings Incidental to Specified Activities in Arctic Waters; Regulation Consolidation; Update of Office of Management and Budget (OMB) Approval Numbers

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

**ACTION:** Interim final rule.

**SUMMARY:** The Marine Mammal Protection Act (MMPA) Amendments of 1994 established an expedited process by which citizens of the United States can apply for an authorization to take incidentally, but not intentionally, small numbers of marine mammals by harassment. This rule sets forth the process for applying for, and obtaining, an authorization in Arctic waters. This rule also makes minor modifications to the existing regulations that clarify the requirements for petitioning for and obtaining a small take authorization.

This rule also updates OMB approval numbers for application and reports of incidental small takes.

**EFFECTIVE DATE:** This rule is effective on May 10, 1996.

**ADDRESSES:** A copy of the Environmental Assessment (EA), and/or the results of a February 8–9, 1994 meeting cited in the preamble may be obtained by writing to the Chief, Marine Mammal Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3226 or by telephoning the person below (see **FOR FURTHER INFORMATION CONTACT**).

Comments regarding the burden-hour estimate or any other aspect of the collection of information requirement contained in this rule should be sent to the above individual and to the Office of Information and Regulatory Affairs, OMB, Attention: NOAA Desk Officer, Washington, D.C. 20503.

**FOR FURTHER INFORMATION CONTACT:** Kenneth R. Hollingshead, Office of Protected Resources, NMFS, (301) 713–2055.

**SUPPLEMENTARY INFORMATION:**

### Background

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*), directs the Secretary of Commerce to allow, upon request by U.S. citizens engaged in a specific activity (other than commercial fishing) in a specified geographical region, the incidental, but not intentional, taking of small numbers of marine mammals, if certain findings are made and regulations are issued. Under the MMPA, the term ''taking'' means to harass, hunt, capture or kill. Pursuant to part 228 of title 50, permission may be granted for periods up to 5 years if NMFS finds, after notice and opportunity for public comment, that the taking will have a negligible impact on the species or stock(s) of marine mammals and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses. In addition, NMFS must prescribe activity-specific regulations that include permissible methods of taking and other means effecting the least practicable adverse impact on the species and its habitat, and on the availability of the species for subsistence uses, paying particular attention to rookeries, mating grounds and areas of similar significance. These regulations must include requirements pertaining to the monitoring and reporting of such taking.

The Marine Mammal Protection Act Amendments of 1994 amended section 101(a)(5) of the MMPA to establish an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. It established specific time limits for public notice and comment on any requests for authorization under this new provision.

The legislative history notes that NMFS should use the general rulemaking authority available under section 112 of the MMPA to establish a process for granting authorization in the case of small takes by harassment in the Arctic Ocean (H.R. Rep. No. 439, 103d Cong., 2d Sess. 29, 30 (Mar. 21, 1994)). As a result of that mandate, NMFS has expedited this rulemaking process in order to have incidental harassment regulations effective for Arctic activities prior to the 1996 open water season in the Beaufort Sea.

This rule will result in a more streamlined and cost-effective method for obtaining small take by incidental harassment authorizations in Arctic waters, without lessening the MMPA's protection of species and stocks of marine mammals. This rule does not cover incidental harassment authorizations for non-Arctic waters. A final rule, which will include an expanded discussion on what constitutes harassment for purposes of issuing authorizations under this subpart, remains under development. Until that final rule is published, NMFS will continue to process and grant incidental harassment authorizations under the statutory provisions and requirements.

### Comments and Responses

On May 31, 1995 (60 FR 28379), NMFS issued a proposed rule to modify regulations found at 50 CFR part 228, subpart A to include the simplified process for authorizing the incidental taking of small numbers of marine mammals by harassment without the need to issue specific regulations governing the taking of marine mammals for each and every activity. The proposed rule set forth: (1) The process for obtaining an authorization;

(2) the specific time limits imposed by the statute for NMFS review and publication, and public notice and comment, on any requests for authorization that would be granted under this paragraph; and (3) the requirements for scientific peer review of an applicant's monitoring plans and submission of a plan of cooperation (if the subject activity may affect the availability of a species or stock of marine mammal for taking for subsistence purposes). The proposed rule also made minor changes to the existing regulations to clarify the requirements for petitioning and obtaining a small take authorization under section 101(a)(5)(A) of the MMPA.

Based on a request from the U.S. Navy (Navy), the comment period was extended until October 16, 1995 (60 FR 35891, July 12, 1995). During the comment period, NMFS received eight letters commenting on the proposed rule. An additional 41 letters were received in response to an Internet message but without review of the proposed rule. Comments regarding incidental harassment authorizations in the Arctic are discussed below. Response to comments outside the scope of Arctic activities are reserved for a future rule.

Arctic Subsistence Concerns

*Comment:* The USCG recommends that § 228.4(a)(7) (revised as § 216.104(a)(7)) be modified to clarify that the only subsistence uses that are at issue are those defined in the MMPA.

*Response:* The term ''subsistence'' that applies to this rule, was previously defined in § 216.3; no changes to that definition are considered necessary at this time. That definition makes any additional clarifying language unnecessary.

Arctic Subsistence Concerns-Plans of Cooperation

*Comment:* The USCG believes that submitting a plan of cooperation is not required by the MMPA, and, while it may be an ideal way to implement the statutory requirements for determining impacts to Arctic subsistence users, such an extensive plan of cooperation is not necessary in every case.

*Response:* NMFS agrees that a formal plan of cooperation may not be necessary for all activities that might result in the incidental harassment of marine mammal species that are also sought for subsistence purposes. As a result of the comment, NMFS has modified the final rule accordingly. However, in order for NMFS to determine that there will not be an unmitigable adverse impact on the availability of marine mammals for taking for subsistence purposes, the information items specified in § 216.104(a)(11) (previously § 228.4(a)(11)) will still need to be provided. If neither a plan of cooperation has been submitted nor meetings with subsistence communities have been scheduled, and if during the comment period evidence is provided indicating that an adverse impact to subsistence needs will result from the activity, an authorization may be delayed to resolve this disagreement.

*Comment:* The AEWC noted that the plan of cooperation submitted by an applicant must be based on mitigation measures that have been approved by the affected communities and their representatives. The MMPA requires NMFS to prescribe, where applicable, the measures NMFS determines are necessary to ensure that there is no unmitigable adverse impact on the availability of the species or stock for subsistence uses. As a result, the commenter believes, NMFS should take a more proactive role in developing plans of cooperation; consult with the subsistence community as directed by the NOAA–AEWC Cooperative Agreement for bowheads; and resolve disagreements between parties.

*Response*: While it is preferable for a plan of cooperation to contain mitigation measures that are agreed to by the involved parties, a final determination on necessary marine mammal mitigation measures remains with NMFS. It is not mandatory under the MMPA that a plan of cooperation meet with total approval by affected Alaskan communities and their representatives. However, NMFS emphasizes that plans of cooperation should contain more than a simple schedule of meetings with affected communities. With little time provided by the MMPA to make a determination on whether to issue an authorization, unless applicants have either met with Native American groups or have scheduled a meeting with them to discuss the plan of cooperation prior to submission of an application (with its plan of cooperation), processing the application may be delayed. The final rule clarifies this meeting requirement and requires the draft plan of cooperation to be made available to affected communities at the same time the application is submitted to NMFS. However, the MMPA does not, as the commenter suggests, require NMFS to resolve disagreements related to the plan of cooperation prior to issuance of an authorization. Initiation of the NOAA–AEWC Cooperation Agreement consultation process begins when NMFS forwards a proposed authorization to the AEWC.

Because the rule requires an applicant to submit either a plan of cooperation for any Arctic activities that will have an impact on those species or stocks of marine mammals that are also sought for subsistence uses, or a description of planned mitigation measures, Native Americans (and others) may submit comments to NMFS on the adequacy of a plan of cooperation or planned mitigation measures and any disagreements the two parties may have on necessary mitigation. NMFS will give full consideration to these comments, to any previously agreed measures for the protection of marine mammals, and the success of those measures, when determining appropriate mitigation measures for a new authorization.

Arctic Subsistence Concerns-Monitoring Plans

*Comment*: The USCG questions the requirement for peer-review of monitoring plans under the provision for activity-specific regulations, since the statute only mentions it under provisions for incidental harassment authorizations.

*Response*: Paragraph 216.105(b)(3) (previously § 228.5(b)(3)) does not mandate peer-review of monitoring plans; it only notes that under activity-specific regulations a peer-review process may be established, if warranted. The need for peer-review would be determined through notice and comment on the proposed rule for the applicant's activity.

*Comment*: The USCG believes that § 228.8(d) (previously § 216.108(d)) places NMFS in control of the independent peer-review process called for by the statute. However, they believe that Federal agencies should have the discretion to use the NMFS peer-review process or to develop their own process.

*Response*: Although NMFS remains responsible for accepting or rejecting a monitoring plan, NMFS does not control the peer-review process but only serves as its facilitator. While NMFS would not object to a different process for peer-review of monitoring plans, applicants should recognize that a peer-review process may take some time to establish independently. As a result, under an independent peer-review process, NMFS could no longer assure the applicant that the statutory time requirements for issuing an authorization would be met.

*Comment*: The AEWC also noted the need for reliable scientific research on interactions between marine mammals and oil and gas exploration activities. In

the interest of promoting both reliability and consistency in this research, the AEWC recommended that the process for monitoring and reporting agreed to at the February 1994 meeting between NMFS, AEWC, the North Slope Borough and the oil and gas industry, be incorporated into the regulations. In addition, the AEWC wanted to see the results of that meeting discussed in the preamble to the final regulations.

*Response*: NMFS agrees that, to the extent possible, a prior year's research results should be reviewed by the present-year, peer-review committee. This would provide some consistency in research objectives. However, because the referenced 1994 meeting was specific to Beaufort Sea oil and gas exploration, incorporating those agreements (e.g., number and independence of reviewers) into these regulations would limit flexibility to modify them for different activities and changing conditions, and readers would be unlikely to benefit sufficiently from summarizing the meeting, detailed discussion of the results of that meeting are not warranted in these procedural regulations. A copy of the final minutes to the February 8–9, 1994 meeting is available from NMFS (see **ADDRESSES**) and will be available for reference for future U.S. Arctic oil and gas activities.

*Comment*: The North Slope Borough notes that there are species in addition to bowhead whales in Arctic waters and NMFS should more clearly define how the authorization process applies to beluga whales and the seal species found in Arctic waters. The commenter also wants the agency to consult directly with the Alaska Beluga Whale Committee and the Indigenous People's Council for Marine Mammals to establish mechanisms for subsistence user involvement in decisions affecting these species.

*Response*: When an applicant requests an authorization for the incidental harassment of marine mammals, that person is expected to apply for all marine mammals that can be reasonably expected to be taken by harassment and/or be affecting those species availability for subsistence purposes. The MMPA requires NMFS to announce receipt of an application, issuance of a proposed authorizations, and to request public comment in the Federal Register, newspapers of general circulation, appropriate electronic media and to all locally affected communities. NMFS will also provide copies of the proposed authorization for review directly to those organizations that NMFS knows to have an interest.

Discussion

Background and rationale on processing applications for Arctic activities, monitoring and reporting requirements and peer review of monitoring plans, were published on May 31, 1995 (60 FR 28379) and are not repeated here. Reviewers should refer to the notice of proposed rulemaking for additional information.

Changes From the Proposed Rule

1. Based upon comment, a requirement is being added that applicants with activities in the Arctic that might result in a take of species or stocks that are also taken for subsistence purposes, need to either schedule a meeting prior to submitting the application or meet prior to the close of the comment period and provide the affected subsistence community with a draft plan of cooperation.

2. A new definition for the term ''Arctic waters'' is provided.

3. A new paragraph has been added at § 216.104(a)(5) to include in one location information requested on assessing incidental takes of marine mammals by the applicant's activity.

4. The mandatory provision that applicants affecting Arctic subsistence needs must provide a plan of cooperation has been modified.

5. The interim rule clarifies that reports are required to be submitted, within 90 days of completion of any individual components of the activity (if any), or within 90 days of completion of the activity, but no later than 120 days prior to expiration of the incidental harassment authorization, whichever is earlier.

6. The interim rule clarifies that incidental harassment authorizations will be valid for a period of time not to exceed 1 year but may be renewed for additional periods of time not to exceed 1 year for each reauthorization.

National Environmental Policy Act

The amended regulations in Part 216 subpart I of chapter 50 implement section 101(a)(5)(D) of the MMPA, as it pertains to incidental harassment authorizations in Arctic waters. This rule, mandated by the 1994 Amendments, provides a mechanism to authorize the incidental, but not intentional, taking by harassment of small numbers of marine mammals by U.S. citizens engaged in a specified activity in a specified geographic region. The AA has determined, based upon a programmatic EA prepared for this action under NEPA, that implementation of these general regulations will not have a significant impact on the human environment. As a result of this determination, an environmental impact statement is not required. A copy of the EA is available upon request (see **ADDRESSES**).

In addition, while each proposed incidental harassment authorization will be reviewed independently to determine its impact on the human environment, NMFS believes that, because the finding required for incidental harassment authorizations is that the taking (by harassment) would not result in any serious injury or death to a marine mammal, would have no more than a negligible impact on marine mammals and their habitat, and would not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, the majority of the authorizations should be ''categorically excluded'' (as defined in 40 CFR 1508.4) from the preparation of either environmental impact statements or EAs under NEPA and section 6.02.c.3(i) of NOAA Administrative Order 216–6 for Environmental Review Procedures (published August 6, 1991).

Classification

This action has been determined to be not significant for purposes of E.O. 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Small Business Administration at the proposed rule stage that, if adopted, this action would not have a significant economic impact on a substantial number of small entities since it would simply establish an expedited process for the review and issuance of authorizations for the incidental taking of small numbers of marine mammals by harassment while conducting activities (other than commercial fishing) in and near marine waters. Without authorization, the taking of marine mammals, even by harassment, is prohibited.

This rule contains collection-of-information requirements subject to the Paperwork Reduction Act and which has been approved by OMB under OMB Control No. 0648–0151. Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

The average burden for this collection is estimated to be approximately 214 hours per activity (range 80–483 hours depending upon complexity) for applications and 32.5 hours per activity

(range 16–80 hours) for reporting. These hours include the time for gathering and maintaining the data needed, and completing and reviewing the collection of information including annual reports. It does not include time for monitoring the activity by observers. Send comments regarding these reporting burden estimates or any other aspect of the collections of information, including suggestions for reducing the burdens, to NMFS and OMB (see **ADDRESSES**).

Under NOAA Administrative Order 205–11, 7.01, dated December 17, 1990, the Under Secretary for Oceans and Atmosphere has delegated authority to sign material for publication in the Federal Register to the Assistant Administrator for Fisheries, NOAA.

List of Subjects

*15 CFR Part 902*

Reporting and recordkeeping requirements.

*50 CFR Part 216*

Administrative practice and procedure, Imports, Indians, Marine mammals, Penalties, Reporting and recordkeeping requirements, Transportation.

*50 CFR Part 228*

Marine mammals, Reporting and recordkeeping requirements.

Dated: March 28, 1996.

Gary Matlock,

*Program Management Officer, National Marine Fisheries Service.*

For the reasons set out in the preamble, 15 CFR chapter IX and under the authority of 16 U.S.C 1361 *et seq.* 50 CFR chapter II are amended as follows:

**15 CFR Chapter IX**

## PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS

1. The authority citation for part 902 continues to read as follows:

Authority: 44 U.S.C, 3501 *et seq.*

2. In § 902.1, paragraph (b) the table is amended by removing in the left column under 50 CFR, the entries ''228.4'', ''228.6'', ''228.14'', ''228.25'', ''228.37'', and ''228.55'', and in the right column, in corresponding positions, the control numbers ''–0151''; and by adding, in numerical order, the following entries to read as follows:

**§ 902.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.**

* * * * *

(b) * * *

| CFR part or section where the information collection requirement is located | Current OMB control number (all numbers begin with 0648–) |
|---|---|
| * * * * | * |
| 50 CFR | |
| * * * * | * |
| 216.104 | –0151 |
| 216.106 | –0151 |
| 216.108 | –0151 |
| 216.114 | –0151 |
| 216.125 | –0151 |
| 216.145 | –0151 |
| 216.155 | –0151 |
| * * * * | * |

**50 CFR Chapter II**

## PART 228—REGULATIONS GOVERNING SMALL TAKES OF MARINE MAMMALS INCIDENTAL TO SPECIFIED ACTIVITIES

3. Subpart B (§ 228.11 through § 228.14), subpart C (§ 228.21 through § 228.26), subpart E (§ 228.41 through § 228.48), and subpart F (§ 228.51 through § 228.57) of part 228 are redesignated as subpart J (§ 216.111 through § 216.114), subpart K (§ 216.121 through § 216.126), subpart M (§ 216.141 through § 216.148) and subpart N (§ 216.151 through § 216.157), respectively, in part 216.

## PART 228—[REMOVED]

4. Part 228 is removed.

## PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

5. The authority citation for part 216 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*, unless otherwise noted.

6. In § 216.3, a new definition for ''Director, Office of Protected Resources is added, in alphabetical order, to read as follows:

**§ 216.3 Definitions.**

* * * * *

*Director, Office of Protected Resources* means Director, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910.

* * * * *

7. A new subpart I is added to read as follows:

**Subpart I—General Regulations Governing Small Takes of Marine Mammals Incidental to Specified Activities**

Sec.
216.101 Purpose.
216.102 Scope.
216.103 Definitions.
216.104 Submission of requests.
216.105 Specific regulations.
216.106 Letter of authorization.
216.107 Incidental harassment authorization for Arctic waters.
216.108 Requirements for monitoring and reporting under incidental harassment authorizations for Arctic waters.

## Subpart I—General Regulations Governing Small Takes of Marine Mammals Incidental to Specified Activities

**§ 216.101 Purpose.**

The regulations in this subpart implement section 101(a)(5) (A) through (D) of the Marine Mammal Protection Act of 1972, as amended, 16 U.S.C. 1371(a)(5), which provides a mechanism for allowing, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographic region.

**§ 216.102 Scope.**

The taking of small numbers of marine mammals under section 101(a)(5) (A) through (D) of the Marine Mammal Protection Act may be allowed only if the National Marine Fisheries Service:

(a) Finds, based on the best scientific evidence available, that the total taking by the specified activity during the specified time period will have a negligible impact on species or stock of marine mammal(s) and will not have an unmitigable adverse impact on the availability of those species or stocks of marine mammals intended for subsistence uses;

(b) Prescribes either regulations under § 216.106, or requirements and conditions contained within an incidental harassment authorization issued under § 216.107, setting forth permissible methods of taking and other means of effecting the least practicable adverse impact on the species or stock of marine mammal and its habitat and on the availability of the species or stock of marine mammal for subsistence uses, paying particular attention to rookeries, mating grounds, and areas of similar significance; and

(c) Prescribes either regulations or requirements and conditions contained within an incidental harassment authorization, as appropriate, pertaining to the monitoring and reporting of such taking. The specific regulations governing certain specified activities are contained in subsequent subparts of this part.

**§ 216.103 Definitions.**

In addition to definitions contained in the MMPA, and in § 216.3, and unless the context otherwise requires, in subsequent subparts to this part:

*Arctic waters* means the marine and estuarine waters north of 60° N. lat.

*Citizens of the United States* and *U.S. citizens* mean individual U.S. citizens or any corporation or similar entity if it is organized under the laws of the United States or any governmental unit defined in 16 U.S.C. 1362(13). U.S. Federal, state and local government agencies shall also constitute citizens of the United States for purposes of this part.

*Incidental harassment, incidental taking* and *incidental, but not intentional, taking* all mean an accidental taking. This does not mean that the taking is unexpected, but rather it includes those takings that are infrequent, unavoidable or accidental. (A complete definition of ''take'' is contained in § 216.3).

*Negligible impact* is an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

*Small numbers* means a portion of a marine mammal species or stock whose taking would have a negligible impact on that species or stock.

*Specified activity* means any activity, other than commercial fishing, that takes place in a specified geographical region and potentially involves the taking of small numbers of marine mammals.

*Specified geographical region* means an area within which a specified activity is conducted and that has certain biogeographic characteristics.

*Unmitigable adverse impact* means an impact resulting from the specified activity:

(1) That is likely to reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by:

(i) Causing the marine mammals to abandon or avoid hunting areas;

(ii) Directly displacing subsistence users; or

(iii) Placing physical barriers between the marine mammals and the subsistence hunters; and

(2) That cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met.

**§ 216.104 Submission of requests.**

(a) In order for the National Marine Fisheries Service to consider authorizing the taking by U.S. citizens of small numbers of marine mammals incidental to a specified activity (other than commercial fishing), or to make a finding that an incidental take is unlikely to occur, a written request must be submitted to the Assistant Administrator. All requests must include the following information for their activity:

(1) A detailed description of the specific activity or class of activities that can be expected to result in incidental taking of marine mammals;

(2) The date(s) and duration of such activity and the specific geographical region where it will occur;

(3) The species and numbers of marine mammals likely to be found within the activity area;

(4) A description of the status, distribution, and seasonal distribution (when applicable) of the affected species or stocks of marine mammals likely to be affected by such activities;

(5) The type of incidental taking authorization that is being requested (i.e., takes by harassment only; takes by harassment, injury and/or death) and the method of incidental taking;

(6) By age, sex, and reproductive condition (if possible), the number of marine mammals (by species) that may be taken by each type of taking identified in paragraph (a)(5) of this section, and the number of times such takings by each type of taking are likely to occur;

(7) The anticipated impact of the activity upon the species or stock of marine mammal;

(8) The anticipated impact of the activity on the availability of the species or stocks of marine mammals for subsistence uses;

(9) The anticipated impact of the activity upon the habitat of the marine mammal populations, and the likelihood of restoration of the affected habitat;

(10) The anticipated impact of the loss or modification of the habitat on the marine mammal populations involved;

(11) The availability and feasibility (economic and technological) of equipment, methods, and manner of conducting such activity or other means of effecting the least practicable adverse impact upon the affected species or stocks, their habitat, and on their availability for subsistence uses, paying particular attention to rookeries, mating grounds, and areas of similar significance;

(12) Where the proposed activity would take place in or near a traditional Arctic subsistence hunting area and/or may affect the availability of a species or stock of marine mammal for Arctic subsistence uses, the applicant must submit either a plan of cooperation or information that identifies what measures have been taken and/or will be taken to minimize any adverse effects on the availability of marine mammals for subsistence uses. A plan must include the following:

(i) A statement that the applicant has notified and provided the affected subsistence community with a draft plan of cooperation;

(ii) A schedule for meeting with the affected subsistence communities to discuss proposed activities and to resolve potential conflicts regarding any aspects of either the operation or the plan of cooperation;

(iii) A description of what measures the applicant has taken and/or will take to ensure that proposed activities will not interfere with subsistence whaling or sealing; and

(iv) What plans the applicant has to continue to meet with the affected communities, both prior to and while conducting the activity, to resolve conflicts and to notify the communities of any changes in the operation;

(13) The suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species, the level of taking or impacts on populations of marine mammals that are expected to be present while conducting activities and suggested means of minimizing burdens by coordinating such reporting requirements with other schemes already applicable to persons conducting such activity. Monitoring plans should include a description of the survey techniques that would be used to determine the movement and activity of marine mammals near the activity site(s) including migration and other habitat uses, such as feeding. Guidelines for developing a site-specific monitoring plan may be obtained by writing to the Director, Office of Protected Resources; and

(14) Suggested means of learning of, encouraging, and coordinating research opportunities, plans, and activities relating to reducing such incidental taking and evaluating its effects.

(b)(1) The Assistant Administrator shall determine the adequacy and completeness of a request and, if determined to be adequate and complete, will begin the public review process by publishing in the Federal Register either:

(i) A proposed incidental harassment authorization; or

(ii) A notice of receipt of a request for the implementation or reimplementation of regulations governing the incidental taking.

(2) Through notice in the Federal Register, newspapers of general

circulation, and appropriate electronic media in the coastal areas that may be affected by such activity, NMFS will invite information, suggestions, and comments for a period not to exceed 30 days from the date of publication in the Federal Register. All information and suggestions will be considered by the National Marine Fisheries Service in developing, if appropriate, the most effective regulations governing the issuance of letters of authorization or conditions governing the issuance of an incidental harassment authorization.

(3) Applications that are determined to be incomplete or inappropriate for the type of taking requested, will be returned to the applicant with an explanation of why the application is being returned.

(c) The Assistant Administrator shall evaluate each request to determine, based upon the best available scientific evidence, whether the taking by the specified activity within the specified geographic region will have a negligible impact on the species or stock and, where appropriate, will not have an unmitigable adverse impact on the availability of such species or stock for subsistence uses. If the Assistant Administrator finds that the mitigating measures would render the impact of the specified activity negligible when it would not otherwise satisfy that requirement, the Assistant Administrator may make a finding of negligible impact subject to such mitigating measures being successfully implemented. Any preliminary findings of ''negligible impact'' and ''no unmitigable adverse impact'' shall be proposed for public comment along with either the proposed incidental harassment authorization or the proposed regulations for the specific activity.

(d) If, subsequent to the public review period, the Assistant Administrator finds that the taking by the specified activity would have more than a negligible impact on the species or stock of marine mammal or would have an unmitigable adverse impact on the availability of such species or stock for subsistence uses, the Assistant Administrator shall publish in the Federal Register the negative finding along with the basis for denying the request.

**§ 216.105 Specific regulations.**

(a) For all petitions for regulations under this paragraph, applicants must provide the information requested in § 216.104(a) on their activity as a whole, which includes, but is not necessarily limited to, an assessment of total impacts by all persons conducting the activity.

(b) For allowed activities that may result in incidental takings of small numbers of marine mammals by harassment, serious injury, death or a combination thereof, specific regulations shall be established for each allowed activity that set forth:

(1) Permissible methods of taking;

(2) Means of effecting the least practicable adverse impact on the species and its habitat and on the availability of the species for subsistence uses; and

(3) Requirements for monitoring and reporting, including requirements for the independent peer-review of proposed monitoring plans where the proposed activity may affect the availability of a species or stock for taking for subsistence uses.

(c) Regulations will be established based on the best available information. As new information is developed, through monitoring, reporting, or research, the regulations may be modified, in whole or in part, after notice and opportunity for public review.

**§ 216.106 Letter of Authorization.**

(a) A Letter of Authorization, which may be issued only to U.S. citizens, is required to conduct activities pursuant to any regulations established under § 216.105. Requests for Letters of Authorization shall be submitted to the Director, Office of Protected Resources. The information to be submitted in a request for an authorization will be specified in the appropriate subpart to this part or may be obtained by writing to the above named person.

(b) Issuance of a Letter of Authorization will be based on a determination that the level of taking will be consistent with the findings made for the total taking allowable under the specific regulations.

(c) Letters of Authorization will specify the period of validity and any additional terms and conditions appropriate for the specific request.

(d) Notice of issuance of all Letters of Authorization will be published in the Federal Register within 30 days of issuance.

(e) Letters of Authorization shall be withdrawn or suspended, either on an individual or class basis, as appropriate, if, after notice and opportunity for public comment, the Assistant Administrator determines that:

(1) The regulations prescribed are not being substantially complied with; or

(2) The taking allowed is having, or may have, more than a negligible impact on the species or stock or, where relevant, an unmitigable adverse impact on the availability of the species or stock for subsistence uses.

(f) The requirement for notice and opportunity for public review in § 216.106(e) shall not apply if the Assistant Administrator determines that an emergency exists that poses a significant risk to the wellbeing of the species or stocks of marine mammals concerned.

(g) A violation of any of the terms and conditions of a Letter of Authorization or of the specific regulations shall subject the Holder and/or any individual who is operating under the authority of the Holder's Letter of Authorization to penalties provided in the MMPA.

**§ 216.107 Incidental harassment authorization for Arctic waters.**

(a) Except for activities that have the potential to result in serious injury or mortality, which must be authorized under § 216.105, incidental harassment authorizations may be issued, following a 30-day public review period, to allowed activities that may result in only the incidental harassment of a small number of marine mammals. Each such incidental harassment authorization shall set forth:

(1) Permissible methods of taking by harassment;

(2) Means of effecting the least practicable adverse impact on the species, its habitat, and on the availability of the species for subsistence uses; and

(3) Requirements for monitoring and reporting, including requirements for the independent peer-review of proposed monitoring plans where the proposed activity may affect the availability of a species or stock for taking for subsistence uses.

(b) Issuance of an incidental harassment authorization will be based on a determination that the number of marine mammals taken by harassment will be small, will have a negligible impact on the species or stock of marine mammal(s), and will not have an unmitigable adverse impact on the availability of species or stocks for taking for subsistence uses.

(c) An incidental harassment authorization will be either issued or denied within 45 days after the close of the public review period.

(d) Notice of issuance or denial of an incidental harassment authorization will be published in the Federal Register within 30 days of issuance of a determination.

(e) Incidental harassment authorizations will be valid for a period of time not to exceed 1 year but may be

renewed for additional periods of time not to exceed 1 year for each reauthorization.

(f) An incidental harassment authorization shall be modified, withdrawn, or suspended if, after notice and opportunity for public comment, the Assistant Administrator determines that:

(1) The conditions and requirements prescribed in the authorization are not being substantially complied with; or

(2) The authorized taking, either individually or in combination with other authorizations, is having, or may have, more than a negligible impact on the species or stock or, where relevant, an unmitigable adverse impact on the availability of the species or stock for subsistence uses.

(g) The requirement for notice and opportunity for public review in paragraph (f) of this section shall not apply if the Assistant Administrator determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals concerned.

(h) A violation of any of the terms and conditions of an incidental harassment authorization shall subject the holder and/or any individual who is operating under the authority of the holder's incidental harassment authorization to penalties provided in the MMPA.

**§ 216.108 Requirements for monitoring and reporting under incidental harassment authorizations for Arctic waters.**

(a) Holders of an incidental harassment authorization in Arctic waters and their employees, agents, and designees must cooperate with the National Marine Fisheries Service and other designated Federal, state, or local agencies to monitor the impacts of their activity on marine mammals. Unless stated otherwise within an incidental harassment authorization, the holder of an incidental harassment authorization effective in Arctic waters must notify the Alaska Regional Director, National Marine Fisheries Service, of any activities that may involve a take by incidental harassment in Arctic waters at least 14 calendar days prior to commencement of the activity.

(b) Holders of incidental harassment authorizations effective in Arctic waters may be required by their authorization to designate at least one qualified biological observer or another appropriately experienced individual to observe and record the effects of activities on marine mammals. The number of observers required for monitoring the impact of the activity on marine mammals will be specified in the incidental harassment authorization. If observers are required as a condition of the authorization, the observer(s) must be approved in advance by the National Marine Fisheries Service.

(c) The monitoring program must, if appropriate, document the effects (including acoustical) on marine mammals and document or estimate the actual level of take. The requirements for monitoring plans, as specified in the incidental harassment authorization, may vary depending on the activity, the location, and the time.

(d) Where the proposed activity may affect the availability of a species or stock of marine mammal for taking for subsistence purposes, proposed monitoring plans or other research proposals must be independently peer-reviewed prior to issuance of an incidental harassment authorization under this subpart. In order to complete the peer-review process within the time frames mandated by the MMPA for an incidental harassment authorization, a proposed monitoring plan submitted under this paragraph must be submitted to the Assistant Administrator no later than the date of submission of the application for an incidental harassment authorization. Upon receipt of a complete monitoring plan, and at its discretion, the National Marine Fisheries Service will either submit the plan to members of a peer review panel for review or within 60 days of receipt of the proposed monitoring plan, schedule a workshop to review the plan. The applicant must submit a final monitoring plan to the Assistant Administrator prior to the issuance of an incidental harassment authorization.

(e) At its discretion, the National Marine Fisheries Service may place an observer aboard vessels, platforms, aircraft, etc., to monitor the impact of activities on marine mammals.

(f)(1) As specified in the incidental harassment authorization, the holder of an incidental harassment authorization for Arctic waters must submit reports to the Assistant Administrator within 90 days of completion of any individual components of the activity (if any), within 90 days of completion of the activity, but no later than 120 days prior to expiration of the incidental harassment authorization, whichever is earlier. This report must include the following information:

(i) Dates and type(s) of activity;

(ii) Dates and location(s) of any activities related to monitoring the effects on marine mammals; and

(iii) Results of the monitoring activities, including an estimate of the actual level and type of take, species name and numbers of each species observed, direction of movement of species, and any observed changes or modifications in behavior.

(2) Monitoring reports will be reviewed by the Assistant Administrator and, if determined to be incomplete or inaccurate, will be returned to the holder of the authorization with an explanation of why the report is being returned. If the authorization holder disagrees with the findings of the Assistant Administrator, the holder may request an independent peer review of the report. Failure to submit a complete and accurate report may result in a delay in processing future authorization requests.

(g) Results of any behavioral, feeding, or population studies, that are conducted supplemental to the monitoring program, should be made available to the National Marine Fisheries Service before applying for an incidental harassment authorization for the following year.

8. In the list below, for each section indicated in the left column, remove the reference indicated in the middle column from wherever it appears in the section, and add the reference to the section indicated in the right column.

| Section | Remove | Add |
|---|---|---|
| | **Subpart J** | |
| § 216.113 | § 228.13(a) | § 216.113(a) |
| § 216.114 | § 228.14(c) | § 216.114(c) |
| | **Subpart K** | |
| § 216.123 | § 228.6 | § 216.106 |
| § 216.123 | § 228.21 | § 216.121 |
| § 216.124 | § 228.23 | § 216.123 |
| § 216.124 | § 228.6 | § 216.106 |
| § 216.124 | § 228.21 | § 216.121 |
| § 216.125 | § 228.6 | § 216.106 |
| § 216.125 | § 228.21 | § 216.121 |
| § 216.126 | § 228.6 | § 216.106 |
| § 216.126 | § 228.26(b) | § 216.126(b) |
| § 216.126 | § 228.21 | § 216.121 |
| | **Subpart M** | |
| § 216.143 | § 228.41 | § 216.141 |
| § 216.143 | § 228.45(b)(1) | § 216.145(b)(1) |
| § 216.144 | § 228.43 | § 216.143 |
| § 216.144 | § 228.6 | § 216.106 |
| § 216.144 | § 228.46 | § 216.146 |
| § 216.146 | § 228.41 | § 216.141 |
| § 216.146 | § 228.6 | § 216.106 |
| § 216.147 | § 228.6 | § 216.106 |
| § 216.147 | § 228.41 | § 216.141 |
| § 216.147 | § 228.45(d) | § 216.145(d) |
| § 216.147 | § 228.41(b) | § 216.141(b) |
| § 216.147 | § 228.43(b) | § 216.143(b) |
| § 216.148 | § 228.6 | § 216.106 |
| § 216.148 | § 228.47 | § 216.147 |
| § 216.148 | § 228.41(b) | § 216.141(b) |
| | **Subpart N** | |
| § 216.153 | § 228.6 | § 216.106 |
| § 216.153 | § 228.51(a) | § 216.151(a) |
| § 216.154 | § 228.53 | § 216.153 |
| § 216.154 | § 228.6 | § 216.106 |
| § 216.154 | § 228.56 | § 216.156 |
| § 216.156 | § 228.6 | § 216.106 |
| § 216.156 | § 228.51(a) | § 216.151(a) |

| Section | Remove | Add |
|---|---|---|
| § 216.156 | § 228.55(f) and (g) | § 216.155(f) and (g) |
| § 216.156 | § 228.51(b) | § 216.151(b) |
| § 216.156 | § 228.53(b) | § 216.153(b) |
| § 216.156 | § 228.55(g) | § 216.155(g) |
| § 216.157 | § 228.6 | § 216.106 |
| § 216.157 | § 228.46 | § 216.146 |
| § 216.157 | § 228.51 | § 216.151 |

9. In part 216, subpart L (§ 216.131 through § 216.138), subpart O (§ 216.161 through § 216.169), subpart P (§ 216.170 through § 216.179), subpart Q (§ 216.180 through § 216.189) and subpart R (§ 216.190 through § 216.199) are added and reserved.

[FR Doc. 96–8494 Filed 4–9–96; 8:45 am]

BILLING CODE 3510–22–P

## DEPARTMENT OF THE TREASURY

## Internal Revenue Service

## 26 CFR Part 1

**[TD 8658]**

**RIN 1545–AL84**

## Determination of Interest Expense Deduction of Foreign Corporations; Correction

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

**ACTION:** Correction to final regulations.

**SUMMARY:** This document contains corrections to final regulations [TD 8658] which were published in the Federal Register for Friday, March 8, 1996 (61 FR 9326). The final regulations relate to the determination of the interest expense deduction of foreign corporations and apply to foreign corporations engaged in a trade or business within the United States.

**EFFECTIVE DATE:** June 6, 1996.

**FOR FURTHER INFORMATION CONTACT:** Ahmad Pirasteh or Richard Hoge (202) 622–3870 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

Background

The final regulations that are subject to these corrections are under sections 882, 864(e), 988(d), and 7701(l) of the Internal Revenue Code.

Need for Correction

As published, the final regulations [TD 8658] contain errors that are in need of clarification.

Correction of Publication

Accordingly, the publication of final regulations which are the subject of FR Doc. 96–5262 is corrected as follows:

**§ 1.882–0 [Corrected]**

1. On page 9329, column 1, § 1.882–0, the section heading entry for § 1.882–1, ''§ 1.882–1 Taxation of foreign corporations engaged in U.S. business or of foreign corporations treated as having effectively connected income.'' is corrected to read

**§ 1.882–1 Taxation of foreign corporations engaged in U.S. business or of foreign corporations treated as having effectively connected income.**

**§ 1.882–5 [Corrected]**

2. On page 9330, column 3, § 1.882–5, paragraph (a)(6), line 7 from the bottom of the paragraph, the language ''respect to U.S.-booked liabilities that'' is corrected to read ''respect to U.S. booked liabilities that''.

3. On page 9331, column 1, § 1.882–5, paragraph (a)(8), paragraph (ii) of *Example 1*, line 12, the language ''(c)(2)(vi), and (d)(2)(vii) or (e)(1)(ii) this'' is corrected to read ''(c)(2)(vi), and (d)(2)(vii) or (e)(1)(ii) of this''.

4. On page 9332, column 2, § 1.882–5, paragraph (b)(3), last four lines of the paragraph, the language ''less frequently than monthly by a large bank (as defined in section 585(c)(2)) and semi-annually by any other taxpayer'' is corrected to read ''less frequently than monthly (beginning of taxable year and monthly thereafter) by a large bank (as defined in section 585(c)(2)) and semi-annually (beginning, middle and end of taxable year) by any other taxpayer''.

5. On page 9332, column 2, § 1.882–5, paragraph (c)(2)(i), lines 3 and 2 from the bottom of the paragraph, the language ''annually by a large bank (as defined in section 585(c)(2)) and annually by any'' is corrected to read ''annually (beginning, middle and end of taxable year) by a large bank (as defined in section 585(c)(2)) and annually (beginning and end of taxable year) by any''.

6. On page 9334, column 3, § 1.882–5, paragraph (d)(6), paragraph (i) of *Example 1*, the table

| | Value | |
|---|---|---|
| Asset 1 ..... | $2,000 | ..... |
| Asset 2 ..... | 2,500 | ..... |
| Asset 3 ..... | 5,500 | ..... |
| | Amount | Interest |
| Liability 1 ..... | $800 | 56 |
| Liability 2 ..... | 3,200 | 256 |
| Capital ..... | 6,000 | 0 |

is corrected to read

| | Value | |
|---|---|---|
| Asset 1 ..... | $2,000 | ..... |
| Asset 2 ..... | 2,500 | ..... |
| Asset 3 ..... | 5,500 | ..... |
| | Amount | Interest Expense |
| Liability 1 ..... | $800 | 56 |
| Liability 2 ..... | 3,200 | 256 |
| Capital ..... | 6,000 | 0 |

Michael L. Slaughter,

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

[FR Doc. 96–8911 Filed 4–9–96; 8:45 am]

BILLING CODE 4830–01–P

## DEPARTMENT OF THE INTERIOR

## Office of Surface Mining Reclamation and Enforcement

## 30 CFR Part 914

**[SPATS No. IN–133–FOR; Amendment No. 95–11]**

## Indiana Regulatory Program

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

**ACTION:** Final rule; approval of amendment.

**SUMMARY:** OSM is approving, with additional requirements, a proposed amendment to the Indiana regulatory program (hereinafter referred to as the ''Indiana program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Indiana proposed revisions to the Indiana Surface Coal Mining and Reclamation Act (ISCMRA) as enacted by the Indiana General Assembly (1995) in House Enrolled Act 1575 (HEA 1575). The proposed amendment concerns lands eligible for remining, responsibilities of the director of Indiana Department of Natural Resources (IDNR), and surface and underground tonnage fees. The amendment is intended to revise the Indiana program to be consistent with SMCRA and to incorporate State initiatives. The proposed revisions concerning lands eligible for remining are intended to provide incentives for the remining and reclamation of previously mined and inadequately reclaimed lands eligible for expenditures under section 402(g)(4) or 404 of SMCRA as provided for by the Energy Policy Act of 1992.

**EFFECTIVE DATE:** April 10, 1996.

**FOR FURTHER INFORMATION CONTACT:** Roger W. Calhoun, Director, Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, Minton-Capehart Federal Building, 575 North Pennsylvania

Street, Room 301, Indianapolis, Indiana 46204–1521, Telephone (317) 226–6700.

**SUPPLEMENTARY INFORMATION:**

I. Background on the Indiana Program
II. Submission of the Proposed Amendment
III. Director's Findings
IV. Summary and Disposition of Comments
V. Director's Decision
VI. Procedural Determinations

## I. Background on the Indiana Program

On July 29, 1982, the Secretary of the Interior conditionally approved the Indiana program. Background information on the Indiana program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the July 26, 1982, Federal Register (47 FR 32107). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 914.10, 914.15, and 914.16.

## II. Submission of the Proposed Amendment

By letter dated September 11, 1995 (Administrative Record No. IND–1509), Indiana submitted a proposed amendment to its program pursuant to SMCRA. Indiana submitted the proposed amendment at its own initiative. HEA 1575 amends ISCMRA by adding new sections and revising existing sections to recodified Indiana Code (IC) 14–8 and 14–34. The proposed amendment adds new definitions for lands eligible for remining at IC 14–8–2–144.5 and unanticipated event or condition at IC 14–8–2–285.5; amends recodified IC 14–34–2–4, Responsibilities of the director of IDNR; adds IC 14–34–4–8.5, Permit finding concerning an unanticipated event or condition on lands eligible for remining; adds IC 14–34–4–10.5, Permit application requirement concerning unanticipated events or conditions; amends recodified IC 14–34–10–2(b)(23), Revegetation responsibility periods; amends recodified IC 14–34–13–1, Reclamation fee requirement for surface coal mining operations; amends recodified IC 14–34–13–2, Reclamation fee requirement for underground coal mining operations; and amends recodified IC 14–34–19–2, Lands and water eligible for reclamation or drainage abatement expenditures. The recodification of the current provisions of ISCMRA is proposed in Indiana's Program Amendment No. 95–10, and it is discussed in a separate final rule.

OSM announced receipt of the proposed amendment in the January 22, 1996, Federal Register (61 FR 1549), and in the same document opened the public comment period and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period closed on February 21, 1996.

## III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the proposed amendment.

Revisions not specifically discussed below concern nonsubstantive wording changes, or revised cross-references and paragraph notations to reflect organizational changes resulting from this amendment.

### *1. IC 14–8–2–144.5 Definition of ''Lands Eligible for Remining''*

Indiana proposed a definition at IC 14–8–2–144.5 to define the term ''lands eligible for remining'' to mean those lands that are eligible for funding under IC 14–34–19 or section 402(g)(4) of SMCRA.

Section 701(34) of SMCRA defines the term ''lands eligible for remining'' to mean those lands that would otherwise be eligible for expenditures under section 404 or 402(g)(4) of SMCRA. Indiana's statute at IC 14–34–19 that is referenced in its definition is the State counterpart provision to section 404 of SMCRA in the Federal definition. Therefore, the Director finds that Indiana's proposed definition of ''lands eligible for remining'' at IC 14–8–2–144.5 is no less stringent than the definition at section 701(34) of SMCRA.

### *2. IC 14–8–2–285.5 Definition of ''Unanticipated Event or Condition''*

Indiana proposed a definition of ''unanticipated event or condition'' at IC 14–8–2–285.5 that is substantively identical to the Federal definition at section 701(33) of SMCRA. Therefore, the Director finds that the proposed definition at IC 14–8–2–285.5 is no less stringent than SMCRA.

### *3. IC 14–34–2–4(a)(7) and (b) Responsibilities of the Director of IDNR*

Indiana proposed to amend recodified IC 14–34–2–4 [previously IC 13–4.1–2–2(b)] by adding new paragraph (7) to subsection (a) and adding new subsection (b). At IC 14–34–2–4(a)(7) and (b), Indiana is proposing to allow the Director of IDNR to submit formal state program amendments to OSM only after the amendment has been approved by the governor of Indiana or has become law.

Section 503 of SMCRA provides that a State may not exercise jurisdiction under SMCRA unless the State program is approved by the Secretary. Similarly, the Federal regulation at 30 CFR 732.17(g) requires that proposed changes to laws or regulations that make up the approved State program be submitted to the Director as an amendment and that they shall not take effect for purposes of a State program until approved as an amendment. However, neither SMCRA nor the Federal regulations contain specific requirements regarding the administrative or legislative procedures in the State for rulemaking. Therefore, since the Director of IDNR must still submit formal State program amendments to OSM, the Director finds the proposed revisions at IC 14–34–2–4(a)(7) and (b) do not render the Indiana program less stringent than SMCRA or less effective than the Federal regulations.

### *4. IC 14–34–4–8.5 Permit Findings*

Indiana is proposing that the finding required by IC 14–34–4–7(a)(6) and prohibition on the issuance of a permit in IC 14–34–4–8 do not apply to a violation resulting from an unanticipated event or condition at a surface coal mining operation on lands eligible for remining under a permit held by the applicant.

The proposed provision at IC 14–34–4–8.5 is consistent with the provisions in section 510(e) of SMCRA, which establishes an exemption from the permit blocking provisions of section 510(c) of SMCRA for any violation resulting from an unanticipated event or condition occurring on a remining site, with two exceptions. First, Indiana did not propose a counterpart to SMCRA's limiting language ''after the date of enactment of this subsection'' that specified when a violation must have occurred to be eligible for the exemption. The permit block exemption in section 510(e) of SMCRA applies to violations that occurred subsequent to October 24, 1992. Second, Indiana did not limit the authority of IC 14–34–4–8.5 to September 30, 2004. Section 510(e) of SMCRA specifies that its authority terminates on September 30, 2004. The Federal implementing regulation at 30 CFR 773.15(b)(4)(i)(C) qualified this termination requirement by specifying that the prohibitions do not apply to permits issued before September 30, 2004, or any renewals thereof.

Since IC 14–34–4–8.5 is consistent with the other provisions and the intent of section 510(e) of SMCRA, the Director is approving it with the requirement that Indiana propose implementing regulations that include the two limiting provisions. Indiana is to propose implementing regulations consistent

with the Federal regulation at 30 CFR 773.15(b)(4)(i), as added on November 27, 1995 (60 FR 58480), that limits the permit block exemption to those violations that occur after October 24, 1992, and to those permits issued before September 30, 2004, or any renewals thereof.

*5. IC 14–34–4–10.5 Permit Application Requirement for Remining Operations*

The proposed statute at IC 14–34–4–10.5 authorizes Indiana to require identification of potential problems in a permit application for lands eligible for remining. Indiana proposed to add subsection (a) to require that an applicant make a good faith effort to identify potential problems that may result in an unanticipated event or condition in the permit application. Subsection (b) specifies that ''an event or condition that arises despite substantial adherence to the applicable operation and reclamation plan may be considered unanticipated if it was not identified in the application for the governing permit.''

There is no direct counterpart language in section 510(e) of SMCRA. However, the Federal regulations at 30 CFR 773.15(b)(4), 773.15(c)(13), and 785.25 were developed to implement the ''unanticipated event or condition'' provisions of section 510(e) of SMCRA pertaining to permit applications for lands eligible for remining. Sections 773.15(c)(13)(ii) and 785.25(b)(1) contain language similar to IC 14–34–4–10.5(a) by requiring the permit application to identify potential environmental and safety problems related to prior mining activity at the site. Therefore, the Director finds that the proposed statute at IC 14–34–4–10.5 is not inconsistent with SMCRA. However, the Federal regulations contain additional requirements not considered in the Indiana statute, and he is approving it with the requirement that Indiana amend its program to provide implementing regulations consistent with the Federal regulations.

The Director is requiring Indiana to amend its regulations at 310 IAC 12–3–112 consistent with 30 CFR 773.15(b)(4), pertaining to review of violation requirements and with 30 CFR 773.15(c)(13), pertaining to written findings for permit application approval, as added on November 27, 1995 (60 FR 58480). He is also requiring Indiana to amend its regulations at 310 IAC 12–3 consistent with 30 CFR 785.25 (a) through (c), pertaining to permitting requirements for lands eligible for remining, as added on November 27, 1995 (60 FR 58480).

*6. IC 14–34–10–2(b)(23) Revegetation Responsibility Periods*

a. *IC 14–34–10–2(b)(23)(A).* Indiana proposed to amend recodified IC 14–34–10–2(b)(23) [previously IC 13–4.1–8–1(20)] by limiting the requirement for 5 years of revegetation responsibility to those lands not eligible for remining by adding the language ''on lands not eligible for remining'' to the existing provision pertaining to a 5-year responsibility period. This provision was designated subdivision (23)(A). Although not specifically stated, the 5-year revegetation responsibility period requirement in section 515(20)(A) of SMCRA also pertains to lands not eligible for remining. Therefore, the Director finds IC 14–34–10–2(b)(23)(A) is no less stringent than section 515(20)(A) of SMCRA.

b. *IC 14–34–10–2(b)(23)(B).* Indiana proposed to add new subdivision (23)(B) that allows a 2-year responsibility period for lands eligible for remining. Section 515(20)(B) of SMCRA and the amended implementing Federal regulations at 30 CFR 816/817.116(c)(2)(ii) also allow a 2-year responsibility period for lands eligible for remining. However, section 510(e) of SMCRA specifies that the authority of section 515(b)(20)(B) shall terminate on September 30, 2004. The Federal implementing regulations at 30 CFR 816/817.116(c)(2)(ii) qualify this termination requirement by specifying permits issued before September 30, 2004, or any renewals thereof. The proposed Indiana statute does not contain this termination language.

Since IC 14–34–10–2(b)(23)(B) is consistent with the other provision language and the intent of section 515(b)(20)(B) of SMCRA, the Director is approving it with the requirement that Indiana propose implementing regulations that contain the termination language. Indiana is to amend its regulations at 310 IAC 12–4–7, period of liability, by proposing provisions consistent with the Federal regulations at 30 CFR 816/817.116(c)(2)(ii), as added on November 27, 1995 (60 FR 58480), pertaining to the 2-year revegetation period of responsibility for lands eligible for remining and to the limitation of the provisions to permits issued before September 30, 2004, or any renewals thereof.

*7. IC 14–34–13–1 Reclamation Fee for Surface Coal Mining Operations and IC 14–34–13–2 Reclamation Fee for Underground Coal Mining Operations*

Indiana proposed to amend recodified IC 14–34–13 [previously IC 13–4.1–3–2]. Indiana proposed to limit the provision at IC 14–34–13–1 to surface coal mining operations, to change the reclamation fee for surface coal mining operations from five and one-half cents per ton of coal produced to three cents, and to remove the language which required fees to be paid only until July 1, 1995. Indiana proposed to add a new provision at IC 14–34–13–2(a) pertaining to reclamation fees for underground coal mining operations with support facilities located within Indiana and to change the reclamation fee for these operations from five and one-half cents per ton of coal produced to two cents. Indiana also proposed to remove the language which required fees to be paid only until July 1, 1995, from its existing provision in IC 14–34–13–2 and to redesignate it as subsection (b). This provision requires underground coal mining operations that have no support facilities located within Indiana but produce coal from reserves located within Indiana to pay a reclamation fee of one cent per ton of coal produced. The fees from surface and underground coal mining operations are deposited into the natural resources reclamation division fund for administration of the Indiana program.

Section 507(a) of SMCRA provides that an application for a surface coal mining and reclamation permit shall be accompanied by a fee determined by the regulatory authority. Such fee may be less than, but shall not exceed the actual or anticipated cost of reviewing, administering, and enforcing the permit. The regulatory authority may develop procedures to allow the fee to be paid over the term of the permit. After a review of the projected income from the proposed fees, the Director finds that the income will be less than the anticipated cost of reviewing, administering, and enforcing permits under the Indiana program. Therefore, the proposed changes in Indiana's provisions at IC 14–34–13–1 and IC 14–34–13–2 pertaining to permit fee amounts do not render these previously approved sections less stringent than section 507(a) of SMCRA.

*8. IC 14–34–19–2 Eligibility of Lands for Reclamation and Restoration Under the Abandoned Mine Land Program*

Indiana proposed to amend recodified IC 14–34–19–2 [previously IC 13–4.1–15–2] by designating the existing language as subsection (a) and by adding new subsection (b). New subsection (b) specifies that ''surface coal mining operations on lands eligible for remining do not affect the eligibility of the lands for reclamation and restoration under this chapter after the

release of the bond or deposit for the operation under IC 14–34–6.''

The language in the new provision at IC 14–34–19–2(b) is substantively identical to the Federal counterpart provision in section 404 of SMCRA. Therefore, the Director finds the proposed revisions to IC 14–34–19–2 do not render it less stringent than section 404 of SMCRA, and he is approving them.

## IV. Summary and Disposition of Comments

### *Public Comments*

The Director solicited public comments and provided an opportunity for a public hearing on the proposed amendment. No public comments were received, and because no one requested an opportunity to speak at a public hearing, no hearing was held.

### *Federal Agency Comments*

Pursuant to 30 CFR 732.17(h)(11)(i), the Director solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Indiana program (Administrative Record No. IND–1514). No comments were received.

### *Environmental Protection Agency (EPA)*

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to obtain the written concurrence of the EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). None of the revisions that Indiana proposed to make in this amendment pertain to air or water quality standards. Therefore, OSM did not request EPA's concurrence.

Pursuant to 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from EPA (Administrative Record No. IND–1514). EPA did not respond.

### *State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)*

Pursuant to 30 CFR 732.17(h)(4), OSM is required to solicit comments on proposed amendments which may have an effect on historic properties from the SHPO and ACHP. OSM solicited comments on the proposed amendment from the SHPO and ACHP (Administrative Record No. IND–1514). Neither SHPO nor ACHP responded to OSM's request.

## V. Director's Decision

Based on the above findings, the Director approves, with additional requirements, the proposed amendment as submitted by Indiana on September 11, 1995.

The Director approves, as discussed in: finding No. 1, IC 14–8–2–144.5, concerning a definition of ''lands eligible for remining''; finding No. 2, IC 14–8–2–285.5, concerning a definition of ''unanticipated event or condition''; finding No. 3, IC 14–34–2–4(a)(7) and (b), concerning responsibilities of the director of IDNR; finding No. 6.a., IC 14–34–10–2(b)(23)(A), concerning a 5-year revegetation responsibility period; finding No. IC 14–34–13–1 and 2, concerning reclamation fees for surface and underground coal mining operations; and finding No. 8, IC 14–34–19–2, concerning eligibility of lands for reclamation and restoration under the abandoned mine land program.

With the requirement that Indiana further revise its rules, the Director approves, as discussed in: finding No. 4, IC 14–34–4–8.5, concerning violations resulting from an unanticipated event or condition occurring on a remining site; finding No. 5, IC 14–34–4–10.5, concerning identification of potential problems in a permit application for lands eligible for remining; and finding No. 6.b, IC 14–34–10–2(b)(24), concerning a 2-year revegetation responsibility period for lands eligible for remining.

In accordance with 30 CFR 732.17(f)(1), the Director is also taking this opportunity to clarify in the requirement amendment section at 30 CFR 914.16 that, within 60 days of the publication of this final rule, Indiana must either submit a proposed written amendment, or a description of an amendment to be proposed that meets the requirements of SMCRA and 30 CFR Chapter VII and a timetable for enactment that is consistent with Indiana's established administrative or legislative procedures.

The Federal regulations at 30 CFR Part 914, codifying decisions concerning the Indiana program, are being amended to implement this decision. This final rule is being made effectively immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

### *Effect of Director's Decision*

Section 503 of SMCRA provides that a State may not exercise jurisdiction under SMCRA unless the State program is approved by the Secretary. Similarly, 30 CFR 732.17(a) requires that any alteration of an approved State program be submitted to OSM for review as a program amendment. The Federal regulations at 30 CFR 732.17(g) provide that an amendment shall not take effect for purposes of a State program until approved by OSM. In the oversight of the Indiana program, the Director will recognize only the statutes, regulations and other materials approved by OSM, together with any consistent implementing policies, directives and other materials, and will require the enforcement by Indiana of only such provisions.

## VI. Procedural Determinations

### *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).

### *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, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

### *National Environmental Policy Act*

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

### *Paperwork Reduction Act*

This rule does not contain information collection requirements that require approval by OMB under the

Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

*Regulatory Flexibility Act*

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon corresponding 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 corresponding Federal regulations.

List of Subjects in 30 CFR Part 914

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 3, 1996.

Brent Wahlquist,

*Regional Director, Mid-Continent Regional Coordinating Center.*

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

## PART 914—INDIANA

1. The authority citation for Part 914 continues to read as follows:

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

2. Section 914.15 is amended by adding paragraph (ppp) to read as follows:

### § 914.15 Approval of regulatory program amendments.

* * * * *

(ppp) The amendment submitted by Indiana to OSM by letter dated September 11, 1995, is approved effective April 10, 1996.

3. Section 914.16 is revised to add paragraph (hh) to read as follows:

### § 914.16 Required program amendments.

* * * * *

(hh) By June 10, 1996, Indiana shall submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption of proposed revisions to the Indiana program to provide implementing regulations for IC 14–34–4–8.5, concerning violations resulting from an unanticipated event or condition occurring on a remining site; IC 14–34–4–10.5, concerning identification of potential problems in a permit application for lands eligible for remining; and IC 14–34–10–2(b)(24), concerning a 2-year revegetation responsibility period for lands eligible for remining. Specifically, Indiana shall amend 310 IAC 12–3–112 by adding a counterpart to 30 CFR 773.15(b)(4) and 30 CFR 773.15(c)(13), as added on November 27, 1995 (60 FR 58480); shall amend 310 IAC 12–3 by adding a counterpart to 30 CFR 785.25, as added on November 27, 1995 (60 FR 58480); and shall amend 310 IAC 12–4–7 by adding counterpart to 30 CFR 816/817.116(c)(2)(ii), as added on November 27, 1995 (60 FR 58480).

[FR Doc. 96–8920 Filed 4–9–96; 8:45 am]

BILLING CODE 4310–05–M

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## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 180

**[PP 0E3853/R2223; FRL–5358–6]**

**RIN 2070–AC78**

## Hexaconazole; Pesticide Tolerance

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

**ACTION:** Final rule.

**SUMMARY:** EPA is establishing a time-limited tolerance, to expire on March 26, 1999, for residues of the fungicide hexaconazole, [alpha-butyl-alpha-(2,4-dichloro-phenyl)-1*H*-1,2,4-triazole-1-ethanol)], in or on the imported raw agricultural commodity bananas at 0.1 part per million (ppm). Zeneca Agrochemicals Products (Zeneca) petitioned for this regulation to establish a maximum permissible level for residues of the fungicide.

**EFFECTIVE DATE:** March 26, 1996.

**ADDRESSES:** Written objections and hearing requests, identified by the document control number, [PP 0E3853/RR2223], 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 a 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 [PP 0E3853/RR2223]. 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: Connie B. Welch, Product Manager (PM 21), Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 227, CM #2, 1921 Jefferson Davis Highway., Arlington, VA 22202, (703) 305–6900, e-mail: welch.connie@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** In the Federal Register of January 31, 1996 (61 FR 3363) EPA proposed to establish a time-limited tolerance for residues of the fungicide hexaconazole, [(alpha-butyl-alpha-(2,4-dichlorophenyl)-1*H*-1,2,4-triazole-1-ethanol)], in or on the raw agricultural commodity bananas at 0.1 part per million (ppm). The proposed regulation to establish a maximum permissible level of the fungicide pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, by amending 40 CFR part 180 to include this commodity was requested in a pesticide petition (PP 0E3853) submitted by Zeneca, New Murphy Road, Concord Pike, Wilmington, DE 19897.

There were no comments received in response to the notice of proposed rulemaking.

There are presently no actions pending against the continued registration of this chemical.

Based on the information and data considered, the Agency has determined that the tolerance established by amending 40 CFR part 180 will protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the Federal Register, file written objections to the regulation and may also request a hearing on those objections. Objections and hearing requests must be filed 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 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).

EPA has established a record for this rulemaking under docket number [PP 0E3853/RR2223] (including any comments and data submitted electronically). 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.

Electronic comments may be sent directly to EPA at:
opp-docket@epamail.epa.gov.

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

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

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

List of Subjects in 40 CFR Part 180

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

Dated: March 26, 1996.

Daniel M. Barolo,

*Director, Office of Pesticide Programs.*

Therefore, 40 CFR part 180 is amended as follows:

## PART 180—[AMENDED]

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

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

2. By adding new § 180.488 to read as follows:

**§ 180.488 Hexaconazole; tolerance for residues.**

A tolerance is established for residues of the fungicide hexaconazole, [alpha-butyl-alpha-(2,4-dichloro-phenyl)-1*H*-1,2,4-triazole-1-ethanol)], in or on the imported raw agricultural commodity bananas at 0.1 part per million. This tolerance will expire on [*insert date 3 years after the signature date*]. There are no U.S. registrations as of March 26, 1996 for use on bananas.

[FR Doc. 96–8946 Filed 4–9–96; 8:45 am]
BILLING CODE 6560–50–F

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## 40 CFR Parts 180 and 185

**[PP 0F3860, 3F4238; FAP 6H5740 and 6H5742/R2227; FRL–5361–1]**

**RIN 2070–AB78**

## Sulfonium, trimethyl-salt with N-(phosphonomethyl)glycine (1:1) (formerly glyphosate-trimesium/sulfosate); Pesticide Tolerances and Food/Feed Additive Regulations

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes permanent tolerances for the residues of the herbicide sulfonium, trimethyl- salt with *N*-(phosphonomethyl)glycine (1:1) (formerly glyphosate- trimesium/sulfosate) in or on the raw agricultural commodity stone fruit group and a food additive regulation for the processed commodity prunes. In addition, this regulation establishes a 2–year time limited tolerance for the residue of this herbicide in or on the raw agricultural commodities soybean forage, soybean

aspirated grain fractions, soybean hay, and soybean seed and establishes a feed additive regulation for this herbicide in or on soybean hulls. The regulations to establish maximum permissible levels for residues of the pesticide in or on the commodities were requested in petitions submitted by Zeneca Ag Products.

**EFFECTIVE DATE:** This regulation becomes effective April 10, 1996.

**ADDRESSES:** Written objections and hearing requests, identified by the document control number, [PP 0F3860 and 3F4238; FAP 6H5740 and 6H5742/R2227], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 1132 CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202. Fees accompanying objections shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251.

An electronic copy of objections and hearing requests filed with the Hearing Clerk may be submitted to OPP 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 5.1 file format or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket number [PP 0F3860 and 3F4238; FAP 6H5740 and 6H5742/]. 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.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as ''Confidential Business Information''. CBI should not be submitted through e-mail. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8 a. m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

**FOR FURTHER INFORMATION CONTACT:** By mail: Robert J. Taylor, Product Manager (PM) 25, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460. Office location and telephone number: Rm. 241, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703) 305–6027; e-mail: taylor.robert@epamail. epa.gov.

**SUPPLEMENTARY INFORMATION:** EPA issued the following notices in the Federal Register which announced that Zeneca Ag Products, 1800 Concord Pike, P.O. Box 15458, Wilmington, DE 19850–5458, had submitted pesticide petitions (PP 0F3860 and 3F4238) and food additive petitions (FAP) to EPA requesting that the Administrator, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), amend 40 CFR part 180 by establishing tolerances for residues of the herbicide sulfonium, trimethyl-salt with *N*-(phosphonomethyl)glycine (1:1), in or on certain raw agricultural commodities (RACs).

1. *FAPs 6H5740 and 6H5742*. FAPs 6H5740 and 6H5742 requests that the Administrator, pursuant to section 409(e) of the FFDCA (21 U.S.C. 348), amend 40 CFR part 185 by establishing food additive regulations for the residues of the herbicide sulfonium, trimethyl-salt with *N*-(phosphonomethyl) glycine (1:1) in or on the processed food commodities: prunes, (of which no more than 0.05 ppm is trimethylsulfonium) at 0.2 ppm and soybean, hulls (of which no more than 2 ppm is trimethylsulfonium) at 7.0 ppm.

2. *PP 0F3860*. Published in the Federal Register (PF–638; FRL–4986–8) of November 15, 1995 (60 FR 57423), the notice proposed establishing a regulation to permit the residues of the herbicide sulfonium, trimethyl-salt with *N*-(phosphonomethyl) glycine (1:1) in or on the raw agricultural commodities soybean forage at 2.00 ppm (of which no more than 1 ppm is trimethylsulfonium (TMS)), soybean aspirated grain fractions at 210.0 ppm (of which no more than 60 ppm is TMS), soybean hay at 5.00 ppm (of which no more than 2 ppm is TMS) and soybean seed at 3.00 ppm (of which no more than 1 ppm is TMS).

3. *PP 3F4238*. Published in the Federal Register (PF–581; FRL–4645–7) of October 21, 1993 (58 FR 54355), the notice proposed establishing a regulation to permit residues of the herbicide sulfonium, trimethyl-salt with *N*-(phosphonomethyl)glycine (1:1) in or on the raw agricultural commodities stone fruit group at 0.05 ppm.

4. *PP 6H5740*. Published in the Federal Register (PF–642; FRL–4992–9) of January 31, 1996 (61 FR 3401), the notice proposed establishing a regulation to permit residues of the herbicide, sulfonium, trimethyl-salt with *N*-(phosphonomethyl) glycine (1:1) in or on feed commodity soybean hulls at 7.0 ppm (of which no more than 2 ppm is TMS).

5. *PP 6H5742*. Published in the Federal Register (PF–642; FRL–4992–9) of January 31, 1996 (61 FR 3401), the notice proposed establishing a regulation to permit the residues of the herbicide, sulfonium, trimethyl-salt with *N*-(phosphonomethyl)glycine (1:1) in or on the processed commodity prunes at 0.2 ppm (of which no more than 0.05 ppm is TMS).

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

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

1. Several acute toxicology studies placing technical grade sulfonium, trimethyl-salt with *N*-(phosphonomethyl)glycine (1:1) in Toxicity Category III and Toxicity Category IV.

2. A subchronic feeding study with dogs fed dosage levels of 0, 2, 10 and 50 milligrams/kilogram/day (mg/kg/day) with a no observable effect level (NOEL) of 10/mg/kg/day.

3. A chronic feeding/carcinogenicity study in male and female rats fed dosage levels of 0, 100, 500, and 1,000 parts per million (ppm) (0, 4.2, 21.2 or 41.8 mg/kg/day in males and 0, 5.4 27.0 or 55.7 mg/kg/day in females) with no carcinogenic effects observed under the conditions of the study at dose levels up to and including the 1,000 ppm highest dose tested (HDT) and a systemic NOEL of 1,000 ppm. There were no biologically significant effects observed

in the study. The study was considered to be acceptable because the highest dose level tested was approaching one half of what would be considered an adequate dose level for carcinogenicity testing and because there was no indication of any carcinogenic response to warrant repeat of the study. This assessment was based on toxic effects observed in the subchronic and reproductive toxicity studies in rats at higher dose levels.

4. A chronic feeding/carcinogenicity study in male and female mice fed dosage levels of 0, 100, 1,000, and 8,000 ppm (0, 11.7, 118 or 991 mg/kg/day in males and 0, 16, 159 or 1,341 mg/kg/day in females) with no carcinogenic effects observed under the conditions of the study at dose levels up to and including the 8,000 ppm HDT (highest dose may have been excessive) and systemic NOEL of 1,000 ppm based on decreases in body weight and feed consumption (both sexes), increases in the incidences of white matter degeneration in the lumbar spinal cord (males only), and increased incidences of duodenal epithelial hyperplasia (females only).

5. A developmental toxicity study in rats given doses of 0, 30, 100, and 333 mg/kg/day with a developmental NOEL of 100 mg/kg/day based on significant decreases in fetal body weight, and a maternal NOEL of 100 mg/kg/day based on undetermined deaths of two dams at HDT; decreases in bodyweight, bodyweight gain and feed intake; and increased salivation, chromorhinorrhea and lethargy (HDT).

6. A developmental toxicity study in rabbits given doses of 0, 10, 40, and 100 mg/kg/day with a developmental NOEL of 40 mg/kg/day based on four abortions and a reduction in the number of live fetuses/doe. In addition, there were only seven litters available for examination. This was not a sufficiently high number of animals to absolutely conclude that no developmental toxicity was occurring at the highest dose level. The maternal NOEL was 40 mg/kg/day based on 6 deaths/17 pregnant does, 4 abortions in 11 survivors and decreased body weight, body weight gain, food consumption.

7. A two generation reproduction study with rats fed dosage rates of 0, 150, 800, and 2,000 ppm (0, 6.1, 35 or 88.5 mg/kg/day in males and 0, 8, 41 or 98 mg/kg/day in females) with a reproductive/ developmental NOEL of 150 ppm based on decreased litter size in the F0a and F1b litters at 2,000 ppm and on decreased mean pup weights during lactation in the second litters at 800 ppm and in all litters at 2,000 ppm; and a systemic NOEL of 150 ppm based on reduced feed intake, body weights and body weight gains and reduced absolute and sometimes relative thymus, heart, liver and kidney weights.

8. Mutagenicity data included two Ames tests with Salmonella typhimurium; a sex linked recessive lethal test with Drosophila melanoga; a forward mutation (mouse lymphoma) test; an *in vivo* bone marrow cytogenetics test in rats; a micronucleus assay in mice; an *in vitro* chromosomal aberration test in Chinese hamster ovary cells (CHO) (no aberrations were observed either with or without S9 activation and there were no increases in sister chromatid exchanges); and a morphological transformation test in mice (all negative).

The reference dose (RfD) based on a chronic dog feeding study (NOEL of 10 mg/kg body weight(bwt)/day) and using a hundred-fold safety factor is calculated to be 0.1 mg/kg bwt/day. The theoretical maximum residue contribution (TMRC) for all proposed tolerances (almond hulls; bananas; citrus fruit group; corn; eggs; grapes; fat, meat by-products, meat of cattle, goats, hogs, horses and sheep; pome fruit group; poultry fat, poultry liver, poultry meat by-products and poultry meat; soybeans; stone fruit group; tree nut group; and wheat; and food regulations (prunes, raisins, and soybean hulls) is 0.019760 mg/kg/day or 19.760 percent of the RfD for the overall U.S. population. For U.S. subgroup populations, nonnursing infants and children 1 to 6 years of age, the current action, previously proposed tolerances and the food additive regulations utilize a total of 0.044461 mg/kg/day and 44.461 percent of the RfD, assuming that residue levels are at the established tolerance levels and that 100 percent of the crop is treated.

The RfD/Peer Review Committee, in a consensus review dated July 26, 1994, classified sulfonium, trimethyl-salt with *N*-(phosphonomethyl)glycine (1:1) as a Group E carcinogen: no evidence of carcinogenicity in rat and mouse studies.

An adequate analytical method, gas chromatography for the cation and liquid chromatography for the anion and its metabolite AMPA, is available for enforcement purposes and the methodology will be published in the ''Pesticide Analytical Manual'' (PAM), Vol. II.

There are presently no actions pending against the continued registration of this chemical.

Based on the information and data considered, the Agency has determined that the tolerances established by amending 40 CFR part 180 would protect the public health, and the establishment of food additive regulations by amending 40 CFR part 185 would be safe. 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 to the regulation and may also request a hearing on those objections. Objections and hearing requests must be filed 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 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 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 0F3860 and 3F4238; FAP 6H5740 and 6H5742/R2227] (including comments and data submitted electronically). 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.

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 all comments 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 all the requirements of the Executive Order (i.e., Regulatory Impact Analysis, review by the Office of Management and Budget (OMB)). Under section 3(f), the order defines ''significant'' as those actions likely to lead to a rule (1) having an annual effect on the economy of

100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also known as ''economically significant''); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements, or establishing or raising food additive regulations 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

*40 CFR Part 180*

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

*40 CFR Part 185*

Environmental protection, Food additive, Pesticides and pests

Dated: March 27, 1996.

Sstephen L. Johnson,

*Director, Registration Division, Office of Pesticide Programs.*

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

## PART 180—[AMENDED]

1. In part 180:

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

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

b. Section 180.489 is amended by adding an entry for stone fruit group to the table in paragraph (a), and by revising paragraph (b) to read as follows:

**§ 180.489 Sulfonium, trimethyl-salt with N-(phosphonomethyl)glycine (1:1); tolerances for residues.**

(a) * * *

| Commodities | Parts per million |
|---|---|
| * * * * * | |
| Stone fruit group | 0.05 |

(b) Time-limited tolerances are established for the residues of the herbicide sulfonium, trimethyl-salt with *N*-(phosphonomethyl)glycine (1:1) in or on the following raw agricultural commodities:

| Commodities | Parts per million | Expiration date |
|---|---|---|
| Cattle, fat | 0.10 | March 9, 1998 |
| Cattle, mbyp | 1.00 | Do. |
| Cattle, meat | 0.20 | Do. |
| Corn, fodder (of which no more than 0.20 ppm is trimethylsulfonium) | 0.30 | Do. |
| Corn, forage | 0.10 | Do. |
| Corn, grain (of which no more than 0.10 is trimethylsulfonium) | 0.20 | Do. |
| Eggs | 0.02 | Do. |
| Goats, fat | 0.10 | Do. |
| Goats, mbyp | 1.00 | Do. |
| Goats, meat | 0.20 | Do. |
| Hogs, fat | 0.10 | Do. |
| Hogs, mbyp | 1.00 | Do. |
| Hogs, meat | 0.20 | Do. |
| Horses, fat | 0.10 | Do. |
| Horses, mbyp | 1.00 | Do. |
| Horses, meat | 0.20 | Do. |
| Milk | 0.20 | Do. |
| Poultry, fat | 0.05 | Do. |
| Poultry, liver | 0.05 | Do. |
| Poultry, mbyp | 0.10 | Do. |
| Poultry, meat | 0.05 | Do. |
| Sheep, fat | 0.10 | Do. |
| Sheep, mbyp | 1.00 | Do. |
| Sheep, meat | 0.20 | Do. |
| Soybean, forage (of which no more than 1 ppm is trimethylsulfonium) | 2.00 | April 10, 1998 |
| Soybean, aspirated grain fractions (of which no more than 60 ppm is trimethylsulfonium) | 210.00 | Do. |
| Soybean, hay (of which no more than 2 ppm is trimethylsulfonium) | 5.00 | Do. |
| Soybean, seed (of which no more than 1 ppm is trimethylsulfonium) | 3.00 | Do. |

## PART 185—[AMENDED]

2. In part 185:

a. The authority citation for part 185 continues to read as follows:

Authority: 21 U.S.C. 346a and 348.

b. In § 185.5375, the table in paragraph (a) is amended by adding entries for prunes, and soybean, hulls to read as follows:

**§ 185.5375 Sulfonium, trimethyl-salt with N-(phosphonomethyl)glycine (1:1).**

(a) * * *

| Commodities | Parts per million |
|---|---|
| Prunes, (of which no more than 0.05 ppm is trimethylsulfonium) | 0.2 |
| * * * * * | |
| Soybean, hulls (of which no more than 2 ppm is trimethylsulfonium) | 7.0 |
| * * * * * | |

* * * * *

[FR Doc. 96–8945 Filed 4–9–96; 8:45 am]

BILLING CODE 6560–50–F

## 40 CFR Parts 180 and 186

**[PP 1F3973, PP 4F4345, FAP 1H5611 and 4H5693/R2227; FRL–5361–9]**

**RIN 2070–AB78**

## Avermectin $B_1$ and Its Delta-8,9-Isomer; Pesticide Tolerance

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

**ACTION:** Final Rule.

**SUMMARY:** This rule establishes tolerances for combined residues of the insecticide Avermectin $B_1$ and its delta-8,9-isomer in or on the raw agricultural commodities (RACs) almonds, apples, and walnuts; and in or on processed feed items apples, wet pomace and almonds, hulls. The regulation to establish a maximum permissible level for residues of the insecticide was requested in a petition submitted by the Merck Research Laboratories, Division of Merck Co., Inc.

**EFFECTIVE DATE:** This regulation becomes effective April 10, 1996.

**ADDRESSES:** Written objections and hearing requests, identified by the docket number, [PP 1F3973, PP 4F4345, FAP 1H5611 and 4H5693/R], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the docket number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Fees accompanying objections shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. An electronic copy of objections and hearing requests filed with the Hearing Clerk may be submitted to OPP by sending electronic mail (e-mail) to:opp-docket@epamail.epa.gov.

Copies of electronic objections and hearing requests must be submitted as a 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 disk in WordPerfect 5.1 file format or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket number [PP 1F3973, PP 4F4345, FAP 1H5611 and 4H5693/R]. 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: George LaRocca, Product Manager (PM) 13, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460. Office location and telephone number: Rm. 204, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202. (703) 305–6100; e-mail: larocca.george@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** EPA issued notices published in the Federal Register of May 29, 1991 (56 FR 24189) and July 13, 1994 (59 FR 35720), which announced that Merck Research Laboratories had submitted pesticide petitions (PPs) 1F3973 and 4F4345 to EPA requesting the that Administrator, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), amend 40 CFR 180.449 by establishing tolerances for the combined residues of the insecticide avermectin $B_1$ and its delta-8,9-isomer, in or on the RACs almonds at 0.005 parts per million (ppm); apples at 0.02 ppm; and walnuts at 0.005 ppm. In the same notices, Merck Research Laboratories submitted feed additive petitions (FAPs) 1H5611 and 4H5693 requesting that the Administrator, pursuant to section 409(e) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 348(b), amend 40 CFR 186.300 by establishing a feed additive regulations for the combined residues of the insecticide avermectin $B_1$ and its delta-8,9-isomer, in or on processed feed commodities apples, wet pomace at 0.10 ppm and almonds, hulls at 0.10 ppm.

There were no comments received in response to the notice of filing.

The data submitted in support of this tolerance and other relevant material have been reviewed. The toxicological and metabolism data and analytical methods for enforcement purposes considered in support of this tolerance are discussed in detail in related documents published in the Federal Register of May 31, 1989 (54 FR 23209) on cottonseed, and August 2, 1989 (54 FR 31836) on citrus.

The Agency used a two-generation rat reproduction study with an uncertainty factor of 300 to establish a Reference Dose (RfD). The 300–fold uncertainty factor was utilized for (1) inter- and intra-species differences, (2) the extremely serious nature (pup death) observed in the reproduction study, (3) maternal toxicity (lethality) no-observable-effect level (NOEL) (0.05 mg/kg/day), and (4) cleft palate in the mouse developmental toxicity study with isomer (NOEL = 0.06 mg/kg/day). Thus, based on a NOEL of 0.12 mg/kg/day from the two-generation rat reproduction and an uncertainty factor of 300, the RfD is 0.0004 mg/kg body weight(bwt)/day.

A chronic dietary exposure/risk assessment has been performed for avermectin $B_1$ using the above RfD. Available information on anticipated residues and 100% crop treated was incorporated into the analysis to estimate the Anticipated Residue Contribution (ARC). The ARC is generally considered a more realistic estimate than an estimate based on the tolerance-level residues. The ARC for established tolerances and the current actions are estimated at 0.000017 mg/kg bwt/day and utilizes 4.3% of the RfD for the U.S. population. For non-nursing infants less than 1 year old (the sub-group population with the highest exposure level) the ARC for established tolerances and the current actions are estimated at 0.000040 mg/kg bwt/day and utilizes 10.0% of the RfD. Generally

speaking, the Agency has no cause for concern if anticipated residues contribution for all published and proposed tolerances is less than the RfD.

Because of the developmental effects seen in animal studies, the Agency used the mouse teratology study (with a NOEL of 0.06 mg/kg/day for developmental toxicity for the delta-8,9-isomer) to assess acute dietary exposure and determine a margin of exposure (MOE) for the overall U.S. population and certain subgroups. Since the toxicological end point pertains to developmental toxicity, the population group of interest for this analysis is women aged 13 and above, the subgroup which most closely approximates women of child bearing ages. The MOE is calculated as the ratio of the NOEL to the exposure. For this analysis, the Agency calculated the MOE for the high-end exposures for women ages 13 and above. The MOE is 500. Generally speaking, MOEs greater than 100 for developmental toxicity do not raise concerns.

The metabolism of the chemical in plants and animals for these uses are adequately understood. Any secondary residues occurring in meat, meat-byproducts of cattle or milk will be covered by existing tolerances for those commodities. There is no reasonable expectation of finite residues in poultry and swine, therefore no tolerances are necessary at this time. Adequate analytical methodology (HPLC-Fluorescence Methods) is available for enforcement purposes. Prior to publication in the *Pesticide Analytical Manual*, Vol II, the enforcement methodology is being made available in the interim to anyone who is interested in pesticide enforcement when requested from Calvin Furlow, Public Response and Program Resource Branch, Field Operations Division (7506C), Office of Pesticide Programs, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 1132, CM #2, 1921 Jefferson-Davis Hwy., Arlington, VA 22202, (703) 305–5232.

The tolerances established by amending 40 CFR parts 180 and 186 will be adequate to cover residues in or on almonds, apples and walnuts. There are presently no actions pending against the continued registration of this chemical.

The pesticide is considered useful for the purpose for which the tolerances are sought and capable of achieving its physical or technical effect.

Based on the information and data considered, the Agency has determined that the tolerance established by amending 40 CFR part 180 would protect the public health, and that the establishment of a feed additive regulation by amending 40 CFR part 186 would be safe. 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 to the regulation and may also request a hearing on those objections. Objections and hearing requests must be filed 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 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 the docket number [PP 1F3973, PP 4F4345, FAP 1H5611 and 4H5693/R] (including any comments and data submitted electronically). 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.

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 rule-making record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the Virginia 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 all the requirements of the Executive Order (i.e., Regulatory Impact Analysis, review by the Office of Management and Budget (OMB)). Under section 3(f), the order defines ''significant'' as those actions likely to lead to a rule (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also known as ''economically significant''); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

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

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

List of Subjects

*40 CFR Part 180*

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

*40 CFR Part 186*

Animal feeds, Pesticides and pests.

Dated: March 29, 1996.

Peter Caulkins,

*Acting Director, Registration Division, Office of Pesticide Programs.*

Therefore, chapter I of title 40 Code of Federal Regulations is amended as follows:

1. In part 180:

## PART 180—[AMENDED]

a. The authority citation of part 180 continues to read as follows:

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

b. In § 180.449, the table in paragraph (b) is amended by adding alphabetically entries for the commodities almonds, apples and walnuts to read as follows:

**§ 180.449 Avermectin $B_1$ and its delta-8,9-isomer; tolerances for residues.**

* * * * *

(b) * * *

| Commodity | Parts per million |
|---|---|
| Almonds | 0.005 |
| Apples | 0.020 |
| * * * * * | |
| Walnuts | 0.005 |

2. In part 186:

## PART 186—[AMENDED]

a. The authority citation of part 186 continues to read as follows:

Authority: 21 U.S.C. 346a and 348.

b. In § 186.300 the table in paragraph (b) is amended by adding alphabetically entries for the commodities almonds, hulls; and apples, wet pomace to read as follows:

**§ 186.300 Avermectin $B_1$ and its delta-8,9-isomer; tolerances for residues.**

* * * * *

(b) * * *

| Commodity | Parts per million |
|---|---|
| Almonds, hulls | 0.10 |
| Apples, wet pomace | 0.10 |
| * * * * * | |

[FR Doc. 96–8944 Filed 4–9–96; 8:45 am]

BILLING CODE 6560–50–F

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## 40 CFR Part 300

**[FRL–5454–1]**

## National Oil and Hazardous Substances Contingency Plan; National Priorities List Update

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of Deletion of the Folkertsma Refuse Site Superfund Site from the National Priorities List (NPL).

**SUMMARY:** The Environmental Protection Agency (EPA) announces the deletion of the Folkertsma Refuse site in Michigan from the National Priorities List (NPL). The NPL is Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. This action is being taken by EPA and the State of Michigan, because it has have been determined that Responsible Parties have implemented all appropriate response actions required. Moreover, EPA and the State of Michigan have determined that remedial actions conducted at the site to date remain protective of public health, welfare, and the environment.

**EFFECTIVE DATE:** April 10, 1996.

**FOR FURTHER INFORMATION CONTACT:** Karen Sikora at (312) 886–1843 (SR–6J), Remedial Project Manager or Gladys Beard at (312) 886–7253, Associate Remedial Project Manager, Superfund Division, U.S. EPA—Region V, 77 West Jackson Blvd., Chicago, IL 60604. Information on the site is available at the local information repository located at: Kent County Public Library, 4293 Remembrance N. W., Walker, Michigan, 49554. Requests for comprehensive copies of documents should be directed formally to the Regional Docket Office. The contact for the Regional Docket Office is Jan Pfundheller (H–7J), U.S. EPA, Region V, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 353–5821.

**SUPPLEMENTARY INFORMATION:** The site to be deleted from the NPL is: Folkertsma Refuse Site located in Walker, Michigan. A Notice of Intent to Delete for this site was published January 29, 1996 (61 FR 2772). The closing date for comments on the Notice of Intent to Delete was February 29, 1996. EPA received comments and therefore has prepared a Responsiveness Summary.

The EPA identifies sites which appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those sites. Sites on the NPL may be the subject of Hazardous Substance Response Trust Fund (Fund-) financed remedial actions. Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action. Section 300.425(e)(3) of the NCP states that Fund-financed actions may be taken at sites deleted from the NPL in the unlikely event that conditions at the site warrant such action. Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous Waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: March 26, 1996.

Valdas V. Adamkus,

*Regional Administrator, U.S. EPA, Region V.*

40 CFR part 300 is amended as follows:

## PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp.; p.351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp.; p. 193.

## Appendix B—[Amended]

2. Table 1 of appendix B to part 300 is amended by removing the Site ‘‘ Folkertsma Refuse Site, Walker, Michigan’’.

[FR Doc. 96–8663 Filed 4–9–96; 8:45 am]

BILLING CODE 6560–50–P

# Proposed Rules

Federal Register
Vol. 61, No. 70
Wednesday, April 10, 1996

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 TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. 95–SW–35–AD]**

### Airworthiness Directives; Bell Helicopter Textron, A Division of Textron Canada, Ltd. Model 206L–1 Helicopters

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

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

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to Bell Helicopter Textron, A Division of Textron Canada, Ltd. (BHTC) Model 206L–1 helicopters that have a Kratos turbine outlet temperature (TOT) indicator (Kratos indicator) installed. This proposal would require replacing certain Kratos indicators. This proposal is prompted by manufacturer's tests and FAA analyses that show certain Kratos indicators may incorrectly provide low-temperature readings when battery voltage is below 10 volts. The actions specified by the proposed AD are intended to prevent false low-temperature indications, which could result in overheating of the engine turbine (turbine) and subsequent thermal fatigue damage to the turbine wheel.

**DATES:** Comments must be received by June 10, 1996.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–SW–35–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from BHTC, 12,800 Rue de L'Avenir, Mirabel, Quebec, Canada J7J1R4, ATTN: Product Support Engineering Light Helicopters. This information may be examined at the FAA, Office of the Assistant Chief Counsel, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

**FOR FURTHER INFORMATION CONTACT:** Ms. Jennifer Kuehn, Aerospace Engineer, Rotorcraft Certification Office, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5366, fax (817) 222–5960.

**SUPPLEMENTARY INFORMATION:**

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 95–SW–35–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–SW–35–AD, 2601 Meacham Blvd., Fort Worth, Texas 76137.

Discussion

This notice proposes the adoption of a new AD that is applicable to BHTC Model 206L–1 helicopters. Manufacturer's tests and subsequent FAA analyses show that certain Kratos indicators, part number (P/N) 124.444–6 or 124.444–20, may incorrectly provide low-temperature readings when battery voltage is below 10 volts.

Bell Helicopter Textron, Inc., the previous type certificate holder, has issued Alert Service Bulletin 206L–94–94, Revision A, dated July 11, 1994, which specifies removing the Kratos indicator and replacing it with an Ametek indicator, P/N 206–075–680–105 or P/N 206–375–006–101. This notice proposes to require replacement of the Kratos indicator, P/N 124.444–6 or 124.444–20, with any airworthy Model 206L–1 TOT indicator, except for Kratos indicator, P/N 124.444–6 or 124.444–20. This helicopter model is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the Canadian Airworthiness Authority has kept the FAA informed of the situation described above. The FAA has 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 BHTC Model 206L–1 helicopters of the same type design registered in the United States, the proposed AD would require removing the Kratos indicator and replacing it with an airworthy TOT indicator within 90 days after the effective date of this AD. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The FAA estimates that 100 helicopters of U.S. registry would be affected by this proposed AD, that it would take approximately 8 work hours per helicopter to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $8,300 per helicopter. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $878,000.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 106(g), 40113, 44701.

**§ 39.13 [Amended]**

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

Bell Helicopter Textron, a Division of Textron Canada, Ltd.: Docket No. 95–SW–35–AD.

*Applicability:* Model 206L–1 helicopters that have a Kratos turbine outlet temperature (TOT) indicator (Kratos indicator), part number (P/N) 124.444–6 or 124.444–20, 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.

*Compliance:* Required within 90 days after the effective date of this AD, unless accomplished previously.

To prevent false low-temperature indications, which could result in overheating of the engine turbine (turbine) and subsequent thermal fatigue damage to the turbine wheel, accomplish the following:

(a) Remove the Kratos indicator, P/N 124.444–6 or 124.444–20, and replace it with any airworthy Model 206L–1 TOT indicator, except for the Kratos TOT indicator, P/N 124.444–6 or 124.444–20.

Note 2: Bell Helicopter Textron, Inc. Alert Service Bulletin 206L–94–94, Revision A, dated July 11, 1994, pertains to this AD.

(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, Rotorcraft Certification Office, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Certification Office.

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

Issued in Fort Worth, Texas, on April 2, 1996.

Eric Bries,

*Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.*

[FR Doc. 96–8851 Filed 4–9–96; 8:45 am]

BILLING CODE 4910–13–P

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## 14 CFR Part 39

**[Docket No. 96–NM–39–AD]**

## Airworthiness Directives; McDonnell Douglas Model DC–10–10 and DC–10–15 Series Airplanes

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

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

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–10–10 and DC–10–15 series airplanes. This proposal would require an inspection for evidence of missing chrome and for corrosion on the chrome surfaces, or verification that the forward trunnion bolts have been chrome plated in a specific manner; and rework or replacement of the bolts, if necessary. This proposal is prompted by a report of chrome flaking on the bearing surface of the trunnion bolts due to improper cleaning of the base material prior to chrome plating. The actions specified by the proposed AD are intended to prevent premature failure of the trunnion bolts and subsequent collapse of the main landing gear (MLG) as a result of chrome flaking and severe corrosion on the bearing surface and in the mechanical fuse.

**DATES:** Comments must be received by June 4, 1996.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–39–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

**FOR FURTHER INFORMATION CONTACT:** Maureen Moreland or Ron Atmur, Aerospace Engineers, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627–5238 or (310) 627–5224; fax (310) 627–5210.

**SUPPLEMENTARY INFORMATION:**

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address

specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 96–NM–39–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–39–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On January 23, 1996, the FAA issued AD 96–03–05, amendment 39–9502 (61 FR 5281, February 12, 1996), which is applicable to certain McDonnell Douglas Model MD–11 series airplanes and Model DC–10–30, DC–10–40, and KC–10A (military) airplanes. For Model MD–11 series airplanes, that AD requires an inspection to determine the serial number of the forward trunnion bolts on the main landing gear (MLG), and rework or replacement of the bolts, if necessary. For Model DC–10–30, DC–10–40, and KC–10A (military) airplanes, that AD requires an inspection for evidence of missing chrome and for corrosion on the chrome surfaces, or verification that the forward trunnion bolts have been chrome plated in a specific manner; and rework or replacement of the bolts, if necessary. That AD was prompted by reports of chrome flaking on the bearing surface of the trunnion bolts due to improper cleaning of the base material prior to chrome plating. The actions specified by that AD are intended to prevent premature failure of the trunnion bolts and subsequent collapse of the MLG as a result of severe corrosion on the bearing surface and in the mechanical fuse due to chrome flaking.

Since the issuance of AD 96–03–05, the FAA has received reports indicating that the trunnion bolts on certain Model DC–10–10 and DC–10–15 series airplanes were chrome plated during the same time frame using the same process as the trunnion bolts installed on airplanes affected by AD 96–03–05. Additionally, the FAA has received a report of chrome flaking on the bearing surface of the trunnion bolt installed on the MLG of a Model DC–10–10 series airplane.

Subsequently, the FAA has reviewed and approved McDonnell Douglas Service Bulletin DC10–32–241, dated December 13, 1995, which describes procedures for a visual inspection for evidence of missing chrome and for corrosion on the chrome surfaces of the trunnion bolts, or verification that the forward trunnion bolts have been chrome plated in a specific manner. The service bulletin also provides procedures for certain rework or replacement of the bolts with serviceable parts, if necessary. Accomplishment of the rework or replacement will minimize the possibility of chrome flaking on the forward trunnion bolts.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require a visual inspection for evidence of missing chrome and for corrosion on the chrome surfaces, or verification that the forward trunnion bolts have been chrome plated in a specific manner; and rework or replacement of the bolts, if necessary. The inspection, verification, and certain corrective actions would be required to be accomplished in accordance with the service bulletin described previously. A portion of the rework would be required to be accomplished in accordance with the Component Maintenance Manual or a method approved by the FAA.

There are approximately 139 McDonnell Douglas Model DC–10–10 and DC–10–15 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 121 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $7,260, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 106(g), 40113, 44701.

**§ 39.13 [Amended]**

2. Section 39.13 is amended by adding the following new airworthiness directive:

McDonnell Douglas: Docket 96–NM–39–AD.

*Applicability:* Model DC–10–10 and DC–10–15 series airplanes, as listed in McDonnell Douglas Service Bulletin DC10–32–241, dated December 13, 1995; 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 request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

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

To prevent premature failure of the trunnion bolts and subsequent collapse of the main landing gear (MLG), accomplish the following:

(a) For airplanes on which the forward trunnion bolts, part number (P/N) ARG7557–501, installed on the left and right MLG's, have accumulated 6,000 or more total flight hours, or 2,000 or more total flight cycles, as of the date of the inspection or verification required by paragraph (a)(1) or (a)(2), respectively, of this AD: Within 18 months after the effective date of this AD, accomplish either paragraph (a)(1) or (a)(2) of this AD, in accordance with McDonnell Douglas Service Bulletin DC10–32–241, dated December 13, 1995.

(1) Remove the bolts and perform a visual inspection for evidence of missing chrome and for corrosion on the chrome surfaces, in accordance with the service bulletin.

(i) If no evidence of missing chrome and no corrosion on the chrome surfaces are found, no further action is required by this AD.

(ii) If any evidence of missing chrome or any corrosion on the chrome surfaces is found, prior to further flight, accomplish either paragraph (a)(1)(ii)(A) or (a)(1)(ii)(B) of this AD.

(A) Remove the chrome plating on the trunnion bolt in accordance with the service bulletin; replace the plating in accordance with the Component Maintenance Manual (CMM), Chapter 20–10–02, Revision 31, dated September 1, 1991, or in accordance with a method approved by a McDonnell Douglas Designated Engineering Representative (DER) who has been given a special delegation by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate, to make such a finding; and reinstall the reworked bolt in accordance with the service bulletin.

(B) Replace the trunnion bolt with a serviceable part in accordance with the service bulletin.

(2) Verify whether the forward trunnion bolts, P/N ARG7557–501, installed on the left and right MLG's, have been chrome plated since original manufacture, in accordance with the CMM, Chapter 20–10–02, Revision 31, dated September 1, 1991, or in accordance with a method approved by a McDonnell Douglas DER who has been given a special delegation by the Manager, Los Angeles ACO, to make such a finding.

(i) If the bolts have been chrome plated since original manufacture, in accordance with the CMM, Chapter 20–10–02, Revision 31, dated September 1, 1991, or in accordance with a method approved by a McDonnell Douglas DER who has been given a special delegation by the Manager, Los Angeles ACO, to make such a finding: No further action is required by this AD.

(ii) If any bolt has not been chrome plated since original manufacture, in accordance with the CMM, Chapter 20–10–02, Revision 31, dated September 1, 1991, or in accordance with a method approved by a McDonnell Douglas DER who has been given a special delegation by the Manager, Los Angeles ACO, to make such a finding: Prior to further flight, accomplish the requirements of either paragraph (a)(1)(ii)(A) or (a)(1)(ii)(B) of this AD in accordance with the service bulletin.

(b) For airplanes other than those identified in paragraph (a) of this AD: Within 18 months after the effective date of this AD, verify whether the forward trunnion bolts, P/N ARG7557–501, installed on the left and right MLG's, have been chrome plated since original manufacture, in accordance with the CMM, Chapter 20–10–02, Revision 31, dated September 1, 1991, or in accordance with a method approved by a McDonnell Douglas DER who has been given a special delegation by the Manager, Los Angeles ACO, to make such a finding.

(1) If the bolts have been chrome plated since original manufacture, in accordance with the CMM, Chapter 20–10–02, Revision 31, dated September 1, 1991, or in accordance with a method approved by a McDonnell Douglas DER who has been given a special delegation by the Manager, Los Angeles ACO, to make such a finding: No further action is required by this AD.

(2) If any bolt has not been chrome plated since original manufacture, in accordance with the CMM, Chapter 20–10–02, Revision 31, dated September 1, 1991, or in accordance with a method approved by a McDonnell Douglas DER who has been given a special delegation by the Manager, Los Angeles ACO, to make such a finding: Prior to further flight, accomplish the requirements of either paragraph (b)(2)(i) or (b)(2)(ii) of this AD in accordance with McDonnell Douglas Service Bulletin DC10–32–241, dated December 13, 1995.

(i) Remove the chrome plating on the trunnion bolt in accordance with the service bulletin; replace the plating in accordance with the Component Maintenance Manual (CMM), Chapter 20–10–02, Revision 31, dated September 1, 1991, or in accordance with a method approved by a McDonnell Douglas Designated Engineering Representative (DER) who has been given a special delegation by the Manager, Los Angeles ACO, FAA, Transport Airplane Directorate, to make such a finding; and reinstall the reworked bolt in accordance with the service bulletin. Or

(ii) Replace the trunnion bolt with a serviceable part in accordance with the service bulletin.

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

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

Issued in Renton, Washington, on April 4, 1996.

Darrell M. Pederson,

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

[FR Doc. 96–8917 Filed 4–9–96; 8:45 am]

BILLING CODE 4910–13–P

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## 14 CFR Part 39

**[Docket No. 95–NM–253–AD]**

## Airworthiness Directives; Fokker Model F27 Mark 100, 200, 300, 400, 500, 600, and 700 Series Airplanes

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

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

**SUMMARY:** This document proposes the supersedure of an existing airworthiness directive (AD), applicable to all Fokker Model F27 Mark 100, 200, 300, 400, 500, 600, and 700 series airplanes, that currently requires supplemental structural inspections to detect fatigue cracks, and repair or replacement, as necessary, to ensure the continued airworthiness of these airplanes. This action would add or revise certain significant structural items for which inspection and repair or replacement is necessary. This proposal is prompted by a structural re-evaluation conducted by the manufacturer, which identified additional structural elements where fatigue damage is likely to occur. The actions specified by the proposed AD are intended to prevent reduced structural integrity of these airplanes.

**DATES:** Comments must be received by May 20, 1996.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–253–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia

22314. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

**FOR FURTHER INFORMATION CONTACT:** Ruth E. Harder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–1721; fax (206) 227–1149.

**SUPPLEMENTARY INFORMATION:**

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 95–NM–253–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–253–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On August 20, 1992, the FAA issued AD 92–19–07, amendment 39–8365 (57 FR 42693, September 16, 1992), applicable to all Fokker Model F27 Mark 100, 200, 300, 400, 500, 600, and 700 series airplanes, to require supplemental structural inspections to detect fatigue cracks, and repair or replacement, as necessary, to ensure the continued airworthiness of these airplanes. That action was prompted by a structural re-evaluation conducted by the manufacturer, which identified additional structural elements where fatigue damage is likely to occur. The requirements of that AD are intended to prevent reduced structural integrity of these airplanes.

Since the issuance of that AD, Fokker has issued Structural Integrity Program (SIP) Document 27438, Part 1, including revisions up through August 1, 1995. This document adds or revises certain significant structural items for which inspection and repair or replacement is necessary. The additional or revised items are included as a result of fatigue analysis and tests, service experience, or follow-up action to an airworthiness directive that required a one-time inspection and a report of findings to the manufacturer.

The Rijksluchtvaartdienst (RLD), which is the airworthiness authority for the Netherlands, classified the SIP Document as mandatory in order to assure the continued airworthiness of these airplanes in the Netherlands.

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

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would supersede AD 92–19–07 to continue to require supplemental structural inspections to detect fatigue cracks, and repair or replacement, as necessary. The proposed AD would add or revise certain significant structural items for which inspection and repair or replacement is necessary. The actions would be required to be accomplished in accordance with the SIP Document described previously.

There are approximately 34 Model F27 Mark 100, 200, 300, 400, 500, 600, and 700 series airplanes of U.S. registry that would be affected by this proposed AD.

The actions that are currently required by AD 92–19–07 take approximately 295 work hours per airplane per year to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact on U.S. operators relative to the requirements of the previously-issued AD that would be retained in this new AD action is estimated to be $601,800, or $17,700 per airplane, annually.

The new actions that are proposed in this AD action (including the implementation of the inspections, repairs, or replacements specified in the revisions to the SIP Document into an operator's maintenance program; as well as removal, inspection, and installation of structure) would take approximately 179 additional work hours per airplane per year to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact on U.S. operators relative to now the proposed requirements of this AD is estimated to be $365,160, or $10,740 per airplane, the first year and annually thereafter.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the current or proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 106(g), 40113, 44701.

**§ 39.13 [Amended]**

2. Section 39.13 is amended by removing amendment 39–8365 (57 FR 42693, September 16, 1992), and by adding a new airworthiness directive (AD), to read as follows:

Fokker: Docket 95–NM–253–AD. Supersedes AD 92–19–07, Amendment 39–8365.

*Applicability:* All Model F27 Mark 100, 200, 300, 400, 500, 600, and 700 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise 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 request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

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

To prevent reduced structural integrity of these airplanes, accomplish the following:

(a) Within 6 months after October 21, 1992 (the effective date of AD 92–19–07, amendment 39–8365), incorporate into the FAA-approved maintenance program the inspections, inspection intervals, repairs, or replacements defined in Fokker Structural Integrity Program (SIP) Document 27438, Part 1, including revisions up through November 1, 1991; and inspect, repair, and replace, as applicable. The non-destructive inspection techniques referenced in the SIP Document provide acceptable methods for accomplishing the inspections required by this AD. If any cracking is detected, inspection results must be reported to Fokker in accordance with the instructions of the SIP Document. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(b) Within 6 months after the effective date of this AD, incorporate into the FAA-approved maintenance program the inspections, inspection intervals, repairs, or replacements defined in Fokker SIP Document 27438, Part 1, including revisions up through August 1, 1995; and inspect, repair, and replace, as applicable. The non-destructive inspection techniques referenced in the SIP Document provide acceptable methods for accomplishing the inspections required by this AD. If any cracking is detected, inspection results must be reported to Fokker in accordance with the instructions of the SIP Document.

(c) Cracked structure detected during the inspections required by paragraph (a) or (b) of this AD must be repaired or replaced, prior to further flight, in accordance with the instructions in Fokker SIP Document 27438, Part 1, including revisions up through November 1, 1991; or Fokker SIP Document 27438, Part 1, including revisions up through August 1, 1995; respectively; or in accordance with other data meeting the certification basis of the airplane which is approved by the FAA or by the Rijksluchtvaartdienst (RLD).

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, 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.

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

Issued in Renton, Washington, on April 4, 1996.

Darrell M. Pederson,

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

[FR Doc. 96–8918 Filed 4–9–96; 8:45 am]

BILLING CODE 4910–13–U

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## 14 CFR Part 39

**[Docket No. 95–NM–171–AD]**

## Airworthiness Directives; Fokker Model F28 Mark 0100 and 0070 Series Airplanes

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

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

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Fokker Model F28 Mark 0100 and 0070 series airplanes. This proposal would require modification of the wheel brake assembly on the main landing gear. This proposal is prompted by reports of aluminum brake pistons that have ballooned and failed. The actions specified by the proposed AD are intended to prevent such failure of the pistons, which could result in leakage of the hydraulic fluid, resultant loss of braking capability, and a possible brake fire.

**DATES:** Comments must be received by May 20, 1996.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–171–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

**FOR FURTHER INFORMATION CONTACT:** Ruth Harder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–1721; fax (206) 227–1149.

**SUPPLEMENTARY INFORMATION:**

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 95–NM–171–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–171–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Rijksluchtvaartdienst (RLD), which is the airworthiness authority for the Netherlands, recently notified the FAA that an unsafe condition may exist on certain Fokker Model F28 Mark 0100 and 0070 series airplanes. The RLD advises that it has received reports of ballooned (bulging) aluminum brake pistons found on Fokker Model F28 Mark 0100 series airplanes. Some of these aluminum brake pistons had cracked and caused hydraulic leakage, which resulted in brake fires. Investigation revealed that heavy braking during a high kinetic energy landing or during a rejected takeoff (RTO) may result in high brake temperatures. These high temperatures are transferred to the aluminum brake pistons, and may result in bulging, cracking, and subsequent failure of the pistons. Such failure of the aluminum pistons, if not corrected, could result in leakage of hydraulic fluid, resultant loss of braking capability, and a possible brake fire.

The aluminum brake pistons installed on certain Fokker Model Mark 0100 series airplanes are identical to those installed on certain Fokker Model Mark 0070 series airplanes; therefore, both of these airplane models are subject to the same identified unsafe condition.

Fokker has issued Service Bulletin SBF100–32–092, dated January 11, 1995, which describes procedures for modification of the wheel brake assembly on the main landing gear. The modification entails replacing the aluminum brake pistons of certain brake assemblies with stainless steel pistons, which can tolerate higher temperatures. The Fokker service bulletin refers to Aircraft Braking Systems Service Bulletin Fo100–32–63, dated January 13, 1995, as an additional source of service information for accomplishment of the replacement. The Aircraft Braking Systems service bulletin also describes an alternative procedure that involves installation of a cylinder sleeve kit, which will provide a longer wear brake assembly when certain other modifications are performed.

The RLD classified the Fokker service bulletin as mandatory and issued Dutch airworthiness directive BLA 1995–013 (A), dated February 28, 1995, in order to assure the continued airworthiness of these airplanes in the Netherlands.

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

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, the proposed AD would require modification of the wheel brake assembly on the main landing gear either by replacing the aluminum brake pistons with stainless steel brake pistons, or by installing a cylinder sleeve kit. The actions would be required to be accomplished in accordance with the service bulletins described previously.

The FAA estimates that 122 airplanes of U.S. registry would be affected by this proposed AD.

The proposed replacement of the brake pistons, if accomplished, would take approximately 9 work hours per airplane (when accomplished as part of a normal brake overhaul), at an average labor rate of $60 per work hour. Required parts would be provided by the manufacturer at no cost to operators. Based on these figures, the cost impact of this proposed replacement action on U.S. operators is estimated to be $540 per airplane.

The proposed installation of the cylinder sleeve kit, if accomplished, would take approximately 9 work hours per airplane (when accomplished as part of a normal brake overhaul), at an average labor rate of $60 per work hour. Required parts would cost approximately $4,400 per airplane. Based on these figures, the cost impact of this proposed installation action on U.S. operators is estimated to be $4,940 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 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 USC 106(g), 40113, 44701.

**§ 39.13 [Amended]**

2. Section 39.13 is amended by adding the following new airworthiness directive:

Fokker: Docket 95–NM–171–AD.

*Applicability:* Model F28 Mark 0100 and 0070 series airplanes; equipped with Aircraft Braking Systems Corporation (ABSC) brake assemblies having part number (P/N) 5008132–2, –3, –4, –5, –6, or –7, all serial numbers; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been

otherwise 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 request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

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

To prevent loss of braking capability and possible brake fire due to failure of the brake pistons, accomplish the following:

(a) Within 9 months after the effective date of this AD, or at the next scheduled or unscheduled brake overhaul, whichever occurs first: Modify ABSC wheel brake assemblies having P/N 5008132–2, –3, –4, –5, –6, or –7, all serial numbers, by accomplishing either paragraph (a)(1) or (a)(2) of this AD.

(1) Replace the brake assemblies with modified units having stainless steel pistons, in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF100–32–092, dated January 11, 1995. Or

(2) Install a cylinder sleeve kit in accordance with Aircraft Braking Systems Service Bulletin Fo100–32–63, dated January 13, 1995.

(b) As of the effective date of this AD, no person shall install an ABSC brake assembly having part number 5008132–2, –3, –4, –5, –6, or –7, on any airplane unless it has been modified in accordance with Fokker Service Bulletin SBF100–32–092, dated January 11, 1995, or Aircraft Braking Systems Service Bulletin Fo100–32–63, dated January 13, 1995.

(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.

Issued in Renton, Washington, on April 4, 1996.

Darrell M. Pederson,

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

[FR Doc. 96–8916 Filed 4–9–96; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF THE INTERIOR

## Office of Surface Mining Reclamation and Enforcement

## 30 CFR Part 926

**[SPATS No. MT–018–FOR]**

## Montana Regulatory Program

**AGENCY:** Office of Surface Mining, Reclamation and Enforcement, U.S. Department of the Interior.

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

**SUMMARY:** The Office of Surface Mining Reclamation and Enforcement (OSM) is announcing receipt of a proposed amendment to the Montana regulatory program (hereinafter, the ''Montana program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to the Montana Coal and Uranium Bureau's rules pertaining to permit renewals, permit requirements, and notice of intent to prospect. The amendment is intended to revise the Montana program to provide additional safeguards, clarify ambiguities and improve operational efficiency.

**DATES:** Written comments must be received by 4:00 p.m., m.d.t. on May 10, 1996. If requested, a public hearing on the proposed amendment will be held on May 6, 1996. Requests to present oral testimony at the hearing must be received by 4:00 p.m., m.d.t. on April 25, 1996.

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

Copies of the Montana program, the proposed amendment, and all written comments received in response to this document will be available for public review at the address 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 Padgett, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, 100 East ''B'' Street, Federal Building—Room 2128, Casper, Wyoming 82601–1918

Gary Amestoy, Administrator, Reclamation Division, Dept. of Environmental Quality, P.O. Box 201601, Helena, Montana 59620, Telephone 406/444–2074

**FOR FURTHER INFORMATION CONTACT:** Guy Padgett, Telephone: 307/261–6500.

**SUPPLEMENTARY INFORMATION:**

### I. Background of the Montana Program

On April 1, 1980, the Secretary of the Interior conditionally approved the Montana program. General background information on the Montana program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Montana program can be found in the April 1, 1980, Federal Register (45 FR 21560). Subsequent actions concerning Montana's program and program amendments can be found at 30 CFR 926.15, 926.16 and 926.30.

### II. Proposed Amendment

By letter dated March 5, 1996, Montana submitted a proposed amendment to its program pursuant to SMCRA (administrative record No. MT–15–01, 30 U.S.C. 1201 *et seq.*). Montana submitted the proposed amendment at its own initiative. The provisions of the Administrative Rules of Montana that Montana proposed to revise were: 26.4.410, permit renewal; 26.4.1001, permit requirement; and 26.4.1001A, notice of intent to prospect.

Specifically, Montana proposes to revise the Montana program to 1) revise the timeframe for the application of strip mine operating permit renewals from the present 120 to 150 days, to the proposed 240 to 300 days and on an application form provided by the Montana Department of Environmental Quality; 2) add a requirement that for prospecting (exploration) activities that are conducted to determine the location, quality or quantity of a natural mineral deposit and that will substantially disturb, as defined in ARM 26.4.301, the natural land surface, a permit will be required; and 3) that a notice of intent be filed with the Montana Department of Environmental Quality for prospecting (exploration) conducted for the purpose of determining the location, quality, or quantity of a natural mineral deposit but does not substantially disturb, as defined in ARM 26.4.301, the natural land surface.

### 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 Montana 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 April 25, 1996. 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 of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to 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 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

*3. National Environmental Policy Act*

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

*4. Paperwork Reduction Act*

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

*5. Regulatory Flexibility Act*

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal 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 926

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 3, 1996.

Russell F. Price,

*Acting Regional Director, Western Regional Coordinating Center.*

[FR Doc. 96–8921 Filed 4–9–96; 8:45 am]

BILLING CODE 4310–05–M

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 180

**[OPP–300420; FRL–5361–2]**

## Potassium Citrate; Tolerance Exemption

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

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes that residues of potassium citrate (CAS Reg. No. 866–84–2) be exempted from the requirement of a tolerance when used as an inert ingredient (chelating agent and pH control) in pesticide formulations applied to growing crops, raw agricultural commodities after harvest, and animals. This proposed regulation was requested by Monsanto Company and Zeneca Ag Products pursuant to the Federal Food, Drug, and Cosmetic Act (FFDCA).

**DATES:** Comments, identified by the docket control number [OPP–300420], must be received on or before May 10, 1996.

**ADDRESSES:** By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person deliver comments to: Rm. 1132, Crystal Mall CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice. The public docket is available for public inspection in Rm. 1132 at the address given above,

from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number, [OPP–300420]. No CBI should be submitted through e-mail. Electronic comments on this proposed 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), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: 2800 Crystal Drive, North Tower, Arlington, VA, (703)308–8375, e-mail: acierto.amelia@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** Monsanto Company, 700 14th Street, NW., Washington, DC 20005, has submitted pesticide petition (PP) 6E04607 and Zeneca Ag Products, 1800 Concord Pike, Wilmington, DE 19850–5458, has submitted pesticide petition (PP) 6E04637, to EPA requesting that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a(e), propose to amend 40 CFR 180.1001(c) and (e) by establishing an exemption from the requirement of a tolerance for potassium citrate when used as an inert ingredient (chelating agent and pH control) in pesticide formulations applied to growing crops, raw agricultural commodities after harvest, and animals.

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125 and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; 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.

The data submitted in the petition and other relevant material have been evaluated. As part of the EPA policy statement on inert ingredients published in the Federal Register of April 22, 1987 (52 FR 13305), the Agency set forth a list of studies which would generally be used to evaluate the risks posed by the presence of an inert ingredient in a pesticide formulation. However, where it can be determined without that data that the inert ingredient will present minimal or no risk, the Agency generally does not require some or all of the listed studies to rule on the proposed tolerance or exemption from the requirement of a tolerance for an inert ingredient. The Agency has decided that no data, in addition to that described below, for potassium citrate will need to be submitted. The rationale for this decision is described below:

1. Potassium citrate is a potassium salt of citric acid which is a naturally occurring metabolite in plant and animal tissues.

2. Potassium citrate has been affirmed as generally recognized as safe (GRAS) by the U.S. Food and Drug Administration (FDA) as a direct human food ingredient when used as Multiple Purpose GRAS Food Substance (21 CFR 184.1625). The conditions of use specify only that potassium citrate is generally recognized as safe when used in accordance with good manufacturing practice.

3. Other citrates are already exempt from the requirements of a tolerance under 40 CFR 180.1001 when used as inert ingredient in pesticide formulations applied to growing plants or to raw agricultural commodities after harvest (citric acid and calcium citrate), to growing plants only (sodium citrate) or to animals (citric acid). Furthermore, other related citrates (triethyl citrate and dibasic ammonium citrate) have been considered by the Agency as inert ingredients of minimal concern (i.e., classified as List 4B inert ingredients).

Based on the extensive FDA review of potassium citrate, resulting in this chemical being affirmed as GRAS, its structure and physico-chemical properties, and the fact that other chemically related citrates have also been approved for food use applications, the Agency does not believe that a potential for significant hazard exists when potassium citrate is used in accordance with good agricultural practices. The Agency believes that this ingredient is useful and a tolerance is not necessary to protect the public health. Therefore, EPA proposes that the exemption from the requirement of a tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this document in the Federal Register that this proposal be referred to an Advisory Committee in accordance with section 408(e) of FFDCA.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the docket control number, [OPP–300420]. All written comments filed in response to this petition will be available in the Public Response and Program Resources Branch, at the address given above from 8 a.m. to 4:30 p.m. Monday through Friday, except legal holidays.

A record has been established for this rulemaking under docket number [OPP–300420] (including 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 4:30 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 MallCM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments 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 all comments 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 Virginia address in ''ADDRESSES '' at the beginning of this document.

The Office of Management and Budget has exempted this proposed rule from

the requirements of section 3 of Executive Order 12866.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–3 54, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

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

Dated: March 29, 1996.

Peter Caulkins,

*Acting Director, Registration Division, Office of Pesticide Programs.*

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

## PART 180—[AMENDED]

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

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

2. Section 180.1001 is amended by adding alphabetically to the tables in paragraphs (c) and (e) the inert ingredient ''Potassium citrate (CAS Reg. No. 866–84–2)'' to read as follows:

**§ 180.1001 Exemptions from the requirements of a tolerance.**

* * * * *

(c) * * *

| Inert Ingredients | Limits | Uses |
|---|---|---|
| * * | * * * | * * |
| Potassium citrate (CAS Reg. No. 866–84–2) ..... | | Chelating agent, pH control |
| * * | * * * | * * |

(e) * * *

| Inert Ingredients | Limits | Uses |
|---|---|---|
| * * | * * * | * * |
| Potassium citrate (CAS Reg. No. 866–84–2) ..... | | Chelating agent, pH control |
| * * | * * * | * * |

[FR Doc. 96–8940 Filed 4–9–96; 8:45 am]
BILLING CODE 6560–50–F

## 40 CFR Part 180

**[OPP–300417; FRL–5353–5]**

**RIN 2070–AB18**

## 1,1,1,2-Tetrafluoroethane; Tolerance Exemption

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

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes that residues of 1,1,1,2-tetrafluoroethane be exempted from the requirement of a tolerance when used as an inert ingredient (aerosol propellant) in insecticide aerosol formulations intended to be applied in food handling establishments. This proposed regulation was requested by Whitmire Research Laboratories, Inc.

**DATE:** Comments, identified by the document control number [OPP–300417], must be received on or before May 10, 1996.

**ADDRESS:** By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C) Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person deliver comments to: Rm. 1128, Crystal Mall, Building #2, 1921 Jefferson Davis Highway, Arlington, VA 22202. Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by the EPA without prior notice. The public docket is available for public inspection in Room 1128 at the address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPP–300417]. No CBI should be submitted through e-mail. Electronic comments on this proposed 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), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 2800 Crystal Drive, North Tower, Arlington, VA 22202, (703) 308–8375, e-mail: acierto.amelia@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** Whitmire Research Laboratories, Inc. 3568 Tree Court Industrial Boulevard, Saint Louis, MO 63122–6620 submitted pesticide petition (PP) number 5E4439 to EPA requesting that the Administrator, pursuant to Section 408(e) of the Federal Food, Drug, and Cosmetic Act,

21 U.S.C. 346a(e), propose to amend 40 CFR 180.1001(c) by establishing an exemption from the requirement of a tolerance for 1,1,1,2-tetrafluoroethane (HFC–134a) when used as an aerosol propellant in pesticide formulations intended for application in food handling establishments. Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125, and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; 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.

The data submitted in the petition and other relevant material have been evaluated. As part of the EPA policy statement on inert ingredients published in the Federal Register of April 22, 1987 (52 FR 13305), the Agency set forth a list of studies which would generally be used to evaluate the risks posed by the presence of an inert ingredient in a pesticide formulation. However, where it can be determined without that data that the inert ingredient will present minimal or no risk, the Agency generally does not require some or all of the listed studies to rule on the proposed tolerance or exemption from the requirement of a tolerance for an inert ingredient. The Agency has decided that no data, in addition to that described below, for 1,1,1,2-tetrafluoroethane will need to be submitted. The rationale for this decision is described below:

1. HFC–134a (1,1,1,2-tetrafluoroethane) exhibits a low degree of both acute and chronic inhalation toxicity in laboratory animals.

2. Based on the proposed use pattern for the inert ingredient, concentrations of 1,1,1,2-tetrafluoroethane in air resulting from its use as a propellant in pesticide formulations applied in food handling establishments are expected to be well below the environmental exposure level of 1,000 ppm (for short term exposure) recommended by the American Industrial Hygiene Association (AIHA 1991, Workplace Environmental Exposure Level Guide: 1,1,1,2-Tetrafluoroethane) and are not expected to exceed the RfC of 19.2 ppm for lifetime exposures.

3. HFC–134a has already been listed as one of the acceptable substitutes for ozone depleting substances (ODS) by the EPA's Stratospheric Protection Division, Office of Air and Radiation (OAR) under the Significant New Alternatives Policy (SNAP) program which implements section 612 of the amended Clean Air Act of 1990 (60 FR 3318, January 13, 1995 and 60 FR 31107, June 13, 1995).

4. The RfC estimate for HFC–134a, with an uncertainty factor of about 10 of a daily inhalation concentration for the human population (including sensitive subgroups), is 80 mg/cubic meter of atmosphere or 19.2 ppm.

5. HFC–134a is extremely volatile and would dissipate rapidly when applied as aerosol making the potential for residues on foods minimal; consumers are also unlikely to be exposed to concentrations of HFC–134a approaching the AIHA recommended maximum exposure levels based on the use of pesticide products which will contain HFC–134a.

Based upon the information above, the toxicological data and physico-chemical properties, and review of its use, and, based on the EPA's Office of Radiation listing as an acceptable substitute for a variety of chlorofluorocarbons which are being banned or phased out under the Clean Air Act, the Agency has found that, when used in accordance with labeling use instructions, this ingredient is useful and a tolerance is not necessary to protect the public health. Therefore, EPA proposes that the exemption from the requirement of a tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this document in the Federal Register that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number.

A record has been established for this rulemaking under docket number OPP–300417 (including 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 4:30 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.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

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

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12866.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub.L. 96–354 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

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

Dated: March 29, 1996.

Peter Caulkins,

*Acting Director, Registration Division, Office of Pesticide Programs.*

Therefore, it is proposed that 40 CFR chapter I, part 180 be amended as follows:

## PART 180—[AMENDED]

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

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

2. Section 180.1001(c) is amended by adding alphabetically the inert ingredient 1,1,1,2-tetrafluoroethane, CAS Reg. No. 811–97–2, to read as follows:

**§ 180.1001 Exemptions from the requirements of a tolerance.**

* * * * *

(c) * * *

| Inert ingredients | Limits | Uses |
|---|---|---|
| * * * | * * * * | |
| 1,1,1,2-Tetrafluoroethane (CAS Reg. No. 811–97–2) ..... | | Aerosol propellant |
| * * * | * * * * | |

[FR Doc. 96–8941 Filed 4–9–96; 8:45 am]

BILLING CODE 6560–50–F

## 40 CFR Part 180

**[OPP–300421; FRL–5361–3]**

**RIN 2070–AB18**

## 2-Bromo-2-Nitro-1,3-Propanediol; Tolerance Exemption

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

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes that residues of 2-bromo-2-nitro-1,3-propanediol (CAS Reg. No. 52–51–7) be exempted from the requirement of a tolerance when used at levels not to exceed 0.04% as an inert ingredient (preservative) in pesticide formulations applied to growing crops, raw agricultural commodities after harvest, and animals. This proposed regulation was requested by Kennedy Consultants Inc. on behalf of Knoll Pharmaceuticals, Knoll Microcheck, pursuant to the Federal Food, Drug, and Cosmetic Act (FFDCA).

**DATES:** Comments, identified by the docket control number [OPP–300421], must be received on or before May 10, 1996.

**ADDRESSES:** By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person deliver comments to: Rm. 1132, Crystal Mall CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice. The public docket is available for public inspection in Rm. 1132 at the Virginia address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number, [OPP–300421]. No CBI should be submitted through e-mail. Electronic comments on this proposed 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), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: 2800 Crystal Drive, North Tower, Arlington, VA, (703)308–8375, e-mail: acierto.amelia@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** Kennedy Consultants Inc., 13 ''C'' Street, Suite G, Laurel, MD 20707 on behalf of Knoll Pharmaceuticals, Knoll Microcheck has submitted pesticide petition (PP) 0E03904 to EPA requesting that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a(e), propose to amend 40 CFR 180.1001(c) and (e) by establishing an exemption from the requirement of a tolerance for 2-bromo-2-nitro-1,3-propanediol when used as an antimicrobial in-can preservative in pesticide formulations applied to growing crops, raw agricultural commodities after harvest, and animals.

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125 and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; 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.

The data submitted in the petition and other relevant material have been evaluated. As part of the EPA policy statement on inert ingredients published in the Federal Register of April 22, 1987 (52 FR 13305), the Agency set forth a list of studies which would generally be used to evaluate the risks posed by the presence of an inert ingredient in a pesticide formulation. However, where it can be determined without that data that the inert ingredient will present minimal or no risk, the Agency generally does not require some or all of the listed studies to rule on the proposed tolerance or exemption from the requirement of a tolerance for an inert ingredient. The Agency has decided that no data, in addition to that described below, for 2-bromo-2-nitro-1,3-propanediol will need to be submitted. The rationale for this decision is described below:

1. An acute rat oral toxicity study with an acute oral $LD_{50}$ of 1.138 g/kg (±0.146) for male rats and 1.138 g/kg (±0.013) for female rats.

2. An acute rat inhalation toxicity study with a 3.5–hour inhalation $LC_{50}$ of >5.0 mg/L/hr.

3. A rabbit eye irritation study with irritancy score of 0.43 classifying 2-bromo-2-nitro-1,3-propanediol as a moderate eye irritant.

4. A rat dermal developmental toxicity study with maternal no observe effect level (NOEL) >40 mg/kg/day (HDT) considering 2-bromo-2-nitro-1,3-propanediol as a severe dermal irritant in rats.

5. A rabbit primary dermal irritation study indicating that 2-bromo-2-nitro-1,3-propanediol is a moderate skin irritant.

6. An acute rabbit dermal toxicity study with dermal $LD_{50}$ of >2 g/kg.

7. A guinea pig dermal sensitization study which suggests that 2-bromo-2-nitro-1,3-propanediol is a skin sensitizer for a 13% formulation.

8. A rabbit developmental effects study with a NOEL for maternal toxicity of 40 mg/kg/day and developmental toxicity NOEL of 40 mg/kg/day; lowest effect level (LEL) for maternal toxicity of 80 mg/kg/day with a LEL for developmental toxicity of 80 mg/kg/day.

9. Mutagenicity studies including *in vitro/in vivo* in mouse erythrocytes (micronucleus assay), chromosomal abberation test in human lymphocytes, *Salmonella typhimurium* plate (Ames) tests with and without activation were negative.

10. The two generation rat reproduction study (drinking water) with a systemic NOEL of 25 mg/kg/day and lowest effect level (LEL) of 70 mg/kg/day; reproduction NOEL of 70 mg/kg/day and LEL of 200 mg/kg/day; developmental NOEL of 25 mg/kg/day and LEL of 70 mg/kg/day.

11. A 2–year rat (drinking water) carcinogenicity study with asystemic NOEL of 10 mg/kg/day and LEL of 40 mg/kg/day finding 2-bromo-2-nitro-1,3-propanediol to be not carcinogenic.

12. A 13–week rat gavage study with a NOEL of 20 mg/kg/day and LEL of 80 mg/kg/day.

13. A 13–week dog gavage study with NOEL of 8 mg/kg/day and LEL of 20 mg/kg/day.

The reference dose (RfD) for 2-bromo-2-nitro-1,3-propanediol based on the 2–year chronic study (drinking water) in rats with a NOEL of 10 mg/kg/day and using an uncertainty factor of 100 is calculated to be 0.1 mg/kg of body weight (bwt)/day. The estimated worst-case theoretical maximum residue contribution (TMRC) resulting from this action will be 0.000024 mg/kg/bwt/day for the overall U.S. population and represents 0.024 percent of the RfD.

Based upon the above information and review of its use, EPA has found that, when used in accordance with good agricultural practice, this ingredient is useful and a tolerance is not necessary to protect the public health. Therefore, EPA proposes that the exemption from the requirement of a tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this document in the Federal Register that this proposal be referred to an Advisory Committee in accordance with section 408(e) of FFDCA.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the docket control number, [OPP–300421]. All written comments filed in response to this petition will be available in the Public Response and Program Resources Branch, at the address given above from 8 a.m. to 4:30 p.m. Monday through Friday, except legal holidays.

A record has been established for this rulemaking under docket number [OPP–300421] (including 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 4:30 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 MallCM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments 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 all comments 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 Virginia address in ''ADDRESSES '' at the beginning of this document.

The Office of Management and Budget has exempted this proposed rule from the requirements of section 3 of Executive Order 12866.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–3 54, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

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

Dated: March 29, 1996

Peter Caulkins,

*Acting Director, Registration Division, Office of Pesticide Programs.*

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

## PART 180—[AMENDED]

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

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

2. In § 180.1001 the table in paragraph (c) and paragraph (e) is amended by adding alphabetically the inert ingredient 2-bromo-2-nitro-1,3-propanediol (CAS Reg. No. 52–51–7), to read as follows:

**§ 180.1001 Exemptions from the requirements of a tolerance.**

* * * * *

(c) * * *

| Inert Ingredients | Limits | Uses |
|---|---|---|
| * * | * * * | * * |
| 2-Bromo-2-nitro-1,3-propanediol (CAS Reg. No. 52–51–7). | Not more than 0.04 percent by weight of pesticide formulation. | Preservative |
| * * | * * * | * * |

(e) * * *

| Inert Ingredients | Limits | Uses |
|---|---|---|
| * * | * * * | * * |
| 2-Bromo-2-nitro-1,3-propanediol (CAS Reg. No. 52–51–7). | Not more than 0.04 percent by weight of pesticide formulation. | Preservative |
| * * | * * * | * * |

[FR Doc. 96–8942 Filed 4–9–96; 8:45 am]

BILLING CODE 6560–50–F

## 40 CFR Part 440

**[WH–FRL–5457–4]**

## Notice To Extend Comment Period for the Proposed Amendment to Ore Mining and Dressing Point Source Category; Effluent Limitations Guidelines and New Source Performance Standards

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

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** The Environmental Protection Agency (EPA) is announcing a 30 day extension of the previous 60 day comment period for the proposed regulations. The proposed amendment to the ore mining and dressing point source category was published in the Federal Register on February 12, 1996 (61 FR 5364). This action is being taken to allow additional time to comment as requested by a number of interested parties.

**DATES:** The previous date for submission of comments was April 12, 1996. The new date for submission of written comments on the proposed rule is May 13, 1996.

**FOR FURTHER INFORMATION CONTACT:** Ronald G. Kirby at (202) 260–7168, Engineering and Analysis Division (Mail Code 4303), Office of Science and Technology, 401 M Street SW., Washington, DC 20460; by telephone at (202) 260–7168.

**SUPPLEMENTARY INFORMATION:** The extended comment period for the proposed rule now ends on may 13, 1996. The date for submittal of comments on issues related to the technological alternatives for the A–J site remains August 2, 1996. All timely written comments submitted in accordance with the instructions in the Proposed Rule will be incorporated into the Record and considered before promulgation of the final rule.

Dated: April 5, 1996.

Robert Perciasepe,

*Assistant Administrator for Water.*

[FR Doc. 96–8957 Filed 4–9–96; 8:45 am]

BILLING CODE 6560–50–M

## DEPARTMENT OF TRANSPORTATION

## National Highway Traffic Safety Administration

## 49 CFR Parts 571 and 574

**[Docket No. 95–69, Notice 02]**

**RIN 2127–AF80**

## Federal Motor Vehicle Safety Standards: New Non-Pneumatic Tires for Passenger Cars; Tire Selection and Rims; Tire Selection and Rims for Motor Vehicles Other than Passenger Cars; Tire Identification and Recordkeeping

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Termination of rulemaking.

**SUMMARY:** This notice terminates a rulemaking proceeding in which NHTSA proposed to rescind the Federal motor vehicle safety standard (Standard) establishing performance and labeling requirements for non-pneumatic spare tires on new passenger cars. The notice further proposed to rescind related portions of several other tire standards and regulations. The basis for the proposed rescission was that non-pneumatic spare tires were not being produced and that there were not any known plans to develop or produce any. However, a comment on the notice revealed that non-pneumatic spare tires are in fact under development. In light

of that comment, and since retention of the non-pneumatic tire provisions is necessary not only to regulate these tires, but also to provide an exception to the general requirement that new passenger cars and light trucks be equipped with pneumatic tires, the agency has decided to terminate this rulemaking action.

**FOR FURTHER INFORMATION CONTACT:** For technical issues: Robert M. Clarke, Chief, Vehicle Dynamics Division, Office of Crash Avoidance Standards, National Highway Traffic Safety Administration, 400 Seventh Street S.W., Washington, DC 20590, telephone (202) 366–5278; FAX (202) 366–4329.

For legal issues: Walter Myers, Office of the Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street S.W., Washington, DC 20590, telephone (202) 366–2992, FAX (202) 366–3820.

**SUPPLEMENTARY INFORMATION:**

## Background

In the late 1980's, motor vehicle and tire manufacturers embarked on research and development of non-pneumatic tires for possible use as temporary, light, and inexpensive spare tires on new passenger cars. Anticipating such development, NHTSA established Standard No. 129, *New non-pneumatic tires for passenger cars* (55 FR 29581, July 20, 1990), to become effective August 20, 1990. In the same notice, NHTSA amended Standard No. 110, *Tire selection and rims,* Standard No. 120, *Tire selection and rims for motor vehicles other than passenger cars,* and 49 CFR Part 574, *Tire Identification and Recordkeeping,* to permit equipping new passenger cars and light trucks with non-pneumatic spare tires and establish labeling requirements. Thereafter, for various technical reasons, development of non-pneumatic tires was suspended and none were produced.

On March 4, 1994, the President issued a directive entitled ''Regulatory Reinvention Initiative'' to the heads of all Federal departments and agencies, directing them to review all regulations for which they were responsible in the Code of Federal Regulations (CFR) and eliminate unneeded ones and update the ones still needed. Pursuant to that directive, NHTSA reviewed its standards and regulations and tentatively concluded that the non-pneumatic spare tire provisions were unneeded and could therefore be rescinded. Consequently, NHTSA published a notice of proposed rulemaking (NPRM) proposing to rescind those provisions.

## Notice of Proposed Rulemaking

The proposal to rescind Standard No. 129, the exceptions for non-pneumatic spare tires in Standard Nos. 110 and 120, and the applicable provisions of 49 CFR Part 574 was published in an NPRM on September 26, 1995 (60 FR 49541), with a comment closing date of November 27, 1995. NHTSA stated that no such tires were being produced and, to the agency's knowledge, none were under development for future production. The agency suggested that it did not make any sense to retain the standard and the exceptions if there were no foreseeable plans to produce non-pneumatic tires. The agency did, however, solicit comments on whether, if a new non-pneumatic spare tire technology were developed in the future, existing requirements would be sufficiently generic to accommodate whatever non-pneumatic technology was likely to be employed.

## Public Comment

Two comments were received in response to the NPRM. Chrysler Corporation supported the proposal, stating that neither tire manufacturers nor the automotive industry showed any interest in the further development of non-pneumatic tires.

However, American Tire Corporation of Ravenna, Ohio (American) opposed the proposal. American stated that it is a new company, founded in 1995, and that it had patented a new tire technology called ''Dynamic Steerable Spring'' that encompasses both pneumatic and non-pneumatic technology. American asserted that the new technology will produce a lower-cost tire/wheel system, will provide ''unprecedented'' safety and, being trouble-free, will eliminate mobility down-times. American stated that it has signed development and manufacturing license agreements with U.S., Asian, and European tire and wheel manufacturers and that it is negotiating agreements with others. The company plans to provide a prototype tire to DOT in the spring of 1996. American stated that the current non-pneumatic tire provisions have been ''very useful as a technology screening procedure which allowed engineers to assess new technology without endangering the public.'' The company requested, therefore, that NHTSA not rescind Standard No. 129.

## Agency Decision

Based upon its consideration of available information, particularly the comments of American Tire Corporation, NHTSA has decided not to rescind Standard No. 129 and the related provisions of Standard Nos. 110 and 120 and 49 CFR Part 574. As discussed above, NHTSA originally proposed to rescind the non-pneumatic tire requirements in the belief that such tires were not being produced or even considered for development. However, based upon American's comment that a tire incorporating a new non-pneumatic technology is indeed under development, NHTSA now concludes that it should retain the existing provisions establishing performance and labeling requirements for non-pneumatic spare tires, including the provisions of Standard Nos. 110 and 120 permitting equipping new vehicles with non-pneumatic tires. In view of American's comment and the apparent ability of the existing provisions in Standard No. 129 to accommodate the technology currently under development, the agency need not reach the question it posed in the NPRM about the ability of the Standard to accommodate future non-pneumatic tire technology.

For the reasons stated above, NHTSA is therefore terminating this rulemaking action.

Authority: 49 U.S.C. §§ 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

Issued on April 4, 1996.

Barry Felrice,

*Associate Administrator for Safety Performance Standards.*

[FR Doc. 96–8888 Filed 4–9–96; 8:45 am]

BILLING CODE 4910–59–P

# Notices

Federal Register
Vol. 61, No. 70
Wednesday, April 10, 1996

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.

## JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

### Advisory Committee on Actuarial Examinations; Meeting

Notice is hereby given that the Advisory Committee on Actuarial Examinations will meet in the Conference Room of William M. Mercer, Incorporated, 30th Floor, Conference Room 30C, 1166 Avenue of the Americas, New York, New York, on Friday, April 12, 1996, beginning at 8:30 a.m

The purpose of the meeting is to discuss topics and questions which may be recommended for inclusion on future Joint Board examinations in actuarial mathematics and methodology referred to in Title 29 U.S. Code, section 1242(a)(1)(B).

A determination as required by section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) that the subject of the meeting falls with the exception to the open meeting requirement set forth in Title 5 U.S. Code, section 552(c)(9)(B), and that the public interest requires that such meeting be closed to public participation.

Dated: April 3, 1996.

Patrick W. McDonough,

*Acting Advisory Committee Management Officer, Joint Board for the Enrollment of Actuaries.*

[FR Doc. 96–8912 Filed 4–9–96; 8:45 am]

BILLING CODE 4830–01–U

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### Advisory Committee on Agricultural Concentration

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** In response to the need for advice on concentration and vertical integration in the agricultural sector, the Secretary of Agriculture established an advisory committee on agricultural concentration. The purpose of the committee is to provide advice regarding whether agricultural concentration exists and if so, the causes and effects of such concentration. Further, the committee is to provide advice related to the need for new legislation.

**DATES:** The third meeting of this committee will be Monday, April 29, at 9:00 a.m., through 4:30 p.m. Tuesday, April 30, 1996. This meeting is open to the public; however, the committee does not plan to hear public testimony at this meeting. The committee is willing to receive written statements from any interested party, at any time.

**ADDRESSES:** The meeting will be held in room 107A of the USDA Administration Bldg., 14th and Independence Ave., S.W., Washington, D.C. 20250.

**FOR FURTHER INFORMATION CONTACT:** Written statements may be mailed to the committee in care of Barbara Claffey, Assistant Deputy Administrator, Agricultural Marketing Service, Room 3069 South Bldg., 14th & Independence Ave S.W., Washington, D.C. 20096–6456. Written statements up to 10 pages in length may also be faxed, to the attention of Barbara Claffey, (202) 205–8023.

**SUPPLEMENTARY INFORMATION:** The purpose of the committee is to make findings and recommendations regarding the need for modification of laws to address any identified concentration or vertical integration in the agricultural sector, regarding the adequacy of price discovery or reporting in the livestock and poultry industries, regarding any necessary modification to departmental programs in order to address concentration, and regarding actions to take to ensure adequate rail car availability throughout the year.

The committee consists of 21 members including: a Chairperson; two Vice Chairpersons; nine representatives of producers from the cattle, hog, lamb, poultry, and grain sectors; two representatives of packers and processors from the livestock, poultry, and grain sectors; two representatives of shippers, handlers, and transporters consisting of one each from grain elevator and railroad sectors; one representative of the retailing sector; one individual with expertise in economics, competition, and/or finance; and three representatives of State government.

The committee is in the public interest in connection with the duties and responsibilities of the Department of Agriculture. Concentration in the agricultural sector is receiving increased attention in terms of its effect throughout the entire food industry.

Dated: April 5, 1996.

Lon Hatamiya,

*Administrator.*

[FR Doc. 96–8929 Filed 4–9–96; 8:45 am]

BILLING CODE 3410–01–P

### Animal and Plant Health Inspection Service

**[Docket No. 95–097–2]**

### Agritope, Inc.; Availability of Determination of Nonregulated Status for Cherry Tomato Line Genetically Engineered for Modified Fruit Ripening

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Notice.

**SUMMARY:** We are advising the public of our determination that a cherry tomato line developed by Agritope, Inc., designated as 35–1–N that has been genetically engineered for modified fruit ripening is no longer considered a regulated article under our regulations governing the introduction of certain genetically engineered organisms. Our determination is based on our evaluation of data submitted by Agritope, Inc., in its petition for a determination of nonregulated status, an analysis of other scientific data, and our review of comments received from the public in response to a previous notice announcing our receipt of the Agritope, Inc., petition. This notice also announces the availability of our written determination document and its associated environmental assessment and finding of no significant impact.

**EFFECTIVE DATE:** March 27, 1996.

**ADDRESSES:** The determination, an environmental assessment and finding of no significant impact, the petition, and all written comments received regarding the petition may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue

SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect those documents are asked to call in advance of visiting at (202) 690–2817.

**FOR FURTHER INFORMATION CONTACT:** Dr. Ved Malik, Biotechnology Permits, BBEP, APHIS, 4700 River Road Unit 147, Riverdale, MD 20737–1237; (301) 734–7612. To obtain a copy of the determination or the environmental assessment and finding of no significant impact, contact Ms. Kay Peterson at (301) 734–7612; e-mail: mkpeterson@aphis.usda.gov.

**SUPPLEMENTARY INFORMATION:**

Background

On November 20, 1995, the Animal and Plant Health Inspection Service (APHIS) received a petition (APHIS Petition No. 95–324–01p) from Agritope, Inc., (Agritope) of Beaverton, OR, seeking a determination that a cherry tomato line designated as 35–1–N that has been genetically engineered for modified fruit ripening does not present a plant pest risk and, therefore, is not a regulated article under APHIS' regulations in 7 CFR part 340.

On January 23, 1996, APHIS published a notice in the Federal Register (61 FR 1743–1744, Docket No. 95–097–1) announcing that the Agritope petition had been received and was available for public review. The notice also discussed the role of APHIS and the Food and Drug Administration in regulating the subject tomato line and food products derived from it. In the notice, APHIS solicited written comments from the public as to whether the subject tomato line posed a plant pest risk. The comments were to have been received by APHIS on or before March 25, 1996.

During the designated 60-day comment period, APHIS received a total of 21 comments on the petition for cherry tomato line 35–1–N from individuals, a seed company, a State department of agriculture, and a university. All of the comments were in support of the subject petition.

Analysis

Cherry tomato line 35–1–N has been genetically engineered to contain the sam-k gene derived from Escherichia coli bacteriophage T3 that encodes an enzyme, S-adenosylmethionine hydrolase (SAMase), which alters the ethylene biosynthetic pathway and delays ripening of the tomato on the vine. When exposed to exogenous ethylene the fruit of line 35–1–N ripen normally. The subject cherry tomato line also contains the nptII gene from the prokaryotic transposon Tn5, which encodes the enzyme neomycin phosphotransferase II and is used as a selectable marker for transformation. Expression of the introduced genes is controlled in part by the 3' region of the nopaline synthase gene from the plant pathogen Agrobacterium tumefaciens. The A. tumefaciens vector system was used to transfer the added genes into the Large Red Cherry parental line.

Cherry tomato line 35–1–N has been considered a regulated article under APHIS' regulations in 7 CFR part 340 because it contains regulatory gene sequences derived from the plant pathogen *A. tumefaciens.* However, evaluation of field data reports from field tests of the subject tomato line conducted under APHIS permits or notifications since 1992 indicates that there were no deleterious effects on plants, nontarget organisms, or the environment as a result of the subject tomato plants' release into the environment.

Determination

Based on its analysis of the data submitted by Agritope and a review of other scientific data, comments received, and field tests of the subject tomato line, APHIS has determined that cherry tomato line 35–1–N: (1) Exhibits no plant pathogenic properties; (2) is no more likely to become a weed than cherry tomato cultivars developed by traditional breeding techniques; (3) is unlikely to increase the weediness potential for any other cultivated or wild species with which it can interbreed; (4) will not harm threatened or endangered species or other organisms, such as bees, that are beneficial to agriculture; and (5) will not cause damage to raw or processed agricultural commodities. Therefore, APHIS has concluded that cherry tomato line 35–1–N and any progeny derived from hybrid crosses with other nontransformed tomato varieties will be just as safe to grow as traditionally bred cherry tomato lines that are not regulated under 7 CFR part 340.

The effect of this determination is that Agritope's cherry tomato line designated as 35–1–N is no longer considered a regulated article under APHIS' regulations in 7 CFR part 340. Therefore, the notification requirements pertaining to regulated articles under those regulations no longer apply to the field testing, importation, or interstate movement of the subject tomato line or its progeny. However, the importation of cherry tomato line 35–1–N or seeds capable of propagation is still subject to the restrictions found in APHIS' foreign quarantine notices in 7 CFR part 319.

National Environmental Policy Act

An environmental assessment (EA) has been prepared to examine the potential environmental impacts associated with this determination. The EA was prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372). Based on that EA, APHIS has reached a finding of no significant impact (FONSI) with regard to its determination that Agritope's cherry tomato line 35–1–N and lines developed from it are no longer regulated articles under its regulations in 7 CFR part 340. Copies of the EA and the FONSI are available upon request from the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Done in Washington, DC, this 4th day of April 1996.

Lonnie J. King,

*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 96–8904 Filed 4–9–96; 8:45 am]

**BILLING CODE 3410–34–P**

## Farm Service Agency

## Notice of Request for Extension and Revision of a Currently Approved Information Collection

**AGENCY:** Farm Service Agency.

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the Farm Service Agency's (FSA) intention to request an extension for an information collection currently approved in support of obtaining information regarding chattel debt for direct operating loans authorized by subtitle B of the Consolidated Farm and Rural Development Act (Act) and emergency loans for operating purposes as authorized by subtitle C of the Act.

**DATES:** Comments on this notice must be received on or before June 10, 1996, to be assured consideration.

**ADDITIONAL INFORMATION:** Mark Falcone, Deputy Director, Loan Making Division, Farm Credit Programs, Farm Service Agency, USDA, Ag Box 0522, P.O. Box

2415, Washington, D.C. 20013–2415; telephone (202) 720–1632.

**SUPPLEMENTARY INFORMATION:**

*Title:* Request for Statement of Debts and Collateral.

*OMB Control Number:* 0575–0011.

*Expiration Date of Approval:* April 30, 1996.

*Type of Request:* Extension of a Currently Approved Information Collection.

*Abstract:* The information collected under Office of Management and Budget (OMB) Number 0575–0011 is needed to enable FSA to obtain information on a loan applicant's type of chattel security and amount of debt owed to other secured parties. This information is necessary for the agency to determine if a valid lien can be obtained on the chattel security in making direct operating loans and emergency loans for operating purposes.

*Estimate of Burden:* Public reporting burden for this information collection is estimated to average .25 hours per response.

*Respondents:* Lenders and small agricultural businesses.

*Estimated Number of Respondents:* 15,000.

*Estimated Number of Respondents per Respondent:* 3.

*Estimated Total Annual Burden on Respondents:* 11,250.

Comments are sought regarding: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments should be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503 and to Mark Falcone, Deputy Director, Loan Making Division, Farm Credit Programs, Farm Service Agency, USDA, Ag Box 0522, P.O. Box 2415, Washington, D.C. 20013–2415; telephone (202) 720–1632. Copies of the information collection may be obtained from Mark Falcone at the above address.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Signed at Washington, D.C., on April 4, 1996.

Bruce R. Weber,

*Acting Administrator, Farm Service Agency.*

[FR Doc. 96–8931 Filed 4–9–96; 8:45 am]

BILLING CODE 3410–05–M

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## Food and Consumer Service

### Agency Information Collection Activities: Proposed Collection; Comment Request Food Security Supplement to the Current Population Survey

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

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on proposed information collection of supplemental food security questions for the September, 1996 Current Population Survey.

**DATES:** Written comments must be submitted on or before June 10, 1996.

**ADDRESSES:** Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Michael E. Fishman, Acting Director, Office of Analysis and Evaluation, Food and Consumer Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, VA 22302.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instruments and instructions should be directed to Michael E. Fishman, (703) 305–2117.

**SUPPLEMENTARY INFORMATION:**

*Title:* Food Security Supplement to the Current Population Survey.

*OMB Number:* Not yet assigned.

*Form Number:* None.

*Expiration Date:* N/A.

*Type of Request:* New Collection of Information.

*Abstract:* The U.S. Bureau of the Census will supplement the September, 1996 Current Population Survey with questions regarding household food shopping, food sufficiency, coping mechanisms and food scarcity, and concern about food sufficiency. This supplement was also appended to the CPS in April, 1995. These data will be used to develop a scale of food security reflecting a range from food secure households through households experiencing severe food insecurity. Ultimately, this scale will be used to identify the prevalence of poverty-linked food insecurity and hunger experienced in the United States. The purpose of this project is to provide a consistent measure of the extent and severity of food insecurity that will aid in policy decision making. The supplemental survey instrument has been developed in conjunction with food security experts nationwide as well as survey method experts within the Census Bureau. This supplemental information will be collected by both personal visit and telephone interviews in conjunction with the regular monthly CPS interviewing. All interviews are conducted using computers.

*Affected Public:* Individuals or households.

*Estimated Number of Respondents:* 58,000.

*Estimated Time per Response:* 9 minutes.

*Estimated Total Annual Burden:* 8,700 hours.

Dated: April 4, 1996.

William E. Ludwig,

*Administrator, Food and Consumer Service.*

[FR Doc. 96–8969 Filed 4–9–96; 8:45 am]

BILLING CODE 3410–30–M

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## Grain Inspection, Packers and Stockyards Administration

### Proposed Posting of Stockyards

The Grain Inspection, Packers and Stockyards Administration, United States Department of Agriculture, has information that the livetock markets named below are stockyards as defined in Section 302 of the Packers and Stockyards Act (7 U.S.C. 202), and should be made subject to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.).

NC–170 Asheville, Horse Sale, Asheville, North Carolina
OH–150 Smokey Lane Stables, Inc., Sugarcreek, Ohio
TX–345 Giddings Livstock Commission Co., Giddings, Texas

Pursuant to the authority under Section 302 of the Packers and Stockyards Act, notice is hereby given that it is proposed to designate the stockyards named above as posted stockyards subject to the provisions of said Act.

Any person who wishes to submit written data, views or arguments concerning the proposed designation may do so by filing them with the Director, Livestock Marketing Division, Grain Inspection, Packers and Stockyards Administration, Room 3408-South Building, U.S. Department of Agiculture, Washington, D.C. 20250 by April 16, 1996. All written submissions made pursuant to this notice will be made available for public inspection in the office of the Director of the Livestock Marketing Division during normal business hours.

Done at Washington, D.C., this 1st day of April 1996.

Daniel L. Van Ackeren,

*Director, Livestock Marketing Division, Packers and Stockyards Programs.*

[FR Doc. 96–8939 Filed 4–9–96; 8:45 am]

**BILLING CODE 3410–KD–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–614–801]**

### Fresh Kiwifruit From New Zealand; Preliminary Results of Antidumping Duty Administrative Review

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of Preliminary Results of Antidumping Duty Administrative Review.

**SUMMARY:** In response to a request by the New Zealand Kiwifruit Marketing Board (NZKMB), the respondent in this case, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on fresh kiwifruit from New Zealand. The review covers one exporter of the subject merchandise to the United States for the period June 1, 1994, through May 31, 1995.

We preliminarily determine that sales have been made below the normal value (NV). If these preliminary results are adopted in our final results of administrative review, we will instruct the U.S. Customs Service to assess antidumping duties equal to the difference between the United States price (USP) and the NV. Interested parties are invited to comment on these preliminary results. Parties who submit argument in this proceeding are requested to submit with the argument (1) a statement of the issue, and (2) a brief summary of the argument. (No longer than five pages, including footnotes.)

**EFFECTIVE DATE:** April 10, 1996.

**FOR FURTHER INFORMATION CONTACT:** Paul Stolz or Thomas F. Futtner, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–4474 or 482–3814, respectively.

**APPLICABLE STATUTE:** Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act) are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Rounds Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the Federal Register on May 11, 1995 (60 FR 25130).

**SUPPLEMENTARY INFORMATION:**

#### Background

On June 2, 1992, the Department published the antidumping duty order on fresh kiwifruit from New Zealand (57 FR 23203). On June 6, 1995, the Department published a notice of ''Opportunity to Request Administrative Review'' of this antidumping duty order for the period June 1, 1994, through May 31, 1995 (60 FR 29821). We received a timely request for review by the respondent, NZKMB. On July 14, 1995, the Department initiated a review of NZKMB (60 FR 36260). The period of review (POR) is June 1, 1994 through May 31, 1995.

#### Scope of the Review

The product covered by this review is fresh kiwifruit. Processed kiwifruit, including fruit jams, jellies, pastes, purees, mineral waters, or juices made from or containing kiwifruit, are not covered under the scope of this review. The subject merchandise is currently classifiable under subheading 0810.90.20.60 of the Harmonized Tariff Schedule (HTS). Although the HTS number is provided for convenience and customs purposes, our written description of the scope of this order is dispositive.

#### Constructed Export Price

The Department treated certain sales by the respondent as constructed export prices (CEP) sales, as provided in section 772 (b) of the Tariff Act. Sales to the United States by NZKMB were made to the first unaffiliated party in the United States after importation, and hence warranted CEP methodology.

We calculated CEP based on packed F.O.B. (ex-New Zealand coolstore), and packed F.O.B., freight-prepaid prices. We made deductions, where appropriate, for New Zealand inland freight (coolstore to port), loading charges in New Zealand, ocean freight, basic marine insurance, charter insurance, U.S. import duties, U.S. brokerage and handling, U.S. inland freight (decreased to account for prepaid freight where applicable), and price discounts (*i.e.*, advertising allowances, special advertising allowances, market adjustment discounts, advertising rebates which actually constituted discounts, and discounts for quality problems). In accordance with sections 772(d) (1) and (2) of the Tariff Act, we made additional deductions, where appropriate, for agent commissions, broker commissions, credit, direct advertising, and indirect selling expenses. Indirect selling expenses included inventory carrying costs, repacking, U.S. primary and U.S. satellite coolstore charges, New Zealand and U.S. instore insurance, fire insurance, product liability and tamper insurance, earthquake insurance, indirect advertising, quality control expenses, miscellaneous selling-agent-related charges, other U.S.-incurred indirect expenses, and other New Zealand-incurred indirect selling expenses associated with selling in the United States. Furthermore, pursuant to section 772(d)(3), the price was further reduced by an amount for profit to arrive at the CEP. Finally, we increased the U.S. price to account for post sale price adjustments not reflected in the gross price.

#### Normal Value

In order to determine whether there were sufficient sales of kiwifruit in the home market to serve as a viable basis for calculating NV, we compared the volume of home market sales of kiwifruit by NZKMB to its volume of kiwifruit sales to the United States, in accordance with section 773(a)(1)(B) of the Act. The petitioner has claimed that the home market should not be considered viable. However, since

respondent's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined that the home market was viable for the respondent. Therefore, we have based NV on home market sales.

In accordance with section 777A(d)(2), we calculated monthly weighted-average prices for NV and compared these to individual U.S. transactions.

Third country sales were used as the basis of foreign market value in the most recently completed review as the home market was not viable in that proceeding. Because many of the NZKMB's third-country sales were found to have been made at prices below the cost of production and were therefore disregarded in that review, the Department initiated a COP investigation for the purposes of this administrative review. (See memorandum to file dated November 7, 1995.) Just as the Department found in the original investigation, and the first and second administrative reviews, we find that in comparing NV to COP, the reseller/exporter's acquisition prices are irrelevant because section 773(b) of the Tariff Act requires that the Department look at the actual COP of the subject merchandise. Thus, we used the cost incurred by kiwifruit farmers, the actual producers of the subject merchandise, to calculate the COP benchmark.

Due to the large number of growers from which the NZKMB purchased kiwifruit during the POR, the Department determined that sampling was both administratively necessary and methodologically appropriate to calculate a representative cost of producing the subject merchandise for purposes of this administrative review (see section 777A of the Tariff Act). We selected the sample of kiwifruit growers as follows: Farms were segregated by geographic regions into either the Bay of Plenty region or non-Bay of Plenty regions. In selecting the sample of 20 growers, we determined that we would select 15 growers representing the Bay of Plenty region and five from the non-Bay of Plenty regions, in order to reflect the relative proportion of kiwi production from each of the two regions. Because the Department's purpose is to estimate the average unit cost per tray of exported kiwifruit, as a second step we have assigned selection probabilities to the growers on the basis of the volume of kiwifruit each grower submitted to the NZKMB for export. We sent COP questionnaires through the NZKMB to the 20 kiwifruit growers selected, all of which responded to the Department's questionnaire. The 20 COP responses submitted, along with the sales and supplemental responses, were analyzed and relied upon, where appropriate, in reaching the preliminary results of the review.

We calculated the cost of cultivation for each grower by summing all costs for the 1994–1995 kiwifruit season. These costs included the cost of materials, farm labor, farm overhead, and packing. We allocated the cost on a per-tray equivalent basis over the total number of tray equivalents submitted by each grower to the NZKMB. (A tray equivalent is a standard unit of measurement for kiwifruit. It is representative of the kiwifruit which can fit into a standard packing tray.) We then adjusted those costs to reflect fruit loss. We added the NZKMB's general and administrative expenses to the farm's average cost per tray.

The orchard set-up costs for all growers were amortized over 20 years as was done in prior reviews. Where growers purchased an established orchard, the acquisition price of the farm was treated as the set-up cost.

For growers that allocated costs over the productive area, that is, canopy area, we made adjustments to include the headlands and sidelands in the productive area of the kiwifruit orchard for the purpose of allocating costs. We made adjustments to growers' cost for depreciation, interest, labor, repairs, management, vehicles, fertilizer, spraying, rates (property tax), electricity, shelter, water, general and administrative, pruning, and mowing on a farm-specific basis where appropriate.

We calculated a simple average COP from the sampled growers' individual COPs. The total COP was calculated on a New Zealand dollar per single-layer tray equivalent basis (NZ$/SLT).

In accordance with section 773(b) of the Tariff Act, in determining whether to disregard home market sales made at prices below COP, we examined whether such sales were made within an extended period of time in substantial quantities, and whether such sales were made at prices which would permit recovery of all costs within a reasonable period of time.

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of a respondent's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in ''substantial quantities.'' Where 20 percent or more of a respondent's sales of a given product were at prices less than the COP, we disregarded only the below-cost sales where such sales were found to be made within an extended period of time (in accordance with section 773(b)(2)(B) of the Act) and at prices which would not permit recovery of all costs within a reasonable period of time (in accordance with section 773(b)(2)(D) of the Act). Where all sales of a specific product were at prices below the COP, we disregarded all sales of that product, and calculated NV based on CV, in accordance with section 773(b)(1) of the Act.

The results of our cost test indicated that within an extended period of time (one year, in accordance with section 773(b)(2)(B) of the Act) for certain home market models/product codes, more than 20 percent of the home market sales were sold at below the COP prices, which would not permit the recovery of all costs within a reasonable period of time. Thus, we excluded these below-cost sales and used the remaining above-cost sales as the basis of determining NV, in accordance with section 773(b)(1). For those home market models/product codes for which there were no above-cost sales, we compared EP and/or CEP to CV, in accordance with section 773(b)(1) of the Act.

Pursuant to section 773(b)(2)(D) of the Act, we examined whether the prices of below cost sales would provide for recovery of costs within a reasonable period of time. As the prices of below cost sales were below the weighted average per unit cost of production for the POR, we conclude that no cost recovery took place.

In accordance with section 773(e)(1) of the Act, we calculated CV based on the sum of the respondent's cost of materials and fabrication as reported in the U.S. sales databases. In accordance with section 773(e)(2)(A), we based SG&A and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country. For selling expenses, we used the weighted-average home market selling expenses. Pursuant to section 773(e)(3), we included U.S. packing as reported in the U.S. sales databases.

We adjusted NV where appropriate, to reflect deductions for home market rebates, inland freight, delivery premiums, pre-sale warehouse expenses, credit expenses, and warranty expenses in the calculation of NV for comparison to CEP transactions. We also deducted home market packing expenses and added U.S. packing expenses.

Level of Trade and CEP Offset

As set forth in section 773(a)(2)(B)(i) of the Act and in the Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreements Act, at 829–831, to the extent practicable, the Department will calculate normal value based on sales at the same level of trade as the U.S. sale. When the Department is unable to find sale(s) in the comparison market at the same level of trade as the U.S. sale(s), the Department may compare sales in the U.S. and foreign markets at a different level of trade.

In accordance with section 773(a)(7)(A) of the Act, if we compare a U.S. sale at one level of trade to normal value sales at a different level of trade, the Department will adjust the normal value to account for the difference in level of trade if two conditions are met. First, there must be differences between the actual selling functions performed by the seller at the level of trade of the U.S. sale and at the level of trade of the NV sale. Second, the differences must affect price comparability as evidenced by a pattern of consistent price differences between sales at the different levels of trade in the market in which normal value is determined. When constructed export price is applicable, section 773(a)(7)(B) of the Act establishes the procedures for making a constructed export price offset when: (1) Normal value is at a different level of trade, and (2) the data available do not provide an appropriate basis for a level of trade adjustment from the U.S. sale. Also, in accordance with section 773(a)(7)(B), to qualify for a CEP offset, the level of trade in the home market must also constitute a more advanced stage of distribution than the level or trade of the CEP.

In order to identify levels of trade, the Department must review information concerning selling functions of the manufacturer/exporter. We reviewed the questionnaire responses to establish whether there were sales at different levels of trade based on selling functions performed and services offered to each customer or customer class.

We identified one level of trade in the home market with two types of sales within that level: (1) Direct sales by NZKMB to the customer, and (2) sales through a domestic agent. Both types of sales were made to resellers, retail stores and distributors. We examined the selling functions performed for both types of sales and found that NZKMB handled many of the same or similar selling functions for both types of sales including: quality control, packing quality control, maintenance of fruit while in coolstore, marketing and general promotion, and general price setting. For direct sales, NZKMB also handled order processing, invoicing, and price negotiation with the customer. For sales through the domestic agent, NZKMB paid the agent a commission for handling those responsibilities. Overall, we preliminarily determine that the selling functions between the two sales types are sufficiently similar to consider them as one level of trade in the home market. In addition, all sales, whether made to resellers, retail stores or distributors, included the same selling functions.

For the U.S. market, all sales were reported as CEP sales. The level of trade of the U.S. sales is determined by the adjusted CEP rather than the starting price. We examined the selling functions performed by NZKMB for U.S. CEP sales and preliminarily determined that they are at a different level of trade from NZKMB's home market sales because NZKMB engaged in fewer selling functions for the adjusted CEP sales than for its home market sales. For instance, NZKMB did not engage in any general promotion, marketing activities, or price negotiations for U.S. sales.

Because we compared CEP sales to home market sales at a different level of trade, we examined whether a level of trade adjustment may be appropriate. In this case, respondent only sold at one level of trade in the home market; therefore, there is no basis upon which respondent can demonstrate a consistent pattern of price differences between levels of trade. Further, we do not have information which would allow us to examine pricing patterns based on respondent's sales of other products and there are no other respondents or other record information on which such an analysis could be based.

Because the data available do not provide an appropriate basis for making a level of trade adjustment but the level of trade in the HM is a more advanced stage of distribution than the LOT of the CEP sales, a CEP offset is appropriate. Respondents claimed a CEP offset. We applied the CEP offset to normal value or constructed value, as appropriate. The level of trade methodology employed by the Department in these preliminary results of review is based on the facts particular to this review. The Department will continue to examine its policy for making level of trade comparisons and adjustments for its final results of review.

Fair Value Comparisons

To determine whether sales of kiwifruit by respondents to the United States were made at less than fair value, we compared the CEP to the NV, as described in the ''Constructed Export Price'' and ''Normal Value'' sections of this notice. In accordance with section 777A(d)(2), we calculated monthly weighted-average prices for NV and compared these to individual U.S. transactions. Where possible, in calculating a monthly weighted average normal value, we averaged home market sales across the channel of distribution most comparable to that in which the U.S. transaction was made. Where there were no home market sales through that channel of distribution, we averaged home market sales through the other channel of distribution.

Preliminary Results of Review

We preliminarily determine that the following margin exists for the period June 1, 1994, through May 31, 1995:

| Manufacturer/Exporter | Percent margin |
|---|---|
| New Zealand Kiwifruit Marketing Board | 6.33 |

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between USP and NV may vary from the percentage stated above. Upon completion of this review, the Department will issue assessment instructions concerning the respondent directly to the U.S. Customs Service.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise, entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided for by section 751(a) of the Act: (1) The cash deposit rate for the reviewed firm will be that firm's rate established in the final results of this administrative review; (2) For previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) If the exporter is not a firm covered in this review, a prior review, or in the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; (4) If neither the manufacturer nor the exporter is a firm covered in this or any previous review

conducted by the Department, the cash deposit rate will be 98.60 percent, the ''all others'' rate established in the LTFV investigation.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Interested parties may request disclosure within five days of the date of publication of this notice, and may request a hearing within ten days of the date of publication. Any hearing, if requested, will be held as early as convenient for the parties but not later than 44 days after the date of publication or the first work day thereafter. Case briefs or other written comments from interested parties may be submitted not later than 30 days after the date of publication of this notice. Rebuttal briefs and rebuttal comments, limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication. The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any such written comments.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: March 29, 1996.

Paul L. Joffe,

*Deputy Assistant Secretary for Import Administration.*

[FR Doc. 96–8968 Filed 4–9–96; 8:45 am]

**BILLING CODE 3510–DS–P**

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Amendment of an Import Restraint Limit for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Fiji

April 5, 1996.

**AGENCY:** Committee for the Implementation of Textile Agreements (CITA).

**ACTION:** Issuing a directive to the Commissioner of Customs amending a limit.

**EFFECTIVE DATE:** April 12, 1996.

**FOR FURTHER INFORMATION CONTACT:** Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

**SUPPLEMENTARY INFORMATION:**

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

In accordance with the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC), the current limit is being amended for textile products in Categories 338/339/638/639, produced or manufactured in Fiji and exported during the period beginning on January 1, 1996 and extending through December 31, 1996. In accordance with the ATC, this amended limit is based on the limit notified to the Textiles Monitoring Body. This limit is amended because Fiji is now a member of the World Trade Organization (WTO).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to amend the current limit for the period January 1, 1996 through December 31, 1996.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 60 FR 65299, published on December 19, 1995). Also see 61 FR 3003, published on January 30, 1996.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the ATC, but are designed to assist only in the implementation of certain of their provisions.

Troy H. Cribb,

*Chairman, Committee for the Implementation of Textile Agreements.*

Committee for the Implementation of Textile Agreements

April 5, 1996.

Commissioner of Customs,

*Department of the Treasury, Washington, DC 20229.*

Dear Commissioner: This directive amends, but does not cancel, the directive isued to you on January 24, 1996, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and man-made fiber textile products, produced or manufactured in Fiji and exported during the twelve-month period beginning on January 1, 1996 and extending through December 31, 1996.

Effective on April 12, 1996, you are directed, in accordancw with the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC), to increase the limit for Categories 338/339/638/639 to 1,087,083 dozen [1] of which not more than 905,903 dozen shall be in Categories 338–S/339–S/638–S/639–S [2].

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

*Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. 96–8966 Filed 4–9–96; 8:45 am]

**BILLING CODE 3510–DR–F**

### Amendment of Import Restraint Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Qatar

April 5, 1996.

**AGENCY:** Committee for the Implementation of Textile Agreements (CITA).

**ACTION:** Issuing a directive to the Commissioner of Customs amending limits.

**EFFECTIVE DATE:** April 12, 1996.

**FOR FURTHER INFORMATION CONTACT:** Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

[1] The limit has not been adjusted to account for any imports exported after December 31, 1995.

[2] Category 338–S: only HTS numbers 6103.22.0050, 6105.10.0010, 6105.10.0030, 6105.90.8010, 6109.10.0027, 6110.20.1025, 6110.20.2040, 6110.20.2065, 6110.90.9068, 6112.11.0030 and 6114.20.0005; Category 339–S: only HTS numbers 6104.22.0060, 6104.29.2049, 6106.10.0010, 6106.10.0030, 6106.90.2510, 6106.90.3010, 6109.10.0070, 6110.20.1030, 6110.20.2045, 6110.20.2075, 6110.90.9070, 6112.11.0040, 6114.20.0010 and 6117.90.9020; Category 638–S: all HTS numbers except 6109.90.1007, 6109.90.1009, 6109.90.1013 and 6109.90.1025; Category 639–S: all HTS numbers except 6109.90.1050, 6109.90.1060, 6109.90.1065 and 6109.90.1070.

**SUPPLEMENTARY INFORMATION:**

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

In accordance with the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC), the current limits are being amended for certain textile products, produced or manufactured in Qatar and exported during the period beginning on January 1, 1996 and extending through December 31, 1996. In accordance with the ATC, these amended limits are based on the limits notified to the Textiles Monitoring Body. These limits are amended because Qatar is now a member of the World Trade Organization (WTO).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to amend the current limits for the period January 1, 1996 through December 31, 1996.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 60 FR 65299, published on December 19, 1995). Also see 60 FR 66264, published on December 21, 1995.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the ATC, but are designed to assist only in the implementation of certain of their provisions.

Troy H. Cribb,

*Chairman, Committee for the Implementation of Textile Agreements.*

Committee for the Implementation of Textile Agreements

April 5, 1996.

Commissioner of Customs,
*Department of the Treasury, Washington, DC 20229.*

Dear Commissioner: This directive amends, but does not cancel, the directive isued to you on December 15, 1995, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and man-made fiber textile products, produced or manufactured in Qatar and exported during the twelve-month period beginning on January 1, 1996 and extending through December 31, 1996.

Effective on April 12, 1996, you are directed, in accordance with the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC), to increase the limits for the following categories:

| Category | Amended twelve-month limit [1] |
|---|---|
| 340/640 | 370,338 dozen. |
| 341/641 | 170,925 dozen. |
| 347/348 | 421,615 dozen. |

[1] The limits have not been adjusted to account for any imports exported after December 31, 1995.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

*Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. 96–8967 Filed 4–9–96; 8:45 am]

BILLING CODE 3510–DR–F

## COMMODITY FUTURES TRADING COMMISSION

### Sunshine Act Meeting

**AGENCY HOLDING THE MEETING:** Commodity Futures Trading Commission.

**TIME AND DATE:** 10:30 a.m., Wednesday, April 17, 1996.

**PLACE:** 1155 21st St., N.W., Washington, D.C. 9th Fl. Conference Room.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Enforcement Matters.

**CONTACT PERSON FOR MORE INFORMATION:** Jean A. Webb, 202–418–5100.

Jean A. Webb,

*Secretary of the Commission.*

[FR Doc. 96–9079 Filed 4–8–96; 3:45 pm]

BILLING CODE 6351–01–M

### Sunshine Act Meeting

**AGENCY HOLDING THE MEETING:** Commodity Futures Trading Commission.

**TIME AND DATE:** 10:00 a.m., Thursday, April 25, 1996.

**PLACE:** 1155 21st St., N.W., Washington, D.C. Lobby Level Hearing Room.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:**

—Proposed Regulations Addressing Possible Conflict of Interest by Exchange Members in Certain Circumstances
—Early Warning Reporting Requirements, Minimum Financial Requirements, Prepayment of Subordinated Debt, Gross Collection of Exchange—Set Margin for Omnibus Accounts—Final Rules
—Ethics Training for Registrants—Final Rules

**CONTACT PERSON FOR MORE INFORMATION:** Jean A. Webb, 202–418–5100.

Jean A. Webb,

*Secretary of the Commission.*

[FR Doc. 96–9080 Filed 4–8–96; 3:45 pm]

BILLING CODE 6351–01–M

### Sunshine Act Meeting

**AGENCY HOLDING THE MEETING:** Commodity Futures Trading Commission.

**TIME AND DATE:** 10:00 a.m., Tuesday, April 30, 1996.

**PLACE:** 1155 21st St., N.W., Washington, D.C. 9th Fl. Conference Room.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Enforcement Matters.

**CONTACT PERSON FOR MORE INFORMATION:** Jean A. Webb, 202–418–5100.

Jean A. Webb,

*Secretary of the Commission.*

[FR Doc. 96–9081 Filed 4–8–96; 3:45 pm]

BILLING CODE 6351–01–M

## DEPARTMENT OF DEFENSE

### Department of the Air Force

### Notice of Availability; Draft Environmental Impact Statement for the Construction and Operation of a Golf Course at Luke Air Force Base

A Draft Environmental Impact Statement (DEIS) had been prepared by Luke Air Force Base for the proposed construction and operation of a golf course. The purpose of the DEIS is to comply with the National Policy Act to analyze the potential environmental consequences of three alternatives: (1) the no-action alternative, in which the land would serve as a detention basin without a golf course; (2) construction of an 18-hole golf course in a detention basin; and (3) construction of a 9-hole golf course in a detention basin.

The public is invited to attend a hearing on Thursday, May 16, 1996 beginning at 7:30 p.m. at the Litchfield Park Recreation Center, located at 100 South Old Litchfield Road. The purpose of this hearing will be to inform the public of the DEIS findings and to solicit comments on the document.

Copies of the DEIS are available for public review at the following libraries:

Avondale Goodyear Library, 328 W. Western Avenue, Avondale, Arizona
Peoria Public Library, 8401 W. Monroe, Peoria, Arizona
Glendale Public Library, 5959 W. Brown Street, Glendale, Arizona
Phoenix (Central) Public Library, 1221 N. Central Avenue, Phoenix, Arizona

Litchfield Park Library, 101 W. Indian School Road, Litchfield Park, Arizona
R.H. Johnson Library, 13801 Meeker Boulevard, Sun City, Arizona

Comments on the DEIS must be postmarked or received by facsimile by no later than June 3, 1996 to be considered in the Final EIS. Comments should be directed to: Robert Maxwell, 56/CES/CEVN, 14002 W. Marauder Street, Luke Air Force Base, AZ 85309–1125, Telephone: 602–856–3823, Fax: 602–856–3817.

Patsy J. Conner,

*Air Force Federal Register Liaison Officer.*

[FR Doc. 96–8955 Filed 4–9–96; 8:45 am]

**BILLING CODE 3910–01–W**

## Department of the Army

### Army Science Board; Notice of Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following Committee Meeting:

*Name of Committee:* Army Science Board (ASB).

*Date of Meeting:* 16–18 April 1996.

*Time of Meeting:* 0700–1930, 16 Apr 96; 0700–2100, 17 Apr 96; 0700–1200, 18 Apr 96.

*Place:* Ft. Monmouth, NJ.

*Agenda:* The Army Science Board (ASB) General Membership Meeting will be held from April 16–18, 1996. There will be briefings and discussions on ASB studies and activities. These meetings will be closed to the public accordance with Section 552b(c) of title 5, U.S.C., specifically subparagraph (4) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The proprietary matters to be discussed are so inextricably intertwined so as to preclude opening any portion of these meetings. For further information, please contact Michelle Diaz at (703) 695–0781.

Michelle P. Diaz,

*Acting Administrative Officer, Army Science Board.*

[FR Doc. 96–8836 Filed 4–9–96; 8:45 am]

**BILLING CODE 3710–08–M**

### Army Science Board; Notice of Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following Committee Meeting.

*Name of Committee:* Army Science Board (ASB).

*Date of Meeting:* 25 April 1996.

*Time of Meeting:* 1000–1600.

*Place:* Pentagon—Washington, DC.

*Agenda:* The Army Science Board (ASB) Independent assessment Study on ''Reengineering the Acquisition and Modernization Processes of the Institutional Army'' will meet for briefings and discussions on the research and development processes and ways to improve efficiency subject. This meeting will be closed to the public in accordance with Section 552b(c) of title 5, U.S.C., specifically subparagraph (4) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The proprietary matters to be discussed are so inextricably intertwined so as to preclude opening any portion of this meeting. For further information, please contact Michelle Diaz at (703) 695–0781.

Michelle P. Diaz,

*Acting Administrative Officer, Army Science Board.*

[FR Doc. 96–8837 Filed 4–9–96; 8:45 am]

**BILLING CODE 3710–08–M**

## DEPARTMENT OF EDUCATION

### Notice of Proposed Information Collection Requests

**AGENCY:** Department of Education.

**ACTION:** Submission for OMB review; comment request.

**SUMMARY:** The Director, Information Resources Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

**DATES:** Interested persons are invited to submit comments on or before May 10, 1996.

**ADDRESSES:** Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Wendy Taylor, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, 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) 708–8196. 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 3506 of the Paperwork Reduction Act of 1995 (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) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. 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: April 4, 1996.

Gloria Parker,

*Director, Information Resources Group.*

Office of Special Education and Rehabilitative Services

*Type of Review:* Extension.

*Title:* SE Caseload Report.

*Frequency:* Annually.

*Affected Public:* State, local or Tribal Gov't SEAs or LEAs.

*Annual Reporting and Recordkeeping Hour Burden:*

Responses: 82.

Burden Hours: 164.

*Abstract:* This form serves to collect data on severely disabled clients served by State supported employment service programs, as required by sections 636 and 13 of the Rehabilitation Act, as amended. The RSA Commissioner must collect and report data on supported employment clients served under Title I and Title VI, Part C, of the Act, and submit an annual report to the President and Congress within 120 days each fiscal year.

Office of Postsecondary Education

*Type of Review:* Revision.

*Title:* Fiscal Operations Report and Application to Participate in Federal Perkins Loan, Federal Supplemental Educational Opportunity Grant, and Federal Work-Study Programs.

*Frequency:* Annually.

*Affected Public:* Business or other for-profit,; Not-for-profit institutions; State, local or Tribal Gov't SEAs or LEAs.

*Annual Reporting and Recordkeeping Hour Burden:*

Responses: 4,800.

Burden Hours: 80,131.

*Abstract:* This application data will be used to compute the amount of funds needed by each institution during the 1997–98 Award Year. The Fiscal operations report data will be used to assess program effectiveness, account for funds expended during the 1995–96 Award Year, and as part of the institutional funding process.

[FR Doc. 96–8843 Filed 4–9–96; 8:45 am]

BILLING CODE 4000–01–P

## DEPARTMENT OF ENERGY

### Environmental Management Site-Specific Advisory Board, Pantex Plant; Meeting

**AGENCY:** Department of Energy.

**ACTION:** Notice of open meeting.

**SUMMARY:** Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Pantex Plant, Amarillo, Texas.

**DATE AND TIME:** Tuesday, April 30, 1996: 12:30 p.m.–5:30 p.m.

**ADDRESSES:** Boatmen's First National Bank, Centennial Room, 8th and Fillmore, Amarillo, Texas.

**FOR FURTHER INFORMATION CONTACT:** Tom Williams, Program Manager, Department of Energy, Amarillo Area Office, PO Box 30030, Amarillo, TX 79120 (806)477–3121.

**SUPPLEMENTARY INFORMATION:** Purpose of the Committee. The Board provides input to the Department of Energy on Environmental Management strategic decisions that impact future use, risk management, economic development, and budget prioritization activities.

Tentative Agenda:

12:30 pm Welcome—Agenda Review—Approval of Minutes
12:45 pm Co-Chairs' Comments
1:15 pm Subcommittee Reports
—Community Outreach
—Budget and Finance
—Nominations
—Program and Training
—Policy and Personnel
1:45 pm Updates
—Occurrence Reports—DOE
—Agency for Toxic Substances and Disease Registry, Dr. Paul Charp and Rick Collins
2:30 pm Break
2:45 pm Discussion, Programmatic Environmental Impact Statements (EIS).
5:00 pm Task Force Reports
—Sitewide EIS
—Environmental Restoration
5:30 pm Adjourn

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Written comments will be accepted at the address above for 15 days after the date of the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Tom Williams' office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments.

Minutes: The minutes of this meeting will be available for public review and copying at the Pantex Public Reading Rooms located at the Amarillo College Lynn Library and Learning Center, 2201 South Washington, Amarillo, TX phone (806) 371–5400. Hours of operation are from 7:45 am to 10 pm, Monday through Thursday; 7:45 am to 5 pm on Friday; 8:30 am to 12 noon on Saturday; and 2 pm to 6 pm on Sunday, except for Federal holidays. Additionally, there is a Public Reading Room located at the Carson County Public Library, 401 Main Street, Panhandle, TX phone (806) 537–3742. Hours of operation are from 9 am to 7 pm on Monday; 9 am to 5 pm, Tuesday through Friday; and closed Saturday and Sunday as well as Federal Holidays. Minutes will also be available by writing or calling Tom Williams at the address or telephone number listed above.

Issued at Washington, DC, on April 4, 1996.

Rachel Murphy Samuel,

*Acting Deputy Advisory Committee Management Officer.*

[FR Doc. 96–8961 Filed 4–9–96; 8:45 am]

BILLING CODE 6450–01–P

### National Electric and Magnetic Fields Advisory Committee Meeting

**AGENCY:** Department of Energy.

**ACTION:** Notice of open meeting.

**SUMMARY:** Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of a meeting of the National Electric and Magnetic Fields (EMF) Advisory Committee.

**DATES:** April 29–30, 1996.

**ADDRESSES:** Holiday Inn, Georgetown, 2101 Wisconsin Ave., NW., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Imre Gyuk, EMF Program Manager, Department of Energy, EE–10, 1000 Independence Avenue, SW., Washington, D.C. 20585–0121, (202) 586–1482.

**SUPPLEMENTARY INFORMATION:** The National Electric and Magnetic Fields Advisory Committee advises the Department of Energy and the National Institute of Environmental Health Sciences (NIEHS) on the design and implementation of a five-year, national electric and magnetic fields research and public information dissemination program. The Secretary of Energy, pursuant to section 2118 of the Energy Policy Act of 1992, Pub. L. 102–486, has overall responsibility for the national program which includes health effects research, development of technologies to mitigate any adverse human health effects, and dissemination of information.

Tentative Agenda

*Monday, April 29, 1996*

8:30 a.m. Welcome and opening remarks
8:45 a.m. New organization at NIEHS and DOE
9:15 a.m. Update on Research & Public Information Dissemination Program (RAPID) activities
9:45 a.m. NIEHS work statement for FY96
10:45 a.m. Break
11:00 a.m. Accounting for FY95 budget and budget plans for FY96
12:00 noon Lunch break
1:30 p.m. NIEHS proposal for small innovative projects
2:30 p.m. Presentations on risk assessment
3:15 p.m. Break
3:30 p.m. Risk assessment plan
5:00 p.m. Adjourn

*Tuesday April 30, 1996*

9:00 a.m. Further discussion on risk assessment
10:00 a.m. Hotline and clearing house
10:30 a.m. Break
10:45 a.m. Summary of FY95 and FY96 funding contributions
11:00 a.m. Approval of minutes and committee business
11:30 a.m. Open time for public comments
12:30 p.m. Adjourn

A final agenda will be available at the meeting.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Imre Gyuk at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. Depending on the number of requests, comments may be

limited to five minutes. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes: A transcript and minutes of this meeting will be available for public review and copying at the Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington DC 20585, between 9 a.m. and 4 p.m., Monday through Friday except on Federal holidays. Copies of the minutes will also be available by request.

Issued at Washington, DC on April 5, 1996.

Rachel M. Samuel,

*Acting Deputy Advisory Committee Management Officer.*

[FR Doc. 96–8960 Filed 4–9–96; 8:45 am]

BILLING CODE 6450–01–P

## Energy Information Administration

### American Statistical Association Committee on Energy Statistics; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770), notice is hereby given of the following meeting: American Statistical Association's Committee on Energy Statistics, a utilized Federal Advisory Committee.

**DATE AND TIME:** Thursday, April 25, 9 am–4:30 pm; Friday, April 26, 9 am–12:45 pm.

**PLACE:** Holiday Inn-Capitol, 550 C Street, SW., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Ms. Renee Miller, EIA Committee Liaison, U.S. Department of Energy, Energy Information Administration, EI–72, Washington, DC 20585, Telephone: (202) 426–1117.

**SUPPLEMENTARY INFORMATION:**

Purpose of Committee: To advise the Department of Energy, Energy Information Administration (EIA), on EIA technical statistical issues and to enable the EIA to benefit from the Committee's expertise concerning other energy statistical matters.

Tentative Agenda:

*Thursday, April 25, 1996*

A. Opening Remarks
B. Major Topics
1. Results of the Greenhouse Gas Voluntary Reporting Program
2. Restructuring of the Electric Power Industry
3. Residential and Commercial Demand Models in NEMS
4. Update on Confidentiality
5. Replicability of Pollution Control Experiments (Public Comment)

*Friday, April 26, 1996*

6. Restructuring the Oil and Gas Crude Reserves Program
7. An Update on Issues Pertaining to the Restructuring of the Natural Gas Industry
8. Status of Business Reengineering at EIA: Statistical Issues (Public Comment)

C. Topics for Future Meetings.

Public Participation: The meeting is open to the public. The Chairperson of the committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Written statements may be filed with the committee either before or after the meeting. If there are any questions, please contact Ms. Renee Miller, EIA Committee Liaison, at the address or telephone number listed above or Mrs. Antoinette Martin at (202) 426–1110.

Transcripts: Available for public review and copying at the Public Reading Room, (Room 1E–290), 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–6025, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Issued at Washington, DC on April 5, 1996.

Rachel M. Samuel,

*Acting Deputy Advisory Committee Management Officer.*

[FR Doc. 96–8958 Filed 4–9–96; 8:45 am]

BILLING CODE 6450–01–P

## Office of Energy Research

### High Energy Physics Advisory Panel; Open Meeting

**AGENCY:** Department of Energy.

**ACTION:** Notice of open meeting.

**SUMMARY:** Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770), notice is given of a meeting of the High Energy Physics Advisory Panel.

**DATES:** Monday, May 13, 1996; 9 a.m. to 6 p.m.; and Tuesday, May 14, 1996; 9 a.m.–4 p.m.

**ADDRESSES:** Harvard University, Jefferson Laboratory, Room 461, 17 Oxford Street, Cambridge, MA 02138.

**FOR FURTHER INFORMATION CONTACT:** Dr. Robert Diebold, Executive Secretary, High Energy Physics Advisory Panel, U.S. Department of Energy, ER–22, GTN, Germantown, Maryland 20874, Telephone: (301) 903–5490.

**SUPPLEMENTARY INFORMATION:**

Purpose of the Meeting: To provide advice and guidance on a continuing basis with respect to the high energy physics research program

Tentative Agenda:

*Monday, May 13, 1996 and Tuesday, May 14, 1996:*

Discussion of Department of Energy High Energy Physics Programs and FY 1997 Presidential Request Budget.

Discussion of National Science Foundation Elementary Particle Physics Programs and FY 1997 Presidential Request Budget.

Further Discussion of Report of the Composite Subpanel for the Assessment of the Status of Accelerator Physics and Technology.

Discussion of Status of Large Hadron Collider Project and U.S. Participation.

Discussion of University-based High Energy Physics Programs.

Presentation and Discussion of High Energy Physics Activities in the Boston Area.

Reports on and Discussions of Topics of General Interest in High Energy Physics.

Public Comment (10 minute rule).

Public Participation: The two-day meeting is open to the public. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to make oral statements pertaining to agenda items should contact the Executive Secretary at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Minutes: Available for public review and copying at the Public Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on April 5, 1996.

Rachel Murphy Samuel,

*Acting Deputy, Advisory Committee, Management Officer.*

[FR Doc. 96–8959 Filed 4–9–96; 8:45 am]

BILLING CODE 6450–01–P

## Federal Energy Regulatory Commission

**[Docket No. RP96–201–000]**

### CNG Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

April 4, 1996.

Take notice that on April 2, 1996, CNG Transmission Corporation (CNG), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets:

Third Revised Sheet No. 353
First Revised Sheet No. 353A

Second Revised Sheet No. 354
First Revised Sheet No. 354A

CNG requests an effective date of May 1, 1996, for revised Sheet No. 354, and an effective date of January 1, 1996 for revised Sheets Nos. 353, 353A, and 354A.

CNG states that the purpose of this filing is to clarify the procedure for tracking and retention of fuel. The revised tariff sheets clarify that CNG will track and recover costs associated with the purchase of electricity that is used to fuel compressors in the same manner as it recovers costs associated with natural gas as a compressor fuel. According to CNG, the revised sheets correct the Fuel Adjustment Provision (FAP) of the General Terms and Conditions of CNG's tariff, to restore certain portions of the definition section that were inadvertently omitted from CNG's compliance filings in Docket No. RP94–96, and to omit certain paragraphs that are redundant.

CNG states that copies of this letter of transmittal and enclosures are being mailed to CNG's customers and interested state commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC, 20426, in accordance with 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. 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. 96–8876 Filed 4–9–96; 8:45 am]

BILLING CODE 6717–01–M

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**[Docket No. RP96–202–000]**

## East Tennessee Natural Gas Company; Notice of Tariff Filing

April 4, 1996.

Take notice that on April 2, 1996, East Tennessee Natural Gas Company (East Tennessee) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, to be effective May 2, 1996:

Cover Page
First Revised Sheet No. 101
Original Sheet No. 176

East Tennessee states that it is filing the instant tariff sheets to comply with the Commission's Order No. 582 governing the form and composition of interstate natural gas pipeline tariffs.

Any person desiring to be heard or to make any protest with reference to said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street N.E., Washington, D.C. 20426, in accordance with Section 211 and Section 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214. All such petitions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to this proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file and available for public inspection in the Public Reference Room.

Lois D. Cashell,

*Secretary.*

[FR Doc. 96–8875 Filed 4–9–96; 8:45 am]

BILLING CODE 6717–01–M

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**[Docket No. GT96–52–000]**

## Koch Gateway Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

April 4, 1996.

Take notice that on April 1, 1996, Koch Gateway Pipeline Company (Koch Gateway) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets to be effective May 1, 1996:

Second Revised Sheet No. 2
Third Revised Sheet No. 5300

Koch Gateway states that the purpose of this filing is to delete its Index of Purchasers from its tariff. Pursuant to Sections 154.111(a) and 284.106(c) of the Commission's regulations, Koch Gateway is filing an electronic Index of Customers and posting it on its electronic bulletin board.

Koch Gateway also states that the revised tariff sheets are being served upon all its customers, State Commissions, and other interested parties.

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, 888 First Street, NE., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a Motion to Intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

*Secretary.*

[FR Doc. 96–8885 Filed 4–9–96; 8:45 am]

BILLING CODE 6717–01–M

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**[Docket No. RP96–203–000]**

## Midwestern Gas Transmission Company; Notice of Tariff Filing

April 4, 1996.

Take notice that on April 2, 1996, Midwestern Gas Transmission Company (Midwestern) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, to be effective May 2, 1996:

Cover Sheet
First Revised Sheet No. 13
First Revised Sheet No. 20
First Revised Sheet No. 25
Second Revised Sheet No. 52
First Revised Sheet No. 110
Original Sheet No. 110A

Midwestern states that it is filing the instant tariff sheets to comply with the Commission's Order No. 582 governing the form and composition of interstate natural gas pipeline tariffs.

Any person desiring to be heard or to make any protest with reference to said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street N.E., Washington, D.C. 20426, in accordance with Section 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214. All such petitions and protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to this proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file and available for public inspection in the Public Reference Room.

Lois D. Cashell,

*Secretary.*

[FR Doc. 96–8874 Filed 4–9–96; 8:45 am]

BILLING CODE 6717–01–M

**[Docket No. RP96–199–000]**

## Mississippi River Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

April 4, 1996.

Take notice that on April 1, 1996, Mississippi River Transmission Corporation (MRT) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, to become effective May 1, 1996:

First Revised Sheet No. 4
Seventeenth Revised Sheet No. 5
Seventeenth Revised Sheet No. 6
Fourteenth Revised Sheet No. 7
Sixth Revised Sheet No. 8
Ninth Revised Sheet No. 10
Fourth Revised Sheet No. 11
Second Revised Sheet No. 49
First Revised Sheet No. 110
First Revised Sheet No. 111
First Revised Sheet No. 131
Original Revised Sheet No. 134
First Revised Sheet No. 135
Second Revised Sheet No. 137
First Revised Sheet No. 145
Third Revised Sheet No. 146
Second Revised Sheet No. 148
Second Revised Sheet No. 149
Second Revised Sheet No. 150
Third Revised Sheet No. 167
Second Revised Sheet No. 168
First Revised Sheet No. 219
Second Revised Sheet No. 249

MRT states that the proposed changes would increase revenues from jurisdictional service by $14.7 million based on the 12-month period ending December 31, 1995, as adjusted. The filing also proposes to eliminate rate mitigation measures for certain customers that were required on a transitional basis by Order No. 636. Further, MRT proposes that miscellaneous tariff changes be made to clarify existing provisions of the tariff, delete other provisions which are obsolete and incorporate changes prescribed by Order No. 582.

MRT states that the proposed rate changes are necessary to match costs and revenues in light of current and projected costs and changes in demand on its system. MRT further states that the proposed rate changes reflect a return commensurate with increased risks of operating its system under the current competitive environment. MRT states that it proposes to eliminate rate mitigation measures for those customers whose rates initially increased by more than 10 percent as a result of the implementation of the straight fixed variable methodology.

MRT also states that the proposed tariff sheets clarify: (i) Procedures related to how MRT provides notice of the unavailability of receipt or delivery points; (ii) circumstances in which gas may be bought and sold by MRT; (iii) capacity release posting provisions; (iv) the term applicable to prearranged capacity release transactions; and (v) an exception to the obligation of MRT to maintain computer files on a nondisclosed basis if such information is publicly available. MRT further states that other tariff changes are proposed to delete an expired option for customers regarding how their imbalances were to be treated; to conform with Section 154.106(a) of the Regulations, as re-designated in Order No. 582, which requires MRT to identify the boundary of its two rate zones; and, finally, to set forth the order in which rate components are to be discounted by MRT.

Any person desiring to be heard or to protest the filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determing 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 the filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

*Secretary.*

[FR Doc. 96–8878 Filed 4–9–96; 8:45 am]

BILLING CODE 6717–01–M

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**[Docket Nos. RP94–367–005 and RP95–31–012]**

## National Fuel Gas Supply Corporation; Notice of Tariff Filing

April 4, 1996.

Take notice that on April 1, 1996, National Fuel Gas Supply Corporation (National) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets proposed to be effective April 1, 1996:

Sub. Fifth Revised Sheet No. 1;
Sub. Sixth Revised Sheet No. 2;
Sub. Thirteenth Revised Sheet No. 6;
Sub. Second Revised Sheet No. 150;
Sub. Fifth Revised Sheet No. 205;
Sub. Third Revised Sheet Nos. 211 and 212; and
Sub. Fifth Revised Sheet Nos. 236 and 237

National states that on March 22, 1996, National submitted its Compliance Filing in the above-captioned proceedings. In the Compliance Filing, the tariff sheets contained references to National's proposal at Docket No. RP96–148–000 to establish a new FSS–ST Rate Schedule, on the assumption that it would be made effective on April 1, 1996. On March 27, 1996, however, the Commission rejected National's proposed FSS–ST service. Therefore, the references to FSS–ST service have been deleted from the above-listed tariff sheets.

National further states that copies of this filing were served upon the company's jurisdictional customers and upon the Regulatory Commissions of the States of New York, Ohio, Pennsylvania, Delaware, Massachusetts, and New Jersey.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C., 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests must be filed as provided by Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

*Secretary.*

[FR Doc. 96–8879 Filed 4–9–96; 8:45 am]

BILLING CODE 6717–01–M

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**[Docket No. RP96–200–000]**

## NorAm Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

April 4, 1996.

Take notice that on April 1, 1996, NorAm Gas Transmission Company (NGT) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following revised tariff sheets, to be effective April 1, 1996:

Fourth Revised Sheet No. 233
First Revised Sheet No. 7
First Revised Sheet Nos. 8–11

NGT states that these revised tariff sheets are filed to give NGT the ability to negotiate rates as provided for by the Commission in the Policy Statement. In addition, NGT is filing tariff sheets related to specific negotiated rate transactions.

Any person desiring to be heard or protest the proposed tariff sheets should

file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 214 and 211 of the Commission's Rule of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests must be filed on or as provided in Section 154.210 of the Commission's Regulations. 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. 96–8877 Filed 4–9–96; 8:45 am]

BILLING CODE 6717–01–M

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**[Docket No. RP91–166–031]**

## Northwest Pipeline Corporation; Notice of Compliance Filing

April 4, 1996

Take notice that on April 1, 1996, Northwest Pipeline Corporation (Northwest) tendered for filing as part of its FERC Gas Tariff the following tariff sheets, to become effective as indicated:

*Third Revised Volume No. 1, Effective July 20, 1995*

Substitute First Revised Sheet No. 13–A
Substitute First Revised Sheet No. 13–B
Substitute First Revised Sheet No. 13–C

*Second Revised Volume No. 1, Effective October 1, 1991*

Substitute First Revised Third Substitute Thirteenth Revised Sheet No. 10
Substitute First Revised Third Substitute Thirteenth Revised Sheet No. 11
Substitute First Revised Second Substitute Eighth Revised Sheet No. 13

*First Revised Volume No. 1–A, Effective October 1, 1991*

Substitute First Revised Second Substitute Eighth Revised Sheet No. 201

*First Revised Volume No. 1–A, Effective Date of October 3, 1991*

Substitute First Revised Eleventh Revised Sheet No. 201

*Original Volume No. 2, Effective Date of October 1, 1991*

Substitute First Revised Substitute Twenty-Fifth Revised Sheet No. 2.3

Northwest states that the purpose of this filing is to comply with the Commission's March 1, 1996 Order on Rehearing and Compliance Filing (March 1 Order) in Docket No. RP91–166–028, et al., by submitting tariff sheets reflecting adjusted commodity supplier settlement payment (SSP) surcharges. Northwest states that it has increased the billing determinants underlying the commodity SSP surcharges that were in effect during the period from July 1, 1991 through March 31, 1993 to reflect all interruptible volumes that were transported at maximum rates during that period. As a result, Northwest states, the commodity SSP surcharges for the three months beginning October 1, 1991 have been revised from those filed by Northwest on June 19, 1995 in this docket. The commodity SSP surcharges filed on June 19 applicable to the other months contained in that filing have not been revised because the increase in billing determinants did not result in lower commodity SSP surcharges when rounded to four decimal places.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

*Secretary.*

[FR Doc. 96–8880 Filed 4–9–96; 8:45 am]

BILLING CODE 6717–01–M

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**[Docket No. GT96–54–000]**

## Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tariff

April 4, 1996.

Take notice that on April 1, 1996, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing certain revised tariff sheets to its FERC Gas Tariff, Third Revised Volume No. 1, which tariff sheets are enumerated in Appendix A attached to the filing. The tariff sheets are proposed to become effective May 1, 1996.

Transco states that the purpose of the instant filing is to update certain Delivery Point Entitlement (DPE) tariff sheets in accordance with the provisions of Section 19 of the General Terms and Conditions of Transco's Third Revised Volume No. 1 Tariff. Specifically, such tariff sheets have been revised to include changes associated with (1) completed incremental capacity expansions, (2) the conversion from Section 7(c) to Part 284 service for certain shippers, and (3) the permanent assignment of certain services.

Transco states that it is serving copies of the instant filing to its affected customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. 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. 96–8883 Filed 4–9–96; 8:45 am]

BILLING CODE 6717–01–M

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**[Docket No. GT96–53–000]**

## Transcontinental Gas Pipe Line Corporation; Notice of Compliance Filing

April 4, 1996.

Take notice that on April 1, 1996, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, certain revised tariff sheets which tariff sheets are enumerated in Appendix A attached to the filing. The attached tariff sheets are proposed to be effective April 1, 1996.

Transco states that the instant filing is submitted pursuant to Order No. 581 and in accordance with the provisions of §§ 284.106(c) and 284.223(b). On September 28, 1995, the Commission issued Order No. 581 in Docket No. RM95–4–000. Such order requires interstate pipelines transporting or storing gas under Subparts B and G of Part 284 of the Commission's Regulations to provide an electronic Index of Customers through a downloadable file that is updated quarterly. On February 29, 1996, the Commission issued a ''Notice Adopting

Electronic Filing Specifications for the Index of Customers and Discount Report'' (Notice). The Notice requires pipelines to implement the electronic Index of Customers on April 1, 1996. In addition, pursuant to Part 154.111(a) of the Commission's Regulations upon implementation of the electronic Index of Customers, the pipelines' obligation to provide for an Index of Customers in its tariff will cease. Therefore, this instant filing is submitted pursuant to the aboveforementioned Sections of the Commission's Regulations.

Transco states that it is serving copies of the instant filing to its customers, State Commissions, and other interested parties.

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, 888 First Street, Washington, D.C. 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in § 154.210 of the Commission's Regulations. 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. 96–8884 Filed 4–9–96; 8:45 am]

**BILLING CODE 6717–01–M**

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**[Docket No. GT96–55–000]**

## Williams Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

April 4, 1996.

Take notice that on April 1, 1996 Williams Natural Gas Company (WNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, First Revised Sheet No. 491. The proposed effective date for this tariff sheet is May 1, 1996.

WNG states that pursuant to Order No. 581 and RM95–4–000, it is filing to remove the Index of Customers from its FERC Gas Tariff and is concurrently filing a diskette containing its Index of Customers for April 1, 1996. WNG has also posted the Index of Customers on its EBB.

WNG states that a copy of its filing was served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

*Secretary.*

[FR Doc. 96–8882 Filed 4–9–96; 8:45 am]

**BILLING CODE 6717–01–M**

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## Notice of Request for Amendment of Project License to Allow a Temporary Suspension of the Minimum Flow Requirement for a Period of 5 to 10 Years

April 4, 1996.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Request for Amendment of Project License to Allow a Temporary Suspension of the Minimum Flow Requirement for a Period of 5 to 10 Years.

b. *Project No:* 5276.

c. *Date Filed:* May 16, 1995.

d. *Applicants:* Niagara Mohawk Power Corporation and Northern Electric Power Company, LP.

e. *Name of Project:* Hudson Falls Project.

f. *Location:* On the Hudson River in Washington County, New York.

g. *File Pursuant to:* Federal Power Act, 16 U.S.C. § 791(a)–825(r).

h. *Applicant Contacts:*

Keith Corneau, Manager, Environmental/Regulatory Affairs, Adirondack Hydro Development Corporation, Civic Center Plaza, Suite 100, 5 Warren Street, Glens Falls, NY 12801, (518) 761–3095

Mr. Sam S. Hirschey, P.E., Manager, Hydro Licensing & Regulatory Compliance, Niagara Mohawk Power Corporation, 300 Erie Boulevard West, Syracuse, NY 13202, (315) 428–6941

i. *FERC Contact:* Sean Murphy, (202) 219–2964.

j. *Comment Dates:* May 8, 1996.

k. *Description of Amendment:* Niagara Mohawk Power Corporation and Northern Electric Power Company, LP (licensees) request a temporary suspension of the minimum flow requirement for a period of up to 10 years. The licensees request that they be allowed to work with the New York State Department of Environmental Conservation (DEC), General Electric (GE), and the U.S. Environmental Protection Agency (EPA) in the removal of pure polychlorinated biphenyls (PCBs) from the shale bedrock of the bypassed reach. The licensees' contribution to the removal of the PCBs would be to suspend the minimum flow to the bypassed reach for a period of up to 10 years. The suspension of flow to the bypassed reach would allow the EPA, GE, and the DEC to inspect the reach and determine the appropriate remedial measures. During the suspension of minimum flows the licensees propose to divert the minimum flows through the project intake canal, turbines, and/or auxiliary release works. Flows in excess of the projects hydraulic capacity would be spilled over the project dam. The licensees propose to immediately return the minimum flow to the bypassed reach upon the notice of the DEC. If the remediation of the PCB problem is not complete after five years, the involved parties would review the progress made and make recommendations on continuing or ending the flow suspension.

l. This notice also consists of the following standard paragraphs: B, C1, and D2.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'' ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the

Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Lois D. Cashell,

*Secretary.*

[FR Doc. 96–8881 Filed 4–9–96; 8:45 am]

**BILLING CODE 6717–01–M**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–5456–8]**

## Clean Air Act; Acid Rain Provisions

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of the 1996 EPA $SO_2$ allowance auctions results.

**SUMMARY:** Pursuant to Title IV of the Clean Air Act and 40 CFR Part 73, the EPA is responsible for implementing a program to reduce emissions of sulfur dioxide ($SO_2$), a precursor of acid rain. The centerpiece of the $SO_2$ control program is the allocation of transferable allowances, or authorizations to emit $SO_2$, which are distributed in limited quantities to existing utility units and which eventually must be held by virtually all utility units to cover their $SO_2$ emissions. These allowances may be transferred among polluting sources and others, so that market forces may govern their ultimate use and distribution, resulting in the most cost-effective sharing of the emissions control burden. EPA is directed under Section 416 of the Act to conduct annual sales and auctions of a small portion of allowances (2.8%) withheld from the total allowances allocated to utilities each year. Sales and auctions are expected to stimulate and support the allowance market and to provide a public source of allowances, particularly to new units for which no allowances are allocated. In the Fall of 1992, EPA delegated the administration of the EPA allowance auctions and sales to the Chicago Board of Trade (CBOT). Today, the Acid Rain Division is giving notice of the results of the fourth annual $SO_2$ allowance auctions that were conducted by the CBOT on March 25, 1996.

For rules governing the conduct of the auctions and sales see 40 CFR Part 73, Subpart E.

I. Offers

*A. Total Allowances Available for Auction*

In the spot auction (year 1996 allowances sold), a total of 158,000 allowances were offered for sale: 150,000 that were withheld from the utilities and an additional 8,000 that were voluntarily contributed from utilities. In the 6-year advance auction (year 2002 allowances sold), a total of 32,000 allowances were offered for sale: 25,000 that were unsold from the 1995 direct sale and an additional 7,000 that were contributed from utilities. In the 7-year advance auction (year 2003 allowances sold), a total of 107,000 allowances were offered for sale: 100,000 that were withheld from the utilities and an additional 7,000 that were contributed. The minimum prices that utilities would accept for their contributed allowances are listed in Table 1.

TABLE 1.—1996 AUCTION OFFERS (SPOT)

| Minimum price* | Quantity | Cumulative total |
|---|---|---|
| $75 | 600 | 600 |
| 80 | 600 | 1,200 |
| 100 | 600 | 1,800 |
| 120 | 600 | 2,400 |
| 125 | 600 | 3,000 |
| 150 | 2,500 | 5,500 |
| 150 | 2,500 | 8,000 |

*No offers were sold in the 1996 Auction (Spot).

2002 AUCTION OFFERS (6 YEAR ADVANCE)

| Minimum price* | Quantity | Cumulative total |
|---|---|---|
| $75 | 400 | 400 |
| 80 | 400 | 800 |
| 100 | 400 | 1,200 |
| 120 | 400 | 1,600 |
| 125 | 400 | 2,000 |
| 199 | 5,000 | 7,000 |

*No offers were sold in the 2002 Auction (Six Year Advance).

2003 AUCTION OFFERS (7 YEAR ADVANCE)

| Minimum price* | Quantity | Cumulative total |
|---|---|---|
| $75 | 400 | 400 |
| 80 | 400 | 800 |
| 100 | 400 | 1,200 |
| 120 | 400 | 1,600 |
| 125 | 400 | 2,000 |
| 199 | 5,000 | 7,000 |

*No offers were sold in the 2003 Auction (Seven Year Advance).

II. Bids

*A. 1996 Spot Auction Results*

CBOT received 139 bids requesting 911,735 year 1996 allowances. 47 bids were successful and 150,000 allowances were sold. No contributed allowances to the spot auction were sold. Spot auction proceeds totaled $10,221,536.89.

Per EPA regulations, unsuccessful bidder's names are not revealed.

TABLE 2.—SPOT AUCTION BIDS (1995)

| Bids | Quantity | Bidder's name | Cumulative total |
|---|---|---|---|
| $300.00 | 1 | New England School of Law—Environmental Law Society | 1 |
| 200.00 | 1 | Thomas M. Cooley Environmental Law Society | 2 |
| 175.00 | 4 | University of Michigan Environmental Law Society | 6 |
| 175.00 | 1 | University of Minnesota Environmental Law Society | 7 |
| 160.00 | 1 | CUNY Environmental Law Students Association | 8 |
| 151.88 | 1 | Valparaiso University School of Law | 9 |

TABLE 2.—SPOT AUCTION BIDS (1995)—Continued

| Bids | Quantity | Bidder's name | Cumulative total |
|---|---|---|---|
| 135.00 | 1 | William D. Watson | 10 |
| 130.00 | 1 | CUNY Environmental Law Students Association | 11 |
| 125.00 | 2 | Catholic University Environmental Law Society | 13 |
| 105.00 | 1 | James M. Parker | 14 |
| 91.00 | 1 | Westerfield & Associates | 15 |
| 85.47 | 3 | Renee Rico | 18 |
| 80.00 | 3 | Donald B. Benson | 21 |
| 80.00 | 16 | Acid Rain Retirement Fund | 37 |
| 77.02 | 1 | University of Maryland School of Law | 38 |
| 76.02 | 1 | University of Maryland School of Law | 39 |
| 75.02 | 1 | University of Maryland School of Law | 40 |
| 75.02 | 1 | University of Maryland School of Law | 41 |
| 74.02 | 1 | University of Maryland School of Law | 42 |
| 73.02 | 1 | University of Maryland School of Law | 43 |
| 73.02 | 1 | University of Maryland School of Law | 44 |
| 72.02 | 1 | University of Maryland School of Law | 45 |
| 70.83 | 24 | Laurel Hill Works | 69 |
| 70.06 | 11,500 | AIG Trading Corporation | 11,569 |
| 70.01 | 292 | IN.H.A.L.E./Glens Falls Middle School, Glens Falls, NY | 11,861 |
| 70.01 | 15,000 | Enron Power Marketing, Inc | 26,861 |
| 70.00 | 4 | IN.H.A.L.E./Lower Dauphin Ecology Club at Lower Dauphin High School | 26,865 |
| 70.00 | 11 | IN.H.A.L.E./Schenectady Schools (Woodlawn, Paige, and MLK Magnet School) | 26,876 |
| 70.00 | 2 | IN.H.A.L.E./Wheatley School Environmental Action Committee—Westbury, NY | 26,878 |
| 70.00 | 2 | IN.H.A.L.E./Solebury Environmental Science Class—Ottsville, PA | 26,880 |
| 70.00 | 2 | IN.H.A.L.E./Elizabeth High School—Elizabeth, NJ | 26,882 |
| 70.00 | 4 | IN.H.A.L.E./Combination of National Schools and Community Organizations | 26,886 |
| 70.00 | 3 | National Healthy Air License Exchange | 26,889 |
| 70.00 | 4 | National Healthy Air License Exchange | 26,893 |
| 69.05 | 25,000 | Enron Power Marketing, Inc | 51,893 |
| 69.00 | 4,725 | Cantor Fitzgerald Brokerage, L.P | 56,618 |
| 68.11 | 3,000 | Detroit Edison Company | 59,618 |
| 68.05 | 25,000 | Enron Power Marketing, Inc | 84,618 |
| 68.00 | 130 | National Healthy Air License Exchange | 84,748 |
| 67.55 | 9,030 | Enron Power Marketing, Inc | 93,778 |
| 67.50 | 5,000 | Cantor Fitzgerald Brokerage, LP | 98,778 |
| 67.13 | 10,000 | Allegheny Power System | 108,778 |
| 67.11 | 3,000 | Detroit Edison Company | 111,778 |
| 67.05 | 25,000 | Enron Power Marketing, Inc | 136,778 |
| 66.11 | 3,000 | Detroit Edison Company | 139,778 |
| 66.05 | 2,000 | Kerr-McGee Coal Corporation | 141,778 |
| 66.05* | **25,000 | Enron Power Marketing, Inc | 166,778 |
| 66.00 | 2,500 | | 169,278 |
| 66.00 | 130 | | 169,408 |
| 66.00 | 5,000 | | 174,408 |
| 65.55 | 25,000 | | 199,408 |
| 65.11 | 3,000 | | 202,408 |
| 65.00 | 8,000 | | 210,408 |
| 64.50 | 5,000 | | 215,408 |
| 64.11 | 3,000 | | 218,408 |
| 64.00 | 76 | | 218,484 |
| 64.00 | 25,000 | | 243,484 |
| 63.40 | 5,000 | | 248,484 |
| 63.13 | 1,000 | | 249,484 |
| 63.00 | 5,000 | | 254,484 |
| 63.00 | 500 | | 254,984 |
| 62.63 | 10,000 | | 264,984 |
| 62.13 | 1,000 | | 265,984 |
| 62.07 | 2,000 | | 267,984 |
| 62.00 | 32,000 | | 299,984 |
| 61.25 | 5,000 | | 304,984 |
| 61.13 | 1,000 | | 305,984 |
| 61.10 | 10,000 | | 315,984 |
| 61.00 | 6,000 | | 321,984 |
| 61.00 | 500 | | 322,484 |
| 60.57 | 5,000 | | 327,484 |
| 60.13 | 1,000 | | 328,484 |
| 60.11 | 1,000 | | 329,484 |
| 60.11 | 5,000 | | 334,484 |
| 60.11 | 5,000 | | 339,484 |
| 60.00 | 6,000 | | 345,484 |
| 60.00 | 1,000 | | 346,484 |

TABLE 2.—SPOT AUCTION BIDS (1995)—Continued

| Bids | Quantity | Bidder's name | Cumulative total |
|---|---|---|---|
| 59.75 | 1,500 | | 347,984 |
| 59.13 | 1,000 | | 348,984 |
| 59.11 | 1,500 | | 350,484 |
| 59.07 | 8,000 | | 358,484 |
| 59.00 | 56,000 | | 414,484 |
| 59.00 | 6,000 | | 420,484 |
| 59.00 | 1,500 | | 421,984 |
| 58.13 | 10,000 | | 431,984 |
| 58.13 | 1,000 | | 432,984 |
| 58.11 | 2,000 | | 434,984 |
| 58.00 | 5,000 | | 439,984 |
| 58.00 | 1,500 | | 441,484 |
| 57.57 | 10,000 | | 451,484 |
| 57.13 | 1,000 | | 452,484 |
| 57.11 | 2,500 | | 454,984 |
| 57.00 | 47,000 | | 501,984 |
| 57.00 | 5,000 | | 506,984 |
| 57.00 | 2,500 | | 509,484 |
| 56.13 | 1,000 | | 510,484 |
| 56.11 | 3,000 | | 513,484 |
| 56.10 | 5,000 | | 518,484 |
| 56.00 | 5,000 | | 523,484 |
| 55.13 | 1,000 | | 524,484 |
| 55.11 | 3,500 | | 527,984 |
| 55.00 | 5,000 | | 532,984 |
| 54.13 | 1,000 | | 533,984 |
| 54.11 | 4,000 | | 537,984 |
| 54.00 | 5,000 | | 542,984 |
| 53.63 | 10,000 | | 552,984 |
| 53.11 | 4,500 | | 557,484 |
| 53.00 | 5,000 | | 562,484 |
| 52.11 | 5,000 | | 567,484 |
| 52.00 | 3,000 | | 570,484 |
| 52.00 | 1,000 | | 571,484 |
| 51.11 | 6,000 | | 577,484 |
| 51.10 | 5,000 | | 582,484 |
| 51.00 | 3,000 | | 585,484 |
| 50.57 | 25,000 | | 610,484 |
| 50.11 | 7,000 | | 617,484 |
| 50.11 | 5,000 | | 622,484 |
| 50.11 | 5,000 | | 627,484 |
| 50.00 | 3,000 | | 630,484 |
| 50.00 | 500 | | 630,984 |
| 49.11 | 8,000 | | 638,984 |
| 49.00 | 3,000 | | 641,984 |
| 48.11 | 10,000 | | 651,984 |
| 48.00 | 2,500 | | 654,484 |
| 48.00 | 25,000 | | 679,484 |
| 47.50 | 11,750 | | 691,234 |
| 47.11 | 12,000 | | 703,234 |
| 46.11 | 15,000 | | 718,234 |
| 45.59 | 1 | | 718,235 |
| 45.11 | 15,500 | | 733,735 |
| 45.01 | 1,000 | | 734,735 |
| 45.00 | 50,000 | | 784,735 |
| 44.11 | 16,000 | | 800,735 |
| 43.11 | 16,500 | | 817,235 |
| 42.11 | 17,000 | | 834,235 |
| 40.11 | 12,500 | | 846,735 |
| 40.11 | 12,500 | | 859,235 |
| 40.00 | 50,000 | | 909,235 |
| 39.00 | 2,500 | | 911,735 |

* Per EPA auction regulations on breaking ties, bids at the same price that exceed the number of remaining allowances are awarded allowances by lottery, the result of which is reflected in the table.

** Awarded a partial fill of 8,222 out of 25,000 allowances.

*B. 2002 Advance Auction Results*

CBOT received 34 bids requesting 148,026 year 2002 allowances. 9 bids were successful and 25,000 allowances were sold. 6-Year Advance auction proceeds totaled $1,633,985.86.

TABLE 3—6-YEAR ADVANCE AUCTION BIDS (2000)

| Bids | Quantity | Bidder's name | Cumulative total |
|---|---|---|---|
| 150.00 | 1 | Environmental Law Society | 1 |
| 66.11 | 3,000 | Detroit Edison Company | 3,001 |
| 66.02 | 5,000 | Virginia Electric & Power Company | 8,001 |
| 65.82 | 2,000 | Virginia Electric & Power Company | 10,001 |
| 65.53 | 2,000 | Virginia Electric & Power Company | 12,001 |
| 65.27 | 4,000 | Virginia Electric & Power Company | 16,001 |
| 65.11 | 3,000 | Detroit Edison Company | 19,001 |
| 64.52 | 4,000 | Virginia Electric & Power Company | 23,001 |
| 64.14 | *3,025 | Baltimore Gas and Electric Company | 26,026 |
| 64.11 | 3,000 | | 29,026 |
| 63.81 | 4,000 | | 33,026 |
| 63.27 | 4,000 | | 37,026 |
| 63.11 | 3,000 | | 40,026 |
| 62.11 | 3,000 | | 43,026 |
| 60.00 | 5,000 | | 48,026 |
| 58.00 | 10,000 | | 58,026 |
| 55.00 | 10,000 | | 68,026 |
| 53.98 | 1,000 | | 69,026 |
| 52.98 | 1,250 | | 70,276 |
| 52.00 | 20,000 | | 90,276 |
| 51.98 | 1,500 | | 91,776 |
| 50.98 | 1,750 | | 93,526 |
| 49.98 | 2,000 | | 95,526 |
| 48.98 | 2,250 | | 97,776 |
| 47.98 | 2,500 | | 100,276 |
| 46.98 | 2,750 | | 103,026 |
| 45.98 | 3,000 | | 106,026 |
| 44.98 | 3,250 | | 109,276 |
| 43.96 | 3,750 | | 113,026 |
| 37.28 | 10,000 | | 123,026 |
| 34.78 | 5,000 | | 128,026 |
| 32.28 | 5,000 | | 133,026 |
| 29.78 | 5,000 | | 138,026 |
| 0.01 | 10,000 | | 148,026 |

*Awarded a partial fill of 1,999 out of 3,025 allowances.

*C. 2003 Advance Auction Results*

CBOT received 92 bids requesting 404,634 year 2003 allowances. 25 bids were successful and 100,000 allowances were sold. 7-Year Advance auction proceeds totaled $6,421,245.11.

TABLE 4.—7-YEAR ADVANCE AUCTION BIDS (2001)

| Bids | Quantity | Bidder's name | Cumulative total |
|---|---|---|---|
| $151.00 | 1 | Pennsylvania Environmental Council | 1 |
| 118.00 | 1 | Peter Zapfel | 2 |
| 100.53 | 500 | Muscatine Power and Water Company | 502 |
| 72.00 | 10 | Robert T. Stewart | 512 |
| 70.00 | 15 | Robert T. Stewart | 527 |
| 69.02 | 1 | University of Maryland School of Law | 528 |
| 68.02 | 1 | University of Maryland School of Law | 529 |
| 68.00 | 20 | Robert T. Stewart | 549 |
| 67.01 | 300 | Anne E. Kilkenny | 849 |
| 66.06 | 10,000 | AIG Trading Corporation | 10,849 |
| 66.02 | 1 | University of Maryland School of Law | 10,850 |
| 66.00 | 20 | Robert T. Stewart | 10,870 |
| 65.11 | 3,000 | Detroit Edison Company | 13,870 |
| 65.02 | 10,000 | Virginia Electric & Power Company | 23,870 |
| 64.82 | 2,000 | Virginia Electric & Power Company | 25,870 |
| 64.53 | 4,000 | Virginia Electric & Power Company | 29,870 |
| 64.27 | 6,000 | Virginia Electric & Power Company | 35,870 |
| 64.11 | 3,000 | Detroit Edison Company | 38,870 |
| 64.03 | 8,000 | Virginia Electric & Power Company | 46,870 |

TABLE 4.—7-YEAR ADVANCE AUCTION BIDS (2001)—Continued

| Bids | Quantity | Bidder's name | Cumulative total |
|---|---|---|---|
| 63.76 | 10,000 | Virginia Electric & Power Company | 56,870 |
| 63.66 | 2,575 | Baltimore Gas and Electric Company | 59,445 |
| 63.33 | 12,000 | Virginia Electric & Power Company | 71,445 |
| 63.11 | 3,000 | Detroit Edison Company | 74,445 |
| 63.07 | 14,000 | Virginia Electric & Power Company | 88,445 |
| 63.01 | *15,000 | Enron Power Marketing, Inc | 103,445 |
| 63.00 | 20 | | 103,465 |
| 62.76 | 16,000 | | 119,465 |
| 62.11 | 3,000 | | 122,465 |
| 62.10 | 750 | | 123,215 |
| 61.52 | 18,000 | | 141,215 |
| 61.11 | 3,000 | | 144,215 |
| 60.11 | 800 | | 145,015 |
| 60.11 | 3,000 | | 148,015 |
| 60.00 | 15,000 | | 163,015 |
| 60.00 | 500 | | 163,515 |
| 59.11 | 3,500 | | 167,015 |
| 59.00 | 500 | | 167,515 |
| 59.00 | 20 | | 167,535 |
| 59.00 | 15,000 | | 182,535 |
| 58.11 | 3,500 | | 186,035 |
| 58.03 | 10,000 | | 196,035 |
| 58.00 | 500 | | 196,535 |
| 57.42 | 850 | | 197,385 |
| 57.00 | 500 | | 197,885 |
| 56.00 | 500 | | 198,385 |
| 56.00 | 10,000 | | 208,385 |
| 55.30 | 900 | | 209,285 |
| 55.00 | 500 | | 209,785 |
| 54.00 | 500 | | 210,285 |
| 54.00 | 25 | | 210,310 |
| 53.00 | 500 | | 210,810 |
| 52.68 | 950 | | 211,760 |
| 52.00 | 500 | | 212,260 |
| 52.00 | 10,000 | | 222,260 |
| 51.67 | 1,000 | | 223,260 |
| 51.00 | 428 | | 223,688 |
| 50.67 | 1,500 | | 225,188 |
| 50.00 | 20,000 | | 245,188 |
| 49.72 | 975 | | 246,163 |
| 49.67 | 2,000 | | 248,163 |
| 48.67 | 2,500 | | 250,663 |
| 48.00 | 25 | | 250,688 |
| 47.67 | 3,000 | | 253,688 |
| 46.67 | 3,500 | | 257,188 |
| 45.82 | 1,000 | | 258,188 |
| 45.67 | 4,000 | | 262,188 |
| 44.67 | 4,500 | | 266,688 |
| 43.67 | 5,000 | | 271,688 |
| 42.67 | 6,000 | | 277,688 |
| 42.48 | 1,100 | | 278,788 |
| 41.67 | 7,000 | | 285,788 |
| 41.00 | 30 | | 285,818 |
| 40.67 | 8,000 | | 293,818 |
| 40.11 | 7,500 | | 301,318 |
| 40.11 | 7,500 | | 308,818 |
| 40.07 | 1,200 | | 310,018 |
| 39.67 | 10,000 | | 320,018 |
| 38.67 | 12,000 | | 332,018 |
| 37.89 | 1,300 | | 333,318 |
| 37.67 | 15,000 | | 348,318 |
| 36.65 | 15,000 | | 363,318 |
| 33.80 | 10,000 | | 373,318 |
| 33.00 | 40 | | 373,358 |
| 31.53 | 10,000 | | 383,358 |
| 29.27 | 10,000 | | 393,358 |
| 27.00 | 10,000 | | 403,358 |
| 24.00 | 50 | | 403,408 |
| 12.00 | 100 | | 403,508 |
| 11.00 | 1 | | 403,509 |
| 1.00 | 1,000 | | 404,509 |

TABLE 4.—7-YEAR ADVANCE AUCTION BIDS (2001)—Continued

| Bids | Quantity | Bidder's name | Cumulative total |
|---|---|---|---|
| 1.00 | 25 | | 404,534 |
| 0.50 | 100 | | 404,634 |

*Awarded a partial fill of 11,555 out of 15,000 allowances.

**FOR FURTHER INFORMATION CONTACT:** Linda Reidt Critchfield, EPA/OAP/Acid Rain Division (6204J), 401 M Street SW., Washington, DC 20460, (202) 233–9087.

Dated: April 4, 1996.

Brian J. McLean,

*Director, Acid Rain Division.*

[FR Doc. 96–8924 Filed 4–9–96; 8:45 am]

**BILLING CODE 6560–50–P**

**[OPP–00428; FRL 5358–3]**

## Notice of Availability of Pesticide Data Submitters List

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

**ACTION:** Notice.

**SUMMARY:** This notice announces the availability of an updated version of the Pesticide Data Submitters List which supersedes and replaces all previous versions.

**FOR FURTHER INFORMATION CONTACT:** By mail: John Jamula, Office of Pesticide Programs (7502C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location for commercial courier delivery and telephone number: Room 226, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–6426; e-mail: jamula.john@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:**

I. Introduction

The Pesticide Data Submitters List is a compilation of names and addresses of registrants who wish to be notified and offered compensation for use of their data. It was developed to assist pesticide applicants in fulfilling their obligation as required by sections 3(c)(1)(f) and 3(c)(2)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and 40 CFR part 152 subpart E regarding ownership of data used to support registration. This notice announces the availability of an updated version of the Pesticide Data Submitters List which supersedes and replaces all previous versions.

II. Ordering Information

Microfiche copies of the document are available from the National Technical Information Service (NTIS) ATTN: Order Desk 5285 Port Royal Road Springfield, VA 22161. Telephone: (703) 487–4650. When requesting a document from NTIS, please provide its name and NTIS Publication Number (PB). The NTIS Publication for this version of the Pesticide Data Submitters List is PB96–153200.

III. Electronic Access

The Pesticide Data Submitters List is available on EPA's gopher server and two other pathways on the Internet. The Internet address of EPA's gopher server is gopher://gopher.epa.gov. This information also is available using file transfer protocol (ftp) on ftp.epa.gov or using the world wide web (www) Internet address on http://www.epa.gov.

The Pesticide Data Submitters List is also available on the Pesticides Special Review and Reregistration Information System Bulletin Board System. This Bulletin Board System (BBS) is a computer set up to accept calls from over a telephone line and allow callers to use the computer. Anyone with a computer or terminal connected to a phone line or networked to one can dial into the BBS and perform the functions it is set up to allow.

The telephone number of this bulletin board is (703) 308–7224. To connect to this or any other BBS, several parameters in your communication software must be set appropriately. The settings for this BBS are the standard settings for most: 8 data bits, no parity, and 1 stop bit (abbreviated as 8N1). Communication speeds from 2400 bps to 28.8K bps are available, accommodating almost all speeds available in modems on the market today. The system displays color ANSI graphics as well as ASCII text.

IV. From the Internet

The Pesticide Special Review and Reregistration Information System can be accessed via GSA's Fedworld system. Telnet or ftp to fedworld.gov and follow the onscreen instructions to get to the gateway.

V. From a LAN

Many Local Area Networks (LANs) are connected to the telephone network. While it is not possible to address the multitude of possible configurations here, your network administrator will be able to tell you if you are able to dial out to other systems from your LAN and what specific software you have available to do this.

List of Subjects

Environmental protection

Dated: March 26, 1996.

Frank Sanders,

*Director, Program Management and Support Division, Office of Pesticide Programs.*

[FR Doc. 96–8669 Filed 4–9–96; 8:45 am]

**BILLING CODE 6560–50–F**

**[OPP–34094; FRL–5360–2]**

## Certain Chemicals; Availability of Reregistration Eligibility Decision; Documents for Comment

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

**ACTION:** Notice of availability of Reregistration Eligibility Decision documents; opening of public comment period.

**SUMMARY:** This notice announces the availability of the Reregistration Eligibility Decision (RED) documents for the following List A active ingredients: Nabam, and Sodium Omadine. This notice starts a 60–day public comment period. The REDs for the chemicals listed above are the Agency's formal regulatory assessments of the health and environmental data base of the subject chemicals and present the Agency's determination regarding which pesticidal uses are eligible for reregistration.

**DATES**: Written comments on these decisions must be submitted by June 10, 1996.

**ADDRESSES:** Three copies of comments identified with the docket number ''OPP–34094'' and the case number (noted below), should be submitted to: By mail: OPP Pesticide Docket, Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver comments to: OPP Pesticide Docket, Room 1132, Crystal Mall 2 (CM#2), 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number ''OPP–34094''. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found in ''SUPPLEMENTARY INFORMATION'' of this document.

Information submitted as a comment in response to this Notice may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public docket. Information not marked confidential will be included in the public docket without prior notice (including comments and data submitted electronically). The public docket and docket index, including printed paper versions of electronic comments, which does not include any information claimed as CBI will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

**FOR FURTHER INFORMATION CONTACT:** Technical questions on the above listed decisions should be directed to the appropriate Chemical Review Managers:

| Chemical Name | Case No. | Chemical Review Manager | Telephone No. | E-mail Address |
|---|---|---|---|---|
| Nabam | (0641) | Venus Eagle-Kunst | (703) 308–8045 | Eagle-Kunst.venus@epamail.epa.gov |
| Sodium Omadine | (0209) | Judy Loranger | (703) 308–8057 | Loranger.judy@epamail.epa.gov |

**SUPPLEMENTARY INFORMATION:** The Agency has issued Reregistration Eligibility Decision (RED) documents for the pesticidal active ingredients listed above. Under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1988, EPA is conducting an accelerated reregistration program to reevaluate existing pesticides to make sure they meet current scientific and regulatory standards. The data base to support the reregistration of each of the chemicals listed above is substantially complete. All registrants of products containing one or more of the above listed active ingredients have been sent the appropriate RED documents and must respond to labeling requirements and product specific data requirements (if applicable) within 8 months of receipt. Products containing other active ingredients will not be reregistered until those other active ingredients are determined to be eligible for reregistration.

The reregistration program is being conducted under Congressionally mandated time frames, and EPA recognizes both the need to make timely reregistration decisions and to involve the public. Therefore, EPA is issuing these REDs as final documents with a 60–day comment period. Although the 60–day public comment period does not affect the registrant's response due date, it is intended to provide an opportunity for public input and a mechanism for initiating any necessary amendments to the RED. All comments will be carefully considered by the Agency. If any comment significantly affects a RED, EPA will amend the RED by publishing the amendment in the Federal Register.

To request a copy of any of the above listed RED documents, or a RED Fact Sheet, contact the OPP Pesticide Docket, Public Response and Program Resources Branch, in Rm. 1132 at the address given above or call (703) 305–5805.

Electronic copies of the REDs and RED fact sheets can be downloaded from the Pesticide Special Review and Reregistration Information System at 703–308–7224, and also can be reached on the Internet via fedworld.gov and EPA's gopher server, gopher.epa.gov.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

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

List of Subjects

Environmental Protection.

Dated: March 26, 1996.

Jay Ellenberger,

*Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.*

[FR Doc. 96–8343 Filed 4–9–96; 8:45 am]

**BILLING CODE 6560–50–F**

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**[OPP–181006; FRL–5360–4]**

## Receipt of Application for Emergency Exemption to use Pirate; Solicitation of Public Comment

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

**ACTION:** Notice.

**SUMMARY:** EPA has received specific exemption requests from the Alabama Department of Agriculture Industries, Arkansas State Plant Board, and the Mississippi Department of Agriculture Commerce (hereafter referred to as the ''Applicants'') to use the pesticide Pirate to treat up to 3,300,000 acres of cotton to control the beet armyworm (BAW) and the tobacco budworm (TBW).

The Applicants propose the use of a new (unregistered) chemical [40 CFR 166.24(a)(1)]. Therefore, in accordance with 40 CFR 166.24, EPA is soliciting

public comment before making the decision whether or not to grant the exemption.

**DATES**: Comments must be received on or before April 25, 1996.

**ADDRESSES:** Three copies of written comments, bearing the identification notation ''OPP–181006'', should be submitted by mail to: Public Response and Program Resource Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW, Washington, DC 20460. In person, bring comments to: Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPP–181006]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be provided by the submitter for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed pursuant to this notice will be available for public inspection in Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays.

**FOR FURTHER INFORMATION CONTACT:** By mail: Margarita Collantes, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW, Washington, DC 20460. Office location and telephone number: Floor 6, Crystal Station #1, 2800 Jefferson Davis Highway, Arlington, VA, (703) 308–8347; email: collantes.margarita@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at her discretion, exempt a state agency from any registration provision of FIFRA if she determines that emergency conditions exist which require such exemption. The Applicants have requested the Administrator to issue specific exemptions for the use of Pirate on cotton to control the beet armyworm and the tobacco budworm. Information in accordance with 40 CFR part 166 was submitted as part of these requests. According to the Applicants, the rationale for requesting this emergency exemption is based on pheromone trap catches from the previous winter and spring months indicating that the BAW may be overwintering in Alabama, Arkansas and Mississippi and if environmental conditions are favorable early in the growing season, a large outbreak of BAW could occur. In addition the inability of the currently available insecticides to control the BAW and increased development of pyrethroid resistance in the TBW has resulted in yield losses and high control costs.

The use of Pirate to control the BAW and TBW was issued to most of the states within the southern cotton belt region last year. In an effort to mitigate risk to Federally-listed threatened and endangered species from potentially harmful exposure to Pirate, specific directions, restrictions, precautions and monitoring for wildlife mortality were required.

Under the proposed exemption, Pirate 3SC may be applied at a maximum rate of 0.2 pounds per acre (8.53 fl. ozs.) for control of the BAW and at a maximum rate of 0.35 lbs. a.i. (14.9 fl. ozs.) per acre for control of the TBW, using ground or aerial application equipment in a minimum of 10 gallons per acre total volume by ground, or 5 gallons of spray solution per acre by air. This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 require publication of a notice of receipt of an application for a specific exemption proposing use of a new chemical (i.e. an active ingredient not contained in any currently registered pesticide), - [40 CFR 166.24(a)(1)]. Pirate 3SC is an unregistered chemical. Such notice provides for oppurtunity for public comment on the application.

A record has been established for this notice under docket number [OPP-181006] (including 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 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 1132 of the Public Response and Program Resource Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this notice, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the offical record is the paper record maintained at the address in ''ADDRESSES'' at the beginning of this document. Accordingly, interested persons may submit written views on this subject to the Field Operations Division at the address above.

The Agency, accordingly, will review and consider all comments received during the comment period in determining whether to issue the emergency exemptions requested by the Alabama Department of Agricultural Industries, Arkansas State Plant Board, and the Mississippi Department of Agriculture and Commerce.

List of Subjects

Environmental protection, Pesticide and pests, Emergency exemptions.

Dated: March 29, 1996.

Peter Caulkins,

*Acting Director, Registration Division, Office of Pesticide Programs.*

[FR Doc. 96–8947 Filed 4–9–96; 8:45 am]

BILLING CODE 6560–50–F

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**[OPP–50817; FRL–5351–3]**

## Issuance of Experimental Use Permits

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

**ACTION:** Notice.

**SUMMARY:** EPA has granted experimental use permits to the following applicants. These permits are in accordance with, and subject to, the provisions of 40 CFR part l72, which defines EPA procedures with respect to the use of pesticides for experimental use purposes.

**FOR FURTHER INFORMATION CONTACT:** By mail: Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person or by telephone: Contact the product manager at the following address at the office location, telephone number, or e-mail address cited in each experimental use permit: 1921 Jefferson Davis Highway, Arlington, VA.

**SUPPLEMENTARY INFORMATION:** EPA has issued the following experimental use permits:

*275–EUP–80*. Extension. Abbott Laboratories, Dept. 28R, Bldg. A1, 1401 Sheridan Road, North Chicago, IL 60064-4000. This experimental use permit allows the use of 270 pounds of the plant growth regulator (S)-trans-2-amino-4-(2-aminoethoxy)-3-butenoic acid hydrochloride on 2,450 acres of apples to evaluate its effectiveness as a plant growth regulator. The program is authorized only in the States of California, Maine, Massachusetts, Michigan, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, Vermont, Virginia, and Washington. The experimental use permit is effective from June 1, 1996 to June 1, 1997. A temporary tolerance for residues of the active ingredient in or on apples has been establihsed. (Janet Andersen, PM 90, Rm. 5-W57, CS #1, 703–308–8712, e-mail: andersen.janet@epamail.epa.gov.)

*65247–EUP–1*. Extension. Calgene, 1920 Fifth St., Davis, CA 95616. This experimental use permit allows the use of 14 grams of a transgenic insect resistant cotton plant expressing a *Bacillus thuringiensis* subsp. *kurstaki* protein on 210 acres of cotton plants to evaluate the control of Lepidopteran insects. The program is authorized only in the States of Alabama, Arizona, Arkansas, Georgia, Louisiana, Missouri, Mississippi, North Carolina, South Carolina, Tennessee, and Texas. The experimental use permit is effective from March 4, 1996 to March 4, 1997. (Janet Andersen, PM 90, Rm. 5-W57, CS #1, 703–308–8712, e-mail: andersen.janet@epamail.epa.gov.)

*264–EUP–95*. Extension. Rhone-Poulenc, AG Company, P.O. Box 12014, 2 T.W. Alexander Dr., Research Triangle Park, NC 27709. This experimental use permit allows the use of 31.46 pounds of the insecticide 5-amino-1-(2,6-dichloro-4-(trifluoromethyl)phenyl)-4-((1,R,S)-(trifluoromethyl)sulfinyl)-1-H-pyrazole-carbonitrile on 242 acres of field corn to evaluate the control of northern and western corn rootworm larvae and wireworms. The program is authorized only in the States of Illinois, Indiana, Iowa, Minnesota, Nebraska, Ohio, and Wisconsin. The experimental use permit is effective from March 28, 1996 to March 28, 1997. A temporary tolerance for residues of the active ingredient in or on field corn has been established. (Rick Keigwin, PM 10, Rm. 210, CM #2, 703–305–6788, e-mail: keigwin.rick@epamail.epa.gov.)

*264–EUP–99*. Issuance. Rhone-Poulenc, AG Company, P.O. Box 12014, 2 T.W. Alexander Dr., Research Triangle Park, NC 27709. This experimental use permit allows the use of 935.625 pounds of the herbicide 5-cyclopropyl-4-(2-methylsulfonyl-4-trifluoromethylbenzoyl)isoxazole on 4,990 acres of field corn to evaluate the control of broadleaf and grass weeds. The program is authorized only in the States of Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Michigan, Minnesota, Missouri, Nebraska, New York, Ohio, Pennsylvania, South Dakota, and Wisconsin. A temporary tolerance for residues of the active ingredient in or on field corn has been established. (Joanne Miller, PM 23, Rm. 237, CM #2, 703–305–7830, e-mail: miller.joanne@epamail.epa.gov.)

Persons wishing to review these experimental use permits are referred to the designated product managers. Inquires concerning these permits should be directed to the person cited above. It is suggested that interested persons call before visiting the EPA office, so that the appropriate file may be made available for inspection purposes from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Experimental use permits.

Dated: March 28, 1996.

Stephen L. Johnson,

*Director, Registration Division, Office of Pesticide Programs.*

[FR Doc. 96–8943 Filed 4–9–96; 8:45 am]

BILLING CODE 6560–50–F

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**[FRL–5457–3]**

## RCRA Public Participation Bibliography

**AGENCY:** Environmental Protection Agency.

**ACTION:** Request for public input.

**SUMMARY:** The Environmental Protection Agency (EPA) is soliciting entries for a bibliography of publications that are relevant to public participation in RCRA permitting.

**DATES:** We will accept entries on or before May 10, 1996.

**ADDRESSES:** Please send your information to Kenneth Amaditz, Office of Solid Waste (5303W), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Comments may also be submitted electronically through the Internet to: amaditz.kenneth@epamail.epa.gov. Comments in electronic format should be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

**FOR FURTHER INFORMATION CONTACT:** For general program information, contact the RCRA Hotline at 1–800–424–9346 or TDD 1–800–553–7672 (hearing impaired). In the Washington metropolitan area, call 703–412–9610 or TDD 703–412–3323.

For more detailed information on specific aspects of this request, contact Kenneth Amaditz, Office of Solid Waste (5303W), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (703) 308–7056, E-mail address amaditz.kenneth@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** This notice is available on the Internet. Follow these instructions to access the information electronically:

Gopher: gopher.epa.gov
WWW: http://www.epa.gov
Dial-up: (919) 558–0335.

From the main EPA Gopher menu, select: EPA Offices and Regions/Office of Solid Waste and Emergency Response (OSWER)/Office of Solid Waste (RCRA)/Hazardous Waste/Permits and Permitting.

FTP: ftp.epa.gov
Login: anonymous
Password: Your Internet address

Files are located in /pub/gopher/OSWRCRA

Purpose

EPA is developing guidance documents and other tools as part of an effort to expand public participation and involve all stakeholders in EPA programs. Given that other organizations may have as much or more experience than EPA in certain facets of public participation (e.g., community organizing, risk communication), we are soliciting public input into the formation of a public participation bibliography. This bibliography will identify documents and publications that may be useful to people who are involved in the RCRA permitting process. The Agency will make this bibliography available to all interested stakeholders by including it

on the Internet, in Agency publications, and in hard copy via the RCRA/Superfund Hotline or EPA offices. EPA intends that this bibliography will represent all points of view and be useful to all stakeholders in the permitting process.

If you would like to submit citations for publications related to public participation in RCRA permitting, please send them to the address above by the close of this comment period. Please do not send the original document, but provide an abstract if possible. There is no need to submit citations of EPA documents, since they will be included by the Agency.

Please provide the following information in your citations:

- *For all publications* include the full names of all authors, full titles, publisher, date of publication, city where the work was published, an abstract, and an address and/or phone number where one can write or call to obtain the publication (if applicable).
- *For magazine and journal articles* also include the volume of the magazine, the page number(s), and issue numbers.

In addition, include your phone number so that EPA staff can call with questions about your submissions. The submitter's name and phone number will not be published in the bibliography.

We are particularly interested in the following subject areas for inclusion in the bibliography: community organizing, community involvement and participation, environmental justice, risk communication, creative problem-solving, alternative dispute resolutions, participatory activities, environmental activism, and information-sharing. Other subject areas may be relevant as well. For this bibliography, we are not interested in technical documents or data related to permitting. EPA reserves the right to omit citations that do not meet the purposes of this bibliography.

Dated: April 2, 1996.

James H. Mathews,

*Deputy Assistant Administrator, Office of Solid Waste and Emergency Response.*

[FR Doc. 96–8949 Filed 4–9–96; 8:45 am]

BILLING CODE 6560–50–P

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**[FRL–5457–2]**

## Notice of Proposed Assessment of Clean Water Act Class II Administrative Penalty to Hy-Tech Plating Inc., and Opportunity To Comment

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of proposed administrative penalty assessment and opportunity to comment.

**SUMMARY:** EPA is providing notice of proposed administrative penalty assessment for alleged violations of the Clean Water Act. EPA is also providing notice of opportunity to comment on the proposed assessment.

Under 33 U.S.C. Section 1319(g), EPA is authorized to issue orders assessing civil penalties for various violations of the Act. EPA may issue these orders after the commencement of either a Class I or Class II penalty proceeding. EPA provides public notice of the proposed assessments pursuant to 33 U.S.C. Section 1319(g)(4)(a).

Class II proceedings are conducted under EPA's Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation and Suspension of Permits, 40 CFR Part 22. The procedures through which the public may submit written comment on a proposed Class II order or participate in a Class II proceeding, and the Procedures by which a Respondent may request a hearing, are set forth in the Consolidated Rules. The deadline for submitting public comment on a proposed Class II order is thirty days after publication of this notice.

On the date identified below, EPA commenced the following Class II proceeding for the assessment of penalties:

In the Matter of Hy-Tech Plating Inc., located at 1014 Center Street in San Carlos, California; EPA Docket No. CWA–IX–FY96–08; filed on March 28, 1996, with Mr. Steven Armsey, Regional Hearing Clerk, U.S. EPA, Region 9, 75 Hawthorne Street, San Francisco, California 94105, (415) 744–1389; proposed penalty of $50,000 for failure to comply with the categorical pretreatment standards and requirements for metal finishing operations (40 CFR 433).

**FOR FURTHER INFORMATION CONTACT:** Persons wishing to receive a copy of EPA's Consolidated Rules, review of the complaint or other documents filed in this proceeding, comment upon a proposed assessment, or otherwise participate in the proceeding should contact the Regional Hearing Clerk identified above. The administrative record for this proceeding is located in the EPA Regional Office identified above, and the file will be open for public inspection during normal business hours. All information submitted by the respondent is available as part of the administrative record, subject to provisions of law restricting public disclosure of confidential information. In order to provide opportunity for public comment, EPA will issue no final order assessing a penalty in these proceedings prior to thirty (30) days after the date of publication of this notice.

Dated: March 28, 1996.

Alexis Strauss,

*Acting Director, Water Management Division.*

[FR Doc. 96–8948 Filed 4–9–96; 8:45 am]

BILLING CODE 6560–50–M

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## FEDERAL COMMUNICATIONS COMMISSION

## Notice of Public Information Collections Submitted to OMB for Review and Approval

April 3, 1996.

**SUMMARY:** The Federal Communications, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commissions burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

**DATES:** Written comments should be submitted on or before May 10, 1996. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

**ADDRESS:** Direct all comments to Dorothy Conway, Federal Communications, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to dconway@fcc.gov and Timothy Fain, OMB Desk Officer, 10236 NEOB 725 17th Street, NW., Washington, DC 20503 or fain_t@a1.eop.gov.

**FOR FURTHER INFORMATION CONTACT:** For additional information or copies of the information collections contact Dorothy Conway at 202–418–0217 or via internet at dconway@fcc.gov.

**SUPPLEMENTARY INFORMATION:**

*OMB Approval Number:* 3060-0386.

*Title:* Section 73.1635 Special Temporary Authorizations (STA).

*Form No.:* N/A.

*Type of Review:* Extension of an existing collection.

*Respondents:* Businesses or other for-profit.

*Number of Responses:* 2,580.

*Estimated Time Per Response:* 4 hours. However the Commission estimates that 1,860 respondents may hire an attorney or consulting engineer to prepare the information. The time estimated for obtaining these services is 1 per respondent hour.

*Total Annual Burden:* 4,470 hours.

*Costs to the Respondent:* The Commission estimates an average salary for a consulting engineer of $125 an hour and an attorney at $200 an hour. The cost for hiring these consultants is approximately $575 per respondent. Additionally, licensees must submit a $115 fee for each request by a commercial broadcast station.

*Needs and Uses:* Section 73.1635 allows licensees/permittees of broadcast stations to file for special temporary authority to operate broadcast stations at specified variances from station authorization not to exceed 180 days. Data are used by FCC staff to ensure that such operation will not cause interference to other stations.

*OMB Approval No.:* 3060-0009.

*Title:* Application for Consent to Assignment of Broadcast Station Construction Permit or License or Transfer of Control of Corporation Holding Broadcast Station Construction Permit or License.

*Form No.:* FCC 316.

*Type of Review:* Extension of existing collection.

*Respondents:* Businesses or other for Profit.

*Number of Respondents:* 1,575.

*Estimated Time per Response:* 3 hours 15 minutes. However, the Commission estimates that respondents would hire an attorney to complete the form. The consultation time required is approximately 1 hour.

*Total Annual Burden:* 2,990 hours.

*Costs to the Respondent:* The Commission estimates an average salary for a consulting attorney is $200 an hour. The cost for hiring these consultants is approximately $650 per respondent. Additionally, licensees must submit a $95 fee for each request by a commercial broadcast station.

*Needs and Uses:* Filing of the FCC Form 316 is required when applying for authority for assignment of a broadcast station construction permit or license, or for consent to transfer control of corporation holding broadcast station construction permit or license where there is little change in the relative interest or disposition of its interests; where transfer of interest is not a controlling one; where there is no substantial change in the beneficial ownership of the corporation; where the assignment is less than a controlling interest in a partnership; and where there is an appointment of an entity qualified to succeed to the interest of a deceased or legally incapacitated individual permittee, licensee or controlling stockholder. The data is used by FCC staff to determine if the applicant is qualified to become a Commission licensee or permittee of a commercial or noncommercial broadcast station.

Federal Communications Commission.

William F. Caton,

*Acting Secretary.*

[FR Doc. 96–8838 Filed 4–9–96; 8:45 am]

BILLING CODE 6712–01–F

## FEDERAL MARITIME COMMISSION

### Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Notice of Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Public Law 89–777 (46 U.S.C. 817(e)) and the Federal Maritime Commission's implementing regulations at 46 CFR Part 540, as amended:

Princess Cruises, Inc.,

Princess Cruise Lines, Inc. and

The Peninsular and Oriental Steam Navigation Company

10100 Santa Monica Blvd.

Los Angeles, California 90067–4189

Vessel: DAWN PRINCESS

Dated: April 4, 1996.

Joseph C. Polking,

*Secretary.*

[FR Doc. 96–8844 Filed 4–9–96; 8:45 am]

BILLING CODE 6730–01–M

### Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

BM International Transport, Incorporated, Air Cargo Terminal Complex Phase II, 5998 Robin Hood Road, Suite 2, Norfolk, VA 23514, Officers: Reynir Gislason, President; Olafur Olafsson, Director

Trade Management Services, Inc., 3140 Harbor Lane, Suite 227, Minneapolis, MN 55447, Officers: Thomas H. Kalgren, President; John P. Henschel, Vice President

M.K.C. Customs Brokers International Inc., 9320 S. La Cienega Blvd., Inglewood, CA 90301, Officers: Mike M.K. Choi, President; Hesper S.H. Kim Choi, Secretary

Pee Jay International Shipping Worldwide, Freight Forwarders, 777 South R.L. Thornton Freeway, #204, Box 3, Dallas, TX 75203, Peter Mozie, Jonathan O. Daniels, Partners.

Dated: April 5, 1996.

Joseph C. Polking,

*Secretary.*

[FR Doc. 96–8898 Filed 4–9–96; 8:45 am]

BILLING CODE 6730–01–M

## FEDERAL RESERVE SYSTEM

### Agency Information Collection Activities: Submission for OMB Review; Comment Request

**AGENCY:** Board of Governors of the Federal Reserve System

**ACTION:** Notice of information collection to be submitted to OMB for review and approval under the Paperwork Reduction Act of 1995

**SUMMARY:** In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Board of Governors of the Federal Reserve System (Board) hereby gives notice that it plans to submit to the Office of Management and Budget (OMB) a request for review of the information collection system described below. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond

to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

**DATES:** Comments must be submitted on or before [insert date 30 days from publication in the Federal Register]

**ADDRESSES:** Comments, which should refer to the OMB control number, should be addressed to the OMB desk officer for the Board: Milo Sunderhauf, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503. Comments should also be addressed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, DC 20551, or delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, N.W. Comments received may be inspected in room M-P-500 between 9:00 a.m. and 5:00 p.m., except as provided in section 261.8 of the Board's Rules Regarding Availability of Information, 12 CFR 261.8(a).

**FOR FURTHER INFORMATION CONTACT:** A copy of the Paperwork Reduction Act Submission (OMB 83-I), supporting statement, and other documents that have been submitted to OMB for review and approval may be requested from the agency clearance officer, whose name appears below.

Mary M. McLaughlin, Federal Reserve Board Clearance Officer (202-452-3829), Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may contact Dorothea Thompson (202-452-3544), Board of Governors of the Federal Reserve System, Washington, DC 20551.

Proposal to request approval from OMB of the extension, without revision, of the following report:

*1. Report title:* Monthly Consolidated Foreign Currency Report
*Agency form number:* FFIEC 035
*OMB control number:* 7100-0178
*Frequency:* Monthly
*Reporters:* U.S. banks, bank holding companies, Edge or agreement corporations, and U.S. branches and agencies of foreign banks
*Annual reporting hours:* 17,651
*Estimated average hours per response:* 12.68
*Number of respondents:* 116
Small businesses are not affected.

*General description of report:* This information collection is mandatory [12 U.S.C. 248(a) and 1844(c)]. This information collection is given confidential treatment [5 U.S.C. 552(b)(4) and (8)].

*Abstract:* The three federal bank regulatory agencies (that is, the Board, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation) use the data collected on the monthly report to monitor the foreign exchange activities of individual U.S. banks and banking institutions. On February 1, 1996, the Federal Reserve published a notice in the Federal Register (61 FR 3713) describing in detail and inviting comment on the proposed extension of this collection of information. The Federal Reserve received no comments in response to that notice. This notice provides the public with the opportunity to obtain, review, and provide comment to OMB on, the Board's supporting statement.

Board of Governors of the Federal Reserve System, April 4, 1996.

Jennifer J. Johnson,

*Deputy Secretary of the Board.*

[FR Doc. 96-8892 Filed 4-9-96; 8:45AM]

**Billing Code 6210-01-F**

## Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notice is set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than April 30, 1996.

A. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

*1. Jerry Keith Pursley*, Las Animas, Colorado; to acquire an additional 21.83 percent, for a total of 25.03 percent, of the voting shares of First Bankshares of Las Animas, Inc., Las Animas, Colorado, and thereby indirectly acquire First National Bank of Las Animas, Las Animas, Colorado.

Board of Governors of the Federal Reserve System, April 4, 1996.

Jennifer J. Johnson,

*Deputy Secretary of the Board.*

[FR Doc. 96-8895 Filed 4-9-96; 8:45 am]

**BILLING CODE 6210-01-F**

## Change in Bank Control Notices; Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 96-8107) published on pages 14784 and 14785 of the issue for Wednesday, April 3, 1996.

Under the Federal Reserve Bank of Cleveland heading, the entry for KeyCorp, is revised to read as follows:

*1. KeyCorp*, Cleveland, Ohio; to acquire 100 percent of the voting shares of Key Trust Company of Florida, National Association, Naples, Florida.

Comments on this application must be received by April 26, 1996.

Board of Governors of the Federal Reserve System, April 4, 1996.

Jennifer J. Johnson,

*Deputy Secretary of the Board.*

[FR Doc. 96-8896 Filed 4-9-96; 8:45 am]

**BILLING CODE 6210-01-F**

## Change in Bank Control Notices; Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 96-6079) published on page 10582 of the issue for Thursday, March 14, 1996.

Under the Federal Reserve Bank of Minneapolis heading, the entry for BNCCORP, Inc,is revised to read as follows:

*1. BNCCORP, Inc.*, Bismarck, North Dakota; to acquire Cambridge Bank Professionals, LLC, St. Cloud, Minnesota, through a newly formed subsidiary, BNC Financial Corporation, St. Cloud, Minnesota, and thereby to engage in certain commercial finance activities pursuant to Section 225.25(b)(1) of the Board's Regulation Y (12 CFR § 225.25(b)(1)), and management consulting activities pursuant to Section 225.25(b)(11) of the Board's Regulation Y (12 CFR § 225.25(b)(11)). In connection with its commercial finance activities, BNC Financial Corporation may acquire debt at a discount from its stated principal amount, including debt that is in default at the time of acquisition. BNCCORP is proposing to conduct this activity pursuant to the limitations set forth in

*Norwest Corporation*, 81 Federal Reserve Bulletin 1128 (1995). These activities will take place in Minnesota, North and South Dakota, Iowa, and Wisconsin.

As set out in the prior Federal Register notice, the proposed management consulting activities will include consulting with respect to credit review/loan review, pre-funding loan due diligence and underwriting, collateral reviews, problem loan consulting, expert witness/litigation support, bankruptcy support, valuation services, compliance process design and review, special investigations, bank buy-sell due diligence, and CAMEL assessments.

Comments on this application must be received by April 23, 1996.

Board of Governors of the Federal Reserve System, April 4, 1996.

Jennifer J. Johnson,

*Deputy Secretary of the Board*.

[FR Doc. 96-8897 Filed 4-9-96; 8:45 am]

BILLING CODE 6210-01-F

## Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are 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 standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act, including whether the acquisition of the nonbanking 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 interests, or unsound banking practices'' (12 U.S.C. 1843). Any request for a hearing 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, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 3, 1996.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

*1. Croghan Bancshares, Inc.*, Fremont, Ohio; to acquire 100 percent of the voting shares of Union Bancshares Corp., Marblehead, Ohio, and thereby indirectly acquire Union Bank and Savings Company, Bellevue, Ohio.

B. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

*1. Key Florida Bancorp, Inc.*, Bradenton, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of Liberty National Bank, Bradenton, Florida.

C. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

*1. Higgins Bancorporation, Inc.*, Rosemount, Minnesota; to become a bank holding company by acquiring 75.1 percent of the voting shares of The First State Bank of Rosemount, Rosemount, Minnesota.

D. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

*1. Hillister Enterprises II, Inc.*, Beaumont, Texas; and Umphrey II Family Limited Partnership, Beaumont, Texas; Southeast Texas Bancshares, Inc., Beaumont, Texas; and Texas Community Bancshares of Delaware, Inc., Wilmington, Delaware, to merge with Port Neches Bancshares, Inc., Port Neches, Texas, and thereby indirectly acquire First National Bank, Port Neches, Texas.

*2. Outsource Capital Group, Inc.*, Lubbock, Texas; and Outsource Delaware Capital Group, Inc., Dover, Delaware; to become bank holding companies by acquiring up to 100 percent of First Bank & Trust Co., White Deer, Texas.

In connection with this application Outsource Capital Group, Inc., Lubbock, Texas, and Outsource Delaware Capital Group, Inc., Dover, Delaware, to engage *de novo* through its subsidiary, Outsource Lease, Inc., Lubbock, Texas, in leasing activities pursuant to § 225.25(b)(5).

Board of Governors of the Federal Reserve System, April 4, 1996.

Jennifer J. Johnson,

*Deputy Secretary of the Board*.

[FR Doc. 96-8893 Filed 4-9-96; 8:45 am]

BILLING CODE 6210-01-F

## Notice of Proposals To Engage in Permissible Nonbanking Activities or To Acquire Companies That are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.25 of Regulation Y (12 CFR 225.25) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act, including 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'' (12 U.S.C. 1843). 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 April 24, 1996.

A. Federal Reserve Bank of New York (Christopher J. McCurdy, Senior Vice President) 33 Liberty Street, New York, New York 10045:

*1. Industrial Bank of Japan, Limited*, Tokyo, Japan; to acquire Government Pricing Information Systems, Inc., New York, New York, and thereby engage in data processing activities pursuant to § 225.25(b)(7) of the Board's Regulation Y.

*2. Societe Generale*, Paris, France; to engage *de novo* through its subsidiary, FIMAT Futures USA, Inc., New York, New York, in expanding its existing authority to provide securities brokerage and investment advisory services with respect to all classes of securities to the full extent pursuant to §§ 225.25(b)(4) and (15) of the Board's Regulation Y.

B. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

*1. PNC Bank Corp.*, Pittsburgh, Pennsylvania; through its wholly-owned subsidiary, PNC Venture Corp., to make an approximate 20 percent voting equity investment in BankVest Capital Corp, Westboro, Massachusetts, and thereby engage in lease financing activities pursuant to § 225.25(b)(5) of the Board's Regulation Y.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

*1. Farmers Bancshares, Inc.*, Hardinsburg, Kentucky; to engage *de novo* in the selling of insurance directly related to extensions of credit made by its finance company subsidiary, Farmers Bancshares Finance Corp., Inc., Hardinsburg, Kentucky, pursuant to § 225.25(b)(8)(ii) of the Board's Regulation Y.

D. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

*1. FEO Investments*, Hoskins, Nebraska; to engage *de novo* through its subsidiary, Meadow Ridge Partners, L.L.C., Norfolk, Nebraska, in community development activities pursuant to § 225.25(b)(6) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, April 4, 1996.

Jennifer J. Johnson,

*Deputy Secretary of the Board*.

[FR Doc. 96-8894 Filed 4-9-96; 8:45 am]

BILLING CODE 6210-01-F

## Sunshine Act Meeting

**AGENCY HOLDING THE MEETING:** Board of Governors of the Federal Reserve System.

**TIME AND DATE:** 10:00 a.m., Monday, April 15, 1996.

**PLACE:** Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:**

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

**CONTACT PERSON FOR MORE INFORMATION:** Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: April 5, 1996.

Jennifer J. Johnson,

*Deputy Secretary of the Board*.

[FR Doc. 96–9003 Filed 4–8–96; 8:45 am]

BILLING CODE 6210–01–P

## Report to Congressional Committees Regarding Differences in Capital and Accounting Standards Among the Federal Banking and Thrift Agencies

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Notice of report to the Committee on Banking, Housing, and Urban Affairs of the United States Senate and to the Committee on Banking, Finance and Urban Affairs of the United States House of Representatives.

**SUMMARY:** This report has been prepared by the Federal Reserve Board pursuant to section 121 of the Federal Deposit Insurance Corporation Improvement Act of 1991. Section 121 requires each Federal banking and thrift agency to report annually to the above specified Congressional Committees regarding any differences between the accounting or capital standards used by such agency and the accounting or capital standards used by other banking and thrift agencies. The report must also contain an explanation of the reasons for any discrepancy in such accounting or capital standards. The report must be published in the Federal Register.

**FOR FURTHER INFORMATION CONTACT:** Rhoger H Pugh, Assistant Director (202/728–5883), Norah Barger, Manager (202/452–2402), Gerald A. Edwards, Jr., Assistant Director (202/452–2741), Robert E. Motyka, Supervisory Financial Analyst (202/452–3621), or Arthur W. Lindo, Supervisory Financial Analyst (202/452–2695), Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System. For the hearing impaired only, Telecommunication Device for the Deaf (TDD), Dorothea Thompson (202/452–3544), Board of Governors of the Federal Reserve System, 20th & C Streets NW., Washington, DC 20551.

### Introduction and Overview

This is the sixth annual report [1] on the differences in capital standards and accounting practices that currently exist among the three banking agencies (the Board of Governors of the Federal Reserve System (FRB), the Office of the Comptroller of the Currency (OCC), and the Federal Deposit Insurance Corporation (FDIC)) and the Office of Thrift Supervision (OTS).[2] Section One of the report focuses on differences in the agencies' capital standards; Section Two discusses differences in accounting standards. The remainder of this introduction provides an overview of the discussion contained in these sections.

### *Capital Standards*

As stated in the previous reports to the Congress, the three bank regulatory agencies have, for a number of years, employed a common regulatory framework that establishes minimum capital adequacy ratios for commercial banking organizations. In 1989, all three banking agencies and the OTS adopted a risk-based capital framework that was based upon the international capital accord (Basle Accord) developed by the Basle Committee on Banking Regulations and Supervisory Practices (referred to as the Basle Supervisors' Committee) and endorsed by the central bank governors of the G–10 countries.

[1] The first two reports prepared by the Federal Reserve Board were made pursuant to section 1215 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA). The third, fourth, and fifth reports were made pursuant to section 121 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA), which superseded section 1215 of FIRREA.

[2] At the federal level, the Federal Reserve System has primary supervisory responsibility for state-chartered banks that are members of the Federal Reserve System as well as all bank holding companies. The FDIC has primary responsibility for state nonmember banks and FDIC-supervised savings banks. National banks are supervised by the OCC. The OTS has primary responsibility for savings and loan associations.

The risk-based capital framework establishes minimum ratios of total and Tier 1 (core) capital to risk-weighted assets. The Basle Accord requires banking organizations to have total capital equal to at least 8 percent, and Tier 1 capital equal to at least 4 percent, of risk-weighted assets after a phase-in period that ended on December 31, 1992. Tier 1 capital is principally comprised of common shareholders' equity and qualifying perpetual preferred stock, less disallowed intangibles, such as goodwill. The other component of total capital, Tier 2, may include certain supplementary capital items, such as general loan loss reserves and subordinated debt. The risk-based capital requirements are viewed by the three banking agencies and the OTS as minimum standards, and most institutions are expected to, and generally do, maintain capital levels well above the minimums.

In addition to specifying identical ratios, the risk-based capital framework implemented by the three banking agencies includes a common definition of regulatory capital and a uniform system of risk weights and categories. While the minimum standards and risk weighting framework are common to all the banking agencies, there are some technical differences in language and interpretation among the agencies. The OTS employs a similar risk-based capital framework, although it differs in some respects from that adopted by the three banking agencies. These differences, as well as other technical differences in the agencies' capital standards, are discussed in Section One of this report.

In addition to the risk-based capital requirements, the agencies also have established leverage standards setting forth minimum ratios of capital to total assets. As discussed in Section One, the three banking agencies employ uniform leverage standards, while the OTS has established, pursuant to FIRREA, somewhat different standards.

The staffs of the agencies meet regularly to identify and address differences and inconsistencies in their capital standards. The agencies are committed to continuing this process in an effort to achieve full uniformity in their capital standards. In this regard, Section One contains discussions of the banking agencies' efforts during the past year to achieve uniformity with respect to final rules on the capital treatment of the sale of assets with recourse that were required by Sections 208 and 350 of the Riegle Community Development and Regulatory Improvement Act of 1994, implementation of proposed amendments made by the Basle Supervisors' Committee to the Basle Accord with regard to country transfer risk and, the recognition of the effects of netting on potential future exposure of derivative contracts, guidelines on interest rate risk, and the capital treatment of certain assets to address recent accounting changes issued by the Financial Accounting Standards Board (FASB), specifically FASB statements nos. 115 (''Accounting for Certain Investments in Debt and Equity Securities''), 109 (''Accounting for Income Taxes''), and 122 (''Accounting for Mortgage Servicing Rights'').

*Accounting Standards*

Over the years, the three banking agencies, under the auspices of the Federal Financial Institutions Examination Council (FFIEC), have developed Uniform Reports of Condition and Income (Call Reports) for all commercial banks and FDIC-supervised savings banks. The reporting standards followed by the three banking agencies are substantially consistent, aside from a few limited exceptions, with generally accepted accounting principles (GAAP) as they are applied by commercial banks.[3] The uniform bank Call Report serves as the basis for calculating risk-based capital and leverage ratios, as well as for other regulatory purposes. Thus, material differences in regulatory accounting and reporting standards among commercial banks and FDIC-supervised savings banks do not exist.

The OTS requires each thrift institution to file the Thrift Financial Report (TFR), which is generally consistent with GAAP. The TFR differs in some respects from the bank Call Report in that, as previously mentioned, there are a few areas in which the bank Call Report departs from GAAP. A summary of the differences between the bank Call Report and the TFR is presented in Section Two.

As in the past, the agencies are continuing interagency efforts to reduce paperwork and regulatory burdens. The Federal Reserve has taken a leadership role in coordinating these efforts in developing supervisory guidance to further improve regulatory reporting requirements. For example, during 1995, senior Federal Reserve and FASB officials met a number of times to foster greater communication and closer coordination on major accounting issues affecting the banking industry. These efforts included discussion of a supervisory framework for derivatives reporting, a FASB special report that clarifies the reporting for debt and equity securities pursuant to FASB Statement No. 115, and the remaining few differences between GAAP and regulatory reporting standards. Furthermore, in 1995 the agencies adopted for regulatory reporting purposes a new FASB accounting standard on mortgage servicing rights.

On November 3, 1995, the FFIEC announced that the agencies would fully adopt GAAP as the reporting basis in the basic bank Call Report schedules, effective with the March 1997 report date. The adoption of GAAP will reduce regulatory burden by developing greater consistency in the information collected in bank Call Reports, bank holding company FR Y–9C reports, and general purpose financial statements. The adoption of GAAP for Call Report purposes should eliminate the differences in accounting standards among the agencies that are set forth later in this report.

## Section One—Differences in Capital Standards Among Federal Banking Thrift Supervisory Agencies

### Overview

*Leverage Capital Ratios*

The three banking agencies employ a leverage standard based upon the common definition of Tier 1 capital contained in their risk-based capital guidelines. These standards, established in the second half of 1990 and in early 1991, require the most highly-rated institutions to meet a minimum Tier 1 capital ratio of 3 percent. For all other institutions, these standards generally require an additional cushion of at least 100 to 200 basis points, i.e., a minimum leverage ratio of at least 4 to 5 percent, depending upon an organization's financial condition.

As required by FIRREA, the OTS has established a 3 percent core capital ratio and a 1.5 percent tangible capital leverage requirement for thrift institutions. However, the OTS has not yet finalized a new leverage rule, which has been under consideration for some time. This leverage rule is intended to conform to the leverage rules of the three banking agencies. The differences that will exist after the OTS has adopted its new standard pertain to the definition of core capital. While this definition generally conforms to Tier 1 bank capital, certain adjustments discussed in this report apply to the core capital definition used by savings associations.

[3] In those cases where bank Call Report standards are different from GAAP, the regulatory reporting requirements are intended to be more conservative than GAAP.

*Risk-Based Capital Ratios*

The three banking agencies have adopted risk-based capital standards consistent with the Basle Accord. These standards, which were fully phased in at the end of 1992, require all commercial banking organizations to maintain a minimum ratio of total capital (Tier 1 plus Tier 2) to risk-weighted assets of 8 percent. Tier 1 capital includes common stock and surplus, retained earnings, qualifying perpetual preferred stock and surplus, and minority interests in consolidated subsidiaries, less goodwill. Tier 1 capital must comprise at least 50 percent of the total risk-based capital requirement. Tier 2 capital includes such components as general loan loss reserves, subordinated term debt, and certain other preferred stock and convertible debt capital instruments, subject to appropriate limitations and conditions. Risk-weighted assets are calculated by assigning risk weights of 0, 20, 50, and 100 percent to broad categories of assets and off-balance sheet items based upon their relative credit risks. The OTS has adopted a risk-based capital standard that in most respects is similar to the framework adopted by the banking agencies.

All the banking agencies view the risk-based capital standard as a minimum supervisory benchmark. In part, this is because the risk-based capital standard focuses primarily on credit risk; it does not take full or explicit account of certain other banking risks, such as exposure to changes in interest rates. The full range of risks to which depository institutions are exposed are reviewed and evaluated carefully during on-site examinations. In view of these risks, most banking organizations are expected to operate with capital levels well above the minimum risk-based and leverage capital requirements.

*Efforts to Incorporate Non-Credit Risks*

The Federal Reserve has for some time been working with the other U.S. banking agencies and with regulatory authorities abroad to develop methods of measuring certain market and price risks and determining appropriate capital standards for these risks. These efforts have related to interest rate risk arising from all activities of a bank and to market risk associated (principally) with an institution's trading activities. Significant progress has been made in both areas.

Regarding domestic efforts, the banking agencies have for several years been working to develop capital standards pertaining to interest rate risk. This effort was undertaken both in response to a specific statutory directive contained in section 305 of the FDICIA and to improve the agencies' overall supervision of banking organizations. Most recently, the agencies in August 1995 amended their capital standards to emphasize the importance of reviewing the effect of interest rate movements on the economic value of a bank's equity capital. At the same time, the agencies also issued for public comment a proposed measure of risk that supervisors would consider when evaluating capital adequacy. The comments on that quantitative measure and related reporting requirements remain under review by the agencies.

In the international forum, the Basle Supervisors Committee issued a second proposal in April 1995 dealing with capital standards for market risk arising from foreign exchange and commodity positions of banks and from their traded debt and equity instruments. This proposal was developed in order to foster a more equitable level of competition among internationally active banking organizations and to provide these institutions with greater incentives to manage this risk prudently. The Committee's proposal was adopted on December 11, 1995 and permits institutions to use either a standardized measure of risk developed by supervisors or, alternatively, their own internal value-at-risk models in measuring market risk and calculating their capital requirements. This amendment to the 1988 Basle Capital Accord will go into effect no later than the end of 1997, pending relevant rulemaking procedures in member countries. The Federal Reserve, in cooperation with the other U.S. banking agencies, expects to incorporate this amendment into its own capital standards in early 1996.

*Recent Interagency Efforts*

In addition to coordinating efforts to incorporate noncredit risks, the agencies worked together during 1995 to issue proposals for public comment that would amend the agencies' respective risk-based capital standards with respect to: 1) the sale of assets with recourse; 2) higher capital charges for long-dated and noninterest and nonexchange rate derivative contracts and reduced capital charges for the potential future exposure of contracts that are affected by netting arrangements; and 3) the definition of the OECD-based group of countries for the purpose of specifying country transfer risk. The agencies also coordinated efforts to make modifications in their capital guidelines in light of recent changes in accounting standards.

*Recourse*

The agencies issued a joint proposal on May 24, 1994, that would amend their respective risk-based capital guidelines with regard to assets sold with recourse and direct credit substitutes. This publication included a notice and an advanced notice of proposed rulemakings. The intent of the notice of proposed rulemaking was to allow banking organizations to maintain lower amounts of capital against low-level recourse transactions. The advanced notice of proposed rulemaking represented a preliminary proposal to use credit ratings to match the risk-based capital assessment more closely to an institution's relative risk of loss in certain asset securitizations.

Following issuance of this notice, Section 350 of the Riegle Community Development and Regulatory Improvement Act of 1994 (Riegle Act) was enacted. This Section required the agencies to amend their respective risk-based capital standards to take account of low-level recourse, which would also implement the proposed rulemaking on low-level recourse transactions issued in May, 1994. The Board approved a final rule on February 7, 1995, that was effective on March 22, 1995, thus satisfying the requirements of Section 350 of the Riegle Act. The FDIC and OCC also issued final rules in 1995 to implement Section 350. The OTS already had a capital rule in place that satisfied the requirements of Section 350.

In addition, Section 208 of the Riegle Act directed the Federal banking agencies to revise the current regulatory capital treatment applied to banks that sell small business obligations with recourse. The Federal Reserve approved a final rule implementing Section 208 before the statutory deadline of March 22, 1995. However, because of renewed interagency discussions, the Board issued a revised final rule implementing Section 208 that was published in the Federal Register on August 31, 1995. The other agencies also published interim rules implementing Section 208 and expect to issue final rules in 1996. The effect of the final rules is to lower the capital charge for certain sales of small business loans with recourse.

With regard to the advance notice of proposed rulemaking, the agencies met throughout 1995 to discuss various alternative approaches that were suggested by commenters.

*Derivative Contracts and Recognizing the Effects of Netting on Potential Future Exposure*

The agencies worked together on proposing amendments to their respective risk-based capital guidelines that were based on proposed revisions to the Basle Accord that the Basle Supervisors Committee initiated in July 1994. The Board issued for public comment, on August 22, 1994, a proposed rulemaking that would: (1) increase the capital charge for the potential future counterparty exposure of interest and exchange rate contracts that are over five years in remaining maturity, as well as of equity, precious metals, and other commodity-related contracts; and (2) recognize the effects of bilateral netting arrangements in calculating the potential future exposure for contracts subject to qualifying netting arrangements. Effective at year-end 1995, the G–10 Governors have approved a revision to the Basle Accord to permit institutions to recognize the effects of bilateral netting arrangements when calculating potential future exposure for contracts subject to qualifying bilateral netting arrangements. The Board issued a final rulemaking on September 5, 1995, the effective date of which was October 1, 1995. The other banking agencies also issued rules implementing these Basle revisions in 1995.

*Country Transfer Risk*

In July 1994, the G–10 Governors announced their intention to modify the Basle Accord in 1995 with regard to country transfer risk. Specifically, it was agreed to revise the definition of the OECD-based group of countries[4] that are accorded a preferential risk weight. The revision, which was adopted by the Basle Supervisors Committee and endorsed by the G–10 Governors in 1995, retains the OECD-based group of countries as the principle criterion for preferential risk weight status, but exclude for five years any country that reschedules its external sovereign debt. The Board and the OCC issued a joint notice of proposed rulemaking on October 14, 1994, that sought public comment on an amendment to their respective risk-based capital guidelines. The Board and the OCC worked with the FDIC to issue a final rule that is expected to be issued in early 1996.

*Capital Impact of Recent Changes to Accounting Standards*

Recently, FASB issued pronouncements concerning new and modified financial accounting standards. The adoption of some of these standards for regulatory reporting purposes had the potential of affecting the definition and calculation of regulatory capital. Accordingly, the staffs of the agencies worked together to propose uniform regulatory capital responses to such accounting changes. Over this past year, the agencies dealt with the capital effects of these accounting issues in the manner described below.

FAS 115, *''Accounting for Certain Investments in Debt and Equity Securities.''*

As discussed in last year's report, the agencies issued in 1993 and early 1994 proposed amendments to their respective risk-based capital standards that would include in Tier 1 capital the net unrealized changes in value of securities available for sale for purposes of calculating the risk-based and leverage capital ratios of banking organizations. On November 10, 1994, the FFIEC recommended to the agencies that they not adopt FAS 115 for capital purposes. Acting on this recommendation, the Board, on November 30, 1994, adopted a final rule effective December 31, 1994. Under the final rule, institutions are generally directed not to include in Tier 1 capital the component of common stockholders' equity, net unrealized holding gains and losses on securities available for sale, which was created by FAS 115. The other agencies approved similar rules in 1995.

FAS 109, *''Accounting for Income Taxes.''*

The agencies issued in 1993 proposals to limit the amount of deferred tax assets includable in calculating Tier 1 capital. Under the proposals, certain deferred tax assets are limited to the lesser of 10 percent of Tier 1 capital or the amount of such assets the institution expects to realize in the subsequent year. On November 18, 1994, the FFIEC recommended that the agencies finalize these proposals. In 1995, the Board, along with the other banking agencies, issued a final rule that was similar to the proposal.

FAS 122, *''Accounting for Mortgage Servicing Rights.''*

The Board, along with the OCC, FDIC, and OTS, issued an interim final rule, which became effective on August 1, 1995, that amends the agencies' capital adequacy guidelines to treat originated mortgage servicing rights (OMSRs) the same as purchased mortgage servicing rights (PMSRs) for regulatory capital purposes. These rules were developed in response to the issuance of FAS 122, which eliminates the distinction between OMSRs and PMSRs by requiring OMSRs to be capitalized as balance sheet assets, a treatment previously required only for PMSRs. Under the interim rule, both OMSRs and PMSRs are included in (not deducted from) regulatory capital when determining Tier 1 (core) capital for purposes of the agencies' risk-based and leverage capital standards and in the calculation of tangible equity for purposes of prompt corrective action. OMSRS are subject to the regulatory capital limitations that previously applied only to PMSRs. Staffs of the agencies have reviewed the comments and interagency discussions are expected to begin shortly in anticipation of a final rule sometime in 1996.

Specific Capital Differences

Differences among the risk-based capital standards of the OTS and the three banking agencies are discussed below.

*Certain Collateralized Transactions*

On December 23, 1992, the Federal Reserve Board issued an amendment to its risk-based and leverage capital guidelines that lowers from 20 to 0 percent the risk category for collateralized transactions meeting certain criteria. This preferential treatment is only available for claims fully collateralized by cash on deposit in the bank or by securities issued or guaranteed by OECD central governments or U.S. government agencies. In addition, a positive margin of collateral must be maintained on a daily basis fully taking into account any change in the banking organization's exposure to the obligor or counterparty under a claim in relation to the market value of the collateral held in support of that claim.

As reported in the previous two reports, the OCC, on August 18, 1993, issued a proposal for public comment that would also lower the risk weight for certain collateralized transactions. On December 28, 1994, the OCC issued a final rule that is somewhat similar to the Board's final rule, but permits any

[4] The OECD-based group of countries currently includes members of the Organization of Economic Cooperation and Development and countries that have concluded special lending arrangements with the International Monetary Fund (IMF) associated with the Fund's General Arrangements to Borrow. Saudi Arabia is the only non-OECD country that has concluded such arrangements.

portion of a claim collateralized by cash or OECD government securities to receive a zero percent risk weight, provided that the collateral is marked to market daily and a positive margin is maintained. The FDIC and OTS have rules in place that permit portions of claims collateralized by cash or OECD government securities to receive a 20 percent risk weight. Staffs of the four agencies have been meeting in an attempt to resolve these differences.

*Equity Investments*

In general, commercial banks that are members of the Federal Reserve System are not permitted to invest in equity securities, nor are they generally permitted to engage in real estate investment or development activities. To the extent that commercial banks are permitted to hold equity securities (for example, in connection with debts previously contracted), the three banking agencies generally assign such investments to the 100 percent risk category for risk-based capital purposes.

Under the three banking agencies' rules, the agencies may, on a case-by-case basis, deduct equity investments from the parent bank's capital or make other adjustments, if necessary, to assess an appropriate capital charge above the minimum requirement. The banking agencies' treatment of investments in subsidiaries is discussed below.

The OTS risk-based capital standards require that thrift institutions deduct certain equity investments from capital over a phase-in period, which ended on July 1, 1994, as explained more fully below in the section on subsidiaries.

*FSLIC/FDIC—Covered Assets (Assets Subject to Guarantee Arrangements by the FSLIC or FDIC)*

The three banking agencies generally place these assets in the 20 percent risk category, the same category to which claims on depository institutions and government-sponsored agencies are assigned.

The OTS places these assets in the zero percent risk category.

*Limitation on Subordinated Debt and Limited-Life Preferred Stock*

Consistent with the Basle Accord, the three banking agencies limit the amount of subordinated debt and limited-life preferred stock that may be included in Tier 2 capital. This limit, in effect, states that these components together may not exceed 50 percent of Tier 1 capital. In addition, maturing capital instruments must be discounted by 20 percent in each of the last five years prior to maturity.

Neither subordinated debt nor limited-life preferred stock is a permanent source of funds, and subordinated debt cannot absorb losses while the bank continues to operate as a going-concern. On the other hand, both capital components can provide a cushion of protection to the FDIC insurance fund. Thus, the 50 percent limitation permits the inclusion of some subordinated debt in capital, while assuring that permanent stockholders' equity capital remains the predominant element in bank regulatory capital.

The OTS has no limitation on the total amount of limited-life preferred stock or maturing capital instruments that may be included within Tier 2 capital. In addition, the OTS allows thrifts the option of: (1) discounting maturing capital instruments issued on or after November 7, 1989, by 20 percent a year over the last 5 years of their term—the approach required by the banking agencies; or (2) including the full amount of such instruments provided that the amount maturing in any of the next seven years does not exceed 20 percent of the thrift's total capital.

*Subsidiaries*

Consistent with the Basle Accord and long-standing supervisory practices, the three banking agencies generally consolidate all significant majority-owned subsidiaries of the parent organization for capital purposes. This consolidation assures that the capital requirements are related to all of the risks to which the banking organization is exposed.

As with most other bank subsidiaries, banking and finance subsidiaries generally are consolidated for regulatory capital purposes. However, in cases where banking and finance subsidiaries are not consolidated, the Federal Reserve, consistent with the Basle Accord, generally deducts investments in such subsidiaries in determining the adequacy of the parent bank's capital.

The Federal Reserve's risk-based capital guidelines provide a degree of flexibility in the capital treatment of unconsolidated subsidiaries (other than banking and finance subsidiaries) and investments in joint ventures and associated companies. For example, the Federal Reserve may deduct investments in such subsidiaries from an organization's capital, may apply an appropriate risk-weighted capital charge against the proportionate share of the assets of the entity, may require a line-by-line consolidation of the entity, or otherwise may require that the parent organization maintain a level of capital above the minimum standard that is sufficient to compensate for any risks associated with the investment.

The guidelines also permit the deduction of investments in subsidiaries that, while consolidated for accounting purposes, are not consolidated for certain specified supervisory or regulatory purposes. For example, the Federal Reserve deducts investments in, and unsecured advances to, Section 20 securities subsidiaries from the parent bank holding company's capital. The FDIC accords similar treatment to securities subsidiaries of state nonmember banks established pursuant to Section 337.4 of the FDIC regulations.

Similarly, in accordance with Section 325.5(f) of the FDIC regulations, a state nonmember bank must deduct investments in, and extensions of credit to, certain mortgage banking subsidiaries in computing the parent bank's capital. (The Federal Reserve does not have a similar requirement with regard to mortgage banking subsidiaries. The OCC does not have requirements dealing specifically with the capital treatment of either mortgage banking or securities subsidiaries. The OCC, however, does reserve the right to require a national bank, on a case-by-case basis, to deduct from capital investments in, and extensions of credit to, any nonbanking subsidiary.)

The deduction of investments in subsidiaries from the parent's capital is designed to ensure that the capital supporting the subsidiary is not also used as the basis of further leveraging and risk-taking by the parent banking organization. In deducting investments in, and advances to, certain subsidiaries from the parent's capital, the Federal Reserve expects the parent banking organization to meet or exceed minimum regulatory capital standards without reliance on the capital invested in the particular subsidiary. In assessing the overall capital adequacy of banking organizations, the Federal Reserve may also consider the organization's fully consolidated capital position.

Under the OTS capital guidelines, a distinction, mandated by FIRREA, is drawn between subsidiaries that are engaged in activities that are permissible for national banks and subsidiaries that are engaged in ''impermissible'' activities for national banks. Subsidiaries of thrift institutions that engage only in permissible activities are consolidated on a line-by-line basis if majority-owned and on a pro rata basis if ownership is between 5 percent and 50 percent. As a general rule, investments, including loans, in subsidiaries that engage in impermissible activities are deducted in determining the capital adequacy of the

parent. However, investments, including loans, outstanding as of April 12, 1989, to subsidiaries that were engaged in impermissible activities prior to that date are grandfathered and were phased-out of capital over a transition period that expired on July 1, 1994. During this transition period, investments in subsidiaries engaged in impermissible activities that have not been phased-out of capital were consolidated on a pro rata basis.

*Nonresidential Construction and Land Loans*

The three banking agencies assign loans for real estate development and construction purposes to the 100 percent risk category. Reserves or charge-offs are required, in accordance with examiner judgment, when weaknesses or losses develop in such loans. The banking agencies have no requirement for an automatic charge-off when the amount of a loan exceeds the fair value of the property pledged as collateral for the loan.

The OTS generally assigns these loans to the 100 percent risk category. However, if the amount of the loan exceeds 80 percent of the fair value of the property, that excess portion must be deducted from capital in accordance with a phase-in arrangement, which ended on July 1, 1994.

*Mortgage-Backed Securities (MBS)*

The three banking agencies, in general, place privately-issued MBSs in a risk category appropriate to the underlying assets but in no case to the zero percent risk category. In the case of privately-issued MBSs where the direct underlying assets are mortgages, this treatment generally results in a risk weight of 50 percent or 100 percent. Privately-issued MBSs that have government agency or government-sponsored agency securities as their direct underlying assets are generally assigned to the 20 percent risk category.

The OTS assigns privately-issued high quality mortgage-related securities to the 20 percent risk category. These are, generally, privately-issued MBSs with AA or better investment ratings.

At the same time, both the banking and thrift agencies automatically assign to the 100 percent risk weight category certain MBSs, including interest-only strips, residuals, and similar instruments that can absorb more than their pro rata share of loss. The Federal Reserve, in conjunction with the other banking agencies and the OTS, issued, on January 10, 1992, more specific guidance as to the types of ''high risk'' MBSs that will qualify for a 100 percent risk weight.

*Assets Sold with Recourse*

In general, recourse arrangements allow the purchaser of an asset to ''put'' the asset back to the originating institution under certain circumstances, for example, if the asset ceases to perform satisfactorily. This, in turn, can expose the originating institution to any loss associated with the asset. On May 25, 1994, the three banking agencies and the OTS, under the auspices of the FFIEC, sought public comment on various aspects of the capital treatment of recourse transactions by publishing a Notice of Proposed Rulemaking (NPR) and an Advance Notice of Proposed Rulemaking (ANPR), which is a more preliminary step in the formal rulemaking process.

The NPR proposed to amend the banking agencies' risk-based capital guidelines by:

(1) reducing the risk-based capital charge for ''low level'' recourse arrangements to an amount equal to the maximum contractual recourse obligation;

(2) requiring equivalent capital treatment of recourse arrangements and direct credit substitutes that provide first dollar loss protection. This would increase the capital assessment for *first loss* standby letters of credit and purchased subordinated interests that only provide partial credit enhancement; and,

(3) defining ''recourse'' and associated terms such as ''standard representations and warranties.''

The ANPR proposed incorporating into the risk-based capital guidelines a framework based on formal credit ratings for assessing capital against exposures with different levels of risk in certain asset securitizations. Thus, if there is more risk in a particular position with a securitized transaction, a higher capital charge should be accorded.

As described more fully above, Section 350 of the Riegle Act required the agencies to finalize a rule amending their respective risk-based capital standards to take account of low-level recourse, as was proposed by the NPR issued by the agencies. The low-level approach was implemented by the Federal Reserve by a final rule issued on February 7, 1995, and made effective on March 22, 1995, which satisfied the requirements of Section 350 of the Riegle Act. The FDIC and OCC also issued final rules in 1995 to implement Section 350. The OTS already had a capital rule in place that satisfied the requirements of Section 350.

Section 208 of the Riegle Act directed the Federal banking agencies to revise the current regulatory capital treatment applied to banks that sell small business obligations with recourse. The Federal Reserve approved a final rule implementing Section 208 before the statutory deadline of March 22, 1995. However, because of renewed interagency discussions, the Board issued a revised final rule implementing Section 208 that was published in the Federal Register on August 31, 1995. The other agencies also published final rules implementing Section 208 this year.

With regard to the ANPR, the agencies have been meeting throughout the past year to consider approaches suggested by commenters.

*Agricultural Loan Loss Amortization*

In the computation of regulatory capital, those banks accepted into the agricultural loan loss amortization program pursuant to Title VIII of the Competitive Equality Banking Act of 1987 are permitted to defer and amortize losses incurred on agricultural loans between January 1, 1984 and December 31, 1991.

The program also applies to losses incurred between January 1, 1983 and December 31, 1991, as a result of reappraisals and sales of agricultural Other Real Estate Owned (OREO) and agricultural personal property. These loans must be fully amortized over a period not to exceed seven years and, in any case, must be fully amortized by year-end 1998. Thrifts are not eligible to participate in the agricultural loan loss amortization program established by this statute.

*Treatment of Junior Liens on 1- to 4-Family Residential Properties*

In some cases, a banking organization may make two loans on a single residential property, one loan secured by a first lien, the other by a second lien. In such a situation, the Federal Reserve views these two transactions as a single loan, provided there are no intervening liens. This could result in assigning the total amount of these transactions to the 100 percent risk weight category, if, in the aggregate, the two loans exceeded a prudent loan-to-value ratio and, therefore, did not qualify for the 50 percent risk weight. This approach is intended to avoid possible circumvention of the capital requirements and capture the risks associated with the combined transactions.

The FDIC, OCC, and the OTS generally assign the loan secured by the first lien to the 50 percent risk-weight category and the loan secured by the

second lien to the 100 percent risk-weight category.

*Pledged Deposits and Nonwithdrawable Accounts*

The capital guidelines of the OTS permit thrift institutions to include in capital certain pledged deposits and nonwithdrawable accounts that meet the criteria of the OTS. Income Capital Certificates and Mutual Capital Certificates held by the OTS may also be included in capital by thrift institutions. These instruments are not relevant to commercial banks, and, therefore, they are not addressed in the three banking agencies' capital guidelines.

*Mutual Funds*

The three banking agencies generally assign all of a bank's holdings in a mutual fund to the risk category appropriate to the highest risk asset that a particular mutual fund is permitted to hold under its operating rules. The purpose of this is to take into account the maximum degree of risk to which a bank may be exposed when investing in a mutual fund in view of the fact that the future composition and risk characteristics of the fund's holding cannot be known in advance.

The OTS applies a capital charge appropriate to the riskiest asset that a mutual fund is actually holding at a particular time. In addition, both the OTS and the OCC guidelines also permit, on a case-by-case basis, investments in mutual funds to be allocated on a pro rata basis in a manner consistent with the actual composition of the mutual fund.

Section Two—Differences in Accounting Standards Among Federal Banking and Thrift Supervisory Agencies

Under the auspices of the FFIEC, the three banking agencies have developed uniform reporting standards for commercial banks which are used in the preparation of the Call Report. The FDIC has also applied these uniform Call Report standards to savings banks under its supervision. The income statement and balance sheet accounts presented in the Call Report are used by the bank supervisory agencies for determining the capital adequacy of banks and for other regulatory, supervisory, surveillance, analytical, and general statistical purposes.

Section 121 of FDICIA requires accounting principles applicable to financial reports (including the Call Report) filed by federally insured depository institutions with a federal banking agency to be uniform and consistent with generally accepted accounting principles (GAAP). However, under Section 121, a federal banking agency *may* require institutions to use accounting principles ''no less stringent than GAAP'' when the agency determines that a specific accounting standard under GAAP does not meet these new accounting objectives. The banking agencies believe that GAAP generally satisfies the three accounting objectives included in FDICIA Section 121. The three accounting objectives in FDICIA Section 121 mandate that accounting principles should:

1. Result in financial statements and reports of condition that accurately reflect the institution's capital;

2. Facilitate effective supervision of depository institutions; and

3. Facilitate prompt corrective action at least cost to the insurance funds.

As indicated above, Section 121 of FDICIA requires the Federal Reserve and the other federal banking agencies to utilize accounting principles for regulatory reports that are consistent with GAAP or are no less stringent than GAAP. The reporting instructions for Call Reports that are required by the three banking agencies are substantially consistent, aside from a few limited exceptions, with GAAP as applied by commercial banks. In those cases where accounting principles applicable to bank Call Reports are different from GAAP, the regulatory accounting principles are intended to be more conservative than GAAP. Thus, the accounting principles that are followed for regulatory reporting purposes are consistent with the objectives and mandate of FDICIA Section 121.

The OTS has developed and maintains a separate reporting system for the thrift institutions under its supervision. The TFR is based on GAAP as applied by thrifts.

On November 3, 1995, the FFIEC announced that it is adopting GAAP as the reporting basis for the basic balance sheet, income statement, and related schedules in the bank Call Reports, effective with the March 1997 report date. This action will eliminate the existing differences between GAAP and regulatory accounting principles. The agencies believe that the FFIEC action is consistent with the objectives of FDICIA 121 and the objectives of Section 307(b) of the Riegle Community Development and Regulatory Improvement Act of 1994, which requires the agencies to work jointly to develop a single form for the filing of core information by banks, savings associations, and bank holding companies. The adoption of GAAP for Call Report purposes should eliminate the differences in accounting standards among the agencies that are set forth below.

A summary of the primary differences in accounting principles by the federal banking and thrift agencies for regulatory reporting purposes are set forth below, based on a study developed on an interagency basis:

*Futures and Forward Contracts*

The banking agencies, as a general rule, do not permit the deferral of gains and losses by banks on futures and forwards whether or not they are used for hedging purposes. All changes in market value of futures and forward contracts are reported in current period income. The banking agencies adopted this reporting standard as a supervisory policy prior to the adoption of FASB Statement No. 80, which allows hedge accounting, under certain circumstances. Contrary to this general rule, hedge accounting in accordance with FASB Statement No. 80 is permitted by the three banking agencies only for futures and forward contracts used in mortgage banking operations.

The OTS practice is to follow FASB Statement No. 80 for futures contracts. In accordance with this statement, when hedging criteria are satisfied, the accounting for the futures contract is related to the accounting for the hedged item. Changes in the market value of the futures contract are recognized in income when the effects of related changes in the price or interest rate of the hedged item are recognized. Such reporting can result in deferred gains and losses which would be reflected as liabilities and assets on the thrift's balance sheet in accordance with GAAP.

*Excess Servicing Fees*

As a general rule, the three banking agencies do not follow GAAP for excess servicing fees. Excess servicing results when loans are sold with servicing retained and the stated servicing fee rate is greater than the normal servicing fee rate. With the exception of sales of pools of first lien one-to-four family residential mortgages for which the banking agencies' approach is consistent with FASB Statement No. 65, excess servicing fee income in banks must be reported as realized over the life of the transferred asset, not recognized up front as required by FASB Statement No. 65.

The OTS allows the present value of the future excess servicing fee to be treated as an adjustment to the sales price for purposes of recognizing gain or loss on the sale. This approach is consistent with FASB Statement No. 65.

*In-Substance Defeasance of Debt*

The banking agencies do not permit banks to report defeasance of their debt obligations in accordance with FASB Statement No. 76. Defeasance involves a debtor irrevocably placing risk-free monetary assets in a trust solely for satisfying the debt. Under FASB Statement No. 76, the assets in the trust and the defeased debt are removed from the balance sheet and a gain or loss for the current period can be recognized. However, for Call Report purposes, banks may not remove assets or *defeased* liabilities from their balance sheets or recognize resulting gains or losses. FASB has recently proposed to amend GAAP to adopt an approach similar to the Call Report treatment for these transactions.

OTS practice is to follow FASB Statement No. 76.

*Sales of Assets with Recourse*

In accordance with FASB Statement No. 77, a transfer of receivables with recourse is recognized as a sale if: (1) the transferor surrenders control of the future economic benefits; (2) the transferor's obligation under the recourse provisions can be reasonably estimated; and (3) the transferee cannot require repurchase of the receivables except pursuant to the recourse provisions.

The practice of the three banking agencies is generally to permit commercial banks to report transfers of receivables with recourse as sales only when the transferring institution (1) retains no risk of loss from the assets transferred and (2) has no obligation for the payment of principal or interest on the assets transferred. As a result, virtually no transfers of assets with recourse can be reported as sales. However, this rule does not apply to the transfer of first lien 1- to 4-family residential or agricultural mortgage loans under certain government-sponsored programs (including the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation). Transfers of mortgages under these programs are generally treated as sales for Call Report purposes.

Furthermore, private transfers of first lien 1- to 4-family residential mortgages are also reported as sales if the transferring institution retains only an insignificant risk of loss on the assets transferred. However, the seller's obligation under recourse provisions related to sales of mortgage loans under the government programs is viewed as an off-balance sheet exposure. Thus, for risk-based capital purposes, capital is generally expected to be held for recourse obligations associated with such transactions.

The OTS policy is to follow FASB Statement No. 77. However, in the calculation of risk-based capital under the OTS guidelines, off-balance sheet recourse obligations generally are converted at 100 percent. This effectively negates the sale treatment recognized on a GAAP basis for risk-based capital purposes, but not for leverage capital purposes. Thus, by making this adjustment in the risk-based capital calculation, the differences between the OTS and the banking agencies for capital adequacy measurement purposes, are substantially reduced.

*Push-Down Accounting*

When a depository institution is acquired in a purchase transaction, but retains its separate corporate existence, the institution is required to revalue all of the assets and liabilities at fair value at the time of acquisition. When push-down accounting is applied, the same revaluation made by the parent holding company is made at the depository institution level.

The three banking agencies require push-down accounting when there is at least a 95 percent change in ownership. This approach is generally consistent with interpretations of the Securities and Exchange Commission.

The OTS requires push-down accounting when there is at least a 90 percent change in ownership.

*Negative Goodwill*

The three banking agencies require that negative goodwill be reported as a liability, and not be netted against goodwill assets. Such a policy ensures that all goodwill assets are deducted in regulatory capital calculations, consistent with the Basle Accord.

The OTS permits negative goodwill to offset goodwill assets reported in the financial statements.

*Offsetting*

The three banking agencies generally prohibit netting of assets and liabilities in the Call Report. However, FASB Interpretation No. 39 (FIN 39) netting requirements have been adopted for Call Report purposes solely for assets and liabilities that arise from off-balance-sheet instruments. For example, under FIN 39, the assets and liabilities arising from these contracts may be netted when there is a legally enforceable bilateral master netting agreement.

The OTS policy on netting for all assets and liabilities is consistent with GAAP, as set forth in FIN 39. FIN 39 allows institutions to offset assets and liabilities (e.g., loans and deposits) when four conditions are met. Moreover, the OTS permits netting for off-balance sheet conditional and exchange contracts to the same extent as the banking agencies.

By order of the Board of Governors of the Federal Reserve System, April 4, 1996.

Jennifer J. Johnson,

*Deputy Secretary of the Board.*

[FR Doc. 96–8873 Filed 4–9–96; 8:45am]

BILLING CODE 6210–01–P

## GENERAL ACCOUNTING OFFICE

### Federal Accounting Standards Advisory Board

**AGENCY:** General Accounting Office.

**ACTION:** Notice of meeting.

**SUMMARY:** Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that the Federal Accounting Standards Advisory Board will meet on Thursday, April 25, 1996, from 9:00 a.m. to 4:00 p.m. in room 7C13 of the General Accounting Office, 441 G St., N.W., Washington, D.C.

The purpose of the meeting is to (1) review and approve for release for public comment the draft *Invitation for Views: Accounting for the Cost of Capital* document and (2) discuss the Codification project and the *Accounting for Natural Resources* document.

Any interested person may attend the meeting as an observer. Board discussions and reviews are open to the public.

**FOR FURTHER INFORMATION CONTACT:** Ronald S. Young, Executive Staff Director, 750 First St., N.E., Room 1001, Washington, D.C. 20002, or call (202) 512–7350.

Authority: Federal Advisory Committee Act. Pub. L. 92–463, Section 10(a)(2), 86 Stat. 770, 774 (1972) (current version at 5 U.S.C. app. section 10(a)(2) (1988); 41 CFR 101–6.1015 (1990).

Dated: April 4, 1996.

Ronald S. Young,

*Executive Director.*

[FR Doc. 96–8852 Filed 4–9–96; 8:45 am]

BILLING CODE 1610–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of National AIDS Policy; Notice of Meeting of the Presidential Advisory Council on HIV/AIDS and Its Subcommittees

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the

Presidential Advisory Council on HIV/AIDS on April 24–26, 1996, at the Radisson Plaza Hotel, Alexandria, Virginia. The Services subcommittee of the Council will meet on Wednesday, April 24, from 9 am to 9 pm and the Research and Prevention subcommittees will meet on Wednesday, April 24 from 7 pm to 9 pm at the Radisson Plaza Hotel. The full meeting of the Presidential Advisory Council on HIV/AIDS will take place on Thursday, April 25 from 8:30 am to 5:15 pm, and Friday, April 26 from 9:00 pm to 3:30 pm at the Radisson Plaza Hotel at Mark Center, 5000 Seminary Road, Alexandria, Virginia. The meetings will be open to the public.

The purpose of the subcommittee meetings will be to finalize their recommendations and to develop a 6 month plan on how to accomplish these recommendations. The agenda of the Presidential Advisory Council on HIV/AIDS will include presentations from the Council's three subcommittees, Research, Services, and Prevention.

Jeff Levi, Deputy Director, Office of National AIDS Policy, 750 17th Street NW., Washington, DC 20503, Phone (202) 632–1090, FAX (202) 632–1096, will furnish the meeting agenda and roster of committee members upon request. Any individual who requires special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Kimberly Farrell at (301) 986–4870 no later than April 19.

Dated: April 2, 1996.

Jeff Levi,

*Deputy Director, Office of National AIDS Policy.*

[FR Doc. 96–8932 Filed 4–9–96; 8:45 am]

**BILLING CODE 3195–01–M**

## Agency for Health Care Policy and Research General Reorganization; Statement of Organization, Functions, and Delegations of Authority

This notice amends the following portions of Part E and Part H of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services: Part E, as last amended at 60 FR 56605, November 9, 1995; and Part H, Chapter HP as last amended at 60 FR 37898, July 24, 1995. Changes are being made which: (1) designate the Agency for Health Care Policy and Research (AHCPR) as an Operating Division reporting directly to the Secretary of Health and Human Services and (2) reflect organizational refinements which will enable the Agency to be more responsive to the evolving needs of the health care system and a refocused government role. Changes are as follows:

1. Under Part E, add Chapter E (Agency for Health Care Policy and Research), as follows:

Chapter E—Agency for Health Care Policy and Research

| | |
|---|---|
| Section E–00 | Mission |
| Section E–10 | Organization |
| Section E–20 | Functions |
| Section E–30 | Order of Succession |
| Section E–40 | Delegations of Authority |

Agency for Health Care Policy and Research

*Section E–00. Mission.* The Agency for Health Care Policy and Research provides national leadership and administration of a program to enhance the quality, appropriateness, and effectiveness of health care services, and access to such services, through the establishment of a broad base of scientific research and through the promotion of improvements in clinical practice and in the organization, financing, and delivery of health care services. The AHCPR supports research, demonstrations, evaluations, and dissemination projects relating to: (1) The effectiveness, efficiency, and quality of health care services; (2) the outcomes of health care services and procedures; (3) clinical practice, including primary care and practice-oriented research; (4) health care technologies, facilities, and equipment; (5) health care costs, productivity, and market forces; (6) health promotion and disease prevention; (7) health statistics and epidemiology; (8) medical liability; (9) delivery of health services in rural areas; and (10) the health of low income groups, minority groups, the elderly, and other special populations.

*Section E–10. Organization.* The Agency for Health Care Policy and Research is under the direction of an Administrator who reports directly to the Secretary of Health and Human Services. The Agency consists of the following components:

A. Immediate Office of the Administrator
B. Office of Management
C. Office of Planning and Evaluation
D. Office of Policy Analysis
E. Office of Scientific Affairs
F. Office of the Forum for Quality and Effectiveness in Health Care
G. Center for Cost and Financing Studies
H. Center for Health Care Technology
I. Center for Health Information Dissemination
J. Center for Information Technology
K. Center for Organization and Delivery Studies
L. Center for Outcomes and Effectiveness Research
M. Center for Primary Care Research
N. Center for Quality Measurement and Improvement

*Section E–20. Functions.* In carrying out these responsibilities, AHCPR engages in the following activities: (1) Supports, by means of grants and contracts with public and private entities, research, demonstration, and evaluation projects; (2) conducts economic and statistical analyses, research, demonstrations, and evaluations through the use of staff and facilities of the Agency; (3) administers and supports health services research training programs; (4) assists public and nonprofit private entities in meeting the costs of planning, establishing and operating centers for multidisciplinary health services quality and effectiveness research, evaluations, and demonstrations; (5) facilitates development of guidelines, standards, and parameters to enhance the quality and effectiveness of health care and disseminates them to health services providers, review organizations, health educational institutions, and consumers; (6) advises the Secretary and other PHS Agency Heads about findings of the Agency research programs and their potential implications for HHS programs; (7) facilitates linkages among existing data bases and the establishment of national data systems to support health services, technology, quality and effectiveness research; (8) in consultation with other PHS Agencies, coordinates health services and health care technology research, evaluations, and demonstrations undertaken by the Agency; (9) consults with public and private organizations and individuals to identify the critical issues and problems to be addressed through the Agency's research programs; (10) publishes and disseminates the findings and the data obtained in the course of research and evaluation, and in the development of guidelines, standards, review criteria, evaluations, and demonstrations supported or undertaken by the Agency; (11) undertakes programs to develop new and improved methods for making such research findings available to the medical community and for incorporating them into everyday medical practice; (12) provides technical assistance, advice, and consultation to organizations and individuals within and outside the Department engaged in or concerned with the results of health services, health care technology, health quality and effectiveness research, evaluations, and demonstrations; (13) advises the

Secretary on effectiveness of health care technologies and coverage thereof under Medicare and Medicaid as appropriate; (14) undertakes and supports research, demonstration projects and evaluations concerning rural health and underserved populations; and (15) supports and conducts patient outcome research.

*Office of the Administrator (EA).* Directs the activities of the Agency for Health Care Policy and Research to ensure the achievement of strategic objectives. Specifically: (1) Determines that Agency programs support Administration goals and objectives; (2) plans, directs, coordinates, and evaluates the administrative policies and procedures, the research and training programs, and the dissemination activities of the Agency; (3) manages the Equal Employment Opportunity programs; (4) maintains the scientific integrity of the research program and the staff; (5) establishes Agency program and budget priorities; (6) represents the Agency within the Public Health Service, at the highest levels of Government, and to the public; and (7) makes recommendations to the Secretary on Federal reimbursement programs with respect to health care technologies and health care policies and research.

*Office of Management (EAA).* Directs and coordinates Agency-wide administrative activities. Specifically: (1) Manages and coordinates the human resource activities of the Agency including personnel operations and the allocation of personnel resources; (2) provides organizational and management analysis, develops policies and procedures, and implements Agency management policies; (3) coordinates the Agency Federal Managers' Financial Integrity Act and Privacy Act activities; (4) plans and directs financial management activities including budget formulation, presentation, and execution functions and supports the linking of the budget and planning process; (5) conducts all business management aspects of the review, negotiation, award and administration of Agency grants and contracts; (6) manages the analysis, selection, and implementation of the information resource management and telecommunication systems; and (7) provides Agency support services including the acquisition, management, and maintenance of supplies, equipment, and space.

*Office of Planning and Evaluation (EAB).* Directs and coordinates the strategic planning and program evaluation of the Agency. Specifically: (1) Directs and coordinates program planning activities of the Agency and prepares the strategic plan; (2) plans and manages the program evaluation activities of the Agency including evaluations of dissemination, training, and research programs; (3) plans and coordinates Agency research activities that focus on special populations and initiatives, including minority health, women's health, and HIV; (4) manages and coordinates development and clearance of proposed regulations, reports, and program announcements; and (5) represents the Agency in meetings with other Public Health Service and Department planning and evaluation offices.

*Office of Policy Analysis (EAC).* Provides support to the Administrator and unbiased technical assistance to the Public Health Service, the Department, and other public and private sector users of health services research. Specifically: (1) Reviews Agency research plans and programs to determine their relevance to current and emerging health policy issues; (2) provides unbiased analyses of significant health policy issues using relevant health services research, data, and information produced by the Agency and others; (3) synthesizes research findings on policy and program issues of concern to the Administrator; (4) conducts and supports special projects and studies to inform health policy; (5) develops and manages an extramural centers program designed to provide timely studies of immediate and emerging health policy issues; (6) coordinates the legislative activities of the Agency including the development of legislative proposals and analysis of health legislative initiatives; (7) provides support and management for the activities of the Agency's National Advisory Council; (8) maintains ongoing liaison with public and private sector producers and users of health services research; and (9) represents the Agency in meetings with components of the Public Health Service, the Department, and other government agencies and with private organizations on health policy issues.

*Office of Scientific Affairs (EAE).* Directs the scientific review process for grants and contracts, the assignment of projects to Agency Centers, manages Agency research training programs, and evaluates the medical and scientific contribution of proposed and on-going research, demonstration, and evaluations. Specifically: (1) Directs the process for selecting, reviewing, and funding grants and reviewing contracts for scientific merit and program relevance; (2) assigns grant proposals to Centers for administrative action; (3) manages the process for making funding decisions for grants; (4) directs Agency research training programs and implementation of the National Research Service Award authority; (5) manages the scientific integrity processes for the intramural and extramural programs of the Agency; and (6) represents the Agency in meetings with experts and organizations on issues related to the administration of the scientific program.

*Office of the Forum for Quality and Effectiveness in Health Care (EB).* Arranges for the development and evaluation of clinical practice guidelines. Specifically: (1) Supports the development and evaluation of clinical practice guidelines dealing with the prevention, diagnosis, and treatment of illness; (2) provides national leadership on guideline development and assessment of methodologies; (3) supports development of medical review criteria, performance measures, and standards of quality; (4) conducts and supports studies of the economic impact of Agency guidelines; and (5) represents the Agency in meetings with experts and organizations involved in producing, implementing, and evaluating clinical practice guidelines.

*Center for Cost and Financing Studies (EC).* Conducts and supports studies of the cost and financing of health care and develops data sets to support policy and behavioral research and analyses. Specifically: (1) Conducts and manages research and analysis of trends and patterns of health expenditures, public and private insurance coverage, use of personal health services, health status, and cost effectiveness of care for the general population and subgroups of policy interest; (2) conducts and manages health sector surveys such as medical expenditure surveys; surveys of employers and other sources of insurance coverage and health benefits; and surveys of the use, cost, and financing of care for special populations; (3) collects, reorganizes, and analyzes administrative databases related to health use, status, cost and financing; (4) provides modeling and projections of health care use, status, expenditures, and payments for policy research; (5) conducts and supports statistical and methodological research on survey design, sampling and estimation techniques, and data quality; (6) conducts and supports surveys and research of institutional and community based long term care; (7) evaluates administrative data sets for intramural and extramural research including policy and methodological studies; and (8) builds research and data collection partnerships with the health care sector,

employers and foundations, and represents the Agency in meetings with Federal agencies and experts on health policy issues especially issues related to health expenditures and insurance, Federal and State health care programs.

*Center for Health Care Technology (EE).* Conducts and supports a comprehensive program of health care technology assessment. Specifically: (1) Manages and conducts studies of the safety, efficacy, effectiveness, and cost-effectiveness of health technologies; (2) prepares recommendations on whether specific technologies should be paid for by Federal programs that provide or reimburse for health services including recommendations that such payment be subject to specific conditions, requirements, or limitations; (3) maintains liaison with other public and private organizations and entities with regard to assessment strategies, priorities, and methodologies; and (4) represents the Agency in meeting with international and domestic experts and organizations concerned with health technology assessment.

*Center for Health Information Dissemination (EF).* Designs, develops, implements, and manages programs for disseminating the results of Agency activities. Specifically: (1) Conducts and supports research on the techniques of providing information to the health care industry, health care providers, consumers policy makers, researchers, and the media; (2) manages the editing, publication, and information distribution processes of the Agency; (3) provides the administrative support for reference services and the distribution of technical information to Agency staff; (4) manages the public affairs activities of the Agency, an Agency clearinghouse for responding to requests for information and technical assistance, and a consumer information program; (5) directs a user liaison program to provide health care research and policy findings to Federal, State and local public officials, providers, payers, business, and the health care industry; (6) evaluates the effectiveness of Agency dissemination strategies and implements changes indicated by such evaluation; and (7) represents the Agency in meetings with Department and Public Health Service representatives on press releases, media events, and publication clearance.

*Center for Information Technology (EG).* Conducts and supports studies of health information systems, computerized patient record systems, and medical decision analysis. Specifically: (1) Manages and conducts research, demonstrations, and evaluations of computerized health care information systems; (2) directs studies of data standards, security, efficiency, and linkages; (3) directs studies of medical decision making and decision support systems; (4) directs studies of provider adoption and implementation of automated medical records, information, and decision systems; and (5) represents the Agency in meetings with international and domestic experts and organizations concerned with developing and using medical information systems.

*Center for Organization and Delivery Studies (EH).* Conducts, supports and manages studies of the structure, financing, organization, behavior, and performance of the health care system and providers within it. Specifically: (1) Conducts and manages quantitative and qualitative research on changes in the organizational, financial, and legal structure of the health care delivery system, particularly the move to managed care and integrated networks; (2) conducts and manages research on market forces, and regulatory, legal, and other factors driving these changes; (3) conducts and manages research on the changing continuum of care (acute, long-term, home, and community-based), and organizational issues (integration, care management, patient communication, and care for high-cost illnesses) in these systems; (4) conducts and manages research on organizational behavior and issues (leadership, governance, political culture, etc.) in the changing delivery system; (5) conducts and manages research on the impact of changing organizations and delivery systems on access, cost, quality, providers, and public health; and (6) builds research partnerships with the health care industry, employers and foundations, and represents the Agency in meetings with Federal agencies and experts on health policy issues related to the changing delivery system and its impact on access, quality and cost of care.

*Centers for Outcomes and Effectiveness Research (EJ).* Conducts and supports studies of the outcomes and effectiveness of diagnostic, therapeutic, and preventing health care services and procedures. Specifically: (1) Manages and conducts research, evaluations, and demonstrations of the effectiveness of clinical interventions in terms of patient outcomes; (2) directs an extramural research centers program on medical effectiveness and patient outcomes; (3) directs and supports a program of clinical research on the effectiveness of diagnostic and therapeutic approaches to illness; (4) manages and conducts research and related activities to improve methods and measures for effectiveness research; and (5) represents the Agency in meetings with domestic and international experts and organizations concerned with medical effectiveness and outcomes research.

*Center for Primary Care Research (EK).* Conducts and supports studies on primary care, and clinical, preventive and public health policies and systems. Specifically: (1) Manages and conducts research on, and demonstrations and evaluations of, primary care settings and systems; (2) manages and conducts studies of rural health care services and systems; (3) directs studies of the care of special populations; (4) directs studies of the effectiveness of education, supply, and distribution of the health care workforce; and (5) represents the Agency in meetings with international and domestic experts and organizations concerned with primary care.

*Center for Quality Measurement and Improvement (EL).* Conducts and supports research on the measurement and improvement of the quality of health care. Specifically: (1) Conducts and supports research, demonstrations, and evaluations of the quality of health care; (2) designs, conducts, and supports consumer surveys to assess the quality of and satisfaction with health care services and systems; (3) develops and tests measures and methods for evaluating the quality of care; (4) provides technical assistance and gathers information on the use of quality measures and consumer information on the use of quality measures and consumer information and the resulting effects; and (5) represents the Agency in meetings with domestic and international experts and organizations concerned with measuring and evaluating the quality of care.

*Section E–30. Order of Succession.* During the absence or disability of the Administrator, or in the event of a vacancy in that office, the first official listed below who is available shall act as Administrator, except during planned periods of absence, when the Administrator may specify a different order of succession. The order of succession will be:

(1) Deputy Administrator
(2) Executive Officer
(3) Director, Office of Policy Analysis
(4) Director, Office of Planning and Evaluation
(5) Director, Office of Scientific Affairs

*Section E–40. Delegations of Authority.* All delegations and redelegations of authority to officers and employees of the Agency for Health Care Policy and Research which were in effect immediately prior to the effective

date of this reorganization shall continue in effect pending further redelegation, provided they are consistent with this reorganization.

2. *Under Part H, after Chapter HN (National Institutes of Health), delete Chapter HP (Agency for Health Care Policy and Research) in its entirety.*

These changes are effective April 4, 1996.

Dated: April 4, 1996.

Clifton R. Gaus,

*Administrator.*

[FR Doc. 96–8900 Filed 4–9–96; 8:45 am]

**BILLING CODE 4160–90–M**

## Agency for Health Care Policy and Research

### Health Care Policy and Research Special Emphasis Panel Meeting

In accordance with section 10(a) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2) announcement is made of the following special emphasis panel scheduled to meet during the month of May 1996:

*Name:* Health Care Policy and Research Special Emphasis Panel.

*Date and Time:* May 7–9, 1996, 8 a.m.

*Place:* Parklawn Building, Conference Room N, Third Floor, B wing, Rockville, MD 20852.

*Purpose:* This Panel is charged with conducting the initial review of contract proposals requesting support for research and development of new technologies and methodologies which have the potential to succeed as commercial products submitted to the Small Business Innovation Research program.

*Agenda:* The meeting on May 7, will be devoted to reviewing and discussing contract proposals dealing with software for information capture related to health care. In accordance with the Federal Advisory Committee Act, 5 U.S.C., Appendix 2 and 5 U.S.C., 552b(c)(6), it has been determined that this meeting will be closed because the discussions are likely to reveal personal information concerning individuals associated with the contract proposals. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a roster of members or other relevant information should contact William Maas, D.D.C., Agency for Health Care Policy and Research, Suite 400, 2101 East Jefferson Street, Rockville, Maryland 20852, Telephone (301) 594–1449.

Agenda items for this meeting are subject to change as priorities dictate.

Dated: April 3, 1996.

Clifton R. Gaus,

*Administrator.*

[FR Doc. 96–8901 Filed 4–9–96; 8:45 am]

**BILLING CODE 4160–90–M**

### Health Care Policy and Research Special Emphasis Panel Meeting

In accordance with section 10(a) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2) announcement is made of the following special emphasis panel scheduled to meet during the month of May 1996:

*Name:* Health Care Policy and Research Special Emphasis Panel.

*Date and Time:* May 20–23, 1996, 8 a.m.

*Place:* Parklawn Building, Conference Room N, Third Floor, B wing, Rockville, MD 20852.

*Purpose:* This Panel is charged with conducting the initial review of contract proposals requesting support for research and development of new technologies and methodologies which have the potential to succeed as commercial products submitted to the Small Business Innovation Research program.

*Agenda:* The meeting on May 20, will be devoted to reviewing and discussing contract proposals dealing with consumer information pertaining to healthcare. In accordance with the Federal Advisory Committee Act, 5 U.S.C., Appendix 2 and 5 U.S.C., 552b(c)(6), it has been determined that this meeting will be closed because the discussions are likely to reveal personal information concerning individuals associated with the contract proposals. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a roster of members or other relevant information should contact William Maas, D.D.S., Agency for Health Care Policy and Research, Suite 400, 2101 East Jefferson Street, Rockville, Maryland 20852, Telephone (301) 594–1449.

Agenda items for this meeting are subject to change as priorities dictate.

Dated: April 3, 1996.

Clifton R. Gaus,

*Administrator.*

[FR Doc. 96–8902 Filed 4–9–96; 8: 45 am]

**BILLING CODE 4160–90–M**

## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

### Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*):

*Applicant:* Cherie D. Ecker, Lake Forest, IL, PRT–812762

The applicant amends a request for a permit to purchase in interstate commerce and export one pair of White-eared pheasant (*Crossoptilon crossoptilon*) and one pair of Brown-eared pheasant (*Crossoptilon mantchuricum*), to Al Bustan Farms, Sharjah, United Arab Emirates for the purpose of enhancement of the survival of the species through propagation. The original notification appeared in the Federal Register Vol. 61, No. 32, 6021, published February 15, 1996, pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, et seq.).

*Applicant:* Circus Tihany, Sarasota, FL, PRT–812762

The applicant requests a permit to export and import captive-born tigers (*Panthera tigris*) and progeny of the animals currently held by the applicant and any animals acquired in the United States by the applicant to/from worldwide locations to enhance the survival of the species through conservation education. This notification covers activities conducted by the applicant over a three year period.

*Applicant:* Michael Alvard, SUNY, Buffalo, NY, PRT–813132

The applicant requests a permit to import crania and mandibles of mountain anoa (*Bubalus quariesi*), lowland anoa (*B. depressicornis*) and babirusa (*Babyrousa babyrousa*) salvaged from subsistence hunters on Sulawesi, Indonesia, for the purpose of scientific research.

*Applicant:* Stephen Birch Aquarium-Museum, La Jolla, CA, PRT–809683

The applicant requests a permit to export one captive-held green sea turtle (*Chelonia mydas*) to the Procuraduria Federal de Proteccion al Ambiente Delegacion Estatal, Baja California, Mexico, for release into Pacific ocean waters.

*Applicant:* Duke University Primate Center, Durham, NC, PRT–772901

The applicant requests an amendment to their permit to include the import of two captive-born male golden bamboo lemurs (*Hapalemur aureus*) from the Parc Botanique et Zoologique de Tsimbazaza, Antananarivo, Madagascar, in addition to two male and two female wild caught golden bamboo lemurs from the Department of Water and Forests, Madagascar, for the purposes of enhancement of the species through captive breeding.

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 430, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

The public is invited to comment on the following application(s) for permits

to conduct certain activities with marine mammals. The application(s) was/were submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR 18).

*Applicant:* National Biological Service, Gainesville, FL, PRT–791721

*Type of Permit:* Scientific research

*Name and Number of Animals:* Sirenia, unlimited

*Summary of Activity to be Authorized:* The applicant has requested an amendment to their permit, PRT–791721, to authorize for the purposes of scientific research the import, export, and re-export of biological samples from live and dead sirenians collected in the course of scientific research.

*Source of Marine Mammals for Research/Public Display:* various countries; live and dead specimens as allowed by the laws of that country.

*Period of Activity:* Up to five years from issuance of a permit, if issued.

Concurrent with the publication of this notice in the Federal Register, the Office of Management Authority is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Written data or comments, requests for copies of the complete application, or requests for a public hearing on this application should be sent to the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 N. Fairfax Drive, Room 430, Arlington, Virginia 22203, telephone 703/358–2104 or fax 703/358–2281 and must be received within 30 days of the date of publication of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such hearing is at the discretion of the Director.

Documents and other information submitted with these applications are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act*, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice at the above address.

Dated: April 5, 1996.

Caroline Anderson,

*Acting Chief, Branch of Permits, Office of Management Authority.*

[FR Doc. 96–8956 Filed 4–9–96; 8:45 am]

**BILLING CODE 4310–55–P**

## Endangered And Threatened Species; Public Hearing on Draft Environmental Impact Statement for Proposed Habitat Conservation Plan

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

**ACTION:** Notice of Public Hearings.

Notice of Public Hearings regarding a Draft Environmental Impact Statement for a Proposed Habitat Conservation Plan submitted in support of an application for an incidental take permit by Washington Department of Natural Resources.

**SUMMARY:** This notice advises the public that the U.S. Fish and Wildlife Service (Service) and the Washington Department of Natural Resources (DNR) will jointly be hosting five public hearings to receive comments on a Draft Environmental Impact Statement (DEIS). The DEIS considers a permit application by the DNR to incidentally take certain federally listed species, under the provisions of section 10(a) of the Federal Endangered Species Act (ESA). The proposed habitat conservation plan (HCP) and implementation agreement submitted by the DNR in support of its application would cover unlisted species in the HCP area as well as those listed under the ESA.

**DATES:** Public hearings will be held on April 15, 16, 18, and 30, and May 6, 1996, in the locations identified below.

**ADDRESSES:** Public hearings will be held in the following locations:

Evergreen School District Board Room, Vancouver, Washington
April 15, 1996; 6:00–9:00 pm

Spokane Falls Community College, Spokane, Washington
April 16, 1996; 6:00–9:00 pm

Port of Seattle, Seattle, Washington
April 18, 1996; 6:00–9:00 pm

Van Burton Community Center, Port Angeles, Washington
April 30, 1996; 6:00–9:00 pm

Senate Hearing Room 4, Olympia, Washington
May 6, 1996; 4:00–7:00 pm

**FOR FURTHER INFORMATION CONTACT:** Curt Smitch, Assistant Regional Director; U.S. Fish and Wildlife Service; 3704 Griffin Lane; Suite 102; Olympia, Washington 98501, (360) 534–9330.

**SUPPLEMENTARY INFORMATION:** As a further opportunity for interested persons to comment on this planning effort, a series of public hearings are scheduled as listed above. Representatives from the U.S. Fish and Wildlife Service and/or the National Marine Fisheries Service will conduct the hearings to receive comments on the DEIS that was prepared to analyze the incidental take permit application submitted by the DNR.

Interested parties may contact the Service at the address listed above to receive additional information, including maps to the hearing locations.

Dated: April 5, 1996.

Thomas Dwyer,

*Deputy Regional Director, Region 1, Portland, Oregon.*

[FR Doc. 96–9008 Filed 4–8–96; 9:49 am]

**BILLING CODE 4310–55–P**

# Geological Survey

## National Cooperative Geologic Mapping Program (NCGMP) Advisory Committee

**AGENCY:** Geological Survey, Interior.

**ACTION:** Notice of meeting.

**SUMMARY:** Pursuant to Public Law 102–285, the NCGMP Advisory Committee will meet in room 5149 of the Main Interior Building, 1849 C Street NW., Washington, DC. The Advisory Committee, comprised of scientists from Federal agencies, State agencies, academic institutions, and private companies, will advise the Director on planning and implementation of the geologic mapping program.

Topics to be reviewed and discussed by the Advisory Committee include a draft implementation plan for the National Cooperative Geologic Mapping Program; the scientific progress of the Program; progress of the Federal, State, and educational geologic mapping activities toward fulfilling the purposes of the National Geologic Mapping Act of 1992; and others.

**DATES:** April 25–26, 1996, commencing at 8:30 a.m. on April 25th and adjourning by 3:00 p.m. on April 26th.

**FOR FURTHER INFORMATION CONTACT:**

Dr. John F. Sutter, U.S. Geological Survey, Mail Stop 908, National Center, Reston, Virginia 22092, (703) 648–6960.

**SUPPLEMENTARY INFORMATION:** Meetings of the National Cooperative Geologic Mapping Program Advisory Committee are open to the public.

P. Patrick Leahy,

*Chief Geologist, U.S. Geological Survey.*

[FR Doc. 96–8954 Filed 4–9–96; 8:45 am]

**BILLING CODE 4310–31–M**

## Bureau of Land Management

**[NV–910–0777–52]**

## Call for Nominations on Resource Advisory Councils

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** The purpose of this notice is to solicit public nominations for a limited number of seats on each of three Bureau of Land Management (BLM) Resource Advisory Councils currently assisting BLM in Nevada. The three councils—the Northeastern Great Basin, the Sierra Front-Northwestern Great Basin and the Mojave-Southern Great Basin—established in 1995 by the Secretary of the Interior, provide advice to BLM on management of the public lands. Nominations should be received 45 days from the publication date of this notice. In making appointments to Resource Advisory Councils, the Secretary will also consider nominations made by the Governor of the State or States involved.

The Federal Land Policy and Management Act (FLPMA) directs the Secretary of the Interior to establish advisory councils to provide advice on land use planning and issues related to management of lands administered by BLM. Section 309 of FLPMA directs the Secretary to select 10 to 15 member citizen-based advisory councils that are established and authorized consistent with the requirements of the Federal Advisory Committee Act (FACA). In order to reflect a fair balance of viewpoints, the membership of Resource Advisory Councils must be representative of the various interests concerned with the management of the public lands. These include three categories:

Category One—Holders of federal grazing permits, representatives of energy and mining development, transportation or rights-of-way, timber industry, off-road vehicle use or developed recreation.

Category Two—Representatives of environmental and resource conservation organizations, dispersed recreation interests, archaeological and historic interests, or wild horse and burro groups.

Category Three—Representatives of State and local government; employees of State agencies responsible for the management of natural resources, land, or water; representatives of Native American tribes; academicians involved in natural sciences; or the public-at-large.

The Northeastern Great Basin Council has two openings in Category One, one opening in Category Two, and two openings in Category Three (one of these two openings must be filled by an elected official). The Sierra Front-Northwestern Great Basin Council has three opening in Category One, one opening in Category Two, and three openings in Category Three (of these three openings one must be filled by an elected official, one must be filled by a Native American and one must be filled by a State of Nevada agency employee). The Mojave-Southern Great Basin Council has three openings in Category One, one opening in Category Two, and two openings in Category Three (one of these two openings must be filled by an elected official and one must be filled by a State of Nevada agency employee).

Individuals may nominate themselves or others. Nominees must be residents of Nevada or that portion of California managed by the Carson City District Office. Nominees will be evaluated based on their education, training, and experience of the issues and knowledge of the geographical area of the Council. Nominees should have demonstrated a commitment to collaborative resource decision making. All nominations must be accompanied by letters of reference from the represented interest or organization, a completed background information nomination form, as well as any other information that speaks to the nominee's qualifications.

The nomination period will also be announced through press releases issued by the BLM Nevada State Office. Nominations for Resource Advisory Councils should be sent to the BLM office listed below: Ann J. Morgan, State Director, Bureau of Land Management, PO Box 12000, Reno, Nevada 89520–0006.

**DATES:** All nominations should be received on or before May 28, 1996.

**FOR FURTHER INFORMATION CONTACT:** Daniel C.B. Rathbun, Maxine Shane or JoLynn Worley, Bureau of Land Management, 850 Harvard Way, Reno, Nevada 89502–2055, 702–785–6400.

Ann J. Morgan,

*State Director, Nevada.*

[FR Doc. 96–8915 Filed 4–9–96; 8:45 am]

BILLING CODE 4310–HC–M

**[MT–960–1990–00]**

## Resource Advisory Council Meeting, Butte, Montana

**AGENCY:** Butte District Office, Bureau of Land Management.

**ACTION:** Notice of Butte District Resource Advisory Council Meeting, Butte, Montana.

**SUMMARY:** An Emergency meeting of the Council has been scheduled for 9:00 AM, on April 25, 1996, to finalize the Grazing Standards and Guidelines. Because of inclement weather the Council did not have a quorum for the March 28, 1996, meeting and was not able to do the work it had scheduled. The meeting will be held in the conference room of the District Office, 106 North Parkmont.

The meeting is open to the public and written comments may be given to the Council. Oral comments may be presented to the Council at 11 AM. The time allotted for oral comment may be limited, depending on the number of persons wishing to be heard. Individuals who plan to attend and need further information about the meeting; or need special assistance, such as sign language or other reasonable accommodations, should contact the Butte District, 106 North Parkmont (PO Box 3388), Butte, Montana 59702–3388; telephone 406–494–5059.

**FOR FURTHER INFORMATION CONTACT:** Jim Owings at the above address or telephone number.

Dated: April 4, 1996.

Steve Hartmann,

*Acting District Manager.*

[FR Doc. 96–8965 Filed 4–9–96; 8:45 am]

BILLING CODE 4310–DN–P

**[NV–943–1430–01;N–36627]**

## Realty Action: Opening Order, Nevada; Notice

**SUMMARY:** This notice opens the land previously closed to entry by a Recreation and Public Purpose Classification N–36627.

**EFFECTIVE DATE:** April 10, 1996.

**FOR FURTHER INFORMATION CONTACT:** Cheryl Ruffridge, Bureau of Land Management, Las Vegas District Office, 4765 W. Vegas Drive, Las Vegas, Nevada 89108, (702) 647–5000.

**SUPPLEMENTARY INFORMATION:** The lands described below were classified suitable for lease or sale pursuant to the Recreation and Public Purposes Act, as amended (43 U.S.C. 869, 869–1 to 869–4) and the land was segregated from appropriation under the public land laws and the general mining laws. The segregation was terminated January 23, 1995 by publication in the Federal Register (60 FR Page #4444).

Mount Diablo Meridian, Nevada

T. 22 S., R. 59 E.,
Sec. 9: Lots 15, 16, 17, and 18.
Containing 60.00 acres, more or less.

On the date of publication of this notice in the Federal Register the land will be opened to appropriation under Public Law 101–621 Red Rock Canyon National Conservation Area Establishment Act of 1990 and Public Law 103–450 Red Rock Canyon National Conservation Area Expansion Act of 1994. All federal lands within the conservation area and all lands and interests therein which are acquired by the United States after the date of enactment of these Acts for inclusion in the conservation area are withdrawn from all forms of entry, appropriation, or disposal under the public land laws, from location, entry, and patent under the mining laws, and from operations under the mineral leasing and geothermal leasing laws, and all amendments thereto.

Dated: March 29, 1996.

Mark R. Chatterton,

*Assistant District Manager, Non-Renewable Resources, Las Vegas, NV.*

[FR Doc. 96–8835 Filed 4–9–96; 8:45 am]

BILLING CODE 1430–HC–P

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**[CA–056–066–1220–00]**

## Requirement for Group Use Permits, King Range National Conservation Area

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** The Bureau of Land Management will require all organized groups to obtain special recreation permits to access the backcountry trail system in the King Range National Conservation Area. The permits include conditions limiting group size, stock animal numbers, and number of groups per day that are allowed to start at each trailhead. The permits also contain conditions requiring groups to follow low-impact use practices. There are no fees for the permits. The permit requirement is intended to limit current overcrowding and resource impacts to the area.

**EFFECTIVE DATE:** May 1, 1996.

**FOR FURTHER INFORMATION CONTACT:** Lynda J. Roush, Area Manager, Bureau of Land Management, Arcata Resource Area, 1695 Heindon Rd., Arcata, CA 95521–4573. Telephone (707) 825–2300.

**SUPPLEMENTARY INFORMATION:** This notice fulfills the requirements of 43 CFR 8372.1 which authorizes the issuance of special recreation permits in areas where the authorized officer determines that the resources require special management and control measures for their protection. This permit requirement is intended to spread use away from peak periods, ensure that groups are informed of low impact use techniques, and to eliminate the large groups that are impacting the physical and social conditions of the area. The action is discussed in Environmental Assessment Number: AR–96–15, King Range Permits.

Lynda J. Roush,

*Arcata Area Manager.*

[FR Doc. 96–8831 Filed 4–9–96; 8:45 am]

BILLING CODE 4310–40–M

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**[CO–956–96–1420–00]**

## Colorado: Filing of Plats of Survey

April 1, 1996.

The plats of survey of the following described land, will be officially filed in the Colorado State Office, Bureau of Land Management, Lakewood, Colorado, effective 10:00 am., April 1, 1996. All inquiries should be sent to the Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado 80215.

The supplemental plat amending the location of Mineral Survey 1238 B, Venezuela Mill Site and the lotting in the NW¼ of section 19, in Township 22 South, Range 73 W., Sixth Principal Meridian, Colorado, was accepted March 28, 1996.

The supplemental plat correcting the bearing to the Witness Corner of the Center-North 1/16 of section 33 in Township 12 South, Range 89 W., Sixth Principal Meridian, Colorado, was accepted March 18, 1996.

The plat representing the dependent resurvey of a portion of the subdivisional lines and the subdivision of sections 7, 8 and 18 in Township 50 North, Range 11 East, New Mexico Principal Meridian, Group 1090, Colorado, was accepted March 14, 1996.

These surveys were executed to meet certain administrative needs of this Bureau.

The plat, in 2 sheets, representing the dependent resurvey and the metes-and-bounds survey required to define the boundaries of Lot 1 in the NE¼ of the SE¼ of the NW¼ of section 17, Township 2 North, Range 83 West, Sixth Principal Meridian, Group 1117, Colorado, was accepted March 18, 1996.

The plat representing the metes-and-bounds survey of Parcel A in the NW¼ of the NE¼ of section 25, Township 50 North, Range 1 West, New Mexico Principal Meridian, Group 1047, Colorado, was accepted March 19, 1996.

The plat representing the metes-and-bounds survey to identify certain lots in sections 7 and 8, Township 4 South, Range 73 West, Sixth Principal Meridian, Group 690, Colorado, was accepted March 14, 1996.

These surveys were executed to meet certain administrative needs of the U.S. Forest Service, Rocky Mountain Region.

The plat representing the dependent resurvey of portions of the west boundary and the subdivisional lines and the subdivision of section 17 and 18 in Township 6 North, Range 102 West, Sixth Principal Meridian, Group 1120, Colorado, was accepted March 12, 1996.

The plat representing the dependent resurvey of portions of the subdivisional lines and the subdivision of section 14, 15 and 22 in Township 6 North, Range 103 West, Sixth Principal Meridian, Group 1120, Colorado, was accepted March 12, 1996.

These surveys were executed to meet certain administrative needs of the National Park Service, by request of the Superintendent, Dinosaur National Monument.

The plat representing the dependent resurvey of portions of the south and west boundaries and the subdivision of section 31, in Township 34 1/2 North, Range 9 West, New Mexico Principal Meridian, Group 1127, Colorado, was accepted March 29, 1996.

This survey was executed to meet certain administrative needs of the Bureau of Reclamation for the Animas LaPlata Project.

Darryl A. Wilson,

*Chief Cadastral Surveyor for Colorado.*

[FR Doc. 96–8832 Filed 4–9–96; 8:45 am]

BILLING CODE 4310–JB–P

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# Minerals Management Service

## Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** Minerals Management Service, Interior.

**ACTION:** Notice of request to extend a currently approved information collection; request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork and respondent burden, the Minerals Management Service (MMS) invites the public and other Federal agencies to comment on a request to extend a currently approved collection of information contained in regulations governing platforms and structures in the Outer Continental Shelf (OCS). MMS will request approval

from the Office of Management and Budget (OMB) to extend this collection of information.

**DATES:** Submit written comments by June 10, 1996.

**ADDRESSES:** Direct all written comments to the Department of the Interior; Minerals Management Service; Mail Stop 4700; 381 Elden Street; Herndon, Virginia 22070–4817; Attention: Chief, Engineering and Standards Branch.

**FOR FURTHER INFORMATION CONTACT:** Alexis London, Engineering and Standards Branch, Minerals Management Service, telephone (703) 787–1562.

**SUPPLEMENTARY INFORMATION:**

*Abstract:* 1. The Outer Continental Shelf Lands Act (OCSLA), at 43 U.S.C. 1331 *et seq.*, requires the Secretary of the Interior to preserve, protect, and develop oil and gas resources in the OCS; make such resources available to meet the Nation's energy needs as rapidly as possible; balance orderly energy resources development with protection of the human, marine, and coastal environment; ensure the public and fair and equitable return on the resources offshore; and preserve and maintain free enterprise competition. Section 30(a) of the OCSLA (43 U.S.C. 1356) requires the issuance of ''* * * regulations which require that any vessel, rig, platform, or other vehicle or structure—* * * (2) which is used for activities pursuant to this subchapter, comply, * * * with such minimum standards of design, construction, alteration, and repair as the Secretary or the Secretary of the Department in which the Coast Guard is operating establishes; * * *'' To carry out these responsibilities, the Director of MMS has issued rules governing structural safety of platforms and structures used in the OCS. These rules and the associated information collection requirements are contained in 30 CFR Part 250, Subpart I, Platforms and Structures.

2. MMS OCS Regions use the information collected to determine the structural integrity of all offshore structures and to ensure that such integrity will be maintained throughout the useful life of these structures. If we did not collect the information, we could not:

a. Review information concerning damage to a platform to assess the adequacy of proposed repairs.

b. Review plans for platform construction (construction is divided into three phases—design, fabrication, and installation) to ensure the structural integrity of the platform.

c. Review verification plans and reports for unique platforms to ensure that all nonstandard situations are given proper consideration during the design, fabrication, and installation phases of platform construction.

d. Review platform design, fabrication, and installation records to ensure that the platform is constructed according to approved plans.

e. Review inspection reports to ensure that platform integrity is maintained for the life of the platform.

3. The reporting and recordkeeping requirements and number of respondents vary for each section. The estimates below are based on an average.

*Description of Respondents*: Federal OCS oil and gas lessees.

*Frequency*: On occasion; varies by section.

*Estimated Number of Respondents:* 130.

*Estimate of Burden:* Reporting average of 22.4 annual hours per response; recordkeeping average of 50 annual hours per recordkeeper.

*Estimate of Total Annual Burden on Respondents:* Reporting burden estimate = 12,605; recordkeeping burden estimate = 6,000. Estimated combined total of 18,605.

*Estimate of Total Annual Cost to Respondents for Hour Burdens:* Based on $35 per hour, the total cost to lessees is estimated to be $651,175.

*Estimate of Total Other Annual Costs to Respondents:* Unknown.

*Type of Request:* Extension.

*OMB Number:* 1010–0058.

*Form Number:* N/A.

*Comments:* MMS will summarize written responses to this notice and include them in the request for OMB approval. All comments will become a matter of public record.

1. MMS specifically solicits comments on the following questions: (a) Is the proposed collection of information necessary for the proper performance of MMS' functions and will it be useful? (b) Are the estimates of the burden of the proposed collection reasonable? (c) Do you have any suggestions that would enhance the quality, clarity, or usefulness of the information to be collected? (d) Is there a way to minimize the information collection burden on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other forms of information technology?

2. In addition, the Paperwork Reduction Act of 1995 requires agencies to estimate the total annual cost burden to respondents or recordkeepers resulting from the collection of information. MMS needs your comments on this item. Your response should split the cost estimate into two components: (a) total capital and startup cost component and (b) annual operation, maintenance and purchase of services component. Your estimates should consider costs associated with generating, maintaining, and disclosing or providing the information. You should include descriptions of methods used to estimate major cost factors, including system and technology acquisition, expected useful life of capital equipment, discount rate(s), and period over which costs will be incurred. Capital and startup costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities. Generally, your estimates should not include equipment or services purchased: before October 1, 1995; to achieve regulatory compliance with requirements not associated with the information collection; for reasons other than to provide information or keep records for the Government; or as part of customary and usual business or private practices.

*Bureau Clearance Officer:* Carole A. deWitt (703) 787–1242.

Dated: April 2, 1996.

Henry G. Bartholomew,

*Deputy Associate Director for Operations and Safety Management.*

[FR Doc. 96–8833 Filed 4–9–96; 8:45 am]

**BILLING CODE 4310–MR–M**

## Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** Minerals Management Service, Interior.

**ACTION:** Notice of request to extend five currently approved information collections; request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork and respondent burden, the Minerals Management Service (MMS) invites the public and other Federal agencies to comment on a request to extend five currently approved collections of information. These collections are contained in regulations governing oil, gas, and sulphur operations on the Outer Continental Shelf (OCS). MMS will request approval from the Office of Management and Budget (OMB) to extend these collections of information.

**DATES:** Submit written comments by June 10, 1996.

**ADDRESSES:** Direct all written comments to the Department of the Interior, Minerals Management Service, Mail Stop 4700, 381 Elden Street, Herndon, Virginia 22070–4817; Attention: Chief, Engineering and Standards Branch.

**FOR FURTHER INFORMATION CONTACT:** Alexis London, Engineering and Standards Branch, Minerals Management Service, telephone (703) 787–1562.

**SUPPLEMENTARY INFORMATION:**

*Abstract:* 1. The Outer Continental Shelf Lands Act (OCSLA), 43 U.S.C. 1331 *et seq.*, requires the Secretary of the Interior (Secretary) to preserve, protect, and develop oil and gas resources in the OCS; make such resources available to meet the Nation's energy needs as rapidly as possible; balance orderly energy resources development with protection of the human, marine, and coastal environment; ensure the public and fair and equitable return on the resources offshore; preserve and maintain free enterprise competition; and ensure that the extent of oil and natural gas resources of the OCS is assessed at the earliest practicable time. To carry out these responsibilities, the Secretary has authorized the Director of MMS to issue rules governing oil and gas and sulphur operations in the OCS. These rules and the associated information collection requirements are contained in 30 CFR Part 250, Subpart D, Drilling Operations; Subpart E, Well-Completion Operations; Subpart F, Well-Workover Operations; Subpart G, Abandonment of Wells; Subpart K, Production Rates; and Subpart P, Sulphur Operations. Various sections of these subparts require lessees to submit several MMS forms.

2. Failure to collect this information would prevent the Director from carrying out the mandate of the OCSLA and implementing the provisions contained in 30 CFR Part 250. The following explains how MMS uses the information collected and the consequences if MMS did not collect the information.

a. Form MMS–123, Application for Permit to Drill: MMS uses the information to determine the conditions of a drilling site in order to avoid hazards inherent in drilling operations and to decide whether the drilling operations are safe and environmentally sound. If MMS did not collect this information, we could not ensure that drilling operations were planned to minimize the risks to personnel and the environment.

b. Form MMS–124, Sundry Notices and Reports on Wells: MMS District Supervisors use the information to evaluate the adequacy of the equipment, materials, and/or procedures that the lessee plans to use for drilling, production, well-completion, and well-workover operations. These include deepening and plugging back and well-abandonment operations, including temporary abandonments where the wellbore will be reentered and completed or permanently abandoned. If MMS did not collect this information, we could not review lessee plans to require changes to drilling procedures or equipment to ensure that levels of safety and environmental protection are maintained. Nor could we review information concerning requests for approval or subsequent reporting of well-completion or well-workover operations to ensure that procedures and equipment are appropriate for the anticipated conditions.

c. Form MMS–125, Well Summary Report: MMS District Supervisors use the information to ensure that they have accurate data on the wells under their jurisdiction and to ensure compliance with approved plans. It is also used to evaluate remedial action in well-equipment failure or well-control loss situations.

d. Form MMS–126, Well Potential Test Report and Request for Maximum Production Rate (MPR): MMS District Supervisors use this form to determine the MPR for an oil or gas well. The form contains information concerning the conditions and results of a well-potential test. This requirement carries out the conservation provisions of the OCSLA and 30 CFR Part 250. Failure to collect this information could result in waste of energy resources in the OCS by production at imprudent rates, jeopardizing the ultimate full recovery of hydrocarbons.

e. Form MMS–128, Semi-annual Well Test Report: MMS Gulf of Mexico and Pacific Regional Supervisors use this information to evaluate the results of well tests to find out if reservoirs are being depleted in a way that will lead to the greatest ultimate recovery of hydrocarbons. The form is designed to present current well data on a semiannual basis to allow the updating of permissible producing rates and to provide the basis for estimates of currently remaining recoverable gas reserves.

*Description of Respondents:* Federal OCS oil and gas lessees.

*Estimated Number of Respondents:* 130 for each form.

*Frequency:* Forms MMS–123, MMS–124, MMS–125, and MMS–126 are on occasion; Form MMS–128 is semiannual.

*Estimate of Annual Burden:*

MMS–123 1,014 responses 2 hrs per response = 2,028 hours
MMS–124 9,958 responses 1 hr per response = 9,958 hours
MMS–125 2,119 responses 1 hr per response = 2,119 hours
MMS–126 4,043 responses 1 hr per response = 4,043 hours
MMS–128 1,716 responses 2 hrs per response = 3,432 hours

*Estimate of Total Annual Cost to Respondents for Hour Burdens:* Based on an estimated cost of $35 or $30 per hour:

MMS–123 2,028 hours $35 per hour = $70,910
MMS–124 9,958 hours $35 per hour = $348,530
MMS–125 2,119 hours $35 per hour = $74,165
MMS–126 4,043 hours $30 per hour = $121,290
MMS–128 3,432 hours $30 per hour = $102,960

*Estimate of Total Other Annual Costs to Respondents:* Unknown.

*Type of Request:* Extensions.

*OMB Number (Form Numbers):* 1010–0044 (MMS–123); 1010–0045 (MMS–124); 1010–0046 (MMS–125); 1010–0039 (MMS–126); 1010–0018 (MMS–127); 1010–0017 (MMS–128).

*Comments:* MMS will summarize written responses to this notice for inclusion in the request for OMB approval. All comments will become a matter of public record.

1. As required by the Paperwork Reduction Act of 1995, MMS specifically solicits responses to the following questions: (a) Is the proposed collection of information necessary for the proper performance of MMS' functions and will it be useful? (b) Are the estimates of the burden of the proposed collection reasonable? (c) Do you have any suggestions that would enhance the quality, clarity, or usefulness of the information to be collected? (d) Is there a way to minimize the information collection burden on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other forms of information technology?

2. In addition, the Paperwork Reduction Act of 1995 requires agencies to estimate the total annual cost burden to respondents or recordkeepers resulting from the collection of information. MMS needs your comments on this item. Your response should split the cost estimate into two components: (a) a total capital and startup cost component and (b) an annual operation, maintenance, and purchase of services component. Your

estimates should consider costs associated with generating, maintaining, and disclosing or providing the information. You should include descriptions of methods used to estimate major cost factors, including system and technology acquisition, expected useful life of capital equipment, discount rate(s), and period over which costs will be incurred. Capital and startup costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling, and testing equipment; and record storage facilities. Generally, estimates should not include purchases of equipment or services made: before October 1, 1995; to achieve regulatory compliance with requirements not associated with the information collection; for reasons other than to provide information or keep records for the government; or as part of customary and usual business or private practices.

*Bureau Clearance Officer:* Carole A. deWitt (703) 878–1242.

Dated: April 2, 1996.

Henry G. Bartholomew,

*Deputy Associate Director for Operations and Safety Management.*

[FR Doc. 96–8834 Filed 4–9–96; 8:45 am]

**BILLING CODE 4310–MR–M**

## Outer Continental Shelf, Alaska Natural Gas and Oil Lease Sales

**AGENCY:** Minerals Management Service (MMS), Interior.

**ACTION:** Request for Indications of Continuing Interest and Comments for Oil and Gas Lease Sales: Beaufort Sea, Sale 144; Cook Inlet, Sale 149; and Gulf of Alaska/Yakutat, Sale 158.

The Minerals Management Service (MMS) is requesting information on natural gas and oil lease sales in the Alaska OCS Region. These sales are included in the 5-Year Program for 1992–1997 and are in various stages of the pre-sale process. The areas currently being considered for offering are shown on the maps for each area included in this Notice. Larger scale maps are also available for use at the Alaska OCS Region, 949 East 36th Avenue, 3rd Floor, Anchorage, Alaska 99508–4302, telephone (907) 271–6691. All indications of interest and comments containing confidential information will be deemed to be proprietary information.

Beaufort Sea Sale 144 is currently scheduled for late September 1996. The final Environmental Impact Statement (EIS) is due to be filed next month. Potential bidders are asked to indicate whether they have a continuing interest in leasing and conducting oil and gas operations in any portion of the sale area and to specifically identify those areas of interest by outlining groups of blocks using MMS's Beaufort Sea Sale 144 maps.

Cook Inlet Sale 149 is currently scheduled for late June 1996. Governor Knowles of Alaska recently indicated that he believed that industry interest in a lease sale in this area was uncertain. Potential bidders are asked to indicate whether they have a continuing interest in leasing and conducting oil and gas operations in any portion of the sale area and to specifically identify those areas of interest by outlining groups of blocks using MMS's Cook Inlet Sale 149 maps.

Preparations for Sale 158, Gulf of Alaska/Yakutat have been proceeding toward a proposed mid-1997 sale date. However, recent information from industry showed much less interest in the area among companies which had earlier supported the proposal. Comments on Sale 158 will help MMS determine whether preparations should continue or the area be deferred for consideration in the 1997–2002 5-Year Program. Also, note that the comment period for the draft EIS for Sale 158 is hereby extended to May 25, 1996.

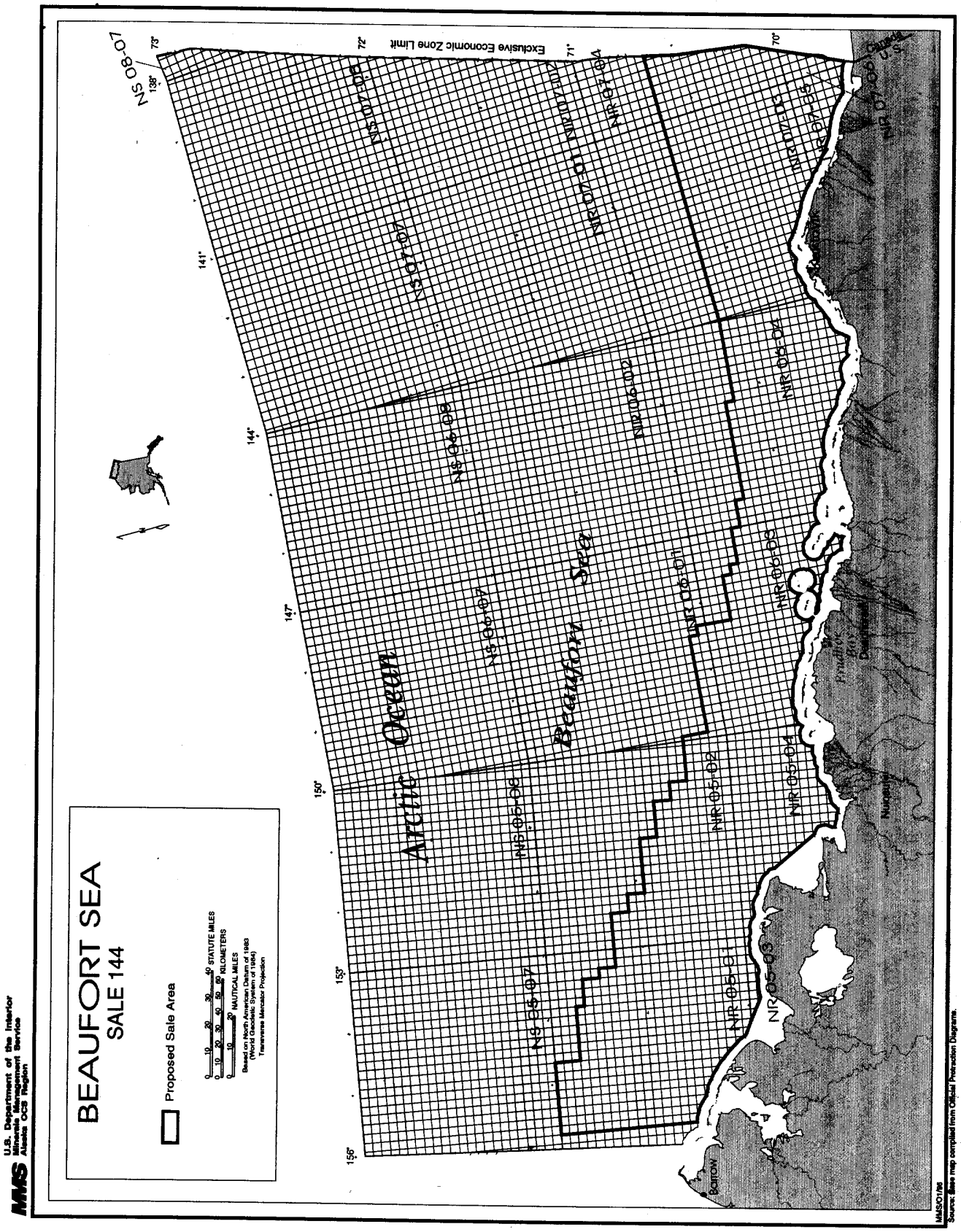
Responses are requested within 15 days of the publication of this notice. Letters and/or maps should be mailed or delivered to the Regional Supervisor, Leasing and Environment, Alaska OCS Region, 949 East 36th Avenue, 3rd Floor, Anchorage, Alaska 99508–4302. Responses may also be sent by fax to (907) 271–6805. Telephone inquiries may be made to Mr. Tom Warren at (907) 271–6691. Additionally, respondents may request a meeting with MMS to discuss, in a confidential manner, the specific areas of interest.

Dated: April 5, 1996.

Thomas Gernhofer,

*Associate Director for Offshore Minerals Management.*

**BILLING CODE 4310–MR–M**


U.S. Department of the Interior
Minerals Management Service
Alaska OCS Region
MMS
BEAUFORT SEA
SALE 144
Proposed Sale Area
0 10 20 30 40 50 STATUTE MILES
0 10 20 30 40 50 KILOMETERS
0 10 20 NAUTICAL MILES
Based on North American Datum of 1983
(World Geodetic System of 1984)
Transverse Mercator Projection
Arctic Ocean
Beaufort Sea
Exclusive Economic Zone Limit
NS 08-07
NS 07-08
NS 07-07
NS 06-09
NS 06-07
NS 05-06
NR 06-02
NR 06-01
NR 05-02
NR 05-01
NR 05-03
NR 05-04
NR 05-05
NR 07-04
NR 07-05
NR 07-06
NR 07-07
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138°
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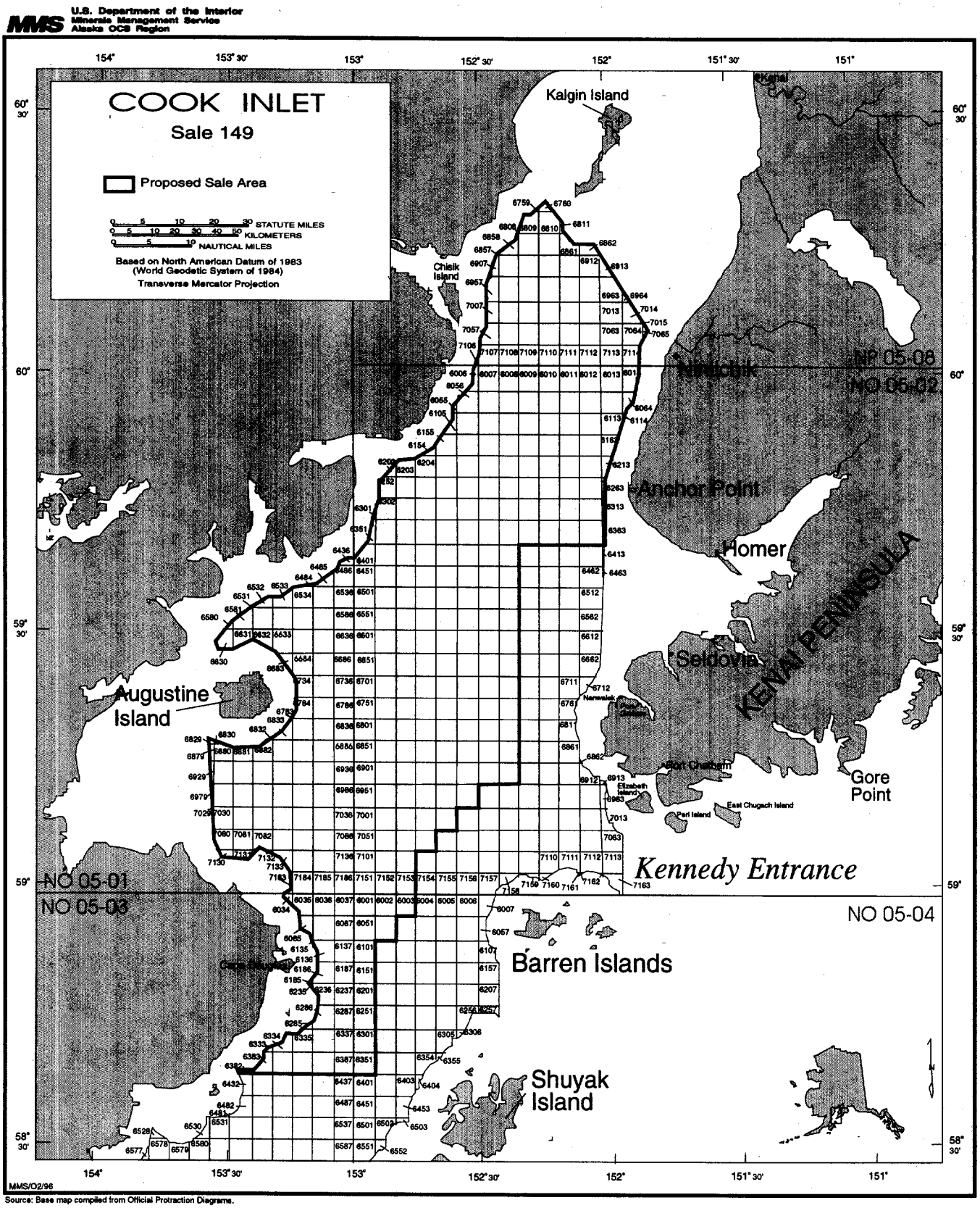
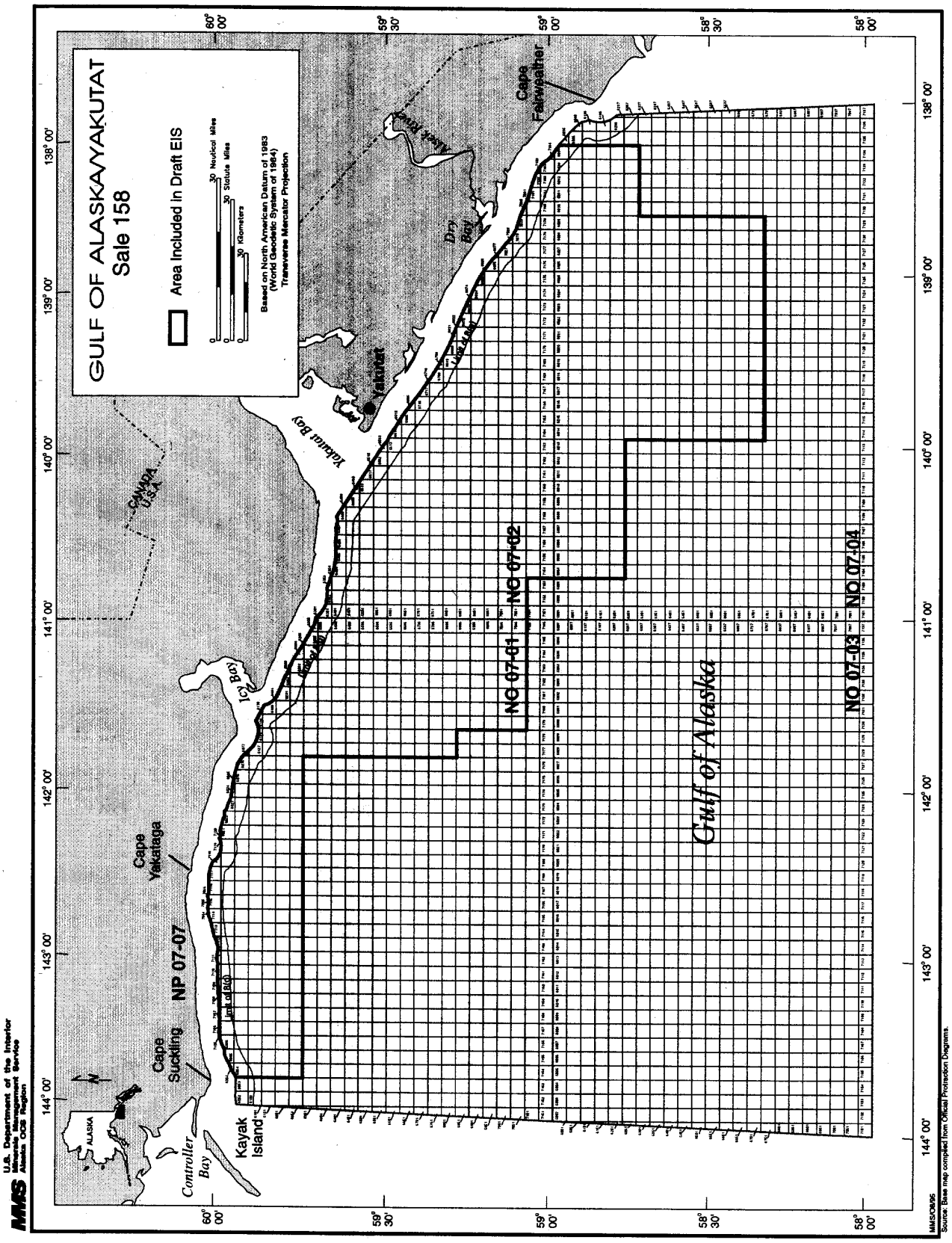
73°
72°
71°
70°
Barrow
Nuiqsut
Prudhoe Bay
Deadhorse
Canada
U.S.
MMS/0196
Source: Base map compiled from Official Protraction Diagrams.




Source: Base map compiled from Official Protraction Diagrams.




[FR Doc. 96–8953 Filed 4–9–96; 8:45 am]

BILLING CODE 4310–MR–M

## Notice on Outer Continental Shelf Gas and Oil Lease Sales

**AGENCY:** Minerals Management Service, Interior.

**ACTION:** List of Restricted Joint Bidders.

**SUMMARY:** Pursuant to the authority vested in the Director of the Minerals Management Service by the joint bidding provisions of 30 CFR 256.41, each entity within one of the following groups shall be restricted from bidding with any entity in any other of the following groups at Outer Continental Shelf oil and gas lease sales to be held during the bidding period from May 1, 1996, through October 31, 1996. The List of Restricted Joint Bidders published October 16, 1995, in the Federal Register at 60 FR 53642 covered the period of November 1, 1995, through April 30, 1996.

Group I. Exxon Corporation; Exxon San Joaquin Production Co.

Group II. Shell Oil Co.; Shell Offshore Inc.; Shell Western E&P Inc.; Shell Frontier Oil & Gas Inc.; Shell Consolidated Energy Resources Inc.; Shell Land & Energy Company; Shell Onshore Ventures Inc.; CalResources LLC.

Group III. Mobil Oil Corp.; Mobil Oil Exploration and Producing Southeast Inc.; Mobil Producing Texas and New Mexico Inc.; Mobil Exploration and Producing North America Inc.

Group IV. BP America Inc.; The Standard Oil Co.; BP Exploration & Oil Inc.; BP Exploration (Alaska) Inc.

Dated: April 4, 1996.

Cynthia Quarterman,

*Director, Minerals Management Service.*

[FR Doc. 96–8952 Filed 4–9–96; 8:45 am]

BILLING CODE 4310–MR–M

## AGENCY FOR INTERNATIONAL DEVELOPMENT

### Notice of Public Information Collection Being Reviewed by the Agency for International Development, Proposed Collections; Comments Requested

**SUMMARY:** Agency for International Development (AID), is making efforts to reduce the paperwork burden. AID invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act for 1995. Comments are requested concerning: (a) whether the proposed or continuing collections of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

**DATES:** Send this information collection on or before June 10, 1996.

**ADDRESSES INFORMATION:** Contact Mary Ann Ball, Bureau for Management, Office of Administrative Services, Information Support Services Division, Agency for International Development, Room B930, N.S., Washington, D.C., (202) 736–4743 or via e-mail MABall@USAID.GOV

**SUPPLEMENTARY INFORMATION:**

*Title:* Private Voluntary Organization Annual Return.

*Form No.:* AID 1550–20 (1/96).

*OMB No:* 0412–0035.

*Type of Review:* Extension of Information Collection.

*Abstract:* AID is required to collect information regarding the financial support of private and voluntary organizations registered with the Agency. The information is used to determine the eligibility of PVO's to receive AID funding.

*Respondents:* Not-for-profit institutions.

*Number of Respondents:* 436.

*Estimated Total Annual Hour Burden on Respondents:* 436 hours.

Dated: April 1, 1996.

Genease E. Pettigrew,

*Chief, Information Support Services Division, Office of Administrative Services, Bureau of Management.*

[FR Doc. 96–8845 Filed 4–9–96; 8:45 am]

BILLING CODE 6116–01–M

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 731–TA–747 (Preliminary)]**

### Fresh Tomatoes From Mexico

**AGENCY:** United States International Trade Commission.

**ACTION:** Institution and scheduling of a preliminary antidumping investigation.

**SUMMARY:** The Commission hereby gives notice of the institution of preliminary antidumping Investigation No. 731–TA–747 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Mexico of fresh or chilled tomatoes, provided for in subheading 0702.00.20, 0702.00.40, and 0702.00.60 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to section 732(c)(1)(B) of the Act (19 U.S.C. § 1673a(c)(1)(B)), the Commission must complete preliminary antidumping investigations in 45 days, or in this case by May 16. The Commission's views are due at the Department of Commerce within five business days thereafter, or by May 23, 1996.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

**EFFECTIVE DATE:** April 1, 1996.

**FOR FURTHER INFORMATION CONTACT:** Fred Ruggles (202–205–3187), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov or ftp://ftp.usitc.gov).

**SUPPLEMENTARY INFORMATION:**

*Background.*—This investigation is being instituted in response to a petition filed on April 1, 1996, by the Florida Tomato Growers Exchange, Orlando, FL, Florida Fruit and Vegetable Association, Orlando, FL, Florida Farm Bureau Federation, Gainesville, FL, South Carolina Tomato Association, Inc., Charleston, SC, Gadsden County Tomato Growers Association, Inc., Quincy, FL, Accomack County Farm Bureau, Accomack, VA, Florida Tomato Exchange, Orlando, FL, Bob Crawford, Commissioner of Agriculture, Florida Department of Agriculture and Consumer Services, Tallahassee, FL, and the Ad Hoc Group of Florida, California, Georgia, Pennsylvania, South Carolina, Tennessee, and Virginia Tomato Growers, with the Commission and Commerce.

*Participation in the investigation and public service list.*—Persons (other than petitioners) wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the Federal Register. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

*Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.*—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this preliminary investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made not later than seven days after the publication of this notice in the Federal Register. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

*Conference.*—The Commission's Director of Operations has scheduled a conference in connection with this investigation for 9:30 a.m. on April 22, 1996, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Fred Ruggles (202–205–3187) not later than April 18, 1996, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

*Written submissions.*—As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before April 25, 1996, a written brief containing information and arguments pertinent to the subject matter of the investigation. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

Issued: April 4, 1996.

By order of the Commission.

Donna R. Koehnke,

*Secretary.*

[FR Doc. 96–8934 Filed 4–9–96; 8:45 am]

BILLING CODE 7020–02–P

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**[Investigation No. 337–TA–383]**

## Hardware Logic Emulation Systems and Components Thereof; Notice

On April 4, 1996 the presiding administrative law judge issued Order No. 14 in *Certain Hardware Logic Emulation Systems And Components Thereof,* Inv. No. 337–TA–383, making the temporary relief phase of the investigation more complicated, pursuant to Commission rule 210.60. Based on the record to date, and in view of the problems generated in discovery and the complexity of the subject matter, he found that additional time will give the parties a better opportunity to present evidence in a more orderly manner and create a complete record.

The Secretary shall publish this notice in the Federal Register.

Issued: April 4, 1996.

Paul J. Luckern,

*Administrative Law Judge.*

[FR Doc. 96–8933 Filed 4–9–96; 8:45 am]

BILLING CODE 7020–02–P

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# DEPARTMENT OF JUSTICE ANTITRUST DIVISION

## Antitrust Division

## Notice Pursuant to the National Cooperative Research and Production Act of 1993—CAD Framework Initiative, Inc.

Notice is hereby given that, on October 11, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), CAD Framework Initiative, Inc. (''CFI'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing certain changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, these changes are as follows: (1) Nortel, Nepean, Ontario, CANADA; and Ericsson, Stockholm, SWEDEN: have joined as new Corporate Members; (2) CPQD Telebras, Campinas-SP, BRAZIL, has reinstated its Associate Membership; (3) Lockheed-Sanders; Martin-Marietta; and Teradyne have not renewed their Corporate Memberships in CFI; (4) INSEC has not renewed its Associate Membership in CFI.

On December 30, 1988, CFI filed its original notification pursuant to Section 6(a) of the Act. That filing was amended on February 7, 1989. The Department of Justice published a notice concerning the amended filing in the Federal Register pursuant to Section 6(b) of the Act on March 13, 1989 (54 Fed. Reg. 10456). A correction notice was published on April 20, 1989 (54 Fed. Reg. 16013).

The last notification was filed with the Department on October 11, 1995. A notice was published in the Federal Register pursuant to Section 6(b) of the Act on November 17, 1994 (59 Fed. Reg. 59433).

Constance K. Robinson,

*Director of Operations Antitrust Division.*

[FR Doc. 96–8871 Filed 4–9–96; 8:45 am]

BILLING CODE 4410–01–M

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## Notice Pursuant to the National Cooperative Research and Production Act of 1993—Department of Commerce Advanced Technology Program Cooperative Agreement No. 70NANB5H1144 ''Flow Control Machining''

Notice is hereby given that, on February 5, 1996, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* (''the Act''), Extrude Hone Corporation, for itself and for the participants in the Department of Commerce Advanced Technology Program Cooperative Agreement No. 70NANBSH1144 ''Flow Control Machining'' (the ''Cooperative Agreement''), has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the Cooperative Agreement. The notifications were filed for the purpose of invoking the Act's

provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties and its general areas of planned activity are Extrude Hone Corporation, Irwin, PA; Ford Motor Company, Dearborn, MI; General Motors Corporation, Pontiac, MI; University of Pittsburgh, Pittsburgh, PA; and University of Nebraska, Lincoln, NE. The general areas of planned activity for the parties to the Cooperative Agreement are to develop and demonstrate techniques for the flow control machining of aspiration passages and combustion chambers for automotive production.

Constance K. Robinson,

*Director of Operations, Antitrust Division.*

[FR Doc. 96–8866 4–9–96; 8:45 am]

**BILLING CODE 4410–01–M**

## Notice Pursuant to the National Cooperative Research and Production Act of 1993—Financial Services Technology Consortium, Inc.; Electronic Check Project

Notice is hereby given that, on February 13, 1996, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* (''the Act''), Financial Services Technology Consortium, Inc. (the ''Consortium'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership in the Electronic Check Project sponsored by the Consortium. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the following have become members of the Electronic Check Project: Huntington Bancshares, Inc., Columbus, OH; RDM Corporation, Waterloo, Ontario, CANADA; and American Express Travel Related Services Company, Inc., New York, NY.

No other changes have been made in either the membership or planned activity of the group research and development project. Membership in this group research and development project remains open, and the Consortium intends to file additional written notifications disclosing all changes in membership.

On August 10, 1995, the Consortium filed its original notification pursuant to Section 6(a) of the Act. A notice has not yet been published in the Federal Register.

The last notification was filed with the Department on December 15, 1995. A notice has not yet been published in the Federal Register.

Constance K. Robinson,

*Director of Operations, Antitrust Division.*

[FR Doc. 96–8867 Filed 4–9–96; 8:45 am]

**BILLING CODE 4410–01–M**

## Notice Pursuant to the National Cooperative Research and Production Act of 1993 Fuel Cell Commercialization Group

Notice is hereby given that, on January 24, 1996, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* (''the Act''), the Fuel Cell Commercialization Group (''FCCG'') filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing the resignation and withdrawal of seven members of the FCCG. The notification was filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the FCCG advised that Lower Colorado River Authority, Austin TX; Niagara Mohawk Power Corporation, Syracuse, NY; TransAlta Utilities Corporation, Calgary, ALBERTA, City of Pasadena Water and Power, Pasadena, CA: Northern State Power Corporation, Minneapolis, Minnesota; Rochester Gas and Electric Corporation, Rochester, NY; and New York State Electric and Gas, Binghamton, NY are no longer members of the FCCG.

No other changes have been made in either the membership or planned activity of the FCCG. Membership in the FCCG remains open, although certain membership benefits are based in part on the date on which the member joined the organization. The FCCG intends to file additional written notification disclosing all changes in membership.

On September 21, 1990, the FCCG filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the Federal Register pursuant to section 6(b) of the Act on October 25, 1990, 55 FR 43050. The last notification was filed with the Department on May 26, 1995. A notice was published in the Federal Register pursuant to Section 6(b) of the Act on June 28, 1996, 60 FR 33432.

Constance K. Robinson,

*Director of Operations, Antitrust Division.*

[FR Doc. 96–8869 Filed 4–9–96; 8:45 am]

**BILLING CODE 4410–01–M**

## Notice Pursuant to the National Cooperative Research and Production Act of 1993—Healthcare Information Infrastructure Proposal (HIIT)

Notice is hereby given that, on August 9, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* (''the Act''), Healthcare Information Infrastructure Proposal (HIIT) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing certain changes. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the following new participants in the program, led by the South Carolina Research Authority (SCRA), Columbia, SC and operating under the Healthcare Open Systems & Trials (HOST) Consortium are: SoftMed Systems, Inc., Sacramento, CA; Liberty Health System, Baltimore, MD; and Statewide Health Information Network, Inc., Charleston, WV. The following parties have changed their names: BellSouth Network Solutions, Atlanta, GA formerly doing business as BellSouth Business Systems and Connecticut Healthcare Research and Education Foundation, Inc., Wallingford, CT, formerly doing business as Connecticut Hospital Research and Education Foundation, Inc.

No other changes have been made in either the membership or planned activities of HIIT. Membership in HIIT remains open, and HIIT intends to file additional written notification disclosing all changes in membership.

On September 27, 1994, HIIT filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the Federal Register pursuant to Section 6(b) of the Act on February 15, 1995 (60 FR 8735–02).

Constance K. Robinson,

*Director of Operations, Antitrust Division.*

[FR Doc. 96–8862 Filed 4–9–96; 8:45 am]

**BILLING CODE 4410–01–M**

## Notice Pursuant to the National Cooperative Research and Production Act of 1993—IAP Research, Inc.

Notice is hereby given that, on October 16, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* (''the Act''), IAP Research, Inc. filed written notification

simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature of objectives of a joint venture for research and production. The notification was filed for the purpose of limiting recovery of plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are: General Motors Corporation, Powertrain Division, Pontiac, MI; IAP Research, Inc., Dayton, OH; and Zenith Sintered Products, Inc., Germantown, WI.

The purpose of this joint venture is to develop and demonstrate the next generation industrial process for high density powder metal products. The activities of this joint venture project will be partially funded by an award from the Advanced Technology Program, National Institute of Standards and Technology, Department of Commerce.

Constance K. Robinson,

*Director of Operations, Antitrust Division.*

[FR Doc. 96–8863 4–9–96 8:45 am]

**BILLING CODE 4410–01–M**

## Notice Pursuant to the National Cooperative Research and Production Act of 1993—Open Software Foundation, Inc.

Notice is hereby given that, on October 6, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* (''the Act''), Open Software Foundation, Inc. (''OSF'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the identities of the new, non-voting members of OSF are as follows: University of Western Sydney, Kingwood, Australia; British Columbia Systems Corporation, Victoria, Canada; Jet Propulsion Laboratory, Pasadena, CA; Stanford University, ITS, Stanford, CA; Telestra Corporation, Victoria, Australia; Toyota Motor Corporation, Toyota, Japan; The Ohio State University, Columbus, OH; European Centre for Medium Range Weather, Reading, Berks, United Kingdom; Telos Federal Systems, Shrewsbury, NJ; British Columbia Hydro and Power, Vancouver, Canada; Microsoft Corporation, Tokyo, Japan; and Den Norse Bank, Bergen, Norway.

No other changes have been made in either the membership or planned activity of the group research and production project. Membership in this group research and production project remains open, and OSF intends to file additional written notifications disclosing all changes in membership.

On May 11, 1994, OSF filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the Federal Register pursuant to Section 6(b) of the Act on August 31, 1994 (59 Fed. Reg. 45009).

The last notification was filed with the Department on May 1, 1995. A notice was published in the Federal Register pursuant to Section 6(b) of the Act on June 20, 1995 (60 Fed. Reg. 32170).

Contance K. Robinson,

*Director of Operations, Antitrust Division.*

[FR Doc. 96–8870 Filed 4–9–96; 8:45 am]

**BILLING CODE 4410–01–M**

## Notice Pursuant to the National Cooperative Research and Production Act of 1993—Portland Cement Association

Notice is hereby given that, on January 26, 1996, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* (''the Act''), the Portland Cement Association (''PCA'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Rio Grande Cement Corp. (Tijeras, NM) has joined and Gulf coast Cement has merged into Sunbelt Cement, making Sunbelt Corporation (Houston, TX) a member of PCA. Also, Loesche GmbH (Dusseldorf, Germany) and CP Recycling & Affiliated Companies (Muskegon, MI have become associate members of PCA.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and PCA intends to file additional written notifications disclosing all changes in membership.

On January 7, 1985, PCA filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the Federal Register pursuant to section 6(b) of the Act on February 5, 1985, 50 FR 5015.

The last notification was published in the Federal Register on March 12, 1996 at 61 FR 10012.

Constance K. Robinson,

*Director of Operations, Antitrust Division.*

[FR Doc. 96–8865 Filed 4–9–96; 8:45 am]

**BILLING CODE 4410–01–M**

## Notice Pursuant to the National Cooperative Research and Production Act of 1993—Clean Heavy Duty Diesel Engine II

Notice is hereby given that, on March 5, 1996, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* (''the Act''), Southwest Research Institute (''SwRI'') has filed notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of involving the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties are Allied Signal, Torrance, CA; Cummins Engine Company, Columbus, IN; Hino Motors, Ltd., Tokyo JAPAN; IVECO SpA, Torino, ITALY; John Deere Product Engineering Center, Deere and Company, Waterloo, IA; Renault Vehicules Industriels, Saint-Priest, FRANCE, joined by its subsidiary Mack Trucks, Inc., Hagerstown, MD; Van Doorne's Bedrifswagenfabriek DAF B.V., Eindhoven, THE NETHERLANDS; Volvo Truck Corporation, Goteborg, SWEDEN; and Zexel Corporation, Saitama, JAPAN. Its general areas of planned activities are to develop technologies for the reduction of exhaust emissions in $No_X$ and PM to levels of 1.0 gm/hp-hr and 0.035 gm/hp-hr, respectively, through a systems approach focusing on advanced applications in diesel engines of exhaust gas recirculation (EGR) high injection pressure, small nozzle holes, real-time water emulsions, passive particulate traps, injection timing and rate control and fuel reformation and to develop design alternatives which efficiently use these key technologies in the various participants' product lines, to transfer such know-how and design alternatives to the participants and to build a working system incorporating the Key technologies.

Membership in the program remains open, and SwRI intends to file additional written notifications

disclosing all changes in the membership or planned activities.

Constance K. Robinson,

*Director of Operations, Antitrust Division.*

[FR Doc. 96–8864 Filed 4–9–96; 8:45 am]

BILLING CODE 4410–01–M

## National Cooperative Research Notification; Southwest Research Institute: Diesel Particulate/NO subx Aftertreatment Using Plasma or Corona Discharges Cooperative Research Project

Correction

In notice document 95–27944 appearing on page 57022–04 in the issue of Monday, November 13, 1995 make the following correction:

In the first paragraph, in the first line ''July 24'' should read ''August 14''.

Contance K. Robinson,

*Director of Operations, Antitrust Division.*

[FR Doc. 96–8872 Filed 4–9–96; 8:45 am]

BILLING CODE 4410–01–M

## Notice Pursuant to the National Cooperative Research and Production Act of 1993 Specialty Metals Processing Consortium, Inc.

Notice is hereby given that, on October 30, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* (''the Act''), the Specialty Metals Processing Consortium (''SMPC'') filed notification simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in membership. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Oregon Metallurgical Corporation, Albany, OR has joined SMPC; and the following members have withdrawn from SMPC: Allied-Signal Aerospace Company, Garrett Engine Division, Phoenix, AZ; Cyclops Corporation, Cytemp Specialty Steel Division, Titusville, PA; Howmet Corporation, Alloy Division/Plymouth Plant, Plymouth, MI; United Technologies Corporation, Pratt and Whitney Division, Hartford, CT; and Precision Rolled Products, Inc., Reno, NE. No other changes have been made in either the membership or the planned activity of the joint venture.

On August 7, 1990, SMPC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the Federal Register pursuant to Section 6(a) of the Act on September 17, 1990 (55 FR 38173). The last notification was filed on January 28, 1991. A notice was published in the Federal Register pursuant to Section 6(b) of the Act on February 19, 1991 (56 FR 6686).

Constance K. Robinson,

*Director of Operations, Antitrust Division.*

[FR Doc. 96–8868 Filed 4–9–96; 8:45 am]

BILLING CODE 4410–01–M

## Drug Enforcement Administration

**[Docket No. 95–13]**

## Dinorah Drug Store, Inc.; Grant of Application

On December 12, 1994, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Dinorah Drug Store, Inc., (Respondent) of Hialeah, Florida, notifying it of an opportunity to show cause as to why DEA should not deny its application for registration as a retail pharmacy under 21 U.S.C. 823(f) and 824(a)(5). Specifically, the Order to Show Cause alleged that:

(1) Between May and June 1991, while doing business as Dinorah Pharmacy Corporation (Dinorah Pharmacy), its owner Luz B. Abad unlawfully sold samples and complimentary packages of non-controlled drug products to Medicaid recipients, and submitted claims for payment to the Florida Medicaid Program.

(2) On June 4, 1992, in the Eleventh Judicial Circuit of Florida (Dade County), Dinorah Pharmacy and Luz B. Abad pled guilty to one felony count of selling samples or complimentary packages of drug products. Dinorah Pharmacy and Ms. Abad were ordered to pay court costs, fines and to reimburse the State of Florida Office of the Auditor General for investigative cost.

(3) On February 24, 1993, Dinorah Pharmacy was notified by the Department of Health and Human Services of its five=year mondatory exclusion from participations in the Medicare program pursuant to 42 U.S.C. 1320a–7(a). Such exclusion constitutes a basis for the denial of [the Respondent's] application for DEA Certificate of Registration.

Pursuant to a telephone conference on August 31, 1995, with Administrative Law Judge Paul A. Tenney, the parties agreed to accept a decision based upon an agreed statement of facts. The statement of facts was to consist of the prehearing statements submitted by each party, and any exhibits that the parties timely submitted consistent with those statements. It was also stipulated that Ms. Luz B. Abad is the predominant owner of the Respondent, Dinorah Drug Store, Inc. (Dinorah Drug Store). Subsequently, the Government submitted ten exhibits and each party submitted proposed findings of fact, conclusions of law, and argument.

On October 11, 1995, Judge Tenney issued his Findings of Fact, Conclusions of Law and Recommended Ruling, recommending that the Respondent's application for registration be granted. Neither party filed exceptions to his decision, and on November 16, 1995, Judge Tenney transmitted the record of these proceedings to the Deputy Administrator.

The Deputy Administrator has considered the record in its entirety, and pursuant to 21 CFR 1316.67, hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth. The Deputy Administrator adopts, in full, the Findings of Fact, Conclusions of Law, and Recommended Ruling of the Administrative Law Judge, and his adoption is in no manner diminished by any recitation of facts, issues and conclusions herein, or of any failure to mention a matter of fact or law.

The Deputy Administrator finds that Ms. Luz Abad is licensed as a pharmacist with the Board of Pharmacy for the State of Florida. She is the predominant owner of the Respondent, Dinorah Drug Store, and she was also the predominant owner and sole pharmacist of Dinorah Pharmacy until its dissolution in late 1992.

In June of 1991, the Office of the Auditor General for the State of Florida conducted an investigation of Dinorah Pharmacy and Ms. Abad regarding possible Medicaid fraud. The Regional Drug Inspector for the Department of Health and Rehabilitative Services informed the Office of the Auditor General that a large quantity of samples of non-controlled substances were found during a routine pharmacy inspection of Dinorah Pharmacy. Subsequent investigation revealed that Dinorah Pharmacy had dispensed sample medications to two Medicaid recipients and submitted claims to Medicaid for those samples. As a result, Dinorah Pharmacy had received $162.40 from Medicaid for the sample medications that had been dispensed.

Dinorah Pharmacy and Ms. Abad were both individually charged with one felony count of Selling Samples or Complimentary Packages of Drug Products in violation of Florida Statute 465.015(2)(d). On June 4, 1992, Dinorah Pharmacy pled guilty to the above charge. However, pursuant to a Pre-Trial Intervention Agreement, Ms. Abad was not prosecuted. The Dinorah Pharmacy was dissolved as a business entity, and its DEA registration was retired. Effective March of 1993, the Department

of Health and Human Services excluded Dinorah Pharmacy from participation in the Medicaid program pursuant to 42 U.S.C. 1320a–7(a) for a period of five years. Such exclusion was mandatory under Section 1128(a)(1) of the Social Security Act.

On October 20, 1992, Dinorah Drug Store was incorporated, and Ms. Abad was listed as the registered agent of the corporation. Ms. Abad applied for and received a pharmacy permit for Dinorah Drug Store from the Board of Pharmacy for the State of Florida. Per the record, Ms. Abad had not applied for a Medicaid provider number for the Respondent pharmacy. On February 8, 1993, Ms. Abad submitted, on behalf of the Respondent, an application for a DEA registration as a retail pharmacy. That application was the basis of the DEA's Order to Show Cause dated December 12, 1994.

Since its incorporation, the Respondent pharmacy has been routinely inspected by the Department of Business and Professional Regulation for the State of Florida and has always been found to be in compliance with the laws and regulations of the State of Florida regarding pharmacies. The record contains an opinion from a pharmacy investigator for the State of Florida (Florida Investigator), a stating that he does not believe any grounds exist to deny Dinorah Drug Store a DEA registration. The Respondent also submitted evidence from members of the community, attesting to the honesty and trustworthiness of Ms. Abad.

Initially, the parties dispute whether 21 U.S.C. 824(a)(5) may be used as a basis to deny DEA registration to the Respondent pharmacy on the grounds that Ms. Abad, the predominant owner of the Respondent pharmacy, was also the predominant owner of Dinorah Pharmacy at the time it was excluded under the Medicaid program pursuant to 42 U.S.C. 1320as–7(a). Under Section 824(a)(5), the Deputy Administrator may suspend or revoke a registration issued pursuant to Section 823 upon a finding that the registration—''has been excluded (or directed to be excluded) from participation in a program pursuant to Section 1320a–7(a) of Title 42.'' It is the Government's position that this section is to be construed as not only grounds for the suspension or revocation of a DEA registration, but also as a basis for the denial of an application for a DEA registration. However, counsel for the Respondent argued that this provision is inapplicable, because this section is limited to the revocation or suspension of already existing registrations. Here the Respondent is applying for a new DEA Certificate of Registration.

The Deputy Administrator agrees with Judge Tenney's resolution of this issue. Judge Tenney noted that the Government's argument was more convincing.

> To reject 21 U.S.C. 824(a)(5) as a basis for the denial of DEA registration makes little sense. The result would be to grant the application for registration, only to possibly turn around and propose to revoke or suspend that registration based on the registrant's exclusion from a Medicare program. A statutory construction which would impute a useless act to Congress will be viewed as unsound and rejected. *South Corp.* v. *United States,* 690 F.2d [1369], 1374 (Fed. Cir. 1982).

Therefore, 21 U.S.C. 824(a)(5) may serve as a basis for the denial of a DEA registration.

As Judge Tenney noted, the DEA Deputy Administrator ''has consistently revoked, suspended, or denied the registrations of pharmacies based upon the unlawful practices of the pharmacy's owner, majority shareholder, officer, managing pharmacist, or other key employee.'' See, e.g., AML Corporation, d/b/a/ G & O Pharmacy, Docket No. 94–34 and 92–78, 61 FR 8973 (1996); Unarex of Plymouth, d/b/a/ Motor City Prescription and Unarex of Dearborn, d/b/a/ Motor City Prescription Center, 50 FR 6077 (1985). Therefore, it is appropriate to look to the conduct of Ms. Abad, the person who is both the predominant owner and practicing pharmacist for the Respondent.

Although Ms. Abad was not prosecuted for her actions in dispensing sample medications and submitting claims to Medicaid for those samples, it is significant that such conduct resulted in the conviction and the mandatory exclusion of Dinorah Pharmacy from the Medicaid program pursuant to 42 U.S.C. 1320a–7(a), while Ms. Abad was its predominant owner and sole pharmacist. Therefore, the Deputy Administrator agrees with Judge Tenney in concluding that ''[c]ounsel for the DEA has presented a *primafacie* case for the denial of [the] Respondent's application for registration under 21 U.S.C. 824(a)(5).''

However, also as Judge Tenney correctly wrote, ''[s]ince denial of registration under Section 824(a)(5) is discretionary, the factors listed in Section 823(f) may be considered in determining whether the granting of [the] Respondent's application is inconsistent with the public interest.'' Pursuant to 21 U.S.C. 823(f), the Deputy Administrator may deny an application for registration as a retail pharmacy, if he determines that granting the registration would be inconsistent with the public interest. Section 823(f) requires that the following factors be considered:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health or safety.

These factors are to be considered in the disjunctive; the Deputy Administrator may rely on any one or a combination of factors and may give each factor the weight he deems appropriate in determining whether a registration should be revoked or an application for registration denied. See Henry J. Schwarz, Jr., M.D., Docket No. 88–42, 54 FR 16422 (1989).

In this case, all five factors are relevant in determining whether the Respondent's registration would be inconsistent with the public interest. As to factor one, ''recommendation of the appropriate State licensing board, . . .'' it is significant that the Respondent and Ms. Abad have the requisite permits and licenses to operate within the State of Florida, and that no evidence has been submitted of adverse actions taken by the Florida Board of Pharmacy against either the Respondent or Ms. Abad. Further, the Florida Investigator has inspected the Respondent and found it to be in compliance with Florida law. He also opined that no reason existed to deny the Respondent's registration application. In light of the above, the Deputy Administrator agrees with Judge Tenney's conclusion, that ''as to Factor 1, I find that Ms. Abad and the Respondent have some form of approval attributable to the appropriate State licensing body.''

As to factor two, the Respondent's ''experience in dispensing . . . controlled substances,'' the Deputy Administrator agrees with Judge Tenney's finding, that it is relevant that Ms. Abad, as owner and sole pharmacist of Dinorah Pharmacy, had a DEA registration. Further, for eleven years she had operated under that registration as the sole pharmacist responsible for handling and dispensing controlled substances without any allegations of improprieties. Finally, neither party presented any evidence with regards to

Dinorah Pharmacy or the Respondent pharmacy, alleging any improprieties involving controlled substances.

As to factors three and four, neither the Respondent, Dinorah Pharmacy, nor Ms. Abad has ever been charged with or convicted of any offense relating to the distribution or dispensing of controlled substances. Dinorah Pharmacy was convicted of one count of Selling Samples or Complimentary Packages of Drug Products in violation of Florida law, but the drug products involved were not controlled substances.

Finally, as to factor five, ''[s]uch other conduct which may threaten the public health or safety,'' Judge Tenney found it significant that the small amount involved in the unlawful billing to the Medicaid program of Dinorah Pharmacy ''suggests that the billing was not a widespread practice. . . .'' He further noted that in the notification letter sent to Dinorah Pharmacy, giving notice of its mandatory exclusion from the Medicaid Program, the Department of Health and Human Services had written that there were no aggravating circumstances in this instance to justify imposing more than the mandatory minimum period of exclusion.

Further, the Respondent also submitted relevant character evidence as to the trustworthiness and honesty of Ms. Abad. Various individuals in the medical profession, and one accountant, noted that Ms. Abad was an honest, hard-working individual who provided quality service to the community served by the Dinorah Drug Store.

The Deputy Administrator agrees with Judge Tenney's conclusion that the denial of registration under Section 824(a)(5) is discretionary. Here, the Government's basis for denial is Dinorah Pharmacy's five-year mandatory exclusion from the Medicaid Program as a result of the conduct of Ms. Abad, the current owner and pharmacist for the Respondent. However, balanced against this basis for denial is (1) the lack of any adverse action or allegations pertaining to Ms. Abad's conduct related to controlled substances, (2) the observations and recommendation of the Florida Investigator concerning Ms. Abad's conduct as a pharmacist for the Respondent and his recommendation that DEA grant the registration application, and (3) the positive character evidence provided by the Respondent, attesting to Ms. Abad's trustworthiness and positive contributions of her professional services to the community served by the Dinorah Drug Store.

In reaching his conclusion, the Deputy Administrator notes that Ms. Abad's conduct of selling drug samples and billing Medicaid for such sales is fraudulent behavior, and he certainly does not condone such activity. However, in reviewing the entire record, the Deputy Administrator concludes that the public interest is best served by granting the Respondent a DEA Certificate of Registration. Further, the Deputy Administrator is aware of the Respondent's immediate need for such a registration. Therefore, given this need, the Deputy Administrator has determined that the public interest will be better served in making this final order effective upon publication, rather than thirty days from the date of publication.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823, and 28 CFR 0.100(b) and 0.104, hereby orders that the pending application of Dinorah Drug Store, Inc., for a DEA Certificate of Registration, be, and it hereby is, approved. This order is effective upon the date of publication in the Federal Register.

Dated: April 4, 1996.

Stephen H. Greene,

*Deputy Administrator.*

[FR Doc. 96–8927 Filed 4–9–96; 8:45 am]

BILLING CODE 4410–09–M

## Manufacturer of Controlled Substances; Correction

As set forth in the Federal Register (FR Doc. 96–4944) Vol. 61, No. 43 at page 8303, dated March 4, 1996, Johnson Matthey, Inc., Custom Pharmaceuticals Department, 2003 Nolte Drive, West Deptford, New Jersey 08066, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer for certain controlled substances. The listing of controlled substances for which Johnson Matthey applied should have included dihydrocodeine (9120) and meperidine (9230).

Any other such applicant and any person who is presently registered with DEA to manufacturer such substances may file comments or objections to the issuance of the above application.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than June 10, 1996.

Dated: April 3, 1996.

Gene R. Haislip,

*Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.*

[FR Doc. 96–8926 Filed 4–9–96; 8:45 am]

BILLING CODE 4410–09–M

## Federal Bureau of Investigation

## Agency Information Collection Activities: Proposed Collection; Comment Request

**ACTION:** Notice of Information Collection Under Review; Simplified Request for Advance or Reimbursement; Implementation of Section 104(d) of the Communications Assistance for Law Enforcement Act.

In accordance with the Paperwork Reduction Act of 1995, the Federal Bureau of Investigation invites comments on the information collection required to implement section 104(d) of the Communications Assistance for Law Enforcement Act (CALEA) (Pub. L. 103–414, 47 U.S.C. 1001–1010).

The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted on or before June 10, 1996.

Comments or suggestions regarding the items contained in this information collection request should be directed to Telecommunications Industry Liaison Unit, Federal Bureau of Investigation, P.O. Box 220450, Chantilly, VA 22022–0450, telephone number (800) 551–0336. If you wish to receive a copy of the proposed carrier statement template with instructions, please contact the office of listed above.

The purpose of this notice is to request written comments and suggestions from the public, including telecommunications carriers, and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of collection of information on those who are to

respond, including through the use of appropriate automated, electronic, mechanical or other technological collection techniques or other forms of information technology (e.g., permitting electronic submission of responses.)

Section 104(d) of the Communications Assistance for Law Enforcement Act (CALEA) (Pub. L. 103–414, 47 U.S.C. 1001–1010) requires that, within 180 days after the publication by the Attorney General of a notice of capacity requirements pursuant to subsections 104(a) or 104(c) of CALEA, a telecommunications carrier shall submit to the Attorney General a statement identifying any of its systems or services that do not have the capacity to accommodate simultaneously the number of interceptions, pen registers, and trap and trace devices set forth in the notice under such subsection. The FBI, as required by the Paperwork Reduction Act of 1995, is therefore soliciting comments from the public, including telecommunications carriers and other affected agencies on the implementation of this information collection.

Overview of this Information Collection:

(1) Type of Information Collection; NEW COLLECTION: The type of information acquired is required to be furnished by law in terms of a carrier statement, as set forth in Subsection 104(d) of the Communications Assistance for Law Enforcement Act (CALEA) (Pub. L. 103–414, 47 U.S.C. 1001–1010). A template, which is not mandatory, has been developed with the telecommunications industry to facilitate submission of the telecommunications carrier statements. Such information is quantitative and qualitative data necessary to identify any systems or services of a telecommunications carrier that do not have the capacity to accommodate simultaneously the number of interceptions, pen registers, and trap and trace devices as specified in the final capacity notice to Subsection 104(a) of CALEA.

Any relationship between capacity and capability, and the omission of equipment from the carrier statement and cost reimbursement, will be addressed in the final capacity notice to be published in the Federal Register.

(2) The title of the information collection: ''Telecommunications Carrier Statement.''

(3) The agency form number, if any, and the applicable component of the Department sponsoring the collections; Form number: None. Sponsored by the Federal Bureau of Investigation (FBI), United States Department of Justice.

(4) Who will be asked or required to respond, as well as a brief abstract; BUSINESS OR OTHER FOR PROFIT: Telecommunications carriers, as defined in CALEA Subsection 102(8), will respond.

The collected data will be used in conjunction with law enforcement priorities and other factors to determine the specific equipment, facilities, and services that require immediate modification. The reimbursement process is not dependent exclusively on a carrier's submission of systems or services in their carrier statement. Further consultation with individual telecommunications carriers may be required to obtain supplementary information in order to better determine which individual systems and services require modification.

The amount and type of information collected will be minimized to ensure that submission of this data by telecommunications carriers will not be burdensome nor unreasonable. Each telecommunications carrier will submit a statement identifying any of its systems or services that do not have the capacity to accommodate simultaneously the number of interceptions, pen registers, and trap and trace devices as set forth in the final capacity notice.

Based on close consultation with industry, information solicited to specifically identify such systems and services and their capacity to meet the CALEA requirements will include: Common Language Location Identifier (CLLI) code or equivalent identifier, switch model or other system or service type, the derived capacity of the system or service as specified in the final capacity notice, the county name(s) that the system or service serves, and the city and state where the system or service is located. Unique information required for wireline systems and services would include the host CLLI code if the system or service is a remote. Unique information required for wireless systems and services would include the Metropolitan or Rural Service Area number(s), or the Metropolitan or Basic Trading Area number(s) served by the system or service.

Confidentiality regarding the data received from the telecommunications carriers will be protected by statute, regulation, and through nondisclosure agreements as necessary.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: The FBI estimates that there are approximately three thousand (3,000) telecommunications carriers, with approximately twenty-three thousand (23,000) unique systems or services, that will be affected by this collection of information. The total amount of time required to complete the Telecommunications Carrier Statement will vary, depending upon the total number of systems and services that the telecommunications carrier deploys that provide a customer or subscriber with the ability to originate, terminate, or direct communications. The time required to read and prepare information, for one system or service is estimated at ten (10) minutes. There is also an associated startup time per carrier that is estimated at two (2) hours. This startup time consists of reading the Telecommunications Carrier Statement and determining data sources.

(6) An estimate of the total public burden (in hours) associated with the collection is 9,910 hours. These estimates were derived from close consultation with industry.

If additional information is required, contact Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street NW., Washington, DC 20530.

Dated: April 5, 1996.

Robert B. Briggs,

*Department Clearance Officer, United States Department of Justice.*

[FR Doc. 96–8842 Filed 4–9–96; 8:45 am]

**BILLING CODE 4410–02–M**

## DEPARTMENT OF LABOR

### Pension and Welfare Benefits Administration

**[Prohibited Transaction Exemption 96–23; Application Number D–09602]**

### Class Exemption for Plan Asset Transactions Determined by In-House Asset Managers

**AGENCY:** Pension and Welfare Benefits Administration, Labor.

**ACTION:** Grant of class exemption.

**SUMMARY:** This document contains a final exemption from certain prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (ERISA or the Act) and from certain taxes imposed by the Internal Revenue Code of 1986 (the Code). The exemption permits various transactions involving employee benefit plans whose assets are managed by in-house managers (INHAMS), provided that the conditions of the exemption are met. The

exemption affects participants and beneficiaries of employee benefit plans, the sponsoring employers of such plans, INHAMS, and other persons engaging in the described transactions.

**EFFECTIVE DATE:** The effective date of the exemption is April 10, 1996.

**FOR FURTHER INFORMATION CONTACT:** Lyssa Hall or Virginia J. Miller, Pension and Welfare Benefits Administration, Office of Exemption Determinations, U.S. Department of Labor, Washington, DC 20210, (202) 219–8971 (not a toll-free number) or Paul D. Mannina, Plan Benefits Security Division, Office of the Solicitor, (202) 219–9141 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:** Exemptive relief for the transactions described herein was requested in an application dated December 16, 1993 submitted by the Committee on Investment of Employee Benefit Assets (CIEBA), pursuant to section 408(a) of ERISA and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in 29 CFR section 2570 subpart B (55 FR 32836 August 10, 1990).

On March 24, 1995, the Department published a notice in the Federal Register (60 FR 15597) of the pendency of a proposed class exemption from certain of the restrictions of sections 406 and 407(a) of ERISA and from certain taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1) of the Code.[1]

The notice gave interested persons an opportunity to submit written comments or requests for a hearing on the proposed class exemption to the Department. The Department received fourteen written comments and no requests for a public hearing. Upon consideration of all of the comments received, the Department has determined to grant the proposed class exemption, subject to certain modifications. These modifications and the major comments are discussed below.

Discussion of the Comments

*A. Basic Exemption*

1. INHAM as Decision Maker (Section I(a)). The proposed general exemption, set forth in Part I, permitted that portion of a plan that is managed by an INHAM to engage in all transactions described in section 406(a)(1)(A) through (D) with virtually all party in interest service providers except the INHAM or a person related to the INHAM. Under section I(a) of the proposed exemption, the INHAM must function as the decision maker for the plan in all covered transactions. Specifically, section I(a) requires that the terms of the transaction be negotiated by, or under the authority and general direction of, the INHAM and that the INHAM make the decision to enter into the transaction.

Under section I(a) of the proposal, the exemption would be available for a transaction involving an amount in excess of $5,000,000 notwithstanding the fact that the transaction that had been negotiated by the INHAM was subject to a veto or approval by the plan sponsor. A commenter suggested that section I(a) should be modified to permit the plan sponsor or its designee to retain the right to veto or approve any transaction, regardless of the size of the transaction. Although the exemption permits the retention of a veto power for large transactions, the exemption was developed based on the premise that independent decisionmaking was more likely to be assured if day to day transactions are negotiated and approved by an INHAM. Therefore, the Department has determined not to adopt the commenter's suggestion.

A commenter is concerned that the requirement under section I(a) of the proposal that the INHAM negotiate and make the decision on behalf of the plan to enter into the transaction may foreclose a transaction where an INHAM retains a QPAM to locate and negotiate the terms of a possible plan investment. According to the commenter, it is frequently advantageous for a plan to retain a QPAM to identify investment opportunities and to negotiate the terms of these types of investments, while permitting the INHAM to perform its own ''due diligence'' review of each investment opportunity presented and evaluate the appropriateness of the investment for the plan's particular investment needs. The Department does not believe that it would be appropriate in the context of this exemption proceeding to modify the INHAM exemption to, in effect, permit a transaction that was previously rejected by the Department during its consideration of the final QPAM class exemption.[2]

A commenter questioned whether Part I of the exemption would apply to ''drag along'' and similar transactions that are not actually negotiated by the INHAM. According to the commenter, when a plan makes an investment in a non-publicly traded entity, both the plan and other investors want to be able to dispose of their investment at a favorable price. In order to accomplish this objective, plans and other investors may negotiate certain rights at the time they make their initial investments. One such right would be the ability of the plan to ''tag along'' and sell out its interest at the same price as the majority investors if the majority investors sell their interests to a third party. The converse of this right would be the ability of the majority investors to ''drag along'' the plan if they sell their interest to a third party. When these rights are exercised, it may turn out that the party to whom the interests are sold is a party in interest. The commenter argues that the ''drag along'' or similar transactions should be treated as subordinate to the initial investment transaction and, therefore, subject to the authority or general direction of the INHAM for purposes of section I(a) of the exemption. The commenter represents that, while the INHAM is not involved in selecting the party to whom the plan's interest is sold, the transaction is determined by an independent party pursuant to rights negotiated by the INHAM at arm's-length at the outset of the investment transaction. The commenter further represents that these rights would be taken into account by the INHAM in determining whether the initial investment would be prudent. It is the view of the Department that section I(a) of the exemption will be deemed satisfied in the case of ''drag along'' or similar transactions that are entered into pursuant to rights that were negotiated by the INHAM as part of the primary investment transaction. The Department notes, however, that it does not interpret section I(a) as exempting a ''drag along'' or similar transaction unless such transaction is itself subject to relief under the exemption and the applicable conditions are otherwise met. In this regard, the Department expects that any determination regarding the appropriate price to be paid for the investment would reflect the effect on the value of such investment of rights which may be exercised in the future at the discretion of unrelated third persons.

One commenter requested that the Department clarify that the requirements of section I(a) would be met if an officer of the INHAM also serves as a member of the employer's investment committee or other named fiduciary under the plan. Nothing contained in section I(a) would preclude

[1] Section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978), effective December 31, 1978 (44 F.R. 1063, January 3, 1978), generally transferred the authority of the Secretary of the Treasury to issue exemptions under section 4975(c)(2) of the Code to the Secretary of Labor. In the discussion of the exemption, references to sections 406 and 408 of the Act should be read to refer as well to the corresponding provisions of section 4975 of the Code.

[2] In this regard, see PTE 84–14, 49 FR 9497 (March 13, 1984).

an officer of the INHAM from also serving as a member of the employer's investment committee or other named fiduciary under the plan, provided that the INHAM otherwise meets the definition set forth in section IV(a), including the requirement that the INHAM must be a separate entity that is registered as an investment adviser.

A commenter requested that the Department clarify that the requirements of section I(a) will be satisfied notwithstanding the fact that the INHAM also manages assets of outside clients.

In the Department's view, nothing contained in the exemption would preclude the INHAM from providing services to outside clients who have no affiliation with the INHAM.

In response to a comment regarding typical investment increments used in financial transactions, the Department has revised section I(a) by replacing ''an amount in excess of $5,000,000'' to ''$5,000,000 or more'' in connection with the plan sponsor's right to veto or approve such transactions.

2. Transactions Involving Arrangements Designed to Benefit Parties in Interest (Section I(c)). Section I(c) of the proposal requires that the transaction not be part of an agreement, arrangement or understanding designed to benefit a party in interest. A commenter suggested that the Department clarify that to the extent that the INHAM's purpose in entering into a transaction is not to benefit a party in interest, so that any benefit to the party in interest is incidental to the purpose of the transaction, the transaction should not give rise to an agreement, arrangement or understanding designed to benefit a party in interest which is described in section I(c). The Department concurs with the commenter and notes that the intent of the condition in section I(c) was not to deny direct benefits to other parties to a transaction but, rather, to exclude relief for transactions that are part of a broader overall agreement, arrangement or understanding designed to benefit parties in interest.

3. Transactions with Service Providers (Section I(e)). Under section I(e) of the proposed exemption, relief was limited to transactions with party in interest service providers who do not have discretionary authority or control with respect to the assets involved in the transaction or otherwise render investment advice with respect to such assets. A commenter urged the Department to expand the scope of the final exemption to include relief for all parties in interest. The Department does not believe that a sufficient showing has been made that the safeguards contained in the proposed exemption would adequately discourage the exercise of undue influence upon the INHAM if the final exemption were expanded as requested by the commenter. Accordingly, the Department cannot conclude that further relief is warranted.

Several commenters suggested that the Department clarify that section I(e) of the proposal would not preclude a directed trustee of a plan or a trustee with discretionary authority over plan assets not involved in the transaction from engaging in transactions with the plan. In the Department's view, a nondiscretionary trustee subject to the direction of an INHAM, and that does not otherwise render investment advice with respect to the plan assets involved in the transaction may carry out proper directions that are not contrary to ERISA with respect to the transactions covered by the class exemption. Similarly, the exemption would be available for transactions with a trustee that exercises investment discretion with respect to a portion of plan assets not involved in the transaction.

Another commenter objected to the requirement in section I(e)(2) that the party in interest dealing with the plan not have discretionary authority or control with respect to the investment of the plan assets involved in the transaction and not render investment advice (within the meaning of 29 CFR 2510.3–21(c)) with respect to those assets. According to the commenter, the first part of this condition regarding discretionary authority or control is unnecessary in view of the requirement under section I(a) that the terms of the transaction must be negotiated by the INHAM, and that the INHAM make the decision on behalf of the plan to enter into the transaction. The commenter further believed that the requirement contained in section I(e)(2) that the party in interest dealing with the plan not render ''investment advice'' would create uncertainty and is unnecessary in view of the limited scope of relief provided. Accordingly, the commenter requests that the Department eliminate this requirement from the final exemption.

This class exemption was developed, and is being granted by the Department, based on the essential premise that broad exemptive relief from the prohibitions of section 406(a) of ERISA can be afforded for all types of service provider transactions in which a plan engages only if the INHAM independently negotiates the transaction and makes the decision on behalf of the plan to enter into the transaction. The limitations contained in section I(e)(2) were included in the proposal in order to further emphasize that the INHAM must be the decision-maker in order for transactions to be covered by the class exemption. In addition, the Department believes that, if exemptive relief were to be provided where the party in interest renders investment advice to the plan, with respect to the transaction at issue, the potential for decision making with regard to the plan assets that would inure to the benefit of a party in interest would be increased. For these reasons, the Department believes that a separate condition is warranted and has determined not to revise the exemption as requested by the commenter.

4. Fiduciary Audit (Section I(g)). Section I(g) of the proposed exemption required that an independent auditor conduct an annual fiduciary audit to determine whether the written procedures adopted by the INHAM are designed to assure compliance with the conditions of the exemption. Section IV(f) defined fiduciary audit as including: (1) a determination by the auditor as to whether or not the plan has developed adequate internal policies and procedures designed to assure compliance with the terms of the exemption; (2) a test of a representative sample of the plan's transactions to determine operational compliance with such policies and procedures; (3) a determination as to whether the INHAM meets the definition of INHAM set forth in the exemption; and (4) a written report describing the steps performed by the auditor during the course of its review and the auditor's findings and recommendations.

Several commenters requested that the Department clarify the types of ''policies and procedures'' that the INHAM is required to adopt for purposes of sections I(g) and IV(f) of the proposal, and the criteria the independent auditor should apply in conducting the audit. Another commenter recommended that the audit be conducted in accordance with standards established by the American Institute of Certified Public Accountants (AICPA), and that the Department establish criteria against which the independent auditor can make a determination that the procedures are designed to operate in the manner contemplated by the exemption. In this regard, a commenter raised a related question concerning whether the proposed audit condition would require that the policies and procedures include substantive criteria regarding expected risk, gross return and expenses of a proposed transaction that the INHAM should consider. One commenter

suggested that the scope of the audit should be expanded to include a determination by the auditor regarding compliance with section 404(a) of ERISA. Lastly, a commenter urged the Department to delete this requirement entirely.

As noted in the preamble to the proposed exemption, the Department proposed the audit requirement in order to address the lack of independence of the INHAM. The Department continues to believe that an annual fiduciary audit is necessary to address this lack of independence and, accordingly, has determined not to delete this requirement. In this regard, it was the Department's intent that the role of the auditor would be limited to determining whether the written procedures adopted by the INHAM are designed to assure compliance with the conditions of the exemption. Since the sole purpose of the audit requirement is to assure compliance with the exemption, the Department does not believe that it would be appropriate to expand the scope of this requirement to include either determinations under section 404 of the Act or determinations regarding the appropriateness of investments entered into under the exemption. In response to the comment concerning the adoption of AICPA standards as part of the audit requirement, the Department does not believe that it would be appropriate to adopt a definition that would require compliance with standards developed by certain professional organizations. However, in consideration of the concerns expressed by the commenters, the Department has adopted a new section I(g) which specifically requires that the INHAM adopt written policies and procedures designed to assure compliance with the conditions of the exemption. (The fiduciary audit requirement, set forth in section I(g) of the proposal, has been renumbered as section I(h) under the final exemption.) The Department has also adopted a new definition, under section IV(g), that contains a list of the objective requirements of the exemption that must be described in the written policies and procedures and that must be reviewed by the auditor.[3] In addition, the Department notes that, although the exemption provides flexibility with respect to the specific procedures adopted by the INHAM, it expects such procedures to be designed in a manner that assures that the INHAM's operations are consistent with the requirements of the exemption.

On a related issue, another commenter noted that the role of the auditor under the exemption should be limited to determining compliance with policies and procedures designed by the INHAM and should not include a determination by the auditor as to whether the plan has developed adequate policies and procedures as required under section IV(f) of the proposal. According to the commenter, having the auditor review the adequacy of the procedures would expand the auditor's role beyond the typical role of an independent auditor. In response to the commenter, the Department has determined to modify section IV(f) to delete the requirement that the auditor make a determination regarding the adequacy of the policies and procedures adopted by the INHAM. Under the revised section IV(f)(1), the auditor would be required to review the policies and procedures for consistency with the objective requirements of the exemption. In light of the decision to revise section (IV)(f)(1), the Department has also determined to expand section IV(f)(2) to require the auditor to test for compliance with both the written policies and procedures adopted by the INHAM and the objective requirements of the exemption. In the Department's view, this revised condition will help to assure that the INHAM properly carries out its responsibilities under the exemption.

A commenter noted that the proposal did not make clear the consequences on existing transactions of an unsatisfactory audit. In response to the comment, the Department notes that an adverse finding in the auditor's report would not, in itself, render the exemption unavailable for any transaction engaged in by the INHAM on behalf of the plan.[4] However, if a transaction did not meet a condition of the exemption (e.g., because relief was not available for transactions with the party with whom the INHAM dealt), the exemption would not be available for that transaction, but the exemption would continue to be available for those transactions that did satisfy its conditions. Conversely, a failure to comply with the general terms of the exemption applicable to all transactions would render the exemption unavailable, regardless of whether the failure is identified in the audit. Thus, if the INHAM failed to adopt policies and procedures that complied with the requirements of section I(g) or if no audit were conducted, the exemption would not cover transactions engaged in on behalf of the plan by the INHAM.

Several commenters were concerned that the exemption could be interpreted to mean that only financial accounting firms or auditing firms could conduct the fiduciary audit required under section I(g) of the proposal. According to the commenters, other types of financial service organizations may well be capable of conducting a fiduciary audit. The Department did not intend to limit eligibility to serve as independent auditors under the exemption solely to accounting or auditing firms. Accordingly, any person who otherwise possesses the requisite technical training and proficiency with ERISA's fiduciary responsibility provisions may conduct a fiduciary audit.

A number of commenters also requested that we clarify the requirement that the person performing the fiduciary audit must be ''independent''. In the Department's view, whether an auditor is independent for purposes of the exemption would depend on the particular facts and circumstances of each case. However, the Department would not view an auditor as independent under circumstances where the auditor has a financial interest, including an ownership interest, in the INHAM , the employer, any parties dealing with the plan under the exemption, or any affiliates thereof, or otherwise receives more than a *de minimis* amount of its compensation from the INHAM, the employer, its affiliates, or the plan.

One commenter questioned whether the auditor performing the fiduciary audit can be an entity or individual who provides other services to the plan, e.g., the firm that audits the plan in connection with preparation of the plan's annual report (Form 5500). In the Department's view, the provision of other services would not, in itself, preclude a firm from meeting the requirement under the exemption that the person performing the fiduciary audit must be independent. However, the Department notes that the provision of other services could raise questions regarding the independence of the auditor if the aggregate services result in the auditor deriving more than a de minimis amount of its compensation from the INHAM, the employer, its affiliates, or the plan.

[3] Although the Department has limited the auditor's responsibilities under the final exemption to making findings on the INHAM's compliance with the objective requirements of the exemption, the INHAM remains responsible for assuring compliance with all of the conditions of the exemption. Accordingly, the failure of the INHAM to comply with a condition of the exemption not described in section IV(g) would render the exemption unavailable.

[4] The Department cautions that the failure of the INHAM to take appropriate steps to address any adverse findings in an unsatisfactory audit would raise issues under ERISA's fiduciary responsibility provisions.

One of the commenters expressed concern about how the audit requirement would apply to the condition, contained in section I(b), that the transaction not be described in certain specified class exemptions. The commenter suggested that the auditor's role regarding this condition should be limited to a finding as to whether the transaction is of the type described in the specified class exemptions, rather than a finding regarding compliance with the terms and conditions of such class exemptions. The Department concurs with this comment. The Department believes, however, that it is the ongoing responsibility of the INHAM to determine whether a transaction is covered by one of the specified class exemptions or the INHAM exemption.

A commenter suggested that the Department revise the requirement under section I(g) of the proposal that the independent auditor must have appropriate technical training and proficiency with ERISA's fiduciary responsibility provisions. According to the commenter, the most likely candidates to conduct an audit are people who have experience with ERISA's fiduciary responsibility provisions rather than technical training. On the basis of this comment, the Department has determined to modify section I(g) to provide that the independent auditor must have appropriate technical training or experience, and proficiency with ERISA's fiduciary responsibility provisions. Another commenter urged the Department to delete this requirement entirely. In response to this comment, the Department believes that the requirement that the auditor be familiar with ERISA's fiduciary responsibility provisions provides an additional protection under the class exemption. Therefore, the Department has determined not to further revise this condition.

According to a commenter, the language in section IV(f)(4) of the proposal, which provides that the auditor must make recommendations in its written report, would require the auditor to go beyond its auditing role of providing findings regarding compliance. The Department concurs with this comment and, accordingly, has deleted the words ''and recommendations'' from section IV(f). In response to a related comment, the Department has deleted the words ''among other things'' from the definition of fiduciary audit in order to clarify that the definition sets out the specific steps for a fiduciary audit. The Department cautions that the auditor would be responsible for taking any actions necessary to adequately perform the steps described in the definition of fiduciary audit.

A commenter suggested that the Department modify sections I(g) and IV(f) by deleting the word ''fiduciary'' from ''fiduciary audit'' wherever it appears in those sections and substituting the word ''exemption'' to reflect the fact that the auditor's role is to assure compliance with the policies and procedures established for purposes of the exemption and does not otherwise involve examining for compliance with ERISA's fiduciary responsibility provisions. The Department concurs with the commenter's suggestion and has modified the exemption accordingly.

The following examples illustrate the types of transactions which would be covered by Part I of the exemption:

(1) Corporation C designates INHAM X to manage a portion of Plan P's assets. Assume that X meets the criteria for an INHAM under the exemption. X uses Plan P assets to purchase a building from Y, a wholly-owned subsidiary of a broker-dealer that provides services to the Plan. Absent this exemption, the purchase of the building from Y, a party in interest described in ERISA section 3(14)(G), would violate the restrictions contained in section 406(a)(1)(A), and the transaction could not proceed until exempted by the Department. The general exemption set forth in Part I would allow such transaction if the conditions contained therein are met.

(2) INHAM X invests part of a pension fund's assets to acquire a parcel of unimproved real property from the president of the employer sponsoring the Plan. Part I does not provide an exemption for the purchase of the property since relief is limited under that Part to transactions with service providers and their affiliates. In addition, no relief would be provided under the exemption for the act of self-dealing described in section 406(b)(1) arising in connection with X's use of the fund's assets in a transaction that benefits a person in whom X has an interest that may affect the exercise of its best judgement as a fiduciary.

(3) Corporation C is the named fiduciary of Plan P. C chooses INHAM X to manage the portion of P's assets allocated for real estate investments. X, using its discretionary authority, locates and negotiates the purchase for $6 million of a commercial building in New York that is being offered for sale by Corporation Z. Z provides accounting services to Plan P. Pursuant to its arrangement with C, X is required to seek the approval of C for all real estate transactions involving amounts of $5 million or more. On the basis of X's recommendation, C approves the transaction. Despite the retention of approval power by C, Part I of the exemption would be available for the purchase of the building provided there is no arrangement with C that requires X to buy the building from Z and the conditions of Part I are otherwise met.

(4) Corporation C allocates part of the assets of its Plan P to a master trust managed by INHAM X. X uses master trust assets to purchase an office building that is subsequently leased to M. M provides administrative services to Plan P. During the term of the lease, M becomes a wholly-owned subsidiary of Corporation C. Although M is no longer a party in interest with respect to Plan P solely by reason of providing services to such Plan, Part I will continue to be available for the entire lease term since, at the time the transaction was entered into (as defined in section IV(e)), M was not affiliated with the plan sponsor and its relationship to Plan P was solely that of a service provider.

(5) INHAM X retains Broker-Dealer B to provide brokerage services to Plan P. In a separate transaction, X uses Plan P assets to purchase corporate bonds directly from B. The bonds were originally issued by Corporation Z, an investment manager for a portion of the Plan's assets that are not controlled by INHAM X. Since the Department expects that, as part of its fiduciary responsibilities, the INHAM would have analyzed the terms of the bonds prior to purchase, the relief provided by Part I could extend to both the acquisition of the bonds and the underlying extension of credit. Thus, Part I could cover a subsidiary transaction with a party in interest if such transaction is itself subject to relief under the exemption and the applicable conditions are otherwise met.

(6) Corporation C designates INHAM X to manage a portion of Plan P's assets. X uses plan assets to purchase an office building that is subsequently leased to Broker-Dealer BD, a non-party in interest with respect to Plan P. During the term of the lease, BD becomes a service provider to Plan P. Although BD was not a party in interest service provider at the time the lease was executed, section IV(e) provides that Part I of the exemption would be available for the entire lease term provided that the remaining conditions of the exemption were met at the time the transaction was entered into. Alternatively, section IV(e) provides that Part I of the exemption would be available to exempt the transaction if

the conditions of the exemption were met as of the time the transaction would have become prohibited.

*B. Specific Exemptions for Employers*

A commenter urged the Department to expand the relief provided under Part II of the proposal to permit an INHAM to select an affiliate to provide telecommunications related goods and services to any real property that may be considered an asset of the plan or to an entity in which the plan owns a controlling interest and that is managed by an INHAM. While the commenter has identified the need for exemptive relief, the Department does not believe that it has sufficient information on the record at this time to provide additional relief for a class of transactions that would otherwise violate section 406(b) of ERISA. Finally, the Department believes that adoption of the commenter's suggestion would arbitrarily favor one specific industry over another under similar circumstances.

*C. Definitions*

1. INHAM (Section IV(a)). A commenter requested that the definition of an INHAM be revised to include a division or group within the employer's management structure. The Department believes that an INHAM that is organized as a separate legal entity, is separately managed, and is subject to oversight by the Securities and Exchange Commission as a result of registration as an investment adviser under the Investment Advisers Act of 1940 provides an important safeguard under the exemption. Therefore, the Department cannot conclude that further relief is warranted.

Another commenter suggested that the Department modify the definition of INHAM to permit a majority-owned subsidiary of an employer, or a direct or indirect majority-owned subsidiary of a parent organization of such an employer to serve as an INHAM. The Department does not believe that a sufficient showing has been made that the requirement that the INHAM be wholly-owned under the proposal would raise compliance problems for those persons intending to use the exemption. Accordingly, the Department has determined not to revise the final exemption as requested.

Several commenters urged the Department to expand the definition of an INHAM to include an entity established by a multiemployer plan or its plan sponsor. A commenter further noted that the definition of an affiliate of the INHAM contained in sections IV(a) and IV(b) of the proposal should be broadened to include families of multiemployer plans. The Department notes that the exemption application requested relief for transactions involving the assets of single employer plans managed by in-house managers. Accordingly, the Department does not believe that it has sufficient information regarding the operation and management of multiemployer plans to make the findings necessary to grant exemptive relief. Moreover, the Department does not believe that a sufficient showing has been made by the commenters that the conditions contained in the exemption would adequately protect the interests of participants and beneficiaries of internally managed multiemployer plans. Of course, the Department would be prepared to consider additional relief upon proper demonstration that the findings can be made under section 408(a) of ERISA with respect to such plans.

A commenter requested that the Department clarify that the relief provided for employee benefit plans whose assets are managed by INHAMs extends, not only to plans sponsored by affiliates of the INHAM, but also includes plans sponsored by the INHAM itself. According to the commenter, the INHAM may establish a stand-alone plan to cover its employees, or its employees may participate in a plan established and maintained by an affiliate of the INHAM. Therefore, the commenter urged that the Department adopt a definition of ''plan'', which would include plans maintained by the INHAM or an affiliate of the INHAM. In consideration of the concerns raised by the commenter, the Department has determined to adopt a definition of plan under section IV(h) that includes plans maintained by the INHAM and affiliates of the INHAM. The commenter further requested that the requirements under section IV(a) that the INHAM have $50 million of plan assets under management and control, and that plans maintained by affiliates of the INHAM have $250 million of aggregate plan assets also should be modified to clarify that these requirements are not intended to exclude any plan maintained by the INHAM. The requirement that the INHAM be affiliated with a plan sponsor (or group of related plan sponsors) whose plan(s) hold in the aggregate assets of at least $250 million, $50 million of which is under the direct management and control of the INHAM was imposed because the Department believes that INHAMs of large plans are more likely to have an appropriate level of expertise in financial and business matters. In this regard, the Department believes that the requirement that the INHAM have a significant dollar amount of assets under its management and control attributable to plans maintained by affiliates which are separately accountable for the operation of their respective plans provides an additional safeguard under the exemption. Accordingly, the Department has determined not to revise the $50 million requirement. However, the Department has determined that it would be appropriate to include the assets of plans maintained by the INHAM in determining compliance with the $250 million standard.

Finally, a commenter requested that the $50 million requirement be revised to permit the $50 million threshold to be met during the INHAM's first fiscal year as a separate legal entity. According to the commenter, the requirement that the INHAM have in excess of $50 million of plan assets under its management and control as of the last day of its most recent fiscal year could unintentionally prevent the exemption from being immediately available for an employer's in-house management group in its first year as a separate wholly-owned subsidiary of the employer. In response to this comment, the Department has revised section IV(a)(2) to specify that an existing asset management group that is newly-incorporated as a separate subsidiary of the employer may satisfy the $50 million requirement in its initial fiscal year if the requirement is met as of the date during its initial fiscal year as a separate legal entity that responsibility for the management of such assets in excess of $50 million was transferred to it from the employer.

2. Continuing Transactions (Section IV(e)). A commenter asserted that the last sentence of section IV(e), which deals with transactions which are continuing in nature, is unclear. This sentence addresses the issue of whether a continuing transaction that is not prohibited and, therefore, not subject to the exemption at the outset, may become covered by the exemption during the course of the transaction if it later becomes prohibited. According to the commenter, certain of the conditions of the exemption can be met only at the time the transaction is entered into, such as the condition in section I(d) dealing with arms-length terms. Conversely, the requirements of section I(e)(1) dealing with the party in interest relationships permitted under the exemption can only be determined at the time the transaction would have become prohibited. It is the view of the

Department that section I(d) will be deemed satisfied in the case of a continuing transaction that later becomes prohibited if the transaction negotiated by the INHAM satisfied such section at the time the transaction was entered into. The Department notes that it does not interpret section IV(e) as exempting a continuing transaction that becomes prohibited subsequent to a renewal or modification that required the consent of the INHAM, unless the renewal or modification otherwise met the arm's-length requirement of section I(d). Lastly, the Department has modified section IV(e) to clarify that in determining compliance with the conditions of the exemption at the time that the transaction was entered into, section I(e) will be deemed satisfied if the transaction was entered into between a plan and a person who was not then a party in interest.

*D. Miscellaneous*

1. In response to a comment, the Department has added section IV(d)(3) to the exemption in order to define ''control'' for purposes of determining whether or not an INHAM is ''related'' to a party in interest under section IV(d).

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which require, among other things, that a fiduciary discharge his duties respecting the plan solely in the interests of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code, and based upon the entire record, the Department finds that the exemption is administratively feasible, in the interests of plans and of their participants and beneficiaries and protective of the rights of participants and beneficiaries;

(3) The exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The exemption is applicable to a particular transaction only if the transaction satisfies the conditions specified in the class exemption.

Exemption

Accordingly, the following exemption is granted under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, August 10, 1990).

Part I—Basic Exemption

Effective April 10, 1996, the restrictions of section 406(a)(1) (A) through (D) of the Act and the taxes imposed by Code section 4975 (a) and (b) of the Code, by reason of 4975(c)(1) (A) through (D), shall not apply to a transaction between a party in interest with respect to a plan (as defined in section IV(h)) and such plan, provided that an in-house asset manager (INHAM) (as defined in section IV(a)) has discretionary authority or control with respect to the plan assets involved in the transaction and the following conditions are satisfied:

(a) The terms of the transaction are negotiated on behalf of the plan by, or under the authority and general direction of, the INHAM, and either the INHAM, or (so long as the INHAM retains full fiduciary responsibility with respect to the transaction) a property manager acting in accordance with written guidelines established and administered by the INHAM, makes the decision on behalf of the plan to enter into the transaction. Notwithstanding the foregoing, a transaction involving an amount of $5,000,000 or more, which has been negotiated on behalf of the plan by the INHAM will not fail to meet the requirements of this section I(a) solely because the plan sponsor or its designee retains the right to veto or approve such transaction;

(b) The transaction is not described in—

(1) Prohibited Transaction Exemption 81–6 (46 FR 7527; January 23, 1981) (relating to securities lending arrangements),

(2) Prohibited Transaction Exemption 83–1 (48 FR 895; January 7, 1983) (relating to acquisitions by plans of interests in mortgage pools), or

(3) Prohibited Transaction Exemption 88–59 (53 FR 24811; June 30, 1988) (relating to certain mortgage financing arrangements);

(c) The transaction is not part of an agreement, arrangement or understanding designed to benefit a party in interest;

(d) At the time the transaction is entered into, and at the time of any subsequent renewal or modification thereof that requires the consent of the INHAM, the terms of the transaction are at least as favorable to the plan as the terms generally available in arm's length transactions between unrelated parties;

(e) The party in interest dealing with the plan: (1) is a party in interest with respect to the plan (including a fiduciary) solely by reason of providing services to the plan, or solely by reason of a relationship to a service provider described in section 3(14) (F), (G), (H), or (I) of ERISA; and (2) does not have discretionary authority or control with respect to the investment of the plan assets involved in the transaction and does not render investment advice (within the meaning of 29 CFR 2510.3–21(c)) with respect to those assets;

(f) The party in interest dealing with the plan is neither the INHAM nor a person related to the INHAM (within the meaning of section IV(d));

(g) The INHAM adopts written policies and procedures that are designed to assure compliance with the conditions of the exemption; and

(h) An independent auditor, who has appropriate technical training or experience and proficiency with ERISA's fiduciary responsibility provisions and so represents in writing, conducts an exemption audit (as defined in section IV(f)) on an annual basis. Following completion of the exemption audit, the auditor shall issue a written report to the plan presenting its specific findings regarding the level of compliance with the policies and procedure adopted by the INHAM in accordance with section I(g).

Part II—Specific Exemptions

Effective April 10, 1996, the restrictions of sections 406(a), 406(b)(1), 406(b)(2) and 407(a) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of Code section 4975(c)(1) (A) through (E), shall not apply to:

(a) The leasing of office or commercial space owned by a plan managed by an INHAM to an employer any of whose employees are covered by the plan or an affiliate of such an employer (as defined in section 407(d)(7) of the Act), if—

(1) The plan acquires the office or commercial space subject to an existing lease with an employer, or its affiliate as a result of foreclosure on a mortgage or deed of trust;

(2) The INHAM makes the decision on behalf of the plan to foreclose on the mortgage or deed of trust as part of the exercise of its discretionary authority;

(3) The exemption provided for transactions engaged in with a plan pursuant to section II(a) is effective until the later of the expiration of the lease term or any renewal thereof which does not require the consent of the plan lessor;

(4) The amount of space covered by the lease does not exceed fifteen (15) percent of the rentable space of the office building or the commercial center; and

(5) The requirements of sections I(c), I(g) and I(h) are satisfied with respect to the transaction.

(b) The leasing of residential space by a plan to a party in interest if—

(1) The party in interest leasing space from the plan is an employee of an employer any of whose employees are covered by the plan or an employee of an affiliate of such employer (as defined in section 407(d)(7) of the Act);

(2) The employee who is leasing space does not have any discretionary authority or control with respect to the investment of the assets involved in the lease transaction and does not render investment advice (within the meaning of 29 CFR 2510.3–21(c)) with respect to those assets;

(3) The employee who is leasing space is not an officer, director, or a 10% or more shareholder of the employer or an affiliate of such employer;

(4) At the time the transaction is entered into, and at the time of any subsequent renewal or modification thereof that requires the consent of the INHAM, the terms of the transaction are not less favorable to the plan than the terms afforded by the plan to other, unrelated lessees in comparable arm's length transactions;

(5) The amount of space covered by the lease does not exceed five percent (5%) of the rentable space of the apartment building or multi-unit residential subdivision [townhouses or garden apartments], and the aggregate amount of space leased to all employees of the employer or an affiliate of such employer does not exceed ten percent (10%) of such rentable space; and

(6) The requirements of sections I(a), I(c), I(d), I(g) and I(h) are satisfied with respect to the transaction.

Part III—Places of Public Accommodation

Effective April 10, 1996, the restrictions of sections 406(a)(1) (A) through (D) and 406(b) (1) and (2) of ERISA and the taxes imposed by Code section 4975 (a) and (b), by reason of Code section 4975(c)(1) (A) through (E), shall not apply to the furnishing of services and facilities (and goods incidental thereto) by a place of public accommodation owned by a plan and managed by an INHAM to a party in interest with respect to the plan, if the services and facilities (and incidental goods) are furnished on a comparable basis to the general public.

Part IV—Definitions

For the purposes of this exemption:

(a) The term ''in-house asset manager'' or ''INHAM'' means an organization which is—

(1) either (A) a direct or indirect wholly-owned subsidiary of an employer, or a direct or indirect wholly-owned subsidiary of a parent organization of such an employer, or (B) a membership nonprofit corporation a majority of whose members are officers or directors of such an employer or parent organization; and

(2) an investment adviser registered under the Investment Advisers Act of 1940 that, as of the last day of its most recent fiscal year, has under its management and control total assets attributable to plans maintained by affiliates of the INHAM (as defined in section IV(b)) in excess of $50 million; provided that if it has no prior fiscal year as a separate legal entity as a result of it constituting a division or group within the employer's organizational structure, then this requirement will be deemed met as of the date during its initial fiscal year as a separate legal entity that responsibility for the management of such assets in excess of $50 million was transferred to it from the employer.

In addition, plans maintained by affiliates of the INHAM and/or the INHAM, must have, as of the last day of each plan's reporting year, aggregate assets of at least $250 million.

(b) For purposes of sections IV(a) and IV(h), an ''affiliate'' of an INHAM means a member of either (1) a controlled group of corporations (as defined in section 414(b) of the Code) of which the INHAM is a member, or (2) a group of trades or businesses under common control (as defined in section 414(c) of the Code) of which the INHAM is a member; provided that ''50 percent'' shall be substituted for ''80 percent'' wherever ''80 percent'' appears in section 414(b) or 414(c) or the rules thereunder.

(c) The term ''party in interest'' means a person described in Act section 3(14) and includes a ''disqualified person'' as defined in Code section 4975(e)(2).

(d) An INHAM is ''related'' to a party in interest for purposes of section I(f) of this exemption if the party in interest (or a person controlling, or controlled by, the party in interest) owns a five percent or more interest in the INHAM or if the INHAM (or a person controlling, or controlled by, the INHAM) owns a five percent or more interest in the party in interest. For purposes of this definition:

(1) The term ''interest'' means with respect to ownership of an entity—

(A) The combined voting power of all classes of stock entitled to vote or the total value of the shares of all classes of stock of the entity if the entity is a corporation.

(B) The capital interest or the profits interest of the entity if the entity is a partnership, or

(C) The beneficial interest of the entity if the entity is a trust or unincorporated enterprise;

(2) A person is considered to own an interest held in any capacity if the person has or shares the authority—

(A) To exercise any voting rights or to direct some other person to exercise the voting rights relating to such interest, or

(B) To dispose or to direct the disposition of such interest; and

(3) The term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(e) For purposes of this exemption, the time as of which any transaction occurs is the date upon which the transaction is entered into. In addition, in the case of a transaction that is continuing, the transaction shall be deemed to occur until it is terminated. If any transaction is entered into on or after April 10, 1996, or any renewal that requires the consent of the INHAM occurs on or after April 10, 1996, and the requirements of this exemption are satisfied at the time the transaction is entered into or renewed, respectively, the requirements will continue to be satisfied thereafter with respect to the transaction. Nothing in this paragraph shall be construed as exempting a transaction entered into by a plan which becomes a transaction described in section 406 of the Act or section 4975 of the Code while the transaction is continuing, unless the conditions of the exemption were met either at the time the transaction was entered into or at the time the transaction would have

become prohibited but for this exemption. In determining compliance with the conditions of the exemption at the time that the transaction was entered into for purposes of the preceding sentence, section I(e) will be deemed satisfied if the transaction was entered into between a plan and a person who was not then a party in interest.

(f) Exemption Audit. An ''exemption audit'' of a plan must consist of the following:

(1) A review of the written policies and procedures adopted by the INHAM pursuant to section I(g) for consistency with each of the objective requirements of this exemption (as described in section IV(g)).

(2) A test of a representative sample of the plan's transactions in order to make findings regarding whether the INHAM is in compliance with (i) the written policies and procedures adopted by the INHAM pursuant to section I(g) of the exemption and (ii) the objective requirements of the exemption.

(3) A determination as to whether the INHAM has satisfied the definition of an INHAM under the exemption; and

(4) Issuance of a written report describing the steps performed by the auditor during the course of its review and the auditor's findings.

(g) For purposes of section IV(f), the written policies and procedures must describe the following objective requirements of the exemption and the steps adopted by the INHAM to assure compliance with each of these requirements:

(1) The definition of an INHAM in section IV(a).

(2) The requirements of Part I and section I(a) regarding the discretionary authority or control of the INHAM with respect to the plan assets involved in the transaction, in negotiating the terms of the transaction, and with regard to the decision on behalf of the plan to enter into the transaction.

(3) That any procedure for approval or veto of the transaction meets the requirements of section I(a).

(4) For a transaction described in Part I:

(A) that the transaction is not entered into with any person who is excluded from relief under section I(e)(1), section I(e)(2), to the extent such person has discretionary authority or control over the plan assets involved in the transaction, or section I(f), and

(B) that the transaction is not described in any of the class exemptions listed in section I(b).

(5) For a transaction described in Part II:

(A) If the transaction is described in section II(a),

(i) that the transaction is with a party described in section II(a);

(ii) that the transaction occurs under the circumstances described in section II(a) (1) and (2);

(iii) that the transaction does not extend beyond the period of time described in section II(a)(3); and

(iv) that the percentage test in section II(a)(4) has been satisfied or

(B) If the transaction is described in section II(b),

(i) that the transaction is with a party described in sections II(b)(1);

(ii) that the transaction is not entered into with any person excluded from relief under section II(b)(2) to the extent such person has discretionary authority or control over the plan assets involved in the lease transaction or section II(b)(3); and

(iii) that the percentage test in section II(b)(5) has been satisfied.

(h) The term ''plan'' means a plan maintained by the INHAM or an affiliate of the INHAM.

Signed at Washington, DC, 4th day of April 1996.

Alan D. Lebowitz,

*Deputy Assistant Secretary for Program Operations, Pension and Welfare Benefits Administration, U.S. Department of Labor.*

[FR Doc. 96–8841 Filed 4–9–96; 8:45 am]

**BILLING CODE 4510–29–P**

## NUCLEAR REGULATORY COMMISSION

### Commonwealth Edison Company; Notice of Partial Denial of Amendment to Facility Operating Licenses and Opportunity for Hearing

**[Docket Nos. STN 50–454, STN 50–455, STN 50–456, STN 50–457]**

The U.S. Nuclear Regulatory Commission (the Commission) has partially denied a request by Commonwealth Edison Company (ComEd, the licensee) for an amendment to Facility Operating License Nos. NPF–37, NPF–62, NPF–72 and NPF–77, issued to the licensee for operation of Byron Station, Units 1 and 2, located in Ogle County, Illinois and Braidwood Station, Units 1 and 2, located in Will County, Illinois. Notice of Consideration of Issuance of this amendment was published in the Federal Register on February 28, 1996 (61 FR 7547).

The purpose of the licensee's amendment request was to revise the Technical Specifications (TS) to replace the existing scheduling requirements for overall integrated and local containment leakage rate testing with a requirement to perform the testing in accordance with 10 CFR Part 50, Appendix J, Option B. As part of its submittal, ComEd proposed to revise the TS regarding the testing of valves with resilient seal material. The scope of the staff's revisions to 10 CFR Part 50, Appendix J, did not include changes to testing of such valves and ComEd's submittal did not include sufficient information for the staff to evaluate the proposed change independently of the others. Therefore, the staff has concluded that that portion of the licensee's request can not be granted. The licensee was notified of the Commission's partial denial of the proposed change by a letter dated April 4, 1996.

By May 10, 1996, the licensee may demand a hearing with respect to the partial denial described above. Any person whose interest may be affected by this proceeding may file a written petition for leave to intervene.

A request for hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date.

A copy of any petitions should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60603, attorney for the licensee.

For further details with respect to this action, see (1) the application for amendment dated December 6, 1995, as supplemented February 27, 1996, and March 28, 1996, and (2) the Commission's letter to the licensee dated April 4, 1996.

These documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at: for Byron, the Byron Public Library District, 109 N. Franklin, P.O. Box 434, Byron, Illinois 61010; for Braidwood, the Wilmington Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Dated at Rockville, Maryland, this 4th day of April 1996.

For the Nuclear Regulatory Commission.

Ramin R. Assa,

*Project Manager, Project Directorate III–2, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.*

[FR Doc. 96–8908 Filed 4–9–96; 8:45 am]

BILLING CODE 7590–01–P

## Application for a License to Export a Utilization Facility

Pursuant to 10 CFR 110.70(b) ''Public notice of receipt of an application'', please take notice that the Nuclear Regulatory Commission has received the following application for an export license. Copies of the application are on file in the Nuclear Regulatory Commission's Public Document Room located at 2120 L Street, NW., Washington, DC.

A request for a hearing or petition for leave to intervene may be filed within 30 days after publication of this notice in the Federal Register. Any request for hearing or petition for leave to intervene shall be served by the requester or petitioner upon the applicant, the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC. 20555; the Secretary, U.S. Nuclear Regulatory Commission; and the Executive Secretary, U.S. Department of State, Washington, DC. 30520.

In its review of the application for a license to export a utilization facility as defined in 10 CFR part 110 and noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the facility to be exported. The information concerning this application follows.

| Name of applicant | U.S. dept. of energy—HO | Description of facility | End use |
|---|---|---|---|
| Date of Application | 28 March 1996 | Complete Control Rod system; main coolant pump and various reactor components. | Convert IAN–R1 research reactor from HEU core to LEU core. |
| Date Received | 29 March 1996 | | |
| Application Number | XR164 | | |
| Country of Destination | Colombia | | |

Dated this 4th day of April 1996 at Rockville, Md.

For the Nuclear Regulatory Commission.

Ronald D. Hauber,

*Director, Division of Nonproliferation, Exports and Multilateral Relations, Office of International Programs.*

[FR Doc. 96–8962 Filed 4–9–96; 8:45 am]

BILLING CODE 7590–01–M

## Licensing Support System Advisory Review Panel Meeting

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of public meeting.

**SUMMARY:** The Licensing Support System Advisory Review Panel (LSSARP) will hold its next meeting on May 2 and 3, 1996, in Pueblo Room #1119, Clark County Government Center, 500 Grand Central Parkway, Las Vegas, Nevada 89155. The meeting will be open to the public pursuant to the Federal Advisory Committee Act (Pub. L. 94–463, 86 Stat. 770–776).

**AGENDA:** The meeting will be held from 8:30 a.m. to 4 p.m. on Thursday, May 2, and from 8:30 a.m. to 10 a.m., as needed, on Friday, May 3, 1996. The following agenda is planned:

1. LSS Administrator's Report
2. DOE Activity Report
   a. Schedule for LSS Development
   b. Availability of Records Information System (RIS) and Demonstration
3. LSS Senior Management Team Report
   a. Topical Guidelines Publication
   b. Assessment of Licensing Support Technology/Options
   c. Decision Capture Process and Procedure
4. Future Panel Activity

**SUPPLEMENTARY INFORMATION:** The Nuclear Regulatory Commission (NRC) established the LSSARP in 1989 to provide advice and recommendations to the NRC and to the Department of Energy (DOE) concerning the design, development and operation of an electronic information management system, known as the Licensing Support System (LSS), for the storage and retrieval of information relevant to the Commission's future licensing proceeding for a geologic repository for the disposal of high-level radioactive waste. Membership on the Panel consists of representatives of the State of Nevada, Nye County Nevada, a coalition of local counties of Nevada and California adjoining Nye County, the National Congress of American Indians, the nuclear industry, DOE, NRC and other agencies of the Federal government which have experience with large electronic information management systems.

**FOR FURTHER INFORMATION CONTACT:** John C. Hoyle, Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555: telephone 301–415–1969.

Public Participation

Interested persons may make oral presentations to the Panel or file written statements. Requests for oral presentations should be made to the contact person listed above as far in advance as practicable so that appropriate arrangements can be made.

Dated: April 5, 1996.

John C. Hoyle,

*Acting Advisory Committee Management Officer.*

[FR Doc. 96–8964 Filed 4–9–96; 8:45 am]

BILLING CODE 7590–01–M

## Advisory Committee on Nuclear Waste; Meeting

The Advisory Committee on Nuclear Waste (ACNW) will hold its 83rd meeting on May 15–16, 1996, Room T–2B3, at 11545 Rockville Pike, Rockville, Maryland. The date of this meeting was previously published in the Federal Register on Wednesday, December 6, 1995 (60 FR 62485).

The entire meeting will be open to public attendance, with the exception of a portion that may be closed to discuss information the release of which would constitute a clearly unwarranted invasion of personal privacy pursuant to 5 U.S.C. 552b(c)(6).

The agenda for this meeting shall be as follows:

*Wednesday, May 15, 1996—8:30 A.M. until 6 P.M.*

*Thursday, May 16, 1996—8:30 A.M. until 4 P.M.*

During this meeting the Committee plans to consider the following:

A. *Total System Performance Assessment 1995*—The Committee will review comments from the NRC staff on the Department of Energy's Total System Performance Assessment 1995. Participation by the staffs of both DOE and NRC is anticipated.

B. *Natural Analogues*—The Committee will discuss Zirconolite as a natural mineral analog for nuclear waste disposal. A representative from the Geophysical Laboratory, Carnegie

Institution of Washington will make the presentation.

C. *Meeting with the Director, NRC's Division of Waste Management, Office of Nuclear Materials Safety and Safeguards*—The Director will discuss items of current interest related to the Division of Waste Management programs which may include: Progress at the Yucca Mountain site, Status of Key Technical Issue resolution, and a discussion of shallow-land disposal long-term performance.

D. *Status of Nuclear Waste Related Research*—The Committee will meet with representatives of NRC's Offices of Nuclear Regulatory Research and Nuclear Material Safety and Safeguards to discuss the current status of nuclear waste related research.

E. *Preparation of ACNW Reports*—The Committee will discuss proposed reports, including: time frames for regulatory concern, the use of expert elicitation, elements of an adequate Low-Level Waste program, Committee priorities and task action plans, and biological effects from low-levels of ionizing radiation.

F. *Committee Activities/Future Agenda*—The Committee will consider topics proposed for future consideration by the full Committee and Working Groups. The Committee will discuss ACNW-related activities of individual members. The Committee will also consider potential new ACNW members. A portion of this session may be closed to public attendance to discuss information the release of which would constitute a clearly unwarranted invasion of personal privacy pursuant to 5 U.S.C. 552b(c)(6).

G. *Miscellaneous*—The Committee will discuss miscellaneous matters related to the conduct of Committee activities and organizational activities and complete discussion of matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACNW meetings were published in the Federal Register on September 27, 1995 (60 FR 49924). In accordance with these procedures, oral or written statements may be presented by members of the public electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify the Chief, Nuclear Waste Branch, Mr. Richard K. Major, as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting may be limited to selected portions of the meeting as determined by the ACNW Chairman. Information regarding the time to be set aside for this purpose may be obtained by contacting the Chief, Nuclear Waste Branch prior to the meeting. In view of the possibility that the schedule for ACNW meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with Mr. Major if such rescheduling would result in major inconvenience.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting Mr. Richard K. Major, Chief, Nuclear Waste Branch (telephone 301/415–7366), between 8 A.M. and 5 P.M. EDT.

ACNW meeting notices, meeting transcripts, and letter reports are now available on FedWorld from the ''NRC MAIN MENU.'' Direct Dial Access number to FedWorld is (800) 303–9672; the local direct dial number is 703–321–3339.

Dated: April 5, 1996.

John C. Hoyle,

*Acting Advisory Committee Management Office.*

[FR Doc. 96–8963 Filed 4–9–96; 8:45 am]

**BILLING CODE 7590–01–M**

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## Biweekly Notice

## Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law 97-415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from March 16, 1996, through March 29, 1996. The last biweekly notice was published on March 27, 1996 (61 FR 13521).

Notice Of Consideration Of Issuance Of Amendments To Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, And Opportunity For A Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the Federal Register a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S.

Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this Federal Register notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By May 10, 1996, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 248-5100 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to (Project Director): petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Duke Power Company, et al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

*Date of amendment request:* September 30, 1994, as supplemented September 18, 1995, January 19 and March 15, 1996

*Description of amendment request:* Currently, the steam generators (SGs) in place in the Catawba units are Westinghouse Model ''D'' type preheat SGs. The tube degradation levels in the SGs at Catawba Unit 1 have affected the reliability of the unit. Therefore, these generators are scheduled to be replaced with feedring SGs designed by Babcock

& Wilcox International. The design differences and analysis changes to support the feedring SGs result in the need to change the Technical Specifications (TS) in the following areas: (a) revise low-low SG water level for the reactor trip setpoint in TS Table 2.2-1 and for auxiliary feedwater actuation in TS Table 3.3-4, (b) revise high-high SG water level setpoint for turbine trip and feedwater isolation in TS Table 3.3-4, (c) delete reference to SG tube repair methods which will no longer be applicable after the replacement of the SGs and clarify initial surveillances, (d) revise reactor coolant system volume, (e) update Topical Report revision numbers in the Administrative Controls Section 6.9 of the TS, and (f) change the nominal average temperature in TS Table 2.2-1 for the reactor trip system setpoints to reflect the value incorporated into the safety analyses for the replacement SGs. The change made in the September 30, 1994, submittal, to reduce the steam line safety valve lift settings in TS Table 3.7-2, was withdrawn in the September 18, 1995, submittal. The January 19, 1996, submittal proposed changes to reflect the NRC's approved revisions to Topical Reports DPC-NE-3000 and DPC-NE-3002. The March 15, 1996, submittal provided additional information in response to NRC staff requests and also updated and clarified the involved TS pages including changes made to these TS pages by license amendments issued on other topics since the original application dated September 30, 1994.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Operation of Catawba Unit 1 in accordance with the proposed changes to the Technical Specifications will not involve a significant increase in the probability or consequences of an accident previously evaluated. The low-low steam generator water level reactor trip setpoint, the high-high steam generator water level setpoint for turbine trip and feedwater isolation, and the low-low steam generator water level setpoint for auxiliary feedwater initiation are changing to support operation with the replacement steam generators. These setpoints were chosen both to optimize plant operation, and ensure that all applicable acceptance criteria are met for licensing basis safety analysis. These setpoints do not contribute to the initiation of any accident evaluated in the Catawba FSAR [Final Safety Analysis Report] and have no adverse impact on system operation, therefore it can be concluded that these changes will not significantly increase the probability or consequences of an accident evaluated in the FSAR.

The increase in Reactor Coolant System volume due to the replacement steam generators will not increase the probability or consequences of an accident previously evaluated. The increase in volume has no effect on the probability of occurrence of any accident evaluated in the FSAR. The mass and energy release inside containment due to postulated loss of coolant accidents inside containment has been analyzed to ensure that the peak containment pressure limit is not exceeded. All Chapter 15 reanalysis which was required due to the replacement steam generators assumed the new Reactor Coolant System volume. Since the results of these analyses show the applicable acceptance criteria continue to be met, it can be concluded that the consequences of an accident previously evaluated are not significantly increased due to this change.

Operation of Catawba Unit 1 in accordance with the proposed changes to the Technical Specification will not create the possibility of a new or different accident from any accident previously evaluated. The proposed changes to revise the low-low steam generator water level reactor trip setpoint, high-high steam generator water level setpoint for turbine trip and feedwater isolation, and low-low steam generator water level setpoint for auxiliary feedwater initiation ensure that the appropriate acceptance criteria for FSAR Chapter 15 transients which rely on these functions are met for operation with the replacement steam generators. ... The increase in Reactor Coolant System volume is taken into account in the analysis of the mass and energy release due to a postulated loss of coolant inside containment, and Chapter 15 events which have been reanalyzed due to replacement of the steam generators. As discussed above, the proposed changes will not introduce the possibility of a new or different accident from any previously evaluated, they will ensure that transients that take credit for these functions and dose analyses meet applicable acceptance criteria for operation with the replacement steam generators.

Operation of Catawba Unit 1 in accordance with the proposed changes to the Technical Specifications will not involve a significant reduction in a margin of safety. The proposed changes were made to ensure that transients that rely on low-low steam generator water level reactor trip setpoint, high-high steam generator water level setpoint for turbine trip and feedwater isolation, and low-low steam generator water level setpoint for auxiliary feedwater actuation meet applicable acceptance criteria. ... The proposed change in the Reactor Coolant System volume will not involve a significant reduction in a margin of safety. The increased volume affects the mass and energy release due to a postulated loss of coolant accident inside containment and the other Chapter 15 events which were reanalyzed due to replacement of the steam generators. This event has been analyzed and the results are within current acceptable limits. As discussed above, the acceptance criteria for FSAR transients which are affected by these proposed changes continue to be met, therefore there is no significant reduction in the margin of safety.

Changes to the steam generator surveillance requirements will simply delete inspection requirements which are no longer applicable after installation of the replacement steam generators. References to F* criteria, interim plugging criteria, and sleeving are deleted since these repair criteria were approved for use on the current steam generators. Since these changes only delete criteria which will no longer be applicable and cannot be used, no significant hazards considerations are involved.

The changes to Technical Specification 6.9.1.9 are administrative in nature. These changes are being made to reflect the most recent revisions of DPC-NE-3002 and DPC-NE-3000, which includes changes associated with the replacement steam generators. These topical report revisions [have been] reviewed and approved for use regarding McGuire and Catawba Nuclear Stations. Since these changes are administrative in nature, no significant hazards considerations are involved.

The proposed change to Technical Specifications [average coolant temperature in Table 2.2-1] does not involve a significant increase in the probability or consequences of an accident previously evaluated. Changing the value for [the average coolant temperature] in Notes 1 and 3 of Table 2.2-1 will update the value to agree with [the average coolant temperature] assumed in the applicable safety analyses for replacement of the steam generators. Acceptable results were obtained for all required reanalyses. The probability of an accident will not be significantly affected by operation with the new [average coolant temperature] value, because all equipment will be operated within acceptable design limits. The consequences of previously evaluated accidents which are affected by this change have been evaluated, and have been determined to be within acceptable limits.

This proposed change [to TS Table 2.2-1] will not create the possibility of a new or different kind of accident from any previously evaluated. This change does not change the physical configuration of the plant, and all analyses which are affected by replacement of the steam generators have been determined to have acceptable results assuming this value for [average coolant temperature].

This proposed change to the Technical Specifications [Table 2.2-1] will not involve a significant reduction in the margin of safety. All safety analyses which were affected by replacement of the steam generators assumed this value for [average coolant temperature] and the results were determined to be within previously acceptable limits.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

*Attorney for licensee:* Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242

*NRC Project Director:* Herbert N. Berkow

Duke Power Company, et al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

*Date of amendment request:* January 12, 1996, as supplemented March 4, 1996

*Description of amendment request:* This request was previously published in the Federal Register on January 31, 1996 (61 FR 3498). It is being renoticed to provide clarification to the scope of the original request. Compliance with 10 CFR Part 50, Appendix J, provides assurance that the primary containment, including those systems and components that penetrate the primary containment, do not exceed the allowable leakage rate values specified in the Technical Specifications (TS) and Bases. The allowable leakage rate is determined so that the leakage assumed in the safety analyses is not exceeded.

On September 12, 1995, the NRC approved issuance of a revision to 10 CFR Part 50, Appendix J, which was subsequently published in the Federal Register on September 26, 1995, and became effective on October 26, 1995. The revision added Option B ''Performance-Based Requirements'' to Appendix J to allow licensees to voluntarily replace the prescriptive testing requirements of Appendix J with testing requirements based on both overall and individual component leakage rate performance.

Regulatory Guide 1.163, ''Performance-Based Containment Leak Test Program,'' was developed as a method acceptable to the staff for implementing Option B. Accordingly, the licensee has submitted, in its application dated January 12, 1996, proposed changes to the TS to implement 10 CFR Part 50, Appendix J, Option B, by referring to Regulatory Guide (RG) 1.163, ''Performance-Based Containment Leakage-Test Program.'' Although the licensee's proposal indicated that it was consistent with RG 1.163, it did not include the clarifying changes to the TS that would require the visual examination of containment systems to be consistent with the guidance of RG 1.163. The licensee submitted a supplement, dated March 4, 1996, to its January 12, 1996 proposal, which proposes such changes to TS Surveillance Requirements 4.6.1.6 and 4.6.1.7 and associated Bases.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change will not involve a significant increase in the probability or consequences of an accident previously evaluated.

Containment leak rate testing is not an initiator of any accident; the proposed change does not affect reactor operations or accident analysis, and has no significant radiological consequences. Therefore, this proposed change will not involve an increase in the probability or consequences of any previously-evaluated accident.

2. The proposed change will not create the possibility of any new not previously evaluated.

The proposed change does not affect normal plant operations or configuration, nor does it affect leak rate test methods. The test history at Catawba (no ILRT [integral leak rate test] failures) provides continued assurance of the leak tightness of the containment structure.

3. There is no significant reduction in a margin of safety.

The proposed changes are based on NRC-accepted provisions, and maintain necessary levels of reliability of containment integrity. The performanced-based approach to leakage rate testing recognizes that historically good results of containment testing provide appropriate assurance of future containment integrity; this supports the conclusion that the impact on the health and safety of the public as a result of extended test intervals is negligible.

Based on the above, no significant hazards consideration is created by the proposed change.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

*Attorney for licensee:* Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242

*NRC Project Director:* Herbert N. Berkow

Duquesne Light Company, et al., Docket No. 50-412, Beaver Valley Power Station, Unit 2, Shippingport, Pennsylvania

*Date of amendment request:* March 11, 1996

*Description of amendment request:* The proposed amendment would increase the alarm setpoints of the in-containment high range area and containment purge radiation monitors. These alarm setpoints are specified in Table 3.3-6 of Technical Specification 3.3.3.1. The proposed amendment would also include several editorial changes.

The proposed change to the in-containment high range area radiation monitor alarm setpoint would make the setpoint consistent with the Beaver Valley Power Station Emergency Action Levels (EALs) approved by the NRC in August 1994. These EALs use the in-containment high radiation area monitors as indication of fission product barrier challenges or failures.

The containment purge radiation monitors are provided to: (1) analyze the ventilation effluent from the reactor containment building, (2) detect abnormal releases and isolate the release if the setpoint is reached or exceeded, and (3) alert refueling personnel of the need to evacuate affected areas so as to maintain occupational exposures as low as reasonably achievable. The proposed increase in this setpoint value provides alarm and isolation based on offsite dose considerations and will provide greater operational flexibility since inadvertent engineered safety feature actuations due to evacuation alarms caused by minor (greater than three times background) increases in radiation levels will be minimized.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed monitor alarm setpoint changes and editorial changes are administrative in nature. Should the in-containment high range area monitors fail to annunciate or give a false alarm, there would be no effect on any other plant equipment or systems. These monitors are safety related; however, they do not initiate any safety function, nor do they interface with any other safety related system. The monitors' alarm as a visual (lighted icon) and audible alarm in the control room. The operator is then responsible for taking any corrective actions necessary, based on the alarm and Emergency Action Level (EAL) guidelines. The in-containment high range area monitors do not provide for any automatic actions of other equipment or systems when an alarm condition occurs.

The containment purge monitors are also safety related with the ability for an operator to input a radiation level value for high alarm levels during Mode 6, which upon actuation, create both a visual (lighted icon) and

audible alarm in the control room. At the high alarm level, each monitor automatically sends a signal to close the purge supply and exhaust isolation dampers in the containment building. A change in the value of the alarm setpoint has no effect on the performance of the containment purge and exhaust system. The high alarm and subsequent automatic termination of a radioactive release will now be based on offsite dose considerations. There is no credible failure of the monitors associated with a change of the alarm setpoint value.

The operating and design parameters of the subject radiation monitors will not change. The proposed change affects only theradiation level at which an alarm condition is created and does not affect any accident assumptions. The in-containment high range area monitors' alarm setpoint change will not affect the radiological consequences of an accident. However, since the containment purge monitors revised setpoint is based on offsite doses consequences and is a higher value than the current setpoint of three times the background radiation level, the postulated offsite radiological consequences of a fuel handling accident inside containment would be increased. An analysis of a fuel handling accident inside containment with the purge and exhaust system discharging through the Supplementary Leak Collection and Release System (SLCRS) filter trains was performed and a summary of this analysis is to be added to Chapter 15 of the Updated Final Safety Analysis Report (UFSAR). The analysis which determined the containment purge monitors' setpoint postulated offsite doses that are less than a small fraction (less than twenty-five percent) of the 10 CFR Part 100 guidelines. The fuel handling accident inside containment calculation demonstrated control room operator doses that comply with General Design Criteria (GDC) 19. Therefore, the increased radiological consequences of the change in the alarm setpoint are acceptable. The analysis assumed no isolation, so isolation actuated by the monitor alarm will reduce doses further.

Therefore, the proposed change will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed radiation monitor alarm revisions cannot initiate a new type of accident. The referenced radiation monitors' alarms cannot initiate a new type of accident, since even a failure of the monitor itself cannot serve as the initiating event of an accident. Operator action is not made solely on a radiation monitor alarm; other plant condition indicators are also evaluated.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the change involve a significant reduction in a margin of safety?

The in-containment high range area monitors have no capability to mitigate the consequences of an accident and do not interface with any safety related system. These monitors are safety related channels which provide indication to the operator of the integrity of the fission product barriers incontainment. This indication, combined with other indications of plant conditions may direct an operator to take action to mitigate the consequences of an accident. The alarm setpoint itself does not perform any specific safety related function and the trip value is not referenced in the UFSAR, nor does any site design basis document take credit for this setpoint. Safety limits and limiting safety system settings are not affected by this proposed change. The site will continue to meet the requirements of 10 CFR Part 100 which limits offsite dose following a postulated fission product release.

The containment purge monitors' revised setpoint is based on offsite dose consequences and is a higher value than the current setpoint of three times the background radiation level. Thus the postulated offsite radiological consequences of a fuel handling accident inside containment are increased which reduces the current margin of safety. An analysis of a fuel handling accident inside containment with the purge and exhaust system discharging through the SLCRS filter trains was performed and a summary of this analysis will be added to Chapter 15 of the UFSAR. The analysis postulated offsite doses to be less than twenty-five percent of the 10 CFR Part 100 guidelines and control room operator doses that comply with GDC 19. The analysis shows that the increased radiological consequences of the change in the alarm setpoint are acceptable. Further, the analysis assumed that no isolation would occur; therefore, isolation actuated by the monitors' alarm will reduce the postulated doses.

Therefore, use of the proposed technical specification would not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 1500l.

*Attorney for licensee:* Jay E. Silberg, Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

*NRC Project Director:* John F. Stolz

Florida Power and Light Company, Docket Nos. 50-250 and 50-251, Turkey Point Plant Units 3 and 4, Dade County, Florida

*Date of amendment request:* March 5, 1996

*Description of amendment request:* The licensee proposes to change Turkey Point Units 3 and 4 Technical Specifications (TS) as follows:

(1) TS Surveillance Requirement (SR) 4.4.3.3: Delete the requirement for testing the switching capability for pressurizer heater power supplies on an 18-month interval.

(2) TS SR 4.5.2.d: Change the containment sump inspection requirements from each containment entry to once daily if a containment entry has been made and upon the final entry prior to establishing CONTAINMENT INTEGRITY.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below.

(1) Operation of the facility in accordance with the proposed amendments would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendments do not involve a significant increase in the probability or consequences of an accident previously evaluated because the proposed amendments conform to the uidance given in Enclosure 1 of the NRC Generic Letter 93-05. The overall functional capabilities of the pressurizer heater system and the Emergency Core Cooling System (ECCS) will not be modified by the proposed changes. These amendments will not involve a significant increase in the probability or consequences of an accident previously evaluated for the following reasons:

(1) Deleting the requirement to test the switching capabilities of the pressurizer heater emergency power supplies will reduce an unnecessary testing requirement since the pressurizer heaters are already connected to the emergency bus.

(2) Increasing the interval of containment sump inspections to once daily if containment has been entered and upon final entry will reduce unnecessary personnel exposure from performance of containment sump inspections for each containment entry.

[The staff notes that although statement (2) is correct, it does not provide a reason why the amendments will not involve a significant increase in the probability or consequences of an accident previously evaluated. The staff finds that once daily inspection of the containment adequately ensures that the containment sump remains free of debris.]

(2) Operation of the facility in accordance with the proposed amendments would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The use of the proposed changes to the TS can not create the possibility of a new or different kind of accident from any accident previously evaluated since the proposed amendments will not change the physical plant or the modes of plant operation defined

in the facility operating license. No new failure mode is introduced due to the surveillance changes and inspection requirements, since the proposed changes do not involve the addition or modification of equipment nor do they alter the design or operation of affected plant systems.

(3) Operation of the facility in accordance with the proposed amendments would not involve a significant reduction in a margin of safety.

The operating limits and functional capabilities of the affected systems are unchanged by the proposed amendments. The proposed changes to the TS which establish new or clarify old surveillance and inspection requirements [are] consistent with the NRC Generic Letter 93-05 line-item improvement guidance [and] do not significantly reduce any of the margins of safety even though the number of surveillances is decreased. These requested amendments are justified by the following reasoning from NUREG-1366:

(1) The surveillance or inspection results in radiation exposure to plant personnel which is not justified by the safety significance of the surveillances as in the case of the containment sump inspection requirements.

(2) The surveillance places an unnecessary burden on plant personnel because the time required is not justified by the safety significance of the surveillance as in the emergency power switching requirements for the pressurizer heater system.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied.Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Florida International University, University Park, Miami, Florida 33199

*Attorney for licensee:* J. R. Newman, Esquire, Morgan, Lewis & Bockius, 1800 M Street, NW., Washington, DC 20036

*NRC Project Director:* Eugene V. Imbro

Indiana Michigan Power Company, Docket Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

*Date of amendment requests:* February 22, 1996 (AEP:NRC:1243)

*Description of amendment requests:* The proposed amendments would revise the technical specifications to reference NRC Regulatory Guide 1.9, Revision 3 rather than NRC Regulatory Guide 1.108, Revision 1 criteria for the determination of a valid diesel generator test.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Per 10 CFR 50.92, proposed changes do not involve a significant hazards consideration if the changes do not:

1. involve a significant increase in the probability [or] consequences of an accident previously evaluated,

2. create the possibility of a new or different kind of accident from any accident previously evaluated, or

3. involve a significant reduction in a margin of safety

*Criterion 1*

This amendment request does not involve a significant increase in the probability or consequences of an accident previously evaluated because the proposed change to the T/S [technical specifications] does not affect the assumptions, parameters, or results of any UFSAR [updated final safety analysis report] accident analysis.

The proposed amendment does not modify any existing equipment, and the proposed acceptance criteria for diesel generator testing will conform to NRC guidance. Based on these considerations, it is concluded that the changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

*Criterion 2*

The proposed changes do not involve physical changes to the plant or changes in plant operating configuration. The proposed changes update guidance for diesel generator testing. Thus, it is concluded that the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

*Criterion 3*

The proposed changes update guidance for the testing of diesel generators. The guidance is endorsed by the NRC in Regulatory Guide 1.9, and compliance with this guidance will ensure the operability of the diesel generators. Thus, there is no significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

*Local Public Document Room location:* Maud Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085

*Attorney for licensee:* Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW, Washington, DC 20037

*NRC Project Director:* Mark Reinhart, Acting

Northeast Nuclear Energy Company (NNECO), Docket No. 50-245, Millstone Nuclear Power Station, Unit 1, New London County, Connecticut

*Date of amendment request:* December 7, 1995

*Description of amendment request:* The proposed change will remove the requirement that primary containment always be purged or vented through the standby gas treatment (SBGT) system and adds requirements that would limit the use of SBGT for purging and venting. The proposed amendment also makes editorial changes and revises the associated Bases section.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

NNECO has reviewed the proposed change in accordance with 10CFR50.92 and concluded that the change does not involve a significant hazards consideration (SHC). The basis for this conclusion is that the three criteria of 10CFR50.92(c) are not compromised. The proposed change does not involve an SHC because the change would not:

1. Involve a significant increase in the probability or consequences of an accident previously analyzed.

The proposed change will allow primary containment to be purged or vented without the use of the SBGT system. This change only modifies the alignment of the atmospheric control system for purging or venting containment. The change does not affect any primary system, nor does it affect the ability of the containment isolation valves to close. As such, the proposed change can not affect the probability of occurrence of an accident previously analyzed. This change increases the possibility that some initial post-accident containment atmosphere could be released directly to the atmosphere at the top of the 375 foot stack prior to the closure of the containment isolation valves. However, this condition is bounded by the original radiological release analysis. This is balanced by the increased likelihood that post-accident reactor building atmosphere (from the time that the containment isolation valves close) is processed by the SBGT system.

The proposed technical specification also establishes strict controls for the use of the SBGT system for purging and venting containment atmosphere. This includes disabling the automatic initiation of the train not in use and relying on a dedicated operator to initiate the remaining train, should a DBA [design basis accident] occur. Since SBGT system operation does not affect the initiation of any postulated accident, disabling the automatic initiation and relying upon operator action to start the remaining train can not affect the probability of an accident previously evaluated. The failure of the train to start within one minute following the DBA could increase the consequences of

an analyzed accident. To ensure timely initiation, NNECO has implemented a procedure for purging or venting through the SBGT system which establishes a dedicated operator whose function at the onset of a DBA is to isolate the train in use (the train expected to be damaged by the pressure spike), verify the open AC [atmospheric control] valves go closed, and then start the second train. This procedure has been validated to ensure that these actions can be completed within one minute.

Although not expected, a delay in operator action to initiate the SBGT has been evaluated for impact upon the radiological consequences. The evaluation shows that the offsite doses remain well within the 10CFR100 limit even if the operator actions are not completed until three minutes after the DBA occurs.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously analyzed.

2. Create the possibility of a new or different kind of accident from any previously analyzed.

The proposed change allows removal of the SBGT system from the release path for normal containment purge and venting. The change does not affect the frequency or requirement for venting. Nor does the proposed LCO [limiting condition for operation] affect the processes of venting or purging primary containment; the same penetrations and containment isolation valves will continue to be used. All purging and venting functions can still be performed when required by existing specifications and plant procedures. The proposed change does not diminish the capability of any isolation valve for performing its isolation function.

Therefore, the proposed change can not create a new or different kind of accident.

3. Involve a significant reduction in the margin of safety.

The affect of this change has been analyzed against the criteria of 10CFR100 and 10CFR20. The potential release which may occur as a result of a postulated DBA while purging or venting directly to the stack will not exceed the limits of 10CFR100. Likewise, the technical specifications and administrative controls established for purging or venting through the SBGT minimize the potential for an unfiltered release should a DBA occur during that evolution. Further, the amount of time that a SBGT train is aligned to primary containment is expected to be substantially reduced from that required by the existing Technical Specification. Decreasing the amount of time that SBGT is aligned to primary containment decreases the possibility that a DBA would occur while in such an alignment.

Finally, the potential increase in dose which could occur as a result of normal purge and vent activities will be controlled such that it remains below acceptable limits.

Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, CT 06360.

*Attorney for licensee:* Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, CT 06141-0270.

*NRC Project Director:* Phillip F. McKee

Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

*Date of amendment requests:* January 17, 1996

*Description of amendment requests:* The proposed amendment would revise selected technical specifications (TS) in accordance with the NRC's Final Policy Statement on TS Improvements for Nuclear Power Reactors and relocate the TS to the Diablo Canyon Power Plant Equipment Control Guidelines. The proposed change would also create TS 6.8.4.j, ''Explosive Gas and Storage Tank Radioactivity Monitoring Program.'' Some of the TS would be relocated and maintained in accordance with this program. Specifically, the following TS would be relocated: TS 3.1.2.1, ''Boration Systems Flow Path - Shutdown,'' TS 3.1.2.3, ''Charging Pumps - Shutdown,'' TS 3.1.2.4, ''Charging Pumps - Operating,'' TS 3.1.2.5, ''Borated Water Sources - Shutdown,'' TS 3.1.2.6, ''Borated Water Sources - Operating,'' TS 3.3.3.2, ''Movable Incore Detectors,'' TS 3.3.3.4, ''Meteorological Instrumentation,'' TS 3.3.3.10, ''Explosive Gas Effluent Monitoring Instrumentation,'' TS 3.9.3, ''Decay Time,'' TS 3.9.5, ''Communications,'' TS 3.9.6, ''Manipulator Crane,'' TS 3.9.7, ''Crane Travel - Fuel Handling Building,'' TS 3.9.10.2, ''Water Level - Reactor Vessel - Control Rods,'' TS 3.9.13, ''Spent Fuel Shipping Cask Movement,'' TS 3.10.1, ''Special Test Exceptions - Shutdown Margin,'' TS 3.10.4, ''Position Indication System - Shutdown,'' TS 3.11.1.4, ''Liquid Holdup Tanks,'' TS 3.11.2.5, ''Explosive Gas Mixture,'' and TS 3.11.2.6, ''Gas Storage Tanks.''

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes simplify the Technical Specifications (TS), meet regulatory requirements for relocated TS, and implement the recommendations of the Commission's Final Policy Statement on TS Improvements and revised 10 CFR 50.36. Future changes to these requirements will be controlled by 10 CFR 50.59. The proposed changes are administrative in nature and do not involve any modifications to any plant equipment or affect plant operation.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes are administrative in nature, do not involve any physical alterations to any plant equipment, and cause no change in the method by which any safety-related system performs its function. Also, no changes to the operation of the plant or equipment are involved.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed changes involve relocating TS requirements to a licensee-controlled document. The requirements to be relocated were identified by applying the criteria endorsed in the Commission's Final Policy Statement, which is included in the new revision of 10 CFR 50.36, and are consistent with NUREG-1431, Rev. 1. Thus, the proposed changes do not alter the basic regulatory requirements and do not affect any safety analysis.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

*Local Public Document Room location:* California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407

*Attorney for licensee:* Christopher J. Warner, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120

*NRC Project Director:* William H. Bateman

Pennsylvania Power and Light Company, Docket Nos. 50-387 and 50-388 Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

*Date of amendment request:* February 12, 1996

*Description of amendment request:* The amendments would revise the Susquehanna Units 1 and 2 Technical Specifications establish and reference a Primary Containment Leakage Rate Testing Program in order to implement 10 CFR 50, Appendix J, Option B in accordance with the guidelines contained in Regulatory Guide 1.163, ''Performance-Based Containment Leak-Test Program'', dated September 1995.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

I. This proposal does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed license amendments do not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed license amendments revise the Technical Specifications to reflect the adoption of a performance-based containment leakage-testing program. The Nuclear Regulatory Commission has approved the use of a performance-based option for containment leakage testing programs when it amended 10 CFR Part 50, Appendix J (60 FR 49495).

To adopt of (sic) the revised regulations, licensees are required to incorporate into their Technical Specifications, by general reference, the NRC regulatory guide or other plant specific implementing document. A new Administrative Controls Specification is being added to the Susquehanna SES Technical Specifications that requires the establishment and maintenance of a Primary Containment Leakage Rate Testing Program. As stated in the Technical Specification, this Primary Containment Leakage Rate Testing Program will conform with NRC Regulatory Guide 1.163, ''Performance-Based Containment Leak-Rate Testing Program'', dated September 1995. The Primary Containment Leakage Rate Testing Program establishes requirements intended to ensure on-going containment integrity, including the performance of a periodic general visual inspection of the containment to detect early indications of structural deterioration.

The effect of increasing containment leakage rate testing intervals has been evaluated by the Nuclear Energy Institute using the methodology described in NUREG-1493 and historical representative industry leakage rate testing data. The results of this evaluation, as published in NEI 94-01, Revision 0, are that the increased risk corresponding to the extended test interval is small (less than 0.1 percent of total risk) and compares well to the guidance of the NRC's safety goal. The primary containment leak rate data and component performance history at Susquehanna SES are consistent with the conclusions reached in NUREG-1493 and NEI 94-01. Therefore, adoption of performance-based verification of leakage rates for isolation valves, containment penetrations, and the overall containment boundary will provide an equivalent level of safety and does not involve a significant increase in the probability or consequences of an accident previously evaluated.

II. This proposal does not create the possibility of a new or different kind of accident from any accident previously evaluated.

No safety-related equipment, safety function, or plant operations will be altered as a result of the proposed license amendment.

The safety objective for the primary containment is stated in 10 CFR 50, Appendix A, ''General Design Criteria for Nuclear Power Plants.'' The safety function of the primary containment will be met since the containment will continue to provide ''an essentially leak tight barrier against the uncontrolled release of radioactivity to the environment...'' for postulated accidents. Therefore, the proposed license amendments will not create the possibility of a new or different kind of accident from any accident previously evaluated.

III. This change does not involve a significant reduction in a margin of safety.

As stated above, the Nuclear Regulatory Commission has approved the use of a performance-based option for containment leakage testing programs when it amended 10 CFR Part 50, Appendix J (60 FR 49495). The new Primary Containment Leakage Rate Testing Program will conform with NRC Regulatory Guide 1.163, Revision 0, dated September 1995, ''Performance-Based Containment Leak-Rate Testing Program'' by requiring that leakage testing intervals be established based on the criteria in Section 11.0 of NEI 94-01, Revision 0.

As discussed in Part 1 above, the effect of increasing containment leakage rate testing intervals has been evaluated by the Nuclear Energy Institute using the methodology described in NUREG-1493 and historical representative industry leakage rate testing data. The results of this evaluation, as published in NEI 94-01, Revision 0, are that the increased safety risk corresponding to the extended test intervals is small (less than 0.1 percent of total risk) and compares well to the guidance of the NRC's safety goal. In addition, as demonstrated by risk analyses contained in NUREG-1482, relaxation of the integrated leak rate test frequency does not significantly increase the probability or consequences of a previously evaluated accident. Integrated leakage rate tests have been demonstrated to be of limited value in detecting significant leakages from penetrations and isolation valves. The primary containment leak rate data and component performance history at Susquehanna SES are consistent with the conclusions reached in NUREG-1493 and NEI 94-01. Therefore, the proposed license amendments adopting a performance-based approach for verification of leakage rates for isolation valves, containment penetrations, and the containment overall will continue to meet the regulatory goal of providing an essentially leak-tight containment boundary, will provide an equivalent level of safety, and do not involve a significant reduction in a margin of safety.

The revised Technical Specifications will continue to maintain the allowable leak rate (La) as the Type A test performance criterion. In addition, a requirement to perform a periodic general visual inspection of the containment is part of the performance-based leakage testing program.

The revised Technical Specifications will continue to maintain the allowable leak rate (La) as the Type B and C tests' performance criterion. As supported by the findings of NUREG-1493, the percentage of leakages detected only by integrated leak rate tests is small (only a few percent) and Type B and C leakage tests are capable of detecting more than 97 percent of containment leakages and virtually all such leakages are identified by local leak rate tests (LLRTs) of containment isolation valves.

Thus, the proposed license amendments do not involve a significant reduction in a margin of safety and will continue to support the regulatory goal of ensuring an essentially leak-tight containment boundary.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701

*Attorney for licensee:* Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037

*NRC Project Director:* John F. Stolz

Pennsylvania Power and Light Company, Docket Nos. 50-387 and 50-388 Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

*Date of amendment request:* February 23, 1996

*Description of amendment request:* The proposed amendment would change the Technical Specification (TS) Surveillance Requirement 4.6.2.1d concerning drywell-to suppression chamber bypass testing. Currently, Susquehanna TSs require the performance of a bypass test at 40 plus or minus 10-month intervals. The proposed TS change would request that the bypass test interval be revised to correspond with the interval for Primary Containment Integrated Leak Rate

Testing (ILRT) under 10 CFR Part 50, Appendix J, Option B.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

I. This proposal does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change to allow bypass testing at the [Integrated Leak Rate Testing] interval involves no physical or operational changes to the Susquehanna SES. Reviews of bypass leakage test results at Susquehanna and other similarly designed plants confirm that minimal suppression pool bypass leakage has occurred. Based on this data, the risk of suppression pool bypass leakage from non vacuum breaker sources is no greater than that of other primary containment passive structures which are tested at the ILRT frequency. Leak testing of the drywell-to-suppression chamber vacuum breakers will continue to be performed on a refueling and inspection outage frequency to ensure that their contribution to the leakage area is acceptable. In addition, inspection of the diaphragm slab within the testing interval provides additional assurance that any degradation to the structure will be detected and resolved. Therefore, the pressure suppression capability of the containment is not reduced from the existing design, and there will be no significant increase in the probability or consequences of an accident previously evaluated.

II. This proposal does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change to allow bypass testing at the ILRT interval involves no physical or operational changes to the Susquehanna SES. The surveillance change does not impact the LOCA response of the units, or impact the design basis of the units in any way. Therefore, the possibility of a new or different kind of accident will not be created.

III. This change does not result in a significant reduction in a margin of safety.

The drywell-to-suppression chamber bypass leak test data obtained during previous testing at Susquehanna SES and other similarly designed plants demonstrates conformance, by a large margin, to the Technical Specification and design leakage requirements. The test data and safety analysis provided here indicate that there is negligible risk that the bypass leakage will change adversely in future years. Furthermore, the proposed performance based test methodology is judged to be acceptable based on the small risk of bypass leakage through paths other than those containing the suppression pool vacuum breakers. Testing of the bypass leak pathway containing the vacuum breakers will be used to verify acceptable bypass leakage during those outages when the bypass leak test is not performed. In addition, periodic visual inspection of the diaphragm slab within the bypass test interval provides additional assurance that any degradation to the structure will be detected and resolved.

Testing of the bypass leakage pathways containing vacuum breakers, with stringent acceptance criteria, combined with the other negligible potential leakage areas, and periodic inspection of the diaphragm slab, provide an acceptable level of assurance that the bypass leakage will be minimized. The proposed performance based approach to bypass testing and inspection ensures that adverse conditions can be detected and corrected such that the existing level of confidence that the primary containment will function as required during a LOCA is maintained. Therefore, the proposed Technical Specification changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701

*Attorney for licensee:* Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037

*NRC Project Director:* John F. Stolz

Pennsylvania Power and Light Company, Docket Nos. 50-387 and 50-388 Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

*Date of amendment request:* February 29, 1996

*Description of amendment request:* The proposed amendment relocates Technical Specification 3/4.9.6, ''Refueling Platform,'' to the Technical Requirements Manual, which is controlled under the requirements of 10 CFR 50.59.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Involves a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change relocates the provisions of the Refueling Platform that are contained in the Technical Specifications and places them in the Technical Requirements Manual. Review and approval of those portions of the Refueling Platform requirements contained in the Technical Requirements Manual and revisions thereto will be the responsibility of the Plant Operations Review Committee just as it was their responsibility to review changes to the refueling platform Limiting Condition for Operation and Surveillance Requirements when they were part of the Technical Specifications. Requiring review by the Plant Operations Review Committee reinforces the importance of the Technical Requirements manual and the requirements controlled by it and assures a multidisciplined review. Approved Technical Requirements or changes thereto are provided to the Susquehanna Review Committee for information. No design basis accidents are affected by the change, nor are safety systems adversely affected by the change. Therefore, these changes will not result in any change to current Technical Specification requirements, but will reduce the level of regulatory control associated with the identified requirements. The level regulatory control has no impact on the probability or the consequences of an accident previously evaluated, therefore, the proposed change will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change relocates the provisions of the Refueling Platform that are contained in the Technical Specifications and places them in the Technical Requirements Manual. This change will not involve any physical changes to the Refueling Platform and its associated instrumentation nor any changes in the manner in which this equipment is operated, maintained, tested or inspected. Future changes to these relocated requirements or surveillances will be evaluated in accordance with the requirements of 10CFR50.59. Therefore, this change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

The margin of safety is not reduced. The relocated requirements do not meet any of the four criteria in the NRC Policy Statement used for defining the scope of Technical Specifications. In addition, the relocated requirements and surveillances for the refuel platform and associated instrumentation remain the same as stated in the existing Technical Specifications. Future changes to these relocated requirements or surveillances will be evaluated in accordance with the requirements of 10CFR50.59. Review and approval of those portions of the Refueling Platform requirements contained in the Technical Requirements Manual and the revisions thereto will be the responsibility of the Plant Operations Review Committee just as it was their responsibility to review changes to the refueling platform Limiting Condition for Operation and Surveillance Requirements when they were part of the Technical Specifications. Approved Technical Requirements or changes thereto are provided to the Susquehanna Review Committee for information. Therefore, no

significant reduction in a margin to safety is proposed.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701

*Attorney for licensee:* Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037

*NRC Project Director:* John F. Stolz

Pennsylvania Power and Light Company, Docket Nos. 50-387 and 50-388 Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

*Date of amendment request:* February 29, 1996

*Description of amendment request:* The proposed amendment removes the Rod Block Monitor (RBM) requirements from the Technical Specifications, thereby reducing the number of rod movements during power maneuvers.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change removes the Rod Block Monitor requirements from Technical Specifications based on no credit being taken for the RBM in the reload licensing analysis. The RBM was originally designed to prevent fuel damage during the Rod Withdrawal Error [RWE] event by automatically stopping control rod motion before any fuel design limits are exceeded. However, due to control rod drift events in which the RBM can not (sic) stop control rod motion, the RWE is analyzed without taking credit for the RBM. The results of this analysis are operating limits that prevent fuel damage from a RWE in which control rod motion is not stopped by the RBM. Therefore, the proposed change will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

This proposed change of removing the RBM requirements from Technical Specifications does not change the currently approved approach for performing the reload licensing analysis for either Unit. To date all reload analyses have been performed considering the rod drift event as a moderate frequency event and no credit being taken for the RBM. Since no credit is taken, removal of these requirements from Technical Specifications does not impact the current approach for performing reload analysis. Therefore, this change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

Continued compliance to the governing General Design Criteria [GDC] for the RWE analysis assumes an appropriate margin of safety.

GDC 10 is met when the specified acceptable fuel design limits (SAFDLs) are not exceeded for the RWE. The first SAFDL requires that a MCPR [Minimum Critical Power Ratio] Operating Limit be determined such that the reduction of MCPR margin due to an RWE does not violate the MCPR Safety Limit. The second SAFDL requires that the uniform cladding strain does not exceed 1% during an RWE. PP&L's [Pennsylvania Power and Light Company] licensing analysis of the RWE, without taking credit for the RBM, determines a MCPR Operating limit such that the reduction of MCPR margin due to an RWE does not violate the MCPR Safety Limit and validates that the maximum uniform cladding strain is less than 1%. Therefore, the applicable SAFDLs for the RWE are satisfied and the GDC requirements met.

GDC 20 is met when the reactivity control system is automatically actuated to prevent exceeding the SAFDLs. PP&L's licensing analysis of the RWE, without taking credit for the RBM, conservatively determines a MCPR Operating Limit and validates that the maximum uniform cladding strain is less than 1%. Therefore, actuation of the RBM is not necessary to prevent exceeding the applicable SAFDLs for the RWE.

GDC 25 is met when a single malfunction in the reactivity control system will not cause the SAFDLs to be exceeded. The current RWE licensing analysis assumes a control rod drift event without any credit for the RBM. With respect to the reactivity control system, the assumptions of a control rod drift event and no actuation of the RBM are more conservative than the assumptions in the original SSES Safety Evaluation. Therefore, the requirements from GDC 25 are still met. Therefore, no significant reduction in the safety margin exists.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701

*Attorney for licensee:* Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037

*NRC Project Director:* John F. Stolz

Rochester Gas and Electric Corporation, Docket No. 50-244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

*Date of amendment request:* February 9, 1996, as supplemented March 15, 1996. This notice supersedes the notice published on February 28, 1996 (61 FR 7557) in its entirety.

*Description of amendment request:* The proposed amendment would revise the Administrative Controls Section 5.6.6 of the Ginna Technical Specifications (TSs) to incorporate a reference to the methodology for determining pressure/temperature (P/T) and low-temperature overpressure protection (LTOP) limits. The proposed amendment would follow guidance given in Generic Letter 96-03 for relocating LTOP and the reactor coolant system (RCS) P/T limits to the RCS Pressure and Temperature Limits Report (PTLR). The proposed amendment will allow the licensee to perform future LTOP and RCS P/T evaluations, using NRC-approved methodology, without requiring changes to the TS.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Operation of Ginna Station in accordance with the proposed changes does not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed changes only require that future RCS P/T and LTOP limits be developed using NRC approved methodology as specified within the Administrative Controls section and do not involve any technical changes. As such, these changes are administrative in nature and do not impact initiators or analyzed events or assumed mitigation of accident or transient events. Therefore, these changes do not involve a significant increase in the probability or consequences of an accident previously analyzed.

2. Operation of Ginna Station in accordance with the proposed changes does not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed changes do not involve a physical alteration of the plant (i.e., no new or different type of equipment will be installed) or changes in the methods governing normal plant operation. The proposed changes will not impose any new or different requirements. Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Operation of Ginna Station in accordance with the proposed changes does not involve a significant reduction in a margin of safety. The proposed changes will not reduce a margin of plant safety because the changes do not impact any safety analysis assumptions other than requiring future evaluations of RCS P/T and LTOP limits to be performed in accordance with NRC approved methodology. These changes are administrative in nature. As such, no question of safety is involved, and the change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Rochester Public Library, 115 South Avenue, Rochester, New York 14610

*Attorney for licensee:* Nicholas S. Reynolds, Winston & Strawn, 1400 L Street, NW., Washington, DC 20005

NRC Acting Project Director: Susan Frant Shankman

South Carolina Electric & Gas Company (SCE&G), South Carolina Public Service Authority, Docket No. 50-395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

*Date of amendment request:* March 19, 1996

*Description of amendment request:* The licensee is proposing to change the Technical Specification (TS) 3/4.2.4, QUADRANT POWER TILT RATIO (QPTR), the Bases for QPTR, and TS 3/4.3.1, REACTOR TRIP SYSTEM INSTRUMENTATION, Table 3.3-1, ''Table Notation, Action Statement 2.c.'' The licensee is requesting the changes in order to use the guidance in the improved Westinghouse Standardized Technical Specifications, NUREG 1431, Rev. 1.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The probability or consequences of an accident previously evaluated in the FSAR is not significantly increased.

The QPTR limits ensure that $F^N_{delta\text{-}H}$ and $F_Q(z)$ remain below their limiting values by preventing an undetected change in the gross radial power distribution. In MODE 1, the $F^N_{delta\text{-}H}$ and $F_Q(z)$ limits must be maintained to preclude core power distributions from exceeding design limits assumed in the safety analyses. The QPTR satisfies Criterion 2 of the NRC Policy Statement.

The QPTR limit of 1.02, at which corrective action is required, provides a margin of protection for both the departure from nucleate boiling ratio and linear heat generation rate contributing to excessive power peaks resulting from X-Y plane power tilts. A limiting QPTR of 1.02 can be tolerated before the margin for uncertainty in $F_Q(z)$ and $F^N_{delta\text{-}H}$ is possibly challenged. With the QPTR exceeding its limit, a power level reduction of 3% from RATED THERMAL POWER for each 1% by which the QPTR exceeds 1.00 is a conservative tradeoff of total core power with peak linear power.

The Power Range Neutron Flux trip setpoint reduction is not required since incore flux measurements are not expected to change concurrent with the loss of a Power Range Channel. These setpoints, which were previously reduced in order to account for uncertainties, will now be monitored and corrected, if necessary, per TS 3.2.4.

Any change in the QPTR would be detected by requiring a check of the QPTR once per 12 hours. If the QPTR indicates an increase, THERMAL POWER has to be reduced accordingly. A 12 hour completion time is sufficient because any additional change in QPTR would be relatively slow.

The improvement of TS 3/4.2.4 to reflect the improved STS in no way impacts the accident analysis of the FSAR. Therefore, the probability or consequences of a previously evaluated accident has not been increased.

2. The possibility of an accident or a malfunction of a different type than any previously evaluated is not created.

The proposed amendment request does not necessitate physical alteration of the plant nor changes in parameters governing normal plant operation. Therefore, the change does not create the possibility of a new or different kind of accident or malfunction.

3. The margin of safety has not been significantly reduced.

This proposed amendment request precludes core power distributions that may lead to violation of the following fuel design criteria:

a. During a large break loss of coolant accident, the peak cladding temperature must not exceed 2200°

b. During a loss of forced reactor coolant flow accident, there must be at least 95% probability at the 95% confidence level (the 95/95 departure from nucleate boiling (DNB) criterion) that the hot fuel rod in the core does not experience a DNB condition;

c. During an ejected rod accident, the energy deposition to the fuel must not exceed 280 cal/gm; and

d. The control rods must be capable of shutting down the reactor with a minimum required shutdown margin with the highest worth control rod stuck fully withdrawn.

The improvement of TS 3/4.2.4 ensures that the gross radial power distribution remains consistent with the design values used in the safety analyses.

The core peaking factors and the quadrant tilt must be evaluated because they are the factors that best characterize the core power distribution. This reevaluation is required to ensure that the reactor core conditions are consistent with the assumptions in the safety analyses. Therefore, the margin of safety has not decreased.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Fairfield County Library, 300 Washington Street, Winnsboro, SC 29180

*Attorney for licensee:* Randolph R. Mahan, South Carolina Electric & Gas Company, Post Office Box 764, Columbia, South Carolina 29218

*NRC Project Director:* Frederick J. Hebdon

Southern California Edison Company, et al., Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

*Date of amendment requests:* November 2, 1995

*Description of amendment requests:* The licensee proposes to revise Technical Specification (TS) 3.8.1, ''AC Sources - Operating,'' of the improved TS, to (1) extend the offsite circuit allowed outage time (AOT) from ''72 hours AND 6 days from discovery of failure to meet LCO'' to ''72 hours AND 10 days from discovery of failure to meet LCO'' and (2) extend the emergency diesel generator (EDG) AOT from ''72 hours AND 6 days from discovery of failure to meet LCO'' to ''7 days AND 10 days from discovery of failure to meet LCO.'' Additionally, the licensee proposes to further extend the EDG AOT to ''10 days AND 10 days from discovery of failure to meet LCO'' on a once-per-refueling cycle frequency for maintenance purposes.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The Emergency Diesel Generators (EDGs) are backup alternating current power sources designed to power essential safety systems in the event of a loss of offsite power. EDGs are not accident initiators in any accident previously evaluated. Therefore, this change does not involve an increase in the probability of an accident previously evaluated.

The EDGs provide backup power to components that mitigate the consequences of accidents. The proposed changes to the Allowed Outage Times (AOTs) do not affect

any of the assumptions used in the deterministic safety analysis.

To fully evaluate the effect of the EDG AOT extension, Probabilistic Safety Analysis (PSA) methods were utilized. The results of these analyses show no significant increase in the core damage frequency. As a result, there would be no significant increase in the consequences of accidents previously evaluated.

Therefore, this change does not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

This proposed change does not alter the design, configuration, or method of operation of the plant. Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed changes do not affect the Limiting Conditions for Operation or their Bases that are used in the deterministic analyses to establish the margin of safety. PSA evaluations were used to evaluate these changes, and these evaluations determined that the changes are either risk neutral or risk beneficial.

Therefore, this change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

*Local Public Document Room location:* Main Library, University of California, P.O. Box 19557, Irvine, California 92713

*Attorney for licensee:* T. E. Oubre, Esquire, Southern California Edison Company, P.O. Box 800, Rosemead, California 91770

*NRC Project Director:* William H. Bateman

Southern California Edison Company, et al., Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

*Date of amendment requests:* November 6, 1995

*Description of amendment requests:* The licensee proposes to revise Technical Specification (TS) 3.5.1, ''Safety Injection Tanks (SITs),'' of the improved TS to extend, in general, the allowed outage time (AOT) for a single inoperable SIT from 1 hour to 24 hours. Additionally, the licensee proposes to extend the SIT AOT from 1 hour to 72 hours if a single SIT becomes inoperable due to malfunctioning SIT water level and/or nitrogen cover pressure instrumentation.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The Safety Injection Tanks (SITs) are passive components in the Emergency Core Cooling System (ECCS). The SITs are not accident initiators in any accident previously evaluated.

Therefore, this change does not involve an increase in the probability of an accident previously evaluated.

The SITs are designed to mitigate the consequences of Loss of Coolant Accidents (LOCAs). The proposed changes do not affect any of the assumptions used in deterministic LOCA analysis. Therefore, the consequences of accidents previously evaluated do not change.

To fully evaluate the SIT Allowed Outage Time (AOT) extension, Probabilistic Safety Analysis (PSA) methods were utilized. The results of these analyses show no significant increase in core damage frequency. As a result, there would be no significant increase in the consequences of an accident previously evaluated.

The proposed change pertaining to SIT inoperability based solely on instrumentation malfunction does not involve a significant increase in the consequences of an accident as evaluated and endorsed by the Nuclear Regulatory Commission (NRC) in NUREG-1366, ''Improvements to Technical Specifications Surveillance Requirements.''

Therefore, this change does not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

This proposed change does not change the design, configuration, or method of operation of the plant. Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed changes do not affect the limiting conditions for operation or their bases that are used in the deterministic analyses to establish the margin of safety. PSA evaluations were used to evaluate these changes. These evaluations demonstrate that the changes are either risk neutral or risk beneficial.

Therefore, this change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

*Local Public Document Room location:* Main Library, University of California, P. O. Box 19557, Irvine, California 92713

*Attorney for licensee:* T. E. Oubre, Esquire, Southern California Edison Company, P. O. Box 800, Rosemead, California 91770

*NRC Project Director:* William H. Bateman

Southern California Edison Company, et al., Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

*Date of amendment requests:* November 8, 1995

*Description of amendment requests:* The licensee proposes to revise Technical Specification (TS) 3.5.2, ''ECCS - Operating,'' in the improved TS to extend the allowed outage time from 72 hours to 7 days for a single low pressure safety injection (LPSI) train.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The Low Pressure Safety Injection (LPSI) system is a part of the Emergency Core Cooling System (ECCS). Inoperable LPSI components are not considered to be accident initiators. Therefore, this change does not involve an increase in the probability of an accident previously evaluated.

The LPSI system is primarily designed to mitigate the consequences of a large Loss of Coolant Accident (LOCA). This proposed change does not affect any of the assumptions used in the deterministic LOCA analysis. Therefore, the consequences of accidents previously evaluated do not change.

To fully evaluate the LPSI Allowed Outage Time (AOT) extension, Probabilistic Safety Analysis (PSA) methods were utilized. The results of these analyses show no significant increase in core damage frequency. As a result, there would be no significant increase in the consequences of an accident previously evaluated.

Therefore, this change does not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

This proposed change does not change the design, configuration, or method of operation of the plant. Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed change does not affect the limiting conditions for operation or their bases that are used in the deterministic analyses to establish the margin of safety. PSA evaluations were used to evaluate these changes.

Therefore, this change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

*Local Public Document Room location:* Main Library, University of California, P. O. Box 19557, Irvine, California 92713

*Attorney for licensee:* T. E. Oubre, Esquire, Southern California Edison Company, P. O. Box 800, Rosemead, California 91770

*NRC Project Director:* William H. Bateman

Southern California Edison Company, et al., Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

*Date of amendment requests:* December 6, 1995

*Description of amendment requests:* The licensee proposes to revise Technical Specification (TS) 4.3, ''Fuel Storage,'' of the improved TS, to allow fuel assemblies having a maximum U-235 enrichment of 4.8 weight percent to be stored in both the spent fuel racks and the new fuel racks.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

There is no increase in the probability of an accident because the physical characteristics of a fuel assembly are not changed when fuel enrichment is increased. No changes will be made to any safety related equipment or systems. Fuel assembly movement will continue to be controlled by approved fuel handling procedures.

Fuel cycle designs will continue to be analyzed with Nuclear Regulatory Commission (NRC)-approved codes and methods to ensure the design bases for San Onofre Units 2 and 3 are satisfied.

The double contingency principle of American National Standards Institute/American Nuclear Society (ANSI/ANS) Standard 8.1-1983 can be applied to any postulated accident in the Spent Fuel Pool (SFP) which could cause reactivity to increase. In conjunction with administrative controls for heavy loads and impact zones, a boron concentration of 1850 parts per million (PPM) (the current Technical Specification (TS) limit) is sufficient to maintain k-eff less than or equal to 0.95 for all normal and postulated accident conditions.

Regarding the new fuel storage racks, there is no postulated accident which could cause reactivity to increase above 0.95 for all moderator densities from 0.0 to 1.0 grams/cubic centimeter (gms/cc).

The radiological consequence analyses performed in the Updated Final Safety Analysis Report (UFSAR) include the development of source terms which bound discharge fuel burnups to 60,000 megawatt days per ton (MWD/T). Increasing the San Onofre Units 2 and 3 enrichment to 4.8 weight percent (w/o) does not result in discharge fuel assembly burnups greater than 60,000 MWD/T. Thus, the consequences of the fuel handling accident are unchanged from the current UFSAR bases.

Therefore, this proposed change will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes do not involve any physical changes to the plant or any changes to the method in which the plant is operated. They do not affect the performance or qualification of safety related equipment. Fuel handling accidents were previously considered. Therefore, the possibility of a new or different kind of accident from any accident previously evaluated is not created.

3. The proposed change does not involve a significant reduction in a margin of safety.

For the SFP, the NRC acceptance criteria is k-eff less than or equal to 0.95 under all normal and accident conditions and including uncertainties. For the new fuel storage racks, k-eff must remain less than 0.95 if completely flooded with unborated water, and must remain below 0.98 in an optimum moderation event. Analyses have been performed which demonstrate that these acceptance criteria will continue to be met when the enrichment is increased to 4.8 w/o.

The current UFSAR design bases SFP decay heat loads bound the proposed enrichment increase due to the reduced fuel batch size.

Radiological effects of fuel handling accidents are unchanged by this enrichment increase.

The proposed design of the higher enriched fuel will result in a slight weight increase. However, the seismic event is bounded by the analyses performed for the rerack project.

Therefore, there will not be a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

*Local Public Document Room location:* Main Library, University of California, P. O. Box 19557, Irvine, California 92713

*Attorney for licensee:* T. E. Oubre, Esquire, Southern California Edison Company, P. O. Box 800, Rosemead, California 91770

*NRC Project Director:* William H. Bateman

Southern California Edison Company, et al., Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

*Date of amendment requests:* January 4, 1996

*Description of amendment requests:* The licensee proposes to delete License Conditions 2.C(26) and 2.C(27). These license conditions require the licensee to implement and maintain a plan for scheduling all capital modifications based on an NRC approved Integrated Implementation Schedule Program Plan.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change deletes an administrative means of tracking and scheduling NRC required plant modifications and license commitments. It does not affect the plant configuration nor NRC mandated schedules for implementation of modifications. Because the deletion of the license condition does not affect the plant configuration, no accident analyses are affected; therefore, the proposed change does not increase the probability or consequences of any previously evaluated accident.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change will not alter the configuration of the plant or its operation; therefore, the proposed change does not create a new or different kind of accident from any previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed change is administrative and does not affect any accident analyses or

involve any modification to the plant configuration; therefore, the proposed change does not involve a reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

*Local Public Document Room location:* Main Library, University of California, P. O. Box 19557, Irvine, California 92713

*Attorney for licensee:* T. E. Oubre, Esquire, Southern California Edison Company, P. O. Box 800, Rosemead, California 91770

*NRC Project Director:* William H. Bateman

Tennessee Valley Authority, Docket Nos. 50-390 Watts Bar Nuclear Plant, Unit 1, Rhea County, Tennessee

*Date of amendment request:* February 28, 1996

*Description of amendment request:* The proposed amendment would revise the Technical Specifications (TS) to extend the ice weighing and flow channel inspection surveillance frequencies from 9 to 18 months. Concurrently, the required total ice bed weight would be increased from 2,360,875 to 2,403,800 lbs. to account for the anticipated additional ice sublimation during the longer interval between weighing and inspection.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's analysis is presented below.

1. The changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The ice condenser system is provided to absorb thermal energy release following a LOCA or high energy line break (HELB) and to limit the peak pressure inside containment. The containment analysis for Watts Bar is based on a minimum of 1093 lbs of ice per ice basket evenly distributed throughout the ice condenser, and the subcompartment analysis is based on 85 percent of the available flow area (flow channels) being open uniformly throughout the ice condenser. For the predicted sublimation rate of up to 12 percent for 18 months, an average ice basket weight of 1093 lbs at the end of the 18 month period would still be available. An evaluation of the operating history of the other operating ice condenser plants shows that after 18 months 85 percent of the flow channels will still be available.

Thus the ice condenser will perform its design functions with the revised minimum ice weight and inspection interval. There will be no design change or other operational changes. Accordingly, the proposed changes to the technical specifications do not affect the probability or consequences of an accident.

2.

The changes do not create the possibility of a new or different kind of accident from any previously analyzed.

As stated above, the proposed changes do not involve modifications to the ice condenser or other plant systems. Hence there is no possibility of a new or different kind of accident since no new design is involved.

3. The changes do not involve a significant reduction in a margin of safety.

Plant safety margins are established through limiting conditions of operation, limiting safety system settings, and safety limits specified in the TS. None of these will be changed.

Based on this analysis, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, TN 37402

*Attorney for licensee:* General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET llH, Knoxville, Tennessee 37902

*NRC Project Director:* Frederick J. Hebdon

Tennessee Valley Authority, Docket Nos. 50-390 Watts Bar Nuclear Plant,Unit 1, Rhea County, Tennessee

*Date of amendment request:* February 28, 1996

*Description of amendment request:* The proposed amendment would revise the Technical Specifications (TS) surveillance frequency for Westinghouse type AR relays, used as solid state protection system slave relays or auxiliary relays, from quarterly to a refueling outage frequency.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Operation of the facility in accordance with the proposed

amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

This change to the Technical Specifications does not result in a condition where the design, material, and construction standards that were applicable prior to the change are altered. The same ESFAS instrumentation is being used and the same ESFAS system reliability is expected. The proposed change will not modify any system interface or function and could not increase the likelihood of an accident since these events are independent of this change. The proposed activity will not change, degrade or prevent the performance of any accident mitigation systems or alter any assumptions previously made in evaluating the radiological consequences of an accident described in the safety analysis report. Therefore, the proposed amendment does not result in any increase in the probability or consequences of an accident previously evaluated.

(2) Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any previously evaluated.

This change does not alter the performance of the ESFAS mitigation systems assumed in the plant safety analysis. Changing the interval for periodically verifying ESFAS slave relays (assuring equipment operability) will not create any new accident initiators or scenarios. Implementation of the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) Operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety.

This change does not affect the total ESFAS system response assumed in the safety analysis. The periodic slave relay functional verification is relaxed because of the demonstrated high reliability of the relay and its insensitivity to any short term wear or aging effects. Implementation of the proposed amendment does not result in a reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on thisreview, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, TN 37402

*Attorney for licensee:* General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET llH, Knoxville, Tennessee 37902

*NRC Project Director:* Frederick J. Hebdon

TU Electric Company, Docket Nos. 50-445 and 50-446, Comanche Peak Steam Electric Station, Units 1 and 2, Somervell County, Texas

*Date of amendment request:* March 12, 1996

*Brief description of amendments:* The proposed amendments would revise Technical Specification (TS) 3/4.6.1.1, ''Containment Integrity,'' 3/4.6.1.2, ''Containment Leakage,'' 3/4.6.1.3, ''Containment Air Locks,'' and 3/4.6.1.6, ''Containment Structural Integrity,'' and add new TS 6.8.3g, ''Containment Leakage Rate Testing Program,'' to implement the new performance-based leakage rate testing program as permitted by 10 CFR Part 50, Appendix J.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes to the TS and the addition of specification 6.8.3g to implement the new performance based Containment Leakage Rate Testing Program, have no effect on plant operation. The proposed changes only provide mechanisms within the TS for implementing a performance based methodology for determining the frequency of leak rate testing which has been approved by the Commission. The test type and test method used for testing would not be changed. The test acceptance criteria would not be changed and containment leakage will continue to be maintained within the required limits.

Directly referencing the Containment Leakage Rate Testing Program for containment [integrated leak rate test] ILRT and [local leak rate test] LLRT requirements does not involve any modification to plant equipment or affect the operation or design basis of the containment. Leakage rate testing is not a precursor to or an initiating event for any accident.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Do the proposed changes create the possibility of a new or different kind of accident from any previously evaluated?

The proposed changes only allow for the implementation of Option B testing frequencies and do not involve any modifications to any plant equipment or affect the operation or design basis of the containment. The proposed changes do not affect the response of the containment during a design basis accident.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Do the proposed changes involve a significant reduction in a margin of safety?

The proposed changes do not adversely affect a Safety Limit, Limiting Condition for Operation (LCO) or plant operations. These changes only implement the allowed Option B testing frequencies that have been determined by the Commission not to involve a safety concern. The testing method, acceptance criteria and bases are not changed and still provide assurance that the containment will provide its intended function.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* University of Texas at Arlington Library, Government Publications/Maps, 702 College, P.O. Box 19497, Arlington, TX 76019

*Attorney for licensee:* George L. Edgar, Esq., Morgan, Lewis and Bockius, 1800 M Street, N.W., Washington, DC 20036

*NRC Project Director:* William D. Beckner

Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

*Date of amendment request:* March 21, 1996

*Description of amendment request:* The proposed changes clarify the requirements for testing the charcoal adsorbent in the auxiliary ventilation and control room air filtration systems as outlined in Technical Specifications 4.12 and 4.20, respectively.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The probability or consequences of an accident previously evaluated is not significantly increased.

The charcoal testing clarifications and explict reference to the testing currently conducted do not affect system operation or performance, nor do they affect the probability of any event initiators. The changes do not affect any Engineered Safety Features actuation setpoints or accident mitigation capabilities. Therefore, the proposed changes do not significantly increase the consequences of an accident or malfunction of equipment important to safety previously evaluated in the UFSAR [Updated Final Safety Analysis Report].

2. The possibility of an accident or a malfunction of a different type than any previously evaluated is not created.

The clarification to the charcoal sample testing protocol does not affect the method of operation of the system. The proposed changes clarify and explicitly identify the testing methodology for the charcoal samples. No new or different accident scenarios, transient precursors, failure mechanisms, or limiting single failures are introduced as a result of these changes. Therefore, the possibility of a new or different kind of accident other than those already evaluated is not created by this change.

3. The margin of safety has not been significantly reduced.

The charcoal adsorber sample laboratory testing accurately demonstrates the required performance of the adsorbers following a design basis LOCA [loss-of-coolant accident] or Fuel Handling Accident. Changing the Technical Specifications to clarify the actual test methodology and explicitly [referencing] the charcoal testing actually performed does not affect system performance or operation. Therefore, these changes do not result in a significant reduction in any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

*Attorney for licensee:* Michael W. Maupin, Esq., Hunton and Williams, Riverfront Plaza, East Tower, 951 E. Byrd Street, Richmond, Virginia 23219.

*NRC Project Director:* Eugene V. Imbro

Wisconsin Public Service Corporation, Docket No. 50-305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

*Date of amendment request:* February 19, 1996

*Description of amendment request:* The proposed amendment would revise Kewaunee Nuclear Power Plant (KNPP) Technical Specifications (TS) Section 4.2 and its associated basis by allowing the application of a voltage-based repair limit for the steam generator tube support plate intersections experiencing

outside diameter stress corrosion cracking. The proposed repair criteria are based on guidance provided in Generic Letter 95-05, ''Voltage-Based Repair Criteria for Westinghouse Steam Generator Tubes affected by Outside Diameter Stress Corrosion Cracking,'' dated August 14, 1995, and on associated industry guidance.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed change was reviewed in accordance with the provisions of 10 CFR 50.92 to show no significant hazards exist. The proposed change will not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

Testing of model boiler specimens for free span tubing (no TSP [tube support plate] restraint) at room temperature conditions show burst pressures in excess of 5,000 psig for indications of ODSCC [outside diameter stress corrosion cracking] with voltage measurements as high as 19 volts. Burst testing performed on five intersections pulled from the Kewaunee SGs [steam generators] with up to a 2 volt indication showed measured tube burst in the range of 9,537 to 9,756 psig. Burst testing performed on pulled tubes from other plants with up to 7.5 volt indications show burst pressures in excess of 6,300 psi at room temperatures. Correcting for the effects of temperature on material properties and the minimum strength levels, tube burst capability significantly exceeds the safety factor requirements of RG [Regulatory Guide] 1.121.

Tube burst criteria are inherently satisfied during normal operating conditions due to the presence of the TSP. Test data indicates that tube burst cannot occur within the TSP, even for tubes with through wall EDM [electro-discharge machining] notches 0.75 inch long, when the notch is adjacent to the TSP. Since tube burst is precluded during normal operating conditions, the criterion that must be satisfied to demonstrate adequate tube integrity is a safety margin of 1.43 times MSLB [main steam line break] pressure differential. The BOC [beginning of cycle] structural limit for 7/8 inch diameter tubing is 8.82 volts. Applying an allowance of 20.5% for NDE [nondestructive examination] uncertainty and 50% for crack growth rate over an operating cycle results in a voltage repair limit of 5.4 volts. The proposed repair limit of 2 volts is very conservative when compared to the 5.4 volts taking into account the low average growth rates experienced at Kewaunee and the high tube burst pressures.

Relative to the expected leakage during accident condition loadings, a plant specific calculation was performed to determine the maximum primary-to-secondary leakage during a postulated MSLB event. The evaluation considered both pre-accident and accident initiated iodine spikes. The results of the evaluation show that the accident spike yielded the limiting leak rate. This case was based on a 30 rem thyroid dose at the site boundary and initial primary and secondary coolant activity levels of 1.0 uCi/gm and 0.1 uCi/gm dose equivalent iodine-131, respectively. A leak rate of 34.0 gpm was determined to be the upper limit for allowable primary to secondary leakage in the SG in the faulted loop. The SG in the intact loop was assumed to leak at a rate of 0.1 gpm (150 gpd).

Application of the voltage-based repair limit will be supplemented with a projected EOC [end of cycle] MSLB leakage calculation and conditional burst probability assessment. The methodology for performing these calculations will be in accordance with the GL [generic letter]. Should the projected MSLB leakage be exceeded indications will be repaired or removed from service until the projected leakage is less than or equal to 34.0 gpm.

Application of the voltage-based repair limit will not adversely affect SG tube integrity. Therefore, the proposed amendment will not increase the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any previously evaluated.

Implementation of the proposed voltage-based repair limit will not reduce the overall safety or functional requirements of the SG tube bundles. The tube burst criteria will be satisfied during normal operating conditions by the presence of the TSPs. The RG 1.121 criteria that must be satisfied during accident loading conditions is 1.43 times MSLB differential pressure. Conservatively, the existing data base of burst testing shows that the tube burst margins can be satisfied with bobbin coil signal amplitudes of about 8.82 volts or less regardless of the depth of tube wall penetration.

The proposed repair criteria will be supplemented with a reduced operating leakage requirement of 150 gpd through either SG to preclude the potential for excessive leakage during operating conditions. The 150 gpd restriction will provide for timely leakage detection and plant shutdown in the event of the occurrence of an unexpected single crack resulting in leakage that is associated with the longest permissible crack length. The operating leakage limit is based on leak-before break considerations, critical crack length and predicted leakage.

The SG tube integrity will continue to be maintained through inservice inspections and primary-to-secondary leakage monitoring. Therefore, the proposed change will not create the possibility of a new or different kind or accident.

3. Involve a significant reduction in the margin of safety.

Application of the voltage-based repair criteria has been demonstrated to maintain tube integrity commensurate with the RG 1.121 criteria. RG 1.121 describes a method acceptable to the staff for meeting GDCs [general design criteria] 2, 14, 15, 31 and 32. This is accomplished by determining the limiting degradation of SG tubing as established by inservice inspection, beyond which tubes should be removed from service. Upon implementation of the repair criteria, even under the worst case conditions, the occurrence of ODSCC at the TSPs is not expected to lead to a SG tube rupture event during normal or faulted conditions. The most limiting event would be a potential increase in leakage during a MSLB event. Excessive leakage during a MSLB is precluded by verifying that the expected EOC crack distribution of ODSCC indications at TSP locations would result in an acceptably low primary-to-secondary leakage. Therefore, the radiological consequences from tubes remaining in service is a small fraction of the 10 CFR 100 limits.

The combined effects of a LOCA [loss-of-coolant accident] plus SSE [safe shutdown earthquake] on the SGs were assessed as required by GDC 2. This issue was addressed for the Kewaunee SGs through the application of leak-before-break (LBB) principles to the primary loop piping. Based on the results of this analysis, it is concluded that the LBB is applicable to the Kewaunee primary loops and, thus, the probability of breaks in the primary loop piping is sufficiently low that they need not be considered in the structural design basis of the plant. Excluding breaks in the primary loops, the LOCA loads from the large branch lines were also assessed and found to be of insufficient magnitude to result in SG tube collapse. Based on these analysis results, no tubes are expected to collapse or deform to the degree that the secondary-to-primary in-leakage would be increased over currently expected levels. On this basis no tubes need to be excluded from the voltage-based repair criteria for reasons of deformation resulting from combined LOCA or SSE loadings.

Addressing the RG 1.83 considerations, implementation of the voltage-based repair criteria will include a 100% bobbin coil probe inspection of all tube-to-TSP intersections with known ODSCC down to the lowest cold leg TSP identified. This will be supplemented by a reduced operating leakage limit, enhanced eddy current data analysis guidelines, MRPC [motorized rotating pancake coil] inspection requirements and a projected EOC voltage distribution. It is concluded that the proposed change will not result in a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* University of Wisconsin, Cofrin Library, 2420 Nicolet Drive, Green Bay, Wisconsin 54311-7001

*Attorney for licensee:* Bradley D. Jackson, Esq., Foley and Lardner, P. O. Box 1497, Madison, Wisconsin 53701-1497

*NRC Project Director:* Gail H. Marcus

Notice Of Issuance Of Amendments To Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the Federal Register as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved.

Baltimore Gas and Electric Company, Docket Nos. 50-317 and 50-318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

*Date of application for amendments:* January 16, 1996

*Brief description of amendments:* The amendments revise the Technical Specifications to reflect approval of the use of 10 CFR Part 50, Appendix J, Option B, for the Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, containment leakage rate test program for Type A tests only.

*Date of issuance:* March 13, 1996

*Effective date:* As of the date of issuance to be implemented within 30 days.

*Amendment Nos.:* 212 and 189

*Facility Operating License Nos.* DPR-53 and DPR-69: Amendments revised the Technical Specifications.

*Date of initial notice in* Federal Register: February 14, 1996 (61 FR 5810) The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated March 13, 1996.No significant hazards consideration comments received: No

*Local Public Document Room location:* Calvert County Library, Prince Frederick, Maryland 20678.

Baltimore Gas and Electric Company, Docket Nos. 50-317 and 50-318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2 Calvert County, Maryland

*Date of application for amendments:* November 30, 1995, as supplemented by letter dated March 15, 1996.

*Brief description of amendments:* The amendments allow the installation of tube sleeves as an alternative to plugging for repair of steam generator (SG) tubes using repair techniques developed by Westinghouse Electric Corporation. The November 30, 1995, letter also requested approval of repair techniques developed by ABB Combustion Engineering, Inc., for repairing SG tubes. The NRC staff is still reviewing that portion of the request and will notice the results of its review at a future date.

*Date of issuance:* March 22, 1996

*Effective date:* As of the date of issuance to be implemented within 30 days.

*Amendment Nos.:* 213 and 190

*Facility Operating License No.* DPR-53 and DPR-69: Amendment revised the Technical Specifications.

*Date of initial notice in* Federal Register: January 3, 1996 (61 FR 176) The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated March 22, 1996.No significant hazards consideration comments received: No

*Local Public Document Room location:* Calvert County Library, Prince Frederick, Maryland 20678.

Carolina Power & Light Company, Docket No. 50-261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

*Date of application for amendment:* November 22, 1995

*Brief description of amendment:* The proposed change will delete the qualifying statement, ''... provided the remaining systems are in continuous operation,'' from TS Section 3.3.4.2.

*Date of issuance:* March 15, 1996

*Effective date:* March 15, 1996

*Amendment No.* 168

*Facility Operating License No.* DPR-23. Amendment revises the Technical Specifications.

*Date of initial notice in* Federal Register: December 6, l995 (60 FR 62487) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 15, 1996No significant hazards consideration comments received: No

*Local Public Document Room location:* Hartsville Memorial Library, 147 West College Avenue, Hartsville, South Carolina 29550

Duke Power Company, Docket Nos. 50-369 and 50-370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

*Date of application for amendments:* July 18, 1994, as supplemented by letters dated October 9, 1995, February 13 and March 8, 1996

*Brief description of amendments:* The amendments revise the current combined Technical Specifications (TS) for Units 1 and 2 by separating them into individual volumes for Unit 1 and Unit 2. In addition to the changes required by the TS split, some administrative and editorial changes were made, such as the correction of typographical errors and the deletion of unnecessary blank pages.

*Date of issuance:* March 21, 1996

*Effective date:* As of the date of issuance to be implemented within 30 days

*Amendment Nos.:* Unit 1 - 166 - Unit 2 - 148

*Facility Operating License Nos.* NPF-9 and NPF-17: Amendments revised the Technical Specifications.

*Date of initial notice in* Federal Register: September 14, 1994 (59 FR 47166) The October 9, 1995, February 13 and March 8, 1996, letters provided additional information that did not change the scope of the July 18, 1994, application and the initial proposed no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 21, 1996 and Environmental Assessment dated February 7, 1996. No significant hazards consideration comments received: No.

*Local Public Document Room location:* Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223

Duquesne Light Company, et al., Docket Nos. 50-334 and 50-412, Beaver Valley Power Station, Unit Nos. 1 and 2, Shippingport, Pennsylvania

*Date of application for amendments:* December 15, 1995, as supplemented March 5, 1996

*Brief description of amendments:* These amendments (1) revise Technical Specifications (TSs) 3/4.6.1.1, 3/4.6.1.2, 3/4.6.1.3, 3/4.6.1.6, and associated Bases, (2) delete TS 6.9.2.g, and (3) add a new TS 6.17. These changes make the TSs consistent with Option B of Appendix J of 10 CFR Part 50 and the implementing guidance of Regulatory Guide 1.163, ''Performance-Based Containment Leak Test Program,'' dated September 1995. Option B of Appendix J permits implementation of a performance-based leak rate test schedule in lieu of the prescriptive requirements contained in Option A of Appendix J. These amendments remove from the TSs the prescriptive requirements of Option A concerning test frequencies and test methodology. These amendments also include minor administrative and editorial changes to add consistency between the Bases and the TSs and provide additional clarification.

*Date of issuance:* March 19, 1996

*Effective date:* Both units, as of the date of issuance, to be implemented within 60 days.

*Amendment Nos.:* 197 and 80

*Facility Operating License Nos.* DPR-66 and NPF-73: Amendments revised the Technical Specifications.

*Date of initial notice in* Federal Register: January 3, 1996 (61 FR 179) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 19, 1996.No significant hazards consideration comments received: No.

*Local Public Document Room location:* B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Florida Power and Light Company, et al., Docket No. 50-389, St. Lucie Plant, Unit No. 2, St. Lucie County, Florida

*Date of application for amendment:* August 16, 1995

*Brief description of amendment:* This amendment modifies Technical Specification 3.6.6.1, Shield Building Ventilation System (SBVS), to more effectively address the design functions performed by the SBVS for both the Shield Building and the Fuel Handling Building.

*Date of issuance:* March 20, 1996

*Effective date:* March 20, 1996

*Amendment No.:* 81

*Facility Operating License No.* NPF-16: Amendment revised the Technical Specifications.

*Date of initial notice in* Federal Register: September 27, 1995 (60 FR 49937) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 20, 1996. No significant hazards consideration comments received: No.

*Local Public Document Room location:* Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 34954-9003

GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mill Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

*Date of application for amendment:* August 10, 1995, as supplemented on December 21, 1995, and February 22, 1996

*Brief description of amendment:* The amendment deletes a Technical Specification (TS) reference to the reactor trip input to the reactor building isolation system, changes the surveillance frequency for the sodium hydroxide storage tank and station battery, and removes an inappropriate reference in the TS bases section to testing that is not required by the TSs themselves.

*Date of issuance:* March 21, 1996

*Effective date:* As of the date of issuance to be implemented within 30 days.

*Amendment No.:* 200

*Facility Operating License No.* DPR-50. Amendment revised the Technical Specifications.

*Date of initial notice in* Federal Register: November 27, 1995 (60 FR 58401). The December 21, 1995 and February 22, 1996 letters did not change the staff's determination hazards consideration exist. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 21, 1996No significant hazards consideration comments received: No

*Local Public Document Room location:* Law/Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, PA 17105

Indiana Michigan Power Company, Docket Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

*Date of application for amendments:* December 19, 1995 and supplemented February 16, 1996 (AEP:NRC:1215B&D)

*Brief description of amendments:* The amendments modify the technical specifications to replace the existing scheduling requirements for overall integrated and local containment leakage rate testing with a requirement to perform the testing in accordance with 10 CFR Part 50, Appendix J, Option B. Option B allows test scheduling to be adjusted based on past performance.

*Date of issuance:* March 19, 1996

*Effective date:* March 19, 1996, with full implementation within 45 days

*Amendment Nos.:* Unit 1 - 209, Unit 2 -193

*Facility Operating License Nos.* DPR-58 and DPR-74. Amendments revised the Technical Specifications.

*Date of initial notice in* Federal Register: January 22, 1996 (61 FR 1632) The February 16, 1996 supplement made only a minor change to the proposed technical specifications that provided consistency between the wording for Units 1 and 2. The change did not affect the staff's proposed finding that the amendments involve no significant hazards consideration.The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 19, 1996.No significant hazards consideration comments received: No.

*Local Public Document Room location:* Maud Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

The Cleveland Electric Illuminating Company, Centerior Service Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50-440, Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio

*Date of application for amendment:* February 17, 1996

*Brief description of amendment:* The amendment allows one main steam line's leakage rate to be as high as 35 standard cubic feet per hour (scfh) as long as the total leakage through all four main steam lines does not exceed 100 scfh until the end of Operating Cycle 6.

*Date of issuance:* March 18, 1996

*Effective date:* March 18, 1996

*Amendment No.:* 83

*Facility Operating License No.* NPF-58: This amendment revised the Technical Specifications. The Commission's related evaluation of the amendment and final no significant hazards consideration determination is contained in a Safety Evaluation dated March 18, 1996. Public comments requested as to proposed no significant hazards consideration: Yes (61 FR 7823 dated February 29, 1996). That notice provided an opportunity to submit comments on the Commission's

proposed no significant hazards consideration determination. No comments have been received. The notice also provided for an opportunity to request a hearing by April 1, 1996, but indicated that if the Commission makes a final no significant hazards consideration determination any such hearing would take place after issuance of the amendment.

*Local Public Document Room location:* Perry Public Library, 3753 Main Street, Perry, Ohio 44081

TU Electric Company, Docket Nos. 50-445 and 50-446, Comanche Peak Steam Electric Station, Unit Nos. 1 and 2, Somervell County, Texas

*Date of amendment request:* December 19, 1994 (TXX-94274), as supplemented by letter dated January 25, 1996 (TXX-96026)

*Brief description of amendments:* These changes allowed testing of Reactor Protection System and Engineered Safety Features Actuation System instrument channels with the channel under test in bypass in order to reduce the vulnerability to spurious trips during surveillance testing.

*Date of issuance:* March 14, 1996

*Effective date:* March 14, 1996

*Amendment Nos.:* Unit 1 - 47; Unit 2 - 33

*Facility Operating License Nos.* NPF-87 and NPF-89. The amendments revised the Technical Specifications.

*Date of initial notice in* Federal Register: February 1, 1995 (60 FR 6312) The additional information contained in the supplemental letter dated January 25, 1996, was clarifying in nature and thus, within the scope of the initial notice and did not affect the staff's proposed no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 14, 1996. No significant hazards consideration comments received: No.

*Local Public Document Room location:* University of Texas at Arlington Library, Government Publications/Maps, 702 College, P.O. Box 19497, Arlington, TX 76019.

TU Electric Company, Docket Nos. 50-445 and 50-446, Comanche Peak Steam Electric Station, Unit Nos. 1 and 2, Somervell County, Texas

*Date of amendment requests:* November 21, 1995 (TXX-95289), as supplemented by letters dated February 22 (TXX-96061 and TXX-96062) and 28, (TXX-96068), and March 13, 1996 (TXX-96090).

*Brief description of amendments:* The amendments allowed both doors of the containment personnel airlock to be open during fuel movement and core alterations, providing one airlock door is capable of being closed and the water level in the refueling pool is maintained.

*Date of issuance:* March 18, 1996

*Effective date:* March 18, 1996

*Amendment Nos.:* Unit 1 - 48; Unit 2 - 34

*Facility Operating License Nos.* NPF-87 and NPF-89. The amendments revised the Technical Specifications.

*Date of initial notice in* Federal Register: January 3, 1996 (61 FR 185) The additional information contained in the supplemental letters dated February 22 (2 letters) and 28, and March 13, 1996, were clarifying in nature and thus, within the scope of the initial notice and did not affect the staff's proposed no significant hazards consideration determination.The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 18, 1996.No significant hazards consideration comments received: No.

*Local Public Document Room location:* University of Texas at Arlington Library, Government Publications/Maps, 702 College, P.O. Box 19497, Arlington, Texas 76019.

Wisconsin Electric Power Company, Docket Nos. 50-266 and 50-301, Point Beach Nuclear Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

*Date of application for amendments:* May 26, 1994, as supplemented January 5, April 25 and October 12, 1995, and February 2 and March 1, 1996.

*Brief description of amendments:* These amendments revise the Technical Specifications by extending the operation of both units with the current heatup and cooldown limit curves to 23.6 effective full power years. The basis for TS Section 15.3.1.B, ''Pressure/Temperature Limits,'' is also revised to reflect the methodology for the curve compilation.

*Date of issuance:* March 20, 1996

*Effective date:* March 20, 1995

*Amendment Nos.:* 168 and 172

*Facility Operating License Nos.* DPR-24 and DPR-27: Amendments revised the Technical Specifications.

*Date of initial notice in* Federal Register: July 20, 1994 (59 FR 37093). The supplemental submittals provided additional information that did not change the initial proposed no significant hazards consideration determination.The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 20, 1996.No significant hazards consideration comments received: No.

*Local Public Document Room location:* Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin 54241

Notice Of Issuance Of Amendments To Facility Operating Licenses And Final Determination Of No Significant Hazards Consideration And Opportunity For A Hearing (Exigent Public Announcement Or Emergency Circumstances)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing.

For exigent circumstances, the Commission has either issued a Federal Register notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards consideration determination. In such case, the license amendment has been

issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendment. By May 10, 1996, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses. Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 248-5100 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to (Project Director): petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be

granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

Arizona Public Service Company, et al., Docket No. STN 50-529, Palo Verde Nuclear Generating Station, Unit 2, Maricopa County, Arizona

*Date of application for amendment:* March 23, 1996

*Brief description of amendment:* The amendment modifies Technical Specification (TS) 4.8.2.1.c, ''DC Sources - Operating,'' to specify that the provisions of TS 4.0.1 and 4.0.4 are not applicable. This provision expires upon entry into Mode 4 coming out of the sixth refueling outage or upon any deep discharge cycle of the battery.

*Date of issuance:* March 23, 1996

*Effective date:* March 23, 1996

*Amendment No.:* Unit 2 - 94

*Facility Operating License No.* NPF-51: The amendment revised the Technical Specifications.Public comments requested as to proposed no significant hazards consideration: No.The Commission's related evaluation of the amendment, finding of emergency circumstances, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated March 23, 1996.

*Local Public Document Room location:* Phoenix Public Library, 1221 N. Central Avenue, Phoenix, Arizona 85004

*Attorney for licensee:* Nancy C. Loftin, Esq. Corporate Secretary and Counsel, Arizona Public Service Company, P.O. Box 53999, Mail Station 9068, Phoenix, Arizona 85072-3999

*NRC Project Director:* William H. Bateman

Arizona Public Service Company, et al., Docket No. STN 50-529, Palo Verde Nuclear Generating Station, Unit 2, Maricopa County, Arizona

*Date of application for amendment:* March 26, 1996

*Brief description of amendment:* The amendment revises Technical Specification (TS) 3/4.9.6 to allow the refueling machine overload cutoff limit to be increased to as much as 2000 pounds, from the current 1600 pound limit, in an effort to free the stuck fuel assembly from core location A-06. The additional 400 pound increase will be applied in 50 pound increments. This change will expire when the fuel assembly located at core location A-06 is successfully withdrawn.

*Date of issuance:* March 26, 1996

*Effective date:* March 26, 1996, to be implemented prior to entry into Mode 4 from the current refueling outage.

*Amendment No.:* Unit 2 - 95

*Facility Operating License No.* NPF-51: The amendment revised the Technical Specifications.Public comments requested as to proposed no significant hazards consideration: No.The Commission's related evaluation of the amendment, finding of emergency circumstances, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated March 26, 1996.

*Local Public Document Room location:* Phoenix Public Library, 1221 N. Central Avenue, Phoenix, Arizona 85004

*Attorney for licensee:* Nancy C. Loftin, Esq. Corporate Secretary and Counsel, Arizona Public Service Company, P.O. Box 53999, Mail Station 9068, Phoenix, Arizona 85072-3999

*NRC Project Director:* William H. Bateman

Toledo Edison Company, Centerior Service Company, and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

*Date of application for amendment:* March 29, 1996

*Brief description of amendment:* The amendment clarifies the testing requirements and updates the regulatory and industry guidance references for charcoal adsorber units addressed by TS 4.6.4.4, Hydrogen Purge System; TS 4.6.5.1, Emergency Ventilation System; and TS 4.7.6.1, Control Room Emergency Ventilation System.

*Date of issuance:* March 29, 1996

*Effective date:* March 29, 1996

*Amendment No.:* 209

*Facility Operating License No.* NPF-3: Amendment revised the Technical Specifications. Public comments requested as to proposed no significant hazards consideration: No.The Commission's related evaluation of the amendment, finding of emergency circumstances, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated March 29, 1996.

*Local Public Document Room location:* University of Toledo, William Carlson Library, Government Documents Collection, 2801 West Bancroft Avenue, Toledo, Ohio 43606

*Attorney for licensee:* Jay E. Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037

*NRC Project Director:* Gail H. Marcus

Dated at Rockville, Maryland, this 3rd day of April 1996.

For the Nuclear Regulatory Commission.

Steven A. Varga,

*Director, Division of Reactor Projects - I/II, Office of Nuclear Reactor Regulation.*

[FR Doc. 96–8786 Filed 4–9–96; 8:45 am]

BILLING CODE 7590–01–F

## All Licensees of Reactors With Installed Thermo-Lag Fire Barrier Material; Issuance of Director's Decision Under 10 CFR 2.206

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, has acted on Petitions for action under 10 CFR 2.206 received by a letter dated September 26, 1994, from the Citizens for Fair Utility Regulation and the Nuclear Information and Resource Service; by a press release dated October 6, 1994, from the Maryland Safe Energy Coalition; by separate letters dated October 21, 1994, from the GE Stockholders' Alliance and Dr. D. K. Cinquemani; by a letter dated October 25, 1994, from the Toledo Coalition for Safe Energy; by a letter dated October 26, 1994, from R. Benjan; by a letter dated November 14, 1994, from B. DeBolt; and by a letter dated December 8, 1994, from the Nuclear Information and Resource Service and the Oyster Creek Nuclear Watch. The Petitioners requested that the U.S. Nuclear Regulatory Commission (NRC) take action with regard to the use of Thermo-Lag by reactor licensees and that their letters be treated as Petitions pursuant to Section 2.206 of Title 10 of the *Code of Federal Regulations* (10 CFR 2.206).

The Citizens for Fair Utility Regulation and the Nuclear Information and Resource Service requested (1) Texas Utilities Electric Company, the licensee of Comanche Peak Steam Electric Station, Unit 1, perform additional destructive analysis for Thermo-Lag configurations in proportion to the total installed amount to determine the degree of ''dry joint'' occurrence, (2) the licensee perform fire tests on upgraded ''dry joint'' Thermo-Lag configurations for conduit and cable trays to rate the barrier as a tested configuration in compliance with fire protection regulations, and (3) the NRC immediately suspend the Comanche Peak Unit 1 license until the above listed corrective actions are taken. The Maryland Safe Energy Coalition requested immediate shutdown of both reactors at the Peach Bottom plant until the risk of fire near electrical control cables due to combustible insulation is

corrected. Dr. Cinquemani and the Toledo Coalition for Safe Energy requested that the NRC immediately shut down all reactors where Thermo-Lag is used until it has been removed and replaced. The GE Stockholders' Alliance requested shutdown of all reactors where Thermo-Lag is used until it has been removed and replaced with fire-retardant material meeting NRC standards. R. Benjan requested immediate shutdown of all reactors where Thermo-Lag is used. B. DeBolt requested shutdown of all reactors in which Thermo-Lag is used until it has been removed and replaced. The Nuclear Information and Resource Service and the Oyster Creek Nuclear Watch requested that NRC immediately suspend GPU Nuclear Corporation's (GPUN's) operating license for Oyster Creek Nuclear Generating Station (OCNGS) until GPUN removes Thermo-Lag fire barrier material and replaces it with a competitive product that meets current NRC fire protection regulations.

The Director of the Office of Nuclear Reactor Regulation has determined that these requests should be denied for the reasons stated in the ''Director's Decision Under 10 CFR 2.206'' (DD–96–03), the complete text of which follows this notice, and which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, D.C., and at the Local Public Document Room for the named facilities.

A copy of this Decision has been filed with the Secretary of the Commission for the Commission's review in accordance with 10 CFR 2.206(c) of the Commission's regulations. As provided by this regulation, this Decision will constitute the final action of the Commission 25 days after the date of issuance unless the Commission, on its own motion, institutes review of the Decision within that time.

Dated at Rockville, Maryland, this 3rd day of April, 1996.

For the Nuclear Regulatory Commission.

William T. Russell,

*Director, Office of Nuclear Reactor Regulation.*

## Appendix A to This Document: Director's Decision Under 10 CFR 2.206

DD–96–03

I. Introduction

By letter dated September 26, 1994, the Citizens for Fair Utility Regulation and the Nuclear Information and Resource Service (NIRS); by press release dated October 6, 1994, the Maryland Safe Energy Coalition; by separate letters dated October 21, 1994, the GE Stockholders' Alliance and Dr. D. K. Cinquemani; by letter dated October 25, 1994, the Toledo Coalition for Safe Energy; by letter dated October 26, 1994, R. Benjan; by letter dated November 14, 1994, B. DeBolt; and by letter dated December 8, 1994, NIRS and the Oyster Creek Nuclear Watch (the Petitioners), requested that the U.S. Nuclear Regulatory Commission (NRC) take action with regard to the use of Thermo-Lag by reactor licensees and that their letters be treated as Petitions pursuant to Section 2.206 of Title 10 of the *Code of Federal Regulations* (10 CFR 2.206).

The Citizens for Fair Utility Regulation and NIRS requested that (1) Texas Utilities Electric Company (TU Electric), licensee of Comanche Peak Steam Electric Station, Unit 1, perform additional destructive analysis for Thermo-Lag configurations in proportion to the total installed amount of Thermo-Lag to determine the degree of ''dry joint'' occurrence, (2) the licensee perform fire tests on upgraded ''dry joint'' Thermo-Lag configurations for conduit and cable trays to rate the barrier as a tested configuration in compliance with fire protection regulations, and (3) the NRC immediately suspend the Comanche Peak Unit 1 license until the above corrective actions are taken. The Maryland Safe Energy Coalition requested immediate shutdown of both reactors at the Peach Bottom plant until the risk of fire near electrical control cables due to combustible insulation is corrected.[1] Dr. Cinquemani and the Toledo Coalition for Safe Energy requested that the NRC immediately shut down all reactors where Thermo-Lag is used until it has been removed and replaced. The GE Stockholders' Alliance requested shutdown of all reactors where Thermo-Lag is used until it has been removed and replaced with fire-retardant material meeting NRC standards. R. Benjan requested immediate shutdown of all reactors where Thermo-Lag is used. B. DeBolt requested shutdown of all reactors in which Thermo-Lag is used until it has been removed and replaced. NIRS and the Oyster Creek Nuclear Watch requested that NRC immediately suspend GPU Nuclear Corporation's (GPUN's) operating license for Oyster Creek Nuclear Generating Station (OCNGS) until GPUN removes Thermo-Lag fire barrier material and replaces it with a competitive product that meets current NRC fire protection regulations.

As a basis for their requests concerning Thermo-Lag 330–1 fire barrier upgrades, the Citizens for Fair Utility Regulation and NIRS Petitioners stated that (1) the licensee's records on the original installation of Thermo-Lag fire barriers on conduits and cable trays indicate that its contractor followed specifications for pre-buttering all joints; (2) NRC Inspection Reports 50–455/93–42 and 50–446/93–42 found, based on destructive analysis documents, that a concern did exist where Thermo-Lag conduit joints fell apart easily and did not appear to have any residual material of a buttered surface, indicative of a joint that had not been pre-buttered; (3) the ''dry joint'' deficiency appeared in Room 115A and other areas of the unit; (4) the licensee directly contradicts an NRC inspector's findings that were determined in part by destructive analysis; (5) the ''dry joint'' or absence of pre-buttering of Thermo-Lag panels can be determined only by destructive analysis and cannot be determined by a walkdown visual inspection; (6) the findings reported in the Comanche Peak Unit 1 Region IV Inspection Reports 50–455/93–42 and 50–446/93–42, based on the limited amount of destructive analysis conducted at the unit, constitute a substantial documentation of installation deficiencies found in Thermo-Lag fire barriers as documented in NRC Information Notice (IN) 91–79, ''Deficiencies in the Procedures for Installing Thermo-Lag Fire Barrier Materials,'' December 6, 1991, and IN 91–79, Supplement 1, ''Deficiencies Found in Thermo-Lag Fire Barrier Installation,'' August 4, 1994; (7) neither the NRC nor the industry, by its agent Nuclear Energy Institute (NEI), nor a utility, have conducted fire tests on dry-fitted or ''dry joint'' upgraded configurations of Thermo-Lag 330–1; and (8) the presence of ''dry joint'' upgraded configurations in Comanche Peak Unit 1 constitutes an untested application of Thermo-Lag fire barriers.

As a basis for the requests concerning Thermo-Lag 330–1 fire barrier upgrades, the Maryland Safe Energy Coalition stated that the manufacturer of the flame retardant (Thermo-Lag insulation) was indicted on criminal charges (of falsifying tests of the effectiveness of the insulation as a fire barrier), and fire near the electrical control cables, due to combustible Thermo-Lag insulation, could cause a catastrophic meltdown.

As the bases for their requests, Dr. Cinquemani, the Toledo Coalition for

[1] The Petition submitted by the Maryland Safe Energy Coalition expressed several concerns in addition to the fire hazard issue. These other issues, that is other than the fire hazard issue, will be the subject of a separate Director's Decision.

Safe Energy, the GE Stockholders' Alliance, and R. Benjan stated either individually or collectively that (1) the widespread use of Thermo-Lag in more than 70 reactors presents a safety crisis; (2) the NRC has known since 1982 that Thermo-Lag fails NRC performance standards for material that protects vital electrical cables for ampacity rating and fire resistance; (3) Thermo-Lag has failed not only NRC tests, but almost all other independent tests; (4) Thermo-Lag is combustible, contrary to NRC regulations, and is an ineffective fire barrier; (5) the use of Thermo-Lag could lead to shorts, to failure of the cables in an emergency, and to fire; (6) Thermo-Lag is faulty in that fraudulent ampacity ratings allowed utilities to use smaller cable than permitted by design requirements, causing the cable to overheat and its insulation to deteriorate; (7) the NRC has stated that fire at some nuclear power plants can contribute as much as 50 percent of the risk to a core meltdown, and a typical reactor will have three to four significant fires during its licensed lifetime; (8) Thermal Science, Inc. (TSI), the manufacturer of Thermo-Lag, and its President were indicted by a Federal grand jury on seven criminal charges related to conspiracy to defraud the U.S. Government in regard to the effectiveness of Thermo-Lag; and (9) the hourly fire watches at the Davis-Besse Nuclear Power Plant operated by Toledo Edison do not replace fire barrier material and do not prevent fires.

As the bases for his request, B. DeBolt stated that Thermo-Lag fails to meet NRC regulations concerning combustibility and that the manufacturer of Thermo-Lag was indicted for defrauding the Government and the utilities. Among the many bases for their request, NIRS and the Oyster Creek Nuclear Watch stated that (1) Southwest Research Institute (SwRI) conducted fire tests on Thermo-Lag 330–1 specimens for GPUN and reported that all specimens ignited approximately 2 seconds after it was inserted into the furnace and failed specified criteria because of flaming after the first 30 seconds of testing, an outside temperature rise higher than 30 °C, and a weight loss of 50 percent; (2) GPUN's operation of OCNGS with knowledge of the SwRI report is an example of GPUN's reckless disregard for fire protection and public safety; (3) in the event of fire, Thermo-Lag is likely to fail its intended function of protecting vital electrical cables running from the control room to plant safety systems used to shut down the reactor; (4) current installations of Thermo-Lag are likely to fail in less time than 1 hour (when smoke detectors and automatic sprinkler systems are present) or 3 hours (when there are no fire detection and suppression systems) that NRC regulations require for fire barriers to withstand fire; (5) the NRC Inspector General issued a report in August 1992 condemning NRC's handling of the Thermo-Lag issue and documenting the NRC staff's failure to understand the scope of the problem; (6) in April 1994, Industrial Testing Laboratories and its President pleaded guilty to five felony counts of aiding and abetting the distribution of falsified test data; (7) on September 29, 1994, the U.S. Department of Justice issued a seven-count indictment against the manufacturer of Thermo-Lag and its Chief Executive Officer for willful violations of the Atomic Energy Act, conspiracy to conceal material facts, and making false statements to defraud the United States in connection with $58 million in fire barrier material; (8) GPUN has known since at least August 11, 1992, that Thermo-Lag 330–1 as a structural base material is combustible and that GPUN was in violation of Appendices A and R to 10 CFR Part 50 and the NRC Standard Review Plan, NUREG–0800; (9) GPUN failed to report the SwRI test results in response to a request for additional information regarding Generic Letter (GL) 92–08 (''Thermo-Lag 330–1 Fire Barriers'') of February 10, 1994, when asked to describe the Thermo-Lag 330–1 fire barriers installed as required to meet 10 CFR Part 50, Appendix R; and (10) continued reliance on fire watches at OCNGS is an unreasonable and unnecessary hazard to the public health and safety because of an inoperable fire protection system for safe shutdown of the reactor and installed combustible material on the shutdown systems.

On November 7, 1994, I informed the Citizens for Fair Utility Regulation and NIRS that the request for an immediate suspension of the Comanche Peak Unit 1 operating license was denied. On December 2, 1994, I informed the Maryland Safe Energy Coalition that the request for an immediate shutdown of the Peach Bottom plant and for an immediate suspension of the Peach Bottom license was denied. On December 15, 1994, I informed the GE Stockholders Alliance, Dr. D. K. Cinquemani, the Toledo Coalition for Safe Energy, and R. Benjan that the immediate suspension of the operating licenses of all reactors where Thermo-Lag is used was denied. On January 3, 1995, I informed NIRS and the Oyster Creek Nuclear Watch that the immediate suspension of the OCNGS operating license was denied. On January 19, 1995, I informed B. DeBolt that the request for immediate suspension of the operating licenses of all reactors in which Thermo-Lag is used was denied. The decisions were based on the following: (1) the staff is addressing deficiencies in fire barriers constructed with Thermo-Lag material as part of a Commission-approved action plan and has issued several bulletins and a generic letter to the nuclear industry to provide information and guidance, (2) fire barrier systems constructed with Thermo-Lag have been identified and declared inoperable, and (3) compensatory measures (fire watches) approved by the NRC have been instituted. Additionally in the above correspondence, all Petitioners were informed that the Petitions were being treated pursuant to 10 CFR 2.206 and had been referred to this office for action pursuant to 10 CFR 2.206 of the Commission's regulations and that appropriate action would be taken within a reasonable time.

For the reasons stated below, the Petitions have been denied.

## II. Background

The picture painted by the Petitioners of inaction by the NRC staff in responding to the issues presented by the use of Thermo-Lag is at odds with the facts. A review of the chronological development of the issues shows that the NRC staff has been working diligently to resolve the issues and has consistently sought to ensure that there is adequate protection of the public health and safety. It is also inaccurate to contend that Thermo-Lag generic deficiencies have been known since 1982. As can be seen from the following information, the development of the Thermo-Lag issue has been evolutionary. Reports of problems regarding Thermo-Lag began to surface in the late 1980s when Gulf States Utilities, the licensee for River Bend Station, discovered some cracks and wear damage due to installation deficiencies (Licensee Event Report 87–005, March 25, 1987) and declared the material inoperable as a fire barrier. The licensee further discovered that stress skin was missing on all 3-hour Thermo-Lag fire barriers in the turbine building as a result of an installation error. In a series of plant-specific tests performed by Gulf States Utilities in 1989, Thermo-Lag barriers failed to meet the fire endurance test acceptance criteria. Gulf States Utilities categorized all 1-hour and 3-hour barriers as indeterminate and implemented compensatory measures in the form of fire watches.

Other isolated plant-specific fire protection problems had been found during NRC inspections at various utilities as early as 1982 and had been acted on by the NRC staff. These problems were treated as plant-specific issues and were not considered as indications of generic problems.

In February 1991, the NRC received allegations that Thermo-Lag did not provide fire protection for electrical cables as claimed by the vendor. In response, in May 1991, the NRC visited River Bend Station to review the installation procedures and the failed fire endurance tests and concluded that a generic concern existed with 30-inch-wide cable trays. The NRC alerted the industry of the results of the test failures in IN 91–47, ''Failure of Thermo-Lag Fire Barrier Material To Pass Fire Endurance Test,'' August 6, 1991.

In June 1991, the Office of Nuclear Reactor Regulation (NRR) established a special review team to investigate the safety significance and generic applicability of technical issues regarding allegations and operating experience concerning Thermo-Lag fire barriers. In its final report, which was issued with IN 92–46, ''Thermo-Lag Fire Barrier Material Special Review Team Final Report Findings, Current Fire Endurance Testing, and Ampacity Calculation Errors,'' June 23, 1992, the special review team reached the following conclusions:

- The fire-resistive ratings and the ampacity derating factors for the Thermo-Lag fire barrier system were indeterminate.
- Some licensees had not reviewed and evaluated the fire endurance test results and the ampacity derating test results used as the licensing basis for their Thermo-Lag barriers to determine the validity of the tests and the applicability of the test results to their plant designs.
- Some licensees had not reviewed the Thermo-Lag fire barriers installed in their plants to ensure that they met NRC requirements and guidance, such as that provided in GL 86–10, ''Implementation of Fire Protection Requirements,'' April 24, 1986.
- Some licensees used inadequate or incomplete installation procedures during the construction of their Thermo-Lag barriers.

After the special review team completed its charter, the NRC staff prepared an action plan that provided a process to resolve technical issues identified with Thermo-Lag fire barrier systems. The NEI, formerly the Nuclear Management and Resources Council (NUMARC), agreed to coordinate industry efforts to resolve the issues.

In regard to the Petitioners' allegations of NRC's inaction in responding to the issues presented by the use of Thermo-Lag, the significant progress made by the NRC staff and the nuclear reactor licensees in resolving Thermo-Lag issues speaks to the contrary. The NRC staff has issued a number of generic communications related to Thermo-Lag, which include the following: (1) two bulletins: BUL 92–01, ''Failure of Thermo-Lag 330 Fire Barrier System To Maintain Cabling in Wide Cable Trays and Small Conduits Free From Fire Damage,'' June 24, 1992, and BUL 92–01, Supplement 1, ''Failure of Thermo-Lag 330 Fire Barrier System To Perform Its Specified Fire Endurance Function,'' August 28, 1992; (2) two generic letters: GL 92–08, ''Thermo-Lag 330–1 Fire Barriers,'' December 17, 1992, and GL 86–10, Supplement 1, ''Fire Endurance Test Acceptance Criteria for Fire Barrier Systems Used To Separate Redundant Safe Shutdown Trains Within the Same Fire Area,'' March 25, 1994; and (3) 12 information notices: IN 91–47; IN 91–79; IN 91–79, Supplement 1; IN 92–46; IN 92–55, ''Current Fire Endurance Test Results for Thermo-Lag Fire Barrier Material,'' July 27, 1992; IN 92–82, ''Results of Thermo-Lag 330–1 Combustibility Testing,'' December 15, 1992; IN 94–22, ''Fire Endurance and Ampacity Derating Test Results for 3-Hour Fire-Rated Thermo-Lag 330–1 Fire Barriers,'' March 16, 1994; IN 94–86, ''Legal Actions Against Thermal Science, Inc., Manufacturer of Thermo-Lag,'' December 22, 1994; IN 95–27, ''NRC Review of Nuclear Energy Institute, Thermo-Lag 330–1 Combustibility Evaluation Methodology Plant Screening Guide,'' May 31, 1995; IN 95–32, ''Thermo-Lag 330–1 Flame Spread Test Results,'' August 10, 1995; IN 95–49, ''Seismic Adequacy of Thermo-Lag Panels,'' October 27, 1995, and IN 94–86, Supplement 1, ''Legal Actions Against Thermal Science, Inc., Manufacturer of Thermo-Lag,'' November 15, 1995.

The NRC staff, the nuclear industry, and others have expended much time and many resources to address and resolve the Thermo-Lag issues. The NRC staff developed comprehensive fire test guidance and acceptance criteria and worked with industry to improve existing ampacity test procedures. The NRC staff and industry performed about 100 fire endurance and ampacity derating tests of Thermo-Lag fire barrier materials and full-scale test assemblies. The fire endurance tests established the limitations and the true fire-resistive capabilities of certain Thermo-Lag fire barrier configurations, without relying on the fire endurance test data supplied by TSI, the manufacturer of Thermo-Lag. On the basis of some of these tests, the NRC staff concluded that existing Thermo-Lag barriers could be upgraded with some additional Thermo-Lag material to satisfy NRC regulations. Precluding all use of Thermo-Lag materials for current and future fire barrier installations would remove a realistic option for resolving safety issues. Therefore, the NRC staff does not object to the use of Thermo-Lag in specific applications, where, through upgrades, NRC requirements are satisfied. The NRC staff issued three requests for additional information (RAIs) regarding GL 92–08 to each licensee using Thermo-Lag to obtain information on the specific Thermo-Lag material installed at each plant. The NRC staff reviewed and approved comprehensive Thermo-Lag fire barrier programs proposed by TU Electric for Comanche Peak Steam Electric Station, Unit 2, and by Tennessee Valley Authority (TVA) for Watts Bar Nuclear Power Plant, Unit 1, which attests to the fact that Thermo-Lag barriers can meet NRC fire protection guidelines and requirements. The NRC staff completed toxicity tests of Thermo-Lag material. The NRC staff and the industry completed chemical composition, combustibility, and flame spread tests of Thermo-Lag materials. Finally, the NRC staff reassessed previous technical conclusions to determine the extent to which the NRC staff and industry relied on information supplied by TSI to reach these conclusions. The staff had concerns about the reliability of information and data supplied by TSI that have been or could be used to make judgments regarding Thermo-Lag materials. The NRC staff identified and categorized the issues and previous conclusions and used the results of the industry-wide testing program regarding the chemical composition of Thermo-Lag, as discussed below, to determine if the in-plant Thermo-Lag materials were consistent. The results of this reassessment indicated that previous technical conclusions were valid independent of the information provided by TSI. The staff therefore concluded that additional action to reassess the issues or reverify the previous conclusions was not needed.

The NEI testing program on the chemical composition of Thermo-Lag analyzed samples from 18 utilities representing 25 nuclear power plants. The samples represented Thermo-Lag material manufactured between 1984 and 1995. NEI performed pyrolysis gas

chromatography evaluation of 169 samples to assess organic chemical composition and performed energy-dispersive X-ray spectroscopy of 33 samples to assess inorganic chemical composition. On the basis of the tests, NEI concluded that (1) all of the samples contained the constituents identified by TSI as essential to fire barrier performance; (2) the composition of the samples was consistent; and (3) the test results provided a basis on which to close NRC questions about chemical composition and product consistency and for utility use of generic test data relative to fire endurance ratings, flame spread, heat release, ampacity derating, and other material properties.

The NRC staff test program on the chemical composition of Thermo-Lag was conducted by the National Institute of Standards and Technology (NIST) during 1992 and 1995. NIST analyzed 21 samples that were either collected by the staff during site visits to plants and test laboratories or provided by TVA, Gulf States Utilities, Commonwealth Edison Company, and NEI. The analysis included elemental and ammonia analysis, pyrolysis, gas chromatography, mass spectrometry, and X-ray fluorescence. These analytical techniques indicated that all of the samples were similar in their bulk chemical composition. These results were consistent with the results of the NEI chemical testing program pertaining to the chemical composition and uniformity of Thermo-Lag.

Industry-wide progress has generally been commensurate with the complexity of the plant-specific issues and the amounts of Thermo-Lag installed at the individual plants. Several licensees have initiated programs to replace Thermo-Lag and are performing plant-specific tests of other fire barrier materials such as Mecatiss (Florida Power & Light for Crystal River Unit 3) and Darmatt KM–1 (Carolina Power & Light for Brunswick, IES Utilities, Inc., for Duane Arnold Energy Center, Commonwealth Edison Company for LaSalle County Station, and Northern States Power Company for Prairie Island Nuclear Generating Plant). The NRC staff is reviewing the plant-specific fire endurance test programs and has recently approved the plant-specific application of Darmatt KM–1 fire barrier at the LaSalle plant. The remaining licensees have submitted to the NRC staff detailed plans and schedules for resolving the issues at their plants. Most licensees are pursuing a combination of such options as upgrading existing Thermo-Lag fire barriers to meet NRC fire barrier requirements, replacing Thermo-Lag fire barriers with another type of fire barrier, reducing or eliminating reliance on Thermo-lag fire barriers by relocating equipment and cables and by post-fire safe-shutdown reanalysis, installing additional fire protection features such as automatic sprinkler systems, and requesting configuration-specific exemptions when such exemptions are allowed by NRC regulations and are technically justified to provide a level of safety equivalent to that prescribed by the regulations. The NRC staff has completed its review of the plans for resolving fire protection issues that were proposed by most of the licensees. As with any issues as technically complex, challenging, and resource intensive as those presented by Thermo-Lag barriers, some plant-specific questions remain. However, the number of issues has steadily declined. The NRC staff and the licensees will continue to address the residual questions on a case-by-case basis as they arise, and the NRC staff will continue to follow up with individual licensees on their corrective actions, as appropriate. Every licensee with Thermo-Lag fire barriers will continue to maintain NRC-approved compensatory measures, such as fire watches, until its permanent corrective actions are implemented. Therefore, the public health and safety are protected.

The NRC's ''defense-in-depth'' fire protection concept relies on protecting safe shutdown functions by achieving a balance among three echelons or levels of protection, which are (1) fire prevention activities; (2) the ability to rapidly detect, control, and suppress a fire; and (3) physical separation of redundant safe shutdown functions. Weaknesses found in one area may be dealt with by enhancing the protection capabilities of the remaining areas.[2] The NRC foresaw cases in which fire protection features would be inoperable and required licensees, through technical specifications or approved fire protection plans controlled by license conditions, to provide compensation for the deficient condition. The concept of allowing alternative actions to compensate for an inoperable condition or component is used in various programs associated with the operation of nuclear power plants and has long been an integral part of NRC regulatory requirements.[3]

The fire endurance test results contained in NRC BUL 92–01 and NRC BUL 92–01, Supplement 1, confirmed that certain Thermo-Lag fire barrier configurations compromise one facet of the fire protection defense-in-depth concept. In response to NRC BUL 92–01 and its supplement, the licensees for plants using Thermo-Lag fire barriers established fire watches in accordance with their technical specifications or license conditions as a compensatory measure. Fire watches are personnel trained by the licensees to inspect for the control of ignition sources, fire hazards, and combustible materials; to look for signs of incipient fires; to provide prompt notification of fire hazards and fires; and to take appropriate actions to begin fire suppression activities. Generally, therefore, by providing additional fire prevention activities through enhanced detection capabilities to find fire hazards and in the case of a fire, augmented suppression activities before a barrier's ability to endure a fire is challenged, fire watches compensate for degraded fire barriers.

The NRC staff has carefully evaluated the issues associated with continued use of Thermo-Lag material, including the use of fire watches to compensate for any degradation in the effectiveness of required fire barriers. Such compensatory actions provide an adequate level of fire protection without an undue risk to the health and safety of the public. Licensees have established fire watches to compensate for degraded and possibly inoperable fire barriers. Also, licensees rely on a defense-in-depth concept that incorporates multiple safety measures. Automatic fire detection and suppression systems are provided in most areas that have safe shutdown equipment. Trained fire brigades are required 24 hours a day at all plants. All areas that have safe shutdown equipment have manual fire suppression features. Fuels that can feed a fire and ignition sources to start a fire are controlled. The combination of fire watches and the defense-in-depth fire protection features provides an adequate level of fire protection until licensees implement permanent corrective actions.

Taken together, these factors represent an adequate means of fire protection at the plants using Thermo-Lag to ensure, with margin,[4] that operation can be

[2] The ''defense-in-depth'' concept is detailed in the ''NRC Standard Review Plan,'' NUREG–0800, Section 9.5.1, ''Fire Protection Program,'' page 9.5.1–10.

[3] NRC GL 91–18, ''Information to Licensees Regarding Two NRC Manual Sections on Resolution of Degraded and Nonconforming Conditions and Operability,'' issued November 7, 1991, and NRC Inspection Manual, Part 9900, ''Resolution of Degraded and Nonconforming Conditions,'' issued October 31, 1991.

[4] The fact that Thermo-Lag barriers, as installed, will provide protection for some period of time is

Continued

conducted without an undue risk to the health and safety of the public. Nevertheless, with these considerations in mind, the NRC staff addressed below the Petitioners' specific concerns to demonstrate that no substantial health and safety issue has been raised.

III. Response to Specific Concerns

The Petitioners alleged that (1) the NRC has been slow to enforce its own regulations, (2) fire watches do not replace fire barriers and continued reliance on fire watches is an unreasonable and unnecessary hazard to the public health and safety because of an inoperable fire protection system for safe shutdown of the reactor and installed combustible material on the shutdown systems, (3) utilities are in violation of NRC requirements because Thermo-Lag is combustible and could contribute to a fire instead of protecting from it, and, in spite of the danger, the NRC allows continued use of Thermo-Lag, (4) faulty ampacity ratings could result in the use of inappropriate cables, which, if undersized, could overheat and cause its insulation to deteriorate, (5) the licensee for Oyster Creek did not report to the NRC its findings regarding the combustibility of Thermo-Lag and, (6) the Thermo-Lag barriers have been improperly installed at Comanche Peak Unit 1, which contributes further to the poor performance of Thermo-Lag.

The NRC staff acknowledged and has stated that certain Thermo-Lag fire barrier configurations have failed to demonstrate the ability to perform their fire resistance functions. In this regard, the NRC staff, in BUL 92–01, Supplement 1, has stated that Thermo-Lag fire barriers should be treated as inoperable until licensees can declare the fire barriers operable on the basis of successful, applicable tests. Given the foregoing deficiencies identified for Thermo-Lag, the NRC staff concluded that compensatory measures are necessary until a licensee can declare fire barriers operable on the basis of applicable tests that demonstrate successful barrier performance.

The Petitioners also asserted that (1) the NRC should have protected the public and not Rubin Feldman, the President of the company manufacturing Thermo-Lag, and (2) public safety has been compromised by NRC's seeming complicity with utilities.[5]

*A. Regulatory Compliance*

The NRC staff acknowledges that certain fire endurance tests have demonstrated that Thermo-Lag barriers may not meet the fire endurance rating criteria set forth in Section III.G. of Appendix R to 10 CFR Part 50. This acknowledgment does not mean, however, that there no longer is reasonable assurance of protection of the public health and safety or that such actions as the shutdown of all reactors using Thermo-Lag and the suspension of Comanche Peak, Peach Bottom, and Oyster Creek operating licenses are warranted.

It should first be noted that Appendix R, which sets forth criteria for specific fire protection features to protect safe shutdown systems, is applicable only to facilities that commenced operation prior to 1979. Facilities commencing operation on or after January 1, 1979, although not bound by Appendix R, generally are bound by licensing commitments to follow the criteria set forth in Appendix R through license conditions.[6]

Even assuming that all of the plants in which Thermo-Lag is installed and that commenced operation prior to 1979 are not in compliance with Appendix R, it does not follow that the failure to comply with a regulation indicates the absence of adequate protection. The Commission has explained that—

> [W]hile it is true that compliance with all NRC regulations provides reasonable assurance of adequate protection of the public health and safety, the converse is not correct, that failure to comply with one regulation or another is an indication of the absence of adequate protection, at least in a situation where the Commission has reviewed the noncompliance and found that it does not pose an ''undue risk'' to the public health and safety.

(Ohio Citizens for Responsible Energy, DPRM 88–4, 28 NRC 411 (1988).)

All the plants using Thermo-Lag have instituted fire watches as required by their action statements regarding inoperable barriers contained in their technical specifications or fire protection programs subject to license conditions. Generally, action statements provide alternative remedial actions to shutting down a plant when limiting conditions for operation are not met. Compliance with the required remedial actions provides reasonable assurance that the public health and safety is protected notwithstanding the plant's continued operation and its failure to meet the respective limiting condition for operation. Here, since all of the plants using Thermo-Lag have implemented the required fire watches in accordance with plant-specific requirements, their continued operation does not pose an undue risk to the public health and safety.

The Petitioners assert that fire watches do not replace fire barriers and continued reliance on fire watches is a hazard to public safety. The NRC staff acknowledges that fire watches do not replace fire barriers. However, as will be discussed in greater detail later in this Decision, fire watches are judged by the NRC to be acceptable compensatory measures and are legally sanctioned remedial actions based on 10 CFR 50.36(c)(2).[7]

In sum, notwithstanding the failure to have operable fire barriers meeting the fire endurance rating criteria specified by Section III.G. of Appendix R, a plant is not necessarily unsafe to continue operation. To the contrary, fire watches are judged by the NRC to be adequate remedial measures that provide reasonable assurance that the public health and safety is protected. By reason of compliance by all facilities using Thermo-Lag with their technical specifications or fire protection program action statements requiring the implementation of fire watches, protection of the public health and safety is still reasonably ensured for such plants. Because the Commission has discretion regarding enforcement of its regulations, and given the circumstances here in which no significant health and safety issues have been raised, enforcement action of the nature requested by the Petitioners is not warranted.

*B. Ability of Fire Watches to Compensate for a Degraded Barrier*

One of the Petitioners' allegations is that the measures taken by licensees to compensate for degraded barrier conditions, specifically fire watches, are not adequate to protect the public health and safety. The Petitioners have questioned the continued reliance on fire watches in the light of an inoperable fire protection system for safe plant shutdown and the combustibility of Thermo-Lag. In addition, the Petitioners

supported by, among others, the fire endurance test results documented in IN 92–55.

[5] These statements could be interpreted as the appearance of unwarranted favoritism toward the manufacturer of Thermo-Lag and complicity with utilities. Therefore, the Petitions were referred to the NRC Office of the Inspector General.

[6] In addition, there are a very limited number of plants which commenced operation on or after January 1, 1979, that are not subject to specific license conditions but whose licensees have made commitments to comply with NRC fire protection requirements, including Section III.G. of Appendix R. The NRC is elevating these commitments to license conditions.

[7] In instances in which fire protection programs have been moved from technical specifications and are now subject to license conditions, the NRC's approval of the fire protection programs subject to license conditions provides the legal basis for the implementation of fire watches as a remedial measure.

claim that a fire watch does not replace a fire barrier in that fire watches are not preventive.

Despite the acknowledged shortcomings identified with certain Thermo-Lag fire barriers and after fully considering the arguments presented by the Petitioners regarding the ability of fire watches to provide adequate compensation, the NRC staff has determined that compensatory measures using fire watches are adequate and acceptable to ensure public health and safety until permanent corrective measures are implemented.

The use of fire watches in instances of degraded or inoperable barriers is an integral part of NRC-approved fire protection programs. In general, these NRC staff-approved compensatory measures specify the establishment of a continuous fire watch or an hourly fire watch in cases in which automatic detection systems protect the affected components. Although it is true that Thermo-Lag is intended as a barrier and fire watch personnel cannot act as physical shields, a fire watch provides more than simply a detection function. Personnel assigned to fire watches are trained by the licensee to inspect for the control of ignition sources, fire hazards, and combustible materials; to look for signs of incipient fires; to provide prompt notification of fire hazards and fires; and to take appropriate action to begin fire suppression activities. Fire watch personnel are capable of determining the size, the actual location, the source, and the type of fire—valuable information that cannot be provided by an automatic fire detection system.

During a plant fire, compartment temperatures are likely to be less severe at the early stages. On the basis of enhanced capabilities provided by fire watches and notwithstanding that the level of barrier-type protection may be reduced, the NRC staff has determined that there is an adequate margin of safety to ensure protection in cases in which fire watches are approved.

The goal of the NRC staff's Thermo-Lag Action Plan is directed towards restoring the functional capability of fire barriers as soon as practicable. There is not a time limit associated with the use of fire watches as a compensatory measure. Given the margin of safety a fire watch brings to a fire protection program, as discussed above, the NRC staff has determined that continuing the use of fire watches while barriers are inoperable is acceptable. However, the NRC believes that notwithstanding interim reliance on compensatory measures, appropriate actions must be taken by licensees to restore operability of Thermo-Lag barriers. Individual licensees have provided schedules for restoring operability and these are being tracked by the NRC staff.

The NRC staff has carefully evaluated the use of fire watches to compensate for any degradation in the effectiveness of required fire barriers and has concluded that fire watches continue to ensure protection of the public health and safety. Therefore, the Petitioners' assertion that the measures taken by licensees to compensate for degraded fire barrier conditions, specifically fire watches, are a hazard is without merit.

*C. Combustibility*

The Petitioners alleged that, contrary to NRC regulations, Thermo-Lag is combustible.

The NRC staff recognizes that Thermo-Lag is combustible. To assess Thermo-Lag combustibility, the NRC staff conducted a testing program at the National Institute of Standards and Technology (NIST) based on the American Society for Testing and Materials (ASTM) Standard E–136. Under this testing standard, the material is considered to be ''combustible'' if three out of four samples tested exceed the following criteria: (1) the recorded temperature of the specimen's surface and interior thermocouples, during the test, rises 54 °F (30 °C) above the initial furnace temperature; (2) there is flaming from the specimen after the first 30 seconds of irradiance; and (3) the weight loss of the specimen, due to combustion during the testing, exceeds 50 percent. Of the four Thermo-Lag specimens tested, all experienced a weight loss of greater than 50 percent and flaming continued in excess of 30 seconds. In 92–82, which provided licensees with the results of the E–136 tests and confirmed the combustibility of Thermo-Lag, restated the NRC fire protection requirements of Section III.G. of Appendix R to 10 CFR Part 50 and asked that licenses review the information for applicability to their facilities.

The NRC's basic fire protection regulation for commercial nuclear power plants is Section 50.48 of 10 CFR Part 50 ''Fire protection.'' Section 50.48 references General Design Criterion (GDC) 3 of Appendix A to 10 CFR Part 50, ''Fire protection,'' Appendix R to 10 CFR Part 50'' Fire Protection Program for Nuclear Power Facilities Operating Prior to January 1, 1979,'' and various NRC fire protection guidance documents. Specifically, Section 50.48(a) states that each operating nuclear power plant must have a fire protection plan that satisfies GDC 3, and Section 50.48)b) states that Appendix R to 10 CFR Part 50 establishes fire protection features required to satisfy GDC 3 with respect to certain generic issues for nuclear power plants licensed to operate prior to January 1, 1979.[8] These issues are addressed in Section III.G, ''Fire protection of safe shutdown capability,'' Section III.J, ''Emergency lighting,'' and Section III.O, ''Oil collection system,'' of Appendix R. Of these three sections of Appendix R, Section III.G addresses the use of fire barriers to protect one train of systems necessary to achieve and maintain hot shutdown conditions in the event of a fire and, therefore, is the regulation of interest here.

Section 50.48(a) notes that fire protection guidance for nuclear power plants is contained in two NRC documents. These are (1) Branch Technical Position (BTP) Auxiliary Power Conversion Systems Branch (APCSB) 9.5–1, ''Guidelines for Fire Protection for Nuclear Power Plants,'' for new plants docketed after July 1, 1976, and (2) Appendix A to BTP APCSB 9.5–1, ''Guidelines for Fire Protection for Nuclear Power Plants Docketed Prior to July 1, 1976.'' These two NRC documents specify preferred methods for fire protection program design including the use of fire barriers to satisfy Section III.G of Appendix R. Fire barriers that meet the criteria of Section III.G of Appendix R to 10 CFR Part 50 and these NRC guidance documents satisfy GDC 3. NUREG–0800, ''Standard Review Plan,'' (SRP) Section 9.5–1, ''Fire Protection Program,'' incorporates the guidance of BTP APCSB 9.5–1 and Appendix A to BTP APCSB 9.5–1 and the criteria of Section III.G of Appendix R to 10 CFR Part 50. Therefore, fire barriers that meet the guidelines of SRP Section 9.5–1 also satisfy 10 CFR 50.48 and GDC 3.

As stated in 10 CFR 50.48(a), the purpose of the fire protection plan is ''to limit fire damage to structures, systems, or components important to safety so that the capability to safely shut down the plant is ensured. '' In general, a fire protection plan consists of administrative controls and procedures, personnel for implementing the plan and for fire prevention and manual fire suppression activities, fire detection systems, automatic and manually operated fire suppression systems and equipment, and fire barriers.

[8] While Appendix R is applicable only to facilities that commenced operation prior to January 1, 1979, as discussed earlier in this Director's Decision, facilities commencing operation on or after January 1, 1979, are bound to satisfy the criteria of Appendix R through license conditions or licensing commitments.

Section III.G of Appendix R to 10 CFR Part 50 is the only part of the fire protection regulations that addresses the use of fire barriers. It addresses the use of fire barriers to protect one train of systems necessary to achieve and maintain hot shutdown conditions in the event of a fire. Fire barriers are required to have either a 1-hour or 3-hour rating depending on the specific requirement. However, Section III.G does not provide acceptance criteria for fire barriers, nor does it address the combustibility of fire barrier materials. The criteria are set out in BTP APCSB 9.5–1, Appendix A to BTP APCSB 9.5–1, and SRP Section 9.5–1. These NRC documents do not preclude the use of combustible materials for construction of fire barriers required to have a 1-hour or 3-hour rating. On March 25, 1994, the staff consolidated and clarified in Supplement 1 to Generic Letter (GL) 86–10, the fire barrier criteria specified in the BTPs and the SRP. This GL supplement provides detailed staff guidelines for assessing the combustibility of fire barrier materials, but it does not preclude the use of combustible materials for fire barriers required to satisfy a 1-hour or 3-hour rating. In fact, the fire barrier criteria are appropriately focused on the performance of the fire barrier and its ability to achieve its intended design function, that is, its ability to limit temperature rise within the barrier enclosure and to prevent the passage of flame or gasses hot enough to adversely affect the functionality of the safe shutdown components (e.g., cables) enclosed within the fire barrier.

Thermo-Lag 330–1 is a sacrificial material. When it is exposed to elevated temperatures, such as those experienced during a fully-developed room fire, it sublimes and transitions from a solid to a vapor. The vapors go through an endothermic decomposition process (pyrolysis) which absorbs heat from the fire. As a result of the pyrolysis, the unreacted Thermo-Lag material is replaced by an insulating char layer which is composed of small interconnecting cells having a large surface area. The char layer re-radiates energy and limits heat transfer through the Thermo-Lag material. The low thermal conductivity of the char layer provides additional thermal insulation. Therefore, even though Thermo-Lag is classified as a combustible material when testing in accordance with the guidance of Supplement 1 to GL 86–10, properly designed, qualified, and installed Thermo-Lag can yield fire barriers with a 1-hour or 3-hour rating which will protect safe shutdown components from the effects of the fire. Therefore, such barriers can satisfy the requirements of 10 CFR 50.48 and GDC 3.

To provide reasonable assurance that Thermo-Lag fire barriers installed in the nuclear power plants can meet their intended function, representative Thermo-Lag fire barrier assemblies have been subjected to full-scale qualification-type fire endurance tests conducted in accordance with the guidance of Supplement 1 to GL 86–10. This guidance provides standard and uniform test methods and acceptance criteria for assessing the fire-resistive capabilities of these barriers. The staff has found the use of Thermo-Lag acceptable as a fire barrier material when it is used in accordance with existing NRC regulations and guidance and where supported by appropriate tests and analyses.

However, there are two types of applications where the use of Thermo-Lag material is not appropriate. These are (1) enclosing combustible materials (e.g., insulated cables) within Thermo-Lag fire barriers to eliminate the combustible materials as a fire hazard and (2) using Thermo-Lag as radiant energy heat shields inside noninerted containments.

Section III.G of Appendix R (and the equivalent SRP guidance) specifies three options for protecting redundant trains of systems necessary to achieve and maintain hot shutdown conditions located within the same fire area outside of containment. Two of the three options (Sections III.G.2.a and c) rely on the use of fire barriers with a 1-hour or 3-hour rating, as discussed above. The third option, Section III.G.2.b, specifies the separation of redundant safe shutdown trains by a horizontal distance of more than 20 feet with no intervening combustibles or fire hazards. (A typical example of intervening combustibles is a cable tray loaded with cables, because cable jacket materials are combustible.) Therefore, spacial separation, and not fire barriers, are used to meet Section III.G.2.b. However, to meet this requirement, some licensees have enclosed combustibles that are installed between redundant shutdown trains within a fire barrier. In theory, the fire barrier prevents an exposure fire from igniting the intervening combustible materials and spreading along them from one redundant train to the other. Thus the fire barrier effectively eliminates the intervening combustible as a fire hazard. If the fire barrier itself is noncombustible and the redundant safe shutdown trains are separated by a horizontal distance of more than 20 feet, then the configuration meets Section III.G.2.b of Appendix R. However, if the fire barrier material used to enclose the intervening combustibles is also combustible, such as Thermo-Lag, then the licensee has simply installed one combustible material over another and has not eliminated the intervening fire hazard. In a limited number of cases, licensees have enclosed intervening combustibles within Thermo-Lag fire barriers under the incorrect assumption that the Thermo-Lag fire barrier would eliminate the intervening combustibles as a fire hazard. Corrective actions will be required in these cases.

As an alternative to the three options discussed above, Section III.G.2.f of Appendix R (and the equivalent SRP guidance) provides a fourth option for noninerted containments, that is, the separation of redundant safe shutdown components with noncombustible radiant energy heat shields. Thermo-Lag is classified as a combustible material when tested in accordance with the guidance of Supplement 1 to GL 86–10. Therefore, it does not meet the criteria for radiant energy heat shields. Licensees using Thermo-Lag in this fashion will also be required to take corrective action.

To assure that corrective actions are taken in these cases, the NRC staff issued IN 95–27. In that IN, the staff addressed enclosing combustible materials within Thermo-Lag fire barriers in an attempt to eliminate the combustible materials as a fire hazard and using Thermo-Lag to construct radiant energy heat shields inside noninerted containments. The staff identified such solutions for reevaluating the use of Thermo-Lag for these applications as: (1) reanalyzing post-fire safe shutdown circuits inside containment and their separation to determine if the Thermo-Lag radiant energy shields are needed, (2) replacing Thermo-Lag barriers installed inside the containment with noncombustible barrier materials, (3) replacing Thermo-Lag barriers used to create combustible-free zones with noncombustible barrier materials, (4) rerouting cables or relocating other protected components, or (5) requesting plant-specific exemptions where technically justified.

One of the Petitioners also asserted that subsection 5a(3) of Section 9.5–1 of the SRP states that fire barrier designs ''should utilize only non-combustible materials.'' This section of the SRP does not apply to fire barriers which are used to separate redundant safe shutdown components located within a nuclear power plant fire area. Rather, it applies to fire barrier penetration seals, which are typically installed in fire area

boundaries. Thermo-Lag 330–1 is not used in such applications.

The principal consideration for 1-hour and 3-hour rated fire barriers installed to meet NRC fire protection requirements and guidelines is that they can achieve their intended design function. That is, that they can limit temperature rise within the barrier enclosure and prevent the passage of flame or gasses hot enough to adversely affect the functionality of the safe shutdown components enclosed within the fire barriers. The fact that Thermo-Lag material is combustible does not preclude Thermo-Lag fire barriers from achieving the intended function of preventing fire damage if the fire barriers are properly designed, qualified, and installed. The Petitioners' contention that Thermo-Lag material should not be used because it is combustible is without basis.

*D. Ampacity Derating*

The Petitioners assert that Thermo-Lag could contribute to starting a fire instead of protecting from it. They further alleged that faulty ampacity derating factors could result in the use of inappropriate cables that, if undersized, could overheat and cause its insulation to deteriorate.

Ampacity derating is the lowering (derating) of the current-carrying capacity of power cables enclosed in electrical raceways protected with fire barrier materials because of the insulating effect of the fire barrier material. This insulating effect may reduce the ability of the cable insulation to dissipate heat. If not accounted for in the plant design, the increased cable insulation temperature could lead to premature insulation failure. Other factors also affect ampacity derating, including the extent of cable fill in the raceway, cable type, raceway construction, and ambient temperature. The National Electrical Code, Insulated Cable Engineers Association (ICEA) publications, and other industry standards provide ampacity derating factors for open air installations. These standards do not provide derating factors for fire barrier systems. Although a national standard test method is in the process of being developed but has not yet been established, ampacity derating factors for raceways enclosed with fire barrier material are determined by testing for the specific installation configurations.

TSI, the manufacturer of Thermo-Lag, has documented a wide range of ampacity derating factors that were determined by testing, for raceways enclosed within Thermo-Lag fire barrier materials. On October 2, 1986, TSI informed its customers that, while conducting tests in September 1986 at Underwriters Laboratories, Inc. (UL), it found that the ampacity derating factors for Thermo-Lag barriers were greater than previous tests indicated. However, the cable fill and tray configurations were different for each test than those tested previously. In addition, the NRC staff learned that UL performed a duplicate cable tray test that resulted in an even higher derating factor. The NRC staff also learned of the determination of other derating factors during its review of other tests conducted at Southwest Research Institute (SwRI).[9]

The NRC special review team concluded that the ampacity derating test results completed at the time of the review, including the UL test results, were indeterminate. This conclusion was based on observed inconsistencies in the derating test results of the various testing laboratories. The special review team found that there was no national consensus test standard (e.g., Institute of Electrical and Electronics Engineers (IEEE) or American National Standards Institute (ANSI)) for conducting these tests, and that some licensees had not adequately reviewed ampacity derating test results to determine the validity of the tests and the applicability of those test results to their plant design. The special review team recognized that, in hypothetical cases, nonconservative ampacity derating factors could have been instrumental in the installation of inappropriate cables, which as a result, could suffer premature cable jacket and cable insulation failures over a period of time. However, since that time, the NRC staff has determined that in practice the ampacity derating factor resulting from Thermo-Lag insulating properties represents only one of many variables used in determining the design ampacity for power cable systems and that, as discussed below, sufficient margin exists in this area to preclude any immediate safety concerns.

For actual installations, various derating factors are typically applied to the ICEA ampacity values provided for each cable size. In general, the cables typically used in actual installations have higher current-carrying capacity than the ICEA ampacity values.[10] Also, cables are sized based on full-load current plus a 25 percent margin to account for starting current requirements of the load. Given the short duration of typical equipment starts, this margin is available to compensate for any errors in ampacity derating. Further, use of a cable size larger than normal may be required as a result of voltage drop considerations for long circuit lengths. In typical applications this also provides additional current-carrying capacity. Given these conservatisms inherent in the design ampacity of cable systems and in addition the fact that most power cables required for safe shutdown are not normally energized, but are typically operated during surveillance testing for short time periods, the likelihood that cables could ignite as a result of Thermo-Lag ampacity derating errors has been judged by the NRC staff to be unlikely. In addition, based on these conservatisms and the currently available information on existing plants, ampacity design, and operating history, the NRC staff believes that the ampacity derating issue is not an immediate safety issue but rather is an aging issue to be resolved over the long term.[11]

*E. Oyster Creek Failed To Report Test Results on Combustibility to the NRC*

The Petitioners requested that Oyster Creek's license be suspended based on the following: (1) SwRI conducted fire tests on Thermo-Lag 330–1 specimens for GPUN, the licensee for Oyster Creek, and reported that all specimens ignited approximately 2 seconds after they were inserted into the furnace and failed specified criteria because of flaming after the first 30 seconds of testing, an

[9] The test procedures and test configurations differed among the testing laboratories. Therefore, the results from the different ampacity tests may not be directly comparable to each other.

The NRC staff is concerned that the ampacity derating factors, as determined in UL tests for Thermo-Lag barrier designs, are inconsistent with TSI results for similar designs because different times were allowed for the temperature to stabilize before taking current measurements. Inconsistent stabilization times would call into question the validity of previous TSI results. The NRC also noticed during the review of the Industrial Testing Laboratories (ITL) test reports that ambient temperature and maximum cable temperature were allowed to vary widely for some tests. Therefore, those tests in which the ambient and maximum cable temperatures were not maintained within specified limits may be questionable. Additionally, a licensee discovered a mathematical error for the ampacity derating factor published in an ITL test report. A preliminary assessment of the use of a lower-than-actual ampacity derating factor indicates that higher-than-rated cable temperatures are possible for Thermo-Lag installations. Higher-than-rated cable temperatures could accelerate the aging effects experienced by the cable.

[10] ICEA ampacity values include conservatisms to compensate for skin and proximity effects and shield and/or sheath losses which may or may not apply in specific situations.

[11] Generic Letter 92–08 requires licensees to review the ampacity derating factors used for all raceways protected by Thermo-Lag 330–1 (for fire protection of safe shutdown capability or to achieve physical independence of electrical systems) and to determine whether the ampacity derating test results relied upon are correct and applicable to the plant design. Presently, the staff is conducting reviews of followup actions to close out ampacity derating concerns with licensees pursuant to GL 92–08.

outside temperature rise higher than 30 °C, and a weight loss of 50 percent; (2) GPUN's operation of Oyster Creek with knowledge of the SwRI report is an example of GPUN's reckless disregard for fire protection and public safety; (3) in the event of fire, Thermo-Lag is likely to fail its intended function of protecting vital electrical cables running from the control room to plant safety systems used to shut down the reactor; (4) current installations of Thermo-Lag are likely to fail in less time than the 1 hour (when smoke detectors and automatic sprinkler systems are present) or 3 hours (when there are no fire detection and suppression systems) that NRC regulations require for fire barriers to withstand fire; (5) the NRC Inspector General issued a report in August 1992 condemning NRC's handling of the Thermo-Lag issue and documenting the NRC staff's failure to understand the scope of the problem; (6) in April 1994, ITL and its President pleaded guilty to five felony counts of aiding and abetting the distribution of falsified test data; (7) on September 29, 1994, the U.S. Department of Justice issued a seven-count indictment against the manufacturer of Thermo-Lag and its Chief Executive Officer for willful violations of the Atomic Energy Act, conspiracy to conceal material facts, and making false statements to defraud the United States, in connection with $58 million in fire barrier material; (8) GPUN has known since at least August 11, 1992, that Thermo-Lag 330–1 as a structural base material is combustible and that it was in violation of Appendices A and R to Part 50 of Title 10 of the *Code of Federal Regulations* (10 CFR) and the NRC Standard Review Plan, NUREG–0800; (9) GPUN failed to report the SwRI test results in response to GL 92–08 of February 10, 1994, when asked to describe the Thermo-Lag 330–1 fire barriers installed as required to meet 10 CFR Part 50, Appendix R; and (10) continued reliance on fire watches at Oyster Creek is an unreasonable and unnecessary hazard to the public health and safety because of an inoperable fire protection system for safe shutdown of the reactor and installed combustible material on the shutdown systems.

Several of the issues listed above have been addressed earlier in this decision. Therefore, the NRC staff will only address below the remaining plant-specific issues. As discussed earlier in this decision, the NRC issued IN 92–82 to inform the industry of the results of combustibility tests performed by NIST in early August 1992. These tests confirmed the combustibility of Thermo-Lag. As a result of discussions with the NRC staff on the subject of Thermo-Lag combustibility, GPUN decided to independently verify the results of the E–136 tests performed by NIST and contracted SwRI to perform the E–136 tests. The results of these tests, as documented by the telecopy transmittal sheet submitted with the Petition, confirmed the combustibility of Thermo-Lag. Contrary to the Petitioners' allegations, the NRC staff does not require that licensees report the results of their independent testing. It should be noted here that, prior to the SwRI testing that confirmed combustibility, the NRC was aware of the combustibility of Thermo-Lag and that the NRC was also well aware of the results of the E–136 tests performed by GPUN through telephone conversations with GPUN personnel, even though there was no requirement for GPUN to report these test results.

The Petitioners also alleged that GPUN did not report to NRC its findings of the SwRI test results in its ''Response to Request for Additional Information Regarding Generic Letter 92–08, 'Thermo-Lag Fire Barriers,' '' (RAI) dated February 10, 1994.

The RAI quoted by the Petitioners did not request that GPUN report to NRC its findings of the SwRI test results and, in addition, the NRC staff does not require that licensees report the results of their independent testing. Therefore the NRC staff has concluded that, contrary to the Petitioners' allegation, GPUN did not have to report to the NRC its findings of the SwRI test results.

For the reasons stated above, the suspension of Oyster Creek's license, as requested by the Petitioners, is not warranted.

*F. Dry-Joint Issue at Comanche Peak Unit 1*

The Petitioners requested that (a) the Comanche Peak Unit 1 license be suspended, (b) the licensee perform additional destructive analysis for Thermo-Lag configurations, and, (c) the licensee perform fire tests on upgraded ''dry-joint'' Thermo-Lag configurations based on the following: (1) the licensee's records on the original installation of Thermo-Lag fire barriers on conduits and cable trays indicate that its contractor followed specifications for pre-buttering all joints; (2) NRC Inspection Report Nos. 50–445/93–42; 50–446/93–42 found, based on destructive analysis documents, that a concern did exist where Thermo-Lag conduit joints fell apart easily and did not appear to have any residual material of a buttered surface, indicative of a joint that had not been pre-buttered; (3) the ''dry joint'' deficiency appeared in Room 115A and other areas of the unit; (4) the licensee directly contradicts an NRC inspector's findings that were determined in part by destructive analysis; (5) the ''dry joint'' or absence of pre-buttering of Thermo-Lag panels can be determined only by destructive analysis and cannot be determined by a walk down visual inspection; (6) the findings reported in the Comanche Peak Unit 1 Region IV Inspection Reports 50–445/93–42 and 50–446/93–42, based on the limited amount of destructive analysis conducted at the unit, constitute a substantial documentation of installation deficiencies found in Thermo-Lag fire barriers as documented in NRC IN 91–79 and Supplement 1; (7) neither the NRC nor the industry, by its agent NEI, nor a utility, have conducted fire tests on dry fitted or ''dry joint'' upgraded configurations of Thermo-Lag 330–1; and (8) the presence of ''dry joint'' upgraded configurations in Comanche Peak Unit 1 constitutes an untested application of Thermo-Lag fire barriers.

These allegations were based on the Petitioners' interpretation of NRC Inspection Report 93–42 issued on February 21, 1994. By letter of November 29, 1994, TU Electric, the licensee for Comanche Peak Unit 1, sent a letter to the NRC staff responding to the Petition.

The term ''joint'' refers to the interface between two adjacent Thermo-Lag surfaces. Comanche Peak Unit 1 installation procedures for Thermo-Lag fire barriers specify that, during the initial installation process, the joints should be pre-buttered (or covered) with Thermo-Lag trowel grade material before the mating surfaces are joined to ensure adhesion of the surfaces. The term ''dry joint'' refers to the lack of Thermo-Lag trowel grade material in a joint. The failure to pre-butter a joint with trowel grade Thermo-Lag could result in a weakening of the joint during a potential fire exposure and could provide an exposure path in the fire barrier envelope. The NRC performed an inspection at Comanche Peak Unit 1 on November 2–5, and 23–24, 1993, and January 26–28, 1994, to compare the Thermo-Lag test specimens with the upgraded Thermo-Lag configurations on site. The results of this inspection are documented in NRC Inspection Report 93–42. The report stated that there appeared to be a large number of deficiencies with the installed fire barriers and that an example of these deficiencies involved dry joints on conduit overlays installed on pedestal hangers. The NRC inspector did not personally observe the dry joints in question. His statements were based on

observations made by TU Electric and documented in an Operations Notification and Evaluation (ONE) form. However, the ONE form in question did not identify a dry joint. Instead, the ONE form identified a condition that was conservatively reported as an apparent dry joint. Upon further evaluation of the ONE form, TU Electric determined that the joint in question had in fact been pre-buttered with trowel grade Thermo-Lag. These facts are discussed in more detail below.

On November 25, 1992, a speed memo was written by a TU Electric contractor identifying ''apparent unsatisfactorily conditions on Unit 1 commodities.'' This memorandum identified ''an apparent'' dry joint on an oversize coupling section (on top of a pedestal hanger). The speed memo also stated that, ''we have decided that the best vehicle to call attention to these apparent deficiencies would be a letter to your attention for further evaluation of the situation. . . .'' The letter was forwarded to the appropriate TU Electric engineering section.

The cognizant TU Electric engineer performed a walkdown of the described areas and evaluated the commodities. He conservatively initiated a ONE form (the process used by TU Electric to report problems and develop resolution for the identified problems). A comprehensive evaluation of this condition determined that the joint had been pre-buttered. Therefore, the engineering resolution for this condition was that ''this is not a deficient condition, and there are no generic implications.''

The originator of the speed memo initially believed that the condition in question was a dry joint because of the appearance of the joint. During alignment of Thermo-Lag panels, the leading edge of one panel contacts the outer edge of a preceding panel and forces most of the trowel grade along the initial contact edge toward the inside of the ThermoLag envelope. Subsequent shrinkage of the trowel grade in the joint can give the appearance of a dry joint because the trowel grade material is not visible. Therefore, contrary to the Petitioners' allegation, there was no ''dry joint'' deficiency on the pedestal hanger.

The Petitioners also alleged that dry joints appear in other Thermo-Lag installations at Comanche Peak Unit 1. In response to the Petition, TU Electric performed an electronic search of its ONE form data base. The search did identify additional ONE forms related to dry joints. However, Thermo-Lag rework crews and the quality control inspectors at Comanche Peak Unit 1 have used the term ''dry joints'' and ''no visible trowel grade material'' synonymously. Upon further investigation of these ONE forms, it was determined that trowel grade material had in fact been applied to the joints in question. Therefore, these ONE forms were also dispositioned as ''not a nonconforming condition.'' These findings support the NRC staff's conclusion that, contrary to the Petitioners' allegations, there is no evidence of dry joints at Comanche Peak Unit 1. The Petitioners' allegations regarding dry joints at Comanche Peak Unit 1 are based on premises that are faulty and contrary to the information contained in Inspection Report 93–42.

In regard to the Petitioners' request that the licensee perform fire tests on upgraded ''dry joint'' Thermo-Lag configurations and additional destructive analysis, the NRC staff has reviewed the documentation provided by the licensee in response to the RAIs regarding GL 92–08 and concluded that the licensee's quality assurance program gave adequate confidence that the as-installed Thermo-Lag configurations at Comanche Peak Unit 1 conform with NRC specification requirements for both material and installation attributes.

Accordingly, suspension of the Comanche Peak Unit 1 license, as requested by the Petitioners, is not warranted.

*G. Protection of Rubin Feldman*

The Petitioners assert that, rather than protecting the public, the NRC is protecting Rubin Feldman, President of the company that manufactures Thermo-Lag.

As discussed earlier, the NRC received allegations in 1991 that questioned the adequacy of Thermo-Lag fire barriers. In response (1) the Office of the Inspector General (OIG) and the Office of Investigations (OI) formed a joint task force to investigate the allegations and (2) the Office of Nuclear Reactor Regulation (NRR) established a special team to review the safety issues raised by the allegations. Throughout its review, the special team gave expert technical advice and assistance to the OIG/OI task force. The Director of NRR tasked the NRR staff to resolve the technical issues raised by the special team. The NRC staff continued to cooperate fully with the investigative task force. Further, the NRR staff carried out a full-scale test program and developed other technical data and information for the investigative task force. These NRC staff efforts contributed significantly to a referral to the Department of Justice of possible wrongdoing by TSI. The referral resulted in a seven-count criminal indictment of TSI, the manufacturer and supplier of Thermo-Lag fire barriers and of its President, Rubin Feldman, by a Federal Grand Jury. The NRC staff continued to support the Department of Justice throughout the criminal case.[12] In addition, throughout the trial, the NRC staff continued to pursue corrective actions consistent with its action plan for the resolution of the Thermo-Lag issues. The above facts contradict the Petitioners' assertion that the NRC was protecting Rubin Feldman.

*H. NRC Seeming Complicity With Utilities*

The Petitioners also assert that there is seeming complicity between the NRC and the licensees and that licensees seek to avoid costly replacement of the Thermo-Lag.

In May 1991, the NRC Office of the Inspector General performed an inspection of the NRC's staff performance in regard to Thermo-Lag barriers and found indications of inadequate performance by the NRC staff in the acceptance and review of Thermo-Lag barriers. Subsequently, the NRC staff initiated an aggressive program of corrective actions to rectify the deficiencies identified in the review and response process, as summarized earlier in this decision.

In addition, the staff has expended considerable time and effort to address and resolve Thermo-Lag issues to ensure that licensees return to compliance with existing NRC fire protection requirements. The NRC staff issued three requests for additional information regarding GL 92–08 to each licensee using Thermo-Lag to obtain information on the specific Thermo-Lag material installed at each plant, details about the corrective actions each licensee intended to take to return to compliance with NRC fire protection requirements, and schedules for the implementation of these corrective actions. The response of each licensee was evaluated by the NRC staff. As a consequence of this substantial NRC staff effort, a number of licensees have already returned to compliance with NRC requirements by a variety of means which include replacing, rerouting, or upgrading existing Thermo-Lag barriers, performing post-fire safe shutdown reanalysis, and installing additional fire detection and suppression features. All of these measures involve some burden on licensees. In addition, some licensees have initiated costly programs to perform plant-specific fire endurance

[12] The jury returned a verdict of ''not guilty'' on all counts of the indictment against TSI and Mr. Feldman.

tests of other fire barriers with the intention of replacing Thermo-Lag with these barriers. All licensees who utilize Thermo-Lag will need to expend resources commensurate with their reliance on Thermo-Lag to come into compliance with NRC fire protection requirements. NRC staff oversight will ensure that this is the case.

The Petitioners' assertion of seeming complicity with utilities on the part of the NRC staff is unfounded in the light of the significant NRC staff efforts to ensure that licensees expend the resources necessary to return to compliance with NRC requirements.

IV. Conclusion

The Petitioners request that the NRC order the immediate shutdown of all reactors using Thermo-Lag and the suspension of Oyster Creek, Peach Bottom Units 1 and 2, and Comanche Peak Unit 1 operating licenses.

For the reasons discussed above, I find no basis for taking such actions. Rather, on the basis of the review efforts by the NRC staff, I conclude that the issues raised by the Petitioners are being addressed by licensees in a manner which assures adequate protection of the public health and safety. Accordingly, the Petitioners' requests for action pursuant to 10 CFR 2.206 are denied.

A copy of this Decision will be placed in the Commission's Public Document Room, Gelman Building, 2120 L Street, N.W., Washington, D.C., and at the Local Public Document Room for the named facilities. A copy of this Decision will also be filed with the Secretary for the Commission's review as provided in 10 CFR 2.206(c) of the Commission's regulations.

As provided by this regulation, the Decision will constitute the final action of the Commission 25 days after issuance, unless the Commission, on its own motion, institutes a review of the Decision within that time.

Dated at Rockville, Maryland, this 3rd day of April 1996.

For the Nuclear Regulatory Commission.

William T. Russell,

*Director, Office of Nuclear Reactor Regulation.*

[FR Doc. 96–8909 Filed 4–9–96; 8:45 am]

**BILLING CODE 7590–01–P**

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## Draft Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a guide planned for its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the Commission's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

The draft guide is a proposed Revision 3 to Regulatory Guide 5.44, and it is temporarily identified as DG–5007, ''Perimeter Intrusion Alarm Systems.'' The guide will be in Division 5, ''Materials and Plant Protection.'' This regulatory guide is being revised to describe the functions of perimeter intrusion detection sensors and detection methods that are acceptable to the NRC staff for meeting the Commission's regulations. The guide will also provide guidance on selecting perimeter intrusion detection sensors and methods that can be integrated to form an effective perimeter intrusion detection system.

No backfitting is intended or approved in connection with the issuance of this regulatory guide. Any backfitting that may result from imposition of new positions in the future would be justified separately in accordance with the criteria of 10 CFR 50.109 and NRC backfitting procedures.

This draft guide is being issued to involve the public in the early stages of the development of a regulatory position in this area. It has not received complete staff review and does not represent an official NRC staff position.

Public comments are being solicited on the guide. Comments should be accompanied by supporting data. Written comments may be submitted to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies of comments received may be examined at the NRC Public Document Room, 2120 L Street NW., Washington, DC. Comments will be most helpful if received by June 25, 1996.

Comments may be submitted electronically, in either ASCII text or WordPerfect format (version 5.1 or later), by calling the NRC Electronic Bulletin Board on FedWorld. The bulletin board may be accessed using a personal computer, a modem, and one of the commonly available communications software packages, or directly via Internet.

If using a personal computer and modem, the NRC subsystem on FedWorld can be accessed directly by dialing the toll free number: 1–800–303–9672. Communication software parameters should be set as follows: parity to none, data bits to 8, and stop bits to 1 (N,8,1). Using ANSI or VT–100 terminal emulation, the NRC NUREGs and RegGuides for Comment subsystem can then be accessed by selecting the ''Rules Menu'' option for the ''NRC Main Menu.'' For further information about options available for NRC at FedWorld, consult the ''Help/Information Center'' from the ''NRC Main Menu.'' Users will find the ''FedWorld Online User's Guides'' particularly helpful. Many NRC subsystems and databases also have a ''Help/Information Center'' option that is tailored to the particular subsystem.

The NRC subsystem on FedWorld can also be accessed by a direct dial phone number for the main FedWorld BBS, 703–321–3339, or by using Telnet via Internet, fedworld.gov. If using 703–321–3339 to contact FedWorld, the NRC subsystem will be accessed from the main FedWorld menu by selecting the ''Regulatory, Government Administration and State Systems,'' then selecting ''Regulatory Information Mall.'' At that point, a menu will be displayed that has an option ''U.S. Nuclear Regulatory Commission'' that will take you to the NRC Online main menu. The NRC Online area also can be accessed directly by typing ''/go nrc'' at a FedWorld command line. If you access NRC from FedWorld's main menu, you may return to FedWorld by selecting the ''Return to FedWorld'' option from the NRC Online Main Menu. However, if you access NRC at FedWorld by using NRC's toll-free number, you will have full access to all NRC systems but you will not have access to the main FedWorld system.

If you contact FedWorld using Telnet, you will see the NRC area and menus, including the Rules menu. Although you will be able to download documents and leave messages, you will not be able to write comments or upload files (comments). If you contact FedWorld using FTP, all files can be accessed and downloaded but uploads are not allowed; all you will see is a list of files without descriptions (normal Gopher look). An index file listing all files within a subdirectory, with descriptions, is included. There is a 15-minute time limit for FTP access.

Although FedWorld can be accessed through the World Wide Web, like FTP that mode only provides access for downloading files and does not display the NRC Rules menu.

For more information on NRC bulletin boards call Mr. Arthur Davis, Systems Integration and Development Branch, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–5780; e-mail AXD3@nrc.gov. For

more information on this draft regulatory guide, contact Ms. Elizabeth Suarez, telephone (301) 415–8094; e-mail EXS@nrc.gov.

Although a time limit is given for comments on this draft guide, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC. Requests for single copies of draft or final guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Distribution and Mail Services Section; or by fax at (301) 415–2260. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

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

Dated at Rockville, Maryland, this 28th day of March 1995.

For the Nuclear Regulatory Commission.

Bill M. Morris,

*Director, Division of Regulatory Applications, Office of Nuclear Regulatory Research.*

[FR Doc. 96–8906 Filed 4–9–96; 8:45 am]

**BILLING CODE 7590–09–M**

## Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued a revision to a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the Commission's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

Revision 2 of Regulatory Guide 1.149, ''Nuclear Power Plant Simulation Facilities for Use in Operator License Examinations,'' has been developed to provide current guidance on methods acceptable to the NRC staff for complying with the NRC's regulations on certification of a simulation facility consisting solely of a plant-referenced simulator and on applications for prior approval of a simulation facility for testing. This guide endorses, with certain exceptions and clarifications, ANSI/ANS–3.5–1993, ''Nuclear Power Plant Simulators for Use in Operator Training and Examination.''

Comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time. Written comments may be submitted to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Offices of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Regulatory guides are available for inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC. Single copies of regulatory guides may be obtained free of charge by writing the Office of Administration, Attention: Distribution and Services Section, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by fax at (301) 415–2260. Issued guides may also be purchased from the National Technical Information Service on a standing order basis. Details on this service may be obtained by writing NTIS, 5285 Port Royal Road, Springfield, VA 22161. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

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

Dated at Rockville, Maryland, this 1st day of April 1996.

For the Nuclear Regulatory Commission.

David L. Morrison,

*Director, Office of Nuclear Regulatory Research.*

[FR Doc. 96–8907 Filed 4–9–96; 8:45 am]

**BILLING CODE 7590–01–M**

## SECURITIES AND EXCHANGE COMMISSION

**[Rel No. IC–21873; 812–9980]**

## Dreyfus Asset Allocation Fund, Inc., et al.; Notice of Application

April 3, 1996.

**AGENCY:** Securities and Exchange Commission (the ''SEC'').

**ACTION:** Notice of Application for Exemption under the Investment Company Act of 1940 (the ''Act'').

**APPLICANTS:** Dreyfus Asset Allocation Fund, Inc. (''DAAF''), Dreyfus LifeTime Portfolios, Inc. (''DLPI), and the Dreyfus Corporation (''Dreyfus'').

**RELEVANT ACT SECTIONS:** Order requested under section 17(b) of the Act to exempt applicants from the provision of section 17(a).

**SUMMARY OF APPLICATION:** Applicants seek an order to permit applicants to reorganize two series of DAAF, the Growth Series and the Income Series (the ''Acquired Portfolios''), and two series of DLPI, the Growth Portfolio and the Income Portfolio (the ''Acquiring Portfolios'').

**FILING DATES:** The application was filed on February 7, 1996, and amended on March 29, 1996, and April 2, 1996.

**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 April 29, 1996, 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 interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549. Applicants, 200 Park Avenue, New York, New York 10166.

**FOR FURTHER INFORMATION CONTACT:** Elaine M. Boggs, Staff Attorney, at (202) 942–0572, or Alison E. Baur, 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.

### Applicants' Representations

1. DAAF and DLPI are Maryland corporations registered under the Act as diversified, open-end management investment companies. DAAF and DLPI each offer three series of shares, including the Acquired and Acquiring Portfolios, respectively. DAAF offers one class of shares and DLPI offers two classes of shares, the Investor Class and Class R. The Investor Class is identical to DAAF's sole class of shares. Major Trading Corporation (''Major Trading'') owns in excess of 59% of the outstanding shares of the Growth Series and in excess of 65% of the outstanding shares of the Income Series. Allomon Corporation (''Allomon'') owns in excess of 98% of the outstanding shares of the Income Portfolio.

2. Dreyfus serves as the investment adviser to the Acquiring and Acquired Portfolios. Mellon Equity Associates serves as a sub-adviser to the Acquiring

Portfolios. Dreyfus, Mellon Equity Associates, Major Trading, and Allomon are wholly-owned subsidiaries of Mellon Bank Corporation.

3. The investment objectives of the Growth Series and Growth Portfolio are capital appreciation. The investment objectives of the Income Series and Income Portfolio are maximum current income and capital appreciation.

4. The boards of directors of DAAF and DLPI have approved a plan of reorganization providing for the transfer of all of the assets of each of the Acquired Portfolios to the Acquiring Portfolios in exchange for Acquiring Portfolio shares. In connection with the reorganization, the Acquiring Portfolios will assume the liabilities of the respective Acquired Portfolios.

5. The number of shares to be issued to each Acquired Portfolio will be determined on the basis of the relative net asset values per share and aggregate net assets of the Acquired and Acquiring Portfolios. Each Acquired Portfolio will liquidate and distribute *pro rata* shares of the Acquiring Portfolio to their respective shareholders at or as soon as practicable after the relevant closing.

6. At or prior to the relevant closing, each of the Acquired Portfolios shall declare a dividend or dividends which shall have the effect of distributing to the shareholders of each Acquired Portfolio all of the respective Portfolio's investment company taxable income for all taxable years ending on or prior to the respective closing (computed without regard to any deduction for dividends paid) and all of its net capital gain realized in all taxable years ending on or prior to the respective closing (after reduction for any capital loss carry-forward).

7. The board of directors of the Acquired and Acquiring Portfolios, including the directors who are not ''interested persons'' as such term is defined by the Act, have concluded that the reorganizations are in the best interests of the Acquired and Acquiring Portfolios and that the interests of the existing shareholders of the respective portfolios will not be diluted as a consequence thereof. In making this determination, the directors considered a number of factors, including the compatibility of the Acquired and Acquiring Portfolios investment objectives, management policies, and investment restrictions; expense ratios and published information regarding the fees and expenses of the Acquiring and Acquired Portfolios; the Acquired Portfolios' inability to attract sufficient assets to operate efficiently without sufficient expense subsidization; and the estimated costs that will be incurred as a result of the exchange.

8. The proposed reorganization is subject to approval by the holders of a majority of the outstanding shares of each Acquired Portfolio. Approval will be solicited pursuant to a prospectus/proxy statement, which is expected to be sent to shareholders of each Acquired Portfolio in mid-April 1996. Each prospectus/proxy statement will include a description of the material aspects of the proposed reorganization and pertinent financial information.

9. The total expenses of each exchange are expected to be approximately $30,000. Each Acquired and Acquiring Portfolio will bear its own expenses, except for the expenses of preparing, printing, and mailing of the combined prospectus/proxy statement and other related materials, which will be borne by each party to the exchange ratably according to its respective aggregate net assets on the date of the exchange.

10. The consummation of each reorganization is subject to certain conditions, including that the parties shall have received from the SEC the order requested in the application, and the receipt of an opinion of tax counsel to the effect that upon consummation of each reorganization and the transfer of substantially all the assets of each Acquired Portfolio, no gain or loss will be recognized by the Acquired or Acquiring Portfolios or their shareholders as a result of the reorganization. Applicants will not make any material changes that affect the application without the prior approval of the SEC staff.

Applicants' Legal Analysis

1. Section 17(a) of the Act provides, in pertinent part, that it is unlawful for any affiliated person of a registered investment company, or any affiliated person of such an affiliated person, acting as principal, knowingly to sell or purchase securities to or from such registered company.

2. Section 2(a)(3) of the Act defines the term ''affiliated person'' of another person to include, in pertinent part, (a) any person directly or indirectly owning, controlling, or holding with power to vote 5% or more of the outstanding voting securities of such other person, (b) any person directly or indirectly controlling, controlled by, or under common control with such other person, and (c) if such other person is an investment company, any investment adviser thereof.

3. Rule 17a–8 under the Act exempts from the prohibitions of section 17(a) mergers, consolidations, or purchases or sales of substantially all of the assets of registered investment companies that are affiliated persons solely by reason of having a common investment adviser, common directors, and/or common officers, provided that certain conditions set forth in the rule are satisfied. Major Trading and Allomon, affiliates of Dreyfus, own more than 5% of the outstanding voting securities of the Acquired and Acquiring Portfolios, respectively. Accordingly, the Acquiring Portfolio may be deemed an affiliated person of an affiliated person of each of the Acquired Portfolios, and vice versa, for reasons not based solely on their common adviser.

4. Section 17(b) of the Act provides that the SEC may exempt a transaction from the prohibitions of section 17(a) if evidence establishes that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of the registered investment company concerned and with the general purposes of the Act.

5. Applicants believe that the reorganization is consistent with the policies and purposes of the Act. In addition, applicants state that the exchange of assets will be based on each portfolio's relative net asset values. Further, applicants state that the directors, including the non-interested directors, have concluded that any potential benefits to Dreyfus or Mellon Equity Associates and their affiliates as a result of the reorganizations are on balance outweighed by the potential benefits to each portfolio and its shareholders.

For the Commission, by the Division or Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

*Deputy Secretary.*

[FR Doc. 96–8910 Filed 4–9–96, 8:45 am]

BILLING CODE 8010–01–M

## DEPARTMENT OF STATE

**[Public Notice No. 2366]**

## United States International Telecommunications Advisory Committee (ITAC) Ad Hoc Advisory Group for ITU Council; Meeting Notice

The Department of State announces that the United States International Telecommunications Advisory Committee (ITAC) will host several meetings over the next three months to prepare for the upcoming ITU Council

meeting scheduled to be held in Geneva, June 19–28, 1996. The dates, times, and room numbers of the meetings are outlined below:

April 24, 10:00 a.m.–1:00 p.m., room 2533A
May 7, 9:30 a.m.–12:30 p.m., room 2533A
May 29, 10:00 a.m.–1:00 p.m., room 2533A
June 13, 10:00 a.m.–1:00 p.m., room 2533A
June 14, 10:00 a.m.–12:00 noon, room 2533A

The meetings will assist the Department in preparing U.S. positions relating to future ITU Conferences and meetings, ITU personnel matters, financial questions and miscellaneous Council matters.

Members of the General Public may attend the meetings and join in the discussions, subject to the instructions of the chair. Admittance of public members will be limited to the seating available. In this regard, entrance to the Department of State is controlled.

Questions regarding the meeting may be addressed to Mr. Earl Barbely at 202–647–0197. If you wish to attend please send a fax to 202–647–7407 not later than 5 days before the scheduled meetings. Please include your name, Social Security number and date of birth. One of the following valid photo ID's will be required for admittance: U.S. driver's license with picture, U.S. passport, U.S. government ID (company ID's are no longer accepted by Diplomatic Security). Enter from the ''C'' Street Main Lobby.

Dated: April 1, 1996.

Earl S. Barbely,

*Chairman, U.S. ITAC for Telecommunication Standardization.*

[FR Doc. 96–8830 Filed 4–9–96; 8:45 am]

BILLING CODE 4710–45–M

## DEPARTMENT OF TRANSPORTATION

### Aviation Proceedings; Agreements Filed During the Week Ending March 29, 1996

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

*Docket Number:* OST–96–1178.
*Date filed:* March 25, 1996.
*Parties:* Members of the International Air Transport Association.
*Subject:* TC2 Telex Mail Vote 788, Excursion fares between Europe and Western Africa, Intended effective date: April 1, 1996.

*Docket Number:* OST–96–1179.
*Date filed:* March 25, 1996.
*Parties:* Members of the International Air Transport Association.
*Subject:* Comp Mail Vote 789, TC2/TC12 Special Amending Reso from Zambia, Amendment to Mail Vote, Intended effective date: April 1, 1996.

*Docket Number:* OST–96–1180.
*Date filed:* March 25, 1996.
*Parties:* Members of the International Air Transport Association.
*Subject:* Comp Mail Vote 787, Special Amending Reso from Zimbabwe, Amendment to Mail Vote, r–1—010d, r–3—092, r–2—072u, r–4—015v, Intended effective date: April 1, 1996.

*Docket Number:* OST–96–1191
*Date filed:* March 27, 1996.
*Parties:* Members of the International Air Transport Association.
*Subject:* MV/PSC/105 dated February 7, 1996, Mail Vote S070–RP1720a, Intended effective date: April 9, 1996.

Paulette V. Twine,

*Chief, Documentary Services Division.*

[FR Doc. 96–8891 Filed 4–9–96; 8:45 am]

BILLING CODE 4910–62–P

### Applications for Certificates for Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending March 29, 1996

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q during the Week Ending March 29, 1996. The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for Answers, Conforming Applications, or Motions to modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

*Docket Number:* OST–96–1181.
*Date filed:* March 25, 1996.
*Due Date for Answers, Conforming Applications, or Motion to Modify Scope:* April 22, 1996.
*Description:* Joint Application of Spirit Airlines, Inc. and Comair Holdings, Inc., pursuant to 49 U.S.C. Section 41105, and Subpart Q of the Regulations, request that DOT approve the transfer of the Certificate of Public Convenience and Necessity held by Sprit to a new, wholly-owned subsidiary of Comair Holdings.

*Docket Number:* OST–96–1183.
*Date filed:* March 25, 1996.
*Due Date for Answers, Conforming Applications, or Motion to Modify Scope:* April 22, 1996.
*Description:* Application of Jugoslovenski Aerotransport, pursuant to 49 U.S.C. Sections 41302 and 41307 and Subpart Q of the Regulations, applies for new foreign air carrier permits authorizing JAT to engage in scheduled and charter foreign air transportation.

*Docket Number:* OST–96–1185.
*Date filed:* March 26, 1996.
*Due Date for Answers, Conforming Applications, or Motion to Modify Scope:* April 23, 1996.
*Description:* Application of Vision Air, Inc., pursuant to Section 401(d)(1) of the Act and Subpart Q of the Procedural Regulations, applies for the issuance of a certificate of public convenience and necessity so as to authorize Vision to provide scheduled foreign air transportation of persons, property and mail between various points in the United States (U.S.) and the United Kingdom (U.K.).

*Docket Number:* OST–96–1192.
*Date filed:* March 28, 1996.
*Due Date for Answers, Conforming Applications, or Motion to Modify Scope:* April 25, 1996.
*Description:* Joint Application of Wrangler Aviation, Inc. (now known as ''TIA, Inc.'') and Tradewinds Airlines, Inc. (''Tradewinds''), applies for approval of the transfer of the certificates held by TIA, Inc. to Tradewinds. Applicants request the Department to shorten the date for filing answers and have asked that answers be filed with the Docket Section and served on the parties listed on or before April 11, 1996.

*Docket Number:* OST–96–1197.
*Date filed:* March 28, 1996.
*Due Date for Answers, Conforming Applications, or Motion to Modify Scope:* April 25, 1996.
*Description:* Application of Continental Micronesia, Inc., pursuant to U.S.C. Sections 41108 and 41102 and Subpart Q of the Regulations, applies for an amendment to its certificate of public convenience and necessity for Route 171 authorizing Continental Micronesia to provide scheduled foreign air transportation of persons, property and mail between the Territory of Guam and Saipan, Commonwealth of the Northern Mariana Islands, on the one hand, and Hiroshima, Japan, on the other hand.

*Docket Number:* OST–96–1198.

*Date filed:* March 28, 1996.

*Due Date for Answers, Conforming Applications, or Motion to Modify Scope:* April 25, 1996.

*Description:* Application of Continental Micronesia, Inc., pursuant to 49 U.S.C. Sections 41108 and 41102 and Subpart Q of the Regulations, applies for amendment to its certificate of public convenience and necessity for Route 171 authorizing Continental Micronesia to provide scheduled foreign air transportation of persons, property and mail between Honolulu, Hawaii, and Sendai, Japan. Continental Micronesia also requests the right to combine this authority with its authority in other markets to the extent permitted by applicable bilateral agreements.

*Docket Number:* OST–96–1200.

*Date filed:* March 28, 1996.

*Due Date for Answers, Conforming Applications, or Motion to Modify Scope:* April 25, 1996.

*Description:* Application of Continental Micronesia, Inc., pursuant to 49 U.S.C. Sections 41108 and 41102 and Subpart Q of the Regulations, applies for an amendment of its certificate of public convenience and necessity for Route 171 authorizing Continental Micronesia to provide scheduled foreign air transportation of persons, property and mail between the Territory of Guam and Saipan, Commonwealth of the Northern Mariana Islands, on the one hand, and Niigata, Japan, on the other hand. Continental Micronesia also requests the right to combine this authority with its authority in other markets to the extent permitted by applicable bilateral agreements.

*Docket Number:* OST–96–1201.

*Date filed:* March 28, 1996.

*Due Date for Answers, Conforming Applications, or Motion to Modify Scope:* April 25, 1996.

*Description:* Application of Continental Micronesia, Inc., pursuant to 49 U.S.C. Sections 41108 and 41102 and Subpart Q of the Regulations, applies for an amendment to its certificate of public convenience and necessity for Route 171 authorizing Continental Micronesia to provide scheduled foreign air transportation of persons, property and mail between the Territory of Guam and Saipan, Commonwealth of the Northern Mariana Islands, on the one hand, and Okayama, Japan, on the other hand.

*Docket Number:* OST–96–1211.

*Date filed:* March 29, 1996.

*Due Date for Answers, Conforming Applications, or Motion to Modify Scope:* April 26, 1996.

*Description:* Application of Pan American Airways, Inc., pursuant to 49 U.S.C. Section 41102 and Subpart Q of the Regualtions applies for a certificate of public convenience and necessity authorizing it to engage in scheduled interstate air transportation of persons, property and mail.

Paulette V. Twine,

*Chief, Documentary Services Division.*

[FR Doc. 96–8890 Filed 4–9–96; 8:45 am]

BILLING CODE 4910–62–P

## Maritime Administration

**[Docket S–935]**

## Weston Shipping Inc.; Application for Temporary Written Consent Pursuant to Section 506 of the Merchant Marine Act, 1936, as Amended, For The Transfer Of The PRESIDENT HARRISON to the Domestic Coastwise Trade

Notice is hereby given that Weston Shipping Inc. (Weston), a U.S company, by letter dated April 1, 1996, requests temporary written consent pursuant to section 506 of the Merchant Marine Act, 1936, as amended (Act), for transfer of the construction-differential subsidy built containership PRESIDENT HARRISON (Vessel) to the domestic coastwise trade commencing June 1, 1996, until November 30, 1996, a period of six months. The Vessel is currently under charter to American President Lines (APL). The purpose of this request, Weston adds, is to permit the Vessel to haul cargo from the United States to Puerto Rico.

According to Weston, the Vessel will be Jones Act eligible on November 30, 1996. Further, APL's bareboat charter will end on its own terms on July 31, 1996, and APL has advised Weston that it will not renew its charter. Given that fact, Weston advises that if consent is granted, it will attempt to immediately employ the Vessel in the Puerto Rico trade and terminate the remaining charter with APL. Weston contends, however, that if consent is not granted, it cannot financially afford to lay-up the Vessel until the Vessel becomes Jones Act eligible and therefore the Vessel will be scrapped on July 31, 1996.

It is Weston's view, however, that scrapping the Vessel would represent a further loss for the U.S.-flagged shipping industry. Weston believes that the Vessel has a good five to 10 years of useful life remaining and would provide full employment for at least 50 merchant mariners over that time period. Weston also believes that the Vessel would provide cost effective interstate trade between the United States and Puerto Rico.

Any person, firm, or corporation having any interest in the application for section 506 consent and desiring to submit comments concerning Weston's request must by the close of business on April 23, 1996 file written comments in triplicate, to the Secretary, Maritime Administration, Room 7210, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590. The Maritime Administration, as a matter of discretion, will consider any comments submitted and take such action as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 20.800 Construction-Differential Subsidies (CDS)).

By Order of the Maritime Administrator.

Dated: April 4, 1996.

Joel C. Richard,

*Secretary.*

[FR Doc. 96–8889 Filed 4–9–96; 8:45 am]

BILLING CODE 4910–81–P

## National Highway Traffic Safety Administration

**[Docket No. 74–40; Notice 9]**

## Insurance Cost Information

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), DOT.

**ACTION:** Notice of text and data for 1996 insurance cost information booklet.

**SUMMARY:** This notice provides the 1996 text and data that new car dealers must include in an insurance cost information booklet that they must make available to prospective purchasers, pursuant to 49 CFR 582.4. This information may assist prospective purchasers in comparing differences in passenger vehicle collision loss experience that could affect auto insurance costs.

**FOR FURTHER INFORMATION CONTACT:** Mr. Orron Kee, Office of Market Incentives, NHTSA, 400 Seventh Street SW., Washington, DC 20590 (202–366–4936).

**SUPPLEMENTARY INFORMATION:** Pursuant to section 201(e) of the Motor Vehicle Information and Cost Savings Act, 15 U.S.C. 1941(e), on March 5, 1993, 58 FR 12545, the National Highway Traffic Safety Administration (NHTSA) amended 49 CFR part 582, *Insurance Cost Information Regulation,* to require dealers of new automobiles to distribute to prospective customers information that compares differences in insurance costs of different makes and models of passenger cars based on differences in damage susceptibility. On March 17, 1994, NHTSA denied a petition

submitted by the National Automobile Dealers Association (NADA) for NHTSA to reconsider part 582 insofar as it requires new automobile dealers to prepare the requisite number of copies for distribution of the insurance cost information to prospective purchasers. 59 FR 13630. On March 24, 1995, NHTSA published a Final Rule to amend part 582 in a number of respects. 60 FR 15509.

Pursuant to 49 CFR 582.4, new automobile dealers are required to make available to prospective purchasers booklets that include this comparative information as well as certain mandatory explanatory text that is set out in section 582.5. Early each year, NHTSA publishes updated annual data in the Notices section of the Federal Register. Booklets reflecting the updated data must be available for distribution to prospective purchasers without charge within 30 days from the date of publication of the data in the Federal Register.

NHTSA has mailed a sample copy of the 1996 booklet to each dealer on the mailing list that the Department of Energy uses to distribute the ''Gas Mileage Guide.'' Dealers will have the responsibility of reproducing a sufficient number of copies of the booklet to assure that they are available for retention by prospective purchasers by May 10, 1996. Dealers who do not receive a copy of the booklet within 15 days of the date of this notice should contact Mr. Orron Kee of NHTSA's Office of Market Incentives ((202) 366–4936) to receive a copy of the booklet and to be added to the mailing list.

The required text and data are as follows:

March 1996—Comparison of Differences in Insurance Costs for Passenger Motor Cars, Station Wagons/Passenger Vans, Pickups and Utility Vehicles the Basis of Damage Susceptibility

The National Highway Traffic Safety Administration (NHTSA) has provided the information in this booklet in compliance with Federal law as an aid to consumers considering the purchase of a new car. The booklet compares differences in insurance costs for different makes and models of passenger cars, station wagons/passenger vans, pickups, and utility vehicles on the basis of damage susceptibility. However, it does not indicate a vehicle's relative safety.

The following table contains the best available information regarding the effect of damage susceptibility on auto insurance premiums. It was taken from data compiled by the Highway Loss Data Institute (HLDI) in its December 1995 *Insurance Collision Report,* and reflects the collision loss experience of passenger cars, utility vehicles, light trucks, and vans sold in the United States in terms of the average loss payment per insured vehicle year for model years 1993–1995. NHTSA has not verified the data in this table.

The table presents vehicles' collision loss experience in relative terms, with 100 representing the average for all passenger vehicles. Thus, a rating of 122 reflects a collision loss experience that is 22 percent higher (worse) than average while a rating of 96 reflects a collision loss experience that is 4 per cent lower (better) than average. The table is not relevant for models that have been substantially redesigned for 1996, and it does not include information about models without enough claim experience.

Although many insurance companies use the HLDI information to adjust the ''base rate'' for the *collision portion* of their auto insurance premiums, the amount of any such adjustment is usually small. It is unlikely that your total premium will vary more than ten per cent depending upon the collision loss experience of a particular vehicle. If you do not purchase collision coverage or your insurance company does not use the HLDI information, your premium will not vary at all in relation to these rankings.

In addition, different insurance companies often charge different premiums for the same driver and vehicle. Therefore, you should contact insurance companies or their agents directly to determine the actual premium that you will be charged for insuring a particular vehicle.

Please Note: In setting auto insurance premiums, insurance companies mainly rely on factors that are not directly related to the vehicle itself (except for its value). Rather, they mainly consider driver characteristics (such as age, gender, marital status, and driving record), the geographic area in which the vehicle is driven, how many miles are traveled, and how the vehicle is used. Therefore, to obtain complete information about insurance premiums, you should contact insurance companies or their agents directly.

Insurance companies do not generally adjust their premiums on the basis of data reflecting the crashworthiness of different vehicles. However, some companies adjust their premiums for personal injury protection and medical payments coverage if the insured vehicle has features that are likely to improve its crashworthiness, such as air bags and automatic seat belts.

Test data relating to vehicle crashworthiness are available from NHTSA's New Car Assessment Program (NCAP). NCAP test results demonstrate relative frontal crash protection in new vehicles. Information on vehicles that NHTSA has tested in the NCAP program can be obtained by calling the agency's toll-free Auto Safety Hotline at (800) 424–9393.

COLLISION INSURANCE LOSSES, MODEL YEAR 1993–95 PASSENGER MOTOR VEHICLES *

| Make | Model | Relative loss payment |
|---|---|---|
| **Small Cars—Two Door Models** | | |
| Average for small two-door models | | 122 |
| Volkswagen | Golf III | 94 |
| Saturn | SC | 103 |
| Geo | Metro | 118 |
| Hyundai | Accent | 121 |
| Toyota | Tercel | 126 |
| Volkswagen | Golf Cabriolet | 127 |
| Ford | Escort | 131 |
| Subaru | Impreza 4-wd | 138 |
| Toyota | Paseo | 140 |

COLLISION INSURANCE LOSSES, MODEL YEAR 1993–95 PASSENGER MOTOR VEHICLES *—Continued

| Make | Model | Relative loss payment |
|---|---|---|
| Mitsubishi | Mirage | 144 |
| Ford | Aspire | 145 |
| Mitsubishi | Eclipse | 149 |
| Eagle | Summit | 151 |
| Eagle | Talon | 157 |
| Hyundai | Scoupe | 157 |
| Nissan | 240SX | 192 |
| Eagle | Talon 4-wd | 201 |
| Mazda | MX–3 Coupe | 207 |
| **Four-Door Models** | | |
| Average for small four-door models | | 115 |
| Volkswagen | Golf III | 95 |
| Subaru | Impreza 4-wd | 102 |
| Ford | Escort | 104 |
| Mercury | Tracer | 112 |
| Geo | Prizm | 117 |
| Toyota | Corolla | 121 |
| Hyundai | Accent | 121 |
| Subaru | Impreza | 121 |
| Volkswagen | Jetta III | 128 |
| KIA | Sephia | 138 |
| Ford | Aspire | 138 |
| Mitsubishi | Mirage | 140 |
| Hyundai | Elantra | 144 |
| Geo | Metro | 157 |
| Toyota | Tercel | 157 |
| Eagle | Summit | 169 |
| **Station Wagons/Passenger Vans** | | |
| Average for small station wagons/passenger vans | | 81 |
| Eagle | Summit | 61 |
| Mercury | Tracer | 79 |
| Ford | Escort | 80 |
| Subaru | Impreza 4-wd | 94 |
| Toyota | Corolla | 109 |
| **Sports Models** | | |
| Average for small sports models | | 146 |
| Mazda | MX–5 Miata convertible | 92 |
| Honda | Civic Del Sol convertible | 123 |
| Mercedes | SL Class convertible | 133 |
| Toyota | MR2 | 134 |
| Dodge | Stealth | 145 |
| Chevrolet | Corvette | 152 |
| Chevrolet | Corvette convertible | 155 |
| Mitsubishi | 3000 GT | 156 |
| Nissan | 300ZX | 184 |
| Porsche | 911 Targa | 197 |
| Porsche | 968 Coupe | 237 |
| Nissan | 300 ZX | 245 |
| Dodge | Stealth 4-wd | 248 |
| Porsche | 911 convertible | 254 |
| Mitsubishi | 300 GT 4-wd | 309 |
| Dodge | Viper convertible | 612 |
| **Mid-Size Cars—Two-Door Models** | | |
| Average for mid-size two-door models | | 112 |
| Buick | Regal | 71 |
| Saab | 900 | 78 |
| Oldsmobile | Cutlass Supreme | 79 |
| Oldsmobile | Cutlass Supreme convertible | 79 |
| Buick | Skylark | 79 |
| Chevrolet | Monte Carlo | 85 |

COLLISION INSURANCE LOSSES, MODEL YEAR 1993–95 PASSENGER MOTOR VEHICLES *—Continued

| Make | Model | Relative loss payment |
|---|---|---|
| Oldsmobile | Achieva | 85 |
| Pontiac | Grand Prix | 86 |
| Nissan | 200SX | 87 |
| Pontiac | Grand Am | 93 |
| Chrysler | Sebring | 99 |
| Honda | Accord | 103 |
| Chevrolet | Beretta | 109 |
| Chrysler | LeBaron convertible | 111 |
| Toyota | Camry | 113 |
| Honda | Civic | 117 |
| Chevrolet | Cavalier | 118 |
| Plymouth | Neon | 120 |
| Dodge | Neon | 121 |
| Dodge | Avenger | 127 |
| Honda | Civic Coupe | 132 |
| Pontiac | Sunfire | 136 |
| Acura | Integra | 143 |
| Mazda | MX–6 | 146 |
| Toyota | Celica | 153 |
| Ford | Probe | 156 |
| Honda | Prelude | 167 |
| **Four-Door Models** | | |
| Average for mid-size four-door models | | 92 |
| Chevrolet | Lumina | 64 |
| Oldsmobile | Cutlass Supreme | 64 |
| Buick | Regal | 66 |
| Mercury | Mystique | 67 |
| Buick | Century | 71 |
| Oldsmobile | Cutlass Ciera | 72 |
| Buick | Skylark | 72 |
| Dodge | Stratus | 75 |
| Pontiac | Grand Prix | 76 |
| Chrysler | Cirrus | 77 |
| Chevrolet | Cavalier | 78 |
| Ford | Contour | 78 |
| Toyota | Avalon | 80 |
| Ford | Taurus | 81 |
| Saturn | SL | 82 |
| Pontiac | Grand Am | 82 |
| Mercury | Sable | 83 |
| Dodge | Spirit | 84 |
| Oldsmobile | Achieva | 86 |
| Plymouth | Acclaim | 87 |
| Pontiac | Sunfire | 89 |
| Chevrolet | Corisica | 89 |
| Audi | 90 Quattro | 95 |
| Nissan | Sentra | 96 |
| Dodge | Neon | 97 |
| Honda | Accord | 97 |
| Subaru | Legacy 4-wd | 99 |
| Mitsubishi | Diamante | 101 |
| Volkswagen | Passat | 103 |
| Nissan | Altima | 105 |
| Toyota | Camry | 106 |
| Mitsubishi | Galant | 107 |
| Plymouth | Neon | 107 |
| Honda | Civic | 109 |
| Subaru | Legacy | 110 |
| Mazda | Protege | 112 |
| Volvo | 850 | 114 |
| Lexus | ES 300 | 120 |
| Infiniti | G20 | 122 |
| Mazda | Millenia | 122 |
| Nissan | Maxima | 125 |
| Mazda | 626 | 125 |
| Saab | 900 | 126 |
| Acura | Integra | 128 |
| Hyundai | Sonata | 132 |

COLLISION INSURANCE LOSSES, MODEL YEAR 1993–95 PASSENGER MOTOR VEHICLES *—Continued

| Make | Model | Relative loss payment |
|---|---|---|
| Audi | 90 | 146 |
| **Station Wagons/Passenger Vans** | | |
| Average for mid-size station wagons/passenger vans | | 82 |
| Buick | Century | 62 |
| Oldsmobile | Cutlass Ciera | 67 |
| Saturn | SW | 69 |
| Ford | Taurus | 75 |
| Mercury | Sable | 80 |
| Mitsubishi | Diamante | 82 |
| Honda | Accord | 88 |
| Mitsubushi | Expo | 89 |
| Subaru | Legacy 4-wd | 104 |
| Toyota | Camry | 106 |
| Volvo | 850 | 107 |
| **Sports Models** | | |
| Average for mid-size sports models | | 148 |
| Saab | 900 convertible | 90 |
| Ford | Mustang convertible | 136 |
| Pontiac | Firebird | 147 |
| Chevrolet | Camaro convertible | 147 |
| Ford | Mustang | 152 |
| Chevrolet | Camaro | 156 |
| Nissan | 300ZX 2+2 | 199 |
| Toyota | Supra | 319 |
| **Luxury Models** | | |
| Average for mid-size sports models | | 148 |
| Lincoln | Continental | 52 |
| BMW | 5 Series station wagon | 110 |
| Mercedes | E Class convertible | 112 |
| Volvo | 940/960 4-door | 118 |
| Cadillac | Eldorado | 120 |
| Volvo | 940/960 station wagon | 120 |
| Mercedes | C Class 4-door | 131 |
| BMW | 3 Series convertible | 143 |
| BMW | 5 Series 4-door | 159 |
| Infiniti | J30 | 164 |
| Mercedes | E Class 2-door | 168 |
| Lexus | GS 300 | 172 |
| Audi | 100/A6 | 174 |
| BMW | 3 Series 4-door | 178 |
| Saab | 9000 | 184 |
| BMW | 3 Series 2-door | 186 |
| Lexus | SC300/400 | 192 |
| Jaguar | XJ convertible | 233 |
| Jaguar | XJ2-door | 237 |
| **Large Cars—Two Door Models** | | |
| Buick | Riviera | 67 |
| Mercury | Cougar | 85 |
| Ford | Thunderbird | 93 |
| **Four-Door Models** | | |
| Average for large four-door models | | 82 |
| Average for large two-door models | | 89 |
| Ford | Crown Victoria | 64 |
| Mercury | Grand Marquis | 71 |
| Oldsmobile | Ninety-Eight | 73 |
| Oldsmobile | Eighty-Eight | 76 |
| Buick | LeSabre | 79 |
| Chrysler | Concorde | 80 |

COLLISION INSURANCE LOSSES, MODEL YEAR 1993–95 PASSENGER MOTOR VEHICLES *—Continued

| Make | Model | Relative loss payment |
|---|---|---|
| Chevrolet | Caprice | 83 |
| Pontiac | Bonneville | 84 |
| Chrysler | New Yorker LH | 86 |
| Buick | Park Avenue | 87 |
| Dodge | Intrepid | 89 |
| Eagle | Vision | 89 |
| Buick | Roadmaster | 96 |
| **Station Wagons/Passenger Vans** | | |
| Average for large wagons/passenger vans | | 68 |
| GMC | Safari Van 4-wd | 50 |
| Honda | Odyssey | 51 |
| Chevrolet | Astro Van 4-wd | 57 |
| Chevrolet | Astro Van | 60 |
| GMC | Safari Van | 61 |
| Dodge | Caravan | 63 |
| Nissan | Quest | 63 |
| Plymouth | Voyager | 65 |
| Pontiac | Trans Sport | 65 |
| Dodge | Caravan 4-wd | 66 |
| Mercury | Villager | 66 |
| Chrysler | Town & Country | 68 |
| Chevrolet | Lumina APV | 69 |
| Ford | Windstar | 74 |
| Ford | Aerostar Van | 74 |
| Plymouth | Voyager 4-wd | 77 |
| Chrysler | Town & Country 4-wd | 83 |
| Oldsmobile | Silhouette | 86 |
| Toyota | Previa Van | 88 |
| Ford | Aerostar Van 4-wd | 89 |
| Buick | Estate Wagon | 90 |
| Chevrolet | Caprice | 90 |
| Toyota | Previa Van 4-wd | 93 |
| Mazda | MPV Van 4-wd | 123 |
| Mazda | MPV Van | 124 |
| **Luxury Models** | | |
| Average for Large luxury models | | 116 |
| Oldsmobile | Aurora | 74 |
| Lincoln | Town Car | 84 |
| Cadillac | DeVille 4-door | 89 |
| Chrysler | LHS | 99 |
| Cadillac | Seville | 115 |
| Lincoln | Mark VIII | 117 |
| Cadillac | Brougham | 123 |
| Acura | Legend 4-door | 130 |
| Mercedes | E Class station wagon | 138 |
| Lexus | LS 400 | 142 |
| Mercedes | E Class 4-door | 160 |
| Infiniti | Q45 | 164 |
| Mercedes | S Class LWB | 167 |
| Mazda | 929 | 173 |
| Mercedes | S Class SWB | 175 |
| Acura | Legend 2-door | 179 |
| Jaguar | XJ 4-door | 194 |
| Mercedes | S Class 2-door | 275 |
| **Pickups—Small Pickups** | | |
| Average for small pickups | | 84 |
| Ford | Ranger Series | 68 |
| Dodge | Dakota Series | 69 |
| Ford | Ranger Series 4-wd | 79 |
| Chevrolet | S10 Series 2-door | 80 |
| Dodge | Dakota Series 4-wd | 80 |
| Toyota | Tacoma Regular/extended cab 4-wd | 82 |
| GMC | S15 Series | 83 |

COLLISION INSURANCE LOSSES, MODEL YEAR 1993–95 PASSENGER MOTOR VEHICLES *—Continued

| Make | Model | Relative loss payment |
|---|---|---|
| Nissan | Regular/extended cab | 84 |
| Chevrolet | T10 Series 2-door 4-wd | 85 |
| Nissan | Regular/extended cab 4-wd | 89 |
| Isuzu | Regular/extended cab | 93 |
| Isuzu | Standard Bed 4-wd | 98 |
| Mitsubishi | Regular/extended cab | 99 |
| Toyota | Regular/extended cab 4-wd | 106 |
| Toyota | Regular/extended cab | 108 |
| **Standard Pickups** | | |
| Average for standard pickups | | 66 |
| Ford | F–250 | 53 |
| GMC | 1500 Series | 57 |
| GMC | 1500 Series 4-wd | 57 |
| Chevrolet | 1500 Series 4-wd | 59 |
| Chevrolet | 1500 Series | 59 |
| Ford | F–250 Series | 61 |
| Ford | F–350 Series | 63 |
| GMC | 3500 Series | 64 |
| Dodge | Ram 3500 Series | 66 |
| GMC | 2500 Series 4-wd | 67 |
| Ford | F–150 Series | 68 |
| Ford | F–150 Series 4-wd | 69 |
| GMC | 3500 series 4-wd | 70 |
| Chevrolet | 2500 Series | 71 |
| Chevrolet | 2500 Series 4-wd | 73 |
| Ford | F–250 Series 4-wd | 73 |
| Chevrolet | 3500 Series | 76 |
| Ford | F–350 Series 4-wd | 76 |
| Dodge | Ram 1500 Series | 80 |
| Chevrolet | 3500 Series 4-wd | 81 |
| GMC | 2500 Series | 82 |
| Dodge | Ram 1500 Series 4-wd | 85 |
| Dodge | Ram 2500 Series | 91 |
| Dodge | Ram 2500 Series 4-wd | 94 |
| Toyota | T100Reg/ectended cab 4-wd | 102 |
| Toyota | T100 Reg/extended cab | 102 |
| Dodge | Ram 3500 Series 4-wd | 144 |
| **Utility Vehicles—Small Utility Vehicles** | | |
| Average for small utility vehicles | | 92 |
| Jeep | Wrangler | 76 |
| Suzuki | Samurai 4-wd | 80 |
| Suzuki | Sidekick 4-door | 81 |
| Suzuki | Sidekick 4-door 4-wd | 85 |
| Suzuki | Sidekick 2-door 4-wd | 97 |
| Suzuki | Sidekick 2-door | 110 |
| Geo | Tracker | 117 |
| Geo | Tracker 4-wd | 121 |
| **Intermediate Utility Vehicles** | | |
| Average for intermediate utility vehicles | | 88 |
| Chevrolet | Tahoe 4-door 4-wd | 54 |
| GMC | Yukon 2-door 4-wd | 55 |
| Jeep | Cherokee 2-door 4-wd | 58 |
| Jeep | Cherokee 2-door | 64 |
| Chevrolet | Tahoe 2-door 4-wd | 64 |
| Ford | Explorer 4-door 4-wd | 68 |
| Jeep | Grand Cherokee 4-door | 69 |
| Chevrolet | T10 Blazer 4-door 4-wd | 72 |
| GMC | T15 Jimmy 2-door 4-wd | 72 |
| GMC | S15 Jimmy 4-door | 73 |
| GMC | T15 Jimmy 4-door 4-wd | 75 |
| Jeep | Cherokee 4-door 4-wd | 78 |
| Ford | Explorer 4-door | 78 |
| Jeep | Cherokee 4-door | 79 |
| Ford | Bronco | 82 |

COLLISION INSURANCE LOSSES, MODEL YEAR 1993–95 PASSENGER MOTOR VEHICLES *—Continued

| Make | Model | Relative loss payment |
|---|---|---|
| Jeep | Grand Cherokee 4-door 4-wd | 86 |
| Chevrolet | S10 Blazer 4-door | 91 |
| Ford | Explorer 2-door 4-wd | 95 |
| Ford | Explorer 2-door | 96 |
| Isuzu | Rodeo 4-door 4-wd | 105 |
| Isuzu | Rodeo 4-door | 106 |
| Toyota | 4Runner 4-door Wagon | 110 |
| Honda | Passport 4-door 4-wd | 114 |
| Chevrolet | S10 Blazer 2-door | 114 |
| Nissan | Pathfinder 4-door | 120 |
| Chevrolet | T10 Blazer 2-door 4-wd | 120 |
| Nissan | Pathfinder 4-door 4-wd | 120 |
| Honda | Passport 4-door | 121 |
| Toyota | 4Runner 4-door 4-wd | 130 |
| Mitsubishi | Montero 4-door 4-wd | 134 |
| Land Rover | Discovery | 138 |
| Land Rover | Range Rover LWB | 223 |
| **Large Utility Vehicles** | | |
| Average for large utility vehicles | | 63 |
| GMC | Suburban 1500 | 42 |
| Chevrolet | Suburban 1500 | 50 |
| Chevrolet | Suburban 2500 4-wd | 55 |
| Chevrolet | Suburban 2500 | 55 |
| GMC | Suburban 2500 | 60 |
| Chevrolet | Suburban 1500 4-wd | 60 |
| GMC | Suburban 1500 4-wd | 72 |
| GMC | Suburban 2500 4-wd | 75 |
| **Large Vans** | | |
| Average for all large vans | | 65 |
| Chevrolet | Astro Cargo Van 4-wd | 47 |
| Ford | E–150 Club Wagon | 50 |
| GMC | Safari Cargo Van | 50 |
| Ford | E–150 Econoline | 60 |
| Chevrolet | Chevy Van 20 | 61 |
| Chevrolet | Astro Cargo Van | 62 |
| Ford | E–250 Econoline | 63 |
| GMC | Vandura 2500 | 67 |
| Dodge | B250 Cargo Van | 74 |
| Dodge | Caravan Cargo Van | 87 |
| Chevrolet | Chevy Van 30 | 96 |
| Ford | Aerostar Cargo Van | 107 |

*Note: Every model represents over 1,000 insured vehicle years and at least 100 claims.

If you would like more details about the information in this table, or wish to obtain the complete Insurance Collision Report, please contact HLDI directory, at: Highway Loss Data Institute, 1005 North Glebe Road, Arlington, VA 22201, Tel: (703) 247–1600.

(49 U.S.C. 32302; delegation of authority at 49 CFR 1.50(f))

Issued on: April 4, 1996.

Patricia Breslin,

*Acting Associate Administrator for Safety Performance Standards.*

[FR Doc. 96–8887 Filed 4–9–96; 8:45 am]

BILLING CODE 4910–59–P

## Surface Transportation Board [1]

**[STB Finance Docket No. 32887]**

## Columbia & Northern Railway Co.—Lease and Operation Exemption—Marion County Railroad Authority

Columbia & Northern Railway Co. (C&N), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to lease and operate approximately 28.78 miles of rail line owned by the Marion County Railroad Authority from milepost 94 at Columbia, Marion County, MS, to milepost 121.14 at Silver Creek, Lawrence County, MS.

The parties intend to consummate the proposed transaction on or about April 15, 1996.

This proceeding is related to *Pioneer Railcorp—Continuance in Control Exemption—Columbia & Northern Railway Co.,* STB Finance Docket No. 32886, wherein Pioneer Railcorp has concurrently filed a verified notice to continue to control C&N, upon its becoming a Class III rail carrier.

[1] The ICC Termination Act of 1995, Pub. L. 104–88, 109 Stat. 803, which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission and transferred certain functions to the Surface Transportation Board (Board). This notice relates to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 10901.

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. 10502(d) may be filed at any time. The filing of a petition to reopen will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 32887, must be filed with the Office of the Secretary, Surface Transportation Board, Case Control Branch, 1201 Constitution Avenue, NW., Washington, DC 20423. In addition, a copy of each pleading must be served on John D. Heffner, Esq., Rea, Cross & Auchincloss, Suite 420, 1920 N Street, NW., Washington, DC 20036.

Decided: April 3, 1996.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

*Secretary.*

[FR Doc. 96–8846 Filed 4–9–96; 8:45 am]

**BILLING CODE 4915–00–P**

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## Surface Transportation Board [1]

**[STB Finance Docket No. 32886]**

## Pioneer Railcorp—Continuance in Control Exemption—Columbia & Northern Railway Co.

Pioneer Railcorp. (Pioneer), a noncarrier holding company, has filed a notice of exemption to continue in control of Columbia & Northern Railway Co. (C&N), upon C&N's becoming a Class III rail carrier. The transaction is scheduled to be consummated on April 15, 1996.

This proceeding is related to *Columbia & Northern Railway Co.—Lease and Operation Exemption—Marion County Railroad Authority,* STB Finance Docket No. 32887, wherein C&N seeks to lease and operate certain rail lines from the Marion County Railroad Authority.

Pioneer owns and controls nine existing Class III shortline rail carriers: West Michigan Railroad Co., operating in Michigan; Fort Smith Railroad Co., operating in Arkansas; Alabama Railroad Co., operating in Alabama; Mississippi Central Railroad Co., operating in Mississippi and Tennessee; Alabama & Florida Railway Co., operating in Alabama; Decatur Junction Railway Co., operating in Illinois; Vandalia Railroad Company, operating in Illinois; Minnesota Central Railroad Co., operating in Minnesota; and KNRECO, Inc., d/b/a/ Keokuk Junction Railway, operating in Iowa and Illinois.

Pioneer states that: (i) The railroads will not connect with each other or any railroad in their corporate family; (ii) the acquisition of control is not part of a series of anticipated transactions that would connect the ten railroads with each other or any railroad in their corporate family; and (iii) the transaction does not involve a Class I carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 32886, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, N.W., Washington, DC 20423 and served on: John D. Heffner, Esq., Rea, Cross & Auchincloss, Suite 420, 1920 N Street, N.W., Washington, DC 20036.

Decided: April 3, 1996.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

*Secretary.*

[FR Doc. 96–8847 Filed 4–9–96; 8:45 am]

**BILLING CODE 4915–00–P**

[1] The ICC Termination Act of 1995, Pub. L. 104–88, 109 Stat. 803, which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission and transferred certain functions to the Surface Transportation Board (Board). This notice relates to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 11323.

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## Surface Transportation Board [1]

**[STB Finance Docket No. 32890]**

## Pioneer Railcorp—Continuance in Control Exemption—Rochelle Railroad Co.

Pioneer Railcorp. (Pioneer), a noncarrier holding company, has filed a notice of exemption to continue in control of Rochelle Railroad Co. (RR), upon RR's becoming a Class III rail carrier. The transaction is scheduled to be consummated on April 15, 1996.

This proceeding is related to *Rochelle Railroad Co.—Lease and Operation Exemption—City of Rochelle, IL,* STB Finance Docket No. 32889, wherein RR seeks to lease and operate certain rail lines from the City of Rochelle, IL.

Pioneer owns and controls ten existing Class III shortline rail carriers: West Michigan Railroad Co., operating in Michigan; Fort Smith Railroad Co., operating in Arkansas; Alabama Railroad Co., operating in Alabama; Mississippi Central Railroad Co., operating in Mississippi and Tennessee; Alabama & Florida Railway Co., operating in Alabama; Decatur Junction Railway Co., operating in Illinois; Vandalia Railroad Company, operating in Illinois; Minnesota Central Railroad Co., operating in Minnesota; KNRECO, Inc., d/b/a/ Keokuk Junction Railway, operating in Iowa and Illinois; and Columbia & Northern Railway Co., which is scheduled to begin operating in Mississippi on April 15, 1996. (*See* STB Finance Docket Nos. 32886 and 32887.)

Pioneer states that: (i) the railroads will not connect with each other or any railroad in their corporate family; (ii) the acquisition of control is not part of a series of anticipated transactions that would connect the eleven railroads with each other or any railroad in their corporate family; and (iii) the transaction does not involve a Class I carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and

[1] The ICC Termination Act of 1995, Pub. L. 104–88, 109 Stat. 803, which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission and transferred certain functions to the Surface Transportation Board (Board). This notice relates to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 11323.

11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 32890, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, N.W., Washington, DC 20423 and served on: John D. Heffner, Esq., Rea, Cross & Auchincloss, Suite 420, 1920 N Street, N.W., Washington, DC 20036.

Decided: April 4, 1996.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

*Secretary.*

[FR Doc. 96–8849 Filed 4–9–96; 8:45 am]

**BILLING CODE 4915–00–P**

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## Surface Transportation Board [1]

**[STB Finance Docket No. 32889]**

## Rochelle Railroad Co.—Lease and Operation Exemption—City of Rochelle, IL

Rochelle Railroad Co. (RR), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to lease and operate approximately 2.06 miles of rail line (The Line) owned by the City of Rochelle, IL, from a connection with the Union Pacific Railroad Company's main line (at a point approximately 1,200 feet north and east of The Line's crossing of Creston Road) in a south and east direction to a point immediately north of Interstate 88. This 2.06-mile rail line is located entirely within Rochelle, Ogle County, IL.

The parties intend to consumate the proposed transaction on or about April 15, 1996.

This proceeding is related to *Pioneer Railcorp—Continuance in Control Exemption—Rochelle Railroad Co.,* STB Finance Docket No. 32890, wherein Pioneer Railcorp has concurrently filed a verified notice to continue to control RR, upon its becoming a Class III 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. 10502(d) may be filed at any time. The filing of a petition to reopen will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 32889, must be filed with the Office of the Secretary, Surface Transportation Board, Case Control Branch, 1201 Constitution Avenue, NW., Washington, DC 20423. In addition, a copy of each pleading must be served on John D. Heffner, Esq., Rea, Cross & Auchincloss, Suite 420, 1920 N Street, NW., Washington, DC 20036.

Decided: April 4, 1996.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

*Secretary.*

[FR Doc. 96–8848 Filed 4–9–96; 8:45 am]

**BILLING CODE 4915–00–P**

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[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803, which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission and transferred certain functions to the Surface Transportation Board (Board). This notice relates to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 10901.

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## Surface Transportation Board [1]

**[STB Docket No. AB–6 (Sub-No. 373X)]**

## Burlington Northern Railroad Company—Abandonment Exemption—in Griggs County, ND

Burlington Northern Railroad Company (BN) filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon 25.09 miles of its line of railroad between milepost 26.19 near Hannaford and milepost 51.19 near Binford including the stations of Shepard at milepost 32.5, Cooperstown at milepost 36.5, and Binford at milepost 51.0, in Griggs County, ND.[2]

BN has certified that: (1) no local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic to be rerouted from the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to use of this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on May 10, 1996, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[3] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[4] and trail use/rail banking requests under 49

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[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803, which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission and transferred certain functions to the Surface Transportation Board (Board). This notice relates to functions that are subject to the Board's jurisdiction pursuant to 49 U.S.C. 10903.

[2] BN has proposed a consummation date for the abandonment that is four months from the date of filing of its verified notice. This proposed consummation date is based on BN's reading of 49 U.S.C. 10904. The first sentence of 10904(c) provides, ''Within 4 months after an application is filed under section 10903, any person may offer to subsidize or purchase the railroad line that is the subject of such application.''

The Board recently addressed this provision in proposing revised abandonment regulations to implement 49 U.S.C. 10903–04, as established by the ICC Termination Act. In *Abandonment and Discontinuance of Rail Lines and Rail Transportation Under 49 U.S.C. 10903,* STB Ex Parte No. 537 (STB served Mar. 15, 1996) slip op. at 10 [61 FR 11174, 11176 (Mar. 19, 1996)], the Board said ''We see the 4-month statutory deadline as an outer limit, which does not require us to delay resolution of proceedings where the entire time is not needed.''

Based on the Board's statement, the exemption in this proceeding will be scheduled to become effective on May 10, 1996, or 50 days after BN's filing of its verified notice of exemption. This is consistent with the existing rules at 49 CFR 1152.50. Offers of financial assistance will be due according to deadlines established in this notice. Potential offerors will not have until 4 months after the notice was filed by BN with the Board to make an offer of financial assistance.

While the exemption is scheduled to take effect on May 10, 1996, BN may of course delay consummation until a later date.

[3] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[4] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.,* 4 I.C.C.2d 164 (1987).

CFR 1152.29[5] must be filed by April 22, 1996. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by April 30, 1996, with: Office of the Secretary, Case Control Branch, Surface Transportation Board, 1201 Constitution Avenue, N.W., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: Sarah J. Whitley, General Attorney, Burlington Northern Railroad Company, 3800 Continental Plaza, 777 Main Street, Fort Worth, TX 76102–5384.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

BN has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by April 15, 1996. Interested persons may obtain a copy of the EA by writing to SEA (Room 3219, Surface Transportation Board, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEA, at (202) 927–6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: April 2, 1996.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

*Secretary*.

[FR Doc. 96–8695 Filed 4–9–96; 8:45 am]

**BILLING CODE 4915–00–P**

[5] The Board will accept late-filed trail use requests so long as the abandonment has not been consummated and the abandoning railroad is willing to negotiate an agreement.

[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803, which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission and transferred certain functions to the Surface Transportation Board (Board). This notice relates to functions that are subject to the Board's jurisdiction pursuant to 49 U.S.C. 10903.

## Surface Transportation Board[1]

**[STB Docket No. AB–6 (Sub-No. 372X)]**

## Burlington Northern Railroad Company—Abandonment Exemption—in Ramsey and Towner Counties, ND

Burlington Northern Railroad Company (BN) filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon 65.70 miles of its line of railroad between milepost 0.90 near Devils Lake and milepost 66.60 near Hansboro, including the stations of Webster at milepost 11.8, Garske at milepost 17.0, Starkweather at milepost 23.4, St. Joe at milepost 28.7, Olmstead at MP–39.4, Crocus at MP–46.0, Rock Lake at milepost 53.0 and Hansboro at milepost 66.0, in Ramsey and Towner Counties, ND.[2]

BN has certified that: (1) no local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic to be rerouted from the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to use of this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on May 10, 1996, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[3] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[4] and trail use/rail banking requests under 49 CFR 1152.29[5] must be filed by April 22, 1996. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by April 30, 1996, with: Office of the Secretary, Case Control Branch, Surface Transportation Board, 1201 Constitution Avenue, N.W., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: Sarah J. Whitley, General Attorney, Burlington Northern Railroad Company, 3800 Continental Plaza, 777 Main Street, Fort Worth, TX 76102–5384.

If the verified notice contains false or misleading information, the exemption is void ab initio.

BN has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by April 15, 1996. Interested persons may obtain a copy of the EA by writing to SEA (Room 3219, Surface Transportation Board, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEA, at (202) 927–6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: April 2, 1996.

[2] BN has proposed a consummation date for the abandonment that is four months from the date of filing of its verified notice. This proposed consummation date is based on BN's reading of 49 U.S.C. 10904. The first sentence of 10904(c) provides, ''Within 4 months after an application is filed under section 10903, any person may offer to subsidize or purchase the railroad line that is the subject of such application.''

The Board recently addressed this provision in proposing revised abandonment regulations to implement 49 U.S.C. 10903–04, as established by the ICC Termination Act. *In Abandonment and Discontinuance of Rail Lines and Rail Transportation Under 49 U.S.C. 10903,* STB Ex Parte No. 537 (STB served Mar. 15, 1996) slip op. at 10 [61 FR 11174, 11176 (Mar. 19, 1996)], the Board said ''We see the 4-month statutory deadline as an outer limit, which does not require us to delay resolution of proceedings where the entire time is not needed.''

Based on the Board's statement, the exemption in this proceeding will be scheduled to become effective on May 10, 1996, or 50 days after BN's filing of its verified notice of exemption. This is consistent with the existing rules at 49 CFR 1152.50. Offers of financial assistance will be due according to deadlines established in this notice. Potential offerors will not have until 4 months after the notice was filed by BN with the Board to make an offer of financial assistance.

While the exemption is scheduled to take effect on May 10, 1996, BN may of course delay consummation until a later date.

[3] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[4] *See Exempt. of Rail Abandonment—Offers of Finan.* Assist., 4 I.C.C.2d 164 (1987).

[5] The Board will accept late-filed trail use requests so long as the abandonment has not been consummated and the abandoning railroad is willing to negotiate an agreement.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

*Secretary.*

[FR Doc. 96–8696 Filed 4–9–96; 8:45 am]

BILLING CODE 4915–00–P

## Surface Transportation Board [1]

**[Docket No. AB–290 (Sub-No. 170X)]**

## Central of Georgia Railway Company—Abandonment Exemption—in Atkinson, Berrien and Coffee Counties, GA

**AGENCY:** Surface Transportation Board.

**ACTION:** Notice of exemption.

**SUMMARY:** The Board, pursuant to 49 U.S.C. 10505, exempts Central of Georgia Railway Company from the prior approval requirements of 49 U.S.C. 10903–04 to abandon service over 35.8 miles of rail line known as the Nashville-Douglas Branch Line, extending between milepost GF–57.2 at or near Nashville, GA, and milepost GF–93.0 at or near Douglas, GA, in Atkinson, Berrien and Coffee Counties, GA. The exemption is subject to environmental, public use, trail use, and standard labor protective conditions.

**DATES:** Provided no formal expression of intent to file a financial assistance offer has been received, this exemption will be effective on April 10, 1996. Formal expressions of intent to file financial assistance offers [2] under 49 CFR 1152.27(c)(2) must be filed by April 22, 1996. Petitions to stay must be filed by April 25, 1996. Petitions to reopen must be filed by May 6, 1996.

**ADDRESSES:** An original and 10 copies of all pleadings, referring to Docket No. AB–290 (Sub-No. 170X), must be filed with: (1) the Office of the Secretary, Case Control Branch, Surface Transportation Board, 1201 Constitution Avenue, N.W., Washington, DC 20423; and (2) petitioner's representative: Robert J. Cooney, Senior General Attorney, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510–2191.

**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 Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: DC News & Data, Inc., Room 2229, 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: March 22, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,

*Secretary.*

[FR Doc. 96–8694 Filed 4–9–96; 8:45 am]

BILLING CODE 4915–00–P

[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803 (the Act), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions and proceedings to the Surface Transportation Board (Board). Section 204(b)(1) of the Act provides, in general, that proceedings pending before the ICC on the effective date of that legislation shall be decided under the law in effect prior to January 1, 1996, insofar as they involve functions retained by the Act. This notice relates to a proceeding that was pending with the ICC prior to January 1, 1996, and to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 10903. Therefore, this notice applies the law in effect prior to the Act, and citations are to the former sections of the statute, unless otherwise indicated.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.,* 4 I.C.C.2d 164 (1987).

# DEPARTMENT OF THE TREASURY

## Internal Revenue Service

## Nonconventional Source Fuel Credit; Publication of Inflation Adjustment Factor, Nonconventional Source Fuel Credit, and Reference Price for Calendar Year 1995

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

**ACTION:** Publication of inflation adjustment factor, nonconventional source fuel credit, and reference price for calendar year 1995 as required by section 29 of the Internal Revenue Code (26 U.S.C. section 29).

**SUMMARY:** The inflation adjustment factor, nonconventional source fuel credit, and reference price are used in determining the tax credit allowable on the production of fuel from nonconventional sources under section 29.

**DATES:** The 1995 inflation adjustment factor, nonconventional source fuel credit, and reference price apply to qualified fuels sold during calendar year 1995.

**INFLATION FACTOR:** The inflation adjustment factor for calendar year 1995 is 1.9439.

**CREDIT:** The nonconventional source fuel credit for calendar year 1995 is $5.83 per barrel-of-oil equivalent of qualified fuels.

**PRICE:** The reference price for calendar year 1995 is $14.62. (This is a republication of the reference price previously reported in 61 FR 13919 on March 28, 1996.) Because this reference price does not exceed $23.50 multiplied by the inflation adjustment factor, the phaseout of credit provided for in section 29(b)(1) does not occur for any qualified fuel sold in calendar year 1995.

**FOR FURTHER INFORMATION CONTACT:**

For the inflation factor and credit—Thomas Thompson, CP:R:R:AR:E, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, Telephone Number (202) 874–0585 (not a toll-free number).

For the reference price—David McMunn, CC:DOM:P&SI:6, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, Telephone Number (202) 622–3110 (not a toll-free number).

Daniel J. Wiles,

*Acting Associate Chief Counsel (Domestic).*

[FR Doc. 96–8935 Filed 4–9–96; 8:45 am]

BILLING CODE 4830–01–P

federal register

Wednesday
April 10, 1996

# Part II

# The President

**Proclamation 6880—National Day of Remembrance of the Oklahoma City Bombing**

**Proclamation 6881—National Child Abuse Prevention Month, 1996**

**Memorandum of April 8, 1996—Strengthening Drug Control Cooperation With Mexico**

Federal Register
Vol. 61, No. 70
Wednesday, April 10, 1996

# Presidential Documents

Title 3—

The President

Proclamation 6880 of April 5, 1996

## National Day of Remembrance of the Oklahoma City Bombing

By the President of the United States of America

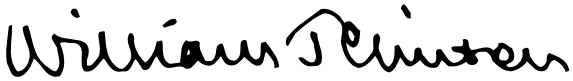
A Proclamation

On the morning of April 19, 1995, America was devastated by news of an explosion at the Alfred P. Murrah Federal Building in Oklahoma City. As rescuers rushed to the scene, citizens across the country waited by their televisions and radios for information, and we prayed for the children, Federal workers, and many others caught by the bomb's deadly blast. Despite heroic efforts of emergency personnel and countless samaritans, 168 people lost their lives as a result of the brutal attack.

For a year we have mourned the dead, aided the residents of Oklahoma City in their struggle to rebuild, and strengthened our resolve to fight terrorism. And though it has been a sad and challenging time, the outpouring of love and support for those affected by the tragedy has helped our Nation to come together in common purpose. As we mark the first anniversary of the bombing, we remember the victims and honor their memory with a moment of silence. In prayer and quiet reflection, let us move forward together to foster peace in our land.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim Friday, April 19, 1996, as a National Day of Remembrance of the Oklahoma City Bombing. I ask all the people of the United States to observe a moment of silence on that day at 9:02 a.m., Central Daylight Time, gathering with family, friends, neighbors, and colleagues at home, at work, and in places of worship to commemorate this solemn occasion.

IN WITNESS WHEREOF, I have hereunto set my hand this fifth day of April, in the year of our Lord nineteen hundred and ninety-six, and of the Independence of the United States of America the two hundred and twentieth.



[FR Doc. 96–9112
Filed 4–9–96; 8:45 a m]
Billing code 3195–01–P

# Presidential Documents

Proclamation 6881 of April 8, 1996

## National Child Abuse Prevention Month, 1996

By the President of the United States of America

A Proclamation

America is a country of many blessings—a rich land, a thriving democracy, a diverse and determined people. Our culture is built on faith in freedom and on the spirit of community. In a Nation of such infinite promise, the continuing problem of child abuse is a national tragedy. When any American child experiences the horrors of physical or emotional abuse, the future of our Nation also suffers. We must always remember that today's children will be tomorrow's leaders, educators, and parents, and we must help them to look forward with hope and enthusiasm to the future.

My Administration is working hard to make this country a better place for all our children. Although domestic violence and child abuse are primarily matters for State and local authorities, we have taken significant steps at the Federal level to prevent the conditions that can lead to abuse. Both the National Child Protection Act of 1993 and the Violent Crime Control and Law Enforcement Act of 1994 contain provisions that help communities identify offenders who may pose a threat to children's well-being.

In addition, our Family Preservation and Family Support Services were designed to give parents the tools they need to keep their families intact and raise healthy, happy children. These include parenting classes, programs that send a visitor to the homes of first-time parents to provide support and guidance, and early developmental screening of children. Bipartisan support for this initiative—the first Federal investment in child welfare protection in more than a decade—has enabled States to use resources flexibly and creatively to strengthen families and work to reduce child abuse.

But government alone cannot end mistreatment. Social service agencies, schools, religious organizations, law enforcement agencies, businesses, and concerned citizens are all working to help children live up to their full potential. These efforts to provide loving and protective environments for our Nation's children exemplify the finest traditions of service and compassion. This month and throughout the year, let us each do everything we can to strengthen families and ease the pain of abused children. Together, we can make an investment in the future by putting the needs of our most precious and vulnerable citizens first.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim April 1996, as National Child Abuse Prevention Month. I call upon all Americans to observe this month with appropriate ceremonies, programs, and activities that raise awareness of the need to help our children lead happy, productive lives.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of April, in the year of our Lord nineteen hundred and ninety-six, and of the Independence of the United States of America the two hundred and twentieth.

William J. Clinton

[FR Doc. 96–9118
Filed 4–9–96; 10:07 am]
Billing code 3195–01–P

# Presidential Documents

Memorandum of April 8, 1996

## Strengthening Drug Control Cooperation with Mexico

Memorandum for the Heads of Executive Departments and Agencies

This memorandum is to direct actions that will be taken by executive departments and agencies to improve the effectiveness of United States-Mexico drug control cooperation.

The Seriousness of the Drug Trafficking Threat to the United States and Mexico:

Drug abuse and drug trafficking pose enormous threats to the American and Mexican people. The health of our youth and the safety of our neighborhoods are at stake. The powers of our democratic institutions and of our law enforcement organizations are challenged by international criminal organizations that operate seamlessly across our borders. Multi-ton quantities of cocaine, marijuana, heroin, and now methamphetamine, find their way to American streets far from our borders, much of it having come across our common border.

A Joint United States-Mexico Commitment to Confront Drug Trafficking:

On March 1, I certified to the Congress that the Government of Mexico cooperated fully to comply with the objectives of the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. President Zedillo and I have agreed to mount a sustained offensive against drug use, production, and trafficking organizations. We will arrest and bring drug traffickers to justice. We will make it more difficult for illegal profits to be laundered, and we will seize drug assets at every opportunity. We will work together to stop the illegal diversion of chemicals for drug manufacturing, and improve our capabilities to stop drugs at our border. To coordinate our efforts, Mexico and the United States formed a High Level Contact Group on Drug Control, which met for the first time March 27 in Mexico City. That group will continue indefinitely. It will meet next at the end of June in the United States, and thereafter in December, in Mexico.

A United States Plan of Action for Increased Cooperation With Mexico:

This directive prescribes specific measures that will be taken to accomplish these shared objectives; measures that will increase the effectiveness of the counter-drug cooperation between our two governments.

1. *Quantifying the Drug Trafficking Threat to Our Two Nations*

A prerequisite for more effective bilateral action is a shared and objective assessment of the level of drug production, trafficking activities, and the threat of corruption in both countries.

In order to establish a common view of the problem, the Office of National Drug Control Policy (ONDCP) will coordinate other United States Government agencies in order to work effectively with officials designated by President Zedillo to produce a white paper that comprehensively describes the threat posed by cultivation, production, and trafficking of drugs such as cocaine, heroin, marijuana, methamphetamine, and diversion of pharmaceuticals such as rohypnol, in both the United States and Mexico. Particular attention will be paid to drug trafficking activities across the Southwest border.

This report will be presented to the U.S.-Mexico High Level Contact Group on Drugs during its next meeting in June.

2. *Developing a Joint Drug Control Strategy*

We need a strategy to provide general guidance and specific direction to the efforts of the departments and agencies of our two countries.

I have directed the Director of National Drug Control Policy to expeditiously develop a binational drug control strategy in conjunction with the Government of Mexico. The strategy must increase the security and integrity of our shared border, while respecting the sovereign rights of each nation.

*3. Reducing the Demand for Illegal Drugs in Our Two Countries*

Prevention and treatment programs have contributed to a marked reduction in the number of drug users in the United States in the past decade. The number of casual drug users has dropped by almost half and the number of cocaine users by over a third. Mexico, likewise, has enjoyed positive results in its drug prevention programs. Both the United States and Mexico stand to benefit by sharing information on demand reduction programs that work.

The Office of National Drug Control Policy will organize multi-agency United States Government efforts to exchange expertise with appropriate organizations within the Mexican Government for information on successful reduction programs.

In the interests of enriching bilateral information exchange, U.S. agencies should take steps to ensure that the Mexican Government receives copies of relevant public reports and published studies relating to drug abuse education, trafficking patterns, money laundering, and so forth. The two governments will also work jointly to develop a protocol for exchange of more sensitive information.

4. *Assessing U.S. Counter-drug Programs Along the Southwest Border*

The increasing two-way trade between our nations must not be permitted to be used as a cover for drug trafficking.

I have directed the Departments of the Treasury, Justice, Defense, and other relevant agencies to conduct a comprehensive review of all Federal, State, and local efforts to prevent drug trafficking across the Southwest border.

This review will be coordinated by the Office of National Drug Control Policy. It will also consider bilateral measures that can be taken to decrease the flow of drugs across the Southwest border. The results of this review shall be submitted to the President's Council on Counter-Narcotics within 180 days.

5. *Attacking Methamphetamine Production and Trafficking*

Methamphetamine has become the drug of choice in California and is becoming more common across the rest of the United States. Clandestine labs in both countries produce tons of this dangerous drug. The Department of Justice (DOJ) has just developed a concept to address domestic consumption, production, and trafficking of methamphetamine.

The Department of Justice will continue to lead the U.S.-Mexico Plenary Group of Senior Law Enforcement Officials to produce a binational and interagency methamphetamine strategy. The DOJ will make regular reports to the High Level Contact Group through ONDCP of the progress and plans that result from the working sessions, and will report methamphetamine accomplishments at the next meeting of the High Level Contact Group.

6. *Controlling Essential and Precursor Chemicals*

Essential and precursor chemicals for the manufacture of all types of illegal drugs must be more carefully controlled.

The Department of Justice will continue to lead the U.S.-Mexico Plenary Group of Senior Law Enforcement Officials to produce a binational and

interagency strategy and action plan for chemical controls not included in the methamphetamine action plan. The DOJ will make regular reports on plans and progress through ONDCP to the High Level Contact Group.

7. *Combating Money Laundering and Other Financial Crimes*

Drug trafficking organizations are profit oriented. Their illicit gains must be converted into legal instruments if the profit is to be realized. Money laundering is an essential component of the drug trafficking cycle.

Working through the U.S.-Mexico Plenary Group of Senior Law Enforcement Officials, the Departments of State, Justice, and the Treasury will develop recommendations for strengthening legislation to combat drug and other serious crime-related money laundering activities in Mexico through a combination of criminal penalties, large value and suspicious transaction reporting, as well as laws providing for the seizure and forfeiture of the proceeds and instrumentalities of crime and for international cooperation in the tracing, forfeiting, and equitable sharing of such assets. In addition, the Departments that comprise the Plenary Group will produce a plan for training anti-money-laundering law enforcement specialists, and a plan to expand the exchange of information to protect the integrity of financial institutions. They will report progress and plans through ONDCP to the High Level Contact Group.

A report on progress achieved in this area will be presented to the U.S.-Mexico High Level Contact Group on Drugs during its next meeting in June.

8. *Improving Bilateral Law Enforcement Cooperation*

Bilateral U.S.-Mexican law enforcement cooperation is at an historic high. However, more can be done.

The U.S.-Mexico Plenary Group of Senior Law Enforcement Officials will continue to be the principal coordinating mechanism for bilateral law enforcement cooperation. The Department of Justice will continue to lead that Group. The DOJ will make regular reports to the High Level Contact Group through ONDCP of the progress and plans that result from the working sessions, and will report law enforcement cooperation accomplishments at the next meeting of the High Level Contact Group. The basic principle to be followed is that coordination will be facilitated at the lowest possible echelons and produce measurable results.

Recommendations from the Plenary Group will also be presented to the U.S.-Mexico High Level Contact Group on Drugs during its next meeting in June.

9. *Capturing Fugitives from Justice*

The principle that no felon should be able to escape justice by using a border defines the joint U.S.-Mexico approach to fugitive issues.

The Department of Justice, operating through the U.S.-Mexico Plenary Group of Senior Law Enforcement Officials will improve the mechanism for return of fugitives from one country to the other. Those mechanisms will fully respect the absolute sovereignty of each nation's laws.

The DOJ will make regular reports to the High Level Contact Group through ONDCP of the progress and plans that result from the Plenary Group sessions, and will report law enforcement cooperation accomplishments at the next meeting of the High Level Contact Group.

10. *Sharing Information and Helping Criminal Prosecution*

We must assure that criminals do not escape punishment because of an inability to investigate or produce evidence for trial.

The U.S.-Mexico Plenary Group of Senior Level Law Enforcement Officials will produce recommendations for both countries to improve access to law enforcement and prosecutorial evidence and information. The Group will report its progress at the June meeting of the High Level Contact Group.

11. *Denying Our Sovereign Territory to Drug Trafficking*

International drug trafficking organizations routinely violate the sovereign air, land, and sea space of nations. We must find ways to shield our sovereign territories from these criminal violations.

The ONDCP will coordinate an interagency effort to develop unilateral and bilateral measures to prevent drug traffickers from violating our sovereignty. Such measures must fully respect the undisputed sovereign authority of each government within its national territory. Participating departments will include Justice, State, the Treasury, and Defense. Particular attention will be paid to large shipments of illegal drugs to Mexico and the United States.

An interim report will be presented to the U.S.-Mexico High Level Contact Group on Drugs during its next meeting in June.

12. *Employing High Technology*

Mexico eradicated more drug crops than any other country in the world in 1995. The United States, likewise, has pursued a nationwide eradication effort. Technical exchanges, in such areas as use of high technology and environmental protection, will benefit the eradication programs of both countries.

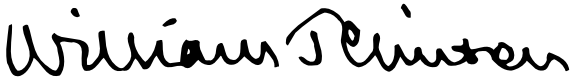
The ONDCP will coordinate an interdepartmental study on these issues. The study will be conducted in conjunction with the Government of Mexico. The Departments of Defense and State, and other relevant U.S. agencies will participate in this study.

Specific recommendations will be submitted to the U.S.-Mexico High Level Contact Group on Drugs within 180 days.

13. *Summarizing Success*

The Director of the Office of National Drug Control Policy is directed to submit a review of the results of cooperative U.S.-Mexico efforts against drug production and trafficking to the President's Council on Counter-Narcotics, prior to December 31, 1996.

This memorandum shall be published in the Federal Register.



THE WHITE HOUSE,
*Washington, April 8, 1996.*

[FR Doc. 96–9113
Filed 4–9–96; 11:46 am]
Billing code 3180–02–P

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- Illinois; comments due by 4-15-96; published 3-15-96

Higher education institutions, hospitals, and nonprofit organizations; uniform administrative requirements for grants and agreements (Circular A-110); comments due by 4-15-96; published 2-15-96

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
- Avermectin B1 and its delta-8,9-isomer; comments due by 4-19-96; published 3-20-96

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- National oil and hazardous substances contingency plan--
  - National priorities list update; comments due by 4-17-96; published 3-8-96
  - National priorities list update; comments due by 4-17-96; published 3-8-96

**FEDERAL COMMUNICATIONS COMMISSION**

Common carrier services:
- Interstate, interexchange telecommunications service providers; tariff filing requirements for non-dominant interexchange carriers for domestic services; comments due by 4-19-96; published 4-3-96
- Satellite communications--
  - Telecommunications Act; direct-to-home video services including direct broadcast satellite service; nongovernmental restrictions preempting; comments due by 4-15-96; published 3-15-96

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- Broadband D, E, and F blocks; license awards; comments due by 4-15-96; published 3-26-96

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- Biomedical telemetry devices; comments due by 4-16-96; published 1-31-96

**FEDERAL TRADE COMMISSION**

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- Commercial items; comments due by 4-16-96; published 2-16-96

**HEALTH AND HUMAN SERVICES DEPARTMENT**

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  - Nutrient content claims and health claims; special requirements; comments due by 4-17-96; published 2-2-96
  - Nutrient content claims and health clams; special requirements; correction; comments due by 4-17-96; published 3-26-96

Medical devices:
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  - Comment period reopened; comments due by 4-19-96; published 3-20-96

**HOUSING AND URBAN DEVELOPMENT DEPARTMENT**

Low income housing:
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  - Single room occupancy program for homeless individuals; comments due by 4-15-96; published 2-14-96

**INTERIOR DEPARTMENT**

**Surface Mining Reclamation and Enforcement Office**

Permanent program and abandoned mine land reclamation plan submissions:
- Utah; comments due by 4-19-96; published 3-20-96
- Virginia; comments due by 4-17-96; published 3-18-96

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**Prisons Bureau**

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**Federal Contract Compliance Programs Office**

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**Wage and Hour Division**

Migrant and seasonal agricultural worker protection:

Workers' compensation information disclosure and transportation liability insurance requirements; comments due by 4-17-96; published 3-18-96

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**TRANSPORTATION DEPARTMENT**

**Coast Guard**

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**National Highway Traffic Safety Administration**

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**Research and Special Programs Administration**

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**TRANSPORTATION DEPARTMENT**

**Surface Transportation Board**

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