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federal register

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WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

CHICAGO, IL

WHEN: June 11, 1996 at 9:00 am

WHERE: Metcalfe Federal Building, Conference Room 328, 77 West Jackson, Chicago, Illinois 60604

RESERVATIONS: 1–800–688–9889

WASHINGTON, DC

[Two Sessions]

WHEN: June 18, 1996 at 9:00 am, and June 25, 1996 at 9:00 am

WHERE: Office of the Federal Register Conference Room, 800 North Capitol Street, NW., Washington, DC (3 blocks north of Union Station Metro)

RESERVATIONS: 202–523–4538

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Reader Aids
Additional information, including a list of public laws, telephone numbers, reminders, and finding aids, appears in the Reader Aids section at the end of this issue.

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Free Electronic Bulletin Board service for Public Law numbers, Federal Register finding aids, and a list of documents on public inspection is available on 202–275–1538 or 275–0920.

CFR PARTS AFFECTED IN THIS ISSUE

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

Rules and Regulations

Federal Register
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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 52

[FV–96–326]

Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products Regulations Governing Inspection and Certification

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule revises the Regulations Governing Inspection and Certification of Processed Fruits and Vegetables and Certain Other Products [1] by increasing the lot inspection and less than year round fees charged for the inspection of processed fruits and vegetables and certain other products. These revisions are necessary in order to recover, as nearly as practicable, the costs of performing inspection services under the Agricultural Marketing Act of 1946.

EFFECTIVE DATE: October 6, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. James R. Rodeheaver, Branch Chief, Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, P.O. Box 96456, Room 0709 South Building, Washington, D.C. 20090–6456, Telephone (202) 720–4693.

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

[1] May include the following: Honey; molasses, except for stockfeed; nuts and nut products, except oil; sugar (cane, beet, and maple); sirups (blended), sirups, except from grain; tea, cocoa, coffee, spices, condiments.

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

The Agricultural Marketing Service (AMS), has certified that this action will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act. The final rule reflects certain fee increases needed to recover the costs of services rendered in accordance with the Agricultural Marketing Act (AMA) of 1946. The inspection, grading and certification program for processed fruits and vegetables and related products is voluntary.

The AMA authorizes voluntary official inspection, grading, and certification on a user-fee basis, of processed food products including processed fruits, vegetables, and processed products made from them. The AMA provides that reasonable fees be collected from the user of the program services to cover as nearly as practicable the costs of services rendered. This final rule amends the schedule of fees and charges for lot inspection and less than year round inspection services rendered to the processed fruit and vegetable industry to reflect the costs currently associated with the program.

AMS regularly reviews these programs to determine if fees are adequate. Employee salary and benefits are major program costs that account for approximately 85 percent of the total operating budget. A general and locality salary increase for Federal employees, ranging from 3.09 to 6.25 percent depending on locality, effective January 1995, has materially affected program costs. Another general and locality salary increase, ranging from 2.39 to 2.87 percent depending upon locality (amounting to approximately $625,000), was effective January 1996; further standardization program costs, previously funded by appropriated funds, must be paid for by user fees.

While a concerted effort to cut costs resulted in overhead savings of $623,926 in FY95 over FY94, the last fee increase in August 1994 did not result in collection of enough revenue to cover all these increases and still maintain an adequate reserve balance (four months of costs) called for by Agency policy and prudent financial management. Currently the Processed Products Branch (PPB) trust fund reserve balance for all programs is approximately $1.480 mil. under the desirable level of $11.031. Further action is necessary to meet rising costs and maintain adequate reserve balances. This action will assist in moving the PPB trust fund toward a more adequate level and will result in an estimated $368,000 in additional revenues. Projected FY96 revenues for the lot inspection and less than year round inspection programs are $8.291 mil. with costs projected at $8.194 and a reserve of $2.682.

A notice of proposed rulemaking was published in the Federal Register (61 FR 9654) on March 11, 1996 with a thirty day comment period. The comment period closed on April 11, 1996. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Agricultural Marketing Service. No comments were received regarding this proposed rule.

After consideration of all relevant matter presented, this action makes final the changes as proposed on March 11, 1996. The changes are made effective October 6, 1996 to coincide with the beginning of the first accounting period in the 1997 fiscal year.

List of Subjects in 7 CFR Part 52

Food grades and standards, Food labeling, Frozen foods, Fruit juices, Fruits, Reporting and record keeping requirements, and Vegetables.

For the reasons set forth in the preamble, 7 CFR Part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for 7 CFR Part 52 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

§ 52.42 [Amended]

2. In § 52.42, the figure ''$39.50'' is revised to read ''$41.00''.

§ 52.50 [Amended]

3. In § 52.50, the figure ''$39.50'' is revised to read ''$41.00''.

§ 52.51 [Amended]

4. In § 52.51, paragraph (c)(2) is amended by removing the figure ''$39.50'' and adding in its place ''$42.00'' and paragraph (d)(1)is amended by removing the figure ''$39.50'' and adding in its place ''$42.00''.

Dated: May 16, 1996.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 96–12835 Filed 5–21–96; 8:45 am]

BILLING CODE 3410–02–P

Food and Consumer Service

7 CFR Parts 225 and 226

RIN 0584–AB17

Determination of Eligibility for Free Meals by Summer Food Service Program Sponsors and Free and Reduced Price Meals by Child and Adult Care Food Program Institutions

AGENCY: Food and Consumer Service, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the regulations governing the collection of social security numbers and household income information on the application for free meals under the Summer Food Service Program (SFSP) for Children, and for free and reduced price meals under the Child and Adult Care Food Program (CACFP). The rule removes the requirement that households provide the social security numbers of all adult members of the household and requires the household to provide only the social security number of the adult household member who signs the application. Finally, when reporting household income, the household will no longer be required to indicate how often individual income amounts are received, or to calculate its total current income. All of the above provisions are intended to reduce paperwork and facilitate eligibility determinations for free and reduced price meals by simplifying the application requirements for both households and approving officials, while maintaining program integrity.

EFFECTIVE DATE: June 21, 1996.

FOR FURTHER INFORMATION CONTACT: Robert M. Eadie or Edward Morawetz, Policy and Program Development Branch, Child Nutrition Division, Food and Consumer Service, Department of Agriculture, 3101 Park Center Drive, Room 1007, Alexandria, Virginia 22302 or telephone 703–305–2620.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

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

Regulatory Flexibility Act

This rule has also been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). The Administrator of the Food and Consumer Service has certified that this rule will not have a significant economic impact on a substantial number of small entities. The effect of the provisions of this rule will be to reduce paperwork and facilitate eligibility determinations for free and reduced price meals by simplifying the application requirements for both households and approving officials, while maintaining program integrity.

Executive Order 12372

The CACFP and SFSP are listed in the Catalog of Federal Domestic Assistance under No. 10.558 and 10.559, respectively, and are subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials (7 CFR Part 3015, Subpart V, and final rule related notice published at 48 FR 29114, June 24, 1983).

Information Collection

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the reporting and recordkeeping changes included in this rule have been approved by the Office of Management and Budget (OMB) under control numbers 0584–0055 and 0584–0280.

Executive Order 12778

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full implementation. This rule is not intended to have retroactive effect unless so specified in the ''Effective Date'' section of this preamble. Prior to any judicial challenge to the provisions of this rule or the application of its provisions, all applicable administrative procedures must be exhausted. In the SFSP, the administrative procedures are set forth under the following regulations: (1) Program sponsors and food service management companies must follow State agency hearing procedures issued pursuant to 7 CFR § 225.13; and (2) Disputes involving procurement by State agencies and sponsors must follow administrative appeal procedures to the extent required by 7 CFR § 225.17 and 7 CFR Part 3015. In the CACFP, the administrative procedures are set forth under the following regulations: (1) Institution appeal procedures in 7 CFR § 226.6(k); and (2) Disputes involving procurement by State agencies and institutions must follow administrative appeal procedures to the extent required by 7 CFR § 226.22 and 7 CFR Part 3015.

This rule codifies the amendments set forth under sections 202(b)(2)(A) and (b)(2)(B)(i) of the Child Nutrition and WIC Reauthorization Act of 1989 (Pub. L. 101–147) regarding the collection of social security numbers and total income calculations for programs under the National School Lunch Act (42 U.S.C. 1751 et seq.) and the Child Nutrition Act of 1966 (42 U.S.C. 1771 *et seq*.). Section 202(c) of Pub. L. 101–147 required that final regulations be issued incorporating these amendments by July 1, 1990. However, we were unable to issue regulations on the collection of social security numbers and total income calculation amendments before the statutory deadline. The provisions were implemented by a policy memorandum issued on May 18, 1990.

This rule is being issued as a final rule, rather than a proposed rule, because of the mandated implementation date. Further, this rule is being issued as a final rule because of the need to formally implement these changes to the application procedures. Although a policy memorandum has already been distributed to give State agencies guidance, the SFSP and CACFP regulations must be amended to codify the changes mandated by sections 202(b)(2)(A) and 202(b)(2)(B)(i) of Pub. L. 101–147. Final regulations have already been promulgated incorporating these changes for the National School Lunch, School Breakfast and Special Milk Programs (56 FR 33857, July 24, 1991). For consistency and simplicity, it is important that the SFSP and CACFP regulations be amended to conform with the National School Lunch, School Breakfast, and Special Milk Program regulations. Finally, the changes to the application being made by this rulemaking will simplify the application procedures for households. For these reasons, the Administrator of the Food and Consumer Service has determined, in accordance with 5 U.S.C. 553(b)(3)(B), that it is impracticable and

contrary to public interest to take prior public comment and that good cause therefore exists for publishing this rule without prior public notice and comment.

Background

For the purpose of determining eligibility for free meals in the SFSP and free and reduced price meals in the CACFP, sponsors/institutions must distribute free meal or free and reduced price meal applications to the families of enrolled participants. Prior to the amendments made by Pub. L. 101–147, under both programs, households applying for benefits were required to submit an application containing complete documentation of eligibility, as defined in Sections 225.2, ''Documentation,'' and 225.15(f) of the SFSP regulations (7 CFR Part 225) and Sections 226.2, ''Documentation,'' and 226.23(e)(1) of the CACFP regulations (7 CFR Part 226). Under current Sections 225.15(f)(3) and 226.23(e)(1)(iv) of the SFSP and CACFP regulations, respectively, ''documentation'' for participating children who were members of Aid to Families with Dependent Children (AFDC) assistance units or food stamp households means the completion of the following information on the application: the child's name; a current food stamp or AFDC case number; and the signature of an adult household member. Under current Section 226.23(e)(1)(v) of the CACFP regulations, for adult participants who were members of food stamp households or who receive assistance under the Supplemental Security Income (SSI) for the Aged, Blind and Disabled Program or under the Grant to States for Medical Assistance Programs (Medicaid), ''documentation'' of eligibility means the completion of the following information on the application: the name of the adult participant; his/her food stamp case number or SSI or Medicaid identification number; and the signature of an adult household member.

In all other cases, under current regulations, documentation for all children in the SFSP and for all children and adults applying for participation in the CACFP consists of a completed free meal or free and reduced price meal application that, pursuant to Section 225.15(f)(2) of the SFSP regulations and Sections 226.23(e)(1)(ii) and (iii) of the CACFP regulations includes: the names of the child or adult for whom application is being made; the names of all other household members; social security numbers for all adult household members or an indication that an adult household member did not have a social security number; the total current income and the income received by each household member identified by source; and the signature of an adult household member. The official responsible for making eligibility determinations (the ''determining official'') for free or reduced price benefits is required to review the application to ensure that it is complete and, for households that submitted income information, to compare the household size and income to the Income Eligibility Guidelines issued annually by the Department. Households that provide a food stamp, AFDC, Medicaid or SSI number on the application are considered categorically eligible for free meals.

Social Security Numbers

Section 202(b)(2)(A) of Pub. L. 101–147, enacted on November 10, 1989, amended section 9(d)(1) of the National School Lunch Act (42 U.S.C. 1758(d)(1)) to eliminate the requirement for the collection of the social security numbers of all adult household members as a condition of eligibility for participants who are not categorically eligible for benefits. Rather, the law now requires that the member of the household who executes the application include the social security number of the parent or guardian who is the primary wage earner responsible for the care of the child for whom application is made, or the number of another appropriate adult member of the child's household, as determined by the Secretary. Additionally, section 9(d)(1), as further amended by section 202(b)(2)(A) of Pub. L. 101–147, requires that the household provide the social security numbers of each adult household member if the application is selected for verification of eligibility.

On May 9, 1990, the Department issued an interim rule at 55 FR 19237 which implemented sections 202(b)(2)(A) and (B) of Pub. L. 101–147 in the National School Lunch, School Breakfast and Special Milk Programs. That interim rule gave households the option of providing either the social security number of the primary wage earner or that of the household member signing the application. This option was provided in the interim rule because the Department wished to provide households with flexibility in complying with the social security number requirement. In order to provide guidance to SFSP and CACFP administrators and beneficiaries prior to the July 1, 1990, legislative deadline, and in the interest of maintaining as much consistency as possible in the free and reduced price meal application process among the Child Nutrition Programs, an identical policy was established for the SFSP and the CACFP in a policy memorandum issued by the Department on May 18, 1990.

Commenters on the interim rule for the school programs, as well as other State and local school officials who have informally advised the Department of their experiences with the application process, believe that providing households with this option would actually result in complicating, rather than simplifying, the application process and would add to paperwork and administrative burdens. In response to those comments, the final rule governing free and reduced price applications in the National School Lunch, School Breakfast and Special Milk Programs requires only that the social security number of the adult household member who signs the application be provided (56 FR 33857, July 24, 1991). In lieu of providing a social security number, the adult household member signing the application may indicate that he or she does not possess one. In making this change from the interim rule, the Department believed that the final School Programs rule further simplified the application process, while maintaining program integrity, since the adult who signs the application must also certify that the information on the application is true and correct. Based on the foregoing, and in an effort to maintain consistency among the Child Nutrition Programs, this interim rule adopts the same application requirements for the SFSP and the CACFP.

Accordingly, this rule amends Sections 225.2, ''Documentation,'' and 225.15(f)(2)(iii) of the SFSP regulations and Sections 226.2, ''Documentation,'' and 226.23(e)(1)(ii)(C) and (iii)(C) of the CACFP regulations to require a completed application to include the social security number of the adult household member who signs the application. As permitted in current regulations, if the adult household member signing the application does not have a social security number, the household may indicate this fact in lieu of providing a social security number.

In a related area, section 7(b) of the Privacy Act of 1974 (5 U.S.C. 552a note) requires agencies to give advance notice and disclosure to the public of any requirement to provide social security numbers and of the uses to be made of those social security numbers. In accordance with this law, the Department requires that any individual

required to disclose his/her social security number must be informed: (1) whether that disclosure is mandatory or voluntary; (2) by what statutory authority or other authority each number is solicited; and (3) what uses will be made of the number. The current SFSP and CACFP regulations at Section 225.15(f)(2)(vi), and Sections 226.23(e)(1)(ii)(F) and (iii)(E) contain the Department's prototype Privacy Act Statements for free and reduced price applications. They reflect the statutory requirement in effect prior to the enactment of Pub. L. 101–147 that the application contain the social security number of each adult household member. These prototype Privacy Act Statements must also be modified to include the requirement that only the social security number of the adult household member signing the application need be provided (or an indication that he or she does not possess one). In addition, a new Section 225.15(f)(4) must be added and Section 226.23(h)(2)(iii) must be revised to require that households selected for verification provide the social security number for each adult household member (or an indication that the member does not possess a number) and that the notice of selection for verification also include a statement which meets the requirements of section 7(b) of the Privacy Act of 1974 (5 U.S.C. 552a note). State agencies and institutions should contact their own legal counsel to ensure that their notices comply with the Privacy Act requirements.

Accordingly, this rule amends Section 225.15(f)(2)(vi) of the SFSP regulations and Sections 226.23(e)(1)(ii)(F) and (iii)(E) of the CACFP regulations to make the aforementioned changes to each Program's prototype Privacy Act statement. In addition, Section 225.15(f)(4) has been added to the SFSP regulations and Section 226.23(h)(2)(iii) of the CACFP regulations has been revised to require that households selected for verification must provide the social security number of each adult member, or an indication that a household member does not possess one.

This rule also makes several technical changes to Part 226 to conform with the requirement that only the social security number of the adult household member signing the application for free and reduced price meals must be provided. Specifically, this rule amends the provisions found at Sections 226.15(e)(2), 226.15(e)(3), 226.17(b)(7), 226.18(f), 226.19(b)(8)(i), and 226.19a(b)(8) which govern various documentation and record retention requirements for participation in the CACFP. This rulemaking amends these sections to require that the documentation for eligibility and retention of information conform with Section 226.23(e)(1). As mentioned above, as a result of this rule, Section 226.23(e)(1) will now require only the social security number of the adult household member signing the application. In lieu of providing a social security number, the adult household member signing the application may indicate that he or she does not possess one.

Income Information

Section 202(b)(2)(B)(i) of Pub. L. 101–147 amended section 9(d)(2)(A) of the National School Lunch Act (42 U.S.C. 1758(d)(2)(A)) to require that households provide appropriate documentation relating to their income so that individuals responsible for approving free and reduced price applications may calculate the total current income for use in determining eligibility for benefits. The current regulations at Sections 225.2, ''Documentation,'' and 225.15(f)(2) and Sections 226.2, ''Documentation,'' and 226.23(e)(1)(ii)(D) and (iii)(D), require that households provide the total household income on the application, as well as the income received by each household member, identified by source and amount. Based on the language of Pub. L. 101–147, this rule eliminates the requirement that the applicant household calculate total income. The elimination of this requirement will further simplify the application process and will reduce the burden on determining officials, who previously had to contact the household when there were inconsistencies between the sum of the income received by each household member identified by source and the total income figure for the household. As a result of this interim rule, the determining official will now use the income information provided by households to calculate the household's total current income. Households will still be required to indicate the amount of income received by each household member, identified by source.

A technical change is also being made to Sections 225.2, ''Documentation,'' and 225.15(f)(2) of the SFSP regulations and Sections 226.2, ''Documentation,'' and 226.23(e)(1)(ii)(D) and (iii)(D) of the CACFP regulations to add, as necessary, the phrase ''other cash income'' to the examples of sources of income (i.e., earnings, wages, welfare, pensions, support payments, unemployment compensation, and social security). This technical change is being made to bring about consistency within each Part, as well as with the other child nutrition programs covered by 7 CFR Part 245 (Determining Eligibility for Free and Reduced Price Meals and Free Milk in Schools). No change is being made regarding the type of income to be reported on free and reduced price meal applications. Further, a technical amendment is being made to Section 225.15(f)(2)(iv) to make the language describing the sources of income conform with the examples of sources of income found in Section 225.2, ''Documentation,'' and with the sources of income regulations under the National School Lunch, School Breakfast, and Special Milk Programs. A technical change is also being made to incorporate the undesignated paragraph into the introductory paragraph in Section 225.15(f)(3).

Accordingly, the Department is amending Section 225.2, ''Documentation,'' and Section 225.15(f)(2) of the SFSP regulations and Sections 226.2, ''Documentation,'' and 226.23(e)(1)(ii)(D) and (iii)(D) of the CACFP regulations to eliminate the requirement that households provide their total income on the application and to make the other technical changes discussed above.

Definition of Income

To simplify the application process, the Department is amending the definition of ''Current income'' at Section 226.2 of the CACFP regulations and adding a definition of ''Current income'' at Section 225.2 of the SFSP regulations to reflect the actual treatment of income by households submitting income information on the application and by determining officials reviewing that information. Currently, in Section 226.2, ''Current income'' is defined as ''income received during the month prior to application for free or reduced-price meals and multiplied by 12.'' The definition further requires that, if this income does not accurately reflect the household's annual income, the income determination must be based on the household's projected annual income. In practice, however, most determining officials do not convert the income amounts listed for each household member to an annual income figure. Rather, if any income is reported as other than a monthly amount, most determining officials convert these income amounts to a monthly income figure and base eligibility on total monthly household income.

Therefore, the definition of ''Current income'' added to Section 225.2 and the definition of ''Current income'' at Section 226.2, as amended by this rule,

define ''Current income'' simply as income received during the month prior to application, and the reference to annualization is being deleted. If the prior month's income is not representative of the household's annual rate of income, the household must still report its projected annual income.

Accordingly, Section 226.2 of the CACFP regulations is amended, and a definition of ''Current income'' is added to Section 225.2 of the SFSP regulations, to define ''Current income'' as income received during the month prior to application for free or reduced-price meals.

Technical Changes to OMB Control Numbers

The OMB Control Number table found at Section 225.20 is revised to reflect current OMB control numbers for information collection/recordkeeping requirements for the following Sections: 225.3–225.4; 225.6–225.10; 225.12–224.13; and 225.15–225.18.

Request for Comments

Since the Department has exercised some discretion in the implementation of these provisions, comments and suggestions are particularly encouraged on the following amendments: (1) the requirement that only the social security number of the adult household member who executes the application be provided; and (2) the requirement that households report only monthly income for each member. The Department reminds commenters that the changes to the application requirements are intended to reduce paperwork by simplifying the application requirements while maintaining program integrity.

List of Subjects

7 CFR Part 225

Food assistance programs, Grant programs—health, infants and children.

7 CFR Part 226

Day care, Food assistance programs, Grant programs—health, infants and children, Reporting and recordkeeping requirements, Surplus agricultural commodities.

Accordingly, 7 CFR Parts 225 and 226 are amended as follows:

PART 225—SUMMER FOOD SERVICE PROGRAM

1. The authority citation for Part 225 continues to read as follows:

Authority: Secs. 9, 13 and 14, National School Lunch Act, as amended (42 U.S.C. 1758, 1761 and 1762a).

2. In Section 225.2:

a. A new definition of *Current income* is added in alphabetical order.

b. Paragraph (a) of the definition of *Documentation* is revised.

The addition and revision specified above read as follows:

§ 225.2 Definitions.

* * * * *

Current income means income, as defined in Section 225.15(f)(2)(iv), received during the month prior to application for free meals. If such income does not accurately reflect the household's annual income, income shall be based on the projected annual household income. If the prior year's income provides an accurate reflection of the household's current annual income, the prior year may be used as a base for the projected annual income.

* * * * *

Documentation means (a) the completion of the following information on a free meal application:

(1) names of all household members;

(2) income received by each household member, identified by source of income (such as earnings, wages, welfare, pensions, support payments, unemployment compensation, social security and other cash income);

(3) the signature of an adult household member; and

(4) the social security number of the adult household member who signs the application, or an indication that the he/she does not possess a social security number; or,

* * * * *

3. In Section 225.15:

a. Paragraphs (f)(2)(iii) and (f)(2)(iv) are revised;

b. Paragraph (f)(2)(vi) is amended by removing the first four sentences and by adding four new sentences in their place and by adding a new sentence before the word ''and'' at the end of the paragraph;

c. Paragraph (f)(3) is amended by removing the undesignated text following paragraph (f)(3)(ii) and by revising the introductory text of paragraph (f)(3); and

d. A new paragraph (f)(4) is added.

The additions and revisions specified above read as follows:

§ 225.15 Management responsibilities of sponsors.

* * * * *

(f) * * *

(2) * * *

(iii) the social security number of the adult household member who signs the application, or an indication that he/she does not possess a social security number;

(iv) the income received by each household member, identified by source of income (such as earnings, wages, welfare, pensions, support payments, unemployment compensation, social security, and other cash income);

* * * * *

(vi) a statement which includes substantially the following information: ''Section 9 of the National School Lunch Act requires that, unless a food stamp or AFDC case number is provided for your child, you must include the social security number of the adult household member signing the application, or indicate that the household member does not have a social security number. Provision of a social security number is not mandatory, but if a social security number is not provided or an indication is not made that the signer does not have a social security number, the application cannot be approved. This notice must be brought to the attention of the household member whose social security number is disclosed. The social security number may be used to identify the household member in carrying out efforts to verify the correctness of information stated on the application. * * * The sponsor shall take the income information provided by the household on the application and calculate the household's total current income;

* * * * *

(3) If they so desire, households applying on behalf of children who are members of food stamp households or AFDC assistance units may apply for free meal benefits using the procedures described in this paragraph rather than the procedures described in paragraph (f)(2) of this section. In accordance with paragraph (f)(2)(vi) of this section, if a food stamp or AFDC case number is provided, it may be used to verify the current food stamp or AFDC certification for the child(ren) for whom free meal benefits are being claimed. Whenever households applying for benefits for children not receiving food stamp or AFDC benefits, they must apply for those children in accordance with the requirements set forth in paragraph (f)(2) of this section. Households applying on behalf of children who are members of food stamp households or AFDC assistance units shall be required to provide:

* * * * *

(4) Households selected to provide verification shall provide a social security number for each adult household member or an indication that such member does not have one. The notice to households of selection for verification shall include the following:

(i) Section 9 of the National School Lunch requires that unless the child's

food stamp or AFDC case number is provided, households selected for verification must provide the social security number of each adult household member;

(ii) In lieu of providing a social security number, an adult household member may indicate that he/she does not possess one;

(iii) Provision of a social security number is not mandatory but if a social security number is not provided for each adult household member or an indication is not made that he/she does not possess one, benefits will be terminated;

(iv) The social security number may be used to identify household members in carrying out efforts to verify the correctness of information stated on the application and continued eligibility for the program. These verification efforts may be carried out through program reviews, audits, and investigations and may include contacting employers to determine income, contacting a food stamp or welfare office to determine current certification for receipt of food stamps or AFDC benefits, contacting the State employment security office to determine the amount of benefits received and checking the documentation produced by household members to prove the amount of income received. These efforts may result in loss or reduction of benefits, administrative claims or legal actions if incorrect information was reported; and

(v) This information must be provided to the attention of each adult household member disclosing his/her social security number. State agencies shall ensure that the notice complies with section 7 of Pub. L. 93–579 (Privacy Act of 1974). These households shall be provided with the name and phone number of an official who can assist in the verification effort. Selected households shall also be informed that, in lieu of any information that would otherwise be required, they can submit proof of current food stamp or AFDC Program certification as described in paragraph (f)(3) of this section to verify the free meal eligibility of a child who is a member of a food stamp household or AFDC assistance unit. All households selected for verification shall be advised that failure to cooperate with verification efforts will result in the termination of benefits.

* * * * *

4. In Section 225.20, the OMB Control Number table is revised to read as follows:

§ 225.20 Information collection/ recordkeeping—OMB assigned control numbers.

7 CFR section where requirements are described	Current OMB control No.
225.3–225.4.	0584–0280
225.6–225.10	0584–0280
225.12–225.13	0584–0280
225.15–225.18	0584–0280

PART 226—CHILD AND ADULT CARE FOOD PROGRAM

5. The authority citation for Part 226 continues to read as follows:

Authority: Secs. 9, 11, 14, 16, and 17, National School Lunch Act, as amended (42 U.S.C. 1758, 1759a, 1762a, 1765 and 1766).

6. In Section 226.2:

a. The definition of *Current income* is amended by removing the words ''and multiplied by 12''; and

b. The definition of *Documentation* is revised to read as follows:

§ 226.2 Definitions.

* * * * *

Documentation means (a) the completion of the following information on a free and reduced-price application:

(1) names of all household members;

(2) income received by each household member, identified by source of income (such as earnings, wages, welfare, pensions, support payments, unemployment compensation, social security and other cash income);

(3) the signature of an adult household member; and

(4) the social security number of the adult household member who signs the application, or an indication that he/she does not possess a social security number; or

(b) For a child who is a member of a food stamp household or an AFDC assistance unit, ''documentation'' means the completion of only the following information on a free and reduced-price application:

(1) the name(s) and appropriate food stamp or AFDC case number(s) for the child(ren); and

(2) the signature of an adult member of the household; or

(c) For an adult participant who is a member of a food stamp household or is an SSI or Medicaid participant, as defined in this section, ''documentation'' means the completion of only the following information on a free and reduced- price application:

(1) the name(s) and appropriate food stamp case number(s) for the participant(s) or the adult participant's SSI or Medicaid identification number, as defined in this section; and

(2) the signature of an adult member of the household.

* * * * *

7. In Section 226.15, paragraphs (e)(2) and (e)(3) are revised to read as follows:

§ 226.15 Institution Provisions.

* * * * *

(e) * * *

(2) Documentation of the enrollment of each participant at child care centers, adult day care centers and outside-school-hours care centers including information used to determine eligibility for free or reduced price meals in accordance with § 226.23(e)(1).

(3) Documentation of the enrollment of each child at day care homes and information used to determine the eligibility of enrolled providers' children for free or reduced price meals in accordance with § 226.23(e)(1).

* * * * *

8. In Section 226.17, paragraph (b)(7) is revised to read as follows:

§ 226.17 Child Care Center Provisions.

* * * * *

(b) * * *

(7) Child care centers shall collect and maintain documentation of the enrollment of each child, including information used to determine eligibility for free and reduced price meals in accordance with § 226.23(e)(1).

* * * * *

§ 226.18 [Amended]

9. In Section 226.18, paragraph (f) is amended by adding the words '', in which case the day care home must maintain documentation of the information used to determine the eligibility of enrolled providers' children for free or reduced price meals in accordance with § 226.23(e)(1)'' at the end of the paragraph.

10. In Section 226.19, paragraph (b)(8)(i) is revised to read as follows:

§ 226.19 Outside-school-hours care center provisions.

* * * * *

(b) * * *

(8) * * *

(i) Documentation of enrollment for all children, including information used to determine eligibility for free or reduced price meals in accordance with § 226.23(e)(1);

* * * * *

11. In Section 226.19a, paragraph (b)(8) is revised to read as follows:

§ 226.19a Adult day care center provisions.

* * * * *

(b) * * *

(8) Adult day care centers shall collect and maintain documentation of the

enrollment of each adult participant including information used to determine eligibility for free and reduced price meals in accordance with § 226.23(e)(1).

* * * * *

12. In Section 226.23:

a. Paragraph (e)(1)(ii)(C) is revised;

b. Paragraph (e)(1)(ii)(D) is amended by removing the words ''total current household income, and the'';

c. Paragraph (e)(1)(ii)(F) is amended by removing the first four sentences and by adding six new sentences in their place.

d. Paragraph (e)(1)(iii)(C) is revised;

e. Paragraph (e)(1)(iii)(D) is amended by removing the words ''total current household income, and the'';

f. Paragraph (e)(1)(iii)(E) is amended by removing the first four sentences and by adding six new sentences in their place;

g. Paragraph (e)(4) is amended by adding a new sentence at the beginning of the paragraph;

h. Paragraphs (h)(2)(iv) through (h)(2)(viii) are redesignated as paragraphs (h)(2)(v) through (h)(2)(ix); and

i. Paragraph (h)(2)(iii) is amended by redesignating all text after the second sentence as paragraph (h)(2)(iv), and by revising the remaining text in paragraph (h)(2)(iii).

The additions and revisions specified above read as follows:

§ 226.23 Free and reduced-price meals.

* * * * *

(e)(1) * * *

(ii) * * *

(C) The social security number of the adult household member who signs the application, or an indication that he/she does not possess a social security number;

* * * * *

(F) A statement which includes substantially the following information: ''Section 9 of the National School Lunch Act requires that, unless a food stamp or AFDC case number is provided for your child, you must include a social security number on the application. This must be the social security number of the adult household member signing the application. If the adult household member signing the application does not possess a social security number, he/she must indicate so on the application. Provision of a social security number is not mandatory, but if a social security number is not provided or an indication is not made that the adult household member signing the application does not have one, the application cannot be approved. This notice must be brought to the attention of the household member whose social security number is disclosed. The social security number may be used to identify the household member in carrying out efforts to verify the correctness of information stated on the application. * * *

* * * * *

(iii) * * *

(C) The social security number of the adult household member who signs the application, or an indication that he/she does not possess a social security number;

* * * * *

(E) A statement which includes substantially the following information: ''Section 9 of the National School Lunch Act requires that, unless a food stamp case number or SSI or Medicaid assistance identification number is provided for the adult for whom benefits are sought, you must include a social security number on the application. This must be the social security number of the adult household member signing the application. If the adult household member signing the application does not possess a social security number, he/she must indicate so on the application. Provision of a social security number is not mandatory, but if a social security number is not provided or an indication is not made that the adult household member signing the application does not have one, the application cannot be approved. This notice must be brought to the attention of the household member whose social security number is disclosed. The social security number may be used to identify the household member in carrying out efforts to verify the correctness of information stated on the application. * * *

* * * * *

(4) * * * The institution shall take the income information provided by the household on the application and calculate the household's total current income. * * *

* * * * *

(h) * * *

(2) * * *

(iii) Households shall be informed in writing that they have been selected for verification and they are required to submit the requested verification information to confirm their eligibility for free or reduced-price benefits by such date as determined by the State agency. Those households shall be informed of the type or types of information and/or documents acceptable to the State agency and the name and phone number of an official who can answer questions and assist the household in the verification effort. This information must include a social security number for each adult household member or an indication that he/she does not have one. State agencies shall inform selected households that:

(A) Section 9 of the National School Lunch Act requires that, unless households provide the child's food stamp or AFDC case number, or the adult participant's food stamp case number or SSI or Medicaid assistance identification number, those selected for verification must provide the social security number of each adult household member;

(B) In lieu of providing a social security number, an adult household member may indicate that he/she does not possess one;

(C) Provision of a social security number is not mandatory, but if a social security number is not provided for each adult household member or an indication is not made that he/she does not possess one, benefits will be terminated;

(D) The social security number may be used to identify household members in carrying out efforts to verify the correctness of information stated on the application and continued eligibility for the program. These verification efforts may be carried out through program reviews, audits, and investigations and may include contacting employers to determine income, contacting Federal, State or local agencies to determine current certification for receipt of food stamps or AFDC, SSI or Medicaid benefits, contacting the State employment security office to determine the amount of benefits received, and checking the documentation produced by household members to prove the amount of income received. These efforts may result in loss or reduction of benefits, administrative claims or legal actions if incorrect information was reported; and

(E) This information must be provided to the attention of each adult household member disclosing his/her social security number. State agencies shall ensure that the notice complies with section 7 of Pub. L. 93–579 (Privacy Act of 1974). These households shall be provided with the name and phone number of an official who can assist in the verification effort.

* * * * *

Dated: April 30, 1996.

William E. Ludwig,

Administrator.

[FR Doc. 96–12851 Filed 5–21–96; 8:45 am]

BILLING CODE 3410–30–U

Agricultural Marketing Service

7 CFR Part 980

[FV95–980–1FR]

Vegetables; Import Regulations; Modification of Regulatory Time Periods for Imported Onions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule modifies the time periods when imported onions are regulated based on the grade, size, quality, and maturity requirements of the South Texas onion and Idaho-Eastern Oregon onion marketing orders. The change is needed to make the onion import requirements consistent with regulatory time period changes made under the South Texas onion marketing order.

EFFECTIVE DATE: June 4, 1996.

FOR FURTHER INFORMATION CONTACT: Robert F. Matthews, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, room 2523–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 690–0464; Fax number (202) 720–5698.

SUPPLEMENTARY INFORMATION: This rule is issued under section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

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

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

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. There are approximately 148 importers of onions who will be affected by this rule. Small agricultural service firms, which include onion importers, have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $5,000,000. The majority of onion importers may be classified as small entities.

Import regulations issued under the Act are based on regulations established under Federal marketing orders which regulate the handling of domestically produced products. Thus, this final rule should have small entity orientation, and impact on both small and large business entities in a manner comparable to rules issued under marketing orders. This rule modifies the dates when imported onions are regulated, based on requirements of the South Texas onion and Idaho-Eastern Oregon onion marketing orders.

Section 8e of the Act provides that whenever certain specified commodities, including onions, are regulated under a Federal marketing order, imports of that commodity into the United States are prohibited unless they meet the same or comparable grade, size, quality, and maturity requirements. Section 8e also provides that whenever two or more marketing orders regulate the same commodity produced in different areas of the United States, the Secretary shall determine with which area the imported commodity is in most direct competition and apply regulations based on that area to the imported commodity.

Marketing Order No. 958 regulates onions grown in certain counties of Idaho and Eastern Oregon and Marketing Order No. 959 regulates onions grown in South Texas. Fresh onion shipments from Idaho-Eastern Oregon are regulated throughout the year, while onion shipments from South Texas had been regulated from March 1 through June 15 each year. On the basis of past shipment data, the Secretary determined that onions imported during the March 10 through June 15 period were in most direct competition with onions grown in South Texas and found that the minimum grade, size, quality, and maturity requirements for onions imported during that period should be the same as those established for South Texas onions under Marketing Order No. 959. The Secretary further determined that onions imported during the June 16 through March 9 period were in most direct competition with onions grown in Idaho-Eastern Oregon and that the minimum grade, size, quality, and maturity requirements for onions imported during that period should be the same as those established for Idaho-Eastern Oregon onions under Marketing Order No. 959.

Based on a recommendation of the South Texas Onion Committee (committee), the agency responsible for local administration of Marketing Order No. 959, the Department has changed the end of the South Texas regulatory period from June 15 to June 4. Because South Texas onions will no longer be regulated after June 4, and Idaho-Eastern Oregon onions are regulated throughout the year, the Department has determined that onions imported during the March 10 through June 4 period are in most direct competition with onions produced in South Texas and that the minimum grade, size, quality, and maturity requirements established under the South Texas marketing order should apply to onions imported during the March 10 through June 4 period, instead of the previous March 10 through June 15 period. Imports of onions during the June 5 through March 9 period will be required to meet minimum grade, size, quality, and maturity requirements based on those established under the Idaho-Eastern Oregon marketing order.

The proposed rule concerning this action was published in the February 9, 1996, Federal Register (61 FR 4941), with a 30-day comment period ending March 11, 1996. No comments were received.

In accordance with section 8e of the Act, the U.S. Trade Representative has concurred with the issuance of this final rule.

Based on the above, the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C 553, it is further found that good cause exists for not postponing the effective date of this action until 30 days after publication in the Federal Register because: (1) This regulation imposes no additional restrictions on onion importers by ending import requirements based on South Texas on June 4 of each season rather than June 15 of each season; (2) section 8e of the Act requires import requirements based on South Texas (7 CFR part 959) to change to those based on Idaho-Eastern Oregon (7 CFR part 958) when South Texas is no longer the area of production with which the imported commodity is in most direct competition; (3) changing the ending date of the domestic regulation was discussed at a public meeting, and all interested persons had an opportunity to provide input; and (4) there are no

regulatory burdens imposed by this rule which require special preparations of importers.

List of Subjects in 7 CFR Part 980

Food grades and standards, Imports, Marketing agreements, Onions, Potatoes, Tomatoes.

For the reasons set forth in the preamble, 7 CFR part 980 is hereby amended as follows:

PART 980—VEGETABLES; IMPORT REGULATIONS

1. The authority citation for 7 CFR part 980 continues to read as follows:

Authority: 7 U.S.C. 601–674.

§ 980.117 [Amended]

2. In § 980.117, paragraph (a)(2) is amended by removing ''June 16'' and adding in its place ''June 5'' and by removing ''June 15'' and adding in its place ''June 4''; paragraph (b)(1) is amended by removing ''June 16'' and adding in its place ''June 5''; and paragraph (b)(2) is amended by removing ''June 15'' and adding in its place ''June 4.''

Dated: May 14, 1996.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 96–12836 Filed 5–21–96; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–185–AD; Amendment 39–9629; AD 96–11–04]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9 and Model DC–9–80 Series Airplanes, Model MD–88 Airplanes, and C–9 (Military) Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9 and Model DC–9–80 series airplanes, Model MD–88 airplanes, and C–9 (military) series airplanes, that requires modification of the slant panel insulation blankets on the slant pressure panel of the main landing gear. The amendment also requires a visual inspection to detect discrepancies of the left and right seal assemblies of the overwing emergency exit door, and replacement of any discrepant door seal. This amendment is prompted by a report that the flaps and landing gear did not extend or retract properly due to water accumulation in the slant pressure panel area. The actions specified by this AD are intended to prevent such water accumulation, which could result in the failure of the flaps or landing gear to properly extend or retract.

DATES: Effective June 26, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 26, 1996.

ADDRESSES: The service information referenced in this AD 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 Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 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: Brent Bandley, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627–5237; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–9 and Model DC–9–80 series airplanes, Model MD–88 airplanes, and C–9 (military) series airplanes was published in the Federal Register on January 31, 1996 (61 FR 3341). That action proposed to require modification of the slant panel insulation blankets on the slant pressure panel of the main landing gear. That action also proposed to require a visual inspection to detect discrepancies of the left and right seal assemblies of the overwing emergency exit door, and replacement of the discrepant door seal.

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

Support for the Proposal

Two commenters support the proposed rule.

Requests to Extend the Compliance Time

Several commenters request that the compliance time for accomplishment of the modification be extended from the proposed 24 months. These commenters request an extension to as much as 36 months, which will allow the modification to be accomplished during a regularly scheduled heavy maintenance check when the airplanes are brought to main base for an extended hold. Two of these commenters state that they would have to special schedule their fleet in order to accomplish the modification within the proposed compliance time; this would entail considerable additional expenses.

After consideration of all the available information, the FAA cannot conclude that an extension of the proposed compliance time is warranted. In developing an appropriate compliance time for this action, the FAA considered not only the degree of urgency associated with addressing the subject unsafe condition, but the availability of required parts and the practical aspect of accomplishing the required modification within an interval of time that parallels normal scheduled maintenance for the majority of affected operators. Further, the proposed compliance time of 24 months was arrived at initially with the concurrence of affected operators, the manufacturer, and the FAA. In light of this, and in consideration of the amount of time that has already elapsed since issuance of the original notice, the FAA has determined that further delay of accomplishment of the requirements of this final rule is not appropriate. However, under the provisions of paragraph (b) of the final rule, the FAA may approve requests for adjustments to the compliance time if data are submitted to substantiate that such an adjustment would provide an acceptable level of safety.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

There are approximately 1,500 McDonnell Douglas Model DC–9 and Model DC–9–80 series airplanes, Model MD–88 airplanes, and C–9 (military) series airplanes of the affected design in

the worldwide fleet. The FAA estimates that 1,000 airplanes of U.S. registry will be affected by this AD, that it will take approximately 8 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $480,000, or $480 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

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

96–11–04 McDonnell Douglas: Amendment 39–9629. Docket 95–NM–185–AD.

Applicability: Model DC–9–10, –20, –30, –40, and –50 series airplanes; Model DC–9–81 (MD–81), –82 (MD–82), –83 (MD–83), –87 (MD–87) series airplanes; Model MD–88 airplanes; and C–9 (military) series airplanes; as listed in McDonnell Douglas Service Bulletin DC9–53–268, dated August 11, 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 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 (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 water accumulation in the slant pressure panel area, which could result in the failure of the flaps or landing gear to properly extend or retract, accomplish the following:

(a) Within 24 months after the effective date of this AD, accomplish paragraphs (a)(1) and (a)(2) of this AD, in accordance with McDonnell Douglas Service Bulletin DC9–53–268, dated August 11, 1995.

(1) Modify the slant panel insulation blankets on the slant pressure panel of the main landing gear.

(2) Perform a visual inspection to detect discrepancies (i.e., defects and constant gap) of the left and right seal assemblies of the overwing emergency exit door. If any discrepancy is detected, prior to further flight, replace door seal in accordance with the service bulletin.

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

Note 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 modification, inspection, and replacement shall be done in accordance with McDonnell Douglas Service Bulletin DC9–53–268, dated August 11, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department C1–L51 (2–60). Copies may be inspected 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.

(e) This amendment becomes effective on June 26, 1996.

Issued in Renton, Washington, on May 14, 1996.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–12600 Filed 5–21–96; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 95–NM–162–AD; Amendment 39–9628; AD 96–11–03]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–200, –300, and –400 Series Airplanes Equipped With General Electric Model CF6–80C2 PMC and CF6–80C2 FADEC Engines, and Pratt & Whitney Model PW4000 Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 747–200, –300, and –400 series airplanes, that currently requires inspection of each fuel feed line of the outboard engine in the engine strut to determine if interference with an adjacent pneumatic duct clamp has caused damage, and repair or replacement of the fuel feed tube, if necessary. That AD also currently requires inspection and replacement of the adjacent pneumatic duct clamp with a non-rotating type clamp, if necessary. This amendment requires modification of the upper gap area of the strut of the number 1 and 4 engines. This amendment is prompted by a report of fuel leakage in the strut of the number 4 engine due to a high profile clamp that chafed the fuel line. The actions specified by this AD are intended to prevent chafing of the fuel line in the strut of the number 1 and 4

engines, which could result in rupture of the fuel line and subsequent in-flight engine fire.

DATES: Effective June 26, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 26, 1996.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Kenneth W. Frey, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington; telephone (206) 227–2673; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 91–05–19, amendment 39–6918 (56 FR 8705, March 1, 1991), which is applicable to certain Boeing Model 747–200, –300, and –400 series airplanes, was published in the Federal Register on January 29, 1996 (61 FR 2730). The action proposed to supersede AD 91–05–19 to require modification of the upper gap area of the strut of the number 1 and 4 engines.

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

Both commenters support the proposed rule.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

There are approximately 363 Boeing Model 747–200, –300, –400 series airplanes equipped with General Electric Model CF6–80C2 PMC and CF6–80C2 FADEC engines, and Pratt & Whitney Model PW4000 engines of the affected design in the worldwide fleet. The FAA estimates that 39 airplanes of U.S. registry will be affected by this AD.

The actions that are required by this AD will take approximately 6 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will be supplied by the manufacturer at no cost to the operators. Based on these figures, the cost impact on U.S. operators of the new requirements of this AD is estimated to be $14,040, or $360 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–6918 (56 FR 8705, March 1, 1991), and by adding a new airworthiness directive (AD), amendment 39–9628, to read as follows:

96–11–03 Boeing: Amendment 39–9628. Docket 95–NM–162–AD. Supersedes AD 91–05–19, Amendment 39–6918.

Applicability: Model 747–200, –300, and –400 series airplanes having line positions 679 through 1041 inclusive; equipped with General Electric Model CF6–80C2 PMC and CF6–80C2 FADEC, and Pratt & Whitney Model PW4000 engines; 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 chafing of the fuel line in the strut of the number 1 and 4 engines, which could result in rupture of the fuel line and subsequent in-flight engine fire, accomplish the following:

(a) Within 6 months after the effective date of this AD, modify the upper gap area of the strut of the number 1 and 4 engines, in accordance with Boeing Service Bulletin 747–36A2097, Revision 3, dated September 28, 1995.

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle 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 modification shall be done in accordance with Boeing Service Bulletin 747–36A2097, Revision 3, dated September 28, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group,

P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on June 26, 1996.

Issued in Renton, Washington, on May 14, 1996.

S.R. Miller,

Acting Manager,Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–12599 Filed 5–21–96; 8:45 am]

BILLING CODE 4910–13–U

FEDERAL TRADE COMMISSION

16 CFR Part 405

Trade Regulation Rule on Misbranding and Deception as to Leather Content of Waist Belts

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission announces the removal of the Trade Regulation Rule concerning Misbranding and Deception as to Leather Content of Waist Belts (Leather Belt Rule or Rule), 16 CFR Part 405. The Commission has reviewed the rulemaking record and determined that the Leather Belt Rule is no longer necessary. The proposed Guides for Select Leather and Imitation Leather Products will cover belts and the benefits of the Rule are retained through the inclusion of belts in the proposed Guides. Repealing the Leather Belt Rule eliminates unnecessary duplication. Further, if necessary, the Commission can address misrepresentations involving leather belts on a case-by-case basis, administratively under Section 5 of the Federal Trade Commission Act (FTC Act), 15 U.S.C. 45, or through enforcement actions under Section 13(b), 15 U.S.C. 53(b), in federal district court. Such actions can provide additional guidance to industry members on what practices are unfair or deceptive.

EFFECTIVE DATE: May 22, 1996.

ADDRESSES: Requests for copies of the Statement of Basis and Purpose should be sent to the FTC's Public Reference Branch, Room 130, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580; (202) 326–2222; TTY for the hearing impaired (202) 326–2502.

FOR FURTHER INFORMATION CONTACT: Lemuel Dowdy or Edwin Rodriguez, Attorneys, Federal Trade Commission, Division of Enforcement, Bureau of Consumer Protection, Sixth Street and Pennsylvania Avenue, NW, Washington, DC 20580, (202) 326–2981 or (202) 326–3147.

SUPPLEMENTARY INFORMATION:

Statement of Basis and Purpose

I. Background

The Trade Regulation Rule concerning Misbranding and Deception as to Leather Content of Waist Belts, 16 CFR Part 405, was promulgated on June 27, 1964, to remedy deceptive practices involving misrepresentations about the leather content of waist belts that are not offered for sale as part of a garment. The Rule prohibits representations that belts are made from the hide or skin of an animal when such is not the case, or that belts are made of a specified animal hide or skin when such is not the case. In addition, the Rule requires that belts made of split leather, and ground, pulverized or shredded leather bear a label or tag disclosing the kind of leather of which the belt is composed. The Rule also requires that non-leather belts having the appearance of leather bear a tag or label disclosing their composition or disclosing that they are not leather.

As part of its continuing review of its trade regulation rules to determine their current effectiveness and impact, the Commission published a Federal Register notice on March 27, 1995, 60 FR 15725, asking questions about the benefits and burdens of the Rule to consumers and industry. On the same date, the Commission published a Federal Register notice, 60 FR 15724, soliciting comment on its Industry Guides for luggage, shoes, and ladies' handbags.[1] After reviewing the comments received in response to these two notices, on September 18, 1995, the Commission published an Advance Notice of Proposed Rulemaking (ANPR) seeking comment on its proposal to repeal the Leather Belt Rule, 60 FR 48070. On the same day, the Commission published two other notices, one announcing the rescission of the three separate guides for luggage, shoes, and handbags, 60 FR 48027, and the second seeking comment on one set of proposed, consolidated guidelines, entitled the Guides for Select Leather and Imitation Leather Products, 60 FR 48056. The ANPR proposing the repeal of the Rule stated that, because the proposed Guides would cover belts, the Commission had tentatively determined that a separate Leather Belt Rule was no longer necessary.

The Commission received two comments in response to the ANPR.[2] One of these comments supported retention of the existing Leather Belt Rule because the commenter believed that rescission of the Rule may decrease the accuracy of the labeling of waist belts.[3] The other comment supported consolidating the Rule into one set of guidelines governing disclosures of the content of leather products.[4]

After reviewing the comments submitted, on March 5, 1996, the Commission published a Notice of Proposed Rulemaking (NPR), 61 FR 8499, initiating a rulemaking proceeding to consider whether the Leather Belt Rule should be repealed or remain in effect. The Commission stated it would hold a public hearing for the presentation of testimony, if there was interest. No one requested that the Commission hold a hearing. In response to the NPR, the Commission received one comment, which expressed no objection to the repeal of the Leather Belt Rule.[5]

II. Basis for Repeal of Rule

The Commission has decided to repeal the Leather Belt Rule for the reasons discussed in the NPR. In sum, the Commission has determined that the benefits of the Rule are retained through the inclusion of belts in the proposed Guides for Select Leather and Imitation Leather Products. While repealing the Rule would eliminate the Commission's ability to obtain civil penalties for any future misrepresentations of the leather content of belts, the Commission has determined that this action would not seriously jeopardize the Commission's ability to act effectively to prevent the mislabeling of leather belts. Any significant problems that might arise could be addressed on a case-by-case basis, administratively under Section 5 of the FTC Act, 15 U.S.C. 45, or through enforcement actions under Section 13(b), 15 U.S.C. 53(b), in federal district court. Prosecuting serious or knowing misrepresentations in district court allows the Commission to seek injunctive relief as well as equitable

[1] See Guides for the Luggage and Related Products Industry, 16 CFR Part 24; Guides for Shoe Content Labeling and Advertising, 16 CFR Part 231; and Guides for the Ladies' Handbag Industry, 16 CFR Part 247.

[2] The comments were submitted by Larry E. Gundersen (1), a consumer, and Humphreys Inc. (2), a manufacturer of leather belts.

[3] Gundersen (1).

[4] Humphreys Inc. (2).

[5] This comment was submitted by Luggage and Leather Goods Manufacturers of America, Inc. (LLGMA). The comment also expressed no objection to the inclusion of belts in the Guides for Select Leather and Imitation Leather Products and stated that LLGMA would publish the Guides in its magazine when they are adopted.

remedies, such as redress or disgorgement. Any necessary administrative or district court actions would also serve to provide industry members with additional guidance about what practices are unfair or deceptive.

In addition, the Commission has concluded that including belts in the proposed Guides and eliminating the Rule reduces duplication and streamlines the regulatory scheme, thereby responding to President Clinton's National Regulatory Reinvention Initiative, which, among other things, urges agencies to eliminate obsolete or unnecessary regulations. Accordingly, the Commission has determined that a separate Leather Belt Rule is not necessary and hereby announces the repeal of the Rule.

III. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601–11, requires an analysis of the anticipated impact of the repeal of the Rule on small businesses. The reasons for repeal of the Rule have been explained in this Notice. Repeal of the Rule would appear to have little or no effect on small business. The Commission did not receive any information in response to the ANPR and NPR that supports a different conclusion. Moreover, the commission is not aware of any existing federal laws and regulations that would conflict with repeal of the Rule. For these reasons, the Commission certifies, pursuant to Section 605 of the RFA, 5 U.S.C. 605, that this action will not have a significant economic impact on a substantial number of small entities.

IV. Paperwork Reduction Act

The Leather Belt Rule imposes third-party disclosure requirements that constitute ''information collection requirements'' under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. Accordingly, repeal of the Rule would eliminate any burdens on the public imposed by these disclosure requirements.

List of Subjects in 16 CFR Part 405

Advertising, Clothing, Labeling, Leather and leather products industry, Trade practices.

PART 405—[REMOVED]

The Commission, under authority of Section 18 of the Federal Trade Commission Act, 15 U.S.C. 57a, amends chapter 1 of title 16 of the Code of Federal Regulations by removing Part 405.

Authority: 15 U.S.C. 41–58.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 96–12817 Filed 5–21–96; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF DEFENSE

Defense Finance and Accounting Service

32 CFR Part 324

[DFAS Reg. 5400.11–R]

DFAS Privacy Act Program

AGENCY: Defense Finance and Accounting Service, DOD.

ACTION: Final rule.

SUMMARY: This rule establishes the Defense Finance and Accounting Service Privacy Act Program. The Defense Finance and Accounting Service (DFAS) was established to provide finance and accounting services for the DoD Components and other Federal activities, as designated by the Comptroller, DoD.

The Defense Finance and Accounting Service was activated on January 15, 1991, to improve the overall effectiveness of DoD financial management through the consolidation, standardization and integration of finance and accounting systems, procedures and operations. DFAS is also responsible for identifying and implementing finance and accounting requirements, systems and functions for appropriated and non-appropriated funds, as well as working capital, revolving funds and trust fund activities--including security assistance.

EFFECTIVE DATE: May 1, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. Genevieve Turney (703) 607–5165 or DSN 327–5165.

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

Regulatory Flexibility Act of 1980. The Director, Administration and Management, Office of the Secretary of Defense certifies that this Privacy Act rule for the Department of Defense does not have significant economic impact on a substantial number of small entities because it is concerned only with the administration of Privacy Act systems of records within the Department of Defense.

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

This rule establishes the Defense Finance and Accounting Service (DFAS) Privacy Act Program. DFAS was established to provide finance and accounting services for the DoD Components and other Federal activities, as designated by the Comptroller, DoD. The proposed rule was previously published on March 1, 1996, at 61 FR 8003. No comments were received resulting in any contrary determinations, therefore, DFAS is adopting the rule as published.

List of subjects in 32 CFR part 324

Privacy.

Accordingly, 32 CFR part 324 is added to read as follows:

PART 324–DFAS PRIVACY ACT PROGRAM

Subpart A–General Information

Subpart B–Systems of Records

Subpart C–Individual Access to Records

Appendix B to part 324 – System of Records Notice

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

Subpart A – General information

§ 324.1 Issuance and purpose.

The Defense Finance and Accounting Service fully implements the policy and procedures of the Privacy Act and the DoD 5400.11-R [1], 'Department of Defense Privacy Program' (see 32 CFR part 310). This regulation supplements the DoD Privacy Program only to establish policy for the Defense Finance and Accounting Service (DFAS) and provide DFAS unique procedures.

§ 324.2 Applicability and scope.

This regulation applies to all DFAS, Headquarters, DFAS Centers, the Financial System Organization (FSO), and other organizational components. It applies to contractor personnel who have entered a contractual agreement with DFAS. Prospective contractors will be advised of their responsibilities under the Privacy Act Program.

§ 324.3 Policy.

DFAS personnel will comply with the Privacy Act of 1974, the DoD Privacy Program and the DFAS Privacy Act Program. Strict adherence is required to ensure uniformity in the implementation of the DFAS Privacy Act Program and to create conditions that will foster public trust. Personal information maintained by DFAS organizational elements will be safeguarded. Information will be made available to the individual to whom it pertains to the maximum extent practicable. Specific DFAS policy is provided for Privacy Act training, responsibilities, reporting procedures and implementation requirements. DFAS Components will not define policy for the Privacy Act Program.

§ 324.4 Responsibilities.

(a) *Director, DFAS.*

(1) Ensures the DFAS Privacy Act Program is implemented at all DFAS locations.

(2) The Director, DFAS, will be the Final Denial Appellate Authority. This authority may be delegated to the Director for Resource Management.

(3) Appoints the Director for External Affairs and Administrative Support, or a designated replacement, as the DFAS Headquarters Privacy Act Officer.

(b) *DFAS Headquarters General Counsel.*

(1) Ensures uniformity is maintained in legal rulings and interpretation of the Privacy Act.

(2) Consults with DoD General Counsel on final denials that are inconsistent with other final decisions within DoD. Responsible to raise new legal issues of potential significance to other Government agencies.

(3) Provides advice and assistance to the DFAS Director, Center Directors, and the FSO as required, in the discharge of their responsibilities pertaining to the Privacy Act.

(4) Acts as the DFAS focal point on Privacy Act litigation with the Department of Justice.

(5) Reviews Headquarters' denials of initial requests and appeals.

(c) *DFAS Center Directors.*

(1) Ensures that all DFAS Center personnel, all personnel at subordinate levels, and contractor personnel working with personal data comply with the DFAS Privacy Act Program.

(2) Serves as the DFAS Center Initial Denial Authority for requests made as a result of denying release of requested information at locations within DFAS Center authority. Initial denial authority may not be redelegated. Initial denial appeals will be forwarded to the appropriate DFAS Center marked to the attention of the DFAS Center Initial Denial Authority.

(d) *Director, FSO.*

(1) Ensures that FSO and subordinate personnel and contractors working with personal data comply with the Privacy Act Program.

(2) Serves as the FSO Initial Denial Authority for requests made as a result of denying release of requested information at locations within FSO authority. FSO Initial denial authority may not be redelegated.

(3) Appoints a Privacy Act Officer for the FSO and each Financial System Activity (FSA).

(e) *DFAS Headquarters Privacy Act Officer.*

(1) Establishes, issues and updates policy for the DFAS Privacy Act Program and monitors compliance. Serves as the DFAS single point of contact on all matters concerning Privacy Act policy. Resolves any conflicts resulting from implementation of the DFAS Privacy Act Program policy.

(2) Serves as the DFAS single point of contact with the Department of Defense Privacy Office. This duty may be delegated.

(3) Ensures that the collection, maintenance, use and/or dissemination of records of identifiable personal information is for a necessary and lawful purpose, that the information is current and accurate for the intended use and that adequate security safeguards are provided.

(4) Monitors system notices for agency systems of records. Ensures that new, amended, or altered notices are promptly prepared and published. Reviews all notices submitted by the DFAS Privacy Act Officers for correctness and submits same to the Department of Defense Privacy Office for publication in the Federal Register. Maintains and publishes a listing of DFAS Privacy Act system notices.

(5) Establishes DFAS Privacy Act reporting requirement due dates. Compiles all Agency reports and submits the completed annual report to the Defense Privacy Office. DFAS reporting requirements are provided in Appendix A to this part.

(6) Conducts annual Privacy Act Program training for DFAS Headquarters (HQ) personnel. Ensures that subordinate DFAS Center and FSO Privacy Act Officers fulfill annual training requirements.

(f) *FSO and Financial System Activities (FSAs) Legal Support.* The FSO and subordinate FSA organizational elements will be supported by the appropriate DFAS-HQ or DFAS Center General Counsel office.

(g) *DFAS Center(s) Assistant General Counsel.*

(1) Ensures uniformity is maintained in legal rulings and interpretation of the Privacy Act and this regulation. Consults with the DFAS-HQ General Counsel as required.

(2) Provides advice and assistance to the DFAS Center Director and the FSA in the discharge of his/her responsibilities pertaining to the Privacy Act.

(3) Coordinates on DFAS Center and the FSA denials of initial requests.

(h) *DFAS Center Privacy Act Officer.*

(1) Implements and administers the DFAS Privacy Act Program for all personnel, to include contractor personnel, within the Center, Operating Locations (OpLocs) and Defense Accounting Offices (DAOs).

(2) Ensures that the collection, maintenance, use, or dissemination of records of identifiable personal information is in a manner that assures that such action is for a necessary and lawful purpose; the information is timely and accurate for its intended use; and that adequate safeguards are provided to prevent misuse of such information. Advises the Program Manager that systems notices must be published in the Federal Register prior to collecting or maintenance of the information. Submits system notices to the DFAS-HQ Privacy Act Officer for

[1] Copies may be obtained at cost from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

review and subsequent submission to the Department of Defense Privacy Office.

(3) Administratively controls and processes Privacy Act requests. Ensures that the provisions of this regulation and the DoD Privacy Act Program are followed in processing requests for records. Ensures all Privacy Act requests are promptly reviewed. Coordinates the reply with other organizational elements as required.

(4) Prepares denials and partial denials for the Center Director's signature and obtain required coordination with the assistant General Counsel. Responses will include written justification citing a specific exemption or exemptions.

(5) Prepares input for the annual Privacy Act Report as required using the guidelines provided in Appendix A to this part.

(6) Conducts training on the DFAS Privacy Act Program for Center personnel.

(i) *FSO Privacy Act Officer.*

(1) Implements and administers the DFAS Privacy Act Program for all personnel, to include contractor personnel, within the FSO.

(2) Ensures that the collection, maintenance, use, or dissemination of records of identifiable personal information is in a manner that assures that such action is for a necessary and lawful purpose; the information is timely and accurate for its intended use; and that adequate safeguards are provided to prevent misuse of such information. Advises the Program Manager that systems notices must be published in the Federal Register prior to collecting or maintenance of the information. Submits system notices to the DFAS-HQ Privacy Act Officer for review and subsequent submission to the Department of Defense Privacy Office.

(3) Administratively controls and processes Privacy Act requests. Ensures that the provisions of this regulation and the DoD Privacy Act Program are followed in processing requests for records. Ensure all Privacy Act requests are promptly reviewed. Coordinate the reply with other organizational elements as required.

(4) Prepares denials and partial denials for signature by the Director, FSO and obtains required coordination with the assistant General Counsel. Responses will include written justification citing a specific exemption or exemptions.

(5) Prepares input for the annual Privacy Act Report (RCS: DD DA&M(A)1379) as required using the guidelines provided in Appendix A to this part.

(6) Conducts training on the DFAS Privacy Act Program for FSO personnel.

(j) *DFAS employees.*

(1) Will not disclose any personal information contained in any system of records, except as authorized by this regulation.

(2) Will not maintain any official files which are retrieved by name or other personal identifier without first ensuring that a system notice has been published in the Federal Register.

(3) Reports any disclosures of personal information from a system of records or the maintenance of any system of records not authorized by this regulation to the appropriate Privacy Act Officer for action.

(k) *DFAS system managers (SM).*

(1) Ensures adequate safeguards have been established and are enforced to prevent the misuse, unauthorized disclosure, alteration, or destruction of personal information contained in system records.

(2) Ensures that all personnel who have access to the system of records or are engaged in developing or supervising procedures for handling records are totally aware of their responsibilities to protect personal information established by the DFAS Privacy Act Program.

(3) Evaluates each new proposed system of records during the planning stage. The following factors should be considered:

(i) Relationship of data to be collected and retained to the purpose for which the system is maintained. All information must be relevant to the purpose.

(ii) The impact on the purpose or mission if categories of information are not collected. All data fields must be necessary to accomplish a lawful purpose or mission.

(iii) Whether informational needs can be met without using personal identifiers.

(iv) The disposition schedule for information.

(v) The method of disposal.

(vi) Cost of maintaining the information.

(4) Complies with the publication requirements of DoD 5400.11-R, 'Department of Defense Privacy Program' (see 32 CFR part 310). Submits final publication requirements to the appropriate DFAS Privacy Act Officer.

(l) *DFAS program manager(s).* Reviews system alterations or amendments to evaluate for relevancy and necessity. Reviews will be conducted annually and reports prepared outlining the results and corrective actions taken to resolve problems. Reports will be forwarded to the appropriate Privacy Act Officer.

(m) *Federal government contractors.* When a DFAS organizational element contracts to accomplish an agency function and performance of the contract requires the operation of a system of records or a portion thereof, DoD 5400.11-R, 'Department of Defense Privacy Program' (see 32 CFR part 310) and this part apply. For purposes of criminal penalties, the contractor and its employees shall be considered employees of DFAS during the performance of the contract.

(1) *Contracting Involving Operation of Systems of Records.* Consistent with Federal Acquisition Regulation (FAR) [2] and the DoD Supplement to the Federal Acquisition Regulation (DFAR) [3], Part 224.1, contracts involving the operation of a system of records or portion thereof shall specifically identify the record system, the work to be performed and shall include in the solicitations and resulting contract such terms specifically prescribed by the FAR and DFAR.

(2) *Contracting.* For contracting subject to this part, the Agency shall:

(i) Informs prospective contractors of their responsibilities under the DFAS Privacy Act Program.

(ii) Establishes an internal system for reviewing contractor performance to ensure compliance with the DFAS Privacy Act Program.

(3) *Exceptions.* This rule does not apply to contractor records that are:

(i) Established and maintained solely to assist the contractor in making internal contractor management decisions, such as records maintained by the contractor for use in managing the contract.

(ii) Maintained as internal contractor employee records, even when used in conjunction with providing goods or services to the agency.

(4) *Contracting procedures.* The Defense Acquisition Regulatory Council is responsible for developing the specific policies and procedures for soliciting, awarding, and administering contracts.

(5) *Disclosing records to contractors.* Disclosing records to a contractor for use in performing a DFAS contract is considered a disclosure within DFAS. The contractor is considered the agent of DFAS when receiving and maintaining the records for the agency.

[2] Copies may be obtained at cost from the Superintendent of Documents, P.O. Box 37195, Pittsburgh, PA 15250–7954.

[3] See footnote 2 to § 324.4(m)(1)

Subpart B – Systems of Records

§ 324.5 General information.

(a) The provisions of DoD 5400.11-R, 'Department of Defense Privacy Program' (see 32 CFR part 310) apply to all DFAS systems of records. DFAS Privacy Act Program Procedural Rules, DFAS Exemption Rules and System of Record Notices are the three types of documents relating to the Privacy Act Program that must be published in the Federal Register.

(b) A system of records used to retrieve records by a name or some other personal identifier of an individual must be under DFAS control for consideration under this regulation. DFAS will maintain only those Systems of Records that have been described through notices published in the Federal Register.

(1) *First amendment guarantee.* No records will be maintained that describe how individuals exercise their rights guaranteed by the First Amendment unless maintenance of the record is expressly authorized by Statute, the individual or for an authorized law enforcement purpose.

(2) *Conflicts.* In case of conflict, the provisions of DoD 5400.11-R take precedence over this supplement or any DFAS directive or procedure concerning the collection, maintenance, use or disclosure of information from individual records.

(3) *Record system notices.* Record system notices are published in the Federal Register as notices and are not subject to the rule making procedures. The public must be given 30 days to comment on any proposed routine uses prior to implementing the system of record.

(4) *Amendments.* Amendments to system notices are submitted in the same manner as the original notices.

§ 324.6 Procedural rules.

DFAS procedural rules (regulations having a substantial and direct impact on the public) must be published in the Federal Register first as a proposed rule to allow for public comment and then as a final rule. Procedural rules will be submitted through the appropriate DFAS Privacy Act Officer to the Department of Defense Privacy Office. Appendix B to this part provides the correct format. Guidance may be obtained from the DFAS-HQ and DFAS Center Records Managers on the preparation of procedural rules for publication.

§ 324.7 Exemption rules.

(a) *Submitting proposed exemption rules.* Each proposed exemption rule submitted for publication in the Federal Register must contain: The agency identification and name of the record system for which an exemption will be established; The subsection(s) of the Privacy Act which grants the agency authority to claim an exemption for the system; The particular subsection(s) of the Privacy Act from which the system will be exempt; and the reasons why an exemption from the particular subsection identified in the preceding subparagraph is being claimed. No exemption to all provisions of the Privacy Act for any System of records will be granted. Only the Director, DFAS may make a determination that an exemption should be established for a system of record.

(b) *Submitting exemption rules for publication.* Exemption rules must be published in the Federal Register first as proposed rules to allow for public comment, then as final rules. No system of records shall be exempt from any provision of the Privacy Act until the exemption rule has been published in the Federal Register as a final rule. The DFAS Privacy Act Officer will submit proposed exemption rules, in proper format, to the Defense Privacy Office, for review and submission to the Federal Register for publication. Amendments to exemption rules are submitted in the same manner as the original exemption rules.

(c) *Exemption for classified records.* Any record in a system of records maintained by the Defense Finance and Accounting Service which falls within the provisions of 5 U.S.C. 552a(k)(1) may be exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (d), (e)(1), (e)(4)(G)-(e)(4)(I) and (f) to the extent that a record system contains any record properly classified under Executive Order 12589 and that the record is required to be kept classified in the interest of national defense or foreign policy. This specific exemption rule, claimed by the Defense Finance and Accounting Service under authority of 5 U.S.C. 552a(k)(1), is applicable to all systems of records maintained, including those individually designated for an exemption herein as well as those not otherwise specifically designated for an exemption, which may contain isolated items of properly classified information

(1) *General exemptions.* (Reserved)

(2) *Specific exemptions.* (Reserved)

Subpart C – Individual Access to Records

§ 324.8 Right of access.

The provisions of DoD 5400.11-R, 'Department of Defense Privacy Program' (see 32 CFR part 310) apply to all DFAS personnel about whom records are maintained in systems of records. All information that can be released consistent with applicable laws and regulations should be made available to the subject of record.

§ 324.9 Notification of record's existence.

All DFAS Privacy Act Officers shall establish procedures for notifying an individual, in response to a request, if the system of records contains a record pertaining to him/her.

§ 324.10 Individual requests for access.

Individuals shall address requests for access to records to the appropriate Privacy Act Officer by mail or in person. Requests for access should be acknowledged within 10 working days after receipt and provided access within 30 working days. Every effort will be made to provide access rapidly; however, records cannot usually be made available for review on the day of request. Requests must provide information needed to locate and identify the record, such as individual identifiers required by a particular system, to include the requester's full name and social security number.

§ 324.11 Denials.

Only a designated denial authority may deny access. The denial must be in writing.

§ 324.12 Granting individual access to records.

(a) The individual should be granted access to the original record (or exact copy) without any changes or deletions. A record that has been amended is considered the original.

(b) The DFAS component that maintains control of the records will provide an area where the records can be reviewed. The hours for review will be set by each DFAS location.

(c) The custodian will require presentation of identification prior to providing access to records. Acceptable identification forms include military or government civilian identification cards, driver's license, or other similar photo identification documents.

(d) Individuals may be accompanied by a person of their own choosing when reviewing the record; however, the custodian will not discuss the record in the presence of the third person without written authorization.

(e) On request, copies of the record will be provided at a cost of $.15 per page. Fees will not be assessed if the cost is less that $30.00. Individuals requesting copies of their official personnel records are entitled to one

free copy and then a charge will be assessed for additional copies.

§ 324.13 Access to medical and psychological records.

Individual access to medical and psychological records should be provided, even if the individual is a minor, unless it is determined that access could have an adverse effect on the mental or physical health of the individual. In this instance, the individual will be asked to provide the name of a personal physician, and the record will be provided to that physician in accordance with guidance in Department of Defense 5400.11-R, 'Department of Defense Privacy Program' (see 32 CFR part 310).

§ 324.14 Relationship between the Privacy Act and the Freedom of Information Act.

Access requests that specifically state or reasonably imply that they are made under FOIA, are processed pursuant to the DFAS Freedom of Information Act Regulation. Access requests that specifically state or reasonably imply that they are made under the PA are processed pursuant to this regulation. Access requests that cite both the FOIA and the PA are processed under the Act that provides the greater degree of access. Individual access should not be denied to records otherwise releasable under the PA or the FOIA solely because the request does not cite the appropriate statute. The requester should be informed which Act was used in granting or denying access.

Appendix A to part 324–DFAS Reporting Requirements

By February 1, of each calendar year, DFAS Centers and Financial Systems Organizations will provide the DFAS Headquarters Privacy Act Officer with the following information:

1. Total Number of Requests for Access:

a. Number granted in whole:

b. Number granted in part:

c. Number wholly denied:

d. Number for which no record was found:

2. Total Number of Requests to Amend Records in the System:

a. Number granted in whole:

b. Number granted in part:

c. Number wholly denied:

3. The results of reviews undertaken in response to paragraph 3a of Appendix I to OMB Circular A-130 [4].

[4] Copies available from the Office of Personnel Management, 1900 E. Street, Washington, DC 20415.

Appendix B to part 324–System of Records Notice

The following data captions are required for each system of records notice published in the Federal Register. An explanation for each caption is provided.

1. *System identifier.* The system identifier must appear in all system notices. It is limited to 21 positions, including agency code, file number, symbols, punctuation, and spaces.

2. *Security classification.* Self explanatory. (DoD does not publish this caption. However, each agency is responsible for maintaining the information.)

3. *System name.* The system name must indicate the general nature of the system of records and, if possible, the general category of individuals to whom it pertains. Acronyms should be established parenthetically following the first use of the name (e.g., 'Field Audit Office Management Information System (FMIS)'). Acronyms shall not be used unless preceded by such an explanation. The system name may not exceed 55 character positions, including punctuation and spaces.

4. *Security classification.* This category is not published in the Federal Register but is required to be kept by the Headquarters Privacy Act Officer.

5. *System location.* a. For a system maintained in a single location, provide the exact office name, organizational identity, routing symbol, and full mailing address. Do not use acronyms in the location address.

b. For a geographically or organizationally decentralized system, describe each level of organization or element that maintains a portion of the system of records.

c. For an automated data system with a central computer facility and input or output terminals at geographically separate locations, list each location by category.

d. If multiple locations are identified by type of organization, the system location may indicate that official mailing addresses are published as an appendix to the agency's compilation of systems of records notices in the Federal Register. If no address directory is used, or if the addresses in the directory are incomplete, the address of each location where a portion of the record system is maintained must appear under the 'system location' caption.

e. Classified addresses shall not be listed but the fact that they are classified shall be indicated.

f. The U.S. Postal Service two-letter state abbreviation and the nine-digit zip code shall be used for all domestic addresses.

6. *Categories of individuals covered by the system.* Use clear, non technical terms which show the specific categories of individuals to whom records in the system pertain. Broad descriptions such as 'all DFAS personnel' or 'all employees' should be avoided unless the term actually reflects the category of individuals involved.

7. *Categories of records in the system.* Use clear, non technical terms to describe the types of records maintained in the system. The description of documents should be limited to those actually retained in the system of records. Source documents used only to collect data and then destroyed should not be described.

8. *Authority for maintenance of the system.* The system of records must be authorized by a Federal law or Executive Order of the President, and the specific provision must be cited. When citing federal laws, include the popular names (e.g., '5 U.S.C. 552a, The Privacy Act of 1974') and for Executive Orders, the official titles (e.g., 'Executive Order 9397, Numbering System for Federal Accounts Relating to Individual Persons').

9. *Purpose(s).* The specific purpose(s) for which the system of records was created and maintained; that is, the uses of the records within DFAS and the rest of the Department of Defense should be listed.

10. *Routine uses of records maintained in the system, including categories of users and purposes of the uses.* All disclosures of the records outside DoD, including the recipient of the disclosed information and the uses the recipient will make of it should be listed. If possible, the specific activity or element to which the record may be disclosed (e.g., 'to the Department of Veterans Affairs, Office of Disability Benefits') should be listed. General statements such as 'to other Federal Agencies as required' or 'to any other appropriate Federal Agency' should not be used. The blanket routine uses, published at the beginning of the agency's compilation, applies to all system notices, unless the individual system notice states otherwise.

11. *Disclosure to consumer reporting agencies:* This entry is optional for certain debt collection systems of records.

12. *Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system.* This section is divided into four parts.

13. *Storage:* The method(s) used to store the information in the system (e.g., 'automated, maintained in computers

and computer output products' or 'manual, maintained in paper files' or 'hybrid, maintained in paper files and in computers') should be stated. Storage does not refer to the container or facility in which the records are kept.

14. *Retrievability:* How records are retrieved from the system (e.g., 'by name,' 'by SSN,' or 'by name and SSN') should be indicated.

15. *Safeguards:* The categories of agency personnel who use the records and those responsible for protecting the records from unauthorized access should be stated. Generally the methods used to protect the records, such as safes, vaults, locked cabinets or rooms, guards, visitor registers, personnel screening, or computer 'fail-safe' systems software should be identified. Safeguards should not be described in such detail as to compromise system security.

16. *Retention and disposal:* Describe how long records are maintained. When appropriate, the length of time records are maintained by the agency in an active status, when they are transferred to a Federal Records Center, how long they are kept at the Federal Records Center, and when they are transferred to the National Archives or destroyed should be stated. If records eventually are destroyed, the method of destruction (e.g., shredding, burning, pulping, etc.) should be stated. If the agency rule is cited, the applicable disposition schedule shall also be identified.

17. *System manager(s) and address.* The title (not the name) and address of the official or officials responsible for managing the system of records should be listed. If the title of the specific official is unknown, such as with a local system, the local director or office head as the system manager should be indicated. For geographically separated or organizationally decentralized activities with which individuals may correspond directly when exercising their rights, the position or title of each category of officials responsible for the system or portion thereof should be listed. Addresses that already are listed in the agency address directory or simply refer to the directory should not be included.

18. *Notification procedures.* (1) Notification procedures describe how an individual can determine if a record in the system pertains to him/her. If the record system has been exempted from the notification requirements of subsection (f)(l) or subsection (e)(4)(G) of the Privacy Act, it should be so stated. If the system has not been exempted, the notice must provide sufficient information to enable an individual to request notification of whether a record in the system pertains to him/her. Merely referring to a DFAS regulation is not sufficient. This section should also include the title (not the name) and address of the official (usually the Program Manager) to whom the request must be directed; any specific information the individual must provide in order for DFAS to respond to the request (e.g., name, SSN, date of birth, etc.); and any description of proof of identity for verification purposes required for personal visits by the requester.

19. *Record access procedures.* This section describes how an individual can review the record and obtain a copy of it. If the system has been exempted from access and publishing access procedures under subsections (d)(1) and (e)(4)(H), respectively, of the Privacy Act, it should be so indicated. If the system has not been exempted, describe the procedures an individual must follow in order to review the record and obtain a copy of it, including any requirements for identity verification. If appropriate, the individual may be referred to the system manager or another DFAS official who shall provide a detailed description of the access procedures. Any addresses already listed in the address directory should not be repeated.

20. *Contesting records procedures.* This section describes how an individual may challenge the denial of access or the contents of a record that pertains to him or her. If the system of record has been exempted from allowing amendments to records or publishing amendment procedures under subsections (d)(1) and (e)(4)(H), respectively, of the Privacy Act, it should be so stated. If the system has not been exempted, this caption describes the procedures an individual must follow in order to challenge the content of a record pertaining to him/her, or explain how he/she can obtain a copy of the procedures (e.g., by contacting the Program Manager or the appropriate DFAS Privacy Act Officer).

21. *Record source categories:* If the system has been exempted from publishing record source categories under subsection (e)(4)(I) of the Privacy Act, it should be so stated. If the system has not been exempted, this caption must describe where DFAS obtained the information maintained in the system. Describing the record sources in general terms is sufficient; specific individuals, organizations, or institutions need not be identified.

22. *Exemptions claimed for the system.* If no exemption has been established for the system, indicate 'None.' If an exemption has been established, state under which provision of the Privacy Act it is established (e.g., 'Portions of this system of records may be exempt under the provisions of 5 U.S.C. 552a(k)(2).')

Dated: May 15, 1996.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–12856 Filed 5–21–96; 8:45 am]

BILLING CODE 5000–04–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 50

[AD–FRL–5508–5]

RIN 2060–AA61

National Ambient Air Quality Standards for Sulfur Oxides (Sulfur Dioxide)—Final Decision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final decision.

SUMMARY: In accordance with sections 108 and 109 of the Clean Air Act (Act), EPA has reviewed and revised the air quality criteria upon which the existing national ambient air quality standards (NAAQS) for sulfur oxides are based. Based on that review, this document announces EPA's final decision under section 109(d)(1) that revisions of the NAAQS for sulfur oxides are not appropriate at this time, aside from several minor technical changes.

In lieu of the two alternatives to short-term NAAQS proposed on November 15, 1994, EPA will shortly propose revisions to 40 CFR part 51 to establish concern and intervention levels under section 303 of the Act and associated guidance to assist States in addressing short-term peaks of sulfur dioxide (SO_2). Final action will be taken on proposed changes to 40 CFR parts 53 and 58 when final action is taken on the 40 CFR part 51 proposal and associated guidance.

EFFECTIVE DATE: May 22, 1996.

ADDRESSES: A docket containing information relating to EPA's review of the SO_2 NAAQS (Docket No. A–84–25) is available for public inspection in the Air & Radiation Docket Information Center, U.S. Environmental Protection Agency, South Conference Center, Room M–1500, 401 M Street, SW, Washington, DC, telephone (202) 260–7548. The docket may be inspected between 8 a.m. and 5:30 p.m. on weekdays, and a reasonable fee may be charged for

copying. For the availability of related information, see **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Ms. Susan Lyon Stone, Air Quality Strategies and Standards Division (MD–15), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, telephone (919) 541-1146.

SUPPLEMENTARY INFORMATION:

Availability of Related Information

The *1982 revised criteria document,* Air Quality Criteria for Particulate Matter and Sulfur Oxides (three volumes, EPA–600/8–82–029af-cf, December 1982; Volume I, NTIS # PB–84–120401, $36.50 paper copy and $9.00 microfiche; Volume II, NTIS # PB–84–120419, $77.00 paper copy and $9.00 microfiche; Volume III, NTIS # PB–84–120427, $77.00 paper copy and $20.50 microfiche); the 1986 criteria document addendum, Second Addendum to Air Quality Criteria for Particulate Matter and Sulfur Oxides (1982): Assessment of Newly Available Health Effects Information (EPA/600/8–86–020–F, NTIS # PB–87–176574, $36.50 paper copy and $9.00 microfiche); the *1994 criteria document supplement,* Supplement to the Second Addendum (1986) to Air Quality Criteria for Particulate Matter and Sulfur Oxides (1982): Assessment of New Findings on Sulfur Dioxide Acute Exposure Health Effects in Asthmatic Individuals (1994) (EPA–600/FP–93/002); the *1982 staff paper,* Review of the National Ambient Air Quality Standards for Sulfur Oxides: Assessment of Scientific and Technical Information (EPA–450/5–82–007, November 1982; NTIS # PB–84–102920, $36.50 paper copy and $9.00 microfiche); the *1986 staff paper addendum,* Review of the National Ambient Air Quality Standards for Sulfur Oxides: Updated Assessment of Scientific and Technical Information (EPA–450/05–86–013, December 1986; NTIS # PB–87–200259, $19.50 paper copy and $9.00 microfiche) and the *1994 staff paper supplement,* Review of the National Ambient Air Quality Standards For Sulfur Oxides: Updated Assessment of Scientific and Technical Information, Supplement to the 1986 OAQPS staff paper addendum (1994) (EPA–452/R–94–013, September 1994; NTIS # PB–95–124160, $27.00 paper copy and $12.50 microfiche) are available from: U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, or call 1–800–553–NTIS. (Add $3.00 handling charge per order.) Other documents generated in connection with this standard review are also available in the EPA docket identified above.

Table of Contents

I. Background

A. Legislative Requirements Affecting This Decision

1. Primary Standards

Two sections of the Act govern the establishment and revision of NAAQS. Section 108 (42 U.S.C. 7408) directs the Administrator to identify pollutants which ''may reasonably be anticipated to endanger public health or welfare'' and to issue air quality criteria for them. These air quality criteria are to ''reflect the latest scientific knowledge useful in indicating the kind and extent of all identifiable effects on public health or welfare which may be expected from the presence of (a) pollutant in the ambient air * * *''

Section 109 (42 U.S.C.7409) directs the Administrator to propose and promulgate ''primary'' NAAQS for pollutants identified under section 108. Section 109(b)(1) defines a primary standard as one ''the attainment and maintenance of which, in the judgment of the Administrator, based on the criteria and allowing an adequate margin of safety, [is] requisite to protect the public health.'' For a discussion of the margin of safety requirement, see the November 15, 1994 proposed rule (59 FR 58958).

Section 109(d) of the Act (42 U.S.C. 7409(d)) requires periodic review and, if appropriate, revision of existing criteria and standards. The process by which EPA has reviewed the criteria and standards for sulfur oxides under section 109(d) is described in a later section of this notice.

2. Related Control Requirements

States are primarily responsible for ensuring attainment and maintenance of ambient air quality standards once the EPA has established them. Under section 110 (42 U.S.C. 7410) and part D of title I of the Act (42 U.S.C. 7501–7515), States are to submit, for EPA approval, State implementation plans (SIP's) that provide for the attainment and maintenance of such standards through control programs directed to sources of the pollutants involved. The States, in conjunction with EPA, also administer the prevention of significant deterioration program (42 U.S.C. 7470–7479) for these pollutants. In addition, Federal programs provide for nationwide reductions in emissions of these and other air pollutants through the Federal motor vehicle control program under title II of the Act (42 U.S.C. 7521–7574), which involves controls for automobile, truck, bus, motorcycle, and aircraft emissions; new source performance standards under section 111 (42 U.S.C. 7411); national emission standards for hazardous air pollutants under section 112 (42 U.S.C. 7412); and title IV of the Act Amendments of 1990 (42 U.S.C. 7651–76510), which specifically provides for major reductions in SO_2 emissions.

B. Sulfur Oxides and Existing Standards for SO_2

The focus of this standard review is on the health effects of SO_2, alone and in combination with other pollutants. Other sulfur oxide (SO_x) vapors (e.g., sulfur trioxide, SO_3) are not commonly found in the atmosphere. Sulfur dioxide is a rapidly-diffusing reactive gas that is very soluble in water. It is emitted principally from combustion or processing of sulfur-containing fossil fuels and ores. At elevated concentrations, SO_2 can adversely affect human health.

Sulfur dioxide occurs in the atmosphere with a variety of particles and other gases and undergoes chemical and physical interactions with them, forming sulfates and other transformation products. Information on the effects of the principal atmospheric transformation products of SO_2 (i.e., sulfuric acid and sulfates) was

considered in the review of the particulate matter standards that culminated in revision of the standards on July 1, 1987 (52 FR 24634); it will be considered again in the next review of the particulate matter standards, the commencement of which was announced on April 12, 1994 (59 FR 17375).

On April 30, 1971, EPA promulgated primary and secondary NAAQS for sulfur oxides, measured as SO_2, under section 109 of the Act (36 FR 8186). The existing primary standards for SO_2 are 365 μg/m³ (0.14 ppm), averaged over a period of 24 hours and not to be exceeded more than once per year, and 80 μg/m³ (0.030 ppm) annual arithmetic mean. The secondary standard was set at 1300 μg/m³ (0.50 ppm) averaged over a period of 3 hours and not to be exceeded more than once per year. The scientific and technical bases for the current standards are contained in the original criteria document, Air Quality Criteria for Sulfur Oxides (DHEW, 1970). For a history of the effects of SO_2 regulations on trends in SO_2 emissions and ambient concentrations, see the November 15, 1994 proposed rule (59 FR 58958).

Annual average SO_2 levels range from less than 0.004 ppm in remote rural sites to over 0.03 ppm in the most polluted urban industrial areas. The highest short-term values are found in the vicinity (< 20 km) of major point sources. In the absence of adequate controls, maximum levels at such sites for 24-hour, 3-hour, and 1-hour averages can reach or exceed 0.4 ppm, 1.4 ppm, and 2.3 ppm, respectively. The origins, relevant concentrations and potential effects of SO_2 are discussed in greater detail in the revised criteria document (EPA, 1982a), in the staff paper (EPA, 1982b), in the criteria document addendum (EPA, 1986a), the staff paper addendum (EPA, 1986b), the criteria document supplement (EPA, 1994a), and the staff paper supplement (EPA, 1994b).

C. 1988 Proposal

Based on reviews of the original air quality criteria and standards for sulfur oxides, EPA published a proposed decision not to revise the existing primary and secondary standards on April 26, 1988 (53 FR 14926).[1] In reaching the provisional conclusion that the current standards provided adequate protection against the health and welfare effects associated with SO_2, EPA was mindful of uncertainties in the available evidence concerning the risk that elevated short-term (< 1-hour) SO_2 concentrations might pose to asthmatic individuals exercising in ambient air. The EPA specifically requested broad public comment on the alternative of revising the current standards and adding a new 1-hour primary standard of 0.4 ppm. The notice also announced that if a 1-hour primary standard were adopted, consideration would be given to replacing the current 3-hour secondary standard (1,300 μg/m³ (0.50 ppm)) with a 1-hour secondary standard set equal to the primary standard, and adopting an expected-exceedance form for all of the standards.[2]

In the same notice, EPA also proposed minor technical revisions to the standards, including restating the levels for the primary and secondary standards in terms of ppm rather than μg/m³, adding explicit rounding conventions, and specifying data completeness and handling conventions. In addition, EPA announced its intention to retain the block averaging convention for the 24-hour, annual, and 3-hour standards and proposed to eliminate any future questions in this regard by adding clarifying language to 40 CFR 50.4 and 50.5. Based on its assessment of the SO_2 health effects information, EPA also proposed to revise the significant harm levels for SO_2 and the associated example air pollution episode levels (40 CFR part 51). Finally, EPA proposed some minor modifications to the ambient air quality surveillance requirements (40 CFR part 58).

D. 1994 Reproposal

As a result of public comments on the 1988 proposal and other post-proposal developments, EPA published a second proposal regarding revision of the primary standards for sulfur oxides on November 15, 1994 (59 FR 58958).[3] The 1994 reproposal was based in part on supplements to the criteria document (EPA, 1994a) and staff paper (EPA, 1994b) that were prepared to take into account recent health studies. Drafts of these documents were made available for review by the public and by the Clean Air Scientific Advisory Committee (CASAC) of EPA's Science Advisory Board, which provided its advice and recommendations in a letter dated June 1, 1994 (reprinted as Appendix II to this preamble). These and other aspects of the administrative process leading to the 1994 reproposal are described more fully in the reproposal notice.

As in the 1988 proposal, EPA proposed to retain the existing 24-hour and annual standards. The EPA also solicited comment on three regulatory alternatives to further reduce the health risk posed by exposure to high 5-minute peaks of SO_2 if additional protection were judged to be necessary. The three alternatives included: 1) Revising the existing primary SO_2 NAAQS by adding a new 5-minute standard of 0.60 ppm SO_2, 1 expected exceedance; 2) establishing a new regulatory program under section 303 of the Act to supplement protection provided by the existing NAAQS, with a trigger level of 0.60 ppm SO_2, 1 expected exceedance; and 3) augmenting implementation of existing standards by focusing on those sources or source types likely to produce high 5-minute peak concentrations of SO_2.[4]

In the reproposal notice, EPA specifically requested public comment in several key areas. First, EPA requested the submittal of factual information on the frequency of occurrence of 5-minute peak SO_2 levels in the ambient air, as well as information on the source or source types and the nature of events that are most likely to give rise to such peak SO_2 levels. Second, EPA requested the submission of data that would allow better characterization of the asthmatic population at risk and the frequency that an asthmatic individual would likely be exposed to peak concentrations of 0.60 ppm SO_2 and above, while at elevated ventilation rates. Third, EPA requested that asthma specialists in the medical community submit their views on the medical significance of the reported SO_2 effects, and on whether a numerical value below or above 0.60 ppm SO_2 would be more appropriate to protect asthmatic individuals.

The technical changes to the SO_2 NAAQS that were first proposed in 1988, including formally adopting the block averaging convention, stating the standards in ppm rather than μg/m³, adopting explicit rounding and data completeness conventions and other technical changes, were reproposed in this notice. Comments on this reproposal were to be received by February 13, 1995.

On December 29, 1994 (59 FR 67255), EPA announced that a public hearing on the reproposal would be held on February 8, 1995, and that the public

[1] The proposal notice contains a detailed history of the process leading to the 1988 proposal.

[2] EPA also concluded that it was not appropriate at that time to propose a separate secondary SOx standard to provide increased protection against acidic deposition-related effects of SO_x.

[3] A final decision that revision of the secondary standard was not appropriate was signed on April 15, 1993 and published in the Federal Register on April 21, 1993 (58 FR 21351).

[4] In a subsequent notice, EPA solicited comment on proposed requirements for implementing each of the alternatives (59 FR 12492, March 7, 1995).

comment period was being extended to March 15, 1995. The public hearing was held at the U.S. Environmental Protection Agency's Environmental Research Center Auditorium in Research Triangle Park, NC.

On March 14, 1995 (60 FR 13663), the public comment period was extended again, to April 14, 1995, to allow additional time for commenters to review the proposed requirements for implementing the three regulatory alternatives (59 FR 12492, March 7, 1995) before submitting comments on the 1994 reproposal.

E. Rulemaking Docket

The EPA established a standard review docket (Docket No. A–79–28) for the sulfur oxides review in July 1979. The EPA also established a rulemaking docket (Docket No. A–84–25) for the 1988 proposal as required by section 307(d) of the Act. The standard review docket and a separate docket established for criteria document revision (Docket No. ECAO–CD–79–1) have been incorporated into the rulemaking docket.

II. Summary of Public Comments

There were 95 written comments received prior to the end of the comment period on April 14, 1995. An additional 10 written comments were received after the close of the comment period. Of the 105 submissions, 53 were provided by individual industrial companies or industrial associations, 16 by Federal, State and local government agencies, 7 by environmental and public interest groups, and 5 by interested individuals, including one neighborhood association. Comments also were received from physicians and other independent experts knowledgeable about the health effects described in the reproposal. Along with its written comments, one environmental group submitted videotaped testimony.

In addition, 14 persons presented testimony at the February 8, 1995 public hearing. The written text of the comments presented, as well as a transcript of the hearing, may be found in Docket No. A–84–25, Category VIII–F, located in the Air and Radiation Docket Information Center (see the Addresses section above).

A general summary of the public comments follows. Some of the most significant comments are addressed, explicitly or implicitly, in other sections of this preamble. A more detailed summary of the comments received and EPA's responses to them has been placed in Docket No. A–84–25, Category IX–C.

A. Current 24-hour and Annual Standards

Most commenters concurred with EPA's conclusion that the existing 24-hour and annual standards provide adequate protection against SO_2-induced health effects associated with those averaging periods.

B. Regulatory Alternatives To Address Short-term Peak SO_2 Exposures

Almost all commenters agreed on the basic nature of the health effects associated with short-term exposure to SO_2 in controlled human exposure studies; that is, that brief (5-minute) exposures to 0.5 to 1.0 ppm SO_2 caused a proportion of asthmatic subjects at elevated ventilation rates to develop measurable and statistically significant bronchoconstriction, producing a range of symptoms from barely perceptible to severe enough to cause cessation of activity and medication use. In contrast, the comments were sharply divided on whether the existing standards should be supplemented by one of the three regulatory alternatives identified in the 1994 reproposal.

In general, industry commenters and affiliated physicians argued that additional regulatory protection from health effects associated with exposure to short-term peaks of SO_2 was unnecessary. Two broad arguments were made for this position. First, these commenters typically argued that the health effects associated with 5-minute peaks in the range of 0.6 to 1.0 ppm SO_2 are not significant because the effects are transient, subsiding within 1 to 2 hours without medication, do not include a late-phase inflammatory response, can be avoided or ameliorated with medication, and are similar qualitatively and quantitatively to the kinds of effects that asthmatic individuals experience on an almost daily basis as a result of exposure to common stimuli. Second, these commenters argued that exposures to 5-minute peaks of SO_2 are currently rare and, with the advent of title IV reductions in SO_2 emissions, likely to become even rarer. In this regard, some commenters agreed with EPA's conclusion that the existing standards markedly limit the occurrence of short-term peaks of SO_2.

Conversely, environmental and public interest groups and affiliated physicians, citizens and physicians living in SO_2-impacted areas, and independent experts argued that health effects that cause cessation of activity and medication use are adverse health effects, even if transient and preventable or reversible with medication. Citizens and physicians living in SO_2-impacted areas also argued that asthmatic individuals living around industrial sources of SO_2 are repeatedly exposed to short-term peaks of SO_2, and that such repeated exposures affect their health adversely through exacerbation of their asthma and reduction in their quality of life. Some of these commenters disagreed with EPA's conclusion that the existing standards limit the occurrence of short-term peaks of SO_2.

In general, Federal, State and local government agencies focused on the same two broad issues as the other commenters (significance of the health effects and likelihood of exposure) as a basis for supporting or not supporting adoption of one of the three proposed regulatory alternatives to address short-term peaks of SO_2. In addition, most governmental agencies submitted comments on implementation of the alternatives and tended to favor one or another based on the anticipated efficiency and effectiveness of implementing them. Of the 11 State agencies that commented, four favored adopting either the proposed 5-minute NAAQS or the section 303 program. One State agency recommended that EPA not adopt any of the proposed alternatives at this time but continue to study the problem, adding that the proposed level of the standard, 0.60 ppm SO_2, might not be low enough to include an adequate margin of safety. Another State agency was not in favor of adopting any of the proposed regulatory alternatives because it already had adequate authority to eliminate short-term peaks of SO_2 in problem areas. The remaining five State agencies opposed adoption of any of the three proposed regulatory alternatives. Of the two local agencies that commented, one opposed any new regulations. The other did not comment on the need for new SO_2 regulations but provided 5-minute SO_2 data from the local SO_2 surveillance network and relevant information about the causes and temporal distribution of 5-minute peaks $\geq$0.60 ppm SO_2. Of the three Federal agencies that commented, all supported adoption of a 5-minute NAAQS or the section 303 program alternative.

III. Rationale for Final Decision

A. Current 24-hour and Annual Standards

In the 1994 reproposal, EPA proposed to determine that revisions to the 24-hour and annual standards were not appropriate. As in the 1988 proposal, EPA provisionally concluded that the current 24-hour and annual standards

were both necessary and adequate to protect public health against effects associated with those averaging periods. The EPA also provisionally concluded that retaining the current 24-hour and annual standards was consistent with the scientific data assessed in the criteria document and staff paper and their addenda, and with the advice and recommendations of the staff and CASAC (Appendix I).

Most comments on the 1994 reproposal focused on whether or not there was a need to adopt one of the regulatory alternatives to limit short-term peaks of SO_2. Virtually every commenter that mentioned the existing primary standards agreed with EPA's conclusion that these standards were necessary and adequate to protect the public health against effects associated with those averaging periods. No commenter argued that the concentrations of these standards should be changed.

After taking into account the public comments, the Administrator again concludes, based on the scientific data assessed in the criteria document and staff paper and their addenda, and consistent with the advice and recommendations of the staff and CASAC, that the 24-hour and annual standards provide adequate protection against the health effects associated with 24-hour and annual SO_2 concentrations. Accordingly, the Administrator concludes that revisions to the 24-hour and annual standards are not appropriate at this time. In reaching this decision, the Administrator notes that the health effects information on 24-hour and annual SO_2 exposures has remained largely unchanged since 1988. As newer information becomes available and is incorporated into new criteria documents, it will provide the basis for future reviews of the 24-hour and annual standards.

B. Short-Term Peak SO_2 Exposures

As reflected in the 1994 reproposal and in public comments on the reproposal, the question of whether revision of the existing NAAQS is appropriate to address risks that may be posed by short-term peaks of SO_2 depends upon two factors: (1) The nature and significance of the health effects per se, and (2) the number of people likely to be exposed under conditions likely to produce such effects. The next two sections address these factors in turn, and the Administrator's overall conclusions are discussed in section III.B.3.

1. Assessment of Health Effects Associated With Short-term SO_2 Exposures

This section focuses on the nature and significance of health effects that have been observed in controlled human exposure studies, putting aside temporarily, questions about the likelihood of such effects occurring under real-life conditions. Subsections a.–c. are adopted from the summary discussion in the 1994 reproposal of several important aspects of the health effects associated with short-term peak concentrations of SO_2. Additional references on these subjects are provided in the reproposal notice. Public comments on the most important and controversial aspects of the short-term SO_2 health effects are discussed in subsection d., with some indication of the Administrator's conclusions on particular issues. The last subsection contains the Administrator's overall conclusions regarding the significance of health effects associated with exposure to short-term peaks of SO_2.

a. *Sensitive Populations.* It is clear that healthy, nonasthmatic individuals are essentially unaffected by acute exposures to SO_2 at concentrations below 2 ppm, and that the population of concern for the effects of short-term SO_2 exposure consists of mild and moderate asthmatic children, adolescents and adults that are physically active outdoors. This is a subset of the approximately 10 million people or 4 percent of the population of the United States that are estimated to have asthma (NIH, 1991). The true prevalence may be as high as 7 to 10 percent of the population (Evans et al., 1987), because some individuals with mild asthma may be unaware that they have the disease and thus go unreported. The prevalence is higher among African-Americans, older (8- to 11-year-old) children, and urban residents (Schwartz et al., 1990).

b. Asthma. The Expert Panel Report from the National Asthma Education Program of the National Heart, Lung and Blood Institute (NIH, 1991) has defined asthma as ''a lung disease with the following characteristics: (1) airway obstruction that is reversible (but not completely so in some patients) either spontaneously or with treatment, (2) airway inflammation, and (3) increased airway responsiveness to a variety of stimuli.'' Common symptoms include cough, wheezing, shortness of breath, chest tightness, and sputum production. Asthma is characterized by an exaggerated bronchoconstrictor response to many physical challenges (e.g., cold or dry air, exercise) and chemical and pharmacologic agents (e.g., histamine or methacholine).

Daily variability in lung function measurements is a typical feature of asthma, with the poorest function (i.e., lowest forced expiratory volume in 1 second (FEV_1) and highest specific airway resistance (SR_{aw})) being experienced in the early morning hours and the best function (i.e., highest FEV_1 and lowest SR_{aw}) occurring in the mid-afternoon.

The degree of exercise tolerance varies with the severity of disease. Mild asthmatic individuals have good exercise tolerance but may not tolerate vigorous exercise such as prolonged running. Moderate asthmatic individuals have diminished exercise tolerance, and individuals with severe disease have very poor exercise tolerance that markedly limits physical activity. Many asthmatic individuals experience bronchoconstriction when exercising, even in clean air. This response, called exercise-induced bronchoconstriction, is made worse by cold, dry air. Exercise-induced bronchoconstriction is followed by a refractory period of several hours during which an asthmatic individual is less susceptible to bronchoconstriction (Edmunds et al., 1978). This refractory period may alter an asthmatic individual's responsiveness to SO_2 or other inhaled substances.

c. Short-term SO_2 Health Effects. The EPA's concern about the potential public health consequences of exposures to short-term peaks of SO_2 arose from the extensive literature involving brief (2- to 10-min) controlled exposures of persons with mild (and in some cases more moderate) asthma to concentrations of SO_2 in the range of 0.1 ppm to 2 ppm while at elevated ventilation rates. The major effect of SO_2 on sensitive asthmatic individuals is bronchoconstriction, usually evidenced in these studies by increased SR_{aw} or decreased FEV_1, and the occurrence of clinical symptoms such as wheezing, chest tightness, and shortness of breath. The proportion of asthmatic individuals who respond, the magnitude of the response and the occurrence of symptoms increase as SO_2 concentrations and ventilation rates increase. The health effects are relatively transient. Numerous studies have shown that lung function typically returns to normal for most subjects within an hour of exposure. No substantial ''late phase'' responses have been noted for SO_2, unlike the case for more specific stimuli (e.g., pollen, dust mites, or other allergens) in which ''late phase'' inflammatory responses often occur 4–8 hours after exposure and are

often much more severe and dangerous than earlier immediate responses.

The available data also indicate that most types of regularly administered asthma medications are not very effective in blocking the SO_2 response. The exception, however, is the most commonly used class of asthma medications, the β-sympathomimetic drugs (beta-agonist bronchodilator), which are usually highly effective in preventing the SO_2 response from developing, if taken shortly before exposure, or ameliorating the effect, if taken after symptoms develop.

In assessing the results from the controlled human exposure studies, it should be noted that the individuals who participate in such studies typically have mild allergic asthma and can go without medication altogether or can discontinue medication for brief periods of time if exposures are conducted outside their normal allergy season. In addition, the responses of African-American and Hispanic adolescents and young adults to short-term SO_2 exposures have not been studied systematically. Finally, subjects who participate in controlled exposure studies are also generally self-selected and this may introduce some bias. Thus, the extent to which the participants in the studies reflect the characteristics of the asthmatic population at large is not known. Nevertheless, the high degree of consistency among studies suggests that the subjects are generally representative of the population at risk or that any selection bias is consistently present across a diverse group of laboratories (EPA, 1994a).

The criteria document supplement (EPA, 1994a) contains a summary of the literature on the health effects associated with brief exposures to SO_2. Recent studies have provided useful information about the magnitude of responses in the range of 0.4 to 1.0 ppm SO_2, the range of interest identified in the 1988 proposal (53 FR 14948, April 26, 1988). Data from several of these recent large-scale chamber studies were reexamined in Appendix B of the criteria document supplement (EPA, 1994a) to provide a better understanding of the responses observed in more sensitive subjects. Forced expiratory volume in 1 second was used as a measure of lung function, in addition to specific airway resistance, and other endpoints examined included symptoms, alteration of workload, and medication usage occurring as a consequence of these exposures.

Table B–1 of the criteria document supplement (EPA, 1994a) summarizes the lung function changes in response to SO_2 concentrations in the range of 0.6–1.0 ppm from controlled human exposure studies. Because different studies used different measures of lung function (FEV_1 or SR_{aw}), and different concentrations of SO_2, the discussion that follows describes group mean changes first for the studies that used the measure SR_{aw}, then group mean changes for studies that used FEV_1, and then finally the individual responses.

The data indicate that, in terms of group mean changes, total SR_{aw} changes[5] were approximately twice as great at 0.6 ppm and above as at 0.5 ppm and below. The differences were even more pronounced when the changes in SR_{aw} due to SO_2 alone (i.e., after correction for the effects of exercise) were considered.

For FEV_1, the differences in responses between 0.4 ppm and 0.6 ppm SO_2 were not as pronounced. At 0.6 ppm SO_2, group mean decreases in total FEV_1 of approximately 20 percent were observed in the mild and moderate asthmatics studied. The changes in FEV_1 due to SO_2 alone resulted in decreases in FEV_1 of approximately 15 percent (EPA, 1994a, Table B–1).

In addition, at 0.6 ppm SO_2, 25 percent or more of the subjects had pronounced individual responses (either a 200 percent or greater increase in SR_{aw} or a 20 percent or greater decrease in FEV_1) due to SO_2 alone (total changes in lung function for these individuals would be expected to be even greater). In contrast, at ≤0.5 ppm SO_2, these more pronounced individual responses were less frequent, occurring in fewer than 25 percent of the subjects for both measures of lung function for all but one group studied (EPA, 1994a, p. B–2).

While not examined in as much detail as lung function, other indicators of severity also tend to increase with increasing SO_2 concentration. In one study, for example, four of 24 moderate/severe asthmatic subjects were required to reduce their exercise level because of asthma symptoms at 0.6 ppm SO_2. This occurred only once at each of the lower concentrations (EPA, 1994a). Two recent studies, which considered medication used to mitigate the effects of SO_2 as a health endpoint and which followed the subjects' medication use in detail, found approximately twice as many subjects took medication immediately after exposure to 0.6 ppm SO_2 than after exposure to 0.3 ppm SO_2 (EPA, 1994a, Table 7, p. 40).

Considering the variety of endpoints for which information is available, clearly the effects beginning at 0.6 ppm and up to 1.0 ppm are more pronounced than those at lower concentrations. This is in agreement with the conclusions reached in the staff paper addendum (EPA, 1986b), which stated that there were ''clearer indications of clinically or physiologically significant effects at 0.6 to 0.75 ppm SO_2 and above.''

The staff also compared the effects of SO_2 observed in these recent controlled human exposure studies to the effects of moderate exercise, typical daily variation in lung function, and the severity of frequently-experienced asthma symptoms. The effects of 0.6 ppm SO_2 exposure at moderate exercise, as measured by FEV_1, exceeded either the typical effect of exercise alone or typical daily variations in FEV_1 (EPA, 1994a, sections 4.3 and 5.3). For symptomatic responses, two to eight times as many subjects, after exposure at exercise to 0.6 ppm SO_2, experienced symptoms of at least moderate severity (13–62 percent of subjects) than after exercise in clean air alone (4–19 percent of subjects) (EPA, 1994a, p. B–12). In addition, a significant portion of subjects (approximately 15 to 60 percent, depending on asthma status) participating in certain controlled human exposure studies seemed to experience symptoms more frequently in response to 0.6 ppm SO_2 than at any other time during their participation in the studies (EPA, 1994a, p. B–12).

Furthermore, the response seen in the most sensitive 25 percent of responders at 0.6 ppm equalled or exceeded approximately a 30 percent decline in FEV_1 for mild asthmatic subjects, and approximately a 40 percent decline for moderate asthmatic individuals. By comparison, during clinical bronchoprovocation testing, changes are not usually induced beyond a 20 percent decrease in FEV_1.

In addition, while at least some subjects can experience such a 20 percent decline without experiencing symptoms, in recent studies focusing on effects at 0.6 ppm SO_2, from 33–43 percent of moderate asthmatics and from 6–35 percent of mild asthmatics experienced at least a 20 percent

[5] Since elevated ventilation sufficient for oronasal breathing to occur is a requirement for most asthmatic persons to respond to SO_2, and because many asthmatic individuals experience bronchoconstriction responses to exercise alone, it is useful to distinguish between the two different effects. In this discussion, ''total FEV_1 (or SR_{aw})'' refers to the total change in lung function experienced by a subject as a result of an exposure to SO_2 while at exercise, while ''the effect of changes due to SO_2 alone'' refers to the total lung function change observed minus the change seen for that subject from a control exposure at exercise in clean air. Both measures have their utility: total FEV_1 or SR_{aw} indicates the magnitude of overall lung function change actually experienced by the subject, while the change due to SO_2 alone indicates how much of this total change is attributable to the pollutant itself.

decrease in total FEV_1 in conjunction with symptoms rated as being of moderate severity or worse. It should be noted that the asthmatic subjects with moderate/severe disease started an exposure with compromised lung function compared to mild asthmatic subjects. While the response to SO_2 was similar in the mild versus the moderate/severe asthmatic subjects, similar functional declines beginning from a different baseline may have different biological importance (EPA, 1994a, pp. 21–25).

In the staff paper addendum, ''bronchoconstriction * * * accompanied by at least noticeable symptoms,'' was seen as an appropriate measure of concern (EPA, 1986b, p. 37).

However, a substantial proportion of the subjects in these more recent studies experienced greater effects, bronchoconstriction with at least moderate symptoms, beginning at 0.6 ppm SO_2 (EPA, 1994a).

Considering the recent body of evidence along with previous studies, the criteria document supplement (EPA, 1994a) concluded that substantial percentages (≥ 25 percent) of mild or moderate asthmatic individuals exposed to 0.6 to 1.0 ppm SO_2 during moderate exercise would be expected to have respiratory function changes and severity of symptoms distinctly exceeding those experienced as typical daily variation in lung function or in response to other stimuli, such as moderate exercise. The severity of effects for many of the responders is likely to be of sufficient concern to cause disruption of ongoing activities, use of bronchodilator medication, and/or possible seeking of medical attention. At most, only 10 to 20 percent of mild or moderate asthmatic individuals are likely to exhibit lung function decrements in response to SO_2 exposures of 0.2 to 0.5 ppm that would be of distinctly larger magnitude than typical diurnal variation in lung function or changes in lung function experienced by them in response to other often-encountered stimuli. Furthermore, it appears likely that only the most sensitive responders might experience sufficiently large lung function changes and/or respiratory symptoms of such severity as to be of potential health concern; that is, leading to the disruption of ongoing activities, the need for bronchodilator medication, or seeking of medical attention.

d. Public Comments on Significance of Health Effects. In regard to the measured changes in lung function (expressed as FEV_1 or SR_{aw}), commenters did not disagree with the EPA's summary of the available literature contained in the November 15, 1994 (59 FR 58958) reproposal. Where there continues to be a real divergence of opinion among asthma specialists and others is on interpretation of the results, or on the medical significance of the lung function changes that have been measured in exercising asthmatic subjects and summarized in the various EPA documents. At issue are not the published data about SO_2-induced bronchoconstriction, but how they are interpreted.

As noted in the 1994 reproposal, bronchoconstriction caused by brief exposure to 0.6 to 1.0 ppm SO_2 is transient. Measurements of lung function start to improve when the exposure ceases, or when the subject ceases to exercise and the ventilation rate decreases to resting levels; after 5 minutes of exposure, the magnitude of the response does not worsen even if exposure and elevated ventilation rate continue. Most often, lung function returns to preexposure levels within 1 hour, occasionally taking up to 2 hours to return to normal. A dose of one of the most commonly used classes of medication, inhaled $beta_2$-agonists, rapidly attenuates or prevents the response. The transient nature of the response led some commenters to argue that the health effects are not significant. These commenters stated that although they would advise an asthmatic individual to take medication, cease activity or avoid the stimulus, this behavior was an everyday part of an asthmatic individual's life and not cause for medical concern. Other commenters argued that any effect which may entail bronchoconstriction severe enough to limit activity or cause medication use is a significant health effect.

Many commenters argued that the documented effects are not medically significant because, as one commenter put it, ''changes in lung function are not meaningful endpoints in themselves, but must be placed in the context of asthmatics' typical respiratory function, which is both highly variable and reactive to many stimuli and conditions'' (see Docket No. A–84–25, VIII–D–71). In general, these commenters argued that the responses to short-term peaks of SO_2 in the range of 0.6 to 1.0 ppm are similar in nature and magnitude to the well-tolerated responses to a variety of non-specific stimuli (cold, dry air, exercise, irritants such as perfume) encountered on a daily basis by most asthmatic individuals and are not in themselves deleterious to the asthmatic individual's health. Other commenters argued that this fact does not justify the neglect of potential ambient air SO_2 effects, and that unusual susceptibility to an inhaled pollutant does not simply constitute a problem for the susceptible individual.

Despite these opposing points of view, there was some agreement that frequency of occurrence of SO_2-induced health effects could make a difference in the concern that a physician feels. That is, some physicians felt that the documented SO_2-induced health effects were well tolerated by asthmatic individuals; however, if the effects occurred frequently enough, then they would be cause for medical concern (public hearing transcript, 1995, p. 155). Other physicians felt that such effects are a cause for concern despite their transient and reversible nature; if exposures occurred rarely enough, however, these physicians would be less concerned (public hearing transcript, 1995, p. 89–90). Several commenters also noted that cold air appears to act at least additively with SO_2, and that the bronchoconstrictive effect of cold air which contains SO_2 is larger than that of either exposure condition alone.

Some commenters took issue with EPA's assessment of the proportion of asthmatic individuals who would experience meaningful symptoms or have any disruption of daily activities. Based on personal experience, one commenter stated that most asthmatics do not begin to perceive bronchoconstriction until FEV1 falls to about 50 percent of its normal value and SR_{aw} increases about 400 percent (see Docket No. A–84–25, VIII–D–71). Other commenters agreed that the kinds of symptomatic responses experienced by asthmatic subjects exposed to SO_2 in the reviewed chamber studies are no more than brief, perceptible reactions that might temporarily disrupt activities, but are well tolerated and do not endanger the individuals' health or cause them to seek medical attention. On the other hand, commenters who believed the effects were significant argued that transient and reversible decrements in lung function are adverse if they cause physical discomfort, interfere with normal activity or impair the performance of daily activities, or aggravate chronic respiratory disease by increasing the frequency or severity of asthma attacks. Several commenters argued that measurable effects have occurred after brief exposures, with elevated ventilation rates, to concentrations as low as 0.25 to 0.28 ppm SO_2, and thus that the proposed 5-minute standard of 0.60 ppm SO_2 leaves no margin of safety. However, as stated above, considering a variety of endpoints for which information is available, clearly the effects beginning at 0.6 ppm and up to 1.0 ppm are more

pronounced than at lower concentrations.

As noted in the criteria document supplement (EPA, 1994a), the staff paper supplement (EPA, 1994b) and the November 15, 1994 reproposal (59 FR 58958), unlike the effects of allergens and viral infections, there is no evidence that short-term exposure to SO_2 while at an elevated ventilation rate leads to any ''late phase'' response. ''Late-phase'' bronchoconstriction is indicative of a more serious inflammatory reaction which takes much longer to resolve and which can lead to emergency room visits and/or hospitalization. The ''late phase'' inflammatory response can also cause the airways to become more sensitive to other stimuli. Since this type of response has not been observed with brief exposures in the range of 0.6 to 1.0 ppm SO_2, many commenters argued that the health of asthmatic individuals is not affected by such exposures.

The ability of inhaled $beta_2$-agonists, the most commonly prescribed class of asthma medications, to prevent or ameliorate the effects of SO_2 exposure was frequently cited as one reason why most asthmatic individuals are unlikely to experience bronchoconstriction due to exposure to short-term peaks of SO_2. These commenters argued that since most asthmatic individuals experience exercise-induced bronchoconstriction, they are highly likely to premedicate with an inhaled $beta_2$-agonist medication prior to exercise and therefore be protected from SO_2-induced health effects. Further, these commenters stated that the highly variable compliance rates for medicine usage cited by EPA in the criteria document supplement (EPA, 1994a), staff paper supplement (EPA, 1994b) and November 15, 1994 reproposal (59 FR 58958) do not apply to physically active asthmatic individuals, for whom medication compliance rates are significantly better.

Conversely, many other commenters agreed with EPA that medication compliance rates can be very poor, even for individuals who are physically active, like children, and that many asthmatic individuals use medication only after symptoms occur. These individuals would be at risk for experiencing SO_2-induced bronchoconstriction. Some commenters, including one from a State's Office of Environmental Health Hazard Assessment, which recently reviewed that State's 1-hour SO_2 standard (see Docket No. A–84–25, VIII–D–65), commented that an optimal medication regimen from the standpoint of reducing SO_2-induced bronchoconstriction may result in undesirable side effects. Some of these commenters also noted that SO_2 exposure could cause asymptomatic, exercise-induced bronchoconstriction to become symptomatic, thereby causing an asthmatic individual to take medicine that would normally not be needed. Several commenters argued that relying on medication use instead of regulation was poor public policy. Some of these commenters also argued that asthmatic individuals of lower socioeconomic status may not be able to afford medication or have limited access to health care. In the Administrator's judgment, these concerns about accessibility of medication and health care, and the variability of medication compliance rates, are legitimate ones. Although the use of medication may substantially reduce the incidence and/or severity of SO_2-induced bronchoconstriction, the mere availability of medication does not necessarily mean that all asthmatic individuals will necessarily be protected from this effect. The Administrator therefore concludes that this factor should not be regarded as dispositive in assessing the appropriateness of regulatory action to provide additional protection against short-term SO_2 peaks.

Many commenters argued that there are no epidemiological studies which show an association between short-term peaks of SO_2 and adverse health effects such as asthma symptoms or increased visits to physicians or hospital emergency rooms. Some of these commenters argued that the changes in lung function and symptoms found in some subjects in controlled human exposure studies may not be indicative of what would occur in real-world situations. The reason that there are no epidemiological studies showing an association between short-term (5- to 10-minute) peaks of SO_2 and real-world health effects is that apparently no studies have been conducted to examine the association or lack thereof of short-term SO_2 peaks and adverse health effects. This is most likely because it would be difficult to design and conduct an epidemiological study that could detect possible associations between very brief (5- to 10-minute), geographically localized, peak SO_2 exposures and respiratory effects in asthmatic individuals. Furthermore, the responses of naturally-breathing asthmatics exposed to SO_2 under controlled conditions in an environmental chamber presumably reflect responses that would be observed in the ambient (''real-world'') environment under similar conditions of activity level, air temperature, and humidity. Although there is evidence that other inhaled materials that modify airway responsiveness can influence the response to SO_2, there is no reason, at the present time, to suggest that the ambient pollutant mixture would cause either a suppression or an augmentation of SO_2 effects through some, as yet unrecognized, chemical interaction.

e. Significance of Health Effects. Taking into account the available health effects studies and the body of comments on the health effects, the Administrator agrees with the staff assessment that a substantial percentage (20 percent or more) of mild-to-moderate asthmatic individuals exposed to 0.6 to 1.0 ppm SO_2 for 5 to 10 minutes at elevated ventilation rates, such as would be expected during moderate exercise, would be expected to have lung function changes and severity of respiratory symptoms that clearly exceed those experienced from typical daily variation in lung function or in response to other stimuli (e.g., moderate exercise or cold/dry air). For many of the responders, the effects are likely to be both perceptible and thought to be of some health concern; that is, likely to cause some disruption of ongoing activities, use of bronchodilator medication, and/or possibly seeking of medical attention. The EPA agrees with other commenters that the frequency with which such effects are experienced may affect the public health concern that is appropriate. Taking into account the broad range of opinions expressed by CASAC members, medical experts, and the public, the Administrator concludes that repeated occurrences of such effects should be regarded as significant from a public health standpoint. Accordingly, the Administrator also concurs with the staff judgment that the likely frequency of occurrence of such effects should be a consideration in assessing the overall public health risk in a given situation.

2. Air Quality and Exposure Considerations

Another major basis for considering whether additional regulatory measures are appropriate to reduce the occurrence of short-term peaks of SO_2 has been the estimation of the geographic extent and the frequency of 5-minute peaks greater than 0.60 ppm SO_2 in the ambient air, and the likelihood that these peaks would result in exposure conditions that could cause significant health effects. As discussed in the staff paper supplement (EPA, 1994b) and the 1994 reproposal, the occurrence of short-term peaks of SO_2 is relatively infrequent and highly localized around point sources of

SO_2. None of the air quality or exposure information subsequently received by EPA has changed this assessment.

In 1993 and again in 1994, EPA requested that States collect and submit 5-minute SO_2 ambient monitoring data from source-based monitors. Data were submitted from both industry and State-run monitors and while much of this information was considered in the 1994 staff paper supplement (EPA 1994b) and in the 1994 reproposal, a few sites subsequently provided more data. Available data have been compiled and statistical parameters calculated in a report for EPA by Systems Applications International or SAI (1996).[6] In general, the data confirm that a substantial number of short-term peaks greater than 0.60 ppm can occur in the vicinity of certain sources.

As indicated previously, an important consideration is whether such short-term peaks of SO_2 are likely to cause episodes of bronchoconstriction in asthmatic individuals. Thus, one method of assessing the public health significance of SO_2-induced effects is to estimate the likelihood that asthmatic individuals will be exposed to such peaks while simultaneously at elevated ventilation rates (EPA, 1994a, p.51). It should be noted, however, that not all asthmatic individuals who experience such exposures will necessarily experience SO_2-induced health effects, either because of individual variability or other factors.

[6] The 5-minute concentrations ranged from 0 to > 2.5 ppm SO_2. The number of observations recorded at any monitor ranged from 308 to 48,795 hours, with the mean number of observations equalling 7,646 hours (a complete year of hourly maximum 5-minute averages would contain 8,760 observations). There were 63 monitors, located in 16 States, with continuous data sets of either the maximum 5-minute block average per hour or all of the 5-minute block averages per hour. For data sets containing all of the 5-minute block averages per hour, the maximum 5-minute block average for each hour was extracted and that parameter was used throughout the analysis. Of the 63 monitors, 26 (41 percent) registered 1 or more concentrations greater than the proposed short-term standard of 0.60 ppm SO_2 during the time periods represented for the monitors involved. For any given monitor, the number of such exceedances ranged from 0 to 139, which corresponds to 0 to 3 percent of the hours represented in the data. Of the 26 monitors measuring at least 1 exceedance, 11 monitors recorded from 1 to 5 exceedances, while 8 monitors in 4 communities recorded from 25 to 139 exceedances. While these data came from sourcebased monitors, the existing SO_2 monitoring network is designed to characterize ambient air quality associated with 3-hour, 24-hour, and annual SO_2 concentrations rather than to detect short-term peak SO_2 levels. This could have resulted in underestimates of the maximum 5-minute block averages recorded. Therefore, changes in monitor siting and density near SO_2 sources most likely to produce high 5-minute peaks could increase both the number of exceedances and the concentrations of the maximum 5-minute block averages recorded.

At the time of the 1994 reproposal, three exposure analyses were available that estimated the frequency of SO_2 exposures that could result in measurable health effects. Two of the analyses estimated the potential frequency of exposure events resulting from operation of utility boilers nationwide. For these two studies, detailed information on actual emissions was available on a plant-by-plant basis (Burton et al., 1987; Rosenbaum et al., 1992) to use in estimating ambient SO_2 concentrations and then exposures. The utility analyses estimated there would be 68,000 exposure events per year at ≥ 0.5 ppm SO_2, which would affect approximately 44,000 asthmatic individuals at elevated ventilation rates. Taking into account full implementation of the title IV program of the Act, in the year 2015, the number of exposure events at ≥ 0.5 ppm SO_2 attributable to the utility sector was estimated to drop to 40,000 per year, contingent on trading decisions.

The third exposure analysis available at the time of the 1994 reproposal estimated nationwide SO_2 exposures resulting from the operation of nonutility sources. Because actual data were not available, some conservative assumptions had to be made about operating parameters, which increased the uncertainties in the analysis (Stoeckenius et al., 1990). Probably the largest single source of uncertainty in this analysis was the emissions estimates used for the nonutility sources. The analysis estimated 114,000 to 326,000 exposures to 0.5 ppm SO_2 per year around nonutility sources. These exposures were estimated to affect 24,000 to 122,000 asthmatic individuals at elevated ventilation rates, implying that exposed individuals may be exposed more than four times a year, on average.

Combining the utility and nonutility exposure estimates results in a prediction of 180,000 to 395,000 total exposure events to 0.5 ppm SO_2 nationwide, per year. These analyses indicate that 68,000 to 166,000 asthmatic individuals (or 0.7 to 1.8 percent of the total asthmatic population) potentially could be exposed one or more times, while outdoors at exercise, to 5 minute peaks of $SO_2 \geq 0.5$ ppm. The number of asthmatic individuals likely to be exposed to ≥ 0.60 ppm SO_2 under the same conditions, of course, would be smaller. The methodologies employed in these analyses, together with the associated uncertainties, are discussed in some detail in the staff paper supplement (EPA, 1994b, pp. 46–47, Appendix B).

In response to the 1994 reproposal, several industry associations sponsored and submitted as a public comment a revised analysis of exposures around four types of nonutility sources (industrial/commercial/institutional boilers, kraft and sulfite process pulp and paper mills, and copper smelters) by Sciences International, Inc. (1995). This study incorporated new data and additional analyses designed to eliminate the need for some of the more conservative assumptions employed in the Stoeckenius et al. (1990) study. A principal feature of the new study is the use of improved source and emissions data for all four source categories examined and especially for sulfite process pulp mills and copper smelters. The new analysis estimated significantly fewer expected exposure events for the four source categories examined. In the original study, the four categories were estimated to contribute a total of 73,000 to 259,000 exposure events (Stoeckenius et al., 1990). In the revised analysis, this range decreased by an order of magnitude, to between 7,892 and 23,099 events. The same basic procedures were used to calculate expected exposures in both the 1990 and 1995 studies. However, a direct comparison of the results of the two exposure analyses may not be possible due to differences in some key details between the two studies, which are highlighted in a technical review by Stoeckenius (1995) of the Sciences International, Inc. (1995) exposure analysis. In general, that review indicates that while the Stoeckenius et al. (1990) study utilized several very conservative assumptions, which most likely led to an overestimate of exposures for these three source categories. The Sciences International, Inc. (1995) reanalysis did not provide reliable estimates of the degree of conservatism resulting from the original assumptions which could then be used for the purpose of comparison. In contrast, the updated information and data for copper smelters used in the Sciences International, Inc. (1995) reanalysis most likely resulted in a more accurate estimate of exposures for that source category than did previously available estimates (Stoeckenius, 1995).

Another industry commenter submitted an exposure analysis (see Docket No. A–84–25, VIII–G–08) that utilized actual SO_2 ambient air monitoring and demographic data from a community located near a copper-smelting facility. The results of this analysis indicate that the probability of SO_2-related episodes of bronchoconstriction in the sensitive

population of asthmatic individuals in the community is very low. There was no evidence of an association between 5-minute concentrations of $SO_2 > 0.60$ ppm and episodes of bronchoconstriction in the sensitive population.

These exposure analyses and the body of 5-minute SO_2 monitoring data underscore the views of the Administrator, the staff and the CASAC, reflected in the 1994 reproposal, that the likelihood that asthmatic individuals will be exposed to 5-minute peak SO_2 concentrations of concern, while outdoors and at elevated ventilation rates, is very low when viewed from a national perspective. Even in communities where frequent 5-minute peaks have been recorded, the likelihood of exposure is highly variable. One county public health agency submitted 5-minute SO_2 monitoring data (see Docket No. A–84–25, VIII–D–15), for the years 1993–1994, from the 10 continuous SO_2 monitors in the local surveillance network. Only monitors located near large industrial sources of SO_2 measured exceedances of 0.60 ppm SO_2. Of 29 exceedances measured over a 2-year period, approximately half of the exceedances were associated with breakdowns of the desulfurization equipment used to control SO_2 emissions from coke plants in the county. The agency noted that more than 70 percent of the hours in which exceedances were measured occurred very late at night or early in the morning, which would reduce the likelihood of the exceedances affecting the sensitive population.

Nonetheless, the 5-minute monitoring data indicate that some communities in proximity to SO_2 sources are repeatedly subjected to high short-term concentrations of SO_2 in the ambient air. Asthmatic individuals who reside in proximity to certain individual sources may be at greater risk of being exposed to such peak SO_2 levels while at elevated ventilation rates, and, therefore, at greater risk of suffering health effects than the asthmatic population as a whole. This conclusion is supported by the comments of citizens and physicians living in areas where high 5-minute peaks of SO_2 have been recorded. Citizens have reported, for example, that they developed asthma upon moving to an SO_2-impacted area; that their asthma is better, both in terms of symptoms and indicators such as peak flow measurements when they leave the SO_2-impacted area on vacation or for medical treatment; and that their peak flow measurements decrease when the wind is blowing from the direction of the local SO_2 source(s). These citizens express the belief that ambient SO_2 concentrations are responsible for their symptoms. Physicians have commented that they believe that ambient air SO_2 concentrations in their communities are negatively affecting the health of their patients. Most of these comments came from two of the six communities for which SO_2 monitoring data show repeated high 5-minute peaks greater than 0.60 ppm SO_2.

The data also indicate that asthmatic individuals living in communities in which 5-minute peaks greater than 0.60 ppm SO_2 rarely occur may be subject to much less risk of experiencing health effects that cause cessation of activities or increased medication use. Even when monitors record a substantial number of such peaks, the likelihood that a significant number of asthmatic individuals will be exposed to such peaks with some frequency while at elevated ventilation rates may range from nonexistent to fairly high depending upon such localized factors as the magnitude and frequency of the peaks, the times of occurrence, meteorological conditions in the area, the density of the population near the source(s) involved, and daily activity patterns. Thus, estimation of risk must be done on a case-by-case basis and be based on site-specific factors. In short, the data clearly show that 5-minute peaks greater than 0.60 ppm SO_2 can occur around particular industrial point sources of SO_2, that such peaks are not ubiquitous from a national perspective but instead appear to occur only in the vicinity of such sources, and that the risk of exposures that could cause significant health effects in asthmatic individuals cannot be estimated based solely on the number of recorded high 5-minute peaks of SO_2, but instead must be estimated using site-specific factors.

3. Conclusions

For reasons discussed above, based on her assessment of the relevant scientific and technical information and taking into account public comment, it is the Administrator's judgment that 5-minute peak SO_2 levels do not pose a broad public health problem when viewed from a national perspective. As discussed in some detail in the 1994 reproposal, the existing suite of SO_2 standards and associated control strategies clearly limit both the occurrence of high 5-minute peak SO_2 levels, and the likelihood that asthmatic individuals will be exposed to them while outdoors and at elevated ventilation rates.

In considering the residual risk posed by such peak concentrations, the Administrator has taken a number of factors into account. As discussed in the criteria document and staff paper supplements (EPA 1994a, p. 51, EPA 1994b, p. 59), an important consideration in determining the public health risk posed by 5-minute concentrations in the range of 0.60 to 1.0 ppm SO_2 is the frequency with which an asthmatic individual may be exposed while at an elevated ventilation rate. As discussed earlier, there is some agreement that infrequent exposures in this range may not be a cause for significant concern. As the frequency of exposure increases, so does concern about the associated public health risk. Asthmatic individuals living in communities in which 5-minute peaks in the range of 0.60 to 1.0 ppm SO_2 rarely occur may be unlikely to experience exposure events that would cause them to cease their activities or increase medication use. In particular locations, of course, the concentrations involved in exposure events can exceed 1.0 ppm SO_2, and could induce a greater response in an exposed asthmatic individual than lower concentrations. Thus, frequency of exposure events alone is not an adequate indicator of the risk to public health. As discussed above, factors such as the magnitude of 5-minute SO_2 peaks, time of day, activity patterns, and the size of the population exposed are also relevant. As a result, whether 5-minute peak SO_2 concentrations will pose a significant public health risk depends largely on highly localized factors.

Given the localized, infrequent and site-specific nature of the risk involved, the Administrator has concluded that short-term peak concentrations of SO_2 do not constitute the type of ubiquitous public health problem for which establishing a NAAQS would be appropriate. For similar reasons, the Administrator concludes that adoption of a section 303 program employing a uniform, nationwide trigger level would not be an appropriate response. With respect to the third alternative identified in the 1994 reproposal (augmenting implementation of existing SO_2 NAAQS), it has become increasingly clear that even full attainment of the existing SO_2 standards would not preclude the occurrence of high 5-minute SO_2 peaks in particular locations. Moreover, given the site-specific nature of the problem, States can more effectively identify for monitoring purposes, sources that may be causing or contributing to high 5-minute SO_2 concentrations.

For the reasons discussed previously, the Administrator has concluded that repeated exposures to 5-minute peak SO_2 levels of 0.60 ppm and above could

pose a risk of significant health effects for asthmatic individuals at elevated ventilation rates in some localized situations. The Administrator has also concluded that the residual health risks posed by short-term concentrations are most appropriately addressed at the State level. In the Administrator's judgment, the States are in a far better position than EPA to assess the highly localized and site-specific factors that determine whether the occurrence of such concentrations in a given area poses a significant public health risk to the local population, and if so, to fashion an appropriate remedial response. This view was also advanced by some States in their comments on the 1994 reproposal.

To assist the States in addressing short-term peak SO_2 levels, EPA will publish a reproposal notice superseding the March 1995 notice (59 FR 12492) that proposed revisions to 40 CFR part 51 establishing a new program under section 303 of the Act that would differ from that contemplated in the 1994 reproposal. The new program would also differ from existing programs under section 303 that are designed to protect against episodic events.

In particular, EPA plans to propose two new levels as guides to State action: A ''concern level'' at 0.60 ppm SO_2, 5-minute block average; and an ''intervention level'' at 2.0 ppm SO_2, 5-minute block average. Under the program to be proposed, the States would determine whether 5-minute peak SO_2 levels recorded in the range of 0.60 to 2.0 ppm SO_2 posed a significant public health risk and, if so, the appropriate remedial response. To assist the States in reaching such determinations, the proposal will identify, in the form of guidance, factors that EPA believes should be considered in assessing whether recorded peaks pose a significant health risk to the local population. Among other things, the factors would include the frequency and magnitude of observed 5-minute peaks, and the likelihood and frequency of exposures for asthmatic individuals at elevated ventilation rates. In assessing whether observed 5-minute peaks in this range posed a significant public health risk, thus warranting intervention, the States would be advised to take into account the above factors, as well as others they might deem appropriate. It is the Administrator's judgment that establishing such a program, in which the States would determine at the local level whether peak SO_2 levels in the range of 0.60 to 2.0 ppm SO_2 posed a significant public health risk and, if so, the appropriate remedial response, is the most effective approach for addressing this potential public health problem.

C. Final Decision on Primary Standards

For the reasons discussed above, and in the November 15, 1994 reproposal notice (58 FR 58958), it is the Administrator's judgment under section 109(d)(1) that revisions to the existing primary SO_2 NAAQS are not appropriate at this time. As provided for under the Act, the EPA will continue to assess the scientific information on health effects associated with 5-minute, 24-hour and annual SO_2 exposures as it emerges from research and ongoing SO_2 monitoring programs, and will update the air quality criteria for sulfur oxides accordingly. The revised criteria will provide the basis for the next review of the primary NAAQS for SO_2.

D. Technical Changes

There were relatively few comments on the proposed technical changes. Several environmental and public interest groups and one State preferred the running averaging convention, while industry comments supported the block averaging convention. A small number of comments were also received both for and against the change from $\mu mg/m^3$ to ppm. Taking these comments into account, EPA has decided to promulgate the technical changes set forth in the 1994 reproposal. First, the block averaging convention will be retained, and language clarifying this point will be adopted in the regulation (40 CFR 50.4 and 50.5). Under the block convention, periods such as 24 hours and 3 hours are measured sequentially and do not overlap; when one averaging period ends, the next begins.

Although the wording of the original 24-hour, 3-hour, and annual SO_2 standards may have been ambiguous on the matter, the earliest actions of the EPA signify that the block averaging convention was intended for these standards (OAQPS, l986), and block averages have generally been used in implementing the standards. Given a fixed standard level, the use of the alternative, running averages, would represent a tightening of the standards (Faoro, 1983; Possiel, 1985). For reasons explained in this notice and in the April 21, 1993, notice on the secondary NAAQS (58 FR 21351), the Administrator has already determined that protection of the public health and welfare does not require tightening the existing standards. Therefore, EPA will retain the block averaging convention for the 24-hour, 3-hour, and annual standards.

The second technical change to be adopted is that the levels for the primary and secondary NAAQS will be stated in ppm rather than $\mu g/m^3$ (40 CFR 50.4 and 50.5). This will be done to make the SO_2 NAAQS consistent with those for other pollutants and to facilitate public understanding of the standards. Although the ppm levels are slightly less than their current $\mu g/m^3$ counterparts, the differences are considered negligible (Frank, 1988).

Finally, the explicit rounding conventions and the data completeness and handling conventions put forth in the reproposal will be adopted.

IV. Regulatory Impacts

A. Executive Order 12866

Under Executive Order 12866, the Agency must determine whether a regulatory action is ''significant'' and, therefore, subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The order defines ''significant regulatory action'' as one that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations or recipients thereof; or

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

Pursuant to the terms of Executive Order 12866, OMB has notified EPA that it considers this a ''significant regulatory action'' within the meaning of the Executive Order. The EPA has submitted this action to OMB for review. Changes made in response to OMB suggestions or recommendations will be documented in the public docket and made available for public inspection at EPA's Air and Radiation Docket Information Center (Docket No. A–84–25).

The EPA has judged that today's decision on the SO_2 primary NAAQS is not an economically-significant regulatory action as defined by Executive Order 12866 because there are no additional costs or other impacts as a result of not revising the standards. The EPA, therefore, has deemed unnecessary the preparation of a final regulatory impact statement.

B. Regulatory Flexibility Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Administrator certifies that this rule will not have a significant impact on a substantial number of small entities. The Regulatory Flexibility Act requires that all Federal agencies consider the impacts of final regulations on small entities, which are defined to be small businesses, small organizations, and small governmental jurisdictions (5 U.S.C. 601 *et seq.*). A decision not to revise the existing primary NAAQS for SO_2 would, of course, impose no new requirements on small entities. In addition, the SIPs necessary to implement the existing primary standards have been substantially adopted and implemented. Additional SIP requirements will be needed only for those areas or sources which are designated as nonattainment for the existing primary standards now or in the future. Given the current air quality and attainment status, however, it is very unlikely that new SIP requirements would be required that would significantly affect a substantial number of small entities.

C. Impact on Reporting Requirements

There are no reporting requirements directly associated with an ambient air quality standard promulgated under section 109 of the Act (42 U.S.C. 7400). There are, however, reporting requirements associated with related sections of the Act, particularly sections 107, 110, 160, and 317 (42 U.S.C. 7407, 7410, 7460, and 7617). This final action will not result in any changes in these reporting requirements since it would retain the existing levels and averaging times for the primary standards. The current standards are covered under EPA Information Collection Request Number 940.13.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under sections 202, 203, and 205, respectively, of the UMRA, EPA generally must: (1) Prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year; (2) develop a small government agency plan; and (3) identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule.

Because the Administrator has decided not to revise the existing primary NAAQS for SO_2, this action will not impose any new expenditures on governments or on the private sector, or establish any new regulatory requirements affecting small governments. Accordingly, EPA has determined that the provisions of sections 202, 203, and 205 of the UMRA do not apply to this final decision.

E. Environmental Justice

Executive Order 12848 requires that each Federal agency make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionally high and adverse human health or environmental effects of its programs, policies, and activities on minorities and low-income populations. These requirements were addressed in the draft Regulatory Impact Analysis (59 FR 58958; November 15, 1994) and taken into account by EPA in reaching its determination that revisions to the existing primary SO_2 NAAQS are not appropriate at this time.

List of Subjects in 40 CFR Part 50

Environmental protection, Air pollution control, Carbon monoxide, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides.

Dated: May 14, 1996.

Carol M. Browner,

Administrator.

References

Burton, C.S.; Stockenius, T.E.; Stocking, T.S.; Carr, E.L.; Austin, B.S.; Roberson, R.L. (1987) Assessment of exposures of exercising asthmatics to short-term SO_2 levels as a result of emissions from U.S. fossil-fueled power plants. Systems Applications, Inc., San Rafael, CA. Pub. No. 87/176, September 23, 1987.

DHEW [U.S. Department of Health, Education, and Welfare] (1970), Air Quality Criteria for Sulfur Oxides, U.S. Government Printing Office, Washington, DC, AP–50.

Edmunds, A.T.; Tooley, M.; Godfrey, S. (1978) The refractory period after exercise-induced asthma: its duration and relation to the severity of exercise, Am. Rev. Resp. Dis. 117:247–254.

EPA (1982a), Air Quality Criteria for Particulate Matter and Sulfur Oxides, Environmental Criteria and Assessment Office, Research Triangle Park, NC, EPA–600/8–82–029a–c.

EPA (1982b), Review of the National Ambient Air Quality Standards for Sulfur Oxides: Assessment of Scientific and Technical Information-OAQPS Staff Paper, Office of Air Quality Planning and Standards, Research Triangle Park, NC, EPA–450/5–82–007.

EPA (1986a), Second Addendum to Air Quality Criteria for Particulate Matter and Sulfur Oxides (1982): Assessment of Newly Available Health Effects Information, Environmental Criteria and Assessment Office, Research Triangle Park, NC, EPA–450/5–86–012.

EPA (1986b), Review of the National Ambient Air Quality Standards for Sulfur Oxides: Updated Assessment of Scientific and Technical Information, Addendum to the 1982 OAQPS Staff Paper, Office of Air Quality Planning and Standards, Research Triangle Park, NC EPA–450/05–86–013.

EPA (1994a), Supplement to the Second Addendum (1986) to Air Quality Criteria for Particulate Matter and Sulfur Oxides (1982): Assessment of New Findings on Sulfur Dioxide Acute Exposure Health Effects in Asthmatic Individuals, Environmental Criteria and Assessment Office, Research Triangle Park, NC, EPA/600/FP–93/002.

EPA (1994b), Review of the Ambient Air Quality Standards for Sulfur Oxides: Updated Assessment of Scientific and Technical Information, Supplement to the 1986 OAQPS Staff Paper Addendum, Office of Air Quality Planning and Standards, Research Triangle Park, NC, EPA/452/R–94–013.

Evans, R., III; Mullally, D. I.; Wilson, R. W.; Gergen, P. J.; Rosenberg, H. M.; Grauman, J. S.; Chevarley, F. M.; Feinleib, M. (1987), National trends in the morbidity and mortality of asthma in the US. Prevalence, hospitalization and death from asthma over two decades: 1965–1984, Chest 91(suppl.): 65S–74S.

Faoro, B., U.S. EPA, Data Analysis Section (1983), Comparison of Second Max Non-Overlapping and Midnight-to-Midnight (Block) Average, Memorandum to William F. Hunt Jr., Chief, Data Analysis Section, August 15, 1983, Docket No. A–79–28, II–B–11.

Frank, N. U.S. EPA, Technical Support Division (1988), Memorandum to John Haines, Air Quality Management Division, January 5, 1988, Docket No. A–84–25, II–B–3.

National Institutes of Health (1991), Guidelines for the diagnosis and management of asthma, Bethesda, MD: U.S. Department of Health and Human Services, National Heart, Lung, and Blood Institute, National Asthma Education Program; publication no. 91–3042.

OAQPS [Office of Air Quality Planning and Standards] (1986), Proper Interpretation of the Averaging Convention for the National Ambient Air Quality Standards for Sulfur Oxides, OAQPS Staff Position Paper, March 1986, Docket No. A–79–28, II–A–15.

Possiel, N.C., U.S. EPA, Model Applications Section (1985), Analysis of Running Versus Block SO_2 Model Estimates, Memorandum to Henry C. Thomas, Standards Development Section, August 27, 1985, Docket No. A–79–28, II–B–12.

Public Hearing (1995), Transcript of meeting held in Research Triangle Park, NC on February 8, 1995, Docket No. A–84–25, VIII–F–17.

Rosenbaum, A.S.; Hudischewskyj, A.B.; Roberson, R.L.; Burton, C.S. (1992) Estimates of Future Exposures of Exercising Asthmatics to Short-term Elevated SO_2 Concentrations Resulting from Emissions of U.S. Fossil-fueled Power Plants: Effects of the 1990 Amendments to the Clean Air Act and a 5-minute Average Ambient SO_2 Standard. Pub. No. SYSAPP–92/016, April 23, 1992.

Schwartz, J.; Gold, D.; Dockery, D. W.; Weiss, S. T.; Speizer, F. E. (1990), Predictors of asthma and persistent wheeze in a national sample of children in the United States: association with social class, perinatal events, and race, Am. Rev. Respir. Dis. 142: 555–562.

Sciences International, Inc. (1995), Estimate of the Nationwide Exercising Asthmatic Exposure Frequency to Short-Term Peak Sulfur Dioxide Concentrations in the Vicinity of Non-Utility Sources. Alexandria, VA, Docket No. A–84–25, VIII–D–71.

Stoeckenius, T.E. (1995), Technical Review of NMA's Report on: 'Estimate of the Nationwide Exercising Asthmatic Exposure Frequency to Short-Term Peak Sulfur Dioxide Concentrations in the Vicinity of Non-Utility Sources.' ENVIRON International Corporation, Novato, CA, Docket No. A–84–25, VIII–A–01.

Stoeckenius, T.E.; Garelick, B.; Austin, B.S.; O'Connor, K.; Pehling, J.R. (1990). Estimates of Nationwide Asthmatic Exposures to Short-term Sulfur Dioxide Concentrations in the Vicinity of Non-Utility Sources. Systems Applications Inc., San Rafael, CA, Pub. No. SYSAPP–90/129, December 6, 1990.

Systems Applications International (1996) Summary of 1988–1995 Ambient 5–Minute SO_2 Concentration Data. Systems Applications International, Research Triangle Park, NC, Docket No. A–84–25, VIII–A–02.

Appendix I to the Preamble

February 19, 1987

The Honorable Lee M. Thomas,
Administrator U.S. Environmental Protection Agency, Washington, DC 20460

Dear Mr. Thomas: The Clean Air Scientific Advisory Committee (CASAC) has completed its review of the 1986 Addendum to the 1982 Staff Paper on Sulfur Oxides (*Review of the National Ambient Air Quality Standards for Sulfur Oxides: Updated Assessment of Scientific and Technical Information*) prepared by the Agency's Office of Air Quality Planning and Standards (OAQPS).

The Committee unanimously concludes that this document is consistent in all significant respects with the scientific evidence presented and interpreted in the combined Air Quality Criteria Document for Particulate Matter/Sulfur Oxides (1982) and its 1986 Addendum, on which CASAC issued its closure letter on December 15, 1986. The Committee believes that the 1986 Addendum to the 1982 Staff Paper on Sulfur Oxides provides you with the kind and amount of technical guidance that will be needed to make appropriate decisions with respect to the standards. The Committee's major findings and conclusions concerning the various scientific issues and studies discussed in the staff paper addendum are contained in the attached report.

Thank you for the opportunity to present the Committee's views on this important public health and welfare issue.

Sincerely,

Morton Lippmann, Ph.D.,

Chairman, Clean Air Scientific Advisory Committee.

cc: A. James Barnes

Gerald Emison

Lester Grant

Vaun Newill

John O'Connor

Craig Potter

Terry Yosie

Summary of Major Scientific Issues and CASAC Conclusions on the 1986 Draft Addendum to the 1982 Sulfur Oxides Staff Paper

The Committee found the technical discussions contained in the staff paper addendum to be scientifically thorough and acceptable, subject to minor editorial revisions. This document is consistent in all significant respects with the scientific evidence presented in the 1982 combined Air Quality Criteria Document for Particulate Matter/Sulfur Oxides and its 1986 Addendum, on which the Committee issued its closure letter on December 15, 1986.

Scientific Basis for Primary Standards

The Committee addressed the scientific basis for a 1-hour, 24-hour, and annual primary standards at some length in its August 26, 1983 closure letter on the 1982 Sulfur Oxides Staff Paper. That letter was based on the scientific literature which had been published up to 1982. The present review has examined the more recently published studies.

It is clear that no single study of SO_2 can fully address the range of public health issues that arise during the standard setting process. The Agency has completed a thorough analysis of the strengths and weaknesses of various studies and has derived its recommended ranges of interest by evaluating the weight of the evidence. The Committee endorses this approach.

The Committee wishes to comment on several major issues concerning the scientific data that are available. These issues include:

- Recent studies more clearly implicate particulate matter than SO_2 as a longer-term public health concern at low exposure levels.
- A majority of Committee members believe that the effects reported in the clinical studies of asthmatics represent effects of significant public health concern.
- The exposure uncertainties associated with a 1-hour standard are quite large. The relationship between the frequency of short-term peak exposures and various scenarios of asthmatic responses is not well understood. Both EPA and the electric power industry are conducting further analyses of a series of exposure assessment issues. Such analyses have the potential to increase the collective understanding of the relationship between SO_2 exposures and responses observed in subgroups of the general population.
- The number of asthmatics vulnerable to peak exposures near electric power plants, given the protection afforded by the current standards, represents a small number of people. Although the Clean Air Act requires that sensitive population groups receive protection, the size of such groups has not been defined. CASAC believes that this issue represents a legal/policy matter and has no specific scientific advice to provide on it.

CASAC's advice on primary standards for three averaging times is presented below:

1-Hour Standard—It is our conclusion that a large, consistent data base exists to document the bronchoconstrictive response in mild to moderate asthmatics subjected in clinical chambers to short-term, low levels of sulfur dioxide while exercising. There is, however, no scientific basis at present to support or dispute the hypothesis that individuals participating in the SO_2 clinical studies are surrogates for more sensitive asthmatics. Estimates of the size of the asthmatic population that experience exposures to short-term peaks of SO_2 (0.2–0.5 parts per million (ppm) SO_2 for 5–10 minutes) during light to moderate exercise, and that can be expected to exhibit a bronchoconstrictive response, varies from 5,000 to 50,000.

The majority of the Committee believes that the scientific evidence supporting the establishment of a new 1-hour standard is stronger than it was in 1983. As a result, and in view of the significance of the effects reported in

these clinical studies, there is strong, but not unanimous support for the recommendation that the Administrator consider establishing a new 1-hour standard for SO_2 exposures. The Committee agrees that the range suggested by EPA staff (0.2—0.5 ppm) is appropriate, with several members of the Committee suggesting a standard from the middle of this range. The Committee concludes that there is not a scientifically demonstrated need for a wide margin of safety for a 1-hour standard.

24-Hour Standard—The more recent studies presented and analyzed in the 1986 staff paper addendum, in particular, the episodic lung function studies in children (Dockery et al., and Dassen et al.) serve to strengthen our previous conclusion that the rationale for reaffirming the 24-hour standard is appropriate.

Annual Standard—The Committee reaffirms its conclusion, voiced in its 1983 closure letter, that there is no quantitative basis for retaining the current annual standard. However, a decision to abolish the annual standard must be considered in the light of the total protection that is to be offered by the suite of standards that will be established.

The above recommendations reflect the consensus position of CASAC. Not all CASAC reviewers agree with each position adopted because of the uncertainties associated with the existing scientific data. However, a strong majority supports each of the specific recommendations presented above, and the entire Committee agrees that this letter represents the consensus position.

Secondary Standards

The 3-hour secondary standard was not addressed at this review.

Appendix II to the Preamble

June 1, 1994.

Honorable Carol M. Browner,
Administrator, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460

Subject: Clean Air Scientific Advisory Committee Closure on the Supplements to Criteria Document and Staff Position Papers for SO_2

Dear Ms. Browner: The Clean Air Scientific Advisory Committee (CASAC) at a meeting on April 12, 1994, completed its review of the documents: Supplement to the Second Addendum (1986) to Air Quality Criteria for Particulate Matter and Sulfur Oxides; Assessment of New Findings on Sulfur Dioxide and Acute Exposure Health Effects in Asthmatics; and Review of the National Ambient Air Quality Standards for Sulfur Oxides: Updated Assessment of Scientific and Technical Information, Supplement to the 1986 OAQPS Staff Paper Addendum. The Committee notes, with satisfaction, the improvements made in the scientific quality and completeness of the documents.

With the changes recommended at our March 12 session, written comments submitted to the Agency subsequent to the meeting, and the major points provided below, the documents are consistent with the scientific evidence available for sulfur dioxide. They have been organized in a logical fashion and should provide an adequate basis for a regulatory decision. Nevertheless, there are four major points which should be called to your attention while reviewing these materials:

1. A wide spectrum of views exists among the asthma specialists regarding the clinical and public health significance of the effects of 5 to 10 minute concentrations of sulfur dioxide on asthmatics engaged in exercise. On one end of the spectrum is the view that spirometric test responses can be observed following such short-term exposures and they are a surrogate for significant health effects. Also, there is some concern that the effects are underestimated because moderate asthmatics, not severe asthmatics, were used in the clinical tests. At the other end of the spectrum, the significance of the spirometric test results are questioned because the response is similar to that evoked by other commonly encountered, non-specific stimuli such as exercise alone, cold, dry air inhalation, vigorous coughing, psychological stress, or even fatigue. Typically, the bronchoconstriction reverses itself within one or two hours, is not accompanied by a late-phase response (often more severe and potentially dangerous than the immediate response), and shows no evidence of cumulative or long-term effects. Instead, it is characterized by a short-term period of bronchoconstriction, and can be prevented or ameliorated by beta-agonist aerosol inhalation.

2. It was the consensus of CASAC that the exposure scenario of concern is a rare event. The sensitive population in this case is an unmedicated asthmatic engaged in moderate exercise who happens to be near one of the several hundred sulfur dioxide sources that have the potential to produce high ground-level sulfur dioxide concentrations over a small geographical area under rare adverse meteorological conditions. In addition, CASAC pointed out that sulfur dioxide emissions have been significantly reduced since EPA conducted its exposure analysis and emissions will be further reduced as the 1990 Clean Air Act Amendments are implemented. Consequently, such exposures will become even rarer in the future.

3. It was the consensus of CASAC that any regulatory strategy to ameliorate such exposures be risk-based—targeted on the most likely sources of short-term sulfur dioxide spikes rather than imposing short-term standards on all sources. All of the nine CASAC Panel members recommended that Option 1, the establishment of a new 5-minutes standard, not be adopted. Reasons cited for this recommendation included: the clinical experiences of many ozone experts which suggest that the effects are short-term, readily reversible, and typical of response seen with other stimuli. Further, the committee viewed such exposures as rare events which will even become rarer as sulfur dioxide emissions are further reduced as the 1990 amendments are implemented. In addition, the committee pointed out that enforcement of a short-term NAAQS would require substantial technical resources. Furthermore, the committee did not think that such a standard would be enforceable (see below).

4. CASAC questioned the enforceability of a 5-minute NAAQS or ''target level.'' Although the Agency has not proposed an air monitoring strategy, to ensure that such a standard or ''target level'' would not be exceeded, we infer that potential sources would have to be surrounded by concentric circles of monitors. The operation and maintenance of such monitoring networks would be extremely resource intensive. Furthermore, current instrumentation used to routinely monitor sulfur dioxide does not respond quickly enough to accurately characterize 5-minute spikes.

The Committee appreciates the opportunity to participate in this review and looks forward to receiving notice of your decision on the standard. Please do not hesitate to contact me if CASAC can be of further assistance on this matter.

Sincerely,

George T. Wolff, Ph.D.,
Chair, Clean Air Scientific Advisory Committee.

For the reasons set forth in the preamble, chapter I of title 40 of the Code of Federal Regulations is amended as follows:

PART 50—NATIONAL PRIMARY AND SECONDARY AMBIENT AIR QUALITY STANDARDS

1. The authority citation for part 50 continues to read as follows:

Authority: Secs. 109 and 301(a), Clean Air Act, as amended (42 U.S.C. 7409, 7601(a)).

2. Section 50.4 is revised to read as follows:

§ 50.4 National primary ambient air quality standards for sulfur oxides (sulfur dioxide).

(a) The level of the annual standard is 0.030 parts per million (ppm), not to be exceeded in a calendar year. The annual arithmetic mean shall be rounded to three decimal places (fractional parts equal to or greater than 0.0005 ppm shall be rounded up).

(b) The level of the 24-hour standard is 0.14 parts per million (ppm), not to be exceeded more than once per calendar year. The 24-hour averages shall be determined from successive nonoverlapping 24-hour blocks starting at midnight each calendar day and shall be rounded to two decimal places (fractional parts equal to or greater than 0.005 ppm shall be rounded up).

(c) Sulfur oxides shall be measured in the ambient air as sulfur dioxide by the reference method described in Appendix A to this part or by an equivalent method designated in accordance with part 53 of this chapter.

(d) To demonstrate attainment, the annual arithmetic mean and the second-highest 24-hour averages must be based upon hourly data that are at least 75 percent complete in each calendar quarter. A 24-hour block average shall be considered valid if at least 75 percent of the hourly averages for the 24-hour period are available. In the event that only 18, 19, 20, 21, 22, or 23 hourly averages are available, the 24-hour block average shall be computed as the sum of the available hourly averages using 18, 19, etc. as the divisor. If fewer than 18 hourly averages are available, but the 24-hour average would exceed the level of the standard when zeros are substituted for the missing values, subject to the rounding rule of paragraph (b) of this section, then this shall be considered a valid 24-hour average. In this case, the 24-hour block average shall be computed as the sum of the available hourly averages divided by 24.

3. Section 50.5 is revised to read as follows:

§ 50.5 National secondary ambient air quality standard for sulfur oxides (sulfur dioxide).

(a) The level of the 3-hour standard is 0.5 parts per million (ppm), not to be exceeded more than once per calendar year. The 3-hour averages shall be determined from successive nonoverlapping 3-hour blocks starting at midnight each calendar day and shall be rounded to 1 decimal place (fractional parts equal to or greater than 0.05 ppm shall be rounded up).

(b) Sulfur oxides shall be measured in the ambient air as sulfur dioxide by the reference method described in appendix A of this part or by an equivalent method designated in accordance with Part 53 of this chapter.

(c) To demonstrate attainment, the second-highest 3-hour average must be based upon hourly data that are at least 75 percent complete in each calendar quarter. A 3-hour block average shall be considered valid only if all three hourly averages for the 3-hour period are available. If only one or two hourly averages are available, but the 3-hour average would exceed the level of the standard when zeros are substituted for the missing values, subject to the rounding rule of paragraph (a) of this section, then this shall be considered a valid 3-hour average. In all cases, the 3-hour block average shall be computed as the sum of the hourly averages divided by 3.

[FR Doc. 96–12863 Filed 5–21–96; 8:45 am]
BILLING CODE 6560–50–P

40 CFR Part 75

[FRL–5506–6]

Acid Rain Program: Continuous Emission Monitoring

AGENCY: Environmental Protection Agency (EPA).

ACTION: Amendment to final rule; correction.

SUMMARY: On May 17, 1995, EPA published direct final amendments to the Continuous Emission Monitoring (CEM) rule in the Acid Rain Program for the purpose of making implementation of the program simpler, streamlined, and more efficient. The amendments to the original January 11, 1993 rule became final and effective on July 17, 1995. During the public comment period on the direct final rule and its companion proposed rule, EPA received significant, adverse comments on those amended provisions that related to notifications for periodic relative accuracy test audits. EPA is removing the provisions added in the direct final rule related to notifications. EPA will address the removed provisions in a future final rule. EPA is also extending the public comment period on the removed provisions for 15 days to allow the public to respond to the significant, adverse comments. All other provisions of the direct final rule remain final.

In addition, EPA is publishing technical corrections of typographical and similar inadvertent errors in the final rule, as promulgated May 17, 1995.

DATES: *Effective date:* The effective date of the amended rule provisions and corrections is May 22, 1996.

Comment date: Comments in response to the significant, adverse comments on the direct final rule must be received on or before June 6, 1996.

ADDRESSES: Any written comments in response to the significant, adverse comments on the direct final rule must be identified as being in response to such comments in Docket No. A–94–16 and must be submitted in duplicate to: EPA Air Docket (6102), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. The docket is available for public inspection and copying between 8:30 a.m. and 3:30 p.m., Monday through Friday, at the above address. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Margaret Sheppard, Acid Rain Division (6204J), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202) 233–9180.

SUPPLEMENTARY INFORMATION: EPA received significant, adverse comments on certain provisions of the direct final rule amending part 75 from a group of utilities called the Texas Subgroup. These comments were apparently submitted on time, but EPA became aware of this only after the provision became final. After the close of the comment period, the Texas Subgroup submitted a letter, dated November 2, 1995, clarifying its comments. The comments and the November 28, 1995 letter are found in Docket No. A–94–16, items V–D–23 and V–D–24. The Texas Subgroup made significant, adverse comments on the provisions of §§ 75.21(d)and 75.61(a)(5). Therefore, those provisions in the direct final rule are being removed and are considered proposed provisions until EPA takes further comment and addresses the comments in a future final rule.

The Texas Subgroup commented adversely upon the requirements in §§ 75.21(d) and 75.51(a)(5) for notifications of the date on which periodic Relative Accuracy Test Audits (RATAs) will be performed. The direct final provisions require submission of written notification to the Administrator, the appropriate EPA Regional Office, and the applicable State or local air pollution control agency at least 21 days before the scheduled date of a RATA. The date may be rescheduled if written or oral notice is provided to EPA and to the appropriate State or local air quality agency at least seven days before the earlier of the original scheduled date or the new test date. The Texas Subgroup felt that this provision created additional paperwork. In addition, they felt the provisions could force utilities to delay rescheduled RATAs unnecessarily for seven days simply to meet the notification requirement.

In discussions with EPA, the Texas Subgroup suggested that perhaps the provisions are not needed or the provisions could be revised to provide more flexibility in the case where a RATA is rescheduled. Some possibilities that the Texas Subgroup discussed with EPA included: allowing utilities to receive permission from EPA, State and local agency Acid Rain Program contacts to proceed with testing in less than seven days from the date of notification; creating an ''emergency'' notification two days after the new testing date is known, similar

to that for recertification (§ 75.61(a)(1)(ii)); and allowing notification electronically to reduce the paperwork burden, where the EPA Regional office or State or local agency will accept such a notification.

EPA also notes that the purpose of the notification for periodic RATAs is to enable EPA or State or local agency staff to observe the testing. Notifications of periodic RATAs will allow EPA, State and local agencies to observe a larger percentage of units than if utilities only were to submit notice for certification and recertification testing. The ability of agency staff to attend certification and recertification testing is limited since EPA has significantly shortened the notification period for most recertification tests and allows utilities to proceed with recertification testing before notifying the Agency in emergency situations and since there were a large number of sources testing in a short time period during initial certification. Even so, agency staff attended many RATAs for initial certification testing. However, initial certification generally occurs before the period when an affected unit is required to comply with emission reductions. Therefore, to enhance the quality of quality assurance testing and the quality of emission data during compliance, EPA and State and local agencies need the opportunity to observe periodic RATAs. EPA notes that, during certification testing, EPA personnel have observed and corrected deviations from acceptable stack testing procedures. Based on these observations during initial certification, EPA believes it is critical for EPA, State, and local agency personnel to be able to observe periodic RATAs in order to ensure the quality of monitored data for the Acid Rain Program. Moreover, advance notification of the date of periodic RATA testing allows the cost-effective use of agency resources by coordinating auditing of monitor performance with regularly scheduled quality assurance testing and by coordinating field observations at multiple locations. If agency personnel were not to observe periodic RATA testing, agencies would need to perform or require performance of additional RATAs under the audit provisions of section 2.4 of Appendix B of part 75. This would be more intrusive for utilities, and more time-consuming and costly for both utilities and agencies, than coordinating with periodic RATA testing.

The Agency notes that it is relatively easy for a utility that schedules testing to notify agencies of a known testing date. In fact, it will take a utility roughly the same amount of time to respond to EPA and State or local agency enquiries about testing dates as it takes the utility to generate the short notice and mail it or to make a telephone call. In contrast, it is relatively difficult, time-consuming and intrusive for State or local air pollution control agencies or EPA Regional Offices to contact each utility with Phase I and II affected units to determine when testing will occur at each unit. EPA and State or local agency personnel must call each utility, contact the appropriate utility staff person, and discuss the scheduling information.

In addition, EPA is considering changes to the periodic RATA notification provisions that would reduce the burden of reporting a notification. Part of the paperwork burden could be eliminated by removing the requirement that notifications be provided to the Administrator (received by EPA's Acid Rain Division). In addition, a State or local air pollution control agency or EPA regional office could be allowed to waive the notification requirement. For example, a State or local air pollution control agency or an EPA regional office could decide that it would not observe a class of units (e.g., low-emitting gas-fired units). EPA is therefore considering allowing State or local air pollution control agencies or EPA Regional Offices to issue a utility a waiver from periodic RATA notification requirements for some or all utility units within their respective States, air quality districts or EPA regions until notifications are specifically requested again. This would relieve utilities of some reporting burden, while still ensuring that State or local agencies or EPA regional offices would be able to observe RATA testing when they wished to do so. Moreover, where a test needs to be rescheduled in less than seven days, another option that would create greater flexibility for utilities would be a shorter period of advance notification, such as telephone, facsimile, or electronic mail notification on the day the utility knows the rescheduled date of testing, which would be required to be at least two days (48 hours) before the new date of testing. EPA requests comment on these possible solutions.

No other significant, adverse comments were received by EPA on the direct final rule. Thus, all other provisions of the direct final rule became final on July 17, 1995 and remain in effect.

In addition, the EPA is correcting various errors found in the direct final rule, as promulgated on May 17, 1995. These corrections are technical. Most correct typographical errors; some reinstate provisions that were inadvertently removed from the final regulations originally promulgated on January 11, 1993 (58 FR 3590, 1993) when the May 17, 1995 document was published.

The rule provisions in this document either remove requirements already incorporated in the May 17, 1995 notice or reinstate regulatory requirements that were previously approved when the regulations were originally issued on January 11, 1993. The requirements of Executive Orders 12866 and 12875, the Regulatory Flexibility Act, the Unfunded Mandates Act, and the Paperwork Reduction Act are therefore not applicable to this action. All applicable administrative requirements will be met when the proposed amendments are addressed in a future final rule.

For additional information, see the direct final rule. 60 FR 26510 (May 17, 1995).

List of Subjects in 40 CFR Part 75

Environmental protection, Air pollution control, Carbon dioxide, Continuous emission monitors, Electric utilities, Incorporation by reference, Nitrogen oxides, Reporting and recordkeeping requirements, Sulfur dioxide.

Dated: April 30, 1996.

Brian J. McLean,

Director, Acid Rain Division.

PART 75—[AMENDED]

Part 75 of title 40, chapter I of the Code of Federal Regulations is amended as follows:

1. The authority citation for part 75 continues to read as follows:

Authority: 42 U.S.C. 7601 and 7651K.

2. Section 75.14 is amended by revising paragraph (c) to read as follows:

§ 75.14 Specific provisions for monitoring opacity.

* * * * *

(c) *Gas-fired units.* The owner or operator of an affected unit that qualifies as gas-fired, as defined in § 72.2 of this chapter, based on information submitted by the designated representative in the monitoring plan is exempt from the opacity monitoring requirements of this part. Whenever a unit previously categorized as a gas-fired unit is recategorized as another type of unit by changing its fuel mix, the owner or operator shall install, operate, and certify a continuous opacity monitoring system as required by paragraph (a) of this section by

December 31 of the following calendar year.

* * * * *

3. Section 75.15(b)(1) is amended by revising Equation 7 to read as follows:

§ 75.15 Specific provisions for monitoring SO_2 emissions removal by qualifying Phase I technology.

* * * * *

(b) * * *

(1) * * *

Where, * * *

* * * * *

$$E_{ci} = \frac{\sum_{j=1}^{p} E_{icj}}{p} \qquad \text{Eq. 7)}$$

§ 75.16 [Amended]

4. Section 75.16(a)(2)(ii)(A) is amended by adding the word ''in'' between the phrases ''compensating units'' and ''accordance with part 72''.

§ 75.21 [Amended]

5. Section 75.21 is amended by removing and reserving paragraph (d).

§ 75.33 [Amended]

6. Section 75.33(c)(5) is amended by revising the word ''proper'' to read ''prior''.

7. Section 75.50(a) is revised to read as follows:

§ 75.50 General recordkeeping provisions.

(a) *Recordkeeping requirements for affected sources.* The provisions of this section shall remain in effect prior to January 1, 1996. The owner or operator shall meet the requirements of either §§ 75.50 or 75.54 prior to January 1, 1996. On or after January 1, 1996, the owner or operator shall meet the requirements of § 75.54 only. The owner or operator of any affected source subject to the requirements of this part shall maintain for each affected unit (or for each group of affected or nonaffected units utilizing a common stack and common monitoring systems pursuant to § 75.16 through § 75.18 of this part (referred to hereafter as ''each affected unit'')) a file of all measurements, data, reports, and other information required by this part at the source in a form suitable for inspection for at least three (3) years from the date of each record. This file shall contain the following information:

(1) The data and information required in paragraphs (b) through (f) of this section;

(2) The component data and information used to calculate values required in paragraphs (b) through (f) of this section;

(3) The current monitoring plan as specified in § 75.53 of this part; and

(4) The quality control plan as described in Appendix B of this part.

* * * * *

§ 75.61 [Amended]

8.–9. Section 75.61 is amended by removing and reserving paragraph (a)(5).

10. Appendix A, Section 2.1.1.1 is amended by adding the variables for Equations A–1a and A–1b and note at the end of the section to read as follows:

Appendix A of Part 75—Specifications and Test Procedures [Amended]

* * * * *

2.1.1.1 Maximum Potential Concentration

* * * * *

Where,

MPC=Maximum potential concentration (ppm, wet basis). (To convert to dry basis, divide the MPC by 0.9.)

%S=Maximum sulfur content of fuel to be fired, wet basis, weight percent, as determined by ASTM D3177–89, ASTM D4239–85, ASTM D4294–90, ASTM D1552–90, ASTM D129–91, or ASTM D2622–92 for solid or liquid fuels (incorporated by reference under § 75.6).

GCV=Minimum gross calorific value of the fuel lot consistent with the sulfur analysis (Btu/lb), as determined using ASTM D3176–89, ASTM D240–87 (Reapproved 1991), or ASTM D2015–91 (incorporated by reference under § 75.6).

$\%O_{2w}$=Minimum oxygen concentration, percent wet basis, under normal operating conditions.

$\%CO_{2w}$=Maximum carbon dioxide concentration, percent wet basis, under normal operating conditions.

11.32×10^6=Oxygen-based conversion factor in (Btu/lb)(ppm)/%.

6.93×10^6=Carbon dioxide-based conversion factor in (Btu/lb)(ppm)/%

Note: All percent values to be inserted in the equations of this section are to be expressed as a percentage, not a fractional value, e.g., 3, not .03.

11. Appendix A, Section 2.1.4 is amended by replacing the variable ''F_d'' with the variable ''F_c'' in Equation A–3b to read as follows:

$$MPV = \left(\frac{F_c H_f}{A}\right)\left(\frac{100}{\%CO_{2d}}\right)\left[\frac{100}{100 - \%H_2O}\right] \qquad \text{(Eq. A – 3b)}$$

Where:

* * * * *

Appendix A—[Amended]

12. Appendix A, Section 7.6.5 is amended by revising the first two variable definitions for Equation A–11 to read as follows:

7.6.5 Bias Adjustment

* * * * *

Where:

$CEM_i^{Monitor}$=Data (measurement) provided by the monitor at time i.

$CEM_i^{Adjusted}$=Data value, adjusted for bias, at time i.

* * * * *

13. Appendix A of part 75 is amended by adding Figures 1 through 4 at the end of Appendix A, to read as follows:

Figures for Appendix A of Part 75

FIGURE 1.—LINEARITY ERROR DETERMINATION

Day	Date and time	Reference value	Monitor value	Difference	Percent of reference value
Low-level:					

Figures for Appendix A of Part 75—Continued

FIGURE 1.—LINEARITY ERROR DETERMINATION

Day	Date and time	Reference value	Monitor value	Difference	Percent of reference value
Mid-level:					
High-level:					

FIGURE 2.—RELATIVE ACCURACY DETERMINATION (POLLUTANT CONCENTRATION MONITORS)

Run No.	Date and time	SO_2 (ppm[c])			Date and time	CO_2 (Pollutant) (ppm[c])		
		RM[a]	M[b]	Diff		RM[a]	M[b]	Diff
1								
2								
3								
4								
5								
6								
7								
8								
9								
10								
11								
12								
Arithmetic Mean Difference (Eq. A–7). Confidence Coefficient (Eq. A–9). Relative Accuracy (Eq. A–10).								

[a] RM means ''reference method data.''

[b] M means ''monitor data.''
[c] Make sure the RM and M data are on a consistent basis, either wet or dry.

FIGURE 3.—RELATIVE ACCURACY DETERMINATION (FLOW MONITORS)

Run No.	Date and time	Flow rate (Low) (scf/hr)*			Date and time	Flow rate (Normal) (scf/hr)*			Date and time	Flow rate (High) (scf/hr)*		
		RM	M	Diff		RM	M	Diff		RM	M	Diff
1												
2												
3												
4												
5												
6												
7												
8												
9												
10												
11												
12												
Arithmetic Mean Difference (Eq. A–7). Confidence Coefficient (Eq. A–9). Relative Accuracy (Eq. A–10).												

* Make sure the RM and M data are on a consistent basis, either wet or dry.

FIGURE 4.—RELATIVE ACCURACY DETERMINATION (NO_X/Diluent Combined System)

Run No.	Date and time	Reference method data		NO_X system (lb/mmBtu)		
		NO_X( )[a]	O_2/CO_2%	RM	M	Difference
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
Arithmetic Mean Difference (Eq. A–7). Confidence Coefficient (Eq. A–9). Relative Accuracy (Eq. A–10).						

[a] Specify units: ppm, lb/dscf, mg/dscm.

Appendix D To Part 75—Optional SO_2 Emissions Data Protocol for Gas-Fired and Oil-Fired Units [Amended]

14. Appendix D, section 2.1.5.2 is amended by revising the phrase ''bypass fuel'' to read ''backup fuel''.

15. Appendix D, section 2.1.6.1 is amended by revising the phrase ''bypass fuel'' to read ''backup fuel''.

Appendix F of Part 75—Conversion Procedures [Amended]

16. Appendix F, section 3.4, Equation F–10 is amended by changing the superscript in the sum from ''n'' to ''m'', to read as follows:

$$E_a = \sum_{i=1}^{m} \frac{E_i}{m} \qquad \text{(Eq. F-10)}$$

Where,

* * * * *

17. Appendix F, section 4.4.1 is amended by adding Equation F–14b after the variables for Equation F–14a and before the variables for Equation F–14b, to read as follows:

4.4.1

* * * * *

or

$$CO_{2w}\,\frac{100}{20.9}\,\frac{F_c}{F}\left[20.9\left(\frac{100-\%H_2O}{100}\right)-O_{2w}\right] \qquad \text{(Eq. F-14b)}$$

* * * * *

Appendix F, Section 5.5.1—[Amended]

18. Appendix F, Section 5.5.1 is amended by revising the last variable for Equation F–19 from ''106'' to read ''10^6'' in the definition for the variable.

Appendix G of Part 75—Determination of CO_2 Emissions [Amended]

Appendix G, Section 4—[Amended]

19. Appendix G, section 4 is amended by redesignating Equation G–7 as Equation G–8.

[FR Doc. 96–12482 Filed 5–21–96; 8:45 am]
BILLING CODE 6560–50–P

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40 CFR Part 82

[FRL–5467–1]

RIN 2060–AG12

Protection of Stratospheric Ozone: Listing of Substitutes for Ozone-Depleting Substances

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This action finalizes restrictions or prohibitions on substitutes for ozone depleting substances (ODSs) under the U.S. Environmental Protection Agency (EPA) Significant New Alternatives Policy (SNAP) program. SNAP implements section 612 of the amended Clean Air Act of 1990 which requires EPA to evaluate and regulate substitutes for the ODSs to reduce overall risk to human health and the environment. Through these evaluations, SNAP generates lists of acceptable and unacceptable substitutes for each of the major industrial use sectors. The intended effect of the SNAP program is to expedite movement away from ozone depleting compounds while avoiding a shift into high-risk substitutes posing other environmental problems.

On March 18, 1994, EPA promulgated a final rulemaking setting forth its plan for administering the SNAP program (59 FR 13044), and issued decisions on the acceptability and unacceptability of a number substitutes. In this Final Rulemaking (FRM), EPA is issuing its preliminary decisions on the acceptability of certain substitutes not previously reviewed by the Agency. To arrive at determinations on the acceptability of substitutes, the Agency completed a cross-media evaluation of risks to human health and the environment by sector end-use.

DATES: Effective date June 21, 1996.

The information collection requirements contained in Appendix C of subpart G of part 82 have not been approved by the Office of Management and Budget (OMB) and are not effective until OMB has approved them. EPA will publish a document in the Federal Register announcing OMB approval.

ADDRESSES: Public Docket: Public comments and data specific to this final rule are in Docket A–91–42, Central Docket Section, South Conference Room 4, U.S. Environmental Agency, 401 M Street, SW., Washington, DC 20460. The docket may be inspected between 8 a.m. and 4 p.m. on weekdays. Telephone (202) 260–7549; fax (202) 260–4400. As provided in 40 CFR part 2, a reasonable fee may be charged for photocopying.

FOR FURTHER INFORMATION CONTACT: Nancy Smagin at (202) 233–9126 or fax (202) 233–9577, Stratospheric Protection Division, USEPA, Mail Code 6205J, 401 M Street, SW., Washington, DC 20460

SUPPLEMENTARY INFORMATION:

I. Overview of This Action

This action is divided into five sections, including this overview:

II. Section 612 Program

A. Statutory Requirements

Section 612 of the Clean Air Act authorizes EPA to develop a program for evaluating alternatives to ozone-depleting substances. EPA is referring to this program as the Significant New Alternatives Policy (SNAP) program. The major provisions of section 612 are:

Rulemaking—Section 612(c) requires EPA to promulgate rules making it unlawful to replace any class I (chlorofluorocarbon, halon, carbon tetrachloride, methyl chloroform, methyl bromide, and hydrobromofluorocarbon) or class II (hydrochlorofluorocarbon) substance with any substitute that the Administrator determines may present adverse effects to human health or the environment where the Administrator has identified an alternative that (1) reduces the overall risk to human health and the environment, and (2) is currently or potentially available.

Listing of Unacceptable/Acceptable Substitutes—Section 612(c) also requires EPA to publish a list of the substitutes unacceptable for specific uses. EPA must publish a corresponding list of acceptable alternatives for specific uses.

Petition Process—Section 612(d) grants the right to any person to petition EPA to add a substitute to or delete a substitute from the lists published in accordance with section 612(c). The Agency has 90 days to grant or deny a petition. Where the Agency grants the petition, EPA must publish the revised lists within an additional six months.

90–day Notification—Section 612(e) requires EPA to require any person who

produces a chemical substitute for a class I substance to notify the Agency not less than 90 days before new or existing chemicals are introduced into interstate commerce for significant new uses as substitutes for a class I substance. The producer must also provide the Agency with the producer's unpublished health and safety studies on such substitutes.

Outreach—Section 612(b)(1) states that the Administrator shall seek to maximize the use of federal research facilities and resources to assist users of class I and II substances in identifying and developing alternatives to the use of such substances in key commercial applications.

Clearinghouse—Section 612(b)(4) requires the Agency to set up a public clearinghouse of alternative chemicals, product substitutes, and alternative manufacturing processes that are available for products and manufacturing processes which use class I and II substances.

B. Regulatory History

On March 18, 1994, EPA published the Final Rulemaking (FRM) (59 FR 13044) which described the process for administering the SNAP program and issued EPA's first acceptability lists for substitutes in the major industrial use sectors. These sectors include: refrigeration and air conditioning; foam blowing; solvent cleaning; fire suppression and explosion protection; sterilants; aerosols; adhesives, coatings and inks; and tobacco expansion. These sectors comprise the principal industrial sectors that historically consume large volumes of ozone-depleting compounds.

The Agency defines a ''substitute'' as any chemical, product substitute, or alternative manufacturing process, whether existing or new, that could replace a class I or class II substance. Anyone who produces a substitute must provide the Agency with health and safety studies on the substitute at least 90 days before introducing it into interstate commerce for significant new use as an alternative. This requirement applies to chemical manufacturers, but may include importers, formulators or end-users when they are responsible for introducing a substitute into commerce.

III. Listing of Substitutes

To develop the lists of unacceptable and acceptable substitutes, EPA conducts screens of health and environmental risks posed by various substitutes for ozone-depleting compounds in each use sector. The outcome of these risks screens can be found in the public docket, as described above in the **ADDRESSES** portion of this notice.

Under section 612, the Agency has considerable discretion in the risk management decisions it can make in SNAP. The Agency has identified five possible decision categories: acceptable, acceptable subject to use conditions; acceptable subject to narrowed use limits; unacceptable; and pending. Acceptable substitutes can be used for all applications within the relevant sector end-use. Conversely, it is illegal to replace an ODS with a substitute listed by SNAP as unacceptable. A pending listing represents substitutes for which the Agency has not received complete data or has not completed its review of the data.

After reviewing a substitute, the Agency may make a determination that a substitute is acceptable only if certain conditions of use are met to minimize risks to human health and the environment. Use of such substitutes in ways that are inconsistent with such use conditions renders these substitutes unacceptable.

Even though the Agency can restrict the use of a substitute based on the potential for adverse effects, it may be necessary to permit a narrowed range of use within a sector end-use because of the lack of alternatives for specialized applications. Users intending to adopt a substitute acceptable with narrowed use limits must ascertain that other acceptable alternatives are not technically feasible. Companies must document the results of their evaluation, and retain the results on file for the purpose of demonstrating compliance. This documentation shall include descriptions of substitutes examined and rejected, processes or products in which the substitute is needed, reason for rejection of other alternatives, e.g., performance, technical or safety standards, and the anticipated date other substitutes will be available and projected time for switching to other available substitutes. Use of such substitutes in application and end-uses which are not specified as acceptable in the narrowed use limit renders these substitutes unacceptable.

In this Final Rulemaking (FRM), EPA is issuing decisions on the acceptability of certain substitutes not previously reviewed by the Agency. The proposed rulemaking for these decisions was published on October 2, 1995 (60 FR 51383). As described in the proposed rule, EPA believes that notice-and-comment rulemaking is required to place any alternative on the list of prohibited substitutes, to list a substitute as acceptable only under certain use conditions or narrowed use limits, or to remove an alternative from either the list of prohibited or acceptable substitutes.

EPA does not believe that rulemaking procedures are required to list alternatives as acceptable with no limitations. Such listings do not impose any sanction, nor do they remove any prior license to use a substitute. Consequently, EPA adds substitutes to the list of acceptable alternatives without first requesting comment on new listings. Updates to the acceptable and pending lists are published as separate Notices in the Federal Register.

Parts A. through C. below present a detailed discussion of the substitute listing determinations by major use sector. Tables summarizing listing decisions in this Final Rulemaking are in Appendix below. The comments contained in the Appendix provide additional information on a substitute. Since comments are not part of the regulatory decision, they are not mandatory for use of a substitute. Nor should the comments be considered comprehensive with respect to other legal obligations pertaining to the use of the substitute. However, EPA encourages users of acceptable substitutes to apply all comments in their application of these substitutes. In many instances, the comments simply allude to sound operating practices that have already been identified in existing industry and/or building-code standards. Thus, many of the comments, if adopted, would not require significant changes in existing operating practices for the affected industry.

A. Refrigeration and Air Conditioning

Response to Comment

EPA received one comment supporting the requirement to use unique fittings when retrofitting motor vehicle air conditioning systems (MVACS). The commenter, however, requested EPA reduce the information required on the label. EPA based the labeling requirements very closely on SAE J1660 and a petition by the Mobile Air Conditioning Society (MACS), and believes all of the information proposed in the NPRM is necessary, as clarified below. The commenter requested that EPA remove each of the following pieces of information from the label.

- Technician name and address.

EPA requires this information to ensure that both the consumer and various agencies know exactly who worked on the vehicle. In addition, this information allows the consumer to check that the technician is certified to work on MVACS.

- ASHRAE designation.

The American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) assigns unique numbers to new refrigerants. Refrigerant properties depend very strongly on both the components and the individual percentages within a blend. The composition of all ASHRAE-designated refrigerants is public, and EPA believes it is important for consumers and technicians to be aware of such information if it is available.

• Lubricant Manufacturer.

Given the large number of new refrigerants and lubricants, EPA believes the consumer is best served by having this information. This information is particularly important since it is extremely difficult to test every possible refrigerant/lubricant combination in every vehicle.

• ''Ozone depleter'' phrase.

The commenter reasoned that SNAP acceptability was the only relevant criterion to protect the ozone layer. Until November 15, 1995, however, only ozone-depleting substances were required to be recovered from MVACS, and since the composition of certain blends was confidential, EPA believed it was important to alert technicians of the necessity of recovering the refrigerant during servicing and disposal. EPA still believes that this statement does not add significantly to the label size and provides useful information to the consumer.

• Flammability phrase.

The commenter requested that this phrase be shortened from ''This refrigerant is FLAMMABLE. Take appropriate precautions.'' to ''FLAMMABLE''. However, because flammable refrigerants are not currently in use, EPA believes it is extremely important to draw attention to a flammable substitute. Technicians and consumers need to be aware of the potential hazards posed by flammable refrigerants, and the entire phrase serves that purpose better than a single word.

In addition to the above rationale, the labeling requirements cannot be changed each time EPA lists a new refrigerant as acceptable for use in MVACS subject to use conditions. The labeling requirements were finalized on June 13, 1995 (60 FR 51383) for HCFC Blend Beta, R–401C, and HFC–134a. It is not reasonable to require vendors of those refrigerants to modify their labels or to meet standards not imposed on subsequent refrigerants. EPA believes the labeling requirements are necessary and appropriate to help the MVAC industry in its transition away from CFC–12 in as smooth and safe a manner as possible.

2. Acceptable Subject to Use Conditions

a. CFC–12 Automobile and Non-automobile Motor Vehicle Air Conditioners, Retrofit and New

EPA is concerned that the existence of several substitutes in this end-use may increase the likelihood of significant refrigerant cross-contamination and potential failure of both air conditioning systems and recovery/recycling equipment. In addition, a smooth transition to the use of substitutes strongly depends on the continued purity of the recycled CFC–12 supply. In order to prevent cross-contamination and preserve the purity of recycled refrigerants, EPA is imposing several conditions on the use of all motor vehicle air conditioning refrigerants. For the purposes of this rule, no distinction is made between ''retrofit'' and ''drop-in'' refrigerants; retrofitting a car to use a new refrigerant includes all procedures that result in the air conditioning system using a new refrigerant. Please note that EPA only reviews refrigerants based on environmental and health factors.

When retrofitting a CFC–12 system to use any substitute refrigerant, the following conditions must be met:

• Each refrigerant may only be used with a set of fittings that is unique to that refrigerant. These fittings (male or female, as appropriate) must be used with all containers of the refrigerant, on can taps, on recovery, recycling, and charging equipment, and on all air conditioning system service ports. These fittings must be designed to mechanically prevent cross-charging with another refrigerant. A refrigerant may only be used with the fittings and can taps specifically intended for that refrigerant. Using an adapter or deliberately modifying a fitting to use a different refrigerant will be a violation of this use condition. In addition, fittings shall meet the following criteria, derived from Society of Automotive Engineers (SAE) standards and recommended practices:

—When existing CFC–12 service ports are to be retrofitted, conversion assemblies shall attach to the CFC–12 fitting with a thread lock adhesive and/or a separate mechanical latching mechanism in a manner that permanently prevents the assembly from being removed.

—All conversion assemblies and new service ports must satisfy the vibration testing requirements of sections 3.2.1 or 3.2.2 of SAE J1660, as applicable, excluding references to SAE J639 and SAE J2064, which are specific to HFC–134a.

—In order to prevent discharge of refrigerant to the atmosphere, systems shall have a device to limit compressor operation before the pressure relief device will vent refrigerant. This requirement is waived for systems that do not feature such a pressure relief device.

—All CFC–12 service ports not retrofitted with conversion assemblies shall be rendered permanently incompatible for use with CFC–12 related service equipment by fitting with a device attached with a thread lock adhesive and/or a separate mechanical latching mechanism in a manner that prevents the device from being removed.

• When a retrofit is performed, a label must be used as follows:

—The person conducting the retrofit must apply a label to the air conditioning system in the engine compartment that contains the following information:

*The name and address of the technician and the company performing the retrofit

*The date of the retrofit

*The trade name, charge amount, and, when applicable, the ASHRAE refrigerant numerical designation of the refrigerant

*The type, manufacturer, and amount of lubricant used

*If the refrigerant is or contains an ozone-depleting substance, the phrase ''ozone depleter''

*If the refrigerant displays flammability limits as measured according to ASTM E681, the statement ''This refrigerant is FLAMMABLE. Take appropriate precautions.''

—This label must be large enough to be easily read and must be permanent.

—The background color must be unique to the refrigerant.

—The label must be affixed to the system over information related to the previous refrigerant, in a location not normally replaced during vehicle repair.

—Information on the previous refrigerant that cannot be covered by the new label must be permanently rendered unreadable.

• No substitute refrigerant may be used to ''top-off'' a system that uses another refrigerant. The original refrigerant must be recovered in accordance with regulations issued under section 609 of the CAA prior to charging with a substitute.

Since these use conditions necessitate unique fittings and labels, it will be necessary for developers of automotive refrigerants to consult with EPA about the existence of other alternatives. Such

discussions will lower the risk of duplicating fittings already in use.

No determination guarantees satisfactory performance from a refrigerant. Consult the original equipment manufacturer or service personnel for further information on using a refrigerant in a particular system.

(a) HCFC Blend Delta

HCFC Blend Delta is acceptable as a substitute for CFC–12 in retrofitted and new motor vehicle air conditioners, subject to the use conditions applicable to motor vehicle air conditioning described above. The composition of this blend has been claimed confidential by the manufacturer. This blend contains at least one HCFC, and therefore contributes to ozone depletion, but to a much lesser degree than CFC–12. Regulations regarding recycling and reclamation issued under section 609 of the Clean Air Act apply to this blend. Its production will be phased out according to the accelerated schedule (published 12/10/93, 58 FR 65018). The GWPs of the components are moderate to low. This blend is nonflammable, and leak testing has demonstrated that the blend never becomes flammable.

(b) Blend Zeta

Blend Zeta is acceptable as a substitute for CFC–12 in retrofitted and new motor vehicle air conditioners, subject to the use conditions applicable to motor vehicle air conditioning described above. The composition of this blend has been claimed confidential by the manufacturer. This blend does not contribute to ozone depletion. The GWPS of the components are moderate to low. This blend is nonflammable, and leak testing has demonstrated that the blend never becomes flammable.

B. Solvents

1. Response to Comment

In response to EPA's proposal, the Agency received public comment stating that the scope of SNAP did not extend to setting workplace standards for chemicals. The Agency disagrees with this comment, and it discussed in the original SNAP rule-making (59 FR 13044, March 18, 1994) how it is using section 612 authority under the Clean Air Act to set workplace standards as interim measures until OSHA has had an opportunity to review and decide on the need for standards under OSHA legislative authorities. The commenter suggested that EPA review with OSHA its intention of setting these standards. The EPA has already taken this step, and EPA and OSHA are in agreement about the ability and the need for the SNAP program to set occupational standards as an interim regulatory measure until the chemical in question has been reviewed by OSHA. Further discussion of this issue is included under the Fire Extinguishing section below.

2. Acceptable Subject to Use Conditions

a. Metals Cleaning

(1) Monochlorotoluenes/ Benzotrifluorides

Monochlorotoluenes/benzotrifluorides are acceptable subject to use conditions as substitutes for CFC–113 and MCF in metals cleaning. These two classes of chemicals are being sold as blends for a variety of cleaning applications. Of all the structures of commercial interest, the only chemical with an Occupational Safety and Health Administration (OSHA) standard is orthochlorotoluene, one of the monochlorotoluenes. This substance has an OSHA Permissible Exposure Level (PEL) of 50 ppm. Using this standard as a proxy, the Agency is setting a workplace standard of 50 ppm for monochlorotoluenes as a group. None of the benzotrifluorides has a PEL. Based on a toxicological study recently completed by the company interested in commercialization of these chemicals, the Agency is setting a workplace standard of 25 ppm for benzotrifluorides. Companies intending to use monochlorotoluene/ benzotrifluoride mixtures should take the inherent hazard of these chemicals into account.

These workplace standards are designed to protect worker safety until the Occupational Safety and Health Administration (OSHA) sets its own standards under P.L. 91–596. The existence of the EPA standards in no way bars OSHA from standard-setting under OSHA authorities as defined in P.L. 91–596.

b. Electronics Cleaning

(1) Monochlorotoluenes/ Benzotrifluorides

Monochlorotoluenes/benzotrifluorides are acceptable subject to use conditions as substitutes for CFC–113 and MCF in electronics cleaning. For the reasons described in the section on metals cleaning, the Agency is setting a workplace standard of 50 ppm for monochlorotoluenes and 25 ppm for benzotrifluorides.

These workplace standards are designed to protect worker safety until the Occupational Safety and Health Administration (OSHA) sets its own standards under P.L. 91–596. The existence of the EPA standards in no way bars OSHA from standard-setting under OSHA authorities as defined in P.L. 91–596.

c. Precision Cleaning

(1) Monochlorotoluenes/ Benzotrifluorides

Monochlorotoluenes/benzotrifluorides are acceptable subject to use conditions as substitutes for CFC–113 and MCF in precision cleaning. For the reasons described in the section on metals cleaning, the Agency is setting a workplace standard of 50 ppm for monochlorotoluenes and 25 ppm for benzotrifluorides.

These workplace standards are designed to protect worker safety until the Occupational Safety and Health Administration (OSHA) sets its own standards under P.L. 91–596. The existence of the EPA standards in no way bars OSHA from standard-setting under OSHA authorities as defined in P.L. 91–596.

C. Fire Suppression and Explosion Protection

1. Response to Comments

Comment: One commenter stated that EPA's regulation of total flooding agents is within the purview of OSHA, and that EPA should defer to OSHA rather than create duplicative regulation. Further, the commenter states that the conditions EPA has stipulated allowing exposure to oxygen deficient atmospheres of 10% to 12% oxygen is hazardous and inconsistent with OSHA's requirement for 19.5% oxygen in confined spaces. The commenter further advised EPA that OSHA published an update to its Respiratory Protection Standard (November 15, 1994, 59 FR 58906) which includes a chart indicating that oxygen concentrations below 16% at sea level should require the extra precautions that go with IDLH atmospheres (immediately dangerous to life and health). The commenter also pointed out the OSHA regulations requiring predischarge alarms. In summary, the commenter recommended (1) that EPA revise the proposed rule to be consistent with current OSHA regulation, (2) that EPA not establish a 12% ''no effect level'' or a 10% ''lowest effect level,'' and (3) that EPA leave this regulatory activity to OSHA.

Response: EPA would like to direct the commenter's attention to the original SNAP rulemaking published March 18, 1994 (59 FR 13044), as discussed in the Solvents section above. The Agency responded to many comments questioning its authority to promulgate workplace safety

regulations. To quote earlier language from the Comment Response document:

> In imposing conditions of use, EPA does not intend to preempt other regulatory authorities, such as those exercised by the Occupational Safety and Health Administration (OSHA) or other government or industrial standard-setting bodies. Rather, EPA hopes to fill existing regulatory gaps during the interim period of substitution away from ozone-depleting compounds and provide the needed margin of protection to human health and the environment until other regulatory controls or standards are developed under appropriate authorities.
>
> EPA anticipates applying use conditions only in the rare instances where clear regulatory gaps exist, and where an unreasonable risk would exist in the absence of any condition. These limitations will only remain in place until the appropriate standard setting agency acts. Once existing gaps are filled, EPA will rescind any conditions which have become redundant. The mechanism for informing the public of this change will be the quarterly Federal Register notices updating the status of the SNAP lists.

For the March 18, 1994 SNAP rulemaking, EPA had conducted an analysis of existing regulation of low oxygen atmospheres and determined that none relates to the use of a fixed gaseous system. (Available from the EPA Air Docket A–91–42, IV–A–4. ''Evaluation of Federal Regulations and Industry Guidelines Governing Minimum Oxygen Levels in Work Areas Protected By Gaseous Total Flooding Fire Protection Systems,'' Memo from ICF Incorporated to Karen Metchis, EPA, 1993.) OSHA had a number of inquiries concerning the definition of ''oxygen deficient atmospheres'', but the definition remained unclear with OSHA stating that any atmosphere containing less than 19.5 per cent oxygen falls within the definition of ''oxygen deficient atmosphere.'' However existing regulations concerned only such things as entering tanks (Ventilation Standard, 29 CFR 1910.94), confined spaces not intended for occupancy, etc. In addition, the proposed OSHA Respiratory Standard cited by the commenter does not apply to fire protection systems, except in situations where personnel wish to reenter an area that has experienced a system discharge.

The Agency views discharge of fire extinguishment systems as emergency situations, whether they be accidental discharges or discharges in response to a fire. In these cases, personnel are expected to quickly egress from an area, presumably before discharge occurs, but potentially very quickly after discharge. To prohibit use of this technology for fear of emergency situations would be akin to prohibiting the use of a particular chemical for fear of an accidental spill. Both cases represent an emergency situation that should be handled accordingly. Inert gas systems are not to be used while personnel remain in an area to conduct normal duties.

Current OSHA regulations (1910.162) allow use of halon in fixed extinguishing systems in normally occupied areas in amounts that would result in an oxygen deficient atmosphere. The same regulation allows use of carbon dioxide systems in normally occupied areas even though exposure to discharge of a CO_2 system results in immediate death. Thus, it is not inconsistent with current OSHA regulations to design fire extinguishing systems that might result in low oxygen atmospheres provided that certain protections are present.

Comment: The manufacturer of one inert gas system commented that EPA has erred in determining that inert gases without CO_2 can be used at the same levels and for the same exposure times as inert gases with added CO_2, and referenced a supporting document, ''Physiological Effects of Abrupt Exposure to 10% O2 with 4% CO_2,'' dated February 15, 1995. Further, the commenter explained why EPA's concern that added CO_2 might cause an increased inspiration of combustion products is not warranted, by elaborating on three exposure scenarios to a fire agent: no-fire, small-fire, and large-fire. The commenter pointed out that only in the case of a large fire will high levels of combustion products exist and in that case the risk of the fire greatly exceeds any incremental risk from the added CO_2.

Response: While EPA generally agrees with the commenter's elaboration of the scenarios of exposure, the question of the relative importance of the effects of inert gases systems with and without added CO_2 in fire protection scenarios is the subject of a current peer review on hypoxic atmospheres. Pending the outcome of that assessment, EPA may re-propose use conditions on these agents either to increase flexibility in the use of these agents and/or to differentiate the use conditions applicable to systems with or without added CO_2.

Comment: One manufacturer of this agent stated that the most recently published atmospheric information on CF_3I indicates that its atmospheric lifetime is less than one day, the ozone depletion potential is less than 0.0008 and more likely below 0.0001, and its global warming potential is less than five.

The commenter further stated that, compared to Halon 1211, its weight and volume equivalence are 0.94 and 0.83 respectively. Finally, the commenter requested that CF_3I not be referred to as Halon 13001, as this might confuse the public as to why ''halon'' was being replaced by a ''halon.''

In addition, the manufacturer provided the Agency with the report entitled ''Exposure Assessment of Firefighters to Triodide during Streaming Scenarios,'' conducted at Tyndall Air Force Base. The results of personal monitoring indicated that exposure to this agent during use indoors does not exceed its cardiotoxic effect levels.

Response: The Agency agrees with the commenter and will use the most recent information on atmospheric characteristics as well as weight and volume equivalence, as noted by the commenter. In addition, CF_3I will not be labeled Halon 13001 in order to avoid general confusion. Finally, the Agency is proceeding to list this agent as acceptable for use as a streaming agent in nonresidential uses.

2. Acceptable Subject to Use Conditions

As was discussed in the March 18, 1994 SNAP rulemaking, EPA in some cases finds acceptable the use of an agent only under certain conditions. In implementing its use of conditions, the Agency has sought to avoid overlap with other existing regulatory authorities. EPA believes that section 612 clearly authorizes imposition of use conditions to ensure safe use of replacement agents. EPA's mandate is to list agents that ''reduce the overall risk to human health and the environment'' for ''specific uses.''

In light of this authorization, EPA is only intending to set conditions for the safe use of halon substitutes in the workplace until OSHA incorporates specific language addressing gaseous agents into OSHA regulation. Under OSHA Public Law 91–596, section 4(b)(1), OSHA is precluded from regulating an area currently being regulated by another federal agency. EPA is specifically deferring to OSHA, and has no intention to assume responsibility for regulating workplace safety especially with respect to fire protection. EPA's workplace use conditions will not bar OSHA from regulating under its P.L. 91–596 authority.

a. Total Flooding Agents

(1) IG–55 (Formerly [Inert Gas Blend] B)

IG–55 is acceptable as a Halon 1301 substitute for total flooding

applications. IG–55, which is comprised of 50% nitrogen and 50% argon, is designed to lower the oxygen level in a protected area to a level that does not support combustion, and, unlike pure carbon dioxide systems, sufficient oxygen remains to maintain life support.

The toxicological issues of concern with inert gas systems differ from those of halocarbon agents, in that the end-point for hypoxic (low oxygen) atmospheres is asphyxiation while the end-point for halocarbons is cardiac sensitization leading to cardiac arrhythmias. Thus, EPA requested the manufacturers of the inert gas systems to conduct a peer review by a panel of medical specialists to consider specific questions concerning exposing the typical working population to this agent. In addition, a panel of medical specialists convened by EPA to review all inert gas systems concluded that the use conditions imposed by EPA are conservative and adequate.

The results of the peer reviews further convinces us that the SNAP conditions previously listed for IG–541 are appropriate for IG–55 and IG–01 as well. Specifically, while the terms No Observed Adverse Effect Level (NOAEL) and Lowest Observed Adverse Effect Level (LOAEL) refer to cardiotoxic effect levels which are not appropriate when discussing hypoxic atmospheres, EPA is establishing a 'no effect level' for inert gas systems at 12% oxygen, and a 'lowest effect level' at 10% oxygen.

Thus, consistent with the Occupational Safety and Health Administration (OSHA) conditions used by EPA for all total flooding agents, EPA is specifying that an IG–55 system could be designed to an oxygen level of 10% if employees can egress the area within one minute, but may be designed only to the 12% level if it takes longer than one minute to egress the area. If the possibility exists for the oxygen to drop below 10%, employees must be evacuated prior to such oxygen depletion. A design concentration of less than 10% oxygen may only be used in normally unoccupied areas, as long as any employee who could possibly be exposed can egress within 30 seconds.

EPA stresses that, even though the medical specialists concur that it is probably safe to expose the typical worker to 10% or 12% oxygen for up to five minutes, EPA does not encourage any employee to intentionally remain in the area, even in the event of accidental discharge. In addition, the system must include alarms and warning mechanisms as specified by OSHA.

EPA intends that all personnel be evacuated from an area prior to, or quickly after, discharge. An inert gas system may not be designed with the intention of personnel remaining in the area unless appropriate protection is provided, such as self-contained breathing apparatus.

(2) IG–01 (Formerly [Inert Gas Blend] C)

IG–01 is acceptable as a Halon 1301 substitute for total flooding applications. IG–01 is comprised 100% of argon, and as with IG–55, is designed to lower the oxygen level in a protected area to a level that does not support combustion, while maintaining sufficient oxygen for life support.

As with IG–55, an IG–01 system may be designed to an oxygen level of 10% if employees can egress the area within one minute, but may be designed only to the 12% level if it takes longer than one minute to egress the area. If the possibility exists for the oxygen to drop below 10%, employees must be evacuated prior to such oxygen depletion. A design concentration of less than 10% may only be used in normally unoccupied areas, as long as any employee who could possibly be exposed can egress within 30 seconds.

EPA stresses that, even though the medical specialists concur that it is probably safe to expose the typical worker to 10% or 12% oxygen for up to five minutes, EPA does not encourage any employee to intentionally remain in the area, even in the event of accidental discharge. In addition, the system must include alarms and warning mechanisms as specified by OSHA.

Please refer to the discussion of IG–55 for a fuller description of inert gas systems.

3. Acceptable Subject to Narrowed Use Limits

(a) Streaming Agents

(1) CF_3I

CF_3I is acceptable as a Halon 1211 substitute in nonresidential applications. CF_3I is a fluoroiodocarbon with an atmospheric lifetime of less than one day due to its rapid photolysis in the presence of light. Due to its short atmospheric lifetime of one day and its photolytic decomposition mechanism, the resulting GWP of this agent is less than 5, while its ODP when released at ground level is 0.0008 and more likely below.

CF_3I has a weight and volume equivalence to Halon 1211 of 0.94 and 0.83, respectively. While it is potentially a 'drop-in' replacement for Halon 1211, with some modifications in elastomers or other system materials, there exists a question as to whether current technical standards allow the reuse of halon 1211 canisters for other chemicals. Both the National Fire Protection Association (NFPA) standard and UL listings should be examined in this context.

Cardiac sensitization data received by the Agency indicate that CF_3I has a NOAEL of 0.2 per cent and a LOAEL of 0.4 per cent. Personal monitoring for this agent was conducted using 2½ to 13 pound extinguishers in various indoor applications. The resulting data indicate that cardiotoxic levels are not likely to be exceeded when used as a streaming agent. While the tests were conducted in different scenarios both with and without ventilation, EPA recommends that this agent be used in well ventilated areas. Because of the low cardiac sensitization values, EPA is prohibiting use of this agent in consumer residential applications where the possibility exists of incorrect use by untrained users.

D. Aerosols

1. Response to Comment

As discussed in the section on solvent cleaning, EPA received a comment stating that it did not have authority under SNAP to set workplace standards. For the reasons described above, the Agency disagrees with this comment.

2. Acceptable Subject to Use Conditions

a. Solvents

(1) Monochlorotoluenes/ Benzotrifluorides

Monochlorotoluenes/benzotrifluorides are acceptable subject to use conditions as substitutes for CFC–113 and MCF as aerosol solvents. These two classes of chemicals are being sold as blends for aerosol applications. Of all the structures of commercial interest, the only chemical with an Occupational Safety and Health Administration (OSHA) standard is orthochlorotoluene, one of the monochlorotoluenes. This substance has an OSHA Permissible Exposure Level (PEL) of 50 ppm. Using this standard as a proxy, the Agency is setting a workplace standard of 50 ppm for monochlorotoluenes as a group. None of the benzotrifluorides has a PEL. Based on a toxicological study recently completed by the company interested in commercialization of these chemicals, the Agency is setting a workplace standard of 25 ppm for benzotrifluorides. Companies intending to use monochlorotoluene/ benzotrifluoride mixtures should take the inherent hazard of these chemicals into account in implementing applications.

These workplace standards are designed to protect worker safety until the Occupational Safety and Health Administration (OSHA) sets its own

standards under P.L. 91–596. The existence of the EPA standards in no way bars OSHA from standard-setting under OSHA authorities as defined in P.L. 91–596.

E. Adhesives, Coatings and Inks

1. Response to Comment

As discussed in the section on solvent cleaning, EPA received a comment stating that it did not have authority under SNAP to set workplace standards. For the reasons described above, the Agency disagrees with this comment.

2. Acceptable Subject to Use Conditions

a. Monochlorotoluenes/ Benzotrifluorides

Monochlorotoluenes/benzotrifluorides are acceptable subject to use conditions as substitutes for CFC–113 and MCF in adhesives, coatings, and inks. These two classes of chemicals are being sold as blends for these applications. Of all the substances of commercial interest, the only chemical with an Occupational Safety and Health Administration (OSHA) standard is orthochlorotoluene, one of the monochlorotoluenes. This substance has an OSHA Permissible Exposure Level (PEL) of 50 ppm. Using this standard as a proxy, the Agency is setting a workplace standard of 50 ppm for monochlorotoluenes as a group. None of the benzotrifluorides has a PEL. Based on a toxicological study recently completed by the company interested in commercialization of these chemicals, the Agency is setting a workplace standard of 25 ppm for benzotrifluorides. Companies intending to use monochlorotoluene/ benzotrifluoride mixtures should take the inherent toxicity of these chemicals into account in implementing applications.

These workplace standards are designed to protect worker safety until the Occupational Safety and Health Administration (OSHA) sets its own standards under P.L. 91–596. The existence of the EPA standards in no way bars OSHA from standard-setting under OSHA authorities as defined in P.L. 91–596.

IV. Administrative Requirements

A. Executive Order 12866

Under Executive Order 12866, (58 FR 51735; October 4, 1993) the Agency must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may: (1) have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, OMB notified EPA that it considers this a ''significant regulatory action'' within the meaning of the Executive Order and EPA submitted this action to OMB for review. Changes made in response to OMB suggestions or recommendations have been documented in the public record.

B. Unfunded Mandates Act

Section 202 of the Unfunded Mandates Reform Act of 1995 requires EPA to prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by state, local, and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year. Section 203 requires the Agency to establish a plan for obtaining input from and informing any small governments that may be significantly or uniquely affected by the rule. Section 205 requires that regulatory alternatives be considered before promulgating a rule for which a budgetary impact statement is prepared. The Agency must select the least costly, most cost-effective, or least burdensome alternative that achieves the rule's objectives, unless there is an explanation why this alternative is not selected or this alternative is inconsistent with law.

Because this final rule is estimated to result in the expenditure by State, local, and tribal governments or the private sector of less than $100 million in any one year, the Agency has not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative. Because small governments will not be significantly or uniquely affected by this rule, the Agency is not required to develop a plan with regard to small governments. However, the rule has the net effect of reducing burden from part 82, Stratospheric Protection regulations, on regulated entities.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 604(a), applies to any rulemaking that is subject to public notice and comment requirements. The Act requires that a regulatory flexibility analysis be performed or the head of the Agency certifies that a rule will not have a significant economic effect on a substantial number of small entities, pursuant to 5 U.S.C. 605(b).

The Agency believes that this final rule will not have a significant effect on a substantial number of small entities and has therefore concluded that a formal RFA is unnecessary. Because costs of the SNAP requirements as a whole are expected to be minor, the rule is unlikely to adversely affect businesses, particularly as the rule exempts small sectors and end-uses from reporting requirements and formal agency review. In fact, to the extent that information gathering is more expensive and time-consuming for small companies, this rule may well provide benefits for small businesses anxious to examine potential substitutes to any ozone-depleting class I and class II substances they may be using, by requiring manufacturers to make information on such substitutes available.

D. Paperwork Reduction Act

The information collection requirements in this rule will be submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document will be prepared by EPA and a copy will be available from Sandy Farmer, OPPE Regulatory Information Division; U.S. Environmental Protection Agency (2136); 401 M St., S.W.; Washington, DC 20460 or by calling (202) 260–2740. The information requirements are not effective until OMB approves them. The reasons for these information requirements are explained in the section on automobile air conditioning (III.A.2.a), and will be mandatory once the ICR is approved under section 612 of the Clean Air Act.

EPA estimates that, over a 5 year period, approximately 30 million cars will be retrofitted with alternative refrigerants, and that the burden to complete and apply a label will not exceed 5 minutes per car. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire,

install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

V. Additional Information

For copies of the comprehensive SNAP lists or additional information on SNAP contact the Stratospheric Protection Hotline at 1–800–296–1996, Monday-Friday, between the hours of 10:00 a.m. and 4:00 p.m. (EST).

For more information on the Agency's process for administering the SNAP program or criteria for evaluation of substitutes, refer to the SNAP final rulemaking published in the Federal Register on March 18, 1994 (59 FR 13044). Federal Register notices can be ordered from the Government Printing Office Order Desk (202) 783–3238; the citation is the date of publication. Notices and rulemaking under the SNAP program can also be retrieved electronically from EPA's Protection of Stratospheric Ozone Technology Transfer Network (TTN), Clean Air Act Amendment Bulletin Board. The access number for users with a 1200 or 2400 bps modem is (919) 541–5742. For users with a 9600 bps modem the access number is (919) 541–1447. For assistance in accessing this service, call (919) 541–5384 during normal business hours (EST). Finally, all ozone depletion-related NPRMS, FRMs, and Notices may be retrieved from EPA's Ozone Depletion World Wide Web site, at http://www.epa.gov/docs/ozone/title6/usregs.html.

List of Subjects in 40 CFR Part 82

Environmental protection, Administrative practice and procedure, Air pollution control, Reporting and recordkeeping requirements.

Dated: May 13, 1996.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, 40 CFR part 82 is amended as follows:

PART 82—PROTECTION OF STRATOSPHERIC OZONE

1. The authority citation for part 82 continues to read as follows:

Authority: 42 U.S.C. 7414, 7601, 7671–7671q.

2. Section 82.180 is amended by revising paragraph (a)(8)(ii) to read as follows:

§ 82.180 Agency review of SNAP submissions.

(a) * * *

(8) * * *

(ii) *Communication of Decision to the Public.* The Agency will publish in the Federal Register on a quarterly basis a complete list of the acceptable and unacceptable alternatives that have been reviewed to date. In the case of substitutes proposed as acceptable with use restrictions, proposed as unacceptable or proposed for removal from either list, a rulemaking process will ensue. Upon completion of such rulemaking, EPA will publish revised lists of substitutes acceptable subject to use conditions or narrowed use limits and unacceptable substitutes to be incorporated into the Code of Federal Regulations. (See Appendices to this subpart.)

* * * * *

3. Subpart G is amended by adding Appendix C to read as follows:

Subpart G—Significant New Alternatives Policy Program

* * * * *

Appendix C to Subpart G—Substitutes Subject to Use Restrictions and Unacceptable Substitutes Listed in the May 22, 1996 Final Rule, Effective June 21, 1996

Refrigeration and Air Conditioning Sector—Acceptable Subject to Use Conditions

HCFC Blend Delta and Blend Zeta are acceptable subject to the following conditions when used to retrofit a CFC–12 motor vehicle air conditioning system:

1. Each refrigerant may only be used with a set of fittings that is unique to that refrigerant. These fittings (male or female, as appropriate) must be used with all containers of the refrigerant, on can taps, on recovery, recycling, and charging equipment, and on all air conditioning system service ports. These fittings must be designed to mechanically prevent cross-charging with another refrigerant. A refrigerant may only be used with the fittings and can taps specifically intended for that refrigerant. Using an adapter or deliberately modifying a fitting to use a different refrigerant will be a violation of this use condition. In addition, fittings shall meet the following criteria, derived from Society of Automotive Engineers (SAE) standards and recommended practices:

a. When existing CFC–12 service ports are to be retrofitted, conversion assemblies shall attach to the CFC–12 fitting with a thread lock adhesive and/or a separate mechanical latching mechanism in a manner that permanently prevents the assembly from being removed.

b. All conversion assemblies and new service ports must satisfy the vibration testing requirements of sections 3.2.1 or 3.2.2 of SAE J1660, as applicable, excluding references to SAE J639 and SAE J2064, which are specific to HFC–134a.

c. In order to prevent discharge of refrigerant to the atmosphere, systems shall have a device to limit compressor operation before the pressure relief device will vent refrigerant. This requirement is waived for systems that do not feature such a pressure relief device.

d. All CFC–12 service ports not retrofitted with conversion assemblies shall be rendered permanently incompatible for use with CFC–12 related service equipment by fitting with a device attached with a thread lock adhesive and/or a separate mechanical latching mechanism in a manner that prevents the device from being removed.

2. When a retrofit is performed, a label must be used as follows:

a. The person conducting the retrofit must apply a label to the air conditioning system in the engine compartment that contains the following information:

i. The name and address of the technician and the company performing the retrofit.

ii. The date of the retrofit.

iii. The trade name, charge amount, and, when applicable, the ASHRAE refrigerant numerical designation of the refrigerant.

iv. The type, manufacturer, and amount of lubricant used.

v. If the refrigerant is or contains an ozone-depleting substance, the phrase ''ozone depleter.''

vi. If the refrigerant displays flammability limits as measured according to ASTM E681, the statement ''This refrigerant is FLAMMABLE. Take appropriate precautions.''

b. This label must be large enough to be easily read and must be permanent.

c. The background color must be unique to the refrigerant.

d. The label must be affixed to the system over information related to the previous refrigerant, in a location not normally replaced during vehicle repair.

e. Information on the previous refrigerant that cannot be covered by the new label must be permanently rendered unreadable.

3. No substitute refrigerant may be used to ''top-off'' a system that uses another refrigerant. The original refrigerant must be recovered in accordance with regulations issued under section 609 of the CAA prior to charging with a substitute.

SOLVENT CLEANING SECTOR—PROPOSED ACCEPTABLE SUBJECT TO USE CONDITIONS SUBSTITUTES

Application	Substitute	Decision	Conditions	Comments
Metals Cleaning with CFC–113, MCF and HCFC–141b.	Monochlorotoluenes and benzotrifluorides.	Acceptable	Subject to a 50 ppm workplace standard for monochlorotoluenes and a 25 ppm standard for benzotrifluorides.	The workplace standard for monochlorotoluenes is based on an OSHA PEL of 50 ppm for orthochlorotoluene. The workplace standard for benzotrifluorides is based on a recent toxicology study.
Electronics Cleaning w/ CFC–113, MCF and HCFC–141b.	Monochlorotoluenes and benzotrifluorides.	Acceptable	Subject to a 50 ppm workplace standard for monochlorotoluenes and a 25 ppm standard for benzotrifluorides.	The workplace standard for monochlorotoluenes is based on an OSHA PEL of 50 ppm for orthochlorotoluene. The workplace standard for benzotrifluorides is based on a recent toxicology study.
Precision Cleaning w/ CFC–113, MCF and HCFC–141b.	Monochlorotoluenes and benzotrifluorides.	Acceptable	Subject to a 50 ppm workplace standard for monochlorotoluenes and a 25 ppm standard for benzotrifluorides.	The workplace standard for monochlorotoluenes is based on an OSHA PEL of 50 ppm for orthochlorotoluene. The workplace standard for benzotrifluorides is based on a recent toxicology study.

FIRE SUPPRESSION AND EXPLOSION PROTECTION—ACCEPTABLE SUBJECT TO USE CONDITIONS: TOTAL FLOODING AGENTS

Application	Substitute	Decision	Conditions	Comments
Halon 1301	IG–55 (formerly [Inert Gas Blend] B).	Acceptable	Until OSHA establishes applicable workplace requirements:	The Agency does not contemplate personnel remaining in the space after system discharge during a fire without Self Contained Breathing Apparatus (SCBA) as required by OSHA.
Total Flooding Agents.	.....	.....	IG–55 systems may be designed to an oxygen level of 10% if employees can egress the area within one minute, but may be designed only to the 12% oxygen level if it takes longer than one minute to egress the area.	
			If the possibility exists for the oxygen to drop below 10%, employees must be evacuated prior to such oxygen depletion.	EPA does not encourage any employee to intentionally remain in the area after system discharge, even in the event of accidental discharge. In addition, the system must include alarms and warning mechanisms as specified by OSHA.
			A design concentration of less than 10% may only be used in normally unoccupied areas, as long as any employee who could possibly be exposed can egress within 30 seconds.	See additional comments 1, 2.
	IG–01 (formerly [Inert Gas Blend] C).	Acceptable	Until OSHA establishes applicable workplace requirements:	The Agency does not contemplate personnel remaining in the space after system discharge during a fire without Self Contained Breathing Apparatus (SCBA) as required by OSHA.
			IG–01 systems may be designed to an oxygen level of 10% if employees can egress the area within one minute, but may be designed only to the 12% oxygen level if it takes longer than one minute to egress the area.	
			If the possibility exists for the oxygen to drop below 10%, employees must be evacuated prior to such oxygen depletion.	EPA does not encourage any employee to intentionally remain in the area after system discharge, even in the event of accidental discharge. In addition, the system must include alarms and warning mechanisms as specified by OSHA.

FIRE SUPPRESSION AND EXPLOSION PROTECTION—ACCEPTABLE SUBJECT TO USE CONDITIONS: TOTAL FLOODING AGENTS—Continued

Application	Substitute	Decision	Conditions	Comments
			A design concentration of less than 10% may only be used in normally unoccupied areas, as long as any employee who could possibly be exposed can egress within 30 seconds.	See additional comments 1, 2.

1—Must conform with OSHA 29 CFR 1910 Subpart L Section 1910.160 of the U.S. Code.
2—Per OSHA requirements, protective gear (SCBA) must be available in the event personnel must reenter the area.

ACCEPTABLE SUBJECT TO NARROWED USE LIMITS: STREAMING AGENTS

Application	Substitute	Decision	Comments
Halon 1211 ..... Streaming Agents	CF_3I	Acceptable in non-residential uses only.	

AEROSOLS—PROPOSED ACCEPTABLE SUBJECT TO USE CONDITIONS SUBSTITUTES

Application	Substitute	Decision	Conditions	Comments
CFC–113, MCF and HCFC–141b as solvent.	Monochlorotoluenes and benzotrifluorides.	Acceptable	Subject to a 50 ppm workplace standard for monochlorotoluenes and a 25 ppm standard for benzotrifluorides.	The workplace standard for monochlorotoluenes is based on an OSHA PEL of 50 ppm for orthochlorotoluene. The workplace standard for benzotrifluorides is based on a recent toxicology study.

ADHESIVES, COATINGS AND INKS—PROPOSED ACCEPTABLE SUBJECT TO USE CONDITIONS SUBSTITUTES

Application	Substitute	Decision	Conditions	Comments
CFC–113, MCF and HCFC–141b.	Monochlorotoluenes and benzotrifluorides.	Acceptable	Subject to a 50 ppm workplace standard for monochlorotoluenes and a 25 ppm standard for benzotrifluorides.	The workplace standard for monochlorotoluenes is based on an OSHA PEL of 50 ppm for orthochlorotoluene. The workplace standard for benzotrifluorides is based on a recent toxicology study.

[FR Doc. 96–12625 Filed 5–21–96; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 21

[MM Docket No. 94–131 and PP Docket No. 93–253, FCC 95–230]

Domestic Public Fixed Radio Services

CFR Correction

In title 47 of the Code of Federal Regulations, parts 20 to 39, revised as of October 1, 1995, in § 21.902 the first paragraph (c), (c)(1), and (c)(1)(i) beginning at the bottom of the first column on page 91 should be removed. In the second column paragraph (c)(1)(ii) was inadvertently omitted and should read as follows:

§ 21.902 Frequency interference.

* * * * *

(c) * * *

(1) * * *

(ii) If the great circle path between the applicant's proposed transmitter and the protected service area of any authorized, or previously–proposed, cochannel or adjacent–channel station(s) is within 241.41 km (150 miles) or less and 90 percent or more of the path is over water or within 16.1 km (10 miles) of the coast or shoreline of the Atlantic Ocean, the Pacific Ocean, the Gulf of Mexico, any of the Great Lakes, or any bay associated with any of the above (see secs. 21.701(a), 21.901(a) and 74.902 of this chapter;

* * * * *

BILLING CODE 1505-01-D

47 CFR Part 73

[MM Docket No.90–67, RM–7482, RM–7026, RM–7057]

Radio Broadcasting Services; Bon Air, Chester, Mechanicsville, Ruckersville, Williamsburg and Fort Lee, VA

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for reconsideration.

SUMMARY: This document grants in part the petition for reconsideration filed by Capitol Broadcasting Company of Virginia, denies the petition for partial reconsideration filed by Keymarket of Virginia, Inc. and affirms the result in *Second Report and Order*, 57 FR 45578 (October 2, 1992). The *Second Report and Order* granted a change of community of license of Station WDCK(FM)(formerly WQSF(FM)) from Williamsburg to Fort Lee, Virginia. This document also dismisses a petition for

reconsideration filed by Roy H. Park Broadcasting of Virginia, Inc., at the party's request. With this action, this proceeding is terminated.

EFFECTIVE DATE: May 22, 1996.

FOR FURTHER INFORMATION CONTACT: Victoria M. McCauley, Mass Media Bureau, (202) 418–2130.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Memorandum Opinion and Order,* MM Docket No. 90–67 adopted May 3, 1996 and released May 13, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Douglas W. Webbink,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–12776 Filed 5–21–96; 8:45 am]

BILLING CODE 6712–01–F

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 533

[Docket No. 94–20; Notice 5]

RIN 2127–AF16

Light Truck Average Fuel Economy Standard, Model Year 1998

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Delay of effective date.

SUMMARY: This notice delays the effective date of the final rule on light truck fuel economy, in accordance with legislation concerning Congressional review of regulations.

DATES: Effective May 3, 1996, the effectiveness of the rule published on April 3, 1996 at 61 FR 14680 is suspended from May 3, 1996 through June 21, 1996. The effective date of the rule is June 22, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Otto Matheke, III, Office of Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590 (202–366–5263).

SUPPLEMENTARY INFORMATION: On April 3, 1996, NHTSA published a final rule (61 FR 14680) establishing the corporate average fuel economy standard for light trucks for model year 1998. Consistent with agency practice, the effective date was May 3, 1996, 30 days after publication in the Federal Register. However, new provisions concerning Congressional review of regulations were enacted on March 29, 1996, as Chapter 8 of Title 5 of the United States Code (P.L. 104–121).

Section 801(a) of Title 5 provides that a major rule, such as the light truck CAFE rule, is to be effective 60 days after publication in the Federal Register or 60 days after submission of the rule to Congress for review, whichever is later, unless the Congress passes a resolution disapproving the rule. The light truck CAFE rule was submitted to Congress on April 22, 1996. The agency accordingly is delaying the effectiveness of the rule until June 22, 1996, 60 days after it was submitted to Congress.

Issued on: May 13, 1996.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 96–12453 Filed 5–21–96; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 675

[Docket No. 960129019–6019–01; I.D. 051696A]

Groundfish of the Bering Sea and Aleutian Islands Area; Pacific Ocean Perch in the Western Aleutian District

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting retention of Pacific ocean perch in the Western Aleutian District of the Bering Sea and Aleutian Islands management area (BSAI). NMFS is requiring that catches of Pacific ocean perch in the Western Aleutian District be treated in the same manner as prohibited species and discarded at sea with a minimum of injury. This action is necessary because the Pacific ocean perch total allowable catch (TAC) in the Western Aleutian District has been caught.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), May 19, 1996, until 12 midnight A.l.t., December 31, 1996.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by the NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

In accordance with § 675.20 (a)(7)(ii), the Pacific ocean perch TAC for the Western Aleutian District was established by the Final 1996 Harvest Specifications of Groundfish (61 FR 4311, February 5, 1996), and increased by an apportionment from the reserve (61 FR 16085, April 11, 1996) to 6,050 metric tons (mt).

The Director, Alaska Region, NMFS, has determined, in accordance with § 675.20(a)(9), that the TAC for Pacific ocean perch in the Western Aleutian District has been reached. Therefore, NMFS is requiring that further catches of Pacific ocean perch in the Western Aleutian District be treated as prohibited species in accordance with § 675.20(c)(3).

Classification

This action is taken under 50 CFR 675.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 16, 1996.

Richard W. Surdi,

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

[FR Doc. 96–12799 Filed 5–17–96; 1:41 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 61, No. 100
Wednesday, May 22, 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.

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 330

RIN 3064–AB73

Simplification of Deposit Insurance Rules

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Board of Directors of the Federal Deposit Insurance Corporation (FDIC) is seeking comment on whether the deposit insurance rules (insurance regulations) should be simplified and, if so, how. If the Board finds simplification to be warranted, it will propose specific amendments on which public comment will then be invited. The purpose of this notice is to solicit comments to help guide the possible preparation of a proposed rule. This notice presents only a general description of the insurance simplification options being considered and includes no regulatory text.

DATES: Written comments must be received by the FDIC on or before August 20, 1996.

ADDRESSES: Written comments are to be addressed to the Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429. Comments may be hand-delivered to Room F–402, 1776 F Street, N.W., Washington, D.C. 20429, on business days between 8:30 a.m. and 5 p.m. (FAX number: (202) 898–3838; Internet address: comments@FDIC.gov). Comments will be available for inspection in the FDIC Public Information Center, room 100, 801 17th Street, N.W., Washington, D.C., between 9:00 a.m. and 5:00 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Joseph A. DiNuzzo, Acting Senior Counsel, Legal Division, (202) 898–7349; Adrienne George, Attorney, Legal Division, (202) 898–3859; Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429.

SUPPLEMENTARY INFORMATION:

Background

One of the FDIC's corporate operating projects under its Strategic Plan is to simplify the deposit insurance rules. The purpose is to promote public understanding of deposit insurance and to increase financial institution and consumer understanding of deposit insurance. This Advance Notice of Proposed Rulemaking (Notice) is one of the steps in realizing the project's goals.

This effort to simplify the FDIC's insurance regulations, found in 12 CFR part 330 (part 330), also is intended to satisfy the provisions in section 303(a) of the Riegle Community Development and Regulatory Improvement Act of 1994, 12 U.S.C. 4803(a), to reduce regulatory burden and improve efficiency.

The FDIC revised its insurance regulations twice in the recent past. The first time, in 1990, was necessitated by the termination of the Federal Savings and Loan Insurance Corporation (FSLIC). The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) (Pub. L. 101–73, 103 Stat. 183 (1989)) required the FDIC to issue uniform insurance regulations for deposits in all insured depository institutions, including those previously insured by the FSLIC. The second set of recent changes in the FDIC insurance rules were made pursuant to provisions in the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA) (Pub. L. 102–242 (1991)). A provision in FDICIA, in essence, limited the insurance coverage of employee benefit and retirement plans. Also, in February 1995, the FDIC issued disclosure requirements in connection with the limited availability of insurance for employee benefit plan accounts, 60 FR 7701 (Feb. 9, 1995).

The amendments made to the insurance rules in 1990 not only reconciled differences between the FSLIC insurance regulations and the then-existing FDIC regulations, they also revised the insurance regulations to, among other things, better organize and define terms used in the regulations, convert long-standing interpretive opinions into regulations, resolve outstanding issues and clarify ambiguous provisions.

Although the insurance rules were revised relatively recently, the Corporation believes, preliminarily, that at least some additional modification to and simplification of the insurance rules would be helpful. The need for these changes has been brought to the FDIC's attention in several ways, especially through the steady receipt of letters and phone calls on insurance questions. Experience with bank and thrift failures also has enabled the staff to identify procedural aspects of the regulations which, when applied in accordance with the regulations, may prove unfair to certain depositors in some situations.

The FDIC must be mindful of the applicable statutory parameters in considering whether and to what extent to modify the insurance regulations. The general statutory basis for and guidance on deposit insurance is found in section 11(a) of the Federal Deposit Insurance Act (FDI Act), 12 U.S.C. 1821(a), which provides, in relevant part, that deposits are insured up to $100,000 based on the ''right'' and ''capacity'' in which the deposits are maintained. The FDIC interprets the ''right-and-capacity'' criterion as essentially meaning ownership. Thus, the rules provide ''separate'' insurance coverage for different types of accounts which are owned in different ways. For example, accounts owned by an individual are not added to joint accounts in which that same individual has an ownership interest. ''Separate'' insurance means that each category of account in which a person has an ownership interest is covered for up to $100,000 separately insured from the funds in other categories of accounts.

Possible Areas of Simplification

Preliminarily, the Board believes that certain technical and moderate substantive revisions to the deposit insurance rules may be warranted. Technical revisions would entail rewriting ambiguous provisions of the rules and generally making the rules easier to understand. Moderate substantive revisions would entail making some substantive changes to the rules (and statute) but the FDIC intends to retain the principles that insurance is based on deposit ownership and that separate insurance coverage within the same institution depends upon the different ''rights and capacities'' in which deposits can be held.

The FDIC has identified the following possible revisions to the insurance regulations and laws:

1. *Rewrite certain parts of the rules to make them clearer and easier to understand.* Ambiguous and potentially ambiguous provisions of the rules would be rewritten and part 330 might be reordered and reorganized.

2. *Eliminate step one of the two steps involved in determining insurance coverage for joint accounts.* Joint ownership is one of the account categories that qualifies for separate insurance coverage. 12 CFR 330.7. Thus, an individual who has an individual deposit and interests in joint accounts at the same insured bank or thrift would be insured for up to $100,000 per category of account. Currently deposit insurance for joint accounts is determined by a two-step process: first, all joint accounts that are identically owned (i.e., held by the same combination of individuals) are added together and the combined total is insurable up to the $100,000 maximum; second, each person's interests in joint accounts involving different combinations of individuals are combined and the total is insured up to the $100,000 maximum.

One option to simplify the current joint account rules is to eliminate the first step of the two-step process. Under this alternative, all funds held in joint accounts would be allocated among the owners and each owner's interests in all joint accounts (held at the same depository institution) would be added and insured up to $100,000 in the aggregate.

3. *Revise the recordkeeping rules allowing the FDIC more flexibility (for the benefit of depositors) in determining the ownership of deposits held in a custodial or fiduciary capacity.* The insurance regulations impose specific recordkeeping requirements as a precondition for insuring parties other than those whose names appear on the depository institution's deposit account records. 12 CFR 330.4. For example, if A is acting as an agent for B, C, and D and places funds belonging to them in an insured bank or thrift, the institution's deposit account records must show that A is holding the account as an agent in order for the FDIC to recognize the ownership interests of B, C and D. The FDIC will then insure the account as if it were held directly by B, C, and D (the owners of the account) as long as the institution's deposit account records or the agent's records (maintained in ''good faith and in the regular course of business'') evidence B, C and D's ownership interests in the account. In this context, we say that the insurance ''passes-through'' the agent to the owner(s) of the account.

The recordkeeping requirements intentionally limit the FDIC's ability to consider evidence outside the deposit account records of an insured institution in determining the ownership of deposits. They establish a presumption that deposited funds are actually owned in the manner indicated on the account records. Those records are binding on the depositor if they are ''clear and unambiguous''. The FDIC has the discretion, however, to decide whether records are clear and unambiguous. If the FDIC determines that the records are unclear or ambiguous, then it may consider evidence other than the deposit account records. The question is whether this discretion provides the FDIC with sufficient flexibility to recognize beneficial and/or multiple ownership of accounts when such ownership is not reflected on the bank or thrift's deposit account records.

The objective in amending the recordkeeping requirements would be to allow the FDIC staff more flexibility to consider the actual ownership interests in deposit accounts and thereby prevent possible hardships. The proper balance must be struck, however, to avoid fraud in post-failure situations and to enable the FDIC to reasonably and expeditiously calculate the insured deposits at failing institutions. One option would be to amend the rules to allow the FDIC to look beyond the deposit accounts records of the depository institution where account titles are indicative of a fiduciary relationship. Two examples would be accounts held by attorneys and those held by entities such as title companies, who commonly hold funds for others.

4. *Consider changing the rules on ''payable upon death'' accounts.* The insurance rules provide for separate coverage for funds owned by an individual and deposited into any account commonly referred to as a ''payable-on-death'' account, tentative or ''Totten'' trust account, revocable trust account, or similar account (POD accounts). 12 CFR 330.8. The account must evidence an intention that upon the death of the owner the funds shall belong to certain qualifying beneficiaries. The qualifying beneficiaries are limited to the owner's spouse, children and grandchildren. The owner is insured up to $100,000 as to each such named qualifying beneficiary, separately from any other accounts of the owner or the beneficiaries. Thus, if the individual names his spouse, three children and two grandchildren as beneficiaries, the account would be insured up to $600,000.

The FDI Act does not expressly require that POD accounts receive separate insurance coverage. The purpose of the POD separate insurance rule is to track state laws that allow for the so-called ''poor-man's will'' in which deposit account balances can be transmitted upon the death of the account owner to beneficiaries named in the account without an underlying trust document or will. It is support for this will-substitute that underlies the separate insurance for POD accounts. The FDIC limits the qualifying beneficiaries to the spouse, children and grandchildren of the account owner because it believes that such limitation strikes a reasonable balance between providing separate coverage to those most likely to be named as beneficiaries of a POD account while not overly expanding this category of deposit insurance coverage.

In the context of simplifying the insurance regulations, the question arises whether the FDIC should consider revising the POD rules on qualifying degrees of kinship. The FDIC, therefore, requests comments on whether and, if so, how the POD insurance rules should be revised.

5. *Consider modifying the way the FDIC insures certain types of accounts upon the death of the owner(s) of the accounts.* The ownership interest of a deposit account often changes upon the death of the owner of the account. If the beneficiaries/executor of the decedent do not act immediately after the decedent's death to change the nature of the account, insurance coverage may be decreased, sometimes significantly. For example, if a husband and wife hold a joint account, a payable-upon-death account and two individual accounts in their respective names, the death of one spouse would result in the surviving spouse becoming the sole owner of the joint account and the payable-upon-death account. Thus, the accounts would be aggregated with the surviving spouse's individual account, possibly resulting in a substantial reduction in insurance coverage.

The former FSLIC, as a matter of policy, allowed a grace period of six months following the death of a depositor for the decedent's deposits to be restructured. If an insured thrift failed during the grace period and additional insurance would be available if the decedent had not died, the FSLIC insured the account(s) based on the account ownership shown on the institution's records as if the decedent were still living. The reason for the FSLIC policy was to ''lessen the

hardship'' that might be caused otherwise. In the course of revising the FDIC insurance regulations in 1990 (in conjunction with FSLIC's termination) the FDIC decided against adopting the FSLIC's grace-period policy because of the questionable underlying legal basis. The argument is that insurance coverage is based on the ownership of the deposits. If under the applicable state law the ownership of an account changes immediately upon the account owner's death, then the FDIC should recognize that change immediately.

The FDIC has limited flexibility to amend its regulations on the insurance of accounts upon an owner's death. That is because, as indicated above, deposit insurance is statutorily based on deposit ownership. If the ownership of a particular deposit changes automatically under the applicable state law upon the owner's death, then the insurance coverage may change also. That is the FDIC's long-standing position on the issue. Although the FDIC has concerns about whether a sound legal basis exists for providing a ''grace period'' (for insurance purposes) on accounts owned by a person who dies, the FDIC welcomes comments on this issue.

6. *Recommend that the FDI Act be amended to change the way employee benefit plans are insured.* Under an amendment to the FDI Act made by FDICIA, pass-through insurance coverage is not available to employee benefit plan deposits that are accepted by an insured bank or thrift when the institution does not meet prescribed capital requirements. 12 U.S.C. 1821(a)(1)(D). If an institution accepts employee benefit plan deposits at a time when it is not sufficiency capitalized, such deposits are insured only up to $100,000 per plan (as opposed to $100,000 per participant or beneficiary). The FDICIA-originated provision is the only one in the FDI Act and regulations to base insurance coverage on the capital sufficiency of the insured institution where the deposits are placed. The statute is complex and very difficult for the industry and the public to understand. Moreover, if deposits are made with an insured bank or thrift that does not meet the prescribed capital requirements, there is no disadvantage to the institution. The depositor is the disadvantaged party.

The FDIC believes Congress should replace the employee benefit plan provision with a general prohibition against insured institutions accepting employee benefit plan deposits when they are not sufficiently capitalized. This would be consistent with the statute pertaining to brokered deposits and, thus, would prevent the disadvantage to depositors if an insured institution provides incorrect information about its capital condition. Comments are requested on whether the FDIC should recommend this statutory amendment to the Congress.

7. *Consider revising the rules on living trust accounts.* A ''living trust'' is a formal trust in which the owner retains control of the trust assets during his or her lifetime and designates the beneficiaries of the assets upon his or her death. The owner may revoke or change the terms of the trust during his or her lifetime. In 1993 the FDIC Legal Division prepared guidelines on the insurance of revocable accounts, with an emphasis on living trusts. The guidelines are very detailed and somewhat complex. At the same time the Legal Division prepared the guidelines on living trusts, the FDIC also adopted an informal policy not to review complex living trust documents to determine POD coverage but, instead, to recommend that persons inquiring about such coverage consult with the lawyer who drafted the living trust. Despite the availability of the FDIC guidelines on living trusts and the existence of the FDIC's current policy not to review trust documents, the FDIC still receives numerous questions about the insurance of POD accounts held in connection with living trusts.

One possibility in simplifying the insurance rules on living trusts is to limit the scope of the POD regulation to accounts which name qualifying beneficiaries without reference to any underlying trust documents. The rule would apply only to the traditional POD account intended as a free-standing will substitute and would not apply to any other type of revocable trust extraneous to the POD account itself. This interpretation of the POD provision would be consistent with the original rationale for extending separate insurance coverage for this category of account and revise the coverage rules for the formal type of revocable account which has added unintended complexity and caused expansion to this category of coverage.

Request for Comment

The Board of Directors of the FDIC is seeking comment on all of the above-mentioned possible means of simplifying the deposit insurance rules, including the likely effect of such changes on consumers and the banking industry. The Board also is seeking suggestions on any other ways that the rules might be streamlined, simplified and clarified.

By order of the Board of Directors.

Dated at Washington, D.C., this 14th day of May, 1996.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 96–12780 Filed 5–21–96; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–158–AD]

RIN 2120–AA64

Airworthiness Directives; de Havilland Model DHC–7 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all de Havilland Model DHC–7 series airplanes. This proposal would require certain structural inspections, and repair, if necessary. This proposal is prompted by a structural re-evaluation, which identified certain significant structural items to inspect for fatigue cracking as these airplanes approach and exceed the manufacturer's original design life. The actions specified by the proposed AD are intended to prevent fatigue cracking in these areas which, if not detected and corrected in a timely manner, could reduce the structural integrity of these airplanes.

DATES: Comments must be received by July 1, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–158–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 de Havilland, Inc., Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Sol Maroof, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA,

New York Aircraft Certification Office, Engine and Propeller Directorate, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7522; fax (516) 568–2716.

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–158–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–158–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

Transport Canada Aviation, which is the airworthiness authority for Canada, recently notified the FAA that an unsafe condition may exist on all de Havilland Model DHC–7 series airplanes. Service experience shows that transport category aircraft of this type require certain supplemental structural inspections and maintenance to compensate for the effects of prolonged time-in-service. As a result, the manufacturer has conducted a structural reassessment of these airplanes and has identified additional significant structural items where fatigue damage is likely to occur. The criteria for this reassessment are contained in FAA Advisory Circular (AC) 91–60, ''Continued Airworthiness of Older Airplanes.''

Explanation of Relevant Service Information

De Havilland has issued Temporary Revision (TR 5–84), dated June 15, 1994, of the DHC–7 Maintenance Manual (PSM 1–7–2), Chapter 5–60–00. TR 5–84 was developed based on service experience with the purpose of extending the Model DHC–7 series airplanes' life beyond 40,000 total flights cycles. It describes procedures for repetitive detailed visual inspections to detect cracks, loose or broken fasteners, and deformations of the vertical stabilizer, horizontal stabilizer, and lower skin panels of the wing. That document also indicates that operators should submit the results of these inspections to the manufacturer. Transport Canada Aviation classified this document as mandatory and issued Canadian airworthiness directive CF–94–19, dated October 6, 1994, in order to assure the continued airworthiness of these airplanes in Canada.

FAA's Conclusions

This airplane model is manufactured in Canada 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, Transport Canada Aviation has kept the FAA informed of the situation described above. The FAA has examined the findings of Transport Canada Aviation, 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.

Explanation of Requirements of Proposed Rule

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 that operators incorporate, into their FAA-approved maintenance inspection program, the inspections specified in DHC–7 Maintenance Manual (PSM 1–7–2), Chapter 5–60–00, Temporary Revision (TR 5–84), dated June 15, 1994. The actions would be required to be accomplished in accordance with the document described previously.

Additionally, the proposed AD would require the repair of any findings of cracks, loose or broken fasteners, or deformations in accordance with either:

1. The DHC–7 Maintenance Manual; or

2. The DHC–7 Structural Repair Manual;

3. Other data meeting the certification basis of the airplane which is approved by the Manager, New York Aircraft Certification Office, FAA, Engine and Propeller Directorate; or

4. Data meeting the certification basis of the airplane which is approved by Transport Canada Aviation.

Cost Impact

The FAA estimates that 50 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 15 work hours 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 $45,000, or $900 per airplane, per inspection cycle.

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.

Regulatory Impact

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:

De Havilland, Inc.: Docket 95–NM–158–AD.

Applicability: All Model DHC–7 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 other 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 ensure the continuing structural integrity of these airplanes, accomplish the following:

(a) Within 6 months after the effective date of this AD, incorporate into the FAA-approved maintenance inspection program the inspections and inspection intervals defined in DHC–7 Maintenance Manual (PSM 1–7–2), Chapter 5–60–00, Temporary Revision (TR 5–84), dated June 15, 1994; and inspect the significant structural items prior to the thresholds specified in TR 5–84 of PSM 1–7–2. Repeat the inspections thereafter at the intervals specified in TR 5–84 of PSM 1–7–2.

(b) Prior to further flight, repair any discrepancies detected during any inspection required by paragraph (a) of this AD in accordance with one of the following:

(1) The DHC–7 Maintenance Manual; or

(2) The DHC–7 Structural Repair Manual; or

(3) Other data meeting the certification basis of the airplane which is approved by the Manager, New York Aircraft Certification Office (ACO), FAA, Engine and Propeller Directorate; or

(4) Data meeting the certification basis of the airplane which is approved by Transport Canada Aviation.

(c) All inspection results, positive or negative, must be reported to de Havilland in accordance with ''Introduction,'' paragraph 5, of DHC–7 Maintenance Manual (PSM 1–7–2), Chapter 5–60–00, Temporary Revision (TR 5–84), dated June 15, 1994. 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.

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

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

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

Issued in Renton, Washington, on May 15, 1996.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–12728 Filed 5–21–96; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 71

[Airspace Docket No. 95–ANM–22]

Proposed Establishment of Class E Airspace, Colstrip, Montana

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This proposed rule would establish the Colstrip, Montana, Class E airspace to accommodate a new Global Positioning System (GPS) standard instrument approach procedure (SIAP) to the Colstrip Airport. The area would be depicted on aeronautical charts for pilot reference.

DATES: Comments must be received on or before July 8, 1996.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Operations Branch, ANM–530, Federal Aviation Administration, Docket No. 95–ANM–22, 1601 Lind Avenue S.W., Renton, Washington 98055–4056.

The official docket may be examined at the same address.

An informal docket may also be examined during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: James Frala, ANM–532.4, Federal Aviation Administration, Docket No. 95–ANM–22, 1601 Lind Avenue S.W., Renton, Washington 98055–4056; telephone number: (206) 227–2535.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory aeronautical, economic, environmental, and energy related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 95–ANM–22.'' the postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination at the address listed above both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docked.

Availability NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations Branch, ANM–530, 1601 Lind Avenue S.W., Renton, Washington 98055–4056. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace at Colstrip, Montana, to accommodate a new GPS SIAP to the Colstrip Airport. The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9C dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that would only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

PART 71—[AMENDED]

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet above the surface of the earth

* * * * *

ANM MT E5 Colstrip, MT

Colstrip Airport, MT
(Lat. 45°51′10″ N, long. 106°42′34″ W)
Billings Logan International Airport, MT
(Lat. 45°48′30″ N, long. 108°32′38″ W)

That airspace extending upward from 700 feet above the surface within a 13.5-mile radius of Colstrip Airport; that airspace extending upward from 1,200 feet above the surface bounded on the north by the south edge of V–2, on the east by the west edge of V–254, on the south along lat. 45°30′00″ N, and on the west by the 60-mile arc centered on Billings Logan International Airport; excluding the Forsyth and Miles City, MT Class airspace areas.

* * * * *

Issued in Seattle, Washington, on May 8, 1996.

Richard E. Prang,

Acting Assistant Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 96–12839 Filed 5–21–96; 8:45 am]

BILLING CODE 4910–13–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230, 240, 250, 270, and 275

[Release Nos. 33–7293; 34–37220; 35–26517; IC–21961; IA–1563; File No. S7–14–96]

RIN 3235–AG79

Proposal To Eliminate Fees Previously Adopted by the Commission Pursuant to the Independent Offices Appropriations Act of 1952

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Securities and Exchange Commission (Commission) is proposing to eliminate each of the user fees currently adopted under the Independent Offices Appropriations Act of 1952, in conjunction with rules under the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Investment Company Act of 1940, and the Investment Advisers Act of 1940. These fees were first adopted in 1972 to contribute towards the cost of agency operations. However, since that time, the amount of fees collected by the Commission has increased dramatically. In 1995, the Commission collected nearly double the amount of fees required to fund the agency's operations.

DATES: Comments must be received on or before July 8, 1996.

ADDRESSES: All interested persons are invited to submit their views and comments concerning the rule proposal should be submitted in triplicate to Jonathan G. Katz, Secretary, U.S. Securities and Exchange Commission, Mail Stop 6–9, 450 Fifth Street, N.W., Washington, D.C. 20549. Comments also may be submitted electronically at the following E-mail address: rule-comments@sec.gov. All comment letters should refer to File Number S7–14–96; this file number should be included in the subject line if E-mail is used. Comment letters will be available for inspection and copying in the public reference room at the same address. Electronically submitted comments will be posted on the Commission's Internet web site (http://www.sec.gov).

FOR FURTHER INFORMATION CONTACT: Henry I. Hoffman, Office of the Comptroller, at (202) 942–0343.

SUPPLEMENTARY INFORMATION: Each fee identified for elimination is listed on the attached table labeled TABLE OF IOAA FEES PROPOSED FOR ELIMINATION.

Proposal

In 1972, to offset the cost to the government of related Commission operations, the Securities and Exchange Commission established through rulemaking a fee schedule for numerous types of applications, statements and reports.[1] These regulatory fees, authorized under Title V of the Independent Offices Appropriations Act of 1952 (31 U.S.C.A. 9701), are commonly referred to as IOAA fees.[2]

Today, the Commission is proposing the elimination of each of its current IOAA fees.[3] The collection of these fees

[1] Securities Act of 1933, Release No. 5229, January 25, 1972.

[2] The Independent Offices Appropriations Act of 1952, specifically 31 U.S.C. 9701, authorizes independent agencies of the federal government to prescribe fees and charges for activities that provide benefits to individuals and businesses. This statute states that ''It is the sense of Congress that each service * * * provided by an agency * * * to a person * * * is to be self-sustaining to the extent possible.'' The statute also authorizes the head of each agency to prescribe regulations establishing the charge for a service. Notably, a separate provision of the Securities Exchange Act of 1934 (Exchange Act) specifically authorizes the Commission to impose fees authorized by this act. 15 U.S.C. 14(g)(4).

[3] See attached table of IOAA fees. Note that the Commission's proposal would only eliminate the collection of regulatory fees imposed under the IOAA; it would not affect other fees imposed by

Continued

is no longer appropriate since the amount of revenue currently generated by statutory fees imposed under the securities laws far exceeds the annual cost of Commission operations. The additional revenue added by the IOAA fees is an insignificant portion of the total revenue received. In fiscal 1972, the Commission collected $19 million in fees and cost $27 million to operate. IOAA fees represented 12 percent of the total 1972 revenue. In fiscal 1995, the Commission collected $559 million in fees and was appropriated $297 million for operating costs. IOAA fees represented just 2 percent of the total 1995 revenue.[4]

This significant difference between the amount of fee revenue collected by the Commission and the amount of its annual funding level has been of continuing concern to Congress. In 1988, the Securities Subcommittee of the Senate Committee on Banking, Housing and Urban Affairs directed the Commission to study its fee structure and funding status (Commission Fee Study).[5]

As a result of the Commission Fee Study and continuing Congressional concerns about the level of the Commission's fees, in 1993 the House passed H.R. 2239, the Securities and Exchange Commission Authorization Act of 1993. One of the stated purposes of this bill was to ''establish a system for the annual adjustment of fees collected by the Commission so that the total amount appropriated to the Commission for any fiscal year will be offset by the amount collected during such fiscal year * * *''[6]

Although Congress did not enact H.R. 2239, in 1995 members of the Commission's authorization committee in the Senate stated that the total amount of fees collected annually by the agency far exceed the cost of its regulation and, therefore, should be reduced.[7]

On March 12, 1996, the House passed H.R. 2972, the ''Securities and Exchange Commission Authorization Act of 1996.'' This bill has as a major purpose, ''to reduce over time the rates of fees charged under the Federal securities laws.''[8] Notably, H.R. 2972 contains a sense of the Congress resolution that the Commission should eliminate its fees imposed under the IOAA.[9]

The Commission is proposing to eliminate IOAA fees for two additional reasons. First, the Commission is committed, consistent with its mission of investor protection, to eliminate unnecessary regulations imposed on the capital formation process. The Commission has determined that eliminating these IOAA fees will reduce such burdens but neither harm investors nor the Commission's mission to protect them. Second, the collection of these IOAA fees imposes a disproportionate cost on the Commission. In 1995, IOAA fees represented less than 2% of the total fee revenue collected by the Commission, but more than one-half of the total number of fee payments processed by Commission staff, making recordkeeping for these fees disproportionately costly.

Cost/Benefit Analysis

Comments are requested related to any costs or benefits associated with the elimination of the Commission's current IOAA fees. The elimination of IOAA fees will provide an obvious benefit to persons obligated to pay such fees, *i.e.*, they will no longer have to pay the fees. In addition, the Commission will avoid the costs associated with processing and auditing the collection of such fees; Commission resources spent on those tasks will be reallocated to other mandated tasks. Other costs and benefits are expected to be *de minimis*.

Summary of Regulatory Flexibility Analysis

The Commission has prepared an Initial Regulatory Flexibility Analysis in accordance with 5 U.S.C. 603 regarding the proposed rule changes. The analysis reiterates the reasons and objectives for the proposed rule changes discussed above in this release. The analysis also describes the legal basis for the proposal and discusses its effect on small entities as defined by the Securities Act, the Exchange Act, the Public Utility Holding Company Act of 1935, the Investment Company Act of 1940, and the Investment Advisers Act of 1940. This proposed rule imposes no additional reporting, recordkeeping or other compliance requirements on small businesses, and the Commission believes that there are no overlapping or conflicting federal rules. In addition, the Commission does not believe that any significant alternative to the proposal would both accomplish the stated objectives and minimize any significant impact on small companies. In fact, the alternatives to eliminating the fee would be to maintain or increase the current fees. Neither alternative provides any increased benefit nor is appropriate in the public interest. The Commission encourages the submission of written comments with respect to the Initial Regulatory Flexibility Analysis. A copy of the Initial Regulatory Flexibility Analysis may be obtained by contacting Henry I. Hoffman, Securities and Exchange Commission, Office of the Comptroller, Room 2080, Washington, D.C. 20549.

Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed elimination of IOAA fees does not impose recordkeeping or information collection requirements, or other collections of information which require the approval of the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Statutory Basis: The Commission's authority for this action is 31 U.S.C. 9701 and 15 U.S.C. 14(g)(4).

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statute that are also collected by the Commission. These statutory fees include registration fees collected pursuant to Section 6(b) of the Securities Act of 1933 (Securities Act) and Section 307(b) of the Trust Indenture Act of 1939, going private fees collected pursuant to Section 13 of the Exchange Act, proxy and tender offer fees collected pursuant to Section 14 of the Exchange Act, and transaction fees collected pursuant to Section 31 of the Exchange Act.

[4] The vast increase in Commission fee revenue between 1972 and 1995 has developed from two basic sources. First is a significant increase in the underlying value of the securities on which the statutory fees are based. The underlying value of securities registered with the Commission under Section 6(b) of the Securities Act increased from $62 billion to $1.2 trillion from 1972 to 1995. Further, during the same period, the value of shares transacted on the U.S. securities exchanges and subject to a fee under Section 31 of the Exchange Act increased from $196 billion to $3 trillion. Second is the increased use of offsetting collections under Section 6(b) of the Securities Act to fund agency operations since 1990. The amount of offsetting revenue collected under Section 6(b) in 1991, the first year fee revenue was used to directly offset Commission funding, was $37 million at a fee rate of 1/40 of one percent, and in 1995 was $157 million at an increased fee rate of 1/29 of one percent.

[5] Senate Report 100–105, 100th Cong., 1st Session, and, in response, Commission issued findings in a U.S. Securities and Exchange Commission ''Self Funding Study'' (January 1989) and accompanying ''Legislative Proposals and Fee Options'' (January 1989).

[6] H.R. 2239, Section 31A.(a).

[7] Letter dated April 6, 1995, from Senator D'Amato, Chairman of the Senate Banking Committee, to Senators Domenici and Exon, respectively Chairman and Ranking Member of the Senate Committee on the Budget.

[8] H.R. 2972, Section 2(2).

[9] Ibid, Section 7(1) states that ''the fees authorized by the amendments made by this Act are in lieu of, and not in addition to, any fees that the Securities and Exchange Commission is authorized to impose or collect pursuant to Section 9701 of title 31, United States Code * * *''.

SECURITIES AND EXCHANGE COMMISSION TABLE OF IOAA FEES PROPOSED FOR ELIMINATION

Fee cite	Rule/form/schedule	Amount	Description
Securities Act of 1933			
17 CFR 230.236(a),(c)	Rule 236	$100	Exemption of shares offered in connection with certain transactions.
17 CFR 230.252(f)	Form 1–A	500	Offering statement under Regulation A.
17 CFR 230.310(a)	Schedules A, B, C or D	100	Offering sheet under Regulation B.
17 CFR 230.604(a)	Form 1–E	100	Notification of offering under Regulation E by a small business investment company.
17 CFR 230.652.	Form 1–F	100	Notification under Regulation F.
Securities Exchange Act of 1934			
17 CFR 240.0–11(c)(1)(ii)	Schedule 14A	125	Proxy Statement.
17 CFR 240.0–11(c)(1)(ii) 17 CFR 240.14c–5(g)	Schedule 14C	125	Information Statement.
17 CFR 240.12b–7	Form 8–A	250	Registration of certain classes of securities pursuant to Section 12(b) or (g).
17 CFR 240.12b–7	Form 8–B	250	Registration of securities of certain successor issuers pursuant to Section 12(b) or (g).
17 CFR 240.12b–7	Form 10	250	General form for registration of securities pursuant to Section 12(b) or (g).
17 CFR 240.12b–7	Form 10–SB	250	Optional form for the registration of securities of a small business issuer.
17 CFR 240.12b–7	Form 18	250	Application for registration of securities of foreign governments and political subdivisions thereof.
17 CFR 240.12b–7, 17 CFR 240.13a–1, 17 CFR 240.15d–1.	Form 20–F	250	Registration of securities of foreign private issuers pursuant to Section 12 (b) or (g) and annual reports pursuant to Sections 13 and 15(d)
17 CFR 240.12b–7, 17 CFR 240.13a–1, 17 CFR 240.15d–1.	Form 40–F	250	Registration of securities of certain Canadian issuers pursuant to Section 12(b) or (g) and for reports pursuant to Section 15(d) and Rule 15d–4.
17 CFR 240.13a–1, 17 CFR 240.15d–1	Form 10–K	250	Annual report pursuant to Sections 13 and 15(d).
17 CFR 240.13a–1, 17 CFR 240.15d–1	Form 10–KSB	250	Optional form for annual report of small business issuers under Sections 13 and 15(d).
17 CFR 240.13a–1	Form 18–K	250	Annual report for foreign governments and political subdivisions thereof.
17 CFR 240.13d–7	Schedule 13D, Schedule 13D/A (if amended to >5%).	100	Schedule for reporting beneficial ownership of more than five percent in an equity security.
17 CFR 240.13d–7	Schedule 13G, Schedule 13G/A (if amended to >5%).	100	Short form schedule for reporting beneficial ownership of more than five percent in an equity security
17 CFR 240.14a–6(i)	Schedule 14A	125/500	Proxy Statement.
17 CFR 240.14a–101 (Item 22(a)(2))	Schedule 14A	125	Proxy filing fee for investment companies.
17 CFR 240.15d–1	Form 11–K	250	Annual report for employee stock purchase savings and similar plans.
Public Utility Holding Company Act of 1935			
17 CFR 250.1(d)	Form U5S	250	Annual report of registered holding company.
17 CFR 250.94(b)	Form U–13–60	250	Annual report of mutual or subsidiary service company.
17 CFR 250.106	Form U–1	2,000	Application-declaration statement.
17 CFR 250.106	Form U–3A–2	2,000/500	Annual holding company exemption statement.
17 CFR 250.106	Form U–3A3–1	500	Bank exemption statement.
17 CFR 250.106	Form U–13–1	2,000	Application for approval of mutual or subsidiary service company.
17 CFR 250.106	Form U–7D	200/100	Certificate of lease of utility facilities.
17 CFR 250.106	Form U–R–1	2,000	Declaration regarding a reorganization.
Investment Company Act of 1940			
17 CFR 240.14a–101 (Item 22(a)(2))	Schedule 14A	125	Proxy filing fee.
17 CFR 270.0–5(d)	Rule 0–5	500	Application under the 1940 Act.
17 CFR 270.8b–6	Rule 8b–6, Forms N–1A, N–2, N–3, N–4 and N–5.	1,000	1940 Act registration fee.
17 CFR 270.24f–2(a)(3)	Rule 24f–2	500	Registration of an indefinite amount of securities.
17 CFR 270–30a–1	Rule 30–1	125	Form N-SAR filing fee.

SECURITIES AND EXCHANGE COMMISSION TABLE OF IOAA FEES PROPOSED FOR ELIMINATION—Continued

Fee cite	Rule/form/schedule	Amount	Description
Investment Advisers Act of 1940 (''Advisers Act'')			
17 CFR 275.0–5(d)	Rule 0–5	150	Application under the Advisers Act.
17 CFR 275.203–3(a)	Rule 203–3	150	Advisers Act registration fee.

[1] (First/subseq.).

Dated: May 16, 1996.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–12777 Filed 5–21–96; 8:45 am]

BILLING CODE 8010–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 291

RIN 1076–AD67

Establishing Departmental Procedures To Authorize Class III Gaming on Indian Lands When a State Raises an Eleventh Amendment Defense To Suit Under the Indian Gaming Regulatory Act

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Correction.

SUMMARY: This document corrects the name of the issuing agency and the CFR part number for the advance notice of proposed rulemaking regarding Class III Indian gaming on Indian lands published on May 10, 1996.

FOR FURTHER INFORMATION CONTACT: George Skibine, Director, Indian Gaming Management Staff, (202) 219–4066.

SUPPLEMENTARY INFORMATION: Beginning on page 21394 in the issue of Friday, May 10, 1996, make the following corrections on page 21394:

1. In the heading of the document, under the heading ''Department of the Interior,'' the issuing agency was previously listed as the National Indian Gaming Commission. This should be changed to read Bureau of Indian Affairs.

2. In the CFR heading of the document, the CFR citation was previously listed as 25 CFR Part 525. This should be changed to read 25 CFR Part 291.

3. The agency in the AGENCY caption is corrected to read ''Bureau of Indian Affairs, Interior.''

Dated: May 16, 1996.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 96–12763 Filed 5–21–96; 8:45 am]

BILLING CODE 4310–02–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[FRL–5507–6]

RIN 2060–AG12

Protection of Stratospheric Ozone: Listing of Substitutes for Ozone-Depleting Substances

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes restrictions or prohibitions on substitutes for ozone depleting substances ((ODS)) under the U.S. Environmental Protection Agency (EPA) Significant New Alternatives Policy (SNAP) program. SNAP implements section 612 of the amended Clean Air Act of 1990 which requires EPA to evaluate and regulate substitutes for the ODS to reduce overall risk to human health and the environment. Through these evaluations, SNAP generates lists of acceptable and unacceptable substitutes for each of the major industrial use sectors. The intended effect of the SNAP program is to expedite movement away from ozone depleting compounds while avoiding a shift into high-risk substitutes posing other environmental problems.

On March 18, 1994, EPA promulgated a final rulemaking setting forth its plan for administering the SNAP program (59 FR 13044), and issued decisions on the acceptability and unacceptability of a number of substitutes. In this Notice of Proposed Rulemaking (NPRM), EPA is issuing its preliminary decisions on the acceptability of certain substitutes not previously reviewed by the Agency. To arrive at determinations on the acceptability of substitutes, the Agency completed a cross-media evaluation of risks to human health and the environment by sector end-use.

DATES: Written comments or data provided in response to this document must be submitted by June 21, 1996. A public hearing, if requested, will be held in Washington, D.C. Any hearing will be strictly limited to the subject matter of this proposal, the scope of which is discussed below. If such a hearing is requested, it will be held on June 6, 1996, and the comment period would then be extended to July 8, 1996. Anyone who wishes to request a hearing should call Sally Rand at (202) 233–9739 by May 29, 1996. Interested persons may contact the Stratospheric Protection Hotline at 1–800–296–1996 to learn if a hearing will be held and to obtain the date and location of the hearing.

ADDRESSES: *Public Comments.* Written comments and data should be sent to Docket A–91–42, Central Docket Section, South Conference Room 4, U.S. Environmental Agency, 401 M Street, SW., Washington, DC 20460. The docket may be inspected between 8 a.m. and 4:00 p.m. on weekdays. Telephone (202) 260–7549; fax (202) 260–4400. As provided in 40 CFR part 2, a reasonable fee may be charged for photocopying. To expedite review, a second copy of the comments should be sent to Sally Rand, Stratospheric Protection Division, Office of Atmospheric Programs, U.S. EPA, 401 M Street, SW., 6205–J, Washington, DC. 20460. Information designated as Confidential Business Information (CBI) under 40 CFR part 2 subpart B must be sent directly to the contact person for this notice. However, the Agency is requesting that all respondents submit a non-confidential version of their comments to the docket as well.

FOR FURTHER INFORMATION CONTACT: Nancy Smagin at (202) 233–9126 or fax (202) 233–9577, Stratospheric Protection Division, USEPA, Mail Code 6205J, 401 M Street, SW, Washington, DC 20460.

SUPPLEMENTARY INFORMATION:

I. Overview of This Action

This action is divided into five sections, including this overview:

II. Section 612 Program

A. Statutory Requirements

Section 612 of the Clean Air Act authorizes EPA to develop a program for evaluating alternatives to ozone-depleting substances. EPA refers to this program as the Significant New Alternatives Policy (SNAP) program. The major provisions of section 612 are:

Rulemaking—Section 612(c) requires EPA to promulgate rules making it unlawful to replace any class I (chlorofluorocarbon, halon, carbon tetrachloride, methyl chloroform, methyl bromide, and hydrobromofluorocarbon) or class II (hydrochlorofluorocarbon) substance with any substitute that the Administrator determines may present adverse effects to human health or the environment where the Administrator has identified an alternative that (1) reduces the overall risk to human health and the environment, and (2) is currently or potentially available.

Listing of Unacceptable/Acceptable Substitutes—Section 612(c) also requires EPA to publish a list of the substitutes unacceptable for specific uses. EPA must publish a corresponding list of acceptable alternatives for specific uses.

Petition Process—Section 612(d) grants the right to any person to petition EPA to add a substitute to or delete a substitute from the lists published in accordance with section 612(c). The Agency has 90 days to grant or deny a petition. Where the Agency grants the petition, EPA must publish the revised lists within an additional six months.

90-day Notification—Section 612(e) requires EPA to require any person who produces a chemical substitute for a class I substance to notify the Agency not less than 90 days before new or existing chemicals are introduced into interstate commerce for significant new uses as substitutes for a class I substance. The producer must also provide the Agency with the producer's unpublished health and safety studies on such substitutes.

Outreach—Section 612(b)(1) states that the Administrator shall seek to maximize the use of federal research facilities and resources to assist users of class I and II substances in identifying and developing alternatives to the use of such substances in key commercial applications.

Clearinghouse—Section 612(b)(4) requires the Agency to set up a public clearinghouse of alternative chemicals, product substitutes, and alternative manufacturing processes that are available for products and manufacturing processes which use class I and II substances.

B. Regulatory History

On March 18, 1994, EPA published the Final Rulemaking (FRM) (59 FR 13044) which described the process for administering the SNAP program and issued EPA's first acceptability lists for substitutes in the major industrial use sectors. These sectors include: refrigeration and air conditioning; foam blowing; solvent cleaning; fire suppression and explosion protection; sterilants; aerosols; adhesives, coatings and inks; and tobacco expansion. These sectors comprise the principal industrial sectors that historically consume large volumes of ozone-depleting compounds.

The Agency defines a ''substitute'' as any chemical, product substitute, or alternative manufacturing process, whether existing or new, that could replace a class I or class II substance. Anyone who produces a substitute must provide the Agency with health and safety studies on the substitute at least 90 days before introducing it into interstate commerce for significant new use as an alternative. This requirement applies to chemical manufacturers, but may include importers, formulators or end-users when they are responsible for introducing a substitute into commerce.

III. Proposed Listing of Substitutes

To develop the lists of unacceptable and acceptable substitutes, EPA conducts screens of health and environmental risks posed by various substitutes for ozone-depleting compounds in each use sector. The outcome of these risk screens can be found in the public docket.

Under section 612, the Agency has considerable discretion in the risk management decisions it can make in SNAP. The Agency has identified five possible decision categories: acceptable, acceptable subject to use conditions; acceptable subject to narrowed use limits; unacceptable; and pending. Acceptable substitutes can be used for all applications within the relevant sector end-use. Conversely, it is illegal to replace an ODS with a substitute listed by SNAP as unacceptable for that end-use. A pending listing represents substitutes for which the Agency has not received complete data or has not completed its review of the data.

After reviewing a substitute, the Agency may make a determination that a substitute is acceptable only if certain conditions of use are met to minimize risks to human health and the environment. Such substitutes are placed on the acceptable subject to use conditions lists. Use of such substitutes in ways that are inconsistent with such use conditions renders these substitutes unacceptable.

Even though the Agency can restrict the use of a substitute based on the potential for adverse effects, it may be necessary to permit a narrowed range of use within a sector end-use because of the lack of alternatives for specialized applications. Users intending to adopt a substitute acceptable with narrowed use limits must ascertain that other acceptable alternatives are not technically feasible. Companies must document the results of their evaluation, and retain the results on file for the purpose of demonstrating compliance. This documentation shall include descriptions of substitutes examined and rejected, processes or products in which the substitute is needed, reason for rejection of other alternatives, e.g., performance, technical or safety standards, and the anticipated date other substitutes will be available and projected time for switching to other available substitutes. Use of such substitutes in application and end-uses which are not specified as acceptable in the narrowed use limit renders these substitutes unacceptable.

In this Notice of Proposed Rulemaking (NPRM), EPA is issuing its preliminary decision to restrict use of certain substitutes not previously reviewed by the Agency. As described in the final rule for the SNAP program (59 FR 13044), EPA believes that notice-and-comment rulemaking is required to place any alternative on the list of prohibited substitutes, to list a substitute as acceptable only under certain use conditions or narrowed use limits, or to remove an alternative from either the list of prohibited or acceptable substitutes.

EPA does not believe that rulemaking procedures are required to list alternatives as acceptable with no limitations. Such listings do not impose any sanction, nor do they remove any prior license to use a substitute. Consequently, EPA periodically adds substitutes to the list of acceptable alternatives without first requesting comment on new listings. Updates to the acceptable and pending lists are published in separate Notices in the Federal Register.

Parts A. through C. below present a detailed discussion of the proposed substitute listing determinations by major use sector. Tables summarizing listing decisions in this Notice of Proposed Rulemaking are in Appendix A. The comments contained in Appendix A provide additional information on a substitute. Since comments are not part of the regulatory decision, they are not mandatory for use of a substitute. Nor should the comments be considered comprehensive with respect to other legal obligations pertaining to the use of the substitute. However, EPA encourages users of

substitutes to apply all comments in their application of these substitutes. In many instances, the comments simply allude to sound operating practices that have already been identified in existing industry and/or building-code standards. Thus, many of the comments, if adopted, would not require significant changes in existing operating practices for the affected industry.

A. Refrigeration and Air Conditioning

1. Acceptable Subject to Use Conditions

a. CFC–12 Automobile and Non-automobile Motor Vehicle Air Conditioners, Retrofit and New. EPA is concerned that the existence of several substitutes in this end-use may increase the likelihood of significant refrigerant cross-contamination and potential failure of both air conditioning systems and recovery/recycling equipment. In addition, a smooth transition to the use of substitutes strongly depends on the continued purity of the recycled CFC–12 supply. In order to prevent cross-contamination and preserve the purity of recycled refrigerants, EPA is proposing several conditions on the use of all motor vehicle air conditioning refrigerants. For the purposes of this proposed rule, no distinction is made between ''retrofit'' and ''drop-in'' refrigerants; retrofitting a car to use a new refrigerant includes all procedures that result in the air conditioning system using a new refrigerant. Please note that EPA only reviews refrigerants based on environmental and health factors.

In particular, when retrofitting a CFC–12 system to use any substitute refrigerant, the following conditions must be met:

• Each refrigerant may only be used with a set of fittings that is unique to that refrigerant. These fittings (male or female, as appropriate) must be used with all containers of the refrigerant, on can taps, on recovery, recycling, and charging equipment, and on all air conditioning system service ports. These fittings must be designed to mechanically prevent cross-charging with another refrigerant. A refrigerant may only be used with the fittings and can taps specifically intended for that refrigerant. Using an adapter or deliberately modifying a fitting to use a different refrigerant will be a violation of this use condition. In addition, fittings shall meet the following criteria, derived from Society of Automotive Engineers (SAE) standards and recommended practices:

—When existing CFC–12 service ports are to be retrofitted, conversion assemblies shall attach to the CFC–12 fitting with a thread lock adhesive and/or a separate mechanical latching mechanism in a manner that permanently prevents the assembly from being removed.

—All conversion assemblies and new service ports must satisfy the vibration testing requirements of sections 3.2.1 or 3.2.2 of SAE J1660, as applicable, excluding references to SAE J639 and SAE J2064, which are specific to HFC–134a.

—In order to prevent discharge of refrigerant to the atmosphere, systems shall have a device to limit compressor operation before the pressure relief device will vent refrigerant. This requirement is waived for systems that do not feature such a pressure relief device.

—All CFC–12 service ports not retrofitted with conversion assemblies shall be rendered permanently incompatible for use with CFC–12 related service equipment by fitting with a device attached with a thread lock adhesive and/or a separate mechanical latching mechanism in a manner that prevents the device from being removed.

• When a retrofit is performed, a label must be used as follows:

—The person conducting the retrofit must apply a label to the air conditioning system in the engine compartment that contains the following information:

* The name and address of the technician and the company performing the retrofit

* The date of the retrofit

* The trade name, charge amount, and, when applicable, the ASHRAE refrigerant numerical designation of the refrigerant

* The type, manufacturer, and amount of lubricant used

* If the refrigerant is or contains an ozone-depleting substance, the phrase ''ozone depleter''

* If the refrigerant displays flammability limits as measured according to ASTM E681, the statement ''This refrigerant is FLAMMABLE. Take appropriate precautions.''

—This label must be large enough to be easily read and must be permanent.

—The background color must be unique to the refrigerant.

—The label must be affixed to the system over information related to the previous refrigerant, in a location not normally replaced during vehicle repair.

—Information on the previous refrigerant that cannot be covered by the new label must be permanently rendered unreadable.

• No substitute refrigerant may be used to ''top-off'' a system that uses another refrigerant. The original refrigerant must be recovered in accordance with regulations issued under section 609 of the CAA prior to charging with a substitute.

Since these use conditions necessitate unique fittings and labels, it will be necessary for developers of automotive refrigerants to consult with EPA about the existence of other alternatives. Such discussions will lower the risk of duplicating fittings already in use.

No determination guarantees satisfactory performance from a refrigerant. Consult the original equipment manufacturer or service personnel for further information on using a refrigerant in a particular system.

(a) All refrigerants. *All refrigerants listed in future notices as being acceptable as substitutes for CFC–12 in retrofitted and new motor vehicle air conditioners are proposed to be subject to the use conditions described above.*

In the March 18, 1994 FRM (59 FR 13044), EPA established that the public would be informed via a Notice when substitutes are added to the acceptable list. If EPA intended to place any restrictions, including use conditions, on the use of a substitute, that determination would require full notice-and-comment rulemaking. In this NPRM, however, EPA proposes to modify that approach for motor vehicle air conditioning systems (MVACS).

As explained above, EPA is concerned about potential cross-contamination because of the large number of MVAC refrigerants. In this NPRM, EPA is proposing to impose the same use conditions on all future MVAC refrigerants as were imposed on HFC–134a and HCFC Blend Beta (60 FR 31092), and were proposed for HCFC Blend Delta and Blend Zeta (60 FR 51383). Because of EPA's interest in timely review of substitute refrigerants, EPA believes it is appropriate to propose that these use conditions be applied to all future refrigerants for use in motor vehicle air conditioning, thereby removing the requirement for future notice-and-comment rulemaking on this issue. In the future, EPA will add refrigerants to the list of automotive substitutes that are acceptable subject to use conditions without notice-and-comment rulemaking. Such action will occur in the same manner as Notices of Acceptability. If further restrictions are necessary for a specific refrigerant (for example, if a substitute is found unacceptable), then EPA will propose such action in notice-and-comment rulemaking.

(b) R–406A. *R–406A, which consists of HCFC–22, HCFC–142b, and isobutane, is proposed acceptable as a substitute for CFC–12 in retrofitted and new motor vehicle air conditioners, subject to the use conditions applicable to motor vehicle air conditioning described above, in addition to the requirement that retrofitting an MVAC system to R–406A must include replacing non-barrier hoses with barrier hoses.* Because HCFC–22 and HCFC–142b contribute to ozone depletion, this blend is considered a transitional alternative. Regulations regarding recycling and reclamation issued under section 608 of the Clean Air Act apply to this blend. HCFC–142b has one of the highest ODPS among the HCFCS. The GWPS of HCFC–22 and HCFC–142b are

somewhat high. Although HCFC–142b and isobutane are flammable, the blend is not. After significant leakage, however, this blend may become weakly flammable. The manufacturer has performed a risk assessment that demonstrates that it can be used safely in this end-use. There is concern that HCFC–22 will seep out of traditional hoses. Thus, at the manufacturer's suggestion, EPA is imposing an additional condition that barrier hoses must be used with R–406A. Note: R–406A is sold under the trade names ''GHG'' and ''McCool.''

The R–406A submission contained the first risk assessment that attempted to quantify the additional risk posed by using a refrigerant that is nonflammable but that may fractionate to a flammable state. EPA invites comment on this risk assessment, which may be obtained from USEPA Air Docket A–91–42, file VI–D–120. The assessment concludes that an additional 0.018 injuries will occur per million vehicles annually. This value is extremely low. In addition, even an error of a factor of 100 would still result in very low additional risk.

(c) HCFC Blend Lambda. *HCFC Blend Lambda, which consists of HCFC–22, HCFC–142b, and isobutane, is proposed acceptable as a substitute for CFC–12 in retrofitted and new motor vehicle air conditioners, subject to the use conditions applicable to motor vehicle air conditioning described above, in addition to the requirement that HCFC Blend Lambda must be used with barrier hoses.* Because HCFC–22 and HCFC–142b contribute to ozone depletion, they will be phased out of production. Therefore, this blend will be used primarily as a retrofit refrigerant. However, HCFC Blend Lambda is acceptable for use in new systems, subject to the same use conditions. Regulations regarding recycling and reclamation issued under section 608 of the Clean Air Act apply to this blend. HCFC–142b has one of the highest ODPS among the HCFCS. The GWPS of HCFC–22 and HCFC–142b are somewhat high. Although HCFC–142b and isobutane are flammable, the blend is not. After significant leakage, this blend may become weakly flammable. However, this blend contains more HCFC–22 and less of the two flammable components than R–406A, and therefore should be at least as safe to use as R–406A. In addition, as discussed above in the R–406A section, the manufacturer has performed a risk assessment that demonstrates that R–406A can be used safely in this end-use. Finally, as stated above, this blend contains even lower percentages of flammable components than R–406A.

There is concern that HCFC–22 will seep out of traditional hoses. Thus, at the manufacturer's suggestion, EPA is imposing an additional condition that barrier hoses must be used with R–406A. Note: this blend is sold under the trade name ''GHG-HP.''

(d) HCFC Blend Xi, HCFC Blend Omicron. *HCFC Blend Xi and HCFC Blend Omicron, both of which consist of HCFC–22, HCFC–124, HCFC–142b, and isobutane, are proposed acceptable as substitutes for CFC–12 in retrofitted and new motor vehicle air conditioners, subject to the use conditions applicable to motor vehicle air conditioning described above, in addition to the requirement that these blends must be used with barrier hoses.* Because HCFC–22 and HCFC–142b contribute to ozone depletion, they will be phased out of production. Therefore, these blends will be used primarily as retrofit refrigerants. However, these blends are acceptable for use in new systems, subject to the same use conditions. Regulations regarding recycling and reclamation issued under section 608 of the Clean Air Act apply to these blends. HCFC–142b has one of the highest ODPS among the HCFCS. The GWPS of HCFC–22 and HCFC–142b are somewhat high. Although HCFC–142b and isobutane are flammable, these blends are not. In addition, testing on these blends has shown that they do not become flammable after leaks. EPA is concerned that HCFC–22 will seep out of traditional hoses. Thus, EPA is proposing an additional condition that barrier hoses must be used with HCFC Blend Xi and HCFC Blend Omicron. Note: HCFC Blend Xi is being sold under the trade names ''GHG–X4'', ''Autofrost'', and ''Chill-It,'' and HCFC Blend Omicron is being sold under the trade names ''Hot Shot'' and ''Kar Kool.''

B. Solvent Cleaning

1. Acceptable Subject to Use Conditions

a. Electronics Cleaning.

(a) HFC–4310mee. *HFC–4310mee is proposed as an acceptable substitute for CFC–113 and methyl chloroform (MCF) in electronics cleaning subject to a 200 ppm time-weighted average workplace exposure standard and a 400 ppm workplace exposure ceiling.* HFC–4310mee is a new chemical that has just completed review by EPA's Premanufacture Notice Program under the Toxic Substances Control Act. This chemical does not deplete the ozone layer since it does not contain chlorine or bromine. It does have some potential to contribute to global warming since its 500-year Global Warming Potential (GWP) is 520 and it has a 20.8 year lifetime. However, the GWP and lifetime for HFC–4310 are both lower than the GWP and lifetime for CFC–113 and significantly lower than for PFCs, which are other substitutes for ozone-depleting solvents.

HFC–4310mee does exhibit some toxicity in tests reviewed by EPA, and causes central nervous system effects at relatively low levels. However, these effects are reversible and cease once chemical exposure is eliminated. Review under the SNAP program and the PMN program determined that a time-weighted average workplace exposure standard of 200 ppm and a workplace exposure ceiling of 400 ppm would be adequately protective of human health and that companies could readily meet these exposure limits using the types of equipment specified in the product safety information provided by the chemical manufacturer.

These workplace standards are designed to protect worker safety until the Occupational Safety and Health Administration (OSHA) sets its own standards under P.L. 91–596. The existence of the EPA standards in no way bars OSHA from standard-setting under OSHA authorities as defined in P.L. 91–596.

B. Precision Cleaning

(a) HFC–4310mee. *HFC–4310mee is proposed as an acceptable substitute for CFC–113 and methyl chloroform in precision cleaning subject to a 200 ppm time-weighted average workplace exposure standard and a 400 ppm workplace exposure ceiling.* The reasoning behind this determination is presented above in the section on electronics cleaning.

These workplace standards are designed to protect worker safety until the Occupational Safety and Health Administration (OSHA) sets its own standards under P.L. 91–596. The existence of the EPA standards in no way bars OSHA from standard-setting under OSHA authorities as defined in P.L. 91–596.

2. Acceptable Subject to Narrowed Use Limits

a. Electronics Cleaning.

(a) Perfluoropolyethers. *Perfluoropolyethers are proposed as acceptable substitutes for CFC–113 and MCF in the electronics cleaning sector for high performance, precision-engineered applications only where reasonable efforts have been made to ascertain that other alternatives are not technically feasible due to performance*

or safety requirements. These chemicals have global warming characteristics comparable to the perfluorocarbons and, as a result, are proposed to be subject to the same restrictions. A full discussion of the global warming concerns and related risk management decision can be found under 59 FR 13044 (March 18, 1994, at p. 13094)

b. Precision Cleaning.

(a) Perfluoropolyethers. *Perfluoropolyethers are proposed as acceptable substitutes for CFC–113 and MCF in the precision cleaning sector for high performance, precision-engineered applications only where reasonable efforts have been made to ascertain that other alternatives are not technically feasible due to performance or safety requirements.* These chemicals have global warming characteristics comparable to the perfluorocarbons and, as a result, are proposed to be subject to the same restrictions. A full discussion of the global warming concerns and related risk management decision can be found under 59 FR 13044 (March 18, 1994, at p. 13094).

3. Unacceptable

a. Electronics Cleaning.

(a) HCFC–141b. *HCFC–141b is unacceptable as a substitute for CFC–113 and MCF in electronics cleaning under existing rules (59 FR 13044; March 18, 1994); today's notice proposes to amend this unacceptability determination and proposes existing uses of HCFC–141b as acceptable in high-performance electronics cleaning until January 1, 1997.* This proposed determination extends the use date for HCFC–141b in solvent cleaning, but only for existing users in high-performance electronics and only for one year. The extension does not affect the production phaseout date for HCFC–141b, which is January 1, 2003.

The extension should not be viewed as a reason to postpone replacement of 141b. Alternatives exist for nearly all solvent cleaning applications of 141b, and the principal reason for the extension is the long lead time necessary to test, select, and implement a chosen substitute in high-performance applications where stringent qualifications testing is the norm.

Existing regulations affect 141b in two ways. Under the production phaseout for ozone-depleting substances (ODS), 141b has a phaseout date of January 1, 2003. This regulation, developed under section 604 of the Clean Air Act (CAA), states that chemical manufacturers will no longer be allowed to manufacture 141b as of that date (40 CFR Part 82, Subpart G, Appendix A). HCFC–141b is also subject to a number of use restrictions relevant to solvent cleaning operations. According to regulations developed under section 612 of the CAA—the SNAP program—the only companies allowed to use 141b in solvent cleaning equipment are existing users. Existing users were defined in the March 1994 determination as companies who had 141b-based solvent cleaning equipment in place as of April 18, 1994. No new substitutions into 141b for solvent cleaning were permitted, and even existing users may use 141b only until January 1, 1996. This use ban date for existing users is the subject of the extension in today's proposal. HCFCS, including 141b, are also covered by other use restrictions such as the nonessential ban (section 610) and labeling (section 611). The 610 and 611 regulations are not discussed here. If you need more information about these regulations, call the Stratospheric Ozone Protection Hotline at 1–800–296–1996.

Many users and vendors of 141b have requested that the Agency postpone the effective date of the use ban under SNAP for solvent cleaning beyond January 1, 1996. In response to these petitions, EPA is proposing an extension. Note, however, that the only change is that existing uses in high-performance electronics cleaning would be permitted for an additional year until January 1, 1997. (Precision cleaning uses are also extended in today's proposal, but are listed in the next section.) ''High-performance electronics'' would include high-value added components for aerospace, military, or medical applications such as hybrid circuits or other electronics for missile guidance systems. The existing policy of no new substitutions into 141b is maintained and uses of 141b in metals cleaning and basic electronics cleaning would still end as of January 1, 1996. These restricted applications include cleaning of basic, formed metal parts and high-volume electronics cleaning such as components for consumer electronics.

An important distinction is that ''solvent cleaning'' in the SNAP program is defined to cover replacements of ODS in industrial cleaning, either in vapor degreasing or cold cleaning. It does not include aerosol applications, which are covered separately under the SNAP program. It also does not include other solvent cleaning uses of ODS such as in textile cleaning, dry cleaning, flushing of automotive air conditioning systems, or hand wiping. This means, for instance, that the use ban date does not apply to 141b used for hand wiping. However, users should understand that although these uses are not currently governed by the SNAP program, responsible corporate policy would be to implement alternatives to ODS where possible. Additionally, SNAP reserves the right to regulate any use where significant environmental differences exist in the choice of alternatives.

To minimize the paperwork burden, no reporting is proposed for companies that qualify for an extension.

The extension is not an excuse to delay selecting an alternative. The principal reason for extending the permissible period of use for 141b in these narrowed applications is not that alternatives do not exist, but that users need more time to qualify and implement alternatives. Even with the extension, uses of 141b in the specified applications will only be permitted for another 12 months beyond the current use ban date. This additional time can only be used productively if users begin now to select, test, order equipment and materials, etc.

The search for alternatives should include not just aqueous and semi-aqueous alternatives, but also recently developed cleaning chemicals and technologies. Information on vendors of substitutes is available from the Stratospheric Ozone Protection Hotline. Call 1–800–296–1996 and ask for the Vendor List for Precision Cleaning. In addition, EPA has more detailed information available on topics such as retrofitting 141b degreasers to use HFCS or on cleaning of medical devices.

b. Precision Cleaning.

(a) HCFC–141b. *HCFC–141b is unacceptable as a substitute for CFC–113 and MCF in precision cleaning under existing rules (59 FR 13044; March 18, 1994); today's notice proposes to amend this unacceptability determination and proposes existing uses of HCFC–141b as acceptable in precision cleaning until January 1, 1997.* This proposed determination extends the use date for HCFC–141b in solvent cleaning, but only for existing users in precision cleaning and only for one year. The extension does not affect the production phaseout date for HCFC–141b, which is January 1, 2003.

For a full discussion of the rationale for extension, please see the previous section on electronics cleaning. This discussion applies in full to users of precision cleaning, which for purposes of this extension is defined to include cleaning of devices of high-value added, precision-engineered parts such as precision ball bearings for navigational devices, or other components for aerospace, or medical uses.

C. Aerosols

1. Acceptable Subject to Narrowed Use Limits

a. Solvents.

(a) Perfluorocarbons. *Perfluorocarbons (PFCs) are proposed as acceptable substitutes for CFC–113 and MCF for aerosol applications only where reasonable efforts have been made to ascertain that other alternatives are not technically feasible due to performance or safety requirements.* EPA is proposing to permit the use of PFCs in aerosols applications despite their global warming potential since so few nontoxic, nonflammable solvents exist and this sector presents a high probability of worker exposure and safety risks. PFCs are already subject to similar restrictions in the solvents cleaning sector due to global warming concerns (59 FR 13044, March 18, 1994). This decision, if implemented as proposed, will allow users to select PFCs in the event of performance or safety concerns while guarding against widespread, unnecessary use of these potent greenhouse gases.

(b) Perfluoropolyethers. *Perfluoropolyethers (PFPEs) are proposed as acceptable substitutes for CFC–113 and MCF for aerosol applications only where reasonable efforts have been made to ascertain that other alternatives are not technically feasible due to performance or safety requirements.* EPA is proposing to permit the use of perfluoropolyethers in aerosols applications despite their global warming potential since so few nontoxic, nonflammable solvents exist and this sector presents a high probability of worker exposure and safety risks. PFCs, which have global warming potentials comparable to the PFPEs, are already subject to similar restrictions in the solvents cleaning sector due to global warming concerns (59 FR 13044, March 18, 1994). This decision, if implemented as proposed, will allow users to select perfluoropolyethers in the event of performance or safety concerns while guarding against widespread, unnecessary use of these potent greenhouse gases.

2. Unacceptable

a. Propellants.

(a) SF6. *SF6 is proposed as unacceptable substitute for CFC–11, CFC–12, HCFC–22 and HCFC–142b in aerosol applications.* This chemical has been of commercial interest as a compressed gas propellant substitute for ozone-depleting propellants. It has an atmospheric lifetime of 3,200 years and a 100-year global warming potential (GWP) of 24,900. CFC–11, in contrast, has a lifetime of 50 years and a GWP of 4,000. Formulators have indicated to the EPA that other compressed gases such as CO_2 would work equally well and could be formulated at similar or lower cost.

3. Amendment to List of Substances Being Replaced

EPA proposes today to add CFC–12 and CFC–114 to the list of aerosol propellants being replaced by substitutes reviewed under SNAP. This will ensure that companies replacing these CFCS in their products will be able to adhere to SNAP rulings in the replacement process. The environmental trade-offs associated with replacing CFC–12 and CFC–114 versus CFC–11 do not change significantly, since the ODPS for all the CFCS are roughly the same.

IV. Administrative Requirements

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735; October 4, 1993), the Agency must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.''

Pursuant to the terms of Executive Order 12866, OMB notified EPA that it considers this a ''significant regulatory action'' within the meaning of the Executive Order and EPA submitted this action to OMB for review. Changes made in response to OMB suggestions or recommendations have been documented in the public record.

B. Unfunded Mandates Act

Section 202 of the Unfunded Mandates Reform Act of 1995 requires EPA to prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by state, local, and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year. Section 203 requires the Agency to establish a plan for obtaining input from and informing any small governments that may be significantly or uniquely affected by the rule. Section 205 requires that regulatory alternatives be considered before promulgating a rule for which a budgetary impact statement is prepared. The Agency must select the least costly, most cost-effective, or least burdensome alternative that achieves the rule's objectives, unless there is an explanation why this alternative is not selected or this alternative is inconsistent with law.

Because this proposed rule is estimated to result in the expenditure by State, local, and tribal governments or the private sector of less than $100 million in any one year, the Agency has not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative. Because small governments will not be significantly or uniquely affected by this proposed rule, the Agency is not required to develop a plan with regard to small governments.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 604(a), applies to any rulemaking that is subject to public notice and comment requirements. The Act requires that a regulatory flexibility analysis be performed or the head of the Agency certifies that a rule will not have a significant economic effect on a substantial number of small entities, pursuant to 5 U.S.C. 605(b).

The Agency believes that this proposed rule will not have a significant effect on a substantial number of small entities and has therefore concluded that a formal RFA is unnecessary. Because costs of the SNAP requirements as a whole are expected to be minor, the is unlikely to adversely affect businesses, particularly as the rule exempts small sectors and end-uses from reporting requirements and formal agency review. In fact, to the extent that information gathering is more expensive and time-consuming for small companies, this rule may well provide benefits for small businesses anxious to examine potential substitutes to any ozone-depleting class I and class II substances they may be using, by requiring manufacturers to make information on such substitutes available.

D. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the *Paperwork Reduction Act,* 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document has been prepared by EPA (ICR No. 1774.01) and a copy may be obtained from Sandy Farmer, OPPE Regulatory Information Division; U.S. Environmental Protection Agency (2136), 401 M St., SW., Washington, DC 20460 or by calling (202) 260–2740. The reasons for these information requirements are explained in the section on automobile air conditioning (III.A.1.a), and the requirements will be mandatory under section 612 of the Clean Air Act once the ICR is approved.

EPA is proposing to apply the information requirements described above to this rulemaking, previous similar rulemakings, and future rulemakings. Therefore, once the ICR is approved and this proposed rule is finalized, the ICR will also apply to requirements described in rules published on June 13, 1995 (60 FR 31092) and a rule expected to be published in April, 1996.

EPA estimates that the burden of learning about the requirements will be approximately ten minutes, and that filling out each required label itself will take under one minute. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

Comments are requested on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques. Send comments on the ICR to the Director, OPPE Regulatory Information Division; U.S. Environmental Protection Agency (2136), 401 M St., SW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St., NW., Washington, DC 20503, marked ''Attention: Desk Officer for EPA.'' Include the ICR number in any correspondence. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after May 22, 1996, a comment to OMB is best assured of having its full effect if OMB receives it by June 21, 1996. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

V. Additional Information

For copies of the comprehensive SNAP lists or additional information on SNAP contact the Stratospheric Protection Hotline at 1–800–296–1996, Monday–Friday, between the hours of 10:00 a.m. and 4:00 p.m. (EST).

For more information on the Agency's process for administering the SNAP program or criteria for evaluation of substitutes, refer to the SNAP final rulemaking published in the Federal Register on March 18, 1994 (59 FR 13044). Federal Register notices can be ordered from the Government Printing Office Order Desk, (202) 783–3238; the citation is the date of publication. Notices and rulemaking under the SNAP program can also be retrieved electronically from EPA's Protection of Stratospheric Ozone Technology Transfer Network (TTN), Clean Air Act Amendment Bulletin Board. The access number for users with a 1200 or 2400 bps modem is (919) 541–5742. For users with a 9600 bps modem the access number is (919) 541–1447. For assistance in accessing this service, call (919) 541–5384 during normal business hours (EST). Finally, all ozone depletion-related NPRMS, FRMs, and Notices may be retrieved from EPA's Ozone Depletion World Wide Web site, at http://www.epa.gov/docs/ozone/title6/usregs.html.

List of Subjects in 40 CFR Part 82

Environmental protection, Administrative practice and procedure, Air pollution control, Reporting and recordkeeping requirements.

Dated: May 13, 1996.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, 40 CFR part 82 is proposed amended as follows:

PART 82—PROTECTION OF STRATOSPHERIC OZONE

1. The authority citation for part 82 continues to read as follows:

Authority: 42 U.S.C. Sec. 7414, 7601, 7671–7671q.

2. Section 82.180 is amended by revising paragraph (a)(8)(ii) to read as follows:

§ 82.180 Agency review of SNAP submissions.

(a) * * *

(8) * * *

(ii) Communication of Decision to the Public. The Agency will publish in the Federal Register periodic updates to the list of the acceptable and unacceptable alternatives that have been reviewed to date. In the case of substitutes proposed as acceptable with use restrictions, proposed as unacceptable or proposed for removal from either list, a rulemaking process will ensue. Upon completion of such rulemaking, EPA will publish revised lists of substitutes acceptable subject to use conditions or narrowed use limits and unacceptable substitutes to be incorporated into the Code of Federal Regulations. (See Appendices to this subpart.)

* * * * *

3. Subpart G is amended by adding Appendix D to read as follows:

Subpart G—Significant New Alternatives Policy Program

* * * * *

Appendix D to Subpart G—Substitutes Subject to Use Restrictions and Unacceptable Substitutes Listed

Refrigeration and Air Conditioning Sector Proposed Use Conditions

R–406A/''GHG''/''McCool'', ''GHG–HP'', ''GHG–X4''/''Autofrost''/''Chill-It'', ''Hot Shot''/''Kar Kool'', and all refrigerants when listed in subsequent notices, are proposed acceptable subject to the following conditions when used to retrofit a CFC–12 motor vehicle air conditioning system or

when used in a new motor vehicle air conditioning system:

1. Each refrigerant may only be used with a set of fittings that is unique to that refrigerant. These fittings (male or female, as appropriate) must be used with all containers of the refrigerant, on can taps, on recovery, recycling, and charging equipment, and on all air conditioning system service ports. These fittings must be designed to mechanically prevent cross-charging with another refrigerant. A refrigerant may only be used with the fittings and can taps specifically intended for that refrigerant. Using an adapter or deliberately modifying a fitting to use a different refrigerant will be a violation of this use condition. In addition, fittings shall meet the following criteria, derived from Society of Automotive Engineers (SAE) standards and recommended practices:
   a. When existing CFC–12 service ports are to be retrofitted, conversion assemblies shall attach to the CFC–12 fitting with a thread lock adhesive and/or a separate mechanical latching mechanism in a manner that permanently prevents the assembly from being removed.
   b. All conversion assemblies and new service ports must satisfy the vibration testing requirements of sections 3.2.1 or 3.2.2 of SAE J1660, as applicable, excluding references to SAE J639 and SAE J2064, which are specific to HFC–134a.
   c. In order to prevent discharge of refrigerant to the atmosphere, systems shall have a device to limit compressor operation before the pressure relief device will vent refrigerant. This requirement is waived for systems that do not feature such a pressure relief device.
   d. All CFC–12 service ports shall be retrofitted with conversion assemblies or shall be rendered permanently incompatible for use with CFC–12 related service equipment by fitting with a device attached with a thread lock adhesive and/or a separate mechanical latching mechanism in a manner that prevents the device from being removed.
2. When a retrofit is performed, a label must be used as follows:
   a. The person conducting the retrofit must apply a label to the air conditioning system in the engine compartment that contains the following information:
      i. The name and address of the technician and the company performing the retrofit
      ii. The date of the retrofit
      iii. The trade name, charge amount, and, when applicable, the ASHRAE refrigerant numerical designation of the refrigerant
      iv. The type, manufacturer, and amount of lubricant used
      v. If the refrigerant is or contains an ozone-depleting substance, the phrase ''ozone depleter''
      vi. If the refrigerant displays flammability limits as measured according to ASTM E681, the statement ''This refrigerant is FLAMMABLE. Take appropriate precautions.''
   b. This label must be large enough to be easily read and must be permanent.
   c. The background color must be unique to the refrigerant.
   d. The label must be affixed to the system over information related to the previous refrigerant, in a location not normally replaced during vehicle repair.
   e. Information on the previous refrigerant that cannot be covered by the new label must be permanently rendered unreadable.
3. No substitute refrigerant may be used to ''top-off'' a system that uses another refrigerant. The original refrigerant must be recovered in accordance with regulations issued under section 609 of the CAA prior to charging with a substitute.

SOLVENT CLEANING SECTOR—PROPOSED ACCEPTABLE SUBJECT TO USE CONDITIONS SUBSTITUTES

Application	Substitute	Proposed Decision	Conditions	Comments
Electronics Cleaning w/ CFC–113 and MCF.	HFC–4310mee	Acceptable	Subject to a 200 ppm time-weighted average workplace exposure standard and a 400 ppm workplace exposure ceiling.	
Precision Cleaning w/ CFC–113 and MCF.	HFC–4310mee	Acceptable	Subject to a 200 ppm time-weighted average workplace exposure standard and a 400 ppm workplace exposure ceiling.	

SOLVENT SECTOR—PROPOSED ACCEPTABLE SUBJECT TO NARROWED USE LIMITS

Application	Substitute	Proposed decision	Comments
Electronics Cleaning w/ CFC–113 and MCF.	Perfluoropolyethers	Perfluoropolyethers are proposed as acceptable substitutes for CFC–113 and MCF in the precision cleaning sector for high performance, precision-engineered applications only where reasonable efforts have been made to ascertain that other alternatives are not technically feasible due to performance or safety requirements.	PFPEs have similar global warming profile to the PFCs, and the SNAP decision on PFPEs parallels that for PFCs.
Precision Cleaning w/ CFC–113 and MCF.	Perfluoropolyethers	Perfluoropolyethers are proposed as acceptable substitutes for CFC–113 and MCF in the precision cleaning sector for high performance, precision-engineered applications only where reasonable efforts have been made to ascertain that other alternatives are not technically feasible due to performance or safety requirements.	PFPEs have similar global warming profile to the PFCs, and the SNAP decision on PFPEs parallels that for PFCs.

PROPOSED UNACCEPTABLE SUBSTITUTES

End-use	Substitute	Proposed decision	Comments
Electronics Cleaning w/ CFC–113 and MCF.	HCFC–141b	Extension of existing unacceptability determination to grant existing uses in high-performance electronics permission to continue until January 1, 1997.	This proposed determination extends the use date for HCFC–141b in solvent cleaning, but only for existing users in high-performance electronics and only for one year.

PROPOSED UNACCEPTABLE SUBSTITUTES—Continued

End-use	Substitute	Proposed decision	Comments
Precision Cleaning w/ CFC–113 and MCF.	HCFC–141b	Extension of existing unacceptability determination to grant existing uses in precision cleaning permission to continue until January 1, 1997.	This proposed determination extends the use date for HCFC–141b in solvent cleaning, but only for existing users in precision cleaning and only for one year.

AEROSOLS SECTOR—PROPOSED ACCEPTABLE SUBJECT TO NARROWED USE LIMITS

Application	Substitute	Proposed Decision	Comments
CFC–113, MCF, and HCFC–141b as aerosol solvents.	Perfluorocarbons	Perfluorocarbons are proposed as acceptable substitutes for aerosol applications only where reasonable efforts have been made to ascertain that other alternatives are not technically feasible due to performance or safety requirements.	PFCs have extremely long atmospheric lifetimes and high Global Warming Potentials. This decision reflects these concerns and is patterned after the SNAP decision on PFCs in the solvent cleaning sector.
	Perfluoropolyethers	Perfluorocarbons are proposed as acceptable substitutes for aerosol applications only where reasonable efforts have been made to ascertain that other alternatives are not technically feasible due to performance or safety requirements.	PFPEs have similar global warming profile to the PFCs, and the SNAP decision on PFPEs parallels that for PFCs in the solvent cleaning sector.

PROPOSED UNACCEPTABLE SUBSTITUTES

End-use	Substitute	Decision	Comments
CFC–11, CFC–12, HCFC–22, and HCFC–142b as aerosol propellants.	SF6	Unacceptable	SF6 has the highest GWP of all industrial gases, and other compressed gases meet user needs in this application equally well.

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BILLING CODE 6560–50–P

JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION

45 CFR Part 2400

Fellowship Program Requirements

AGENCY: James Madison Memorial Fellowship Foundation.

ACTION: Proposed rule.

SUMMARY: The following are proposed revised regulations governing the annual competition for James Madison Fellowships and the obligations of James Madison Fellows. These regulation would update and replace several aspects of the the Foundation's existing regulations as implemented by the James Madison Memorial Fellowship Act of 1986. These revised regulations would govern the qualifications and applications of candidates for fellowships; the selection of Fellows by the Foundation; the graduate programs Fellows must pursue; the terms and conditions attached to awards; the Foundation's annual Summer Institute on the Constitution; and related requirements and expectations regarding fellowships.

DATES: Comments must be submitted on or before July 22, 1996.

ADDRESSES: James Madison Memorial Fellowship Foundation, 2000 K Street, NW, Suite 303, Washington, DC 20006–1809.

FOR FURTHER INFORMATION CONTACT: Lewis F. Larsen, (202) 653–8700.

SUPPLEMENTARY INFORMATION: The reason for the proposed changes to the Foundation's regulations comes as a result of the Foundation's desire to clarify several of the rules and regulations which James Madison Fellows must observe when accepting their fellowships. Although many of the changes are minor insertions of words and punctuation, this document specifically expands the definition section to include further detailed definitions on Credit Hour Equivalent, Incomplete, Repayment, Satisfactory Progress, Stipend, Teaching Obligation, Termination and Withdrawal. The Foundation now encourages James Madison Fellows to choose a graduate program which does not include the writing of a thesis. Graduate programs for which Fellows may apply have been broadened to included political science. Finally, a section entitled ''Teaching Obligation'' was added to further clarify the obligation to teach, required by the Foundation once each fellow has earned a master's degree.

List of Subjects in 45 CFR Part 2400

Education, Fellowships.

Dated: May 16, 1996.

Paul A. Yost, Jr.,

President.

For the reasons set forth in the preamble and under authority of 20 U.S.C. 4501 *et seq.*, chapter XXIV, title 45 of the Code of Federal Regulations is amended by revising part 2400 to read as follows:

Chapter XXIV—James Madison Memorial Fellowship Foundation

PART 2400—FELLOWSHIP PROGRAM REQUIREMENTS

Authority: 20 U.S.C. 4501 *et seq.*

Subpart A—General

§ 2400.1 Purposes.

(a) The purposes of the James Madison Memorial Fellowship Program are to:

(1) Provide incentives for master's degree level graduate study of the history, principles, and development of the United States Constitution by outstanding in-service teachers of American history, American government, social studies, and political science in grades 7–12 and by outstanding college graduates who plan to become teachers of the same subjects; and

(2) Strengthen teaching in the nation's secondary schools about the principles, framing, ratification, and subsequent history of the United States Constitution.

(b) The Foundation may from time to time operate its own programs and undertake other closely-related activities to fulfill these goals.

§ 2400.2 Annual competition.

To achieve its principal purposes, the Foundation holds an annual national competition to select teachers in grades 7–12, college seniors, and college graduates to be James Madison Fellows.

§ 2400.3 Eligibility.

Individuals eligible to apply for and hold James Madison Fellowships are United States citizens, United States nationals, or permanent residents of the Northern Mariana Islands who are:

(a) Teachers of American history, American government, social studies, or political science in grades 7–12 who:

(1) Are teaching full time during the year in which they apply for a fellowship;

(2) Are under contract, or can provide evidence of being under prospective contract, to teach full time as teachers of American history, American government, social studies, or political science in grades 7–12;

(3) Have demonstrated records of willingness to devote themselves to civic responsibilities and to professional and collegial activities within their schools and school districts;

(4) Are highly recommended by their department heads, school heads, school district superintendents, or other supervisors;

(5) Qualify for admission with graduate standing at accredited universities of their choice that offer master's degree programs allowing at least 12 semester hours or their equivalent of study of the origins, principles, and development of the Constitution of the United States and of its comparison with the constitutions of other forms of government;

(6) Are able to complete their proposed courses of graduate study within five calendar years from the commencement of study under their fellowships, normally through part-time study during summers or in evening or weekend programs;

(7) Agree to attend the Foundation's four-week Summer Institute on the Constitution, normally during the summer following the commencement of study under their fellowships; and

(8) Sign agreements that, after completing the education for which the fellowship is awarded, they will teach American history, American government, social studies, or political science full time in secondary schools for a period of not less than one year for each full academic year of study for which assistance was received, preferably in the state listed as their legal residence at the time of their fellowship award. For the purposes of this provision, a full academic year of study is the number of credit hours determined by each university at which Fellows are studying as constituting a full year of study at that university. Fellows' teaching obligations will be figured at full academic years of study; and when Fellows have studies for partial academic years, those years will be rounded upward to the nearest one-half year to determine Fellows' total teaching obligations.

(b) Those who aspire to become full-time teachers of American history, American government, social studies, or political science in grades 7–12 who:

(1) Are matriculated college seniors pursuing their baccalaureate degrees full time and will receive those degrees no later than August 31st of the year of the fellowship competition in which they apply or prior recipients of baccalaureate degrees;

(2) Plan to begin graduate study on a full-time basis;

(3) Have demonstrated records of willingness to devote themselves to civic responsibilities;

(4) Are highly recommended by faculty members, deans, or other persons familiar with their potential for graduate study of American history and government and with their serious intention to enter the teaching profession as secondary school teachers of American history, American government, social studies, or political science in grades 7–12;

(5) Qualify for admission with graduate standing at accredited universities of their choice that offer master's degree programs that allow at least 12 semester hours or their equivalent of study of the origins, principles, and development of the Constitution of the United States and of its comparison with the constitutions and history of other forms of government;

(6) Are able to complete their proposed courses of graduate study in no more than two calendar years from the commencement of study under their fellowships, normally through full-time study;

(7) Agree to attend the Foundation's four-week Summer Institute on the Constitution, normally during the summer following the commencement of study under their fellowships; and

(8) Sign an agreement that, after completing the education for which the fellowship is awarded, they will teach American history, American government, social studies, or political science full time in secondary schools for a period of not less than one year for each full academic year of study for which assistance was received, preferably in the state listed as their legal residence at the time of their fellowship award. For the purposes of this provision, a full academic year of

study is the number of credit hours determined by each university at which Fellows are studying as constituting a full year of study at that university. Fellows' teaching obligations will be figured at full academic years of study; and when Fellows have studies for partial academic years, those years will be rounded upward to the nearest one-half year to determine Fellows' total teaching obligations.

§ 2400.4 Definitions.

As used in this part:

Academic year means the period of time in which a full-time student would normally complete two semesters, two trimesters, three quarters, or their equivalent of study.

Act means the James Madison Memorial Fellowship Act.

College means an institution of higher education offering only a baccalaureate degree or the undergraduate division of a university in which a student is pursuing a baccalaureate degree.

Credit hour equivalent means the number of graduate credit hours obtained in credits, courses or units during a quarter, a trimester, or a semester which are needed to equal a specific number of semester graduate credit hours.

Fee means a typical and usually non-refundable charge levied by an institution of higher education for a service, privilege, or use of property which is *required* for a Fellow's enrollment and registration.

Fellow means a recipient of a fellowship from the Foundation.

Fellowship means an award, called a James Madison Fellowship, made to a person by the Foundation for graduate study.

Foundation means the James Madison Memorial Fellowship Foundation.

Full-time study means study for an enrolled student who is carrying a full-time academic workload as determined by the institution under a standard applicable to all students enrolled in a particular educational program.

Graduate study means the courses of study beyond the baccalaureate level, which are offered as part of a university's master's degree program and which lead to a master's degree.

Incomplete means a course which the Foundation has paid for but the Fellow has received an incomplete grade or the Fellow has not received graduate credit for the course.

Institution of higher education has the meaning given in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

Junior Fellowship means a James Madison Fellowship granted either to a college senior or to a college graduate who has received a baccalaureate degree and who seeks to become a secondary school teacher of American history, American government, social studies, or political science for full-time graduate study toward a master's degree whose course of study emphasizes the framing, principles, history, and interpretation of the United States Constitution.

Master's degree means the first pre-doctoral graduate degree offered by a university beyond the baccalaureate degree, for which the baccalaureate degree is a prerequisite.

Matriculated means formally enrolled in a master's degree program in a university.

Repayment means if the fellowship is relinquished by the fellow or is terminated by the Foundation prior to the completion of the Fellow's degree, and/or the Fellow fails to fulfill the teaching obligation after the graduate degree is awarded, the Fellow must repay to the Foundation all Fellowship costs received plus interest at a rate of 6% per annum and, if applicable, reasonable collection fees.

Resident means a person who has legal residence in the state, recognized under state law. If a question arises concerning a Fellow's state of residence, the Foundation determines, for the purposes of this program, of which state the person is a resident, taking into account the Fellow's place of registration to vote, his or her parent's place of residence, and the Fellow's eligibility for in-state tuition rates at public institutions of higher education.

Satisfactory progress for a Junior Fellow means the completion of the number of required courses normally expected of full-time master's degree candidates at the university that the Fellow attends, with grades acceptable to that university, in not more than two calendar years from the commencement of that study. Satisfactory progress for a Senior Fellow means the completion each year of a specific number of required courses in the Fellow's master's degree program, as agreed upon each year with the Foundation and outlined on the Plan of Study form, with grades acceptable to the Fellow's university, in not more than five calendar years from the commencement of that study.

Secondary school means grades 7 through 12.

Senior means a student at the academic level recognized by an institution of higher education as being the last year of study before receiving the baccalaureate degree.

Senior Fellowship means a James Madison Fellowship granted to a secondary school teacher of American history, American government, social studies, or political science for part-time graduate study toward a master's degree whose course of study emphasizes the framing, principles, history, and interpretation of the United States Constitution.

State means each of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, and, considered as a single entity, Guam, the United States Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, and, until adoption of its Compact of Free Association, the Republic of Palau.

Stipend means the amount paid by the Foundation to a Fellow or on his or her behalf to pay the allowable costs of graduate study which have been approved under the fellowship.

Teaching obligation means that a Fellow, upon receiving a master's degree, must teach American history, American government, social studies, or political science on a full-time basis to students in secondary school for a period of not less than one year for each year for which financial assistance was received.

Term means the period—semester, trimester, or quarter—used by an institution of higher education to divide its academic year.

Termination means the non-voluntary ending of a fellowship by the Foundation when the Fellow has not complied with the rules and regulations of the fellowship or has not made satisfactory progress in his or her program of study.

University means an institution of higher education that offers post-baccalaureate degrees.

Withdrawal means the voluntary relinquishment or surrender of a Fellowship by the Fellow.

Subpart B—Application

§ 2400.10 Application.

Eligible applicants for fellowships must apply directly to the Foundation.

§ 2400.11 Faculty representatives.

Each college and university that chooses to do so may annually appoint or reappoint a faculty representative who will be asked to identify and recruit fellowship applicants on campus, publicize the annual competition on campus, and otherwise assist eligible candidates in preparation for applying. In order to elicit the appointment of faculty representatives, the Foundation will each year request the head of each college and university campus to appoint or reappoint a

faculty representative and to provide the Foundation with the name, business address, and business telephone number of a member of its faculty representative on forms provided for that purpose.

Subpart C—Application Process

§ 2400.20 Preparation of application.

Applications, on forms mailed directly by the Foundation to those who request applications, must be completed by all fellowship candidates in order that they be considered for an award.

§ 2400.21 Contents of application.

Applications must include for

(a) Senior Fellowships:

(1) Supporting information which affirms an applicant's wish to be considered for a fellowship; provides information about his or her background, interests, goals, and the school in which he or she teaches; and includes a statement about the applicant's educational plans and specifies how those plans will enhance his or her career as a secondary school teacher of American history, American government, social studies, or political science;

(2) An essay of up to 600 words that explains the importance of the study of the Constitution to:

(i) Young students;

(ii) The applicant's career aspirations and his or her contributions to public service; and

(iii) Citizenship generally in a constitutional republic;

(3) The applicant's proposed course of graduate study, including the name of the degree to be sought, the required courses to be taken, as well as information about the specific degree sought;

(4) Three evaluations, one from an immediate supervisor, that attest to the applicant's strengths and abilities as a teacher in grades 7–12; and

(5) A copy of his or her academic transcript.

(b) Junior Fellowships:

(1) Supporting information which affirms an applicant's wish to be considered for a fellowship; provides information about the applicant's background, interests, goals, and the college which he or she attends or attended; and includes a statement about the applicant's educational plans and specifies how those plans will lead to a career as a teacher of American history, American government, social studies, or political science in grades 7–12;

(2) An essay of up to 600 words that explains the importance of the study of the Constitution to:

(i) Young students;

(ii) The applicant's career aspirations and his or her contribution to public service; and

(iii) Citizenship generally in a constitutional republic;

(3) Applicant's proposed course of graduate study, including the name of the degree sought, the name of the required courses to be taken, and information about the specific degree sought;

(4) Three evaluations that attest to the applicant's academic achievements and to his or her potential to become an outstanding secondary school teacher; and

(5) A copy of his or her academic transcript.

§ 2400.22 Application deadline.

Completed applications must be received by the Foundation no later than March 1st of each year preceding the start of the academic year for which candidates are applying.

Subpart D—Selection of Fellows

§ 2400.30 Selection criteria.

Applicants will be evaluated, on the basis of materials in their applications, as follows:

(a) Demonstrated commitment to teaching American history, American government, social studies, or political science at the secondary school level;

(b) Demonstrated intention to pursue a program of graduate study that emphasizes the Constitution and to offer classroom instruction in that subject;

(c) Demonstrated record of willingness to devote themselves to civic responsibility;

(d) Outstanding performance or potential of performance as classroom teachers;

(e) Academic achievements and demonstrated capacity for graduate study; and

(f) Proposed courses of graduate study, especially the nature and extent of their subject matter components, and their relationship to the enhancement of applicants' teaching and professional activities.

§ 2400.31 Selection process.

(a) An independent Fellow Selection Committee will evaluate all valid applications and recommend to the Foundation the most outstanding applicants from each state for James Madison Fellowships.

(b) From among candidates recommended for fellowships by the Fellow Selection Committee, the Foundation will name James Madison Fellows. The selection procedure will assure that at least one James Madison Fellow, junior or senior, is selected from each state in which there are at least two legally resident applicants who meet the eligibility requirements set forth in § 2400.3 and are judged favorably against the selection criteria in § 2400.30.

(c) The Foundation may name, from among those applicants recommended by the Fellow Selection Committee, an alternate or alternates for each fellowship. An alternate will receive a fellowship if the person named as a James Madison Fellow declines the award or is not able to pursue graduate study as contemplated at the time the fellowship was accepted. An alternate may be named to replace a Fellow who declines or relinquishes an award until, but no later than, March 1st following the competition in which the alternate has been selected.

(d) Funds permitting, the Foundation may also select, from among those recommended by the Fellow Selection Committee, Fellows at large.

Subpart E—Graduate Study

§ 2400.40 Institutions of graduate study.

Fellowship recipients may attend any accredited university in the United States with a master's degree program offering courses or training that emphasize the origins, principles, and development of the Constitution of the United States and its comparison with the constitutions and history of other forms of government.

§ 2400.41 Degree programs.

(a) Fellows may pursue a master's degree in history or political science (including government or politics), the degree of Master of Arts in Teaching in history or political science (including government or politics), or a related master's degree in education that permits a concentration in American history, American government, social studies, or political science. Graduate degrees under which study is excluded from fellowship support are indicated in § 2400.63.

(b) A master's degree pursued under a James Madison Fellowship may entail either one or two years or their equivalent of study, according to the requirements of the university at which a Fellow is enrolled.

§ 2400.42 Approval of Plan of Study.

The Foundation must approve each Fellow's Plan of Study. To be approved, the plan must:

(a) On a part-time or full-time basis lead to a master's degree in history or political science, the degree of Master of

Arts in Teaching in history or political science, or a related master's degree in education that permits a concentration in American history, American government, social studies, or political science;

(b) Include courses, graduate seminars, or opportunities for independent study in topics directly related to the framing and history of the constitution of the United States;

(c) Be pursued at a university that assures a willingness to accept up to 6 semester hours of accredited transfer credits from another graduate institution for a Fellow's satisfactory completion of the Foundation's Summer Institute on the Constitution. For the Foundation's purposes, these 6 semester hours may be included in the required minimum of 12 semester hours or their equivalent of study of the United States Constitution; and

(d) Be pursued at a university that encourages the Fellow to enhance his or her capacities as a teacher of American history, American government, social studies, or political science and to continue his or her career as a secondary school teacher. The Foundation reserves the right to refuse to approve a Fellow's Plan of Study at a university that will not accept on transfer the 6 credits for the Institute.

§ 2400.43 Required courses of graduate study.

(a) To be acceptable to the Foundation, those courses related to the Constitution referred to in § 2400.43(b) must amount to at least 12 semester or 18 quarter hours or their credit hour equivalent of study of topics directly related to the United States Constitution. More than 12 semester hours or their credit hour equivalent of such study is strongly encouraged.

(b) The courses that fulfil the required minimum of 12 semester hours or their credit hour equivalent of study of the United States Constitution must cover one or more of the following subject areas:

(1) The history of colonial America leading up to the framing of the Constitution;

(2) The Constitution itself, its framing, the history and principles upon which it is based, its ratification, the Federalist Papers, Anti-Federalist writings, and the Bill of Rights;

(3) The historical development of political theory, constitutional law, and civil liberties as related to the Constitution;

(4) Interpretations of the Constitution by the Supreme Court and other branches of the federal government;

(5) Debates about the Constitution in other forums and about the effects of constitutional norms and decisions upon American society and culture; and

(6) Any other subject clearly related to the framing, history, and principles of the Constitution.

(c) If a master's degree program in which a Fellow is enrolled requires a master's thesis in place of a course or courses, the Fellow will have the option of writing the thesis based on the degree requirements. The preparation of a master's thesis should not add additional required credits to the minimum number of credits required for the master's degree. If a Fellow must write a thesis, the topic of the thesis must relate to subjects concerning the framing, principles, or history of the United States Constitution. If the Fellow can choose between two degree tracks, a thesis track or a non-thesis track, the Foundation strongly encourages the non-thesis track.

§ 2400.44 Commencement of graduate study.

(a) Fellows may commence study under their fellowships as early as the summer following the announcement of their award. Fellows are normally expected to commence study under their fellowships in the fall term of the academic year following the date on which their award is announced. However, as indicated in § 2400.61, they may seek to postpone the commencement of fellowship study under extenuating circumstances.

(b) In determining the two- and five-year fellowship periods of Junior and Senior Fellows respectively, the Foundation will consider the commencement of the fellowship period to be the date on which each Fellow commences study under a fellowship.

§ 2400.45 Special consideration: Junior Fellows' Plan of Study.

Applicants for Junior Fellowships who seek or hold baccalaureate degrees in education are strongly encouraged to pursue master's degrees in history or political science. Those applicants who hold undergraduate degrees in history, political science, government, or any other subjects may take some teaching methods and related courses, although the Foundation will not pay for them unless they are required for the degree for which the Fellow is matriculated. The Foundation will review each proposed Plan of Study for an appropriate balance of subject matter and other courses based on the Fellow's goals, background, and degree requirements.

§ 2400.46 Special consideration: second master's degree.

The Foundation may award Senior Fellowships to applicants who are seeking their second master's degrees providing that the applicants' first master's degree was obtained at least five years prior to the year in which the applicants would normally commence study under a fellowship. In evaluating applications from individuals intending to pursue a second master's degree, the Fellow Selection Committee will favor those applicants who are planning to become American history, American government, social studies, or political science teachers after having taught another subject and applicants whose initial master's degree was in a subject different from that sought under the second master's degree.

§ 2400.47 Summer Institute's relationship to fellowship.

Each year, the Foundation offers, normally during July, a four-week graduate-level Institute on the principles, framing, ratification, and implementation of the United States Constitution at an accredited university in the Washington, DC area. The Institute is an integral part of each fellowship.

§ 2400.48 Fellows' participation in the Summer Institute.

Each Fellow is required as part of his or her fellowship to attend the Institute, normally during the summer following the Fellow's commencement of graduate study under a fellowship.

§ 2400.49 Contents of the Summer Institute.

The principal element of the Institute is a graduate history course, ''Foundations of American Constitutionalism.'' Other components of the Institute include study visits to sites associated with the lives and careers of members of the founding generation.

§ 2400.50 Allowances and Summer Institute costs.

For their participation in the Institute, Fellows are paid an allowance to help offset income foregone by their required attendance. The Foundation also funds the costs of the Institute and Fellows' round-trip transportation to and from the Institute site. The costs of tuition, required fees, books, room, and board entailed by the Institute will be paid for by the Foundation directly but may be offset against fellowship award limits if the credits earned for the Institute are included within the Fellows' degree requirements.

§ 2400.51 Summer Institute accreditation.

The Institute is accredited for six graduate semester credits by the university at which it is held. It is expected that the universities at which Fellows are pursuing their graduate study will, upon Fellows' satisfactory completion of the Institute, accept these credits or their credit-hour equivalent upon transfer from the university at which the Institute is held in fulfillment of the minimum number of credits required for Fellows' graduate degrees. Satisfactory completion of the Institute will fulfill 6 of the Foundation's 12 semester credits required in graduate study of the history and development of the Constitution. Fellows, with the Foundation's assistance, are strongly encouraged to make good faith efforts to have their universities incorporate the Institute into their Plan of Study and accept the 6 Institute credits toward the minimum number of credits required for their master's degrees.

Subpart F—Fellowship Stipend

§ 2400.52 Amount of stipend.

Junior and Senior Fellowships carry a stipend of up to a maximum of $24,000 pro-rated over the period of Fellows' graduate study. In no case shall the stipend for a fellowship exceed $12,000 per academic year. Within this limit, stipends will be pro-rated over the period of Fellows' graduate study as follows: a maximum of $6,000 per academic semester or trimester of full-time study, and a maximum of $4,000 per academic quarter of full-time study. Stipends for part-time study will be pro rata shares of those allowable for full-time study.

§ 2400.53 Duration of stipend.

Stipends for Junior Fellowships may be payable over a period up to 2 calendar years of full-time graduate study, and those for Senior Fellowships may be payable over a period of not more than 5 calendar years of part-time graduate study, beginning with the dates under which Fellows commence their graduate study under their fellowships. However, the duration of stipend payments will be subject to the maximum payment limits, the length of award time limits, and the completion of the minimum degree requirements, whichever occurs first.

§ 2400.54 Use of stipend.

Stipends shall be used only to pay the costs of tuition, required fees, books, room, and board associated with graduate study under a fellowship. The costs allowed for a Fellow's room and board will be the amount the Fellow's university reports to the Foundation as the cost of room and board for a graduate student if that student were to share a room at the student's university. If no shared graduate housing exists, then costs for regular shared student housing will be used. If no campus housing exists, the equivalent room and board costs at neighboring universities will be used. Stipends for room, board, and books will be pro-rated for Fellows enrolled in study less than full time. The Foundation will not reimburse Fellows for any portion of their master's degree study, that Fellows may have completed prior to the commencement of their fellowships. Nor will the Foundation reimburse Fellows for any credits acquired above the minimum number of credits required for the degree. If a Fellow has already taken and paid for courses that can be credited toward the Fellow's graduate degree under a fellowship, those must be credited to the degree; the remaining required courses will be paid for by the Foundation.

§ 2400.55 Certification for stipend.

In order to receive a fellowship stipend, a Fellow must submit the following nine items in writing:

(a) An acceptance of the terms and conditions of the fellowship including a completed certificate of compliance form;

(b) Evidence of admission to an approved graduate program;

(c) Certified copies of undergraduate and, if any, graduate transcripts;

(d) A certified payment request form indicating the estimated costs for tuition, required fees, books, room, and board;

(e) A photo copy of the university's bulletin of cost information;

(f) The amount of income from any other grants or awards;

(g) Information about the Fellow's degree requirements, including the number of required credits to fulfill the degree;

(h) A statement of the university's willingness to accept the transfer of 6 credits toward the Fellow's degree requirements for the Fellow's satisfactory completion of the Summer Institute (see § 2400.51); and

(i) A full Plan of Study over the duration of the fellowship, including information on the contents of required courses. Senior Fellows must provide evidence of their continued full- time employment as teachers in grades 7–12.

§ 2400.56 Payment of stipend.

Payment for tuition, required fees, books, room, and board subject to the limitations in § 2400.52 through § 2400.55 and § 2400.59 through § 2400.60 will be paid to each Fellow at the beginning of each term of enrollment upon the Fellow's submission of a completed Payment Request Form and the University bulletin of cost information.

§ 2400.57 Termination of stipend.

(a) The Foundation may suspend or terminate the payment of a stipend if a Fellow fails to meet the criteria set forth in § 2400.40 through § 2400.44 and § 2400.60, except as provided for in § 2400.61. Before it suspends or terminates a fellowship under these circumstances, the Foundation will give notice to the Fellow, as well as the opportunity to be heard with respect to the grounds for suspension or termination.

(b) The Foundation will normally suspend the payment of a stipend if a Fellow has more than one grade of ''incomplete'' in courses for which the Foundation has made payment to the Fellow.

§ 2400.58 Repayment of stipend.

(a) If a Fellow fails to secure a master's degree, fails to teach American history, American government, social studies, or political science on a full-time basis in a secondary school for at least one school year for each academic year for which assistance was provided under a fellowship, fails to secure fewer than 12 semester hours or their credit hour equivalent for study of the Constitution as indicated in § 2400.43(b), or fails to attend the Foundation's Summer Institute on the Constitution, the Fellow must repay all of the fellowship costs received plus interest at the rate of 6% per annum or as otherwise authorized and, if applicable, reasonable collection fees, as prescribed in section 807 of the Act (20 U.S.C. 4506(b)).

(b) If a Fellow withdraws from the fellowship or has a fellowship terminated by the Foundation, the Foundation will seek to recover all fellowship funds which have been remitted to the Fellow or on his or her behalf under a fellowship.

Subpart G—Special Conditions

§ 2400.59 Other awards.

Fellows may accept grants from other foundations, institutions, corporations, or government agencies to support their graduate study or to replace any income foregone for study. However, the stipend paid by the Foundation for allowable costs indicated in § 2400.52 will be reduced to the extent these costs are paid from other sources, and in no

case will fellowship funds be paid to Fellows to provide support in excess of their actual total costs of tuition, required fees, books, room, and board. The Foundation may also reduce a Fellow's stipend if the Fellow is remunerated for the costs of tuition under a research or teaching assistantship or a work-study program. In such a case, the Foundation will require information from a Fellow's university about the intended use of assistantship or work-study support before remitting fellowship payments.

§ 2400.60 Renewal of award.

(a) Provided that Fellows have submitted all required documentation and are making satisfactory academic progress, it is the intent of the Foundation to renew Junior Fellowship awards annually for a period not to exceed two calendar years or the completion of their graduate degrees, whichever comes first, and Senior Fellowships for a period not to exceed 5 calendar years (except when those periods have been altered because of changes in Fellows' Plan of Study as provided for in § 2400.64), or until a Fellow has completed all requirements for a master's degree, whichever comes first. In no case, however, will the Foundation continue payments under a fellowship to a Fellow who has reached the maximum payments under a fellowship as indicated in § 2400.52, or completed the minimum number of credits required for the degree. Although Fellows are not discouraged in taking courses in addition to those required for the degree or required to maintain full-time status, the Foundation will not in such cases pay for those additional courses unless they are credited to the minimum number of credits required for the degree.

(b) Fellowship renewal will be subject to an annual review by the Foundation and certification by an authorized official of the university at which a Fellow is registered that the Fellow is making satisfactory progress toward the degree and is in good academic standing according to the standards of each university.

(c) As a condition of renewal of awards, each Fellow must submit an annual activity report to the Foundation by July 15th. That report must indicate, through submission of a copy of the Fellow's most recent transcript, courses taken and grades achieved; courses planned for the coming year; changes in academic or professional plans or situations; any awards, recognitions, or special achievements in the Fellow's academic study or school employment; and such other information as may relate to the fellowship and its holder.

§ 2400.61 Postponement of award.

Upon application to the Foundation, a Fellow may seek postponement of his or her fellowship because of ill health or other mitigating circumstances, such as military duty, temporary disability, necessary care of an immediate family member, or unemployment as a teacher. Substantiation of the reasons for the requested postponement of study will be required.

§ 2400.62 Evidence of master's degree.

At the conclusion of graduate studies, each Fellow must provide a certified transcript which indicates that he or she has secured an approved master's degree as set forth in the Fellow's original Plan of Study or approved modifications thereto.

§ 2400.63 Excluded graduate study.

(a) James Madison Fellowships do not provide support for study toward doctoral degrees, for the degree of master of arts in public affairs or public administration, or toward the award of teaching certificates. Nor do fellowships support practice teaching required for professional certification or other courses related to teaching unless those courses are required for the degree. In those cases, however, the Foundation will provide reimbursement only toward those courses related to teaching that fall within the minimum number of courses required for the degree, not in addition to that minimum.

§ 2400.64 Alterations to plan of study.

Although Junior Fellows are expected to pursue full-time study and Senior Fellows to pursue part-time study, the Foundation may permit Junior Fellows with an established need (such as the need to accept a teaching position) to study part time and Senior Fellows with established need (such as great distance between the Fellow's residence and the nearest university, thus necessitating a full-time leave of absence from employment in order to study) to study full time.

§ 2400.65 Teaching obligation.

Upon receiving a Master's degree, each Fellow must teach American history, American government, social studies, or political science on a full-time basis to students in secondary school for a period of not less than one year for each academic year for which financial assistance was received. Each Fellow will be required to provide the Foundation with an annual certification from an official of the secondary school where the Fellow is employed indicating the teaching activities of the Fellow during the past year. This same certification will be required each year until the Fellow's teaching obligation is completed. Any teaching done by the Fellow prior to or during graduate studies does not count towards meeting this teaching obligation.

§ 2400.66 Completion of fellowship.

A Fellow will be deemed to have satisfied all terms of a fellowship and all obligations under it when the Fellow has completed no fewer than 12 graduate semester hours or the equivalent of study of the Constitution, formally secured the masters degree, attended the Foundation's Summer Institute on the Constitution, completed teaching for the number of years and fractions thereof required as a condition of accepting Foundation support for study, and submitted all required reports.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Establishment of a Nonessential Experimental Population of the Mexican Gray Wolf in Arizona and New Mexico

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of public meetings and hearings.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces its intention to hold public open house meetings and hearings on the Proposed Rule for the Proposed Establishment of a Nonessential Experimental Population of the Mexican Gray Wolf in Arizona and New Mexico. The meetings and hearings will be held in El Paso, Texas; Alamogordo and Silver City, New Mexico; and Springerville, Arizona.

DATES: The meetings/hearings will be held in El Paso, Texas, on June 10 from 6:00 to 10:00 p.m.; in Alamogordo, New Mexico, on June 11 from 6:00 to 10:00 p.m.; in Silver City, New Mexico, on June 13 from 6:00 to 10:00 p.m.; and in Springerville, Arizona, on June 15 from 2:00 to 6:00 p.m. Times and places of these meetings will also be announced in the local media and in mailings to the interested public. The comment period on the Proposed Rule closes on July 1, 1996, and comments must be

postmarked by the closing date to be considered.

ADDRESSES: The public meeting/hearing location in El Paso, Texas, is the Ysleta Unified School District, Christo Rey and Chamizal Rooms, at 9600 Sims Drive; the location in Alamogordo, New Mexico, is the Civic Center Conference Room and Auditorium at 800 First Street; the location in Silver City, New Mexico, is the Lighthall Classroom 202 and Lighthall Auditorium on the Western New Mexico University campus; and the location in Springerville, Arizona, is the Round Valley Unified School District Auditorium at 450 South Butler Street. Questions and comments on the Proposed Rule should be sent to David R. Parsons, Mexican Wolf Recovery Coordinator, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103–1306. Copies of the Proposed Rule, a fact sheet that summarizes the rule, the draft Environmental Impact Statement (EIS) for Proposed Reintroduction of the Mexican Wolf to its Historic Range in the Southwestern United States, and the draft EIS summary can be obtained at this address.

FOR FURTHER INFORMATION CONTACT: Mr. David R. Parsons (see **ADDRESSES** section), or phone at (505) 248–6920; or facsimile at (505)248–6922.

SUPPLEMENTARY INFORMATION:

Background

In the June 27, 1995, Federal Register (60 FR 33224–33225) the Service announced the availability of a draft EIS for a proposal to reintroduce Mexican wolves to portions of their historic range in the southwestern United States. Alternatives A (the Proposed Action) and B of the draft EIS propose the reintroduction of Mexican wolves classified as a nonessential experimental population as allowed under section 10(j) of the Endangered Species Act of 1973 (ESA), as amended (16 U.S.C. 1531 *et seq.*).

In the May 1, 1996, Federal Register (61 FR 19237–19248), the Service issued the Proposed Rule for establishing a nonessential experimental population of the Mexican gray wolf in Arizona and New Mexico. A nearly identical Draft Proposed Mexican Wolf Experimental Population Rule was included as Appendix C in the draft EIS. The Proposed Rule is an integral part of Alternatives A and B in the draft EIS, both of which propose the establishment of a nonessential experimental population of Mexican wolves. It provides needed management flexibility for addressing potential wolf-human conflicts associated with wolf reintroduction, such as livestock depredation by wolves. This Proposed Rule differs from Appendix C of the draft EIS only by the inclusions of an updated status of the National Environmental Policy Act process and some ''plain language'' revisions to make the rule more readable. No substantive provisions of Appendix C of the draft EIS have changed.

If you submitted a written comment or formal oral testimony during the draft EIS comment period on the Draft Proposed Rule, as set forth in Appendix C, or as summarized in the draft EIS text or the draft EIS Summary, it is not necessary to resubmit that comment for it to be considered in this comment period on the Proposed Rule.

Four public open house meetings/hearings will be held (see **DATES** and **ADDRESSES** sections). Agency representatives will be available at these meetings to provide information about the Proposed Rule; consult with you regarding provisions of the rule; answer your questions; and receive your written comments. Carter Niemeyer, the Animal Damage Control Wolf Specialist for the northern Rocky Mountain region, will give a formal presentation on wolf-livestock interactions following wolf reestablishment in Montana, Wyoming, and Idaho. We will conclude with a formal public hearing where oral testimony on the Proposed Rule will be recorded. Anyone wishing to make an oral statement for the record is encouraged to provide a copy of his or her statement at the start of the hearing. If attendance at the hearing is large, the time allotted for oral statements may be limited. Written comments and oral testimony receive equal consideration.

The Proposed Rule will be revised after the close of the comment period and, depending on future decisions with respect to Mexican wolf recovery, may then be issued as a Final Rule. The Service's goal is that the Final Rule, if issued, would, to the maximum extent practicable, represent an agreement between the Service and the agencies, local governments, tribes, private landowners, and other potentially affected parties regarding how to manage reintroduced Mexican wolves with minimal adverse impacts while promoting their conservation and recovery. This goal is consistent with ESA regulations on experimental populations (50 CFR sec. 17.81(d)).

Comments on the Proposed Rule must be received or postmarked by July 1, 1996, and sent to the Service office in the **ADDRESSES** section.

Dated: May 16, 1996.

Nancy M. Kaufman,

Regional Director.

[FR Doc. 96–12816 Filed 5–21–96; 8:45 am]

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Notices

Federal Register
Vol. 61, No. 100
Wednesday, May 22, 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.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 96–024N]

Codex Alimentarius: Public Meeting of Executive Committee Meeting

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice.

SUMMARY: The Food Safety and Inspection Service (FSIS), U.S. Department of Agriculture (USDA); the Food and Drug Administration (FDA), U.S. Department of Health and Human Services (HHS); and the Environmental Protection Agency (EPA) are sponsoring a public meeting on May 29, 1996, to provide information and receive public comments on agenda items that will be discussed at the Codex Executive Meeting, which will be held in Geneva, Switzerland, June 4–7, 1996. The cosponsors of the May 29th public meeting recognize the importance of providing interested parties the opportunity to obtain background information on the Forty-third Session of the Executive Committee of the Codex Alimentarius Commission (Codex) and to address items on the Agenda.

DATES: The public meeting is scheduled for Wednesday, May 29, 1996, from 1:00 p.m. to 3:00 p.m.

ADDRESSES: The public meeting will be held in Room 107–A, Jamie L. Whitten Federal Building, U.S. Department of Agriculture, 14th and Independence Avenue SW., Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Joan Mondschein, Confidential Assistant to the Administrator, Food Safety and Inspection Service, U.S. Department of Agriculture, Room 1763, South Agriculture Building, 14th and Independence Avenue, SW, Washington, DC 20250. Telephone: (202) 720–7323; Fax: (202) 720–5124.

SUPPLEMENTARY INFORMATION:

Background

Codex was established in 1962 by two United Nations organizations, the Food and Agriculture Organization (FAO) and the World Health Organization (WHO). Codex is the major international organization for encouraging fair international trade in food and protecting the health and economic interests of consumers. Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex seeks to ensure that the world's food supply is sound, wholesome, free from adulteration, and correctly labeled. In the United States, USDA, FDA, and EPA manage and carry out U.S. Codex activities.

Issues To Be Discussed at the Public Meeting

The following specific issues will be discussed during the public meeting:

1. Financial and Budgetary Matters
   —Report on the accounts of the Joint FAO/WHO Food Standards Programme for 1994/5 and on the budget for 1996/7
   —Cost implications of providing documentation and interpretation in the Arabic language
   —New mechanisms for strengthening of Codex work
2. Implementation of the Commission's Programme of Work
   —Progress in achieving the Medium-Term Objectives
   —Implementation of decisions taken by the 21st Session of the Commission
   —Management of the Programme of Work
   Proposals for new items of work (Step 1)
   —Consideration of Proposed Draft Standards and related texts at Step 5
3. Risk Analysis in Codex Work: Progress report.
4. Determination, Interpretation and Application of Residue Limits.
5. Draft Provisional Agenda for the 22nd Session of the Codex Alimentarius Commission.

Done at Washington, DC, May 16, 1996.

Michael R. Taylor,

Under Secretary for Food Safety.

[FR Doc. 96–12844 Filed 5–21–96; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Information Systems Technical Advisory Committee; Notice of Partially Closed Meeting

A meeting of the Information Systems Technical Advisory Committee will be held June 19 & 20, 1996, Room 1617M–2, in the Herbert C. Hoover Building, 14th Street between Constitution and Pennsylvania Avenues, NW., Washington, DC. This Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to information systems equipment and technology.

June 19

Closed Session: 9:00 a.m.–5:00 p.m.

1. Discussion of matters properly classified under Executive Order 12958, dealing with U.S. export control programs and strategic criteria related thereto.

June 20

General Session: 9:00 a.m.–12:00 p.m.

2. Opening remarks by the Chairmen.
3. Presentation of papers or comments by the public.
4. Discussion on reform of the Export Administration Regulations.
5. Presentation on technology trends for input/output interfaces.
6. Presentation on cryptography metrics: strength and techniques.

General Session: 1:00 p.m.–5:00 p.m.

7. Discussion of matters properly classified under Executive Order 12958, dealing with U.S. export control programs and strategic criteria related thereto.

The General Session of the meeting is open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation

materials to the Committee members, the Committee suggests that public presentation materials or comments be forwarded at least one week before the meeting to the address listed below: Ms. Lee Ann Carpenter, TAC Unit/OAS/EA Room 3886C, Bureau of Export Administration, U.S. Department of Commerce, Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on October 10, 1995, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of these Committees and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C. 552(c)(1) shall be exempt from the provisions relating to public meetings found in section 10 (a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of these Committees is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6020, U.S. Department of Commerce, Washington, DC. For further information or copies of the minutes call Lee Ann Carpenter, 202–482–2583.

Dated: May 17, 1996.

Lee Ann Carpenter,

Director, Technical Advisory Committee Unit.

[FR Doc. 96–12869 Filed 5–21–96; 8:45 am]

BILLING CODE 3510–DT–M

Foreign-Trade Zones Board

[Order No. 823]

Grant of Authority for Subzone Status, MagneTek, Inc. (Electronic Fluorescent Lighting Ballasts), Madison, AL

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act ''To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the Huntsville-Madison County Airport Authority, grantee of Foreign-Trade Zone 83, for authority to establish special-purpose subzone status at the manufacturing facility (electronic fluorescent lighting ballasts and components) of MagneTek, Inc., in Madison, Alabama, was filed by the Board on November 3, 1995, and notice inviting public comment was given in the Federal Register (FTZ Docket 70–95, 60 FR 57216, 11–14–95); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby authorizes the establishment of a subzone (Subzone 83B) at the MagneTek, Inc., plant, in Madison, Alabama, at the location described in the application, subject to the FTZ Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this 9th day of May 1996.

Paul L. Joffe,

Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 96–12872 Filed 5–21–96; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

[A–412–602]

Certain Forged Steel Crankshafts From the United Kingdom; Extension of Time Limits of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limits of antidumping duty administrative review.

SUMMARY: The Department of Commerce (The Department) is extending the time limits for preliminary and final results in the administrative review of the antidumping duty order on certain forged steel crankshafts from the United Kingdom, covering the period September 1, 1994, through August 31, 1995, since it is not practicable to complete the review within the time limits mandated by the Tariff Act of 1930, as amended, 19 U.S.C. 1675(a) (the Act).

EFFECTIVE DATE: May 22, 1996.

FOR FURTHER INFORMATION CONTACT: J. David Dirstine, Lyn Johnson, or Richard Rimlinger, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4733.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce has received a request to conduct an administrative review of the antidumping duty order on certain forged steel crankshafts from the United Kingdom. On October 12, 1995, the Department initiated this administrative review covering the period September 1, 1994, through August 31, 1995. The Department adjusted the time limits by 28 days due to the government shutdowns, which lasted from November 14, 1995, to November 20, 1995, and from December 15, 1995, to January 6, 1996. *See* Memorandum to the file from Paul L. Joffe, Acting Assistant Secretary for Import Administration, January 11, 1996. As adjusted, the current time limits are July 1, 1996, for the preliminary results and November 29, 1996, for the final results.

It is not practicable to complete this review within the time limits mandated by section 751 (a)(3)(A) of the Act. *See* Memorandum from Joseph A. Spetrini, Deputy Assistant Secretary for Compliance to Paul L. Joffe, Acting Assistant Secretary for Import Administration, May 9, 1996. Therefore, in accordance with that section, the Department is extending the time limits for the preliminary results to November 29, 1996, and for the final results to March 31, 1997.

Interested parties must submit applications for disclosure under administrative protective order in accordance with 19 CFR 353.34(b).

Dated: May 14, 1996.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 96–12870 Filed 5–21–96; 8:45 am]

BILLING CODE 3510–DS–M

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural

Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 95–088R. Applicant: Mississippi State University, Box C, Mississippi State, MS 39762. Instrument: Stopped-Flow Spectrometer, Model SX.17MV. Manufacturer: Applied Photophysics Limited, United Kingdom. Intended Use: Original notice of this resubmitted application was published in the Federal Register of October 23, 1995.

Docket Number: 96–015. Applicant: Princeton University, 110 Washington Road, Princeton, NJ 08544–0033. Instrument: Spectrophotometer/ Fluorimeter System. Manufacturer: Hi-Tech Scientific, United Kingdom. Intended Use: The instrument will be used for studies of metalloporphyrin catalysts to determine which chemical properties determine the rates of oxidative catalysis. Application Accepted by Commissioner of Customs: February 26, 1996.

Docket Number: 96–016. Applicant: University of Iowa Hospitals and Clinics, 200 Hawkins Drive, Iowa City, IA 52242. Instrument: [^{11}C] Methylation Synthesis Module. Manufacturer: Nuclear Interface GmbH, Germany. Intended Use: The instrument will be used to generate short-lived Carbon-11 radioactively labeled chemicals which will be used to study basic and clinical aspects of human disease and metabolism. The objective of these studies is to understand the basis of a disease and aid in its detection and prevention. Application Accepted by Commissioner of Customs: February 26, 1996.

Docket Number: 96–017. Applicant: University of Iowa Hospitals and Clinics, 200 Hawkins Drive, Iowa City, IA 52242. Instrument: [^{18}F] Synthesis Module. Manufacturer: Nuclear Interface GmbH, Germany. Intended Use: The instrument will be used to generate short-lived Fluorine-18 radioactively labeled chemicals which will be used to study basic and clinical aspects of human disease and metabolism. The objective of these studies is to understand the basis of a disease and aid in its detection and prevention. Application Accepted by Commissioner of Customs: February 26, 1996.

Docket Number: 96–018. Applicant: Texas A&M University, Department of Biochemistry and Biophysics, College Station, TX 77843–2128. Instrument: Multi-Mixing Stopped-Flow Spectrometer, Model SX.18MV. Manufacturer: Applied Photophysics Ltd., United Kingdom. Intended Use: The instrument will be used to follow chemical reactions of enzymes over time courses of less than a second during experiments conducted to determine the chemical mechanisms of flavoprotein oxidases and of tetrahydropterin-dependent hydroxylases. In addition, the instrument will be used to provide training for students enrolled in Biochemistry and Biophysics 690 ''Theory of Biochemical Research'' and Biochemistry and Biophysics 691 ''Research''. Application Accepted by Commissioner of Customs: February 27, 1996.

Docket Number: 96–019. Applicant: University of Illinois at Urbana-Champaign, Purchasing Division, 206 South Wright Street, Urbana, Il 61801. Instrument: Stopped-Flow Reaction Analyser, Model SX.17MV. Manufacturer: Applied Photophysics, United Kingdom. Intended Use: The instrument will be used to study rapid reaction of bacterial hemecopper oxidases. The two kinds of experiments planned include the reaction of the enzymes with ligands such as cyanide and azide, and the reaction with reductants. This will involve examining a series of mutants to determine the functional importance of specific residues in the mechanism of these enzymes. Application Accepted by Commissioner of Customs: February 27, 1996.

Docket Number: 96–020. Applicant: National Institutes of Health, National Institute of Diabetes & Digestive & Kidney Diseases, 1550 E. Indian School Road, Phoenix, AZ 85014. Instrument: Mass Spectrometer, Model Delta S. Manufacturer: Finnigan MAT, Germany. Intended Use: The instrument will be used for studies of stable isotopes of oxygen and hydrogen in urine which are aimed at understanding energy expenditure as a factor in the development of obesity and diabetes in the Pima Indian population. Application Accepted by Commissioner of Customs: February 28, 1996.

Docket Number: 96–021. Applicant: Carnegie Institution of Washington, Department of Terrestrial Magnetism, 5241 Broad Branch Road, NW, Washington, DC 20015. Instrument: Mass Spectrometer, Model IMS 6F. Manufacturer: CAMECA, France. Intended Use: The instrument will be used for in-situ analysis of trace elements (<0.1%) and isotopes in geologic minerals and for imaging of spatial distribution of trace elements and isotopes. Application Accepted by Commissioner of Customs: February 28, 1996.

Docket Number: 96–022. Applicant: Howard Hughes Medical Institute, 4000 Jones Bridge Road, Chevy Chase, MD 20815–6789. Instrument: 4 Syringe Stopped-Flow Module, Model SFM–4/S. Manufacturer: BioLogic, France. Intended Use: The instrument will be used to explore a variety of fundamental questions that concern the *in vivo* folding of proteins and the actions of molecular chaperones. The instrument will be configured for use in stopped-flow fluorescence intensity and anisotropy experiments designed to dissect and understand how proteins are manipulated and folded by molecular chaperones. Application Accepted by Commissioner of Customs: February 28, 1996.

Docket Number: 96–023. Applicant: Yale University, School of Medicine, Department of MB&B, 333 Cedar Street, New Haven, CT 06510. Instrument: Shielded Gradient System, Model IC60. Manufacturer: Oxford Magnet Technology, United Kingdom. Intended Use: The instrument will be used for studies of nuclear magnetic resonance properties of metabolite chemicals in human brain, liver and kidney. NMR spectroscopic methods will be developed and tested on chemical solutions and on human subjects. When these methods are optimized they will be used in experiments designed to measure rates of metabolism and metabolite concentrations in normal humans and in disease states. Other research projects will include (1) the study of cerebral metabolism in humans, (2) continued studies of muscle and hepatic glycogen metabolism in man, and (3) non-invasive probe of tissue metabolism. Application Accepted by Commissioner of Customs: February 28, 1996.

Docket Number: 96–024. Applicant: The University of Georgia, College of Pharmacy, DW Brooks Drive, Athens, GA 30602–2352. Instrument: Mass Spectrometer, Model VG AutoSpec. Manufacturer: Fisons Instruments, United Kingdom. Intended Use: The

instrument will be used to analyze by high resolution mass spectrometry synthetic and naturally occurring nucleosides as part of an effort to create new anti-viral and anti-cancer drugs. In addition, the instrument will be used to train professional and graduate students in mass spectrometry. Application Accepted by Commissioner of Customs: March 1, 1996.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 96–12874 Filed 5–21–96; 8:45 am]

BILLING CODE 3510–DS–P

Notice of Withdrawal of Application for Duty-Free Entry of Scientific Instrument

Shriners Hospital has withdrawn Docket Number 95–077, an application for duty-free entry of a 3–Dimensional Motion Analyzer System, Model VICON 370. We have discontinued processing in accordance with Section 301.5(g) of 15 CFR part 301.

Frank W. Creel,

Director, Statutory Import Programs.

[FR Doc. 96–12873 Filed 5–21–96; 8:45 am]

BILLING CODE 3510–DS–P

[C–533–063]

Certain Iron Metal Castings From India: Preliminary Results of Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Countervailing Duty Administrative Review.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the countervailing duty order on certain iron metal castings from India. We preliminarily determine the net subsidy to be zero or *de minimis* for Delta Enterprises and Super Iron Foundry, and 5.45 percent *ad valorem* for all other companies for the period January 1, 1993 through December 31, 1993. If the final results remain the same as these preliminary results of administrative review, we will instruct the U.S. Customs Service to assess countervailing duties as indicated above. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: May 22, 1996.

FOR FURTHER INFORMATION CONTACT: Christopher Cassel or Lorenza Olivas, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On October 16, 1980, the Department published in the Federal Register (45 FR 50739) the countervailing duty order on certain iron-metal castings from India. On October 7, 1994, the Department published a notice of ''Opportunity to Request an Administrative Review'' (59 FR 51166) of this countervailing duty order. We received a timely request for review from the Municipal Castings Fair Trade Council and individually-named members on October 24, 1994.

We initiated the review, covering the period January 1, 1993 through December 31, 1993, on November 14, 1994 (59 FR 56549). The review covers 14 manufacturers/exporters of the subject merchandise and six programs.

Applicable Statute and Regulations

The Department is conducting this administrative review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act). Unless otherwise indicated, all citations to the statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994. However, references to the Department's *Countervailing Duties; Notice of Proposed Rulemaking and Request for Public Comments,* 54 FR 23366 (May 31, 1989) (*Proposed Regulations*), are provided solely for further explanation of the Department's countervailing duty practice. Although the Department has withdrawn the particular rulemaking proceeding pursuant to which the *Proposed Regulations* were issued, the subject matter of these regulations is being considered in connection with an ongoing rulemaking proceeding which, among other things, is intended to conform the Department's regulations to the Uruguay Round Agreements Act. *See* 60 FR 80 (Jan. 3, 1995).

Scope of the Review

Imports covered by the review are shipments of Indian manhole covers and frames, clean-out covers and frames, and catch basin grates and frames. These articles are commonly called municipal or public works castings and are used for access or drainage for public utility, water, and sanitary systems. During the review period, such merchandise was classifiable under the *Harmonized Tariff Schedule* (HTS) item numbers 7325.10.0010 and 7325.10.0050. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

Verification

As provided in section 776(b) of the Act, we verified information provided by the Government of India and, six producers/exporters of the subject merchandise. We followed standard verification procedures, including meeting with government and company officials, and examination of relevant accounting and original source documents. Our verification results are outlined in the public versions of the verification reports, which are on file in the Central Records Unit (Room B–099 of the Main Commerce Building).

Calculation Methodology for Assessment and Cash Deposit Purposes

In accordance with *Ceramica Regiomontana, S.A.* v. *United States,* 853 F. Supp. 431 (CIT 1994), we calculated the net subsidy on a country-wide basis by first calculating the subsidy rate for each company subject to the administrative review. We then weight-averaged the rate received by each company using as the weight its share of total Indian exports to the United States of subject merchandise, including all companies, even those with *de minimis* and zero rates. We then summed the individual companies' weight-averaged rates to determine the subsidy rate from all programs benefitting exports of subject merchandise to the United States.

Since the country-wide rate calculated using this methodology was above *de minimis,* as defined by 19 CFR § 355.7 (1994), we proceeded to the next step and examined the net subsidy rate calculated for each company to determine whether individual company rates differed significantly from the weighted-average country-wide rate, pursuant to 19 CFR 355.22(d)(3). Two companies (Delta Enterprises and Super Iron Foundry) had significantly different net subsidy rates during the review period pursuant to 19 CFR 355.22(d)(3). The rate for these companies was zero. These companies are treated separately for assessment and cash deposit purposes. All other companies are assigned the country-wide rate.

Analysis of Programs

I. Programs Conferring Subsidies

A. Programs Previously Determined to Confer Subsidies

1. Pre-Shipment Export Financing. The Reserve Bank of India (RBI),

through commercial banks, provides pre-shipment financing, or ''packing credits,'' to exporters. Upon presentation of a confirmed order or letter of credit, exporters may receive pre-shipment loans for working capital purposes, *i.e.*, for the purchase of raw materials and for packing, warehousing, and transporting of export merchandise. Exporters may also establish pre-shipment credit lines upon which they may draw as needed. Credit line limits are established by commercial banks, based upon the company's creditworthiness and past export performance. Companies that have pre-shipment credit lines typically pay interest on these loans on a quarterly basis on the outstanding balance of the account at the end of each period. In general, packing credits are granted for a period of up to 180 days.

In prior administrative reviews of this order, the Department found this program to be *de jure* specific, and thus countervailable, because receipt of pre-shipment export financing was contingent upon export performance and the interest rates were preferential. (*See e.g., Final Results of Countervailing Duty Administrative Review: Certain Iron-Metal Castings From India,* 56 FR 41658 (August 22, 1991); *Final Results of Countervailing Duty Administrative Review: Certain Iron-Metal Castings From India,* 56 FR 52515 (October 21, 1991 (*1987 and 1988 Indian Castings Final Results*). No new information or evidence of changed circumstances has been submitted in this proceeding to warrant reconsideration of this finding. During the POR, the rate of interest charged on pre-shipment export loans ranged from 13.0 percent to 15.5 percent, depending on the length and date of receipt of the loan.

The Government of India (GOI) classifies the companies under review as small-scale industry companies. Therefore, as we have done in past relevant cases, we used the small-scale industry short-term interest rates published in the August 1994 *Reserve Bank of India Annual Report 1993–94* as our benchmark. This rate was 15 percent during the POR for all categories of advances. We compared this benchmark to the interest rate charged on pre-shipment loans and found that for certain loans granted under this program, the interest rate charged was lower than the benchmark. The use of this benchmark rate is consistent with prior reviews of this order. (*See Final Results of Countervailing Duty Administrative Review: Certain Iron-Metal Castings From India,* 60 FR 44843 (*August 29, 1995) (1991 Indian Castings Final Results*)).

Eight of the fourteen respondent companies used pre-shipment export loans for shipments of subject castings to the United States during the POR. To calculate the benefit from the pre-shipment loans to these eight companies, we compared the actual interest paid on these loans with the amount of interest that would have been paid using the benchmark interest rate of 15 percent. If the benchmark rate exceeded the program rate, the difference between those amounts is the benefit. If a company was able to segregate pre-shipment financing applicable to subject merchandise exported to the United States, we divided the benefit derived from only those loans by total exports of subject merchandise to the United States. If a firm was unable to segregate pre-shipment financing, we divided the benefit from all pre-shipment loans by total exports. On this basis, we preliminarily determine the net subsidy from this program to be 0.13 percent *ad valorem* for all manufacturers and exporters in India of certain iron-metal castings, except for those firms listed below which have significantly different total subsidies from all programs combined. The net subsidy for those firms is as follows:

Manufacturer/Exporter	Rate (percent)
Delta Enterprises	0.00
Super Iron Foundry	0.00

2. *Post-Shipment Export Financing and Post-Shipment Credit Denominated in Foreign Currency (PSCFC).* The Reserve Bank of India, through commercial banks, provides post-shipment rupee denominated loans to exporters upon presentation of export documents. Post-shipment financing also consists of bank discounting of foreign customer receivables. In general, post-shipment loans are granted for a period of up to 180 days. The interest rate for post-shipment financing ranged from 13 to 18 percent during the POR. In the *1987 and 1988 Indian Castings Final Results*, the Department found this program to be specific, and thus countervailable, because receipt of the post-shipment export financing in rupees was contingent upon export performance and the interest rates were preferential. No new information or evidence of changed circumstances has been submitted in this proceeding to warrant reconsideration of this finding.

On January 1, 1992, the GOI amended the original post-shipment financing scheme and introduced the ''Scheme for Post-Shipment Credit Denominated in Foreign Currency (PSCFC).'' Under the amended scheme, exporters may discount foreign currency export bills at interest rates linked to the London Interbank Offering Rate (LIBOR). These loans are not provided to the borrower in the foreign currency, but allow the post-shipment credit liability of the exporter to be denominated in foreign currency, which is then liquidated with foreign currency export proceeds.

Upon presentation of the export bill, the bank will discount the bill for a period of up to 180 days at an interest rate determined by the RBI. The interest amount, calculated at the applicable foreign currency interest rate, will be deducted from the total amount of the bill, and the exporter's account will be credited for the rupee equivalent of the net foreign currency amount. Commercial banks are required to convert the net amount of the export bill drawn or expressed in U.S. dollars into rupees at a contracted exchange rate (if the exporter takes forward cover) or at the rate prevailing on the date of negotiation or discount by the bank. The exporter's credit liability will continue to be shown in U.S. dollars. If payment from the overseas customer is received within the due date for the loan, the exporter's account is considered fully liquidated or ''crystallized''. Where payment by the overseas customer is made beyond the due date, additional interest will be recovered from the exporter for the number of days payment is overdue. The additional interest amount is calculated in U.S. dollars for the delayed period at the overdue foreign currency interest rate set by the RBI. This amount is then converted into rupees at the commercial bank's prevailing selling rate of the U.S. dollar and deducted from the exporter's account.

Any exchange rate risk on the dollar amount of the bill (*i.e.*, gain or loss due to the change in value of the rupee vis-a-vis the dollar) will be borne by the commercial bank. If the overseas customer defaults, the exporter must repay the rupee equivalent of the export bill at the exchange rate prevailing on the date the payment of the export bill would have been due. During the POR, the discount rate charged on these bills ranged from 6.5 percent to 6.75 percent, while the overdue foreign currency interest rate was 8.5 percent. For overdue bills repaid beyond 180 days, the normal rupee interest rates apply. These rates ranged from 15 to 22 percent during the POR.

For reasons stated in the prior section for pre-shipment financing above, we are using the small-scale industry short-term interest rates published in the

August 1994 *Reserve Bank of India Annual Report 1993–94* as our benchmark for short-term rupee denominated post-shipment loans. However, because loans under this program are discounted, and the effective rate paid by exporters on these loans is a discounted rate, we derived a benchmark discount rate of 13.04 percent for the POR.

Where loans are denominated in foreign currency, as is the case for PSCFC loans, our normal practice is to use a foreign currency benchmark, which would be the interest rate on alternative dollar-indexed loans in India. However, we have not been able to find such a benchmark, and must, therefore, use as a benchmark a rupee-denominated interest rate, adjusted to take into account movements in the rupee-dollar exchange rate over the term of the loan. In this situation, our preference would be to adjust the benchmark by the ''expected'' movement in the rupee/dollar exchange rate by comparing the spot rate on the day the bill was discounted with the forward exchange rate. Because we were unable to find forward exchange rates for the POR, we adjusted the benchmark used for rupee denominated post-shipment loans described above, by the actual movement in the rupee/dollar exchange rate over the period for which the export bill was discounted. Therefore, the adjusted benchmark varied for each PSCFC loan.

During the POR, 11 of the 14 respondent companies made payments on post-shipment export or PSCFC loans for shipments of subject castings to the United States. To calculate the benefit from these loans we followed the same short-term loan methodology discussed above for pre-shipment financing. We divided the benefit by either total exports or exports of the subject merchandise to the United States, depending on whether the company was able to segregate the post-shipment financing on the basis of destination of the exported good. On this basis, we preliminarily determine the net subsidy from this program to be 1.25 percent *ad valorem* for all manufacturers and exporters in India of certain iron-metal castings, except for those firms listed below which have significantly different total subsidies from all programs combined. The net subsidy for those firms is as follows:

Manufacturer/Exporter	Rate (percent)
Delta Enterprises	0.00
Super Iron Foundry	0.00

3. *Income Tax Deductions Under Section 80HHC.* Under section 80HHC of the Income Tax Act, the GOI allows exporters to deduct profits derived from the export of goods and merchandise from taxable income. In the *1987 and 1988 Indian Castings Final Results,* the Department found this program to *de jure* specific, and thus countervailable, because receipt of benefits was contingent upon export performance. No new information or evidence of changed circumstances has been submitted in this proceeeding to warrant reconsideration of this finding.

To calculate the benefit to each company, we subtracted the total amount of income tax the company actually paid during the review period from the amount of tax the company would have paid during the review period had it not claimed any deductions under section 80HHC. We then divided this difference by the value of the company's total exports. On this basis, we preliminarily determine the net subsidy from this program to be 3.64 percent for all manufacturers and exporters in India of certain iron-metal castings, except for those firms listed below which have significantly different total subsidies from all programs combined. The net subsidy for those firms is as follows:

Manufacturer/Exporter	Rate (percent)
Delta Enterprises	0.00
Super Iron Foundry	0.04

4. *Import Mechanisms.* The GOI allows companies to transfer certain types of import licenses to other companies in India. During the POR, producers/exporters of subject castings sold Additional Licenses, Replenishment Licenses, and Special Import Licenses. In prior administrative reviews of this order, we determined that the sale of these licenses by exporters is countervailable. *See* the *1987 and 1988 Indian Castings Final Results* and the *1991 Indian Castings Final Results.* No new information or evidence of changed circumstances has been submitted in this proceeding to warrant reconsideration of this finding.

Because the sale of Special Import Licenses and Additional Licenses could not be tied to specific shipments, we calculated the subsidies by dividing the total amount of proceeds a company received from sales of these licenses by the total value of its exports of all products to all markets. Also, because sales of Replenishment Licenses can be tied to specific exports, we calculated the subsidies by dividing the amount of proceeds a company received from sales of Replenishment Licenses that was attributable to shipments of subject castings to the United States by the total value of the company's exports of subject castings to the United States. We do not consider the sale of Replenishment Licenses issued for non-subject merchandise to have benefitted exports of the subject merchandise.

We preliminarily determine the net subsidy from the sale of Additional, Special Import, and Replenishment Licenses to be 0.04 percent *ad valorem* for all manufacturers and exporters in India of certain iron-metal castings, except for those firms listed below which have significantly different aggregate benefits. The net subsidies for those firms are as follows:

Manufacturer/Exporter	Rate (percent)
Delta Enterprises	0.00
Super Iron Foundry	0.00

B. *New Programs Preliminarily Found to Confer Subsidies*

1. *Exemption of Export Credit from Interest Taxes.* At verification, the GOI and commercial bank officials explained that starting from September, 1991, commercial banks were required to pay a 3 percent tax on all interest accrued from borrowers. This tax is passed on to borrowers in its entirety. As of April 1, 1993, the GOI exempted from the interest tax all interest accruing or arising to any commercial bank on loans and advances made to any exporter as export credit. *See* the *1993 GOI Verification Report* at 6–7 and Exhibits EEPC–8, 9, 10 and 11 (October 30, 1995) (Public Document). Because only interest accruing or arising on loans and advances made to exporters in the form of export credit is exempt from the interest tax, we preliminarily determine this exemption to provide countervailable benefits to exporters. During the POR, eleven of the fourteen respondent companies made interest payments on export related loans, through the pre- and post-shipment financing schemes.

To calculate the benefit to each company, we first determined the total amount of interest paid by each producer/exporter of subject castings from April 1 to December 31, 1993, by adding all interest payments made on pre- and post-shipment loans after April 1, 1993. For the two companies that reported aggregate interest on pre- and post-shipment loans for the POR, and for which we were unable to determine what portion of the reported interest was paid after April 1, 1993, we

assumed that the company's interest payments were evenly distributed over each quarter of 1993, and, therefore, that 75 percent of the interest reported was paid in the last three quarters of 1993, *i.e.,* from April 1 through December 31. Next, we multiplied this amount by three percent, the amount of tax that the interest would have been subject to without the exemption. We then divided the benefit by the value of the company's total exports or exports of subject merchandise to the United States, depending on whether the export financing was on total exports or only exports of subject castings to the U.S. On this basis, we preliminarily determine the net subsidy from this program to be 0.06 percent *ad valorem* for all manufacturers and exporters in India of certain iron-metal casting, except for those firms listed below which have significantly different total subsidies from all programs combined. The net subsidy for those firms is as follows:

Manufacturer/Exporter	Rate (percent)
Delta Enterprises	0.00
Super Iron Foundry	0.00

2. *Imports Made Under an Advance License through the Liberalized Exchange Rate Management System (LERMS).* The Liberalized Exchange Rate Management System or LERMS, in effect from March 1, 1992 through February 28, 1993, was part of the GOI's economic liberalization efforts, aimed in part at achieving full convertibility of the rupee. Under the LERMS, the importation of goods under the Duty Exemption Scheme (with Advance Licences), was financed at two rates: 40 percent at the official RBI rate and 60 percent at the (higher) market determined rate. We verified that the LERMS was terminated effective February 28, 1993, after which all foreign exchange earnings and the financing of all imports was at the full market exchange rate. (See section II.1. below for a discussion of foreign exchange earnings under the LERMS).

While the LERMS was in effect, purchases of most imports are made at the market exchange rate. This applied to both exporters and non-exporters. An exception to this were goods imported under the Duty Exemption Scheme which permitted exporters holding an Advance License to purchase imports at dual exchange rates through February 28, 1993. Sixty percent of the value of the import was charged at the market rate and forty percent at the Reserve Bank determined official dollar/rupee exchange rate. The Advance License was the only license under which imports were charged at the 60/40 ratio. These licenses allow exporters to import products duty free, that are subsequently consumed in the production of exported goods. Castings exporters used Advance Licenses by the importation of pig iron consumed in the production of the subject merchandise.

The receipt of these licenses was previously determined to be not countervailable, because the Advance License operates as duty drawback scheme, and the drawback of import duties on raw materials consumed in the production of exported goods was found to be not excessive. *See* the *1991 Indian Castings Final Results.* However, Advance Licenses are issued to companies based on their status as exporters. As such, provisions under the LERMS which allow exporters to import goods at exchange rates more favorable than those available to non-exporters constitutes an export subsidy within the meaning of § 355.43(a)(1) of the Department's *Proposed Regulations.* Therefore, because the official rupee/dollar exchange rate was lower than the market rate during the POR, thereby lowering the cost of goods imported under an Advance License during January and February of 1993, we preliminarily determine the importation of goods under an Advance License at the 60/40 ratio to provide countervailable benefits to producers/exporters of the subject merchandise.

During the POR, three of the fourteen respondent companies made imports against an Advance License while the LERMS was still in effect. To calculate the benefit to each company, we subtracted the total amount the company paid in rupees for the imported goods from the amount they would have paid if the imports had been paid for at the higher market exchange rate. We then divided the benefit by the value of the company's total exports. On this basis, we preliminarily determine the net subsidy from this program to be 0.33 percent *ad valorem* for all manufacturers and exporters in India of certain iron-metal castings, except for those firms listed below which have significantly different total subsidies from all programs combined. The net subsidy for those firms is as follows:

Manufacturer/Exporter	Rate (percent)
Delta Enterprises	0.00
Super Iron Foundry	0.00

Because we verified that this program was terminated as of February 28, 1993, and there are no residual benefits, for cash deposit purposes, in accordance with section § 355.50 of the Department's *Proposed Regulations,* the deposit rate for this program will be zero.

II. Programs Preliminarily Found Not to Confer Subsidies

1. *Inward Exchange Remittances under the Liberalized Exchange Rate Management System (LERMS).* The Liberalized Exchange Rate Management System or LERMS, in effect from March 1, 1992 through February 28, 1993, was part of the GOI's economic liberalization efforts, partly aimed at achieving full convertibility of the rupee. Under the LERMS, all inward exchange remittances, *i.e.,* foreign exchange earnings, were converted into rupees either at the market exchange rate or at dual exchange rates: 40 percent at the official RBI rate and 60 percent at the (higher) market determined rate. We verified that the LERMS was terminated effective February 28, 1993, after which all foreign exchange remittances and the financing of all imports was at the full market exchange rate. (For a discussion of import financing under the LERMS, see I.B.2. above.) During January and February of 1993, while the LERMS was in effect, castings exporters converted all of their export earnings at the 60/40 exchange rate ratio described above.

Because all transactions by which Indian companies or individuals exchanged foreign currency into rupees while the LERMS was in effect were converted at the 60/40 exchange rate ratio or at the higher market exchange rate, we preliminarily determine that the export earnings of castings producers, converted at the dual exchange rates under LERMS, do not confer countervailable benefits with respect to the subject merchandise.

III. Programs Preliminarily Found Not To Be Used

We examined the following programs and preliminarily find that the producers/exporters of the subject merchandise did not apply for or receive benefits under these programs during the period of review:

1. Market Development Assistance (MDA)
2. Rediscounting of Export Bills Abroad
3. International Price Reimbursement Scheme (IPRS)
4. Cash Compensatory Support Program (CCS)
5. Pre-Shipment Financing in Foreign Currency (PSFC)

Preliminary Results of Review

For the period January 1, 1993 through December 31, 1993, we preliminarily determine the net subsidy to be zero or *de minimis* for Delta Enterprises and Super Iron Foundry, and 5.45 percent *ad valorem* for all other companies. In accordance with 19 CFR 355.7, any rate less than 0.5 percent *ad valorem* is *de minimis.*

If the final results of this review remain the same as these preliminary results, the Department intends to instruct the U.S. Customs Service to assess the following countervailing duties:

Manufacturer/Exporter	Rate (percent)
Delta Enterprises	0.00
Super Iron Foundry	0.00
All Other Companies	5.45

The Department also intends to instruct the U.S. Customs Service to collect a cash deposit of estimated countervailing duties of zero percent of the f.o.b. invoice price on all shipments of the subject merchandise from Delta Enterprises and Super Iron Foundry, and 5.13 percent of the f.o.b. invoice price on all shipments of the subject merchandise from all other companies.

Public Comment

Parties to the proceeding may request disclosure of the calculation methodology and interested parties may request a hearing not later than 10 days after the date of publication of this notice. Interested parties may submit written arguments in case briefs on these preliminary results within 30 days of the date of publication. Rebuttal briefs, limited to arguments raised in case briefs, may be submitted seven days after the time limit for filing the case brief. 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. Any hearing, if requested, will be held seven days after the scheduled date for submission of rebuttal briefs. Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with 19 CFR 355.38(e).

Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs, under 19 CFR § 355.38(c), are due. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any case or rebuttal brief or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR § 355.22.

Dated: May 14, 1996.

Paul L. Joffe,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96–12871 Filed 5–21–96; 8:45 am]

BILLING CODE 3510–DS–P

National Institute of Standards and Technology

[Docket No. 950314073–6067–02]

RIN 0693–ZA07

Approval of Federal Information Processing Standards Publication 161–2, Electronic Data Interchange (EDI)

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Notice.

SUMMARY: The purpose of this notice is to announce that the Secretary of Commerce has approved a revision of Federal Information Processing Standard (FIPS) 161–1, Electronic Data Interchange (EDI), which will be published as FIPS Publication 161–2. This revision reflects changes in the development of voluntary industry standards for Electronic Data Interchange (EDI), including the planned alignment of the X12 and UN/EDIFACT families of standards, and provides updated guidance to Federal agencies in the selection of EDI standards. The revision adopts the HL7 standards for EDI as an alternative for certain healthcare applications. It also establishes a Federal EDI Standards Management Committee to harmonize the development of EDI transaction set and message standards among Federal agencies, and the setting of governmentwide implementation conventions for EDI applications used by Federal agencies. FIPS PUB 161–2 supersedes FIPS PUB 161–1 in its entirety. The announcement section of FIPS 161–2 is provided in this notice.

On April 3, 1995, notice was published in the Federal Register (60 FR 16854–16857) that a revision of Federal Information Processing Standard (FIPS) 161–1, Electronic Data Interchange (EDI), was being proposed for Federal use.

The written comments submitted by interested parties and other material available to the Department relevant to this standard were reviewed by NIST. On the basis of this review, NIST recommended that the Secretary approve the revised standard as Federal Information Processing Standards Publication (FIPS PUB) 161–2, and prepared a detailed justification document for the Secretary's review in support of that recommendation.

The detailed justification document which was presented to the Secretary, and which includes an analysis of the written comments received, is part of the public record and is available for inspection and copying in the Department's Central Reference and Records Inspection Facility, Room 6020, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues NW., Washington, DC 20230.

EFFECTIVE DATE: FIPS PUB 161 was effective September 30, 1991.

ADDRESSES: Interested parties may purchase copies of the announcement section of FIPS 161–2 from the National Technical Information Service (NTIS). Specific ordering information from NTIS for this standard is set out in the Where to Obtain Copies Section of the standard.

Documents defining both the X12 and EDIFACT families of standards are available from DISA, Inc. or from its named contractor. DISA, Inc. serves as the secretariat for Accredited Standards Committee (ASC) X12 and the Pan American EDIFACT Board (PAEB) and its address and phone number are as follows: Data Interchange Standards Association, Inc. (DISA, Inc.), 1800 Diagonal Road, Suite 200, Alexandria, VA 22314–2852. Telephone (703) 548–7005.

HL7 documents are available from: Health Level Seven, Inc., 3300 Washtenaw Avenue, Suite 227, Ann Arbor, MI 48104. Telephone (313) 677–7777.

FOR FURTHER INFORMATION CONTACT: Mr. Roy Saltman, telephone (301) 975–3376, National Institute of Standards and Technology, Gaithersburg, MD 20899.

Dated: May 16, 1996.

Samuel Kramer,

Associate Director.

Federal Information Processing Standards Publication 161–2, 1996 Month Day, Announcing the Standard for Electronic Data Interchange (EDI)

Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Institute of Standards and Technology (NIST) after approval by the Secretary of Commerce pursuant to Section 5131 of the Information Technology Management

Reform Act of 1996 and the Computer Security Act of 1987, Public Law 104–106.

1. Name of Standard. Electronic Data Interchange (EDI) (FIPS PUB 161–2).

2. Category of Standard. Electronic Data Interchange.

3. Explanation.

3.1. Definition and Use of EDI. EDI is the computer-to-computer interchange of strictly formatted messages that represent documents other than monetary instruments. EDI implies a sequence of messages between two parties, either of whom may serve as originator or recipient. The formatted data representing the documents may be transmitted from originator to recipient via telecommunications or physically transported on electronic storage media.

In EDI, the usual processing of received messages is by computer only. Human intervention in the processing of a received message is typically intended only for error conditions, for quality review, and for special situations. For example, the transmission of binary or textual data is not EDI as defined here unless the data are treated as one or more data elements of an EDI message and are not normally intended for human interpretation as part of on-line data processing.

An example of EDI is a set of interchanges between a buyer and a seller. Messages from buyer to seller could include, for example, request for quotation (RFQ), purchase order, receiving advice and payment advice; messages from seller to buyer could include, similarly, bid in response to RFQ, purchase order acknowledgment, shipping notice and invoice. These messages may simply provide information, e.g., receiving advice or shipping notice, or they may include data that may be interpreted as a legally binding obligation, e.g., bid in response to RFQ or purchase order.

EDI is being used also for an increasingly diverse set of concerns, for example, for interchanges between healthcare providers and insurers, for travel and hotel bookings, for education administration, and for government regulatory, statistical and tax reporting.

3.2. Standards Required for EDI. From the point of view of the standards needed, EDI may be defined as an interchange between computers of a sequence of standardized messages taken from a predetermined set of message types. Each message is composed, according to a standardized syntax, of a sequence of standardized data elements. It is the standardization of message formats using a standard syntax, and the standardization of data elements within the messages, that makes possible the assembling, disassembling, and processing of the messages by computer.

Implementation of EDI requires the use of a family of interrelated standards. Standards are required for, at minimum: (a) the syntax used to compose the messages and separate the various parts of a message, (b) types and definitions of application data elements, most of variable length, (c) the message types, defined by the identification and sequence of data elements forming each message, and (d) the definitions and sequence of control data elements in message headers and trailers.

Additional standards may define: (e) a set of short sequences of data elements called data segments, (f) the manner in which more than one message may be included in a single transmission, and (g) the manner of adding protective measures for integrity, confidentiality, and authentication into transmitted messages.

3.3. Limited Coverage of this Standard. This FIPS covers only EDI. It does not cover other forms of electronic interchange, for example, systems of interchange that do not consist of messages taken from a predetermined set. Additionally, an interchange application including only one or two predetermined message types using only fixed-length data elements is excluded from coverage of this FIPS. This FIPS also is not intended to cover transmissions from medical, laboratory, or environment-sensing instrumentation.

3.4. The Long-Range Goal for EDI Standards. There are several different EDI standards in use today, but the achievement of a single universally-used family of EDI standards is a long-range goal. A single universally-used family of standards would make use of EDI more efficient and minimize aggregate costs of use. Specifically, it would (a) minimize needs for training of personnel in use and maintenance of EDI standards, (b) eliminate duplication of functionality and the costs of achieving that duplication now existing in different systems of standards, (c) minimize requirements for different kinds of translation software, and (d) allow for a universal set of data elements that would ease the flow of data among different but interconnected applications, and thereby maximize useful information interchange.

This FIPS PUB recognizes the reality that some families of EDI standards were developed to provide solutions to immediate needs, and that inclusion of the goal of universality in their development would have unacceptably delayed their availability. However, a future is envisioned in which the benefits of universality outweigh the sunk costs in specialized solutions, leading first to cooperation among standards developers, then to harmonization of standards, and eventually to a single universally accepted family of EDI standards.

3.5. Adoption of Specific Families of Standards. This FIPS PUB adopts, with specific conditions specified below, the families of EDI standards known as X12, UN/EDIFACT and HL7. This FIPS PUB does not mandate the implementation of EDI systems within the Federal Government; rather it requires the use of the identified families of standards with specified constraints when Federal departments or agencies implement EDI systems.

The UN/EDIFACT standards may be used for any application, domestic or international. The X12 standards may be used for any domestic application. The HL7 standards are adopted as an alternative for certain healthcare applications, specifically for transmission of patient records and of clinical, epidemiological, and regulatory data. HL7 standards are not to be used for healthcare insurance administrative applications, such as for enrollments, claims, and claim payments, or for any aspect of the Government procurement cycle, such as for registration of vendors, RFQ, purchase order, shipping notice, or payment advice.

The cross-use of data elements is encouraged. A data element received through one system of EDI standards, or through a non-EDI interchange, may be re-transmitted as a data element in any of the approved systems of EDI standards.

The adopted standards were developed by the following organizations: the X12 standards by Accredited Standards Committee X12 on Electronic Data Interchange (ASC X12), accredited by the American National Standards Institute (ANSI); the HL7 standards by Health Level Seven, Inc., an ANSI-accredited standards developer; and the UN/EDIFACT standards by the United Nations (UN) Economic Commission for Europe—Working Party (Four) on Facilitation of International Trade Procedures (UN/ECE/WP.4). Technical input from the United States in the development of UN/EDIFACT at the UN is through the Pan American EDIFACT Board (PAEB). The PAEB is separate from ASC X12, and it serves as the coordinating body for national standards organizations of North, Central, and South America.

3.6. Status of this FIPS PUB Revision. FIPS PUB 161–2 supersedes FIPS PUB 161–1 in its entirety. FIPS PUB 161–2

contains editorial changes, updated references to documents and organizations, and new guidance to agencies on the selection of national and international standards and implementation conventions. This guidance is based on recent voluntary industry standards activities and on the Federal Government initiative that commenced with the Presidential Memorandum of October 26, 1993 entitled ''Streamlining Procurement Through Electronic Commerce.''

4. Approving Authority. Secretary of Commerce.

5. Maintenance Agency. U.S. Department of Commerce, National Institute of Standards and Technology (NIST), Computer Systems Laboratory.

6. Cross Index and Related Documents.

6.1. Cross Index.

—FIPS PUB 146–2, Profiles for Open Systems Internetworking Technologies, May 1995.

6.2. Related Documents.

—ASC X12W/95–137, The ASC X12 Plan for Technical Migration to and Administrative Alignment With UN/EDIFACT (amended), 5/8/95.

—NIST Special Publication 500–224, Stable Implementation Agreements for Open System Environment, Version 8, Edition 1, 12/94.

—NIST Special Publication 800–9, Good Security Practices for Electronic Commerce, Including Electronic Data Interchange, 12/93/.

—Office of Management and Budget (OMB) Circular A–119 (revised), Federal Participation in the Development and Use of Voluntary Standards, 10/93.

—UN/ECE/WP.4—Recommendation No. 25 on the Use of the UN/EDIFACT Standard, 9/95.

6.3. Sources of Documents. For the source of cited NIST publications, including FIPS PUBS, see Section 13. For the source of X12, UN/EDIFACT and HL7 documents, see Subsection 10.1.

7. Objectives. The primary objectives of this standard are:

a. to ease the interchange of data sent electronically by use of common standards that allow for automated message processing;

b. to promote the achievement of the benefits of EDI: reduced paperwork, fewer transcription errors, faster response time for procurement and customer needs, reduced inventory requirements, more timely payment of vendors, and closer coordination of data being processed on different computers for the same application;

c. to promote migration to a universally used family of EDI standards, in order to further Government efficiency and to minimize the cost of EDI implementation by preventing duplication of effort.

8. Applicability.

8.1. Conditions of application. EDI may be employed with any type of operational data representable as a sequence of data elements that is needed to be transmitted or received on a repetitive basis by a Federal agency in the course of its activities. This standard is applicable to the interchange of such data on a particular subject within a Federal agency, or between a Federal agency and another organization (which may be another Federal agency), if (1) The data are to be transmitted electronically or physically transported between computers using EDI, and (2) the necessary standard messages meeting the data requirements of the Federal agency for the subject of the interchange have been developed and approved, and are acceptable for use under the conditions set forth in this FIPS PUB.

8.2. Subject Matter. Examples of applications (not necessarily the subject of current standards) are:

a. vendor search and selection: price/sales catalogs, bids, proposals, requests for quotations, notices of contract solicitation, debarment data, trading partner profiles;

b. contract award: notices of award, purchase orders, purchase order acknowledgments, purchase order changes;

c. product data: specifications, manufacturing instructions, reports of test results, safety data;

d. shipping, forwarding, and receiving: shipping manifests, bills of lading, shipping status reports, receiving reports;

e. customs: release information; manifest update;

f. payment information: invoices, remittance advices, payment status inquiries, payment acknowledgments;

g. inventory control: stock level reports, resupply requests, warehouse activity reports;

h. maintenance: service schedules and activity, warranty data;

i. tax-related data: tax information and filings;

j. insurance-related data: healthcare claim; mortgage insurance application;

k. other government activities: communications license application; court conviction record; hazardous material report; healthcare event report.

9. Coordination of Federal EDI Standards Development and Implementation.

9.1. Federal EDI Standards Management Coordinating Committee. There is established a Federal EDI Standards Management Coordinating Committee (FESMCC). The FESMCC is established to support the goal of a single face for the Federal Government to its trading partners in the use of EDI.

9.1.1. A responsibility of the FESMCC is the selection of implementation conventions (ICs) to be used with EDI interchanges between the Federal Government and its trading partners. EDI messages (also called transaction sets) are approved by standards committees with allowances for format options, in order to widen the applicability of the standards to different uses. The purpose of ICs is to select specific options in EDI standards so that interchanges are completely determined in format in advance of use.

9.1.2. The basic functions of the FESMCC are:

(a) to adopt Government-wide ICs for use with EDI standards; the goal is adoption of one IC for each functional application of a message or transaction set within a given version/release of an EDI standard;

(b) to coordinate Federal agency participation in EDI standards bodies, to assure adequate consideration of the Government's business needs and to assure consistency of position; and

(c) to share EDI information among agencies regrading current or planned implementations to avoid duplicate efforts and streamline the process.

9.1.3. Voting membership in the FESMCC shall consist of, at minimum, one representative from each participating Federal Executive Branch department and independent agency using or planning to use EDI, plus a representative from NIST. The FESMCC, under its charter and operating rules (see Subsection 9.1.5), may add additional voting representatives, including those from the other branches of the Federal Government. The chair of the FESMCC shall be elected by its membership and approved by OMB.

9.1.4. The FESMCC shall establish a secretariat in order to maintain an official registry of approved and draft ICs, provide controlled access to the registry including electronic remote access capability, provide a point of contact for publicizing draft ICs and receiving comments on them, provide a single point for submission of work requests to standards bodies, and for related functions.

9.1.5. The FESMCC shall establish a charter and operating rules to assist it in carrying out its identified functions.

9.2. Functional Work Groups.

9.2.1. The FESMCC may establish Functional Work Groups (FWGs) to consider and recommend ICs in subject

areas. Examples of subject areas are procurement, finance, logistics, and healthcare. Requirements for voting membership shall be established by the FESMCC under its charter and operating rules. The voting members shall elect a chair.

9.2.2. Each FWG shall recommend, to the full FESMCC, ICs that it has developed and approved as meeting Federal Government and trading partner business requirements. FWGs should consult with appropriate industry groups in the development of ICs.

9.3. Agency Responsibilities.

9.3.1. Agencies shall register ICs that they are using with the FESMCC secretariat.

9.3.2. Agencies using X12, UN/EDIFACT, or HL7 versions and releases for which ICs have been established by the FESMCC shall adopt those ICs. If an IC does not meet business needs, requirements shall be submitted to the FESMCC. ICs shall be classified as Implementer's Agreements pursuant to this FIPS PUB, but are not themselves FIPS PUBs.

9.3.3. Agencies using or planning to use EDI shall designate representatives to the FESMCC and each relevant FWG.

9.3.4. Agencies requiring new EDI standards or changes to existing EDI standards to meet their business needs shall submit their requirements to the appropriate standards bodies and shall simultaneously submit their requirements to the FESMCC and relevant FWGs for coordination. Procedures and forms for submission of new requirements through ASC X12 are specified in Standing Document (SD) 2, Operations Manual, and SD6, Operations Manual for UN/EDIFACT Standards. These manuals are available from Data Interchange Standards Association, Inc. (DISA, Inc.). Procedures and forms for submission of new requirements for UN/EDIFACT standards directly through the PAEB are also available from DISA, Inc. HL7 operating procedures are specified in its bylaws, available from Health Level Seven, Inc.

10. Specifications. Documents are available that define the X12, UN/EDIFACT, and HL7 standards and provide information about the standards organizations and their standards development processes. Developments are continuing in each of these families of standards.

10.1. Source of Documents. Documents concerning both the X12 and UN/EDIFACT families of standards are available from DISA, Inc. or from its named contractor. DISA, Inc. serves as the secretariat for ASC X12 and the PAEB and may be contacted at:

Address: Data Interchange Standards Association, Inc., 1800 Diagonal Road—Suite 200, Alexandria, VA 22314–2852,

Phone: (703) 548–7005

A list of available standards publications, as well as descriptive material, prices and ordering procedures, may be found in the most recent DISA, Inc. Publications Catalog.

HL7 documents are available from:

Address: Health Level Seven, Inc., 3300 Washtenaw Avenue, Suite 227, Ann Arbor, MI 48104,

Phone: (313) 677–7777

10.2. ASC X12 Documents. X12 standards are published periodically with revisions and updates, and standards included in a publication may have one of two possible statuses:

(1) Draft Standards for Trial Use (DSTUs); these are fully approved by ASC X12, and are typically published as ''releases'' at one-year intervals. DSTU Version 3, Release 4, identified as 003040, was published in 12/93; Version 3, Release 5, identified as 003050, was published in 12/94. The next release, identified as 003060, is available as of 1/96.

(2) American National Standards (ANSs); these are fully approved by ASC X12 and by ANSI, and are typically published as ''versions'' at intervals of three to five years. ANS Version 3, 3/92, is functionally equivalent to DSTU Version 2, Release 4. It is expected that ANS Version 4, planned for 1997, will be functionally equivalent to DSTU Version 3, Release 7, identified as 003070.

10.3. UN/EDIFACT Documents. UN/EDIFACT standards are published periodically with revisions and updates, and standards included in a publication may have one of two possible statuses:

(1) Status 1, approved for trial use. A set of documents identified as UN/EDIFACT Draft Messages and Directories, Version D.95A, was published in 5/95. This document also included Status 2 messages. A new set of standards, identified as D.95B and also including Status 2 messages, was approved in 9/95.

(2) Status 2, fully approved by UN/ECE/WP.4. The set of Status 2 documents may be referred to as the UN Trade Data Interchange Directory (UNTDID). The last published version of Status 2 standards only, S.93A, was issued in 5/94. See also Subsection 11.4 for additional information on UN/EDIFACT Status 2.

10.4. HL7 Documents. HL7 standards are published as a single volume. The current set is Version 2.2, published 12/94. A new Version 2.3 is planned for Fall 1996. HL7 standards also have one of two possible statuses:

(1) HL7 standards, approved by the membership of HL7 but not yet approved by ANSI.

(2) American National Standards (ANSs); these are fully approved by HL7 and by ANSI.

11. Implementation.

11.1. Schedule for Adoption. FIPS PUB 161 was effective on September 30, 1991. Federal agencies that are not using EDI for subject matter for which X12, UN/EDIFACT, and HL7 standards have been approved and issued shall utilize only those standards in EDI systems that they procure or develop, subject to the qualifications of Subsections 3.5, 11.3, 11.4 and 11.5. Agencies that are using those standards shall continue to do so, subject to the same qualifications. Agencies that were using other standards on or after September 30, 1991 shall be governed by Subsection 11.6.

11.2. Acceptance of UN/EDIFACT by ASC X12. In January 1995, ASC X12, by a membership vote, approved the *ASC X12 Plan for Technical Migration to and Administrative Alignment With UN/EDIFACT*. This plan was modified at the February 1995 plenary meeting of ASC X12. Key features of the modified Alignment Plan are:

(1) Draft standards based on X12-syntax or on UN/EDIFACT syntax may be submitted by ASC X12 to ANSI for processing as ANSs.

(2) X12 Release 003070 shall form the basis of Version 4 of draft proposed X12 American National Standards (ANSs).

(3) After the release of Version 4, ASC X12 shall continue for a period of time, in accordance with the plan, to develop, maintain, approve and publish X12-syntax transaction sets and supporting documents.

(4) An ASC X12 ballot shall be conducted in 1998 to determine if X12-syntax transaction set development should be terminated. If the ballot for termination is not approved, a three-year repeating cycle shall occur thereafter, until no new X12-syntax transaction sets are being developed.

11.3. Selection of a Family of Standards.

11.3.1. Different families of EDI standards are distinct, although performing similar functions; the existence of one does not preclude the others. Equivalent functionality may be obtained in any system by the addition, if required, of new or revised message formats and data elements. Software that assembles and disassembles messages and transaction sets, called translation software, is widely available, often for more than one system in the

same package. In selecting a family of standards for domestic applications, agencies should attempt to maximize Government economy and efficiency and to minimize the costs imposed on U.S. businesses.

11.3.2. For any domestic application with a non-Government partner, and for related intra-Government applications, selection of a family of standards shall take into account the prevailing family used in the industry of the interchange partners for the application. However, UN/EDIFACT standards shall be employed for new or significantly upgraded interchanges in the absence of demonstrably higher costs, or at the request of interchange partners providing a significant fraction of interchange traffic. Continued long-term use and maintenance of more than one family of standards is unacceptably inefficient.

11.3.3. For international applications except as specified in Subsection 11.3.4, planning for migration to the UN/EDIFACT family of standards shall commence at this time if that family is not currently being used. A timetable for conversion to UN/EDIFACT of existing international implementations shall be set as applicable standards and software become available. New or significantly upgraded interchanges shall employ only standards using UN/EDIFACT.

11.3.4. The HL7 family of standards may be used for international applications in the fields of public health and health regulatory information, pursuant to agreements of international organizations whose membership includes representation of national or multi-national governmental health agencies. However, users shall coordinate with the developers of UN/EDIFACT, in order to prevent duplication of effort, provide for cross-use of data elements, and provide a path for harmonization and eventual migration or coalescence.

11.4. Use of Category (1) Standards. UN/EDIFACT Status 1 standards, X12 DSTUs, and HL7 standards not yet approved by ANSI are defined as Category (1) standards. UN/EDIFACT Status 2 standards and ANSs submitted by ASC X12 and HL7 are defined as Category (2) standards. Federal agencies shall use only Category (1) or Category (2) standards for EDI implementations. Industry practice is to use Category (1) standards; these represent the latest consensus and are available sooner than the corresponding full standards of Category (2). Consequently, Category (1) standards are preferred, but not mandated at this time. Note: There is a possibility that UN/EDIFACT Status 2 standards will be eliminated by UN/ECE/WP.4. In that case, UN/EDIFACT Status 1 standards would be required when UN/EDIFACT is implemented.

11.5. Continued Use of Existing Approved Implementations. An existing implementation of any version of an approved standard specified in Subsections 3.5, 11.3 and 11.4 may continue to be used as long as it continues to meet the business needs of the using agency and its interchange partners. Significant upgrades of existing implementations shall be to versions and releases for which ICs have been approved by the FESMCC, if any are available.

11.6. Continued Use of Other EDI Standards. Under the initial issue of this FIPS, Federal agencies using ''industry-specific'' EDI standards were permitted to use those standards for five years from September 30, 1991, i.e., until September 30, 1996. Agencies were permitted to use ''industry-specific'' EDI standards beyond five years only if no equivalent X12 or UN/EDIFACT standards, as appropriate, were approved and issued by September 30, 1995. If an equivalent and appropriate standard were issued after the latter date, agencies were given one year to convert. These provisions remain in effect for all application areas except health care.

For healthcare applications, agencies may use EDI standards other than UN/EDIFACT, X12, or HL7 through September 30, 1997. Other standards may be used beyond that date only if no functionally equivalent standards that meet the conditions of use specified in Subsections 3.5, 11.3 and 11.4 are approved and issued by September 30, 1996. If a Category (1) standard meeting business requirements and allowable conditions of use is first issued after the latter date, agencies have one year to convert following the issuance of the release containing the implementable standard.

Requirements for submission of proposed new or revised standards are specific in Subsection 9.3.4.

11.7. Security and Authentication. Agencies shall employ risk management techniques to determine the appropriate mix of security controls needed to protect specific data and systems. The selection of controls shall take into account procedures required under applicable laws and regulations.

Optional tools and techniques for implementation of security and authentication may be provided by ASC X12 and UN/ECE/WP.4 for use in connection with their respective families of standards. Agencies may utilize these tools and techniques, and/or they may utilize other methods in systems supporting the EDI data interchange. Methods and procedures implemented shall be consistent with applicable FIPS PUBS and guidance documents issued in NIST.

12. Waivers. Under certain exceptional circumstances, the heads of Federal departments and agencies may approve waivers to Federal Information Processing Standards (FIPS). The head of such agency may redelegate such authority only to a senior official designated pursuant to Section 3506(a) of Title 44, U.S. Code.

Waivers shall be granted only when:

a. Compliance with a standard would adversely affect the accomplishment of the mission of an operator of a Federal computer system, or

b. Cause a major adverse affect the accomplishment of the mission of an operator which is not offset by Government-wide savings.

Agency heads may act upon a written waiver request containing the information detailed above. Agency heads may also act without a written waiver request when they determine that conditions for meeting the standard cannot be met. Agency heads may approve waivers only by a written decision which explains the basis on which the agency head made the required finding(s). A copy of each such decision, with procurement sensitive or classified portions clearly identified, shall be sent to: National Institute of Standards and Technology; Attn: FIPS Waiver Decisions, Technology Building, Room B–154; Gaithersburg, MD 20899.

In addition, notice of each waiver granted and each delegation of authority to approve waivers shall be sent promptly to the Committee on Government Reform and Oversight of the House of Representatives and the Committee on Governmental Affairs of the Senate and shall be published promptly in the Federal Register.

When the determination on a waiver applies to the procurement of equipment and/or services, a notice of the waiver determination must be published in the *Commerce Business Daily* as part of the notice of solicitation for offers of an acquisition or, if the waiver determination is made after that notice is published, by amendment to such notice.

A copy of the waiver, any supporting documents, the document approving the waiver and any supporting and accompanying documents, with such deletions as the agency is authorized and decides to make under 5 U.S.C. Sec. 552(b), shall be part of the procurement documentation and retained by the agency.

13. Where to Obtain Copies of NIST Publications. Copies of this publication and NIST publications referenced in Section 6 are for sale by the National Technical Information Service (NTIS), U.S. Department of Commerce, Springfield, VA 22161; phone (703) 487–4650. When ordering this publication, refer to Federal Information Processing Standards Publication 161–2 (FIPSPUB161–2), and title. Payment may be made by check, money order, or NTIS deposit account.

[FR Doc. 96–12748 Filed 5–21–96; 8:45 am]

BILLING CODE 3510–CN–M

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

[Docket No. 960516134–6134–01]

RIN 0648–ZA23

Financial Assistance for the Pribilof Environmental Restoration Program.

AGENCY: Office of Administration (OA), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings and availability of federal assistance.

SUMMARY: NOAA issues this notice describing the procedures under which applications will be accepted, and how NOAA will determine which applications it will fund for environmental restoration work to be completed on the Pribilof Islands, Alaska. Pursuant to Public Law 104–91 (PL 104–91), section 3(d) requires the use of local entities and residents of the Pribilof Islands, to the maximum extent practical for completion of environmental restoration work to be performed. Applications will be solicited for projects as defined in the Two-Party Agreement executed between NOAA and Alaska Department of Environmental Conservation (ADEC), State of Alaska. A copy of the Two-Party Agreement is included in the NOAA Application kit for this program. This notice implements Part I of two parts: Part I being environmental restoration work to commence in fiscal year 1996 (FY96), and Part II environmental restoration work to commence in FY97 and beyond. Public Law 104–91 section 3(f) authorized a maximum of $10,000,000.00 to be appropriated in fiscal years 1996, 1997, and 1998 to carryout all of purposes identified under P.L. 104–91. The FY96 appropriations act makes $10,000,000 available for this year. From this amount, approximately $2,500,000 will be available for cooperative agreements awarded to implement Part I.

DATES: A public meeting to discuss general pre-award requirements for this Federal assistance program will be held on St. George Island, Alaska on May 21, 1996 from 3:00 p.m. to 5:00 p.m. at the St. George Recreation Hall. A public meeting will also be held on St. Paul Island, Alaska on May 22, 1996 from 3:30 p.m. to 5:30 p.m. at the St. Paul Recreation Hall.

Complete applications must be received or postmarked by [Insert 45 days from the date of this notice]. Applicants must submit one signed original and two copies of the complete application. No facsimile applications will be accepted. Generally, the time required to process applications is 60 days from the closing date of the solicitation.

ADDRESSES: Applications should be sent to Western Administrative Support Center (WASC), Facilities and Logistics Division, 7600 Sand Point Way NE, Seattle, WA 98115. Telephone: (206) 526–4434 or (206) 526–6160. Application kits, with instructions for completion and copies of the Two-Party Agreement, may be obtained from the NOAA Grants Management Division, SSMC2, Room 5416, 1325 East West Highway, Silver Spring, MD 20910. Telephone (301) 713–0942.

FOR FURTHER INFORMATION CONTACT: For questions regarding grants management policies and interpretation contact: Steve Drescher at (301) 713–0942. For information regarding technical aspects of specific projects: Thanh Minh Trinh at (206) 526–6647 or Anthony Mercadante at (206) 526–6674.

SUPPLEMENTARY INFORMATION: A Catalog of Federal Domestic Assistance (CFDA) number for this program will be requested. Part I of this program will proceed concurrently with NOAA's request for inclusion of this program in the CFDA.

I. Introduction

A. Background

Under the provisions of Public Law 104–91, the Secretary of Commerce shall, subject to the availability of appropriations, provide assistance for the cleanup of landfills, wastes, dumps, debris, storage tanks, property, hazardous or unsafe conditions, and contaminants including petroleum products and their derivatives, on lands which the U.S. Government abandoned, quitclaimed, or otherwise transferred or are obligated to transfer, to local entities or residents on the Pribilof Islands, Alaska pursuant to the Fur Seal Act of 1966 (16 U.S.C. 1151 et seq.), as amended, or other applicable law.

Work to commence in FY96 under section one of this notice will include (a) Surface Debris Removal on both St. Paul and St. George Islands, and (b) Underground Storage Tank Removal on both St. Paul and St. George Islands.

B. Funding

NOAA issues this notice to solicit applications for federal assistance, describing the intent to award cooperative agreements, the procedures under which applications will be accepted for Part I and how NOAA will select the applications it will fund.

Sharing of project costs by applicants is not required and will not be considered in the technical evaluation of proposals.

II. Funding Priorities

Part I of this Program will be on the removal and disposal/recycling of surface debris as per the Two Party Agreement referenced above.

Greatest consideration will be given to applications that will promote the economic stability or future self-sufficiency of the recipient.

III. How To Apply

A. Eligible Applicants

Applications for cooperative agreements may be made in accordance with the procedures set forth in this notice, by any local entity or resident of the Pribilof Islands, as defined in the Fur Seal Act of 1966 (16 U.S.C. 1151 et seq.), as amended, and who is a citizen or national of the United States.

Federal Government employees including full-time, part-time, and intermittent personnel are not eligible to submit an application under this solicitation.

Assistance from NOAA employees is available to eligible applicants, by telephone and will be limited to such issues, as the program goals, funding, priorities and application forms. *Since this is a competitive program, assistance will not be provided in conceptualizing, developing, or structuring competitive proposals.*

B. Duration and Terms of Funding

Generally, cooperative agreements are awarded for a period of 1 year, but no more than 18 months.

If an application for an award is selected for funding, the Department has no obligation to provide any additional future funding in connection with that award. Amendments to increase funding or extend the period of performance is at the discretion of the Department.

Publication of this announcement does not obligate NOAA to award any specific grant or cooperative agreement

or to obligate any part of the entire amount of funds available.

C. Format

Applications for project funding must be complete, and must identify the principal participants and include copies of any agreements between the participants and the applicant describing the specific tasks to be performed. Project applications must respond to priorities contained in section II of this document. Project applications must be submitted in the format that follows:

1. Cover sheet: An applicant must use Standard Form 424 (revised 4–92) as a cover sheet for each project. The forms are included in the NOAA Application kit.

2. Project Budget: A budget must be submitted for each project, using SF–424A (Rev. 4/92), Budget Information Non-Construction Programs. The applicants must submit cost estimates of the direct total project costs. Estimates of the direct costs must be specified in the categories listed on the SF–424A. A budget narrative/detail must also be provided as described in the NOAA Application Kit. The budget may also include an amount for indirect costs, if the applicant has an established indirect cost rate with the Federal Government. A copy of the current, approved, negotiated indirect cost Agreement with the Federal Government must be included with the application. The total dollar amount of the indirect costs proposed in an application under this program must not exceed the indirect cost rate negotiated and approved by a cognizant Federal agency prior to the proposed effective date of the award or 100 percent of the total proposed direct costs dollar amount in the application, whichever is less. This restriction also applies to any subrecipient of this program.

Fees or profits are not allowable costs under the awards.

The total costs of the project consist of all costs to accomplish the objectives of the project during the period the project is conducted. A project begins on the effective date of an award and ends on the date specified in the award. Only costs incurred during the award period shall be considered allowable, allocable and reasonable. Accordingly, *the time expended and costs incurred in either the development of a project or the financial assistance application, or in any subsequent discussions or negotiations prior to awards, are not reimbursable.*

3. Project Narrative Description: The project must be completed and accurately described, as follows:

a. Executive Summary. Provide a brief discussion on the nature of the problem, the location of the project, and a historical/background information as it relates to the project.

b. Project Objectives: State what the proposed project is expected to accomplish, and describe how this will eliminate or reduce the problem(s) described in 3.a. above.

c. Participation in the project or any part thereof by Persons or Groups Other Than the Applicant: Describe the nature of such participation.

d. Federal, State, and Local Government Coordination/Activities: List any existing Federal, state, or local government programs or activities that this project would affect, including activities under state Coastal Zone Management Plans and those requiring consultation with Federal Government under the Endangered Species Act and the Marine Mammal Protection Act. Describe the relationship between the project and these plans or activities.

e. Project Work Plan: The Work Plan statement of work is an action plan of activities to be conducted during the period of the project. This section requires the applicant to prepare a detailed narrative, fully describing the work to be performed that will achieve the previously articulated objectives. A milestone chart that outlines major goals, supporting work activities, and time frame, and individuals responsible for various work activities may be used to describe the work to be performed. The narrative should include information that responds to the following questions:

(1) How will the project be designed? What design incurred in the performance of project tasks to criteria will be used? (e.g., pertinent regulatory compliance such as environmental and safety regulations, cost and technology effectiveness, and etc.)

(2) What will be accomplished? (e.g., removal and salvaging of surface debris)

(3) What work, activities or procedures (be specific as possible) will be undertaken to accomplish the project objectives?

(4) Who will be responsible for carrying out the various activities? (Highlight work that will be subcontracted and provisions for competitive subcontracting). All key personnel and subcontracts proposed by the applicant are subject to the review and approval of NOAA. NOAA will maintain a high level of substantial involvement during the project period to ensure compliance by the recipient and its subcontractors with all statutory requirements, including environmental compliance.

(5) Which regulations govern the proposed type of work (e.g., state or federal? Environmental or Safety?, ADEC's Soil Remediation or Solid Waste regulations?) and project objectives? Who will be responsible for ensuring that the proposed project activities and objectives satisfy the governing regulations?

(6) The narrative/milestone chart should graphically illustrate:

(a) Steps to accomplish the major activities;

(b) Critical path(s), supporting activities, and associated time lines (e.g., month 1, month 2); and

(c) The individual(s) responsible for the various activities. This information is critical to understanding and reviewing the application. NOAA encourages applicants to provide sufficient detail. Applications lacking sufficient detail will be eliminated from further consideration.

f. Project Management and Personnel Qualifications: Describe how the project will be organized and managed. Provide an organizational chart and line of communication. List all persons directly employed by the applicant who will be involved in the project, their qualifications, experience, and level of involvement in the project. If any portion of the project will be conducted through consultants and/or subcontractors, applicants, as appropriate, must follow procurement guidance in 15 CFR part 24, ''Grants and Cooperative Agreements to State or Local Governments'', or OMB Circular A–110 for Institutions of Higher Education, Hospitals, and other Non-profit Organizations, Commercial Organizations and individuals. If a consultant and/or subcontractor is selected prior to the submission of an application, include the name and qualifications of the consultant and/or subcontractor and the process used for selection.

IV. Evaluation of Proposed Projects

NOAA will solicit technical evaluations of each project application from a Source Evaluation Board composed of appropriate public sector experts. Individual point scores will be given to project applications, based on the following criteria:

1. Problem Description and Conceptual Approach for Resolution. Both the applicant's comprehension of the problem(s) and the overall concept proposed to resolve the problem(s) will be evaluated. (25 points)

2. Soundness of Project Design/ Technical Approach. Applications will be evaluated to determine whether or not the applicant provided sufficient

information to evaluate the project technically and, if so, the strengths and/or weaknesses of the technical design proposed for problem resolution. (25 points)

3. Project Management and Experience and Qualification of Personnel. The organization and management of the project, and other key personnel in terms of related experience and qualifications will be evaluated. Those projects that do not identify the key personnel or project manager with his or her qualifications will receive a lower point score. (20 points)

In reviewing and evaluating applications that include consultants and subcontracts, NOAA will consider the following additional criteria:

a. Is the *involvement of the primary applicant necessary* to conduct the project and the accomplishment of its goals and objectives?

b. Is the proposed allocation of the primary applicant's time reasonable and commensurate with the applicant's involvement in the project?

c. Are the proposed costs for the primary applicant's involvement in the project reasonable and commensurate with the benefits to be derived from the applicant's participation?

4. Project Evaluation. The effectiveness of the applicant's proposed methods to evaluate the project in terms of meeting its goals and objectives will be evaluated. (10 points)

5. Project Costs. The justification and allocation of the budget in terms of the work to be performed and reasonable costs will be evaluated. (20 points)

V. Selection Procedures and Project Funding

After applications have been evaluated and ranked, the Director WASC, will select from the highest-ranked applicants the number of projects recommended for funding, ensuring that there is no duplication with other projects to be funded by NOAA or other Federal organizations. The list of recommended applicants will be forwarded to NOAA Grants Management Division to issue the award(s). Applicants not recommended for funding are not given further consideration and will be notified of non-selection.

The exact amount of the funds awarded to a project will be determined in pre-award negotiations between the applicant and NOAA program and grants management representatives.

Projects/remediation should not be initiated in expectation of Federal funding until a notice of award document is signed and issued by the Grants Officer.

It is the Department's policy to make awards to applicants who are competently managed, responsible, and committed to achieving the objectives of the awards they receive. Adverse information concerning the applicant's financial stability, past experience with Federal grants, and other information about the applicant's responsibility may result in an application not being considered for funding.

VI. Administrative Requirements

A. Obligation of the Applicant

1. An Applicant must:

a. Meet all application requirements and provide all information necessary for the evaluation of the project proposal.

b. Be available, upon request, in person, by telephone or by designated representative, to respond to questions during the review and evaluation of the project proposal.

2. Primary Applicant Certification. Applicants will be required to submit a completed Form CD–511, ''Certification Regarding Debarment, Suspension and Other Responsibility Matters; Drug Free Workplace Requirements and Lobbying''. The following explanations are hereby provided:

a. Nonprocurement Debarment and Suspension. Prospective participants (as defined at 15 CFR part 26, Section 105) are subject to 15 CFR Part 26, ''Nonprocurement Debarment and Suspension'' and the related section of the certification form prescribed above applies;

b. Drug-Free Workplace. Grantees (as defined at 15 CFR Part 26, Section 605) are subject to 15 CFR part 26, Subpart F, ''Government wide Requirements for Drug-Free Workplace (Grants)'' and the related section of the certification form prescribed above applies;

c. Anti-Lobbying. Person(s) (as defined at 15 CFR Part 28, Section 105) are subject to the lobbying provision of 31 U.S.C. 1352, ''Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions''. The lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000, or the single family maximum mortgage limit for affected programs, which ever is greater; and

d. Anti-Lobbying Disclosure. Any applicant that has paid or will pay for lobbying using any funds must submit Standard Form SF–LLL, ''Disclosure of Lobbying Activities,'' as required under 15 CFR Part 28, Appendix B.

3. Lower Tier Certifications. Successful applicants shall require applicants/bidders for subgrants, contracts, subcontractors, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, ''Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying'', and disclosure form, SF–LLL, ''Disclosure of Lobbying Activities.'' Form CD–512 is intended for the use of recipients of subrecipients and should not be transmitted to DOC. SF–LLL submitted by any tier recipient or subrecipient should be submitted to DOC in accordance with the instructions contained in the awards document.

B. Other Requirements

1. Federal Policies and Procedures. Recipients and subrecipients are subject to all Federal laws and Federal and DOC policies, regulations, and procedures applicable to Federal financial assistance awards.

2. Name check review. All non-profit and for profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the recipient have been convicted of, or are presently facing, criminal charges such as fraud, theft, perjury, or other matters that significantly reflect on the recipient's management, honesty, or financial integrity.

3. False Statements. A false statement on the application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment (18 U.S.C. 1001).

4. Past Performance. Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

5. Delinquent Federal Debts. No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either:

a. The delinquent account is paid in full;

b. A negotiated repayment schedule is established and at least one payment is received; or

c. Other arrangements satisfactory to DOC are made.

6. Buy American-Made Equipment or Products. Applicants are hereby notified that they are encouraged, to the extent feasible, to purchase American-made equipment and products with funding under this program.

7. Preaward Activities. If applicants incur any costs prior to an award being

made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal or written assurance that may have been received, there is no obligation on the part of DOC to cover Preaward costs.

VII. Classification

A notice of availability of financial assistance for this program will also appear in the Commerce Business Daily.

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

Applications under this program are subject to E.O. 12372, ''Intergovernmental Review of Federal Programs.''

The application mentioned in this notice is subject to the Paperwork Reduction Act. It has been approved by the Office of Management and Budget under control numbers 0348–0043, 0348–0044, and 0348–0046. Notwithstanding any other provision of law, no person is required to respond to, nor shall any 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 displays a current valid OMB Control Number.

Authority: Public Law 104–91.

Dated: May 16, 1996.

Michael J. Nelson,

Acting Director, Procurement, Grants and Administrative Services, Office of Finance and Administration.

[FR Doc. 96–12768 Filed 5–17–96; 2:27 pm]

BILLING CODE 3510–12–U

National Oceanic and Atmospheric Administration

[I.D. 051396F]

Endangered Species; Permits

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

ACTION: Issuance of permit 988, amendment 1 to permit 942, and modification 2 to permit 962.

SUMMARY: Notice is hereby given that NMFS issued Permit 988, Amendment 1 to Permit 942, and Modification 2 to by Permit 962, permits to take listed sea turtles for the purpose of scientific research, subject to certain conditions set forth therein.

ADDRESSES: The applications, permits, and related documents are available for review by appointment in the following offices:

Office of Protected Resources, F/PR8, NMFS, 1315 East-West Hwy., Room 13307, Silver Spring, MD 20910–3226 (301–713–1401); and

Director, Southeast Region, NMFS, NOAA, 9721 Executive Center Drive, St. Petersburg, FL 33702–2432 (813–893–3141) for Permits 942 and 962

or

Director, Southwest Region, NMFS, NOAA, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213 (310–980–4016) for Permit 988.

SUPPLEMENTARY INFORMATION: Notice was published on January 23, 1996 (61 FR 1748) that an application had been filed by Dr. Peter Dutton of NMFS Southwest Fisheries Science Center and Donna McDonald of Ocean Planet Research, Inc. (P602) to take listed sea turtles for scientific research as authorized by the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531–1543) and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 217–222). The applicants requested authorization to capture 50 green (*Chelonia mydas*), 5 olive ridley (*Lepidochelys olivacea*), and 5 loggerhead (*Caretta caretta*) sea turtles in San Diego Bay. The turtles would be measured, weighed, have blood and stomach samples taken, and have tags and transmitters attached. The purpose of the research is to reassess the status of sea turtles in San Diego Bay. The applicants requested a 5-year permit. On May 10, 1996, NMFS issued Permit 988 authorizing the above research.

Notice was published on February 29, 1996 (61 FR 7776) that a four-year extension to Permit 962 had been requested by Carlos Diez and Robert van Dam of the University of Central Florida (P509B) to take listed sea turtles for scientific research as authorized by the ESA. On May 10, 1996, NMFS issued Modification 2 to Permit 962, extending it until May 31, 2000. The applicants are authorized to capture listed sea turtles in Puerto Rico.

On April 25, 1996, as authorized by the ESA, NMFS issued Amendment 1 to Permit 942 held by Jane Anne Provancha of the Dynamac Corporation (P576). This amendment updated the permit conditions regarding netting to capture sea turtles, so as to avoid interaction with any species not authorized in the permit.

Issuance of this permit, modification, and amendment, as required by the ESA, was based on a finding that these actions: (1) Were applied for in good faith, (2) will not operate to the disadvantage of the listed species that are the subject of the actions, and (3) are consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: May 14, 1996.

Eric H. Ostrovsky,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 96–12784 Filed 5–21–96; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 050896A]

Marine Mammals; Permit No. 728 (P36C)

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

ACTION: Issuance of modification.

SUMMARY: Notice is hereby given that permit no. 728, issued to Dr. Bernd Würsig and Dr. Graham Worthy, Marine Mammal Research Program, Department of Marine Biology, Texas A&M University, P.O. Box 1675, Galveston, TX 77553–1675, to take Atlantic bottlenose dolphins (*Tursiops truncatus*) was extended until December 31, 1996.

ADDRESSES: The modification and related documents are available for review upon written request or by appointment in the following offices:

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130 Silver Spring, MD 20910 (301/713–2289); and

Southeast Region, NMFS, 9721 Executive Center Drive, North, St. Petersburg, FL 33702–2532 (813/570–5301).

SUPPLEMENTARY INFORMATION: The subject modification has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the provisions of paragraphs (d) and (e) of § 216.33 of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

Dated: May 13, 1996.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 96–12782 Filed 5–21–96; 8:45 am]

BILLING CODE 3510–22–F

Patent and Trademark Office

Notice of Two Year Exclusivity Period; DAYPRO® Oxaprozin

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Notice of Receipt of Notice of Entitlement under section 2105 of the FDA Export Reform and Enhancement Act of 1996 (Chapter 1A of Pub. L. No. 104–134).

SUMMARY: The Patent and Trademark Office has received notification from G. D. Searle & Co. that it claims entitlement under section 2105 of the FDA Export Reform and Enhancement Act of 1996 (Chapter 1A of Pub. L. No. 104–134) for its drug product DAYPRO—oxaprozin.

FOR FURTHER INFORMATION CONTACT: Karin Tyson by telephone at (703) 305–9285; by mail marked to her attention and addressed to the Assistant Commissioner for Patents, Box DAC, Washington, D.C. 20231; or by fax marked to her attention at (703) 308–6916.

SUPPLEMENTARY INFORMATION: On April 25, 1996, the FDA Export Reform and Enhancement Act of 1996 (Act) (Chapter 1A of Pub. L. No. 104–134) was enacted. Section 2105 thereof grants specified exclusive rights to the owner of the right to market a specified nonsteroidal anti-inflammatory drug who has complied with the Act. The text of Section 2105 is as follows:

(a) In General.—Any owner on the date of enactment of this Act of the right to market a nonsteroidal antiinflammatory drug that—

(1) contains a previously patented active agent;

(2) has been reviewed by the Federal Food and Drug Administration for a period of more than 120 months as a new drug application; and

(3) was approved as safe and effective by the Federal Food and Drug Administration on October 29, 1992,

shall be entitled, for the 2-year period beginning on October 29, 1997, to exclude others from making, using, offering for sale, selling, or importing into the United States such active agent, in accordance with section 154(a)(1) of title 35, United States Code.

(b) Infringement.—Section 271 of title 35, United States Code shall apply to the infringement of the entitlement provided under subsection (a). No application described in section 271(e)(2)(A) of title 35, United States Code, regardless of purpose, may be submitted prior to the expiration of the entitlement provided under subsection (a).

(c) Notification.—Not later than 30 days after the date of enactment of this Act, any owner granted an entitlement under subsection (a) shall notify the Commissioner of Patents and Trademarks and the Secretary of Health and Human Services of such entitlement. Not later than 7 days after receipt of such notice, the Commissioner and Secretary shall publish an appropriate notice of the receipt of such notice.

On May 15, 1996, G. D. Searle & Co., filed a notice with the Commissioner of Patents and Trademarks of its claim for entitlement pursuant to Section 2105(c) of the Act. The notice states that G. D. Searle & Co. was the owner of the right to market the nonsteroidal antiinflammatory drug oxaprozin on April 25, 1996, the date of enactment of the Act. Further, the notice states: that oxaprozin contains an agent that was patented and covered by U.S. Patent No. 3,578,671; that a New Drug Application (NDA) was filed on August 10, 1982 for oxaprozin and was reviewed for a period of more than 120 months; and that oxaprozin was approved as safe and effective by the Federal Food and Drug Administration on October 29, 1992.

Dated: May 16, 1996.

Bruce A. Lehman,

Assistant Secretary of Commerce and Commissioner of Patents and Trademarks.

[FR Doc. 96–12882 Filed 5–21–96; 8:45 am]

BILLING CODE 3510–16–U

COMMODITY FUTURES TRADING COMMISSION

Chicago Mercantile Exchange Proposed Futures and Option Contracts on the Taiwan Stock Index

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity futures contract.

SUMMARY: The Chicago Mercantile Exchange (CME or Exchange) has applied for designation as a contract market in futures and futures options on the Taiwan Stock Index. The Acting Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposal for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATES: Comments must be received on or before June 21, 1996.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st St., NW., Washington, DC 20581. Reference should be made to the Chicago Mercantile Exchange Taiwan Stock Index futures and option contracts.

FOR FURTHER INFORMATION CONTACT: Please contact Stephen Sherrod of the Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st St., NW., Washington, DC 20581, telephone 202–418–5277.

SUPPLEMENTARY INFORMATION: Copies of the terms and conditions will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st St., NW., Washington, DC 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 418–5097.

Other materials submitted by the CME in support of the application for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1987)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the proposed terms and conditions, or with respect to other materials submitted by the CME, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st St., NW., Washington, DC 20581 by the specified date.

Issued in Washington, DC, on May 16, 1996.

Blake Imel,

Acting Director.

[FR Doc. 96–12820 Filed 5–21–96; 8:45 am]

BILLING CODE 6351–01–P

Meetings; Sunshine Act

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m., Friday, June 7, 1996.

PLACE: 1155 21st St. N.W., Washington, D.C. 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 96–12992 Filed 5–20–96; 8:45 am]

BILLING CODE 6351–01–M

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m., Friday, June 14, 1996.

PLACE: 1155 21st St. N.W., Washington, D.C. 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 96–12993 Filed 5–20–96; 1:15 pm]

BILLING CODE 6351–01–M

Sunshine Act Meetings

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m., Friday, June 21, 1996.

PLACE: 1155 21st St. N.W., Washington, D.C. 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 96–12994 Filed 5–20–96; 1:15 pm]

BILLING CODE 6351–01–M

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m., Friday, June 28, 1996.

PLACE: 1155 21st St. N.W., Washington, D.C. 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 96–12995 Filed 5–20–96; 1:15 pm]

BILLING CODE 6351–01–M

CONSUMER PRODUCT SAFETY COMMISSION

Submission for OMB Review; Comment Request—Coal- and Wood-Burning Stoves

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In the Federal Register of November 9, 1995 (60 FR 56577), the Consumer Product Safety Commission published a notice in accordance with provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) to announce the agency's intention to seek reinstatement of approval of the information collection requirements in 16 CFR Part 1406, ''Coal- and Wood-Burning Appliances—Notification of Performance and Technical Data.'' By publication of this notice, the Commission announces that it has submitted to the Office of Management and Budget a request for reinstatement of approval of those information collection requirements without change through May 30, 1999.

The rule codified at 16 CFR Part 1406 requires manufacturers and importers of certain coal- and wood-burning appliances to provide safety information to consumers on labels affixed to those products and in instructions to accompany those products. The rule also requires manufacturers and importers to provide to the Commission copies of labels and instructions and an explanation of how certain clearance distances in those labels and instructions were determined.

The purposes of the reporting requirements in part 1406 are to reduce risks of injuries from fires associated with the installation, operation, and maintenance of the appliances which are subject to the rule. The reporting requirements also assist the Commission determine the extent to which manufacturers and importers comply with the requirements in part 1406.

Additional Information About the Request for Extension of Approval of Information Collection Requirements

Agency address: Consumer Product Safety Commission, Washington, DC 20207

Title of information collection: Coal- and Wood-Burning Appliances—Notification of Performance and Technical Data (16 CFR Part 1406).

Type of request: Reinstatement of approval without change.

General description of respondents: Manufacturers and importers of coal- and wood-burning fireplace stoves, heaters, and similar appliances.

Estimated number of respondents: 10.

Estimated average number of hours per respondent: 3 per year.

Estimated number of hours for all respondents: 30 per year.

Comments: Comments on this request for extension of approval of information collection requirements should be sent within 30 days of publication of this notice to Donald Arbuckle, Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503; telephone: (202) 395–7340. Copies of the request for reinstatement of information collection requirements and supporting documentation are available from Nicholas V. Marchica, Director, Office of Planning and Evaluation, Consumer Product Safety Commission, Washington, DC 20207; telephone: (301) 504–0416, extension 2243.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 96–12764 Filed 5–21–96; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Department of the Navy

Privacy Act of 1974; Amend Record System

AGENCY: Department of the Navy, DOD.

ACTION: Amend record system.

SUMMARY: The Department of the Navy proposes to amend seven system of records notice in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The amendments will be effective on June 21, 1996, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Department of the Navy, PA/FOIA Policy Branch, Chief of Naval Operations (N09B30), 2000 Navy Pentagon, Washington, DC 20350–2000.

FOR FURTHER INFORMATION CONTACT: Mrs. Doris Lama at (202) 685–6545 or DSN 325–6545.

SUPPLEMENTARY INFORMATION: The Department of the Navy's record system notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the Federal Register and are available from the address above.

The Department of the Navy proposes to amend seven system of records notice in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

The specific changes to the system of records are set forth below followed by the system of records notice published in its entirety, as amended. The amendments are not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of new or altered systems reports.

Dated: May 16, 1996.

L. M. Bynum,
Alternate OSD Federal Register Liaison Officer, Department of Defense.

N04066–1

SYSTEM NAME:

Bad Checks and Indebtedness Lists *(September 20, 1993, 58 FR 48862).*

CHANGES:

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

At end of entry, add 'includes all holders of NEXCARDs.'

CATEGORIES OF RECORDS IN THE SYSTEM:

At end of entry, add 'NEXCARD data base.'

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete '80 Stat 308 and 88 Stat 393.'

* * * * *

STORAGE:

Delete entry and replace with 'Mainframe magnetic tapes, disk drives, printed reports, file folders, and PC hard and floppy disks.'

* * * * *

SAFEGUARDS:

Delete entry and replace with 'Locked file cabinets, supervised office space, supervised computer tape library which is accessible only through the data center, entry to which is controlled by a 'cardpad' security system, for which only authorized personnel are given the access code. PC entry into the system may only be made through individual passwords.'

RETENTION AND DISPOSAL:

At end of entry, add 'NEXCARD customer master records are saved daily for one month after which they become part of the monthly master files which are saved for a year. The administrator of the NEXCARD, Citicorp Retail Services, retains and stores the year-end master files indefinitely in a vault contained in their mega-data center in Nevada.'

SYSTEM MANAGER(S) AND ADDRESS:

Delete second paragraph and replace with 'Record Holder: Treasurer, Navy Exchange Service Command, 3280 Virginia Beach Boulevard, Virginia Beach, VA 23452–5724 (for Navy exchanges).'

* * * * *

N04066–1

SYSTEM NAME:

Bad Checks and Indebtedness Lists.

SYSTEM LOCATION:

Navy Exchange Service Command, 3280 Virginia Beach Boulevard, Virginia Beach, VA 23452–5724 (for all Navy exchanges).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Patrons of Navy exchanges who have passed bad checks; recruits who have open accounts with Navy exchanges; patrons who have made C.O.D. mail order transactions and those patrons who make authorized charge or credit purchases where their accounts are maintained on the basis of an identifying particular such as name and/or Social Security Number, includes all holders of NEXCARDs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Bad Check System (including: Returned Check Ledger; Returned Check Report; copies of returned checks; bank advice relative to the returned check(s); correspondence relative to attempt by the Navy exchange to locate the patron and/or obtain payment; a printed report of names of those persons who have not made full restitution promptly, or who have had one or more checks returned through their own fault or negligence); Accounts Receivable Ledger, detailed by patron; C.O.D. Sales Ledger; and NEXCARD data base.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 6011; Federal Claims Collection Act of 1966 (Pub. L. 89–508) and Debt Collection Act of 1982 (Pub. L. 97–365); and E.O. 9397.

PURPOSE(S):

To maintain an automated tracking and accounting system for individuals indebted to the Department of the Navy.

Records in this system are subject to use in approved computer matching programs authorized under the Privacy Act of 1974, as amended, for debt collection purposes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To a commercial credit reporting agency for the purpose of either adding to a credit history file or obtaining a credit history file for use in the administration of debt collection.

To a debt collection agency for the purpose of collection services to recover indebtedness owed to the Department of the Navy.

To the Internal Revenue Service (IRS) to obtain the mailing address of a taxpayer for the purpose of locating such taxpayer to collect or to compromise a Federal claim by Navy against the tax payer pursuant to 26 U.S.C. 6103(m)(2) and in accordance with 31 U.S.C. 3711, 3217, and 3718.

Note:Redisclosure of a mailing address from the IRS may be made only for the purpose of debt collection, including to a debt collection agency in order to facilitate the collection or compromise of a Federal claim under the Debt Collection Act of 1982, except that a mailing address to a consumer reporting agency is for the limited purpose of obtaining a commercial credit report on the particular taxpayer. Any such address information obtained from the IRS will not be used or shared for any other Navy purpose or disclosed to another Federal , state, or local agency which seeks to locate the same individual for its own debt collection purpose.

The 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems notices also apply to this system.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosure pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act of 1966 (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

The disclosure is limited to information necessary to establish the identity of the individual, including name, address, and taxpayer identification number (Social Security Number); the amount, status, and history of the claim; and the agency or program under which the claim arose for the sole purpose of allowing the

consumer reporting agency to prepare a commercial credit report.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Mainframe magnetic tapes, disk drives, printed reports, file folders, and PC hard and floppy disks.

RETRIEVABILITY:

Name and Social Security Number.

SAFEGUARDS:

Locked file cabinets, supervised office space, supervised computer tape library which is accessible only through the data center, entry to which is controlled by a 'cardpad' security system, for which only authorized personnel are given the access code. PC entry into the system may only be made through individual passwords.

RETENTION AND DISPOSAL:

Records are kept for ten years and then destroyed. NEXCARD customer master records are saved daily for one month after which they become part of the monthly master files which are saved for a year. The administrator of the NEXCARD, Citicorp Retail Services, retains and stores the year-end master files indefinitely in a vault contained in their mega-data center in Nevada.

SYSTEM MANAGER(S) AND ADDRESS:

Policy Official: Commander, Navy Exchange Service Command, 3280 Virginia Beach Boulevard, Virginia Beach, VA 23452–5724.

Record Holder: Treasurer, Navy Exchange Service Command, 3280 Virginia Beach Boulevard, Virginia Beach, VA 23452–5724 (for Navy exchanges).

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Commander, Navy Exchange Service Command, 3280 Virginia Beach Boulevard, Virginia Beach, VA 23452–5724.

In the initial inquiry, the requester must provide full name, Social Security Number, and the activity where they had their dealings. A list of other offices the requester may visit will be provided after initial contact is made at the office listed above. At the time of a personal visit, requesters must provide proof of identity containing the requester's signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves should address written inquiries to the Commander, Navy Exchange Service Command, 3280 Virginia Beach Boulevard, Virginia Beach, VA 23452–5724.

In the initial inquiry, the requester must provide full name, Social Security Number, and the activity where they had their dealings. A list of other offices the requester may visit will be provided after initial contact is made at the office listed above. At the time of a personal visit, requesters must provide proof of identity containing the requester's signature.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

The individual; the bank involved; activity sales records; Internal Revenue Service; credit bureaus; and the Defense Manpower Data Center.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

N05300–2

SYSTEM NAME:

Administrative Personnel Management System *(August 17, 1995, 60 FR 42853).*

CHANGES:

* * * * *

SYSTEM LOCATION:

Add two addresses as follows ''Commander in Chief, U.S. Atlantic Command, 1562 Mitscher Avenue, Suite 200, Norfolk, VA 23551–2488 and Commander in Chief, U.S. Pacific Command, PO Box 64028, Camp H.M. Smith, HI, 96861–4028.''

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

In line 16, after the words, 'biographical data;' add 'date of birth;'.

* * * * *

N05300–2

SYSTEM NAME:

Administrative Personnel Management System.

SYSTEM LOCATION:

Organizational elements of the Department of the Navy. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices. Included in this notice are those records duplicated for maintenance at a site closer to where the employee works (e.g., in an administrative office or a supervisor's work area).

Commander in Chief, U.S. Atlantic Command, 1562 Mitscher Avenue, Suite 200, Norfolk, VA 23551–2488.

Commander in Chief, U.S. Pacific Command, PO Box 64028, Camp H.M. Smith, HI, 96861–4028.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All civilian, (including former members and applicants for civilian employment), military and contract employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence/records concerning personnel identification, location (assigned organization code and/or work center code); MOS; labor code; payments for training, travel advances and claims, hours assigned and worked, routine and emergency assignments, functional responsibilities, clearance, access to secure spaces and issuance of keys, educational and experience characteristics and training histories, travel, retention group, hire/termination dates; type of appointment; leave; trade, vehicle parking, disaster control, community relations, (blood donor, etc), employee recreation programs; grade and series or rank/rate; retirement category; awards; biographical data; date of birth; property custody; personnel actions/dates; violations of rules; physical handicaps and health/safety data; veterans preference; postal address; location of dependents and next of kin and their addresses; mutual aid association memberships; union memberships; qualifications; computerized modules used to track personnel data; and other data needed for personnel, financial, line, safety and security management, as appropriate.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations and E.O. 9397.

PURPOSE(S):

To manage, supervise, and administer programs for all Navy civilian and military personnel such as preparing rosters/locators; contacting appropriate personnel in emergencies; training; identifying routine and special work assignments; determining clearance for access control; record handlers of hazardous materials; record rental of welfare and recreational equipment; track beneficial suggestions and awards; controlling the budget; travel claims; manpower and grades; maintaining statistics for minorities; employment; labor costing; watch bill preparation;

projection of retirement losses; verifying employment to requesting banking; rental and credit organizations; name change location; checklist prior to leaving activity; payment of mutual aid benefits; safety reporting/monitoring; and, similar administrative uses requiring personnel data. Arbitrators and hearing examiners in civilian personnel matters relating to civilian grievances and appeals.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS:

STORAGE:

File folders, card files, magnetic tape, magnetic disc, personal computer.

RETRIEVABILITY:

Name, Social Security Number, employee badge number, case number, organization, work center and/or job order, supervisor's shop and code.

SAFEGUARDS:

Password controlled system, file, and element access based on predefined need to know. Physical access to terminals, terminal rooms, buildings and activities' grounds are controlled by locked terminals and rooms, guards, personnel screening and visitor registers.

RETENTION AND DISPOSAL:

Normally retained for two years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Commanding officer of the activity in question. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the commanding officer of the activity in question. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

The request should include full name, Social Security Number, and address of the individual concerned and should be signed.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the commanding officer of the activity in question. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

The request should include full name, Social Security Number, and address of the individual concerned and should be signed.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual, employment papers, other records of the organization, official personnel jackets, supervisors, official travel orders, educational institutions, applications, duty officer, investigations, OPM officials, and/or members of the American Red Cross.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

N05330–1

SYSTEM NAME:

Manhour Accounting System *(February 22, 1993, 58 FR 10753).*

CHANGES:

* * * * *

SYSTEM LOCATION:

Add two addresses as follows 'Commander in Chief, U.S. Atlantic Command, 1562 Mitscher Avenue, Suite 200, Norfolk, VA 23551–2488 and Commander in Chief, U.S. Pacific Command, PO Box 64028, Camp H.M. Smith, HI, 96861–4028.'

* * * * *

N05330–1

SYSTEM NAME:

Manhour Accounting System.

SYSTEM LOCATION:

Organizational elements of the Department of the Navy. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

Commander in Chief, U.S. Atlantic Command, 1562 Mitscher Avenue, Suite 200, Norfolk, VA 23551–2488.

Commander in Chief, U.S. Pacific Command, PO Box 64028, Camp H.M. Smith, HI, 96861–4028.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military and civilian personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Record contains such information as name, grade/rate, Social Security Number, organizational code, work center code, grade code, pay rate, labor code, type transaction, hours assigned. Data base includes scheduling and assignment of work; skill level; tools issued; leave; temporary assignments to other areas.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations and E.O. 9397.

PURPOSE(S):

To effectively manage the work force.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tape and paper.

RETRIEVABILITY:

Name, organization code, Social Security Number, and work center.

SAFEGUARDS:

Files are stored in a limited access area. Information provided via batch processing is of a predetermined and strictly formatted nature.

RETENTION AND DISPOSAL:

Individual personal data are retained only for that period of time that an individual is assigned. Upon departure of an individual, personal data are deleted from the records and history records are not maintained.

SYSTEM MANAGER(S) AND ADDRESS:

The commanding officer of the activity in question. Official mailing

addresses are published as an appendix to the Navy's compilation of systems of records notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the commanding officer of the naval activity where currently employed. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

The request should include full name, Social Security Number, address of individual concerned, and should be signed.

RECORD ACCESS PROCEDURE:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the commanding officer of the naval activity where currently employed. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

The request should include full name, Social Security Number, address of individual concerned, and should be signed.

CONTESTING RECORD PROCEDURE:

The Navy's rules for accessing records, and for contesting contents and appealing determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual, correspondence, and personnel records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

N05340–1

SYSTEM NAME:

Combined Federal Campaign/Navy Relief Society *(February 22, 1993, 58 FR 10754).*

CHANGES:

* * * * *

SYSTEM LOCATION:

Add two addresses as follows 'Commander in Chief, U.S. Atlantic Command, 1562 Mitscher Avenue, Suite 200, Norfolk, VA 23551–2488 and Commander in Chief, U.S. Pacific Command, PO Box 64028, Camp H.M. Smith, HI, 96861–4028.'

* * * * *

N05340–1

SYSTEM NAME:

Combined Federal Campaign/Navy Relief Society.

SYSTEM LOCATION:

Organizational elements of the Department of the Navy. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

Commander in Chief, U.S. Atlantic Command, 1562 Mitscher Avenue, Suite 200, Norfolk, VA 23551–2488.

Commander in Chief, U.S. Pacific Command, PO Box 64028, Camp H.M. Smith, HI, 96861–4028.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All assigned personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names, addresses, Social Security Numbers, payroll identifying data, contributor cards and lists.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

E.O.s 9397 and 10927.

PURPOSE(S):

To manage the Combined Federal Campaign and Navy Relief Society Fund drives and provide the respective campaign coordinator with necessary information.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders, card files, and magnetic tape.

RETRIEVABILITY:

Name, Social Security Number, and organization.

SAFEGUARDS:

Access is limited and provided on a need to know basis only. Records are locked in safes and/or guarded offices.

RETENTION AND DISPOSAL:

Records are maintained for one year or completion of next equivalent campaign and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Commanding officer of the activity in question. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the commanding officer of the naval activity where currently or previously employed. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

The request should include full name, Social Security Number, address of the individual concerned, and should be signed.

RECORD ACCESS PROCEDURE:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the commanding officer of the naval activity where currently or previously employed. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

The request should include full name, Social Security Number, address of the individual concerned, and should be signed.

CONTESTING RECORD PROCEDURE:

The Navy's rules for accessing records, and for contesting contents and appealing determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Payroll files, administrative personnel files, contributors.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

N05354–1

SYSTEM NAME:

Equal Opportunity Management Information System *(February 22, 1993, 58 FR 10757).*

CHANGES:

* * * * *

SYSTEM LOCATION:

Add two addresses as follows 'Commander in Chief, U.S. Atlantic Command, 1562 Mitscher Avenue, Suite 200, Norfolk, VA 23551–2488 and Commander in Chief, U.S. Pacific

Command, PO Box 64028, Camp H.M. Smith, HI, 96861–4028.'

* * * * *

N05354–1

SYSTEM NAME:

Equal Opportunity Management Information System.

SYSTEM LOCATION:

Primary location: Bureau of Naval Personnel, 2 Navy Annex, Washington, DC 20370–5001; local activity to which individual is attached. Official mailing addresses are published as an appendix to the Navy's compilation of system of record notices.

Commander in Chief, U.S. Atlantic Command, 1562 Mitscher Avenue, Suite 200, Norfolk, VA 23551–2488.

Commander in Chief, U.S. Pacific Command, PO Box 64028, Camp H.M. Smith, HI, 96861–4028.

Secondary location: Department of the Navy activities in the chain of command between the local activity and the headquarters level. Official mailing addresses are published as an appendix to the Navy's compilation of system of record notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military personnel who are involved in formal or informal complaints or investigations involving aspects of equal opportunity; and/or who have initiated, or were the subject of correspondence concerning aspects of equal opportunity.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence and records concerning incident data, endorsements and recommendations, formal and informal complaints and investigations concerning aspects of equal opportunity.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations.

PURPOSE(S):

To assist in equal opportunity measures, including but not limited to, complaints, investigations, and correspondence.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Automated records may be stored on magnetic tapes, disc, and drums. Manual records may be stored in paper files, microfiche, or microform.

RETRIEVABILITY:

Filed alphabetically by last name of individual concerned.

SAFEGUARDS:

Computer facilities are located in restricted areas accessible only to authorized persons that are properly screened, trained and cleared. Manual records and computer printouts are available only to authorized personnel having a need to know.

RETENTION AND DISPOSAL:

Records maintained for two years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Naval Personnel (Pers 06), Bureau of Naval Personnel, 2 Navy Annex, Washington, DC 20370–5001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Chief of Naval Personnel (Pers 06), Bureau of Naval Personnel, 2 Navy Annex, Washington, DC 20370–5001; or to the local activity where assigned. Official mailing addresses are published as an appendix to the Navy's compilation of system of record notices.

The letter should contain full name and signature of the requester. The individual may visit the Chief of Naval Personnel, Bureau of Naval Personnel, 2 Navy Annex, Washington, DC 20370–5001, for assistance with records located in that building; or the individual may visit the local activity to which attached for access to locally maintained records. Proof of identification will consist of Military Identification Card for persons having such cards, or other picture-bearing identification.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Chief of Naval Personnel (Pers 06), Bureau of Naval Personnel, 2 Navy Annex, Washington, DC 20370–5001; or, in accordance with the Directory of Department of the Navy Mailing Addresses (i.e., local activities).

The letter should contain full name and signature of the requester. The individual may visit the Chief of Naval Personnel, Bureau of Naval Personnel, 2 Navy Annex, Washington, DC 20370–5001, for assistance with records located in that building; or the individual may visit the local activity to which attached for access to locally maintained records. Proof of identification will consist of Military Identification Card for persons having such cards, or other picture-bearing identification.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Federal, state, and local court documents; military investigatory reports; general correspondence concerning individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Parts of this system may be exempt under the provisions of 5 U.S.C. 552a(k)(1) and (k)(5), as applicable.

An exemption rule for this system has been promulgated in accordance with the requirements of 5 U.S.C. 553(b)(1), (2) and (3), (c) and (e) and published in 32 CFR Part 701, subpart G. For additional information contact the system manager.

N05370–2

SYSTEM NAME:

Financial Interest Disclosure Statements *(February 22, 1993, 58 FR 10758).*

CHANGES:

* * * * *

SYSTEM LOCATION:

Add two addresses as follows 'Commander in Chief, U.S. Atlantic Command, 1562 Mitscher Avenue, Suite 200, Norfolk, VA 23551–2488 and Commander in Chief, U.S. Pacific Command, PO Box 64028, Camp H.M. Smith, HI, 96861–4028.'

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N05370–2

SYSTEM NAME:

Financial Interest Disclosure Statements.

SYSTEM LOCATION:

Organizational elements of the Department of the Navy. Official mailing addresses are published as an

appendix to the Navy's compilation of systems of records notices.

Commander in Chief, U.S. Atlantic Command, 1562 Mitscher Avenue, Suite 200, Norfolk, VA 23551–2488.

Commander in Chief, U.S. Pacific Command, PO Box 64028, Camp H.M. Smith, HI, 96861–4028.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals required to file SF 450, SF 278, and/or DD Form 1787.

CATEGORIES OF RECORDS IN THE SYSTEM:

SF 450, Confidential Statement of Affiliations and Financial Interests; SF 278, Financial Disclosure Report; DD Form 1787, Report of DOD and Defense Related Employment; Position Descriptions; and related information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; Public Law 95–521, Ethics in Government Act of 1978; E.O. 11222; and E.O. 9397.

PURPOSE(S):

To permit supervisors, counselors, and other responsible DON officials to determine whether there are actual or apparent conflicts of interests between members' or employees' present and prospective official duties and their nonfederal affiliations and financial interests.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders and card files.

RETRIEVABILITY:

Name.

SAFEGUARDS:

Information is locked in a file cabinet accessible to authorized personnel only.

RETENTION AND DISPOSAL:

SF 450 and a complete record of all action taken thereon are retained for a period of six years in a central location within the command or activity to which the reporting official was assigned at the time of filing, after which they will be destroyed.

SF 278 and DD Forms 1787 are retained for six years from the date of filing, and then destroyed unless needed for any investigation in which case they shall be held pending completion of the investigation.

SYSTEM MANAGER(S) AND ADDRESS:

Policy Officials: General Counsel, Navy Department, Washington, DC 20360–5110 and Judge Advocate General, 200 Stovall Street, Alexandria, VA 22332–2400.

Record Holder: Commanding Officer or head of the organization in question. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Commanding Officer or head of the activity where they filed the forms.

Written requests should contain full name and must be signed by the individual.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves should address written inquiries to the Commanding Officer or head of the activity where they filed the forms.

Written requests should contain full name and must be signed by the individual.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual concerned, his/her supervisor, and ethics counselor.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

N06150–2

SYSTEM NAME:

Health Care Record System *(August 17, 1995, 60 FR 42855).*

CHANGES:

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ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In paragraph nine, first line, replace the word 'physicians' with 'health care providers.'

* * * * *

N06150–2

SYSTEM NAME:

Health Care Record System.

SYSTEM LOCATION:

Military outpatient health (medical and dental) records of active duty individuals are retained at the member's medical or dental treatment facility. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

Military outpatient health (medical and dental) records of current reservists are retained by the member's command. Military outpatient health (medical and dental) records of retired and separated individuals are retained at the National Personnel Records Center, 9700 Page Avenue, St. Louis, MO 63132–5100; Naval Reserve Personnel Center, 4400 Dauphine Street, New Orleans, LA 70149–7800; Marine Corps Reserve Support Center, 10905 El Monte, Overland Park, KS 66211–1408; Bureau of Medicine and Surgery, 2300 E Street, Northwest, Washington, DC 20372–5300; or Commandant of the Marine Corps, Headquarters, U.S. Marine Corps, 2 Navy Annex, Washington, DC 20380–0001.

Inpatient health records are retained at the originating naval medical treatment facility (official mailing addresses are published as an appendix to the Navy's compilation of system of records notices); Department of Veterans Affairs Hospitals; other medical treatment facilities such as PRIMUS; National Personnel Records Center (Military), 9700 Page Avenue, St. Louis, MO 63132–5100; National Personnel Records Center (Civilian), 111 Winnebago Street, St. Louis, MO 63118–4199; Naval Reserve Personnel Center, 4400 Dauphine Street, New Orleans, LA 70149–7800; Marine Corps Reserve Support Center, 10950 El Monte, Overland Park, KS 66211–1408; Medical Director, American Red Cross, Washington, DC 20226; Bureau of Medicine and Surgery, 2300 E Street, Northwest, Washington, DC 20372–5300; or Commandant of the Marine Corps, Headquarters, U.S. Marine Corps, 2 Navy Annex, Washington, DC 20380–0001.

Outpatient health (medical and dental) treatment records of civilians are

retained at the originating naval medical or dental treatment facility (official mailing addresses are published as an appendix to the Navy's compilation of system of records notices); Department of Veterans Affairs Hospitals; other medical treatment facilities such as PRIMUS; National Personnel Records Center, (Military Personnel Records), 9700 Page Avenue, St. Louis, MO 63132–5100; National Personnel Records Center, (Civilian Personnel Records), 111 Winnebago Street, St. Louis, MO 63118–4199; Medical Director, American Red Cross, Washington, DC 20226; Bureau of Medicine and Surgery, 2300 E Street, Northwest, Washington, DC 20372–5300; or Commandant of the Marine Corps, Headquarters, U.S. Marine Corps, 2 Navy Annex, Washington, DC 20380–0001.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Navy and Marine Corps personnel, other military personnel, dependents, retired and separated military personnel and dependents, civilian employees, Red Cross personnel, foreign personnel, VA beneficiaries, humanitarian patients, and all other individuals who receive treatment at a Navy medical or dental treatment facility. All commercial insurance carriers with whom the Department of the Navy has filed a claim under the Third Party Payers Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

Outpatient and inpatient health (medical and dental) records contain forms documenting care and treatment. These records contain patient and sponsor demographic data.

Secondary health records contain forms documenting care and treatment at specific departments or clinics.

Subsidiary health records contain information from individual health records and supporting documentation. Examples are: X-ray files; electrocephalogram tracing files; laboratory or secondary treatment record with supporting documentation or they may be based on the files; pharmacy files, social work case files; alcohol rehabilitation files; psychiatric or psychology case files, including psychology files documenting the clinical psychological evaluation of individuals for suitability for certain assignments; nursing care plans; medication and treatment cards, stat/daily orders; patient intake and output forms; ward reports; day books; nursing service reports; pathology and clinical laboratory reports; tumor registries; autopsy reports; laboratory information system (LABIS); blood transfusion reaction records; blood donor and blood donor center records; pharmacy records, surgery records, and vision records and reports; communicable disease case files, statistics, and reports; occupational health, industrial, and environmental control records, statistics, and reports, including data concerning periodic and total lifetime accumulated exposure to occupational/environmental hazards; emergency room and sick call logs; family advocacy case files, statistics, reports, and registers; psychiatric workload statistics and unit evaluations; gynecology malignancy data, etc.

Aviation physical examinations and evaluation case files contain medical records documenting fitness for admission or retention in aviation programs.

Marine Security Guard Battalion psychological examination, evaluation, and treatment case files contain medical records documenting suitability for assignment as Embassy Guards.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 1095, Collection from Third Party Payers Act; 10 U.S.C. 5131 (as amended); 10 U.S.C. 5132; 44 U.S.C. 3101; 10 CFR part 20, Standards for Protection Against Radiation; and, E.O. 9397.

PURPOSE(S):

This system is used by officials, employees and contractors of the Department of the Navy (and members of the National Red Cross in naval medical treatment facilities) in the performance of their official duties relating to the health and medical treatment of Navy and Marine Corps members; physical and psychological qualifications and suitability of candidates for various programs; personnel assignment; law enforcement; dental readiness; claims and appeals before the Council of Personnel Boards and the Board for Correction of Naval Records; member's physical fitness for continued naval service; litigation involving medical care; performance of research studies and compilation of statistical data; implementation of preventive medicine programs and occupational health surveillance programs; implementation of communicable disease control programs; and management of the Bureau of Medicine and Surgery's Radiation program and to report data concerning individual's exposure to radiation.

This system is also used for the initiation and processing, including litigation, of affirmative claims against potential third party payers.

This system is used by officials and employees of other components of the Department of Defense in the performance of their official duties relating to the health and medical treatment of those individuals covered by this record system; physical and psychological qualifications and suitability of candidates for various programs; and the performance of research studies and the compilation of medical data.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To officials and employees of the Department of Veterans Affairs in the performance of their official duties relating to the adjudication of veterans' claims and in providing medical care to Navy and Marine Corps members.

To officials and employees of other departments and agencies of the Executive Branch of Government upon request in the performance of their official duties related to review of the physical qualifications and medical history of applicants and employees who are covered by this record system and for the conduct of research studies.

To private organizations (including educational institutions) and individuals for authorized health research in the interest of the Federal Government and the public. When not considered mandatory, patient identification data shall be eliminated from records used for research studies.

To officials and employees of the National Research Council in cooperative studies of the National History of Disease.To officials and employees of local and state governments and agencies in the performance of their official duties relating to public health and welfare, communicable disease control, preventive medicine, child and spouse abuse prevention and public safety.

To officials and employees of local and state governments and agencies in the performance of their official duties relating to professional certification, licensing and accreditation of health care providers.

To law enforcement officials to protect the life and welfare of third parties. This release will be limited to necessary information. Consultation

with the hospital or regional judge advocate is advised.

To spouses of service members (including reservists) who are infected with the Human Immunodeficiency Virus. This release will be limited to HIV positivity information. Procedures for informing spouses will be published by the Director, Naval Medicine and must be used.

To military and civilian health care providers to further the medical care and treatment of the patient.

To release radiation data per 10 CFR part 20.

To third parties in those cases where the Government is seeking reimbursement under the Third Party Payers Act.

When required by federal statute, by executive order, or by treaty, medical record information will be disclosed to the individual, organization, or government agency, as necessary.

The 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of system of records notices also apply to this system.

Note: Records of identity, diagnosis, prognosis or treatment of any patient which are maintained in connection with the performance of any program or activity relating to substance abuse education, prevention, training, treatment, rehabilitation, or research, which is conducted, regulated, or directly or indirectly assisted by any department or agency of the United States, except as provided in 42 U.S.C. 290dd-2(e), be confidential and be disclosed only for the purposes and under the circumstances expressly authorized under 42 U.S.C. 290dd-2(b). The 'Blanket Routine Uses' do not apply to these types of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Primary, secondary, and subsidiary medical health records are stored in file folders, microform, on magnetic tape, personal computers, machine listings, discs, and other computerized or machine readable media.

RETRIEVABILITY:

Military health (medical and dental) treatment records are filed and maintained by the last four digits of the military member's Social Security Number, the member's last name, or the member's Social Security Number. A locator case file cross-references the patient's name with the location of his/her record.

Inpatient (clinical) health records are filed and maintained by the last four digits of the sponsor's Social Security Number or a register number. A manual or automatic register of patients is kept at each Navy medical treatment facility. The location of the file can be determined by a seven-digit register number or the patient's name.

Outpatient (medical and dental) health records are filed and maintained by the sponsor's Social Security Number or date of birth, relationship to the sponsor, and name. A locator file cross-references the patient's name with the location of his/her record.

Treatment records retired to a Federal Records Center prior to 1971 are retrieved by the name and service number or file number. After that date, records are retrieved by name and Social Security Number.

Aviation medical records are filed and maintained by Social Security Number and name.

Marine Security Guard Battalion psychological examination, evaluation, and treatment case files contain medical records documenting fitness for assignment as Embassy Guards and are filed and maintained by Social Security Number and name. Subsidiary health care records may or may not be identified by patient identifier. When they are, they may be retrieved by name and Social Security Number.

SAFEGUARDS:

Records are maintained in various kinds of filing equipment in specific monitored or controlled access rooms or areas; public access is not permitted. Computer terminals are located in supervised areas. Access is controlled by password or other user code system. Utilization reviews ensure that the system is not violated. Access is restricted to personnel having a need for the record in providing further medical care or in support of administrative/clerical functions. Records are controlled by a charge-out system to clinical and other authorized personnel.

RETENTION AND DISPOSAL:

Health care records are retained, retired, and disposed of in accordance with Secretary of the Navy Instruction 5215.5 (Disposal of Navy Marine Corps Records) and Bureau of Medicine and Surgery Instruction 6150.1 (Health Care Treatment Records). Specifics are given below:

Military health (medical and dental) records, are transferred with the member upon permanent change of duty station to his/her new duty station. These records are retired to the National Personnel Records Center, (Military Personnel Records), 9700 Page Avenue, St. Louis, MO 63132–5100; Naval Reserve Personnel Center, 4400 Dauphine Street, New Orleans, LA 70149–7800; and, Marine Corps Reserve Support Center, 10950 El Monte, Overland Park, KS 66211–1408.

Inpatient health records are transferred to the National Personnel Records Center, (Military Personnel Records), 9700 Page Avenue, St. Louis, MO 63132–5100 or to the National Personnel Records Center, (Civilian Personnel Records), 111 Winnebago Street, St. Louis, MO 63118–4199, two years after the calendar year of the last date of treatment.

Outpatient health records of civilians are transferred to the National Personnel Records Center, (Military Personnel Records), 9700 Page Avenue, St. Louis, MO 63132–5100 or to the National Personnel Records Center, (Civilian Personnel Records), 111 Winnebago Street, St. Louis, MO 63118–4199, two years after the calendar year of the last date of treatment.

X-ray files are retained on-site and destroyed three years after the last x-ray in the file. Asbestos x-rays are retained on site indefinitely.

Secondary health record may be retained separate from the health record. A notation is made in the health record that these records exist and where they are being kept. When the health record is retired or the patient transfers, these records should be entered in the health record.

Aviation medical records are retained at the activity and destroyed when 30 years old.

Marine Security Guard Battalion psychological examination, evaluation, and treatment case files containing medical records documenting fitness for assignment as Embassy Guards are retained at the activity and destroyed after 50 years.

Clinical psychology case files documenting suitability for special assignment will be retained at the originating medical treatment facility and destroyed when 50 years old.

Radiation exposure records for personnel are maintained indefinitely in the health record, and in a centralized exposure registry held by the Navy Environmental Health Center Detachment, Naval Dosimetry Center, Bethesda, MD 20889–5614.

SYSTEM MANAGER(S) AND ADDRESS:

Service medical (health and dental) records for active and reserve, Navy and Marine Corps: Chief, Bureau of Medicine and Surgery, 2300 E Street, Northwest, Washington, DC 20372–5300; Commanding Officers, Naval Activities, Ships and Stations; and, Director, National Personnel Records

Center, Military Personnel Records, 9700 Page Avenue, St. Louis, MO 63132–5100. Official mailing addresses are published as an appendix to the Navy's compilation of system of record notices.

Inpatient and outpatient treatment records: Chief, Bureau of Medicine and Surgery, 2300 E Street, Northwest, Washington, DC 20372–5300; Commanding Officers and Officers-in-Charge of naval medical treatment facilities; and, Director, National Personnel Records Center, Military Personnel Records, 9700 Page Avenue, St. Louis, MO 63132–5100. Official mailing addresses are published as an appendix to the Navy's compilation of system of record notices.

NOTIFICATION PROCEDURE:

Active duty Navy and Marine Corps personnel and drilling members of the Navy and Marine Corps Reserves seeking to determine whether this system of records contains information about themselves should address written inquiries to the originating medical or dental treatment facility. Official mailing addresses are published as an appendix to the Navy's compilation of system of record notices.

Inactive Naval Reservists should address requests for information to the Naval Reserve Personnel Center, 4400 Dauphine Street, New Orleans, LA 70149–7800. Marine Reservists should address requests for information to Marine Corps Reserve Support Center, 10950 El Monte, Overland Park, KS 66211–1408. Former members who have no further reserve or active duty obligations should address requests for information to the Director, National Personnel Records Center, (Military Personnel Records), 9700 Page Avenue, St. Louis, MO 63132–5100.

All written requests should contain the full name and Social Security Number of the individual, his/her signature, and in those cases where his/her period of service ended before 1971, his/her service or file number. In requesting records for personnel who served before 1964, information provided to the National Personnel Records Center should also include date and place of birth and dates of periods of active Naval service.

Records may be requested in person. Proof of identification will consist of the Armed Forces Identification Card or by other types of identification bearing picture and signature.

Requests for inpatient records within two years of inpatient stay should be addressed to the Commanding Officer of the hospital where the individual was treated.

Requests for inpatient records after two years after inpatient stay should be addressed to the Director, National Personnel Records Center, (Civilian Personnel Records), 111 Winnebago Street, St. Louis, MO 63118–4199 or to the Director, National Personnel Records Center, (Military Personnel Records), 9700 Page Avenue, St. Louis, MO 63132–5100.

Requests for subsidiary medical records should be addressed to the Commanding Officer of medical or dental center where treatment was received.

The following data should be provided: Full name, Social Security Number, status, date(s) of treatment or period of hospitalization, address at time of medical treatment, and service number.

Full name, date, and place of birth, I.D. card or driver's license, or other identification to sufficiently identify the individual with the medical records held by the treatment facility must be presented.

RECORD ACCESS PROCEDURE:

Individuals seeking access to record about themselves contained in this system of records should address written inquiries to the medical or dental treatment facility where treatment was received or to the officials listed under 'Notification procedure'.

CONTESTING RECORD PROCEDURE:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Reports from attending and previous physicians and other medical personnel regarding the results of physical, dental, and mental examinations, treatment, evaluation, consultation, laboratory, x-rays, and special studies conducted to provide health care to the individual or to determine the individual's physical and dental qualification.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 96–12855 Filed 5–21–96; 8:45 am]

BILLING CODE 5000–04–F

DEPARTMENT OF ENERGY

Office of Environmental Management; Environmental Management Site Specific Advisory Board; Renewal

Pursuant to Section 14(a)(2)(A) of the Federal Advisory Committee Act (Public Law 92–463), and in accordance with title 41 of the Code of Federal Regulations, section 101–6.1015(a), and following consultation with the Committee Management Secretariat, General Services Administration, notice is hereby given that the Environmental Management Site Specific Advisory Board has been renewed for a two-year period beginning May 16, 1996.

The purpose of the Board is to provide the Assistant Secretary for Environmental Management with advice and recommendations on environmental management projects and issues such as risk management, economic development, future land use, and budget prioritization activities, from the perspectives of affected groups and State and local governments. Board membership will reflect the full diversity of views in the affected community and region and be composed primarily of people who are directly affected by site clean-up activities. Members will include interested stakeholders from local governments, Indian Tribes, environmental and civic groups, labor organizations, universities, waste management and environmental restoration firms, and other interested parties. Representatives from the Department of Energy (DOE), the Environmental Protection Agency, and State governments will be ex-officio members of the Board. Selection and appointment of Board members will be accomplished using procedures designed to ensure diverse membership and a balance of viewpoints. Consensus recommendations to the DOE from the Board on the resolution of numerous difficult issues will help achieve DOE's objective of an integrated environmental management program.

The Secretary of Energy has determined that renewal of the Environmental Management Site Specific Advisory Board is necessary to conduct the DOE's business and is in the public interest. The Board will operate in accordance with the provisions of the Federal Advisory Committee Act, the DOE Organization Act (Public Law 95–91), and rules and regulations issued in implementation of those Acts.

Further information regarding this advisory board may be obtained from

Rachel Murphy Samuel at (202) 586–3279.

Issued in Washington, DC on May 16, 1996.

JoAnne Whitman,

Deputy Advisory Committee Management Officer.

[FR Doc. 96–12821 Filed 5–21–96; 8:45 am]

BILLING CODE 6450–01–P

Electrometallurgical Treatment Research and Demonstration Project in the Fuel Conditioning Facility at Argonne National Laboratory—West; Finding of No Significant Impact (FONSI)

AGENCY: Department of Energy.

ACTION: Finding of no significant impact.

SUMMARY: The United States Department of Energy has prepared an environmental assessment, DOE/EA–1148 (finalized on May 15, 1996), on the proposed *Electrometallurgical Treatment Research and Demonstration Project in the Fuel Conditioning Facility at Argonne National Laboratory—West.* The Proposed Action is to conduct a research and demonstration project involving electrometallurgical processing of up to 100 Experimental Breeder Reactor–II driver assemblies and 25 Experimental Breeder Reactor–II blanket assemblies in the Fuel Conditioning Facility at Argonne National Laboratory—West. Electrometallurgical processing involves the dissolution of spent nuclear fuel by use of an electric current in a molten salt mixture. The uranium in the fuel is collected at the cathode and subsequently melted to form a metal ingot; the structural metals and some fission products are retrieved undissolved from the anode and are cast into a metal ingot; and eventually most fission products and all transuranic elements are isolated in a ceramic waste form. The number of driver fuel assemblies covered by the Proposed Action would provide the minimum fission product loading (3 percent) necessary to evaluate the effectiveness of the removal of fission products from the electrorefiner salt and their concentration in the ceramic waste form. In addition, the 25 blanket assemblies proposed would provide a sufficient quantity of material to evaluate the higher efficiency electrorefining necessary to process the much larger blanket assemblies. The Proposed Action would require approximately three years, and is designed to address demonstration goals for electrometallurgical treatment technology outlined by the National Research Council in a 1995 report to the Department. In accordance with the Council on Environmental Quality requirements contained in 40 CFR Parts 1500–1508, the environmental assessment examined the environmental impacts of the Proposed Action and potential alternatives.

The Department distributed a draft environmental assessment for public review and comment from February 5, 1996 to March 22, 1996 (61 FR 3922, January 29, 1996), and conducted public meetings on the draft assessment in Idaho Falls, Idaho on February 21, 1996, and Washington, D.C. on February 27, 1996. In response to several requests, the Department reopened the public review period until May 3, 1996 (61 FR 16471, April 15, 1996).

The Department has considered all comments on the draft environmental assessment, including comments submitted by 5 members of Congress, 17 organizations, and 53 individuals. Those comments and the Department's responses are presented in an appendix to the final environmental assessment entitled, ''Comment Response Document.'' A summary of the major public comments and the Department's responses is provided under Supplementary Information below.

The Department has decided to proceed with the proposed demonstration. Even if successful, however, the demonstration will not automatically lead to the treatment of more Experimental Breeder Reactor–II spent nuclear fuel or to other broader applications of electrometallurgical technology. The Department will not make any significant additional use of the electrometallurgical refining technology without first preparing an environmental impact statement. Specifically, the Department will not use this technology to treat the remaining Experimental Breeder Reactor–II spent fuel or make another production-scale use of the technology without preparing an environmental impact statement.

The Department would exercise its authority to prevent proliferation sensitive information and technology advances resulting from the proposed demonstration from becoming available to potential proliferant-risk countries, including exercising its authority under the Atomic Energy Act, the Nuclear Nonproliferation Act of 1978 and the Department's implementing regulations.

Based on the analysis in the environmental assessment, which is incorporated herein by reference, and after consideration of all the comments received as a result of the public review process, the Department of Energy has determined that the Proposed Action does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. Therefore, an environmental impact statement is not required.

FOR FURTHER INFORMATION CONTACT: Persons requesting additional information regarding the Electrometallurgical Treatment Project or a copy of the environmental assessment should contact: Mr. Robert G. Lange, Associate Director for Facilities (NE–40), Office of Nuclear Energy, Science and Technology, U.S. Department of Energy (GTN), 19901 Germantown Road, Germantown, Maryland 20874.

Mr. Lange may also be reached by calling (301) 903–2915.

Persons requesting general information on the Department of Energy's National Environmental Policy Act process should contact: Ms. Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance (EH–42), U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585.

Ms. Borgstrom may also be reached by calling (202) 586–4600, or by leaving a message at (800) 472–2756.

SUPPLEMENTARY INFORMATION:

Background

The Department of Energy is responsible for managing spent nuclear fuel in its inventory, including spent nuclear fuel from the Experimental Breeder Reactor-II. The Department manages 25.5 metric tons (heavy metal) of Experimental Breeder Reactor-II fuel at Argonne National Laboratory-West and the Idaho Chemical Processing Plant, both located at the Idaho National Engineering Laboratory near Idaho Falls. The Department has a legally binding commitment to remove spent nuclear fuel from the State of Idaho by the year 2035, including fuel from the Experimental Breeder Reactor-II. The Experimental Breeder Reactor-II fuel is unlikely to be suitable for direct disposal in a geologic repository because it is saturated with sodium, which is a reactive material. Experimental Breeder Reactor-II spent fuel may also be unsuitable for direct disposal in a geologic repository because of criticality concerns associated with fuels containing highly-enriched uranium.

The Department has identified electrometallurgical treatment as a promising technology to treat

Experimental Breeder Reactor-II spent nuclear fuel to make it suitable for repository disposal, but an appropriate demonstration is needed to provide sufficient information for the Department to evaluate the feasibility of the technology. At the Department's request, the National Research Council conducted an independent assessment of the potential application of electrometallurgical technology to treat spent nuclear fuel from the Experimental Breeder Reactor-II. In its 1995 report, the Council recommended that the Department proceed to demonstrate the feasibility of electrometallurgical technology using Experimental Breeder Reactor-II spent nuclear fuel. A successful demonstration of the electrometallurgical technology on a sufficient sample of the Experimental Breeder Reactor-II spent nuclear fuel, combined with research and testing of the resulting waste forms, is expected to provide information the Department needs to determine whether to propose applying this technology to the remainder of the Experimental Breeder Reactor-II spent nuclear fuel or other spent nuclear fuel.

Proposed Action

The Proposed Action is to conduct a research and demonstration project involving electrometallurgical processing of up to 100 Experimental Breeder Reactor-II driver assemblies and 25 Experimental Breeder Reactor-II blanket assemblies in the Fuel Conditioning Facility at Argonne National Laboratory-West. Electrometallurgical processing involves the dissolution of spent nuclear fuel by use of an electric current in a molten salt mixture. The uranium in the fuel is collected at the cathode and subsequently melted to form a metal ingot; the structural metals and some fission products are retrieved undissolved from the anode and are cast into a metal ingot; and eventually most fission products and all transuranic elements are isolated in a ceramic waste form. The number of driver fuel assemblies covered by the Proposed Action would provide the minimum fission product loading (3 percent) necessary to evaluate the effectiveness of the removal of fission products from the electrorefiner salt and their concentration in the ceramic waste form. In addition, the 25 blanket assemblies would provide a sufficient quantity of material to evaluate the higher efficiency electrorefining necessary to process the much larger blanket assemblies. The Proposed Action would require approximately three years, and is designed to address demonstration goals for electrometallurgical treatment technology outlined by the National Research Council in its 1995 report.

The one hundred driver assemblies involved in the Proposed Action would require multiple batch operations of the processing equipment in a remote, radioactive hot cell with an inert argon atmosphere. These operations would be sufficient to demonstrate the overall dependability and predictability of the process, considering equipment reliability, repair and maintenance, and operability of linked process steps. In addition, processing 100 driver fuel assemblies is expected to produce waste-form samples with representative radioactive waste loadings in quantities sufficient for testing. It is expected that the testing of these samples will assist in the development and characterization for future repository acceptance of the two process waste forms (ceramic and metal) produced by the electrometallurgical processing technique.

In order to evaluate higher efficiency electrorefining, 25 blanket assemblies would be processed in a second electrorefiner to be installed in the Fuel Conditioning Facility hot cell. Testing of the electrorefining concept with nonradioactive surrogate materials and construction of the second electrorefiner are currently underway at the Argonne National Laboratory-East site near Chicago, Illinois. Under the Proposed Action, this electrorefiner would be transported to Argonne National Laboratory-West, installed in the Fuel Conditioning Facility hot cell, and used to process the 25 blanket assemblies. This processing would require about seven batch operations in the high efficiency electrorefiner. These operations would demonstrate a one-day throughput of approximately 160 kilograms (353 pounds) per batch.

The Fuel Conditioning Facility is a small research facility, and its material handling equipment could not sustain the continued preparation of spent nuclear fuel for operation of the high-efficiency electrorefiner at a throughput equivalent to a production operation. Even though a production-scale operation in the Fuel Conditioning Facility is not possible with existing equipment, however, this demonstration would show the feasibility of batch operation electrorefining at a capacity approaching 200 kilograms per day (441 pounds per day) of radioactive Experimental Breeder Reactor-II spent nuclear fuel in a suitably designed and equipped facility, as recommended by the National Research Council. Seven batch operations should be sufficient to evaluate the reliability of the equipment and to meet the intent of the National Research Council's recommendation regarding high-efficiency electrorefining.

Alternatives Analyzed

The environmental assessment analyzed in detail the following alternatives to the Proposed Action:

1. Conducting the research and demonstration project in a facility at an alternative location, i.e., the Test Area North Hot Shop at the Idaho National Engineering Laboratory;
2. Conducting an equipment performance verification project by treating 50 driver assemblies and 10 blanket assemblies in the Fuel Conditioning Facility; and
3. Taking no action, i.e., placing all the Experimental Breeder Reactor-II spent nuclear fuel in interim storage, and not demonstrating the electrometallurgical treatment technology.

Alternative 1, Demonstration at an Alternative Facility and Location, would result in higher program cost and extensive additional waste generated from required facility modifications and relocation of the nuclear materials presently stored in the Test Area North Hot Shop to allow for the appropriate reconfiguration of that facility to accommodate electrorefining equipment. This alternative would also require the transportation on public highways of spent nuclear fuel and the electrometallurgical equipment from the Argonne National Laboratory-West to the Test Area North Hot Shop, which would not be necessary for the Proposed Action.

Alternative 2, Equipment Performance Verification, is very similar to the Proposed Action in terms of its environmental impacts. However, this alternative would not fully satisfy the purpose and need for Department of Energy action because this alternative would not provide sufficient quantities of fission products, transuranics, and sodium impurities to test the electrorefiner under conditions comparable to production-scale operation and to address the recommendations of the National Research Council.

Alternative 3, No Action, is also similar to the Proposed Action in that the environmental impacts that would result from packaging and storing all the Experimental Breeder Reactor-II spent nuclear fuel would be small. However, the No-Action Alternative would not provide the information and data needed to determine whether to

continue the development of this technology as a potential management option for the disposal of Experimental Breeder Reactor-II sodium-bonded spent nuclear fuel.

Alternatives Considered But Not Analyzed in Detail in the Environmental Assessment

Demonstration of a technology other than electrometallurgical processing was not analyzed in detail because there are no other ''innovative'' spent nuclear fuel treatment technologies that have reached a stage of development to warrant testing by the Department of Energy with irradiated fuel. The environmental assessment discussed, but did not analyze in detail, the following alternative treatment technologies:

- *Chloride Volatility:* This very high temperature process would convert spent nuclear fuel to chloride compounds in a gaseous state, from which the constituents could be separated into appropriate streams for further treatment. Demonstration of chloride volatility technology would require development of very high temperature, corrosion-resistant equipment. This technology has not reached a stage of development suitable for demonstration with spent nuclear fuel.
- *Glass Material Oxidation and Dissolution:* This treatment concept would dissolve spent nuclear fuel using a system of lead and lead oxide with the intent of incorporating most spent nuclear fuel constituents in a glass waste form. It too has not reached a stage of development suitable for demonstration with spent nuclear fuel.
- *Plasma Arc Process:* This extremely high temperature process would use an electric arc to melt spent nuclear fuel, allowing the constituents to separate into glass and metal phases. However, this technology is still in the early stages of research and development and is not currently suitable for demonstration with spent nuclear fuel.
- *Hot, Water-Saturated Carbon Dioxide and Alcohol/Water Rinsing Processes:* These processes, which would react the sodium to form sodium carbonate, would require extensive development to safely control the reactions and to stabilize the products of the reactions before they could be considered ready for a demonstration with sodium-bonded fuel.
- *Low-Temperature Vacuum Distillation:* This process would evaporate the sodium from around the uranium fuel. It would not work for the Experimental Breeder Reactor-II driver fuel, however, because from 20 to 40 percent of the sodium in the driver fuel has been absorbed into the porous metal fuel alloy.

In addition, the environmental assessment considered, but did not analyze in detail, existing technologies that would require some development and modification. These technologies include:

- *Mechanical Processing:* This process has been used on some Experimental Breeder Reactor-II blanket fuel assemblies to strip away the layer of metallic sodium under the fuel's cladding. Considerable development of optical and control systems would be required for safe and reliable remote operation of a high-power laser to remove the fuel cladding in a radioactive hot cell environment. The sodium adhering to the cladding material, as well as the uranium, would be contaminated by cesium-137 during the cutting process and would require additional treatment and perhaps creation of a new waste form for disposal purposes. Mechanical processing would not work for the driver fuel assemblies, however, because from 20 to 40 percent of the sodium in the driver assemblies has been absorbed within the fuel, and therefore could not be removed except by dissolving or melting the fuel.
- *Plutonium Uranium Extraction (PUREX) Processing at the Idaho Chemical Processing Plant:* Modifying this reprocessing plant to dissolve the modern Experimental Breeder Reactor-II spent nuclear fuel would require changes in the dissolution process. These changes would be necessary because the zirconium in the modern Experimental Breeder Reactor-II fuel alloy inside a stainless steel cladding would require chemical additives to control the dissolution reaction safely. In addition, the plant would have to be restarted to carry out the demonstration. Because of excessive cost and the development required, processing of Experimental Breeder Reactor-II spent nuclear fuel at the Idaho Chemical Processing Plant is not a reasonable alternative to the proposed limited demonstration of electrometallurgical treatment technology.
- *Dissolution and Vitrification:* This process, which would dissolve spent nuclear fuel in acid (initial stage of PUREX process) and then vitrify it in borosilicate glass, would require a major modification to the existing dissolution process at the Savannah River site in order to be used in a demonstration with Experimental Breeder Reactor-II fuel. This modification would be similar to the modification that would be required for the Idaho Chemical Processing Plant discussed above. Further, the fuel would have to be packaged and shipped to Savannah River, which would be inconsistent with the Records of Decision (60 Fed. Reg. 28680, June 1, 1995 and 61 Fed. Reg. 9441, March 8, 1996) for the Programmatic Spent Nuclear Fuel Management and Idaho National Engineering Laboratory Environmental Restoration and Waste Management Environmental Impact Statement. These decisions require the regionalization of the type of spent fuel that would be involved in the demonstration to the Idaho National Engineering Laboratory.

Treatment at a Location Outside of the Idaho National Engineering Laboratory

The Department also considered electrometallurgical treatment at a location outside of the Idaho National Engineering Laboratory. This alternative would require the removal, decontamination and relocation of existing equipment to a newly constructed hot cell facility where the demonstration project would be conducted. This is not considered a reasonable alternative for a limited demonstration, because of the excessive cost and time involved for these preparative activities. This alternative would also be contrary to the Records of Decision for the Programmatic Spent Nuclear Fuel Management and Idaho National Engineering Laboratory Environmental Restoration and Waste Management Environmental Impact Statement.

Spent Fuel, Byproduct, and Waste Material Management

The Proposed Action would generate process wastes from the treatment operations and incidental wastes from the normal support operations of a hot cell facility. The process wastes include the fuel assembly hardware, metal waste form and ceramic waste form. The incidental wastes include operational wastes such as broken equipment, rags, packaging materials and other miscellaneous items. After use of the demonstration equipment has been completed, decommissioning wastes would include the disposal of the process equipment and process fluids such as the electrorefiner salt and cadmium. These materials would be categorized and disposed of according to existing Department of Energy orders and the Argonne National Laboratory radioactive waste management procedures. Two uranium byproducts would be recovered from the demonstration: low-enriched uranium blended down from the highly-enriched uranium in the driver fuel assemblies,

and depleted uranium from the blanket fuel assemblies. The uranium byproducts would be characterized according to the level of residual contamination. Adequate storage locations exist at Argonne National Laboratory-West to accommodate the small volume of spent nuclear fuel, waste materials, and byproduct uranium.

These materials, except the metal waste form and ceramic waste form, are currently produced at the Argonne National Laboratory-West site and would continue to be produced under all alternatives. The metal waste form and ceramic waste form, which would be classified as high level waste, would contain the fission products from the spent nuclear fuel and would be stored in the Radioactive Scrap and Waste Facility at Argonne National Laboratory-West. Both the high-level waste forms and the spent nuclear fuel elements are highly radioactive, requiring identical double containment and shielding, as well as special handling procedures.

Because processing assemblies would result in waste forms that are more compact, less storage volume would be required for the waste forms and uranium byproducts of the treated assemblies than for the untreated spent nuclear fuel assemblies. Under the Proposed Action, the Radioactive Scrap and Waste Facility storage requirement would be 38 liners (vertical underground storage cylinders). Byproduct uranium ingots would total 0.15 cubic meters (5.3 cubic feet) in volume [equivalent to two Radioactive Waste and Scrap Facility canisters (engineered storage containers with welded tops that fit into the storage liners)]. The Equipment Performance Verification Alternative (see Alternatives Analyzed, above) would require 59 Radioactive Waste and Scrap Facility storage liners and storage space for 0.07 cubic meters (2.5 cubic feet) of uranium byproduct ingots (equivalent to one Radioactive Waste and Scrap Facility canister). A larger number of storage liners would be required in this alternative because more spent fuel would have to be stored. The No-Action Alternative would require 81 Radioactive Waste and Scrap Facility storage liners. The number of storage liners required under the Demonstration in the Alternative Facility at the Test Area North Hot Shops at the Idaho National Engineering Laboratory is the same as the Proposed Action because only the location of the treatment process is different.

Low level radioactive wastes would be generated by routine facility operations under all alternatives, ranging in volume from 20 cubic meters (700 cubic feet) in the Proposed Action to 70 cubic meters (2475 cubic feet) in the No-Action Alternative. Fifty cubic meters (1750 cubic feet) of transuranic waste would be generated in the action alternatives.

Comparisons of waste that would be generated under the Proposed Action and the current Idaho National Engineering Laboratory inventory of similar waste are shown in Table 1. Adequate waste storage capacity exists for all alternatives.

Environmental Consequences of the Proposed Action

Surface Water Impacts: As described in Section 4.3.5 of the environmental assessment, the Proposed Action would not produce liquid effluents, so there would not be any impacts to surface waters or groundwater from effluents. To prevent potential releases to surface or subsurface waters resulting from spills of hazardous materials used in buildings, the Fuel Conditioning Facility and other buildings are designed, constructed and maintained to contain these materials.

TABLE 1. COMPARISONS OF WASTE GENERATED UNDER THE PROPOSED ACTION

Waste streams	Proposed Action (m^3)	Current INEL inventory* (m^3)	Percent of INEL inventory (%)
High level waste	0.52	10,000	0.0052
TRU waste	50	65,000	0.092
Low level waste	20	9,500	0.21
Mixed waste	1	1,100	0.10
Greater than class C waste	1.4	9,100	0.015
Environmental restoration waste**	192	320,000	0.06

*Source: ''Intergration of EM activities at the INEL,'' Idaho National Engineering Laboratory, March 31, 1995.
**Waste that would be generated from decommissioning activities following the demonstration.

Land Impacts: Land use at Argonne National Laboratory-West has been dedicated to nuclear reactor and spent fuel research since 1955. All activities associated with the Proposed Action would take place on previously disturbed land and within existing structures.

Cultural Resources: All activities associated with the Proposed Action would be conducted within existing facilities. No archeological or historic sites and structures would be affected.

Threatened or Endangered Species: There are no known threatened or endangered species or sensitive habitats that would be affected by the Proposed Action.

Nonradioactive Air Emissions: As summarized in Section 4.1.1.1 of the environmental assessment, potential impacts from nonradioactive releases associated with the Proposed Action are very small. A small amount of refrigerant gas (freon R–22) may escape from the argon cell cooling system at the Fuel Conditioning Facility and electrical equipment cleaning will also contribute a small amount. No adverse consequences would be expected to result from the estimated total refrigerant gas release of about 90 kilograms (200 pounds) per year, which is small (400 times less) compared with the 36,000 kilograms per year (40 tons per year) Idaho regulatory threshold for ''significant'' release of volatile organic compounds.

Radioactive Air Emissions: As summarized in Section 4.1.1.2 of the environmental assessment, potential offsite doses from routine operations during this Proposed Action are quite small, less than 1.1×10^{-6} rem per year to the maximally exposed individual. This is more than a factor of 9,000 less than the 0.01 rem per year annual dose limit imposed by the National Emission Standards for Hazardous Air Pollutents program. No increased radiation levels, above background, would be detectable at the Argonne National Laboratory-West site or at the Idaho National Engineering Laboratory site boundary.

Worker Health Effects (Normal Operating Conditions): As described in Section 4.1.2 of the environmental assessment, under the Proposed Action, the average exposure of workers to radiation is small, and is not expected to increase to levels above those of the No-Action Alternative. The average annual exposure for a worker in the Fuel Conditioning Facility directly involved in the project is estimated to be 0.06 rem per year, and 0.03 rem per year for those not directly involved. These numbers are less than the 0.35 rem per year annual natural background radiation in the surrounding Eastern Snake River Plain. The probability of a single additional latent cancer fatality among workers involved in the project from the increased exposure is estimated to be one chance in 1,000.

Transportation Impacts: Transportation risks at the Idaho National Engineering Laboratory are small and would not be increased as a result of this Proposed Action. The Argonne National Laboratory-West workers travel over public highways to reach work. Since the Proposed Action would not require an increase in the total number of employees, there is no increase in transportation risk for employees. Likewise, there would be no increase in waste shipments over public highways from Argonne National Laboratory-West facilities to the Radioactive Waste Management Complex (such shipments are associated with routine facility operations and would also be required for the No-Action Alternative). High-level waste, spent nuclear fuel and low-enriched uranium transfers between Argonne National Laboratory-West facilities do not use public highways. The net number of transfers within the Argonne National Laboratory-West site would not increase as a result of the Proposed Action.

Socioeconomic Impacts: As described in Section 4.3.2 of the environmental assessment, it is not anticipated that the Proposed Action would have any measurable socioeconomic impacts on the area surrounding the Idaho National Engineering Laboratory. Any additional research personnel hired to help plan, conduct and interpret the experiments would be more than offset by a reduction in force that has been occurring due to shutdown of Experimental Breeder Reactor-II. No net additional personnel would be hired as a result of the Proposed Action.

Procurements of materials or services required for the Proposed Action would be minimal, and would be very small compared to the overall Idaho National Engineering Laboratory budget.

Potential Environmental Impacts of Facility Accidents: As described in Section 4.2 of the environmental assessment, the Final Safety Analysis Report (Revision 0, May 1, 1995) for the Fuel Conditioning Facility evaluated the consequences of a broad range of potential facility accidents which could possibly release radioactivity to the environment.

The largest radiological risk to an individual worker from any of the reasonably foreseeable accidents would be an increase of 3 chances in 10,000 of death by cancer due to radiation exposure following an accidental spent fuel transfer cask drop outside the facility. (The estimated probability of this accident is in a range from 1 chance in 100 to 1 chance in 10,000.) Since this accident would involve spent nuclear fuel, it would apply to each of the alternatives, including the No-Action Alternative. If such an accident occurred, up to 600 workers might be exposed to radiation, resulting in approximately 0.2 latent cancer fatalities; an estimated 0.003 latent cancer fatalities among the off-site population (within 50 miles of the site) could occur. This accident also represents the largest risk to the maximally exposed (public) individual, with an increase of 1 chance in 20 million of developing a fatal cancer if the accident did occur. The probability of developing a nonfatal cancer would be 1 chance in 2 million for the maximally exposed individual worker and 1 chance in 100 million for the maximally exposed individual member of the public.

An air cell exhaust system flow reversal accident represents the largest risk from an accident that distinguishes the action alternatives, including the Proposed Action, from the No-Action Alternative. (The probability of this accident is estimated to be between 1 chance in 10,000 and 1 chance in 1 million.) If this accident occurred, an individual worker would have 1 chance in 400,000 of developing a fatal cancer. A member of the public at the site boundary receiving the maximum dose would have 1 chance in 20 million of contracting a fatal cancer as a result of such an accident.

Consequences of Beyond-Design-Basis Accidents: Beyond-design-basis accidents are those accidents with probabilities of occurrence estimated to be between 1 in a million and 1 in 10 million. As described in Section 4.2.1.2 of the environmental assessment, two beyond-design-basis accidents have been evaluated for the modified Fuel Conditioning Facility. The first accident is a metal fire occurring simultaneously with small breaches in the argon cell confinement and with concurrent failure of abatement by the two separate stages of high-efficiency particulate air filtration provided by the safety exhaust system. The second accident, an aircraft crash into the facility, is described in detail in DOE/ID–10471, ''Accident Assessments for Idaho National Engineering Laboratory Facilities.''

The airplane crash accident assumes that a large commercial jet crashes into the Fuel Conditioning Facility, resulting in penetration of the argon cell and a fire in the facility involving aviation fuel. This accident would result in a radiation dose of 250 person-rem among the potentially exposed population within an 80 kilometer (50 mile) radius. The estimated increase in latent cancer fatalities is 0.13, or approximately 1 chance in 8, of an additional cancer fatality. The corresponding increase in nonfatal cancers is estimated to be 0.025, or 1 chance in 40, of an additional nonfatal cancer. Based on conservative estimates (i.e., estimates that tend to overstate the impacts), 2 radiation-induced cancer fatalities among 600 potentially-exposed workers would result.

In the metal fire accident, a fire in the hot process metal is assumed to start after sufficient oxygen enters through argon cell breaches resulting from a beyond-design-basis earthquake. This accident would result in a radiation dose of 74 person-rem among the population within an 80 kilometer (50 mile) radius. The estimated increase in latent cancer fatalities is 0.037, or approximately 1 chance in 24, of an additional cancer fatality among potentially exposed members of the public. Based on conservative estimates, three radiation-induced cancer fatalities among workers would result.

Taking account of the potential consequences and probabilities of occurrence, the accident risks associated with the Proposed Action are small.

Natural Hazards: As described in Section 4.2.2 of the environmental assessment, the Fuel Conditioning Facility Final Safety Analysis Report provides a discussion of natural phenomena hazards. The principal potential natural hazard is earthquakes. The air cell, argon cell, general building and safety equipment building were analyzed and were confirmed to maintain structural integrity during and after the design-basis earthquake (0.21 g acceleration). All structures can easily accommodate the straight wind loading of 95 mph and the snow loading of 40 pounds per square foot.

Spent Nuclear Fuel, Uranium By-Products and Waste Management

Impacts: As discussed in Section 4.5 of the environmental assessment, using a common comparison basis for estimating waste volumes for each alternative, implementation of the Proposed Action would result in a net decrease in the combined volume of high-level waste and spent nuclear fuel at Argonne National Laboratory-West. For the volume of high level wastes generated by the process, adequate storage capacity currently exists on-site. The Proposed Action would increase the volume of low-enriched uranium and high-level radioactive waste stored at the Argonne National Laboratory-West site. The increased volumes, however, would occupy a small percentage of the available storage space.

Compared to the No-Action Alternative, the Proposed Action would also result in a net decrease in the amount of low-level waste generated and shipped to the Idaho National Engineering Laboratory Radioactive Waste Management Complex, because some of the waste generated from normal facility operations would be characterized as transuranic waste. Therefore, the reduction in low-level waste volumes would be offset by a net increase in the amount of transuranic waste. Argonne National Laboratory-West and the Idaho National Engineering Laboratory Radioactive Waste Management Complex have adequate interim storage capacity to accommodate the transuranic waste, which would be less than one-tenth of one percent of the current inventory at the Idaho National Engineering Laboratory.

The amounts of mixed waste and nonradioactive waste generated under the Proposed Action are the same as would be expected under the No-Action Alternative. Existing, adequate storage capacity exists for any of the wastes that would be generated.

Cumulative Impacts: A cumulative impact is the result of the incremental impact of the Proposed Action added to all other past, present, and reasonably foreseeable future actions. Cumulative impacts associated with Idaho National Engineering Laboratory spent nuclear fuel, environmental restoration, and waste management activities have been described and analyzed in Volume 2, Section 5.15 of the Spent Nuclear Fuel and Idaho National Engineering Laboratory Environmental Impact Statement. As discussed in Section 4.3 of the environmental assessment, the environmental impacts of the Proposed Action would be small and would add only a small increment to past, present or reasonably foreseeable impacts at the Idaho National Engineering Laboratory. Therefore, the Proposed Action would not result in significant cumulative impacts.

Environmental Justice: As discussed above and described in Section 4.6 of the environmental assessment, the potential environmental impacts calculated for activities associated with the Proposed Action are small, and present little or no risk to any segment of the surrounding population. Therefore, the impacts also do not constitute disproportionately high or adverse impacts on any minority or low-income population.

Consistency with United States Nonproliferation Policy: It is the policy of the United States not to encourage the civil use of plutonium. The proposed demonstration project would not separate plutonium from the processed Experimental Breeder Reactor-II fuel. Moreover, the technology employed is not capable of separating plutonium. Even with extensive modification, the technology would not be capable of separating plutonium that would be suitable for a proliferant nuclear weapons program. Further, by removing and then blending down the highly enriched uranium in the Experimental Breeder Reactor-II driver fuel, the project supports the United States goal of seeking to eliminate, where possible, the accumulation of stockpiles of highly enriched uranium. As a result, the proposed demonstration project is consistent with United States nonproliferation policy.

Principal Concerns Raised During Public Comment Period: As noted above, a draft environmental assessment was available for public comment from February 5, 1996 through May 3, 1996. The Department carefully considered all comments received and prepared a detailed ''Comment Response Document,'' which is an appendix to the final environmental assessment. The following discussion summarizes the principal concerns raised by commentors and the Department's responses.

Reprocessing: Some commentors suggested that the proposed demonstration of electrometallurgical treatment technology is ''reprocessing'' because it involves the separation of spent nuclear fuel constituents, could involve the future reuse of the separated materials, and/or has evolved from a technology that was originally intended to support the now-terminated Integral Fast Reactor project. As a result, some commentors suggested that the Department's National Environmental Policy Act regulation (10 CFR Part 1021, Appendix D to Subpart D) requires the preparation of an environmental impact statement for the proposed demonstration program.

It is important to note that preparation of an environmental impact statement is not automatically required by Appendix D, which is entitled ''Classes of Actions That *Normally* Require Environmental Impact Statements'' (emphasis added). At most, the inclusion of a class of actions in Appendix D establishes a presumption that activities falling within that class are generally ''major'' activities requiring the preparation of an environmental impact statement. That presumption is overcome when an evaluation of a specific proposal indicates that it is not a ''major'' activity and would not produce any significant environmental impacts.

The particular provision of Appendix D at issue originated in 1990, when the Department issued a Notice of Proposed Rulemaking (55 Federal Register 46444, November 2, 1990) that eventually was promulgated in 1992 as 10 CFR Part 1021. Among the new classes of actions proposed as ''normally requiring Environmental Impact Statements'' was the ''siting, construction, operation, and decommissioning of reprocessing facilities.'' The preamble to the proposed rule described this provision's intended scope as one of several new classes of activity ''related to the siting, construction and operation of *major nuclear facilities''* (emphasis added). It is apparent from this preamble language that the Department regarded the scale of the proposed activity and its potential for significant impacts, not the designation of an activity as ''reprocessing,'' as the important factor in establishing the need for an environmental impact statement.

Unlike the large reprocessing facilities existing at the time the regulations were promulgated, the proposed demonstration project does not generate large volumes of liquid high-level waste or have other significant impacts. The Proposed Action is simply a *demonstration* of electrometallurgical treatment technology involving equipment whose size and configuration cannot accommodate full-scale treatment activities. As demonstrated in the environmental assessment, the demonstration project would generate 640 kilograms (0.52 cubic meters, or approximately the size of a three-drawer file cabinet) of solid high-level waste in metal or ceramic form, but no liquid high-level waste. In light of these minimal impacts, it was appropriate for the Department to prepare an environmental assessment to assist in determining whether to prepare an environmental impact statement.

Indeed, the Department does not regard the proposed treatment process as ''reprocessing'' as that term has been used historically and is used in the Department's National Environmental Policy Act regulations. The purpose of the Department's historical reprocessing activities was to recover plutonium and highly-enriched uranium from spent nuclear fuel for reuse in defense-related activities, including weapons production. These activities required large production-scale buildings and ancillary facilities. The Department of Energy regulations implementing the National Environmental Policy Act were drafted with these reprocessing activities in mind. In contrast, the much smaller-scale proposed demonstration of electrometallurgical technology would not involve the separation of plutonium from fission products or the reuse or recycling of any separated materials for defense-related purposes.

As noted in Section 2.3 of the environmental assessment, this technology does separate spent nuclear fuel constituents into certain groups. For driver spent nuclear fuel, these groups are (1) highly-enriched uranium (which would promptly be blended with depleted uranium to form low-enriched uranium), (2) a mixture of fission products and plutonium, and (3) cladding metal. For the blanket fuel, these groups are (1) low-enriched uranium, (2) a mixture of fission products and plutonium, and (3) cladding metal.

With regard to the potential reuse of separated materials, the treatment of the 100 driver assemblies would result, after blending, in approximately 1400 kilograms (3080 pounds) of low-enriched uranium. As described in Section 2.3 of the environmental assessment, this low-enriched uranium would be stored at Argonne National Laboratory-West until a decision is made regarding its ultimate disposition. The disposition of this material would be consistent with future departmental decisions regarding other similar materials, but it would not involve reuse for defense-related purposes. Potential disposition options for this material include its sale to the commercial nuclear industry for use as power reactor fuel.

For all of these reasons, the Department of Energy does not believe that the proposed demonstration of electrometallurgical technology constitutes ''reprocessing'' within the meaning of 10 CFR Part 1021, Appendix D to Subpart D, even if it does fall within some broader definitions of ''reprocessing'' that are used in other contexts.

Nonproliferation: Some commentors suggested that the proposed demonstration project is contrary to the nonproliferation policy of the United States regarding materials that could be used by other countries or groups to construct nuclear weapons. The United States policy on nonproliferation is contained in Presidential Decision Directive 13, a classified document. On September 27, 1993, at the time Presidential Decision Directive-13 was signed, an unclassified press release summarizing its contents was issued. Among other things, the summary states that the United States does not encourage the civil use of plutonium, and accordingly the United States does not itself engage in plutonium reprocessing for either nuclear weapons or nuclear power purposes. As described in Section 4.7 of the environmental assessment, the electrorefining equipment that would be a part of the proposed demonstration project is not capable of separating plutonium from spent nuclear fuel. The plutonium contained in the spent nuclear fuel, along with other actinides and most constituent fission products, would be immobilized in the zeolite ceramic waste form. Thus, because it does not separate plutonium, the proposed demonstration is consistent with the nonproliferation policy of the United States.

Some of the commentors suggested, however, that with adjustment to or refinements of either of the electrorefiners that would be a part of the Proposed Action, this technology could be made to separate plutonium for weapons use. During the Integral Fast Reactor Program, which was canceled in 1994, the Department attempted to develop an electrorefiner that included a liquid cadmium cathode to collect and concentrate plutonium and all other transuranic elements present in the spent nuclear fuel. Successful application of this process would have resulted in a plutonium product contaminated or mixed with uranium, other transuranic elements, and rare earth fission products. Development of the cathode progressed only to the point where the technical feasibility of the concept was established. No prototype or working model was ever commissioned for the Fuel Conditioning Facility.

As conceived, however, the liquid cadmium cathode would have produced a metal-alloy product containing up to 70 percent plutonium; this plutonium alloy could have been obtained only after subsequent processing in a high-temperature vacuum furnace. The balance of materials remaining in the plutonium product after electrorefining, but prior to subsequent processing, would be those most difficult to separate from plutonium by any chemical means: uranium, americium, neptunium, curium, and the rare earth fission products. This plutonium metal-alloy product would have high transuranic content, a high heat source, a high neutron radiation source, and a high gamma radiation source, any one of which would make design of a weapon extremely difficult. Neutron and gamma radiation sources would be three to four orders of magnitude higher than weapons-grade or reactor-grade material. These levels of radiation are lethal and would require handling of the material by remote means. As a result of the high heat, neutron, and gamma radiation sources, and the transuranic contamination, any attempt to use plutonium in this form for weapons purposes would add significant difficulties to any potential proliferant's efforts.

The Department requested a study by the Defense Technologies Engineering Division of Lawrence Livermore National Laboratory to determine the feasibility of misusing electrometallurgical technology in order to produce plutonium that could be used in a proliferant nuclear weapons program. While the report from that study is classified, an unclassified presentation on the conclusions from the report was given to the Department by Lawrence Livermore National Laboratory in March 1994 and is summarized in Section 4.7 of the environmental assessment. The unclassified presentation stated that the report concluded that significant new process inventions and new weapons designs would be required before material resulting from the process could be used in a nuclear weapons program. The major problems for prospective weapons designers would be:

(a) the actinides collected with the fission products would result in a very high heat output, which would complicate and might even preclude the design of even a simple nuclear device due to the heat output's effect on high explosive and plutonium components; (b) radiation levels from the material would be incapacitating and lethal to individuals coming in contact with the material for the purpose of weapons fabrication; (c) designing processes to deal with these radiation levels would significantly complicate a proliferant's development and deployment programs and production activities; and (d) over time, high radiation fields would

negatively impact material behavior and electronic circuitry.

Some of the commentors also suggested that, because this technology separates highly-enriched uranium from the Experimental Breeder Reactor-II driver spent nuclear fuel, use of the technology would violate United States policy on nonproliferation. While it is correct that the technology would separate the highly-enriched uranium from the driver spent nuclear fuel, under the proposed demonstration project the highly-enriched uranium would be melted in the casting furnace and combined with depleted uranium to produce low-enriched uranium (less than 20 percent enrichment) without ever leaving the argon cell. This blending-down activity would, in fact, be part of the spent nuclear fuel treatment process. Blending down would be done to reduce costs associated with the higher levels of security required for safeguarding highly-enriched uranium. Also, it should be noted that this technology is incapable of increasing the level of enrichment of uranium contained in spent nuclear fuel being treated. Therefore, this technology would not be useful to a nation seeking to enrich uranium to weapons-grade level. However, because the technology permits the separation of highly-enriched uranium, which could, in the wrong hands, pose a proliferation risk, the Department would exercise its authority to prevent proliferation sensitive information and technology advances resulting from the proposed demonstration from becoming available to potential proliferant-risk countries, including exercising its authority under the Atomic Energy Act, the Nuclear Nonproliferation Act of 1978 and the Department's implementing regulations. Separating the highly-enriched uranium from Experimental Breeder Reactor-II spent nuclear fuel and blending it down to less than 20 percent enrichment is consistent with United States nonproliferation policy.

Appropriate Level of National Environmental Policy Act Review: Several commentors suggested that the Proposed Action is part of a larger program, and that the Department must prepare an environmental impact statement that analyzes the larger program, including full-scale implementation of electrometallurgical treatment. Commentors further expressed concern that the Proposed Action would prejudice the Department's choice of options under a larger program, either because of the commitment of resources that would be invested in studying the electrometallurgical technology, or because the proposed demonstration would set a precedent for the technology's further, broader application.

The Department does not agree with these assertions. The Department has no current proposal to apply the technology more broadly. The Department prepared this environmental assessment to assess the environmental impacts of a proposal to apply electrometallurgical treatment technology only to a limited number of Experimental Breeder Reactor-II spent nuclear fuel assemblies sufficient for the purpose of further research and development as recommended by the National Research Council. The Department needs the information from the proposed demonstration to determine whether electrometallurgical treatment is a feasible technology for treating the remainder of the Experimental Breeder Reactor-II spent nuclear fuel or other spent nuclear fuel requiring processing for disposal. Only after data from such a demonstration are analyzed can the Department assess whether to propose a broader application of the technology. In the absence of a proposal for broader application, no ''program'' or broader activity exists to be analyzed.

The Department has decided to proceed with the proposed demonstration. Even if successful, however, the demonstration would not automatically lead to the treatment of more Experimental Breeder Reactor-II spent nuclear fuel or to other broader applications of electrometallurgical technology. The Department will not make any significant additional use of the electrometallurgical refining technology without first preparing an environmental impact statement. Specifically, the Department will not use this technology to treat the remaining Experimental Breeder Reactor-II spent fuel or make another production-scale use of the technology without preparing an environmental impact statement.

Public Comment Process: Several commentors suggested that the Department did not allow the public proper and timely access to the documents referenced in the draft environmental assessment. The draft environmental assessment was transmitted for public review and comment on January 29, 1996, with an initial comment period from February 5 to March 22. References cited in the draft environmental assessment originally were not sent to the public reading rooms, but were available upon request from the Department of Energy document manager in Idaho.

In the course of public hearings in Idaho Falls, Idaho, on February 21, 1996, a commentor requested that the documents referenced in the draft environmental assessment be made available in the Department's public reading rooms and that the public comment period be extended by another two months. The Department agreed to place the references in the public reading rooms but deferred the decision on extending the comment period. A member of the Department of Energy panel stated that he would ''* * * try to have them (the references) in the public reading rooms within the next week.'' Thirty-seven of the 48 references were reproduced and sent to each of the nine public reading rooms by March 8. The Department believed the remaining 11 references were already in the reading rooms as references to the Department of Energy Programmatic Spent Nuclear Fuel Management and Idaho National Engineering Laboratory Environmental Restoration and Waste Management Programs Environmental Impact Statement (DOE/EIS–0203–F). On March 25, another commentor brought to the Department's attention the fact that not all documents were in the public reading rooms in Washington, D.C. and in Idaho Falls. In response, the missing documents were sent directly to the commentor, and duplicates were placed in the reading rooms. The comment response period was extended to April 5.

In response to additional comments that not all documents had been found in the public reading rooms, an inventory of each of the reading rooms was taken by Department of Energy or Argonne National Laboratory personnel on April 6. Missing documents were provided, and all documents were personally verified by Department of Energy or Argonne National Laboratory personnel to be in place in the reading rooms on April 8. Further, an additional document and reference location was established in the main library of the University of California at Irvine. On April 15, 1996, the public comment period was reopened until May 3. The Department believes that making the reference documents available to the public and reopening the comment period have allowed an adequate opportunity to review and comment on the environmental assessment and to consult the reference documents.

Finding

Based on the analysis in the environmental assessment and after considering all comments received

through the public review process, the Department of Energy has determined that the *Electrometallurgical Treatment Research and Demonstration Project in the Fuel Conditioning Facility at Argonne National Laboratory - West* does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. Therefore, an environmental impact statement is not required.

Issued in Washington, D.C., this 15th day of May 1996.

Terry R. Lash,

Director Office of Nuclear Energy, Science and Technology U.S. Department of Energy.

[FR Doc. 96–12861 Filed 5–21–96; 8:45 am]

BILLING CODE 6450–01–P

Final Environmental Impact Statement for the Plutonium Finishing Plant Stabilization, Hanford Site, Richland, Benton County, Washington

AGENCY: U.S. Department of Energy.

ACTION: Notice of availability.

SUMMARY: The U.S. Department of Energy (DOE), Richland Operations Office, announces the availability of the *Plutonium Finishing Plant Stabilization Final Environmental Impact Statement* (DOE/EIS–0244–F). The Final Environmental Impact Statement (EIS) was prepared pursuant to the National Environmental Policy Act (NEPA) of 1969, the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA (40 Code of Federal Regulations [CFR] Parts 1500–1508), and DOE's Implementing Procedures (10 CFR Part 1021). The continued presence of relatively large quantities of chemically reactive materials in their present form and location within the Plutonium Finishing Plant (PFP) Facility poses an unacceptable long-term risk to workers, the public, and the environment. DOE has identified the need to expeditiously and safely reduce radiation exposure to workers and the risk to the public; reduce future resources needed to safely manage the facility; and remove, stabilize, store, and manage plutonium, pending DOE's future use and disposition decisions.

DOE's preferred alternative is removal of readily retrievable plutonium bearing material in hold-up at the PFP Facility and stabilization of these and other plutonium-bearing materials at the PFP Facility through the following four treatment processes: 1) ion exchange, vertical calcination and thermal stabilization of solutions; 2) thermal stabilization of oxides, fluorides, and process residues in a continuous furnace; 3) repackaging of metals and alloys; and 4) pyrolysis of polycubes and combustibles. In addition, DOE is evaluating other alternatives for stabilizing or immobilizing these materials as well as a ''no action'' alternative.

FOR FURTHER INFORMATION CONTACT: Requests for copies or questions concerning the PFP Stabilization EIS should be directed to: Mr. Ben F. Burton, U.S. Department of Energy, Richland Operations Office, Attn: PFP Stabilization EIS, P.O. Box 550, MSIN B1–42, Richland, Washington 99352, (888) 946–3700.

For general information on DOE's EIS process and other matters related to NEPA, please contact: Ms. Carol Borgstrom, Director, Office of NEPA Policy and Assistance (EH–42), U.S. Department of Energy, 1000 Independence Avenue, S.W.,Washington, DC 20585, (202) 586–4600 or (800) 472–2756.

SUPPLEMENTARY INFORMATION:

Background, Purpose and Need for Agency Action. In the late 1980s, the halt in the production of weapons-grade plutonium froze the existing PFP Facility manufacturing pipeline in a state that was unsuited for long-term storage. On January 24, 1994, the Secretary of Energy commissioned a comprehensive assessment to identify and prioritize the environmental, safety, and health vulnerabilities that arise from the storage of plutonium in DOE facilities and determine which are the most dangerous and urgent. The DOE-wide assessment, commonly referred to as *The Plutonium Vulnerability Study*, identified environmental, safety, and health vulnerabilities at the PFP Facility. These included storage of unstable forms of plutonium, a potential for criticality accidents, and seismic weaknesses.

Scoping. A Notice of Intent to prepare the EIS and hold public scoping meetings in Spokane, Richland, and Bellevue, Washington, and Hood River and Portland, Oregon, was published by DOE in the Federal Register on October 27, 1994. A subsequent Notice of Intent was published by DOE in the Federal Register on November 23, 1994, announcing additional meetings in Portland, Oregon, and Seattle, Washington. The Notice of Intent invited oral and written comments and suggestions on the proposed scope of the EIS, including environmental issues and alternatives, and invited public participation in the NEPA process. Overall, scoping comments were received that assisted in identifying major issues for subsequent in-depth analysis in the Draft EIS. As a result of the scoping process, an *Implementation Plan for the PFP Stabilization EIS* was developed to provide guidance for preparing the Draft EIS and record the results of the scoping process.

Public Hearing. On December 5, 1995, a Notice of Availability was published in the Federal Register (60 FR 62244) which formally announced the release and availability of the Draft EIS. The public hearing date, time, and location were also published and public comment was requested. A public meeting on the Draft EIS. The public hearing date, time, and location were also published and public comment was requested. A public meeting on the Draft EIS was held in Pasco, Washington, on January 11, 1996. While the comment period officially ended on January 23, 1996, DOE accepted comments through February 15, 1996. Both oral and written comments were received during the comment period.

Notice of Limited Reopening of Public Comment Period. On May 3, 1996, a Notice of Limited Reopening of Public Comment Period was published in the Federal Register (61 FR 19914) which formally announced the release and availability of a supplementary alternative which involves immobilization of a portion of the inventory of the plutonium-bearing materials in cement at the PFP Facility. Comments on the analysis of potential impacts described in the supplementary information have been solicited during a 21-day comment period that will end May 24, 1996. Comments received will be considered in the preparation of the Record of Decision.

AVAILABILITY OF FINALS EIS: Copies of the Final EIS have been distributed to Federal, state, and local officials and agencies, as well as organizations and individuals known to be interested in or affected by the proposed project. Additional copies may be obtained by contacting Mr. Burton as provided in the section of this notice entitled **FOR FURTHER INFORMATION CONTACT.** Copies of the Final EIS, including appendices and reference material will be available for public review at the locations listed below. Comments received in response to this Federal Register notice will be considered in the preparation of the Record of Decision.

U.S. Department of Energy, Headquarters, Freedom of Information Reading Room, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–3142

U.S. DOE Public Reading Room, Washington State University, Tri-Cities Branch, 100 Sprout Road, Richland, WA 99352, (509) 376–8583,
Government Publications, University of Washington, Suzzallo Library, Box 352900, 15th Avenue NE., and Campus Parkway, Seattle, WA 98185–2900, (206) 543–1937
Gonzaga University, Foley Center, East 502 Boone Avenue, Spokane, WA 99258, (509) 324–5931
Portland State University, Branford Price Millar Library, SW Harrison and Park, Portland, OR 97207, (503) 725–4735.

You may also receive a copy of the Final EIS by calling the Hanford Cleanup Hotline toll-free at 1–800–321–2008.

Signed in Richland, Washington, this 10th day of May 1996, for the United States Department of Energy.

John D. Wagoner,

Manager, Richland Operations Office.

[FR Doc. 96–12824 Filed 5–21–96; 8:45 am]

BILLING CODE 6450–01–P

Floodplain Statement of Findings for Remedial Action at the Ventron Site and Adjacent Harbor Sediment in Essex County, Massachusetts

AGENCY: Former Sites Restoration Division, Department of Energy (DOE).

SUBJECT: Floodplain statement of findings.

SUMMARY: This is a Floodplain Statement of Findings prepared in accordance with 10 CFR Part 1022, Compliance with Floodplain/Wetlands Environmental Review Requirements. DOE proposes to remediate sediment and soil with elevated levels of uranium-238 from the 100-year floodplain of the Bass and Danvers Rivers and from the floodplain buffer zone adjacent to the 100-year floodplain at the Ventron site in Essex County, Massachusetts. DOE prepared a Floodplain and Wetlands Assessment describing the effects, alternatives, and measures designed to avoid or minimize potential harm to or within the affected floodplain. DOE would endeavor to allow 15 days of public review after publication of the Statement of Findings before implementation of the proposed action.

FOR FURTHER INFORMATION ON THIS PROPOSED ACTION OR TO COMMENT ON THE ACTION, CONTACT: Mr. Jim Kopotic, Ventron Site Manager, Former Sites Restoration Division, U.S. Department of Energy, P.O. Box 2001, Oak Ridge, TN 37831–8541, Phone: (423) 576–4991, FAX: (423) 576–0956.

FOR FURTHER INFORMATION ON GENERAL DOE FLOODPLAIN AND WETLANDS ENVIRONMENTAL REVIEW REQUIREMENTS, CONTACT: Carol M. Borgstrom, Director, Office of NEPA Oversight, EH–42, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–4600 or (800) 472–2756.

SUPPLEMENTARY INFORMATION: This is a Floodplain Statement of Findings prepared in accordance with 10 CFR Part 1022. A Notice of Floodplain and Wetland Involvement was published in the Federal Register (Vol. 61, pp. 11621–11622) on March 21, 1996, and a Floodplain and Wetlands Assessment was incorporated in the engineering evaluation and cost analysis prepared for the Ventron site. DOE proposes to remediate sediment and soil with elevated levels of uranium-238 that are located in the 100-year floodplain of the Bass and Danvers Rivers and the 100-yr floodplain buffer zone adjacent to the floodplain at the Ventron site in Essex County, Massachusetts. The entire Ventron site is also within the Massachusetts coastal zone. The proposed action would be in a floodplain because levels of uranium-238 in some sediment and soil in the floodplain at the site exceed guidelines for residual radioactivity and future use without radiological restrictions of the site. DOE has structured potential cleanup options by affected media: harbor sediments and on-site soil and furnace ash. Alternative actions considered for harbor sediments are no action or, complete removal of harbor sediment with levels of uranium-238 over 50 pCi/g. Alternative actions considered for on-site soil and furnace ash also include no action or, complete removal of on-site soil and furnace ash with levels of uranium-238 over 50 pCi/g. Access to sediment and soil may require decontamination and demolition of structures at the site. There is no practicable alternative to the proposed action. The proposed action would conform to applicable state and local floodplain protection standards.

The following steps would be taken to minimize potential harm to or within the affected floodplain:

1. The design and performance of excavation activities would incorporate standard best management practices in accordance with U.S. Department of Agriculture Natural Resource Conservation Service (formerly the Soil Conservation Service) methods, or the equivalent, to control erosion and siltation from excavations.

2. Remediation operations would confine the areas of sediment and soil disturbance to the minimum necessary for successful completion of the project.

3. Care would be exercised to provide minimum practicable exposure of sediment and soil to erosion.

4. All erosion and sediment barriers would remain in place until the excavation is successfully stabilized by applicable measures.

5. Disturbed sediment and soil in or adjacent to the floodplain, waterways, wetlands, coastal zone, and areas subject to tidal action and excavations would be stabilized or otherwise protected to prevent off-site migration, as conditions warrant, in accordance with Massachusetts soil erosion and sediment control standards or their equivalent.

6. DOE would not dispose waste rubble, sediment, or soil in the floodway or within the tidal zone. Waste mulch not serving to control erosion or sediment would also not be disposed of in channels or on waterway banks.

7. Remediation would not obstruct any streams or tidal areas and all streams and tidal zones would retain their original capacity for storing floodwaters. The proposed action would not impede flow or increase flooding.

8. All areas excavated in or adjacent to the floodplain, wetlands, the Massachusetts coastal zone, and areas subject to tidal action would be restored to grade by the current owner, Morton International, as required, and the proposed activities would not subject lives or property to any increased risk of flooding.

9. DOE would not use areas within the floodplain for temporary or permanent storage of excavated sediment, soil, or demolition rubble; however, some areas within the floodplain and wetland buffer zone, and the Massachusetts coastal zone may be used for temporary storage of excavated materials with appropriate measures in place to properly contain excavated materials.

10. The proposed action would conform to applicable state and local floodplain, wetland, and coastal zone protection standards and would be consistent with Massachusetts' coastal zone management policies.

11. The proposed action would not result in the destruction of any floodplain or wetland and would be consistent with the President's policy of ''no net loss'' of wetlands in the United States and Executive Orders 11988 and 11990.

DOE will endeavor to allow 15 days of public review after publication of the Statement of Findings before implementation of the proposed action.

Issued in Oak Ridge, Tennessee on May 6, 1996.

James L. Elmore,

Alternate NEPA Compliance Officer.

[FR Doc. 96–12825 Filed 5–21–96; 8:45 am]

BILLING CODE 6450–01–P

Bonneville Power Administration

Templates (New Power Sales Contracts) and Amendatory Agreement No. 7

AGENCY: Bonneville Power Administration (BPA), Department of Energy (DOE).

ACTION: Notice of availability of Record of Decision (ROD).

SUMMARY: This notice announces the availability of the ROD to offer BPA's public utility customers choices about their business relationships with BPA over the next 5 years. One choice being offered is for the public utility customers, and potentially other types of customers, to negotiate a new tailored contract for firm load requirements service based on contract templates that have been negotiated through a public process and comment period. Requirements service is the firm power products that a BPA customer has a right to purchase from BPA for the customer's general firm power load requirements and its new large single loads. Contracts based on the templates will be available at least through August 1, 1996.

The other key choice BPA is offering is an opportunity to amend their 1981 or 1984 Power Sales Contracts. With Amendatory Agreement No. 7, BPA is offering terms that will address certain changes in the electric power marketplace and in the needs of BPA customers. This amendment is offered in the context of the market-driven approach selected in BPA's Business Plan process. This amendment is planned to be the final step in a sequence of offers to public utility customers intended to strengthen BPA's competitive position in the electric power market and to strengthen its business relationships with its customers. This decision is consistent with BPA's Business Plan, the Business Plan Final Environmental Impact Statement (DOE/EIS–0183, June 1995), and the Business Plan ROD (August 15, 1995).

ADDRESSES: Copies of this ROD, the Business Plan Environmental Impact Statement, and the Business Plan ROD may be obtained by calling BPA's toll-free document request line: 1–800–622–4520.

FOR FURTHER INFORMATION, CONTACT: Katherine S. Pierce—EC, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon, 97208–3621, phone number (503) 230–3962, fax number (503) 230–5699.

Issued in Portland, Oregon, on May 13, 1996.

Randall W. Hardy,

Administrator and Chief Executive Officer.

[FR Doc. 96–12826 Filed 5–21–96; 8:45 am]

BILLING CODE 6450–01–P

Office of Energy Efficiency and Renewable Energy

State Energy Advisory Board, 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:

Name: State Energy Advisory Board.

Date and Time: June 27, 1996 from 9:00 am to 5:00 pm, and June 28, 1996 from 9:00 am to 12:00 pm.

Place: The Industrial Electrotechnology Laboratory, room 2427, NCSU College of Textiles, Research Drive, Raleigh, NC 27695. 919–515–3941.

Contact: William J. Raup, Office of Building Technology, State, and Community Programs, Energy Efficiency and Renewable Energy, U.S. Department of Energy, Washington, DC 20585, Telephone 202/586–2214.

Purpose of the Board: To make recommendations to the Assistant Secretary for Energy Efficiency and Renewable Energy regarding goals and objectives and programmatic and administrative policies, and to otherwise carry out the Board's responsibilities as designated in the State Energy Efficiency Programs Improvement Act of 1990 (P.L. 101–440).

Tentative Agenda: Briefings on, and discussions of:

- The FY 1997 Federal budget request for Energy Efficiency and Renewable Energy programs.
- Issues related to DOE National Laboratories, relating to deployment of technology through the States.
- Review and approval of any committee activity.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact William J. Raup at the address or telephone number listed above. Requests to make oral presentations must be received five days prior to the meeting; reasonable provision will be made to include the statements in the agenda. The Chair of the Board is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes: The minutes of the meeting will be available for public review and copying within 30 days at the Freedom of Information Public Reading 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 May 16, 1996.

Rachel M. Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 96–12822 Filed 5–21–96; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. CP96–520–000]

Columbia Gas Transmission Corporation; Notice of Application

May 16, 1996.

Take notice that on May 13, 1996, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314–1599, filed in Docket No. CP96–520–000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity pursuant to Section 157.7 of the Commission's regulations, as well as a temporary certificate pursuant to Section 157.17 of the Commission's regulations, authorizing the increase in compressor station horsepower, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Columbia requests authorization to increase the horsepower at its Hellertown Compressor Station, located in Northampton County, Pennsylvania, from 917 to 1100 horsepower (hp) per unit, for a total of 2200 hp, and incremental increase of 366 hp. It is stated that to accommodate the proposed increase in horsepower, Columbia must also replace the existing, appurtenant eight 8-inch diameter compressor cylinders with eight 8½-inch diameter compressor cylinders, and provide sound attenuation to ensure reliability of service to its customers.

Columbia requests a temporary certificate to allow it to continue operation of its Hellertown Compressor Station at the higher horsepower level until the Commission issues a permanent certificate. It is stated that, due to a pipeline rupture on January 6, 1996, Columbia's Line 1278 was repaired and the operating pressure was decreased from 1200 psig to 1080 psig, pending remedial work to restore the operation integrity of the pipeline. Columbia contends that the decreased operating pressure created a shortage of

facility capacity to serve Columbia's customers in the New York area. According to Columbia, it became necessary to operate the Hellertown Compressor Station at the higher horsepower to ensure continued service to customers in the New York area on an emergency basis. Columbia states that it has operated in this mode since January 13, 1996, and that its extended terms for emergency service will expire on May 13, 1996. Columbia estimates that the Line 1278 operating pressure will not be restored until November 1997, based on a remediation plan agreed to by Columbia, in consultation with the Department of Transportation. It is stated that Columbia must therefore continue supplementing deliveries to its New York customers through the Hellertown Compressor Station. Therefore, a temporary certificate is required to continue this level of service. Columbia states that the permanent certificate and subsequent appurtenant compressor facility upgrades will allow Columbia to better serve all of its customers over a wider operating range, thus enhancing the flexibility of providing service to its New York customers.

Columbia states that it does not request authorization for any new or additional service. It is stated that the proposed horsepower increase is necessary to provide reliable service to all of Columbia's New York area customers. Columbia estimates the cost of the appurtenant facility upgrades at $860,000. It is stated that no additional costs are required to achieve the 1100 hp rating per unit, since each unit was derated originally.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 28, 1996, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held with further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Columbia to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 96–12789 Filed 5–21–96; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 11572–000]

Roosevelt Water Conservation District; Notice of Application for Errata to Conduit Exemption

May 16, 1996.

Take notice that the deadline date under the notice issued April 29, 1996 (61 FR 19927, May 3, 1996) has been changed to August 2, 1996. The applicant's zip code should also be corrected to read ''85236.''

Lois D. Cashell,

Secretary.

[FR Doc. 96–12848 Filed 5–22–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–516–000]

Williams Natural Gas Company; Notice of Request Under Blanket Authorization

May 16, 1996.

Take notice that on May 10, 1996, Williams Natural Gas Company (WNG), P.O. Box 2400, Tulsa, Oklahoma, 74102, filed in Docket No. CP96–516–000 a request pursuant to Sections 157.205, and 157.216(b) of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, and 157.216) for approval to abandon in place approximately 4,166 feet of the Superior eight-inch loop pipeline located in Jewell County, Kansas, under the blanket certificate issued in Docket No. CP82–479–000, pursuant to Section 7(c) of the Natural Gas Act (NGA), all as more fully set forth in the request which is on file with the Commission and open to public inspection.

WNG states that it is proposing to abandon the eight-inch pipeline where the pipeline crosses White Rock Creek, a tributary to Lovewell Reservoir, located in Jewell County, Kansas. WNG further states that in 1955, it installed a ten-inch pipeline which paralleled the eight-inch pipeline could either be operated as a single line or both the eight-inch line or ten-inch line pipeline could be operated simultaneously. It is further asserted that the parallel ten-inch line has sufficient capacity to continue to provide service without detriment or disadvantage to any WNG customer. WNG indicates that the reclaim cost of the line is estimated to be $1,200 with a salvage value of $0.

Any person or the Commission's Staff may, within 45 days of the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), a motion to intervene and pursuant to Section 157.205 of the regulations under the Natural Gas Act (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefor, the proposed activities shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 96–12788 Filed 5–21–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER95–1845–001, et al.]

Central Illinois Light Co., et al.; Electric Rate and Corporate Regulation Filings

May 14, 1996.

Take notice that the following filings have been made with the Commission:

1. Central Illinois Light Co.

[Docket No. ER95–1845–001]

Take notice that on April 22, 1996, Central Illinois Light Company tendered for filing its compliance filing in the above-referenced docket.

Comment date: May 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

2. Heartland Energy Services, Inc., Acme Power Marketing, Inc.,

[Docket No. ER94–108–008, Docket No. ER94–1530–008 (not consolidated)]

Take notice that the following informational filings have been made

with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On May 1, 1996, Heartland Energy Services, Inc. filed certain information as required by the Commission's August 9, 1994 order in Docket No. ER94–108–000.

On April 10, 1996, Acme Power Marketing, Inc. filed certain information as required by the Commission's October 18, 1994 order in Docket No. ER94–1530–000.

3. Enerconnect, Inc.)

[Docket No. ER96–1424–000]

Take notice that on May 2, 1996, Enerconnect, Inc. tendered for filing supplemental information to its March 28, 1996, filing in the above-referenced docket.

Comment date: May 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

4. Kansas City Power & Light Company

[Docket Nos. ER96–1472–000, ER96–1473–000, and ER96–1474–000]

Take notice that on April 29, 1996, Kansas City Power & Light Company tendered for filing a Notice of Withdrawal in the above-referenced dockets.

Comment date: May 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

5. New York State Electric & Gas Company

[Docket No. ER96–1508–000]

Take notice that on May 3, 1996, New York State Electric & Gas Company tendered for filing supplemental information to its April 4, 1996, filing in the above-referenced docket.

Comment date: May 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

6. Midwest Energy, Inc.)

[Docket Nos. ER96–1550–000 and ER95–590–000]

Take notice that on May 3, 1996, Midwest Energy, Inc. tendered for filing amendments in the above-referenced dockets.

Comment date: May 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. Pacific Gas and Electric Company

[Docket No. ER96–1703–000]

Take notice that on May 3, 1996, Pacific Gas and Electric Company (PG&E), tendered for filing an amendment to its filing dated April 30, 1996 of the Scheduling Services Agreement dated April 24, 1996, (the Agreement), between PG&E and USGen Power Services, L.P. (USGenPS). This amended filing is made to request waivers for an effective date of May 1, 1996 for the Agreement.

Copies of this filing have been served upon USGenPS and the California Public Utilities Commission.

Comment date: May 29, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. Duke Power Company

[Docket No. ER96–1709–000]

Take notice that on May 1, 1996, Duke Power Company (Duke), tendered for filing a Transmission Service Agreement (TSA) between Duke, on its own behalf and acting as agent for its wholly-owned subsidiary, Nantahala Power and Light Company, and Electric Clearinghouse, Inc. (ECT). Duke states that the TSA sets out the transmission arrangements under which Duke will provide ECI non-firm transmission service under its Transmission Service Tariff.

Comment date: May 29, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. Duke Power Company

[Docket No. ER96–1710–000]

Take notice that on May 1, 1996, Duke Power Company (Duke), tendered for filing a Schedule MR Transaction Sheet under Service Agreement No. 4 of Duke's FERC Electric Tariff, Original Volume No. 3 and Notices of Cancellation of Schedule MR Transaction Sheets dated February 26, 1996, February 27, 1996 and April 4, 1996.

Comment date: May 29, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. The Washington Water Power Company

[Docket No. ER96–1711–000]

Take notice that on May 1, 1996, The Washington Water Power Company (WWP), tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.13 a revision to its Rate Schedule FERC No. 105. WWP requests an effective date of July 1, 1996.

A copy of this filing has been served upon Bonneville, the Idaho Public Utilities Commission, and the Washington Utilities and Transportation Commission.

Comment date: May 29, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. Green Mountain Power Corporation

[Docket No. ER96–1717–000]

Take notice that on May 1, 1996, Green Mountain Power Corporation (GMP) tendered for filing revisions GMP's to FERC Electric Tariff, Original Volume No. 2.

Comment date: May 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. PECO Energy Company

[Docket No. ER96–1720–000]

Take notice that on May 2, 1996, PECO Energy Company (PECO), filed a Service Agreement dated April 26, 1996, with Oglethorpe Power Corporation (OGLETHORPE) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds OGLETHORPE as a customer under the Tariff.

PECO requests an effective date of April 26, 1996, for the Service Agreement.

PECO states that copies of this filing have been supplied to OGLETHORPE and to the Pennsylvania Public Utility Commission.

Comment date: May 29, 1996, in accordance with Standard Paragraph E at the end of this notice.

13. New England Power Pool

[Docket No. ER96–1721–000]

Take notice that on May 2, 1996, the New England Power Pool Executive Committee filed a signature page to the NEPOOL Agreement dated September 1, 1971, as amended, signed by Southern Energy Marketing, Inc. (Southern). The New England Power Pool Agreement, as amended, has been designated NEPOOL FPC No. 2.

The Executive Committee states that acceptance of the signature page would permit Southern to join the over 90 Participants already in the Pool. NEPOOL further states that the filed signature page does not change the NEPOOL Agreement in any manner, other than to make Southern a Participant in the Pool. NEPOOL requests an effective date of June 1, 1996 for commencement of participation in the Pool by Southern.

Comment date: May 29, 1996, in accordance with Standard Paragraph E at the end of this notice.

14. Central Illinois Public Service Company

[Docket No. ER96–1722–000]

Take notice that on May 2, 1996, Central Illinois Public Service Company (CIPS), submitted two Service Agreements, dated April 8, and April 10, 1996, establishing VTEC Energy, Inc.

(VTEC) and Illinova Power Marketing, Inc. (Illinova), respectively, as customers under the terms of CIPS' Coordination Sales Tariff CST–1 (CST–1 Tariff).

CIPS requests effective dates of April 8, 1996, for the service agreement with VTEC, and April 10, 1996, for the service agreement with Illinova and the revised Index of Customers. Accordingly, CIPS requests waiver of the Commission's notice requirements. Copies of this filing were served upon VTEC, Illinova and the Illinois Commerce Commission.

Comment date: May 29, 1996, in accordance with Standard Paragraph E at the end of this notice.

15. UtiliCorp United Inc.

[Docket No. ER96–1723–000]

Take notice that on May 2, 1996, UtiliCorp United Inc., tendered for filing on behalf of its operating division, Missouri Public Service, a Service Agreement under its Power Sales Tariff, FERC Electric Tariff Original Volume No. 10, with *Carolina Power & Light Company*. The Service Agreement provides for the sale of capacity and energy by Missouri Public Service to *Carolina Power & Light Company* pursuant to the tariff.

UtiliCorp also has tendered for filing a Certificate of Concurrence by *Carolina Power & Light Company*.

UtiliCorp requests waiver of the Commission's regulations to permit the Service Agreement to become effective in accordance with its terms.

Comment date: May 29, 1996, in accordance with Standard Paragraph E at the end of this notice.

16. SDS Petroleum Products, Inc.

[Docket No. ER96–1724–000]

Take notice that on May 3, 1996, SDS Petroleum Products, Inc. (SDS), tendered for filing pursuant to Rule 205, 18 CFR 385.205, an application for waivers and blanket approvals under various regulations of the Commission and for an Order accepting its FERC Electric Rate Schedule No. 1 to be effective on the earlier date of May 3, 1996, or the date of the Commission's Order herein.

SDS has its principal place of business at 14190 East Evans Avenue, Aurora, Colorado, 80014–1431. SDS intends to engage in electric power and energy transactions as a marketer and a broker. In transactions where SDS sells electric energy, it purposes to make such sales at rates, terms, and conditions to be mutually agreed upon with the purchasing party. SDS nor it's affiliate (SDS Fuels and Services) are not in the business of generating, transmitting, or distributing electric power.

Comment date: May 29, 1996, in accordance with Standard Paragraph E at the end of this notice.

17. Northwestern Public Service Company

[Docket No. ES96–26–000]

Take notice that on May 7, 1996, Northwestern Public Service Company (Northwestern) filed an application, under § 204 of the Federal Power Act, seeking authorization to issue the following securities:

(i) not more than 2 million shares of its Common Stock, par value $3.50 per share (this amount is in addition to 1,757,110 shares previously authorized by the Commission and not yet issued); and

(ii) not more than $100 million of its Mortgage Bonds, notes, debentures, subordinated debentures (including monthly income preferred securities (MIPS)), guarantees or other evidences of indebtedness (this amount is in addition to $10 million previously authorized by the Commission and not yet issued).

The previous authorizations were granted in Docket No. ES95–33–000 *et al*.

Also, Northwestern requests an exemption from the Commission's competitive bidding and negotiated placement requirements.

Comment date: June 5, 1996, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–12787 Filed 5–21–96; 8:45 am]

BILLING CODE 6717–01–P

Notice of Intent to File an Application for a New License

May 8, 1996.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of filing:* Notice of Intent to File an Application for a New License.

b. *Project No.:* 2416.

c. *Date filed:* April 22, 1996.

d. *Submitted By:* Aquenergy Systems, Inc., current licensee.

e. *Name of Project:* Ware Shoals.

f. *Location:* On the Saluda River, in the Town of Ware Shoals, Greenwood, Laurens, and Abbeville Counties, SC.

g. *Filed Pursuant to:* 18 CFR 16.6 of the Commission's regulations.

h. *Effective date of original license:* May 1, 1965.

i. *Expiration date of original license:* September 30, 2001.

j. *The project consists of:* (1) a 545-foot-long, 24-foot-high stone-rubble gravity-type dam having a taintor gate bay; (2) a 6,000-foot-long reservoir having an 88 acre surface area and a 528 acre-foot storage capacity at normal pool elevation 508 feet m.s.l.; (3) a stone-rubble intake structure; (4) a 2,700-foot-long canal; (5) four 7-foot-diameter, 345-foot-long penstocks; (6) a steel surge tank; (7) a powerhouse containing two generating units with a total installed capacity of 6,200-kW; (8) a 2.3-kV transmission line; and (9) appurtenant facilities.

k. Pursuant to 18 CFR 16.7, information on the project is available at: Aquenergy Systems, Inc., 1311–A Miller Road, Greenville, SC 29607, Attn: Kathy Dority, (864) 281–9630.

l. *FERC contact:* Charles T. Raabe (202) 219–2811.

m. Pursuant to 18 CFR 16.8, 16.9, and 16.10, each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by September 30, 1999.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–12847 Filed 5–21–96; 8:45 am]

BILLING CODE 6717–01–M

Notice of Application Accepted for Filing With the Commission

April 25, 1996.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–11577–000.

c. *Date filed:* April 15, 1996.

d. *Applicant:* Summit Hydropower, Inc.

e. *Name of Project:* Windsor Locks Hydro Project.

f. *Location:* On the Connecticut River, near Suffield, Enfield, and Windsor Locks, Hartford County, Connecticut.

g. *Filed Pursuant to:* Federal Power Act 16 USC § § 791(a)–825(r).

h. *Applicant Contact:* Mr. Duncan S. Broatch, 92 Rocky Hill Road, Woodstock, CT 06281, (860) 974–1620.

i. *FERC Contact:* Edward Lee at (202) 219–2809.

j. *Comment Date:* July 5, 1996.

k. *Description of Project:* The proposed project would consist of: (1) the existing Windsor Locks Canal Company's 10-foot-high and 1,484-foot-long timber dam; (2) an existing 4,940 acre-foot reservoir; and (3) a powerhouse having a capacity of 1,450 Kw with an average annual generation of 10,400 Kwh.

No new access road will be needed to conduct the studies. The applicant estimates that the cost of the studies to be conducted under the preliminary permit would be $43,000. The existing dam and site works are owned by Windsor Locks Canal Company, 2 Elm Street, Windsor Locks, CT 06096.

l. *Purpose of Project:* Project power would be sold to a local utility, Northeast Utilities.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

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.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''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. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–12849 Filed 5–21–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RM93–11–000]

Revisions To Oil Pipeline Regulations Pursuant to the Energy Policy Act of 1992

(Issued May 16, 1996.)

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of Annual Change in the Producers Price Index for Finished Goods, Minus One Percent.

SUMMARY: The Commission is issuing the index that oil pipelines must apply to their July 1, 1995–June 30, 1996 rate ceiling levels to compute their rate ceiling levels for the period July 1, 1996, through June 30, 1997, in accordance with 18 CFR 342.3(d). This index, which is the percent change (expressed as a decimal) in the annual average Producer Price Index for Finished Goods from 1994 to 1995, minus one percent, is .009124. Oil pipelines must multiply their July 1, 1995–June 30, 1996 rate ceiling levels by 1.009124 to compute their rate ceiling levels for the period July 1, 1996 through June 30, 1997.

FOR FURTHER INFORMATION CONTACT: Michelle Veloso, Office of Economic Policy, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 208–2008

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the Federal Register, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours

at 888 First Street, NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208–1397 if dialing locally or 1–800–856–3720 if dialing long distance. To access CIPS, set your communications software to use 19200, 14400, 12000, 9600, 7200, 4800, 2400, or 1200 bps, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this document will be available on CIPS indefinitely in ASCII and WordPerfect 5.1 format. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in the Public Reference Room at 888 First Street, NE., Washington, DC 20426.

Notice of Annual Change in the Producer Price Index for Finished Goods, Minus One Percent

Issued May 16, 1996.

The Commission's regulations include a methodology for oil pipelines to change their rate through use of an index systems that establishes ceiling levels for such rates. The index system as set forth at 18 CFR 342.3 is based on the annual change in the Producer Prince Index for Finished Goods (PPI–FG), minus one percent. The regulations provide that each year the Commission will publish an index reflecting the final change in the PPI–FG, minus one percent, after the final PPI–FG is made available by the Bureau of Labor Statistics in May of each calendar year.

The annual average PPI–FG index figure for 1994 was 125.5 and the annual average PPI–FG index for 1995 was 127.9.[1] Thus, the percent change (expressed as a decimal) in the annual average PPI–FG from 1994 to 1995, minus one percent, is .009124.[2] Oil pipelines must multiply their July 1, 1995–June 30, 1996 rate ceiling levels by 1.009124 to compute their rate ceiling levels for the period July 1, 1996, through June 30, 1997, in accordance with 18 342.3(d).

To obtain July 1, 1996–June 30, 1997 ceiling levels, pipelines must first calculate their ceiling levels for the January 1, 1995–June 30, 1995 index period, by multiplying their December 31, 1994 rates by 1.009175. Pipelines must then multiply those ceiling levels. Finally, pipelines must multiply their July 1, 1995–June 30, 1996 ceiling levels by 1.009124 to obtain the July 1, 1996–June 30, 1997 ceiling levels. See Explorer Pipeline Company, 71 FERC ¶ 61,416 at n. 6 (1995) for an explanation of how ceiling levels must be calculated.

Lois D. Cashell,

Secretary.

[FR Doc. 96–12850 Filed 5–21–96; 8:45 am]

BILLING CODE 6717–01–M

[1] The final figure for the annual average PPI–FG is published by the Bureau of Labor Statistics in mid-May of each year. This figure is publicly available from the Division of Industrial Prices and Price Indexes of the Bureau of Labor Statistics, at (202) 606–7705, and is available in print in August in Table 1 of the annual data supplement to the BLS publication *Producer Price Indexes.*

[2] [127.9 – 125.5]/125.5=.019124; .019124 – .01=.009124.

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of Implementation of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy announces procedures for disbursement of $48,307.13 of crude oil overcharge funds obtained by the DOE from Texas American Oil Corporation (Texas American), Case No. VEF–0019. The OHA has determined that these funds, plus accrued interest, be distributed as direct restitution to individual claimants who were injured by crude oil overcharges.

FOR FURTHER INFORMATION CONTACT: Richard W. Dugan, Associate Director, Office of Hearings and Appeals, 1000 Independence Ave., SW., Washington DC 20585–0107, Telephone No. (202) 426–1575.

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR § 205.282(c), notice is hereby given of the issuance of the Decision and Order set forth below. The Decision and Order sets forth the procedures that the DOE has formulated to distribute $48,307.13 (plus accrued interest) remitted to the DOE by the trustee-in-bankruptcy for Texas American. The DOE is currently holding these funds in an interest-bearing escrow account pending distribution.

The OHA will allocate all of the crude oil overcharge funds obtained from Texas American for individual claimants. This is in accordance with *Texas American Oil Corp.* v. *DOE,* 44 F.3d 1557 (Fed. Cir. 1995) (en banc), in which the United States Court of Appeals for the Federal Circuit held that the DOE's claim in the Texas American bankruptcy proceeding on behalf of individual claimants should have a higher priority than its claim on behalf of the states and federal government. Pursuant to that decision, the bankruptcy court distributed to the DOE an amount equivalent to only 20 percent of its liquidated claim in the Texas American bankruptcy proceeding, since under the DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases, 51 FR 27899 (August 4, 1986), a maximum of 20 per cent of the crude oil overcharge funds remitted to the DOE are reserved for injured purchasers of refined petroleum products.

Refunds to eligible purchasers will be based on the volume of products that they purchased during the price control period. The volumetric refund amount is $0.0016 per gallon. Because the June 30, 1995 deadline for crude oil refund applications has passed, no new applications for refund will be accepted in this proceeding. As we state in the Decision, the Texas American funds will be added to the general crude oil overcharge pool for direct restitution to claimants that have filed timely applications.

Dated: May 14, 1996.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

May 14, 1996.

Name of Case: Texas American Oil Corporation.

Date of Filing: September 1, 1995.

Case Number: VEF–0019.

On March 14, 1996, the Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) issued a Proposed Decision and Order (PDO) which tentatively established refund procedures for the distribution of crude oil overcharge funds obtained from Texas American Oil Corporation (Texas American). *Texas American Oil Co.,* Case No. VEF–0019, 61 Fed. Reg. 13170 (March 26, 1996). After a review of the comments received, the DOE has determined that the procedures set forth in the Proposed Decision and Order should be adopted.

I. Background

On September 19, 1988, the OHA issued a Remedial Order (RO) that found that Texas American had violated 10 CFR § 211.67(e)(2) by receiving excessive small refiner bias benefits under the DOE's Entitlements Program.

Texas American Oil Corp., 17 DOE ¶ 83,017 (1988). However, Texas American had filed a petition in bankruptcy on July 2, 1987, and its bankruptcy proceeding was still pending when the RO was issued. The trustee-in-bankruptcy approved the DOE's claim in the amount of $241,535.67, but classified it as a non-pecuniary loss in accordance with Section 726(a)(4) of the Bankruptcy Code and Class 9 of the Plan of Liquidation.[1] Since Class 9 claims were inferior to Class 7 claims, and there were insufficient assets to satisfy any Class 9 claim, or to satisfy fully the Class 7 claims, the effect of the trustee's determination was to preclude the DOE from receiving any compensation from Texas American's estate.

The DOE argued before the Bankruptcy Court that the trustee's determination was erroneous on the grounds that its claim was for restitution and therefore was a Class 7 claim. The Bankruptcy Court, however, rejected the DOE's position and held that Class 9 was the proper classification since the DOE's claim was not for actual pecuniary loss suffered by the holder of the claim. *In re Texas American Oil Corp.*, No. 387–33522–SAF–11 (Bankr. N.D. Tex. Mar. 5, 1992). This decision was reversed by the U.S. District Court which, relying on a prior decision of the Temporary Emergency Court of Appeals (TECA), held that a DOE claim under Section 209 of the Economic Stabilization of 1970 (ESA), 12 U.S.C. § 1904 note, was properly placed in the same class and priority as the general unsecured claims of other creditors. *Texas American Oil Corp.* v. *DOE*, No. 3:92–CV–1146–G (N.D. Tex. Sept. 14, 1992) (citing *DOE* v. *West Texas Marketing Corp.*, 763 F.2d 1411 (Temp. Emer. Ct. App. 1985) (*West Texas*)). This decision was in turn reversed by the United States Court of Appeals for the Federal Circuit, which held that the DOE's claim in the Texas American bankruptcy proceeding should be bifurcated, with the portion claimed on behalf of individual persons who suffered actual injury to be classified in Class 7 of the Plan of Liquidation and the portion to be paid to the federal and state governments to be classified in Class 9. *Texas American Oil Corp.* v. *DOE*, 44 F.3rd 1557 (Fed. Cir. 1995)(en banc). On remand, the Bankruptcy Court implemented the Federal Circuit's decision by distributing the 20 percent of DOE's liquidated claim ($48,307.13) that fell within Class 7 to DOE and the remaining 80 percent ($193,228.53) to the other Class 7 creditors. *In re Texas American Oil Corp.*, No. 387–33522–SAF–11 (Bankr. N.D. Tex. April 12, 1995). The funds that the DOE received from Texas American were deposited in an interest-bearing escrow account maintained by the Department of the Treasury.[2]

In accordance with 10 CFR Part 205, Subpart V, on September 1, 1995, the Office of General Counsel, Regulatory Litigation (OGC) (formerly the Economic Regulatory Administration) filed a Petition for the Implementation of Special Refund Procedures that requested OHA to formulate and implement procedures to distribute the Texas American funds. On January 16, 1996, we issued a Proposed Decision and Order that tentatively established refund procedures for the distribution of crude oil overcharge funds obtained from Texas American and four other firms. *Brio Petroleum, Inc.*, Case Nos. VEF–0017 *et al.*, 61 FR 1919 (January 24, 1996). In accordance with the Modified Statement of Restitutionary Policy in Crude Oil Cases (MSRP), 51 FR 27899 (August 4, 1986), that the DOE issued in connection with the Final Settlement Agreement approved in *In re The Department of Energy Stripper Well Exemption Litigation*, 653 F. Supp. 108 (D. Kan. 1986), the January 16 Proposed Decision proposed that 40 percent of the funds be disbursed to the federal government, another 40 percent be disbursed to the states, and the remaining 20 percent be reserved for applicants who file claims showing that they were injured by crude oil overcharges. However, we subsequently determined that the circumstances under which the DOE obtained the Texas American funds required that the funds be disbursed in a manner different than that set forth in the Proposed Decision. Accordingly, we issued the March 14, 1996 PDO, in which we tentatively determined that all of the funds received from Texas American be allocated to individual claimants. On April 24, 1996, we received comments on behalf of 14 designated states (the States). In their comments, the States disagreed with the refund procedures set forth in the PDO, but asserted that they would not formally object to them in view of the small amount of money involved. Instead, they reserved their right to object to any future proposed distributions of crude oil funds solely to individual claimants.

II. Jurisdiction and Authority

The Subpart V regulations set forth general guidelines which may be used by the OHA in formulating and implementing a plan of distribution of funds received as a result of an enforcement proceeding. The DOE policy is to use the Subpart V process to distribute such funds. For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds, *see* Petroleum Overcharge Distribution and Restitution Act of 1986, 15 U.S.C. § 4501 *et seq. See also Office of Enforcement,* 9 DOE ¶ 82,508 (1981); *Office of Enforcement,* 8 DOE ¶ 82,597 (1981).

III. Refund Procedures

Since the States have not formally objected to the proposed refund procedures, it is not necessary for us to respond to the specific arguments that they raise. We do, however, disagree with the States' position that the decisions of the Federal Circuit and the Bankruptcy Court (on remand) do not affect the manner in which we must distribute the crude oil funds in the present case.[3] Thus, we shall distribute the funds received from Texas American (and accrued interest on those funds) solely to individual claimants in the DOE's crude oil refund proceeding. In our view, which we believe to be correct, this distribution scheme is required by the unique circumstances under which these funds were obtained

[1] Section 726(a)(4) places non-pecuniary loss claims in the fourth priority in the distribution of a bankrupt estate:

11 U.S.C. § 726. Distribution of property of the estate

* * * * *

(a)(4) fourth, in payment of any allowed claim, whether secured or unsecured, for any fine, penalty, or forfeiture, or for multiple, exemplary, or punitive damages, arising before the earlier of the order for relief or the appointment of a trustee, to the extent that such fine, penalty, forfeiture, or damages are not compensation for actual pecuniary loss suffered by the holder of such claim[.]

Class 7 (Unsecured Claims) consisted of allowed claims of unsecured creditors, while Class 9 (Non-Pecuniary Loss) consisted of ''Allowed Claims for any fine, penalty, or forfeiture, or for multiple, exemplary, or punitive damages, as further described in 11 U.S.C. § 726(a)(4).'' Texas American Bankruptcy Committee Plan of Liquidation §§ 3.07, 3.09.

[2] As of March 31, 1996, the account contained $50,815.65, consisting of $48,307.13 principal and $2,508.52 interest.

[3] We also do not accept the States' attempt to blur the distinction between recipients of direct and indirect restitution. It is true that, prior to the Federal Circuit decision, it was the DOE's consistent position that both types of recipients should be treated the same for purpose of distributing funds from bankrupt estates. Nevertheless, our prior Decisions make it clear that, unlike the beneficiaries of indirect restitution, individual claimants cannot receive direct refunds without a finding of injury, though that finding may be based on a presumption of injury. *See* 10 C.F.R. § 205.282(e) (''[T]he standards for evaluation of individual claims may be based upon appropriate presumptions''). *See also Ernest A. Allerkamp,* 17 DOE ¶ 85,079 at 88,175–76 (1988); *City of Columbus, Georgia,* 16 DOE ¶ 85,550 (1987).

by the DOE. While the *Texas American v. DOE* decision is contrary to the position of the DOE that had been upheld in the *West Texas* case,[4] we are constrained by the Federal Circuit's decision. The clear import of that determination is that we must use the funds received from Texas American solely for direct restitutionary purposes. Moreover, as indicated above, the Bankruptcy Court, in accordance with the Federal Circuit's determination, distributed to the DOE only 20 percent of its liquidated claim in the Texas American bankruptcy proceeding. This percentage is equivalent to the portion of crude oil overcharge funds that we have consistently reserved for individual claimants under the MSRP. We therefore decline to modify our proposed allocation of the Texas American funds in response to the States' comments.

Except for the manner in which the funds will be allocated, we shall follow the procedures set forth in prior refund proceedings involving crude oil overcharge funds. Thus, claimants will be required to (i) document their purchase volumes of petroleum products during the August 19, 1973–January 27, 1981 crude oil price control period, and (ii) prove that they were injured by the alleged crude oil overcharges. Applicants who were end-users or ultimate consumers of petroleum products, whose businesses are unrelated to the petroleum industry, and who were not subject to the DOE price regulations will be presumed to have been injured by Texas American's crude oil overcharges. In order to receive a refund, end-users will not need to submit any further evidence of injury beyond the volume of petroleum products purchased during the price control period. We shall base refunds to claimants on a volumetric amount that is currently $0.0016 per gallon. *See* 60 FR 15562 (March 24, 1995).

A party that has already submitted a claim in the DOE crude oil proceeding need not file another claim in order to obtain its appropriate restitutionary share of crude oil funds. Moreover, because the June 30, 1995 deadline for crude oil refund applications has passed, we shall not accept any new applications. *See Western Asphalt Service,* 25 DOE ¶ 85,047 (1995).

[4] The Federal Circuit in *Texas American v. DOE* ascribed its unwillingness to follow the *West Texas* decision to judicial, statutory, and related policy changes that had occurred since the issuance of that decision. The Federal Circuit also specifically overruled TECA's ruling that a DOE bankruptcy claim under the ESA to be paid to the federal and state governments on behalf of their citizens was for restitution and not for a penalty.

Instead, these funds will be added to the general crude oil overcharge pool used for direct restitution. Finally, an applicant who has executed and submitted a valid waiver pursuant to one of the escrows established by the Final Stripper Well Settlement Agreement will be considered to have waived its rights to apply for a crude oil refund under Subpart V. *See, e.g., Mid-America Dairymen, Inc., v. Herrington,* 878 F.2d 1448 (Temp Emer. Ct. App. 1989); *see also Hoechst Celanese Chemical,* 25 DOE ¶ 85,066 (1996).

It Is Therefore Ordered That:

(1) The Director of Special Accounts and Payroll, Office of Departmental Accounting and Financial Systems Development, Office of the Controller of the Department of Energy shall take all steps necessary to transfer the $48,307.13 obtained from Texas American Oil Corporation, COTS No. N00S90460, plus accrued interest, into the subaccount denominated ''Crude Tracking-Claimants 4,'' Number 999DOE010Z.

(2) This is a final Order of the Department of Energy.

[FR Doc. 96–12823 Filed 5–21–96; 8:45 am]
BILLING CODE 6450–01–P

Western Area Power Administration

Boulder Canyon Project—Proposed Firm Power Service Base Charge

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of Proposed Base Charge Adjustment.

SUMMARY: The Western Area Power Administration (Western) is announcing the Fiscal Year 1996 annual rate adjustment for Rate Year 1997 under Rate Order WAPA–70 for firm power service for the Boulder Canyon Project (BCP). The annual rate adjustments are a requirement of the ratesetting methodology of WAPA–70 which was approved on a final basis by the Federal Energy Regulatory Commission on April 19, 1996. The existing rate schedule was placed into effect on November 1, 1995. The power repayment spreadsheet study indicates that the proposed Base Charge for BCP firm power service is necessary to provide sufficient revenue to pay all annual costs (including interest expense), plus repayment of required investment within the allowable time period. The proposed Base Charge for firm power service is expected to become effective October 1, 1996.

DATES: The consultation and comment period will begin with publication of this notice in the Federal Register and will end not less than 90 days later, or August 22, 1996, whichever occurs later. A public information forum will be held at 10 a.m. on June 13, 1996, at Western's Desert Southwest Customer Service Regional office, 615 South 43rd Avenue, Phoenix, Arizona. A public comment forum at which Western will receive oral and written comments will be held at 10 a.m. on July 15, 1996, at Western's Desert Southwest Customer Service Regional office. Written comments should be received by Western by the end of the consultation and comment period to be assured consideration and should be sent to the address below.

FOR FURTHER INFORMATION CONTACT:

Mr. J. Tyler Carlson, Regional Manager, Desert Southwest Customer Service Region, Western Area Power Administration, P.O. Box 6457, Phoenix, AZ 85005–6457, (602) 352–2453.

Mr. Anthony H. Montoya, Assistant Regional Manager, For Power Marketing, Desert Southwest Customer Service Region, Western Area Power Administration, P.O. Box 6457, Phoenix, AZ 85005–6457, (602) 352–2780.

SUPPLEMENTARY INFORMATION: The proposed Base Charge for BCP firm power is based on an Annual Revenue Requirement of $46,421,533. The Base Charge consists of an Energy Dollar of $23,968,846 and a Capacity Dollar of $22,452,687. The Forecast Energy Rate will be 5.46 mills/kilowatthour (mills/kWh), Forecast Capacity Rate will be $0.96 per kilowatt per month ($/kW-mo).

The existing BCP firm power Base Charge is based on an Annual Revenue Requirement of $45,196,960, consisting of an Energy Dollar of $23,460,351 and a Capacity Dollar of $21,736,609. The existing BCP forecast energy rate is 6.12 mills/kWh and forecast capacity rate is $0.93/kW-mo.

Since the proposed rates constitute a major rate adjustment as defined by the procedures for public participation in general rate adjustments, as cited below, both a public information forum and a public comment forum will be held. After review of public comments, Western will recommend proposed charges/rates for approval on a final basis by the Deputy Secretary of DOE pursuant to Section 13.13 of the BCP Implementation Agreement.

The power rates for the BCP are established pursuant to the Department of Energy Organization Act (42 U.S.C. 7101 *et seq.*), the Reclamation Act of 1902 (43 U.S.C. 391 *et seq.*), as amended and supplemented by subsequent

enactments, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)), the Colorado River Basin Project Act of 1968 (43 U.S.C. 1501 *et seq.*), the Colorado River Storage Project Act (43 U.S.C. 620 *et seq.*), the Boulder Canyon Project Act (43 U.S.C. 617 *et seq.*), the Boulder Canyon Project Adjustment Act (43 U.S.C. 618 *et seq.*), the Hoover Power Plant Act of 1984 (43 U.S.C. 619 *et seq.*), the General Regulations for Power Generation, Operation, Maintenance, and Replacement at the Boulder Canyon Project, Arizona/Nevada (43 CFR Part 431) published in the Federal Register at 51 FR 23960 on July 1, 1986, and the General Regulations for the Charges for the Sale of Power From the Boulder Canyon Project, Final Rule (10 CFR Part 904) published in the Federal Register at 51 FR 43124 on November 28, 1986, the Procedures for Public Participation in Power and Transmission Rate Adjustments and Extensions (10 CFR Part 903) published in the Federal Register at 50 FR 37837 on September 18, 1985, and the DOE financial reporting policies, procedures, and methodology (DOE Order No. RA 6120.2 dated September 20, 1979).

By Amendment No. 3 to Delegation Order No. 0204–108, published November 10, 1993 (58 FR 59716), the Secretary of Energy delegated: (1) The authority to develop long-term power and transmission rates on a nonexclusive basis to the Administrator of Western; (2) the authority to confirm, approve, and place power rates into effect on an interim basis to the Deputy Secretary; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand, or to disapprove power rates to FERC.

AVAILABILITY OF INFORMATION: All brochures, studies, comments, letters, memorandums, and other documents made or kept by Western for the purpose of developing the proposed rates for energy and capacity are and will be made available for inspection and copying at Western's Desert Southwest Customer Service Regional office, 615 South 43rd Avenue, Phoenix, Arizona 85005.

DETERMINATION UNDER EXECUTIVE ORDER 12866: DOE has determined that this is not a significant regulatory action because it does not meet the criteria of Executive Order 12866, 58 FR 51735. Western has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

ENVIRONMENTAL EVALUATION: In compliance with the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*; Council on Environmental Quality Regulations (40 CFR Parts 1500–1508); and DOE NEPA Regulations (10 CFR Part 1021), Western has determined that this action is categorically excluded from the preparation of an environmental assessment or an environmental impact statement.

Issued in Golden, Colorado, May 10, 1996.

J. M. Shafer,

Administrator.

[FR Doc. 96–12827 Filed 5–21–96; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5509–4]

Agency Information Collection Activities Under OMB Review; National Recycling and Emissions Reduction Program, OMB Number: 2060–0256

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), this notice announces that the following information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: National Recycling and Emissions Reduction Program, OMB Number: 2060–0256. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before June 21, 1996.

FOR FURTHER INFORMATION OR A COPY CALL:

Sandy Farmer at EPA, (202) 260–2740, and refer to EPA ICR No. 1626.06.

SUPPLEMENTARY INFORMATION:

Title: National Recycling and Emissions Reduction Program (OMB Control No. 2060–0256; EPA ICR No. 1626.06). This ICR is revision of an existing collection.

Abstract: The Agency has proposed to add a degree of flexibility to its regulations governing the recycling of refrigerants. This ICR includes a request for the approval of information requirements for independent laboratories to apply to EPA to become certifiers of reclaimers, and for certified reclaimers to maintain records of the quantity of material sent for reclamation. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15. These changes were proposed in a Supplemental Rule Regarding a Recycling Standard (Proposed) Under the Section 608 of the Clean Air Act, published in the Federal Register on February 29, 1996 (61 FR 7858).

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to add 5080 hours to the existing approved total of 565,000 hour. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and revise the collection of information, and transmit or otherwise disclose the information.

Respondents/Affected Entities: Refrigerant Reclaimers.

Estimated Number of Respondents: 2,500.

Frequency of Response: Annually.

Estimated Total Annual Hour Burden: 5080 hours.

Estimated Total Annualized Cost Burden: $0.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1626.06 and OMB Control No. 2060–0256 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street, SW., Washington, DC 20460.

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA 725 17th Street, NW., Washington, DC 20503.

Dated: May 17, 1996.

Richard Westlund,

Acting Director, Regulatory Information Division.

[FR Doc. 96–12866 Filed 5–21–96; 8:45 am]

BILLING CODE 6560–50–M

[OPP–66226; FRL 5368–6]

Notice of Receipt of Requests to Voluntarily Cancel Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of requests by registrants to voluntarily cancel certain pesticide registrations.

DATES: Unless a request is withdrawn by August 20, 1996, orders will be issued canceling all of these registrations.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, 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 216, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5761; e-mail: hollins.james@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, provides that a pesticide registrant may, at any time, request that any of its pesticide registrations be canceled. The Act further provides that EPA must publish a notice of receipt of any such request in the Federal Register before acting on the request.

II. Intent to Cancel

This Notice announces receipt by the Agency of requests to cancel some 52 pesticide products registered under section 3 or 24(c) of FIFRA. These registrations are listed in sequence by registration number (or company number and 24(c) number) in the following Table 1.

TABLE 1. — REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration No.	Product Name	Chemical Name
000121–00017	Diethyl toluamide	*N,N*-Diethyl-meta-toluamide and other isomers
000257–00131	Switzer Emulsion Bowl Cleaner & Disinfectant	Hydrogen chloride
000257–00332	Pinky Emulsion Bowl & Porcelain Cleaner Disinfectant	Hydrogen chloride Alkyl* dimethyl benzyl ammonium chloride *(60%C_{14},30%C_{16}, 5%C_{18}, 5%C_{12}) Alkyl* dimethyl ethylbenzyl ammonium chloride *(68%C_{12}, 32%C_{14})
000264 LA–81–0040	Weed one 2,4-DP	Butoxyethyl 2-(2,4-dichlorophenoxy)propionate
000279 LA–91–0020	Furadan 4F	2,3-Dihydro-2,2-dimethyl-7-benzofuranyl methylcarbamate
000352 LA–82–0031	Du Pont Lannate Methomyl Insecticide	*S*-Methyl *N*-((methylcarbamoyl)oxy)thioacetimidate
000352 LA–92–0003	Du Pont Bladex 4L Herbicide	Cyanazine
000352 OR–83–0025	Vydate L Insecticide Nematicide	Oxamimidic acid, *N',N'*-dimethyl-*N*-((methylcarbamoyl)oxy)-1-thio-methyl ester
000352 OR–90–0021	Harmony Extra Herbicide	Methyl 3-(((((4-methoxy-6-methyl-1,3,5-triazin-2-yl)amino)carbonyl) Methyl 2-(((((4-methoxy-6-methyl-1,3,5-triazin-2-yl)methylamino)
000400 AZ–82–0010	Comite Agricultural Miticide	2-(*p*-tert-Butylphenoxy)cyclohexyl 2-propynyl sulfite
000400 FL–85–0002	Comite CR An Agricultural Miticide	2-(*p*-tert-Butylphenoxy)cyclohexyl 2-propynyl sulfite
000400 OR–92–0020	Comite Agricultural Miticide	2-(*p*-tert-Butylphenoxy)cyclohexyl 2-propynyl sulfite
000400 WA–92–0032	Comite Agricultural Miticide	2-(*p*-tert-Butylphenoxy)cyclohexyl 2-propynyl sulfite
000904–00415	Pratt Oxamyl 10% Granular	Oxamimidic acid, *N',N'*-dimethyl-*N*-((methylcarbamoyl)oxy)-1-thio-methyl ester
000904–00417	Oxamyl 10% Granular Ag	Oxamimidic acid, *N',N'*-dimethyl-*N*-((methylcarbamoyl)oxy)-1-thio-methyl ester
001021–01046	D-Trans Intermediate 1818	2-Methyl-4-oxo-3-(2-propenyl)-2-cyclopenten-1-yl d-trans-2,2-dimethyl- Methoxychlor (2,2-bis(*p*-methoxyphenyl)-1,1,1-trichloroethane) 2-Hydroxyethyl octyl sulfide (Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20%
002393 WA–87–0025	Mylone 99G Soil Fumigant NC	Tetrahydro-3,5-dimethyl-2*H*-1,3,5-thiadiazine-2-thione
002935 MS–91–0001	Riverdale Sodium Salt of MCPA	Sodium 2-methyl-4-chlorophenoxyacetate
002935 OR–79–0029	Wilbur - Ellis Lime Sulfur Solution	Calcium polysulfide Calcium thiosulfate
003125 FL–87–0008	Baytex Liquid Concentrate Insecticide	*O,O*-Dimethyl *O*-(4-(methylthio)-*m*-tolyl)phosphorothioate
003862–00096	Chemscope 500 Diazinon Residual Spray	*N*-Octyl bicycloheptene dicarboximide

TABLE 1. — REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration No.	Product Name	Chemical Name
		O,O-Diethyl *O*-(2-isopropyl-6-methyl-4-pyrimidinyl)phosphorothioate (Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20% Pyrethrins
004816–00051	Cube Resins	Rotenone Cube Resins other than rotenone
004816–00120	BPR Liquid Base	(Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20% Pyrethrins Rotenone Cube Resins other than rotenone
004816–00123	BPR Dust Base	(Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20% Pyrethrins Rotenone Cube Resins other than rotenone
004816–00166	Rotenone 5% Emulsifiable Insecticide	Rotenone Cube Resins other than rotenone
004816–00423	Pet Spray Concentrate	Butoxypolypropylene glycol 1-Naphthyl-*N*-methylcarbamate (Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20% Pyrethrins
004816–00445	Patio & Outdoor Special Concentrate Code 845.01	Butoxypolypropylene glycol Methoxychlor (2,2-bis(*p*-methoxyphenyl)-1,1,1-trichloroethane) (Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20% (1-Cyclohexene-1,2-dicarboximido)methyl 2,2-dimethyl-3-(2-methylpropenyl)cycloprop
004816–00459	Plant Spray P.R. Concentrate Insecticide	Pyrethrins Rotenone Cube Resins other than rotenone
004816–00662	Pyrenone Sevin S.E.C.	1-Naphthyl-*N*-methylcarbamate (Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20% Pyrethrins
004816–00671	Butacide Sevin S.E.C.	1-Naphthyl-*N*-methylcarbamate (Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20%
005602–00150	Secret Treatment	*O,O*-Diethyl *O*-(3,5,6-trichloro-2-pyridyl)phosphorothioate Xylene range aromatic solvent
007501–00140	Gustafson Apron + Captan - Fungicide Seed Protectant	cis-*N*-Trichloromethylthio-4-cyclohexene-1,2-dicarboximide *N*-(2,6-Dimethylphenyl)-*N*-(methoxyacetyl)alanine, methyl ester
007501 ND–87–0006	Gustafson Apron-FL Seed Treatment Fungicide	*N*-(2,6-Dimethylphenyl)-*N*-(methoxyacetyl)alanine, methyl ester
008370–00008	Nyco Wintergreen Disinfectant & Deodorant	Isopropanol Alkyl* dimethyl benzyl ammonium chloride *(50%C_{14}, 40%C_{12}, 10%C_{16})
009779–00182	Riverside 50% Sevin Concentrate Dust	1-Naphthyl-*N*-methylcarbamate
009779–00190	Riverside 5% Garden Dust	1-Naphthyl-*N*-methylcarbamate
010204–00003	Markopine Pine Oil Disinfectant Coef. 5	Pine oil Soap
011525–00031	Disinfectant Spray ''H''	Ethanol Alkyl* dimethyl benzyl ammonium chloride *(60%C_{14}, 30%C_{16}, 5%C_{18}, 5%C_{12}) Alkyl* dimethyl ethylbenzyl ammonium chloride *(68%C_{12}, 32%C_{14})
011556–00030	Neguvon Technical	Dimethyl (2,2,2-trichloro-1-hydroxyethyl)phosphonate
011556–00109	EPCO Thrichlorofon Pouron Cattle Insec. Control of Catt	Dimethyl (2,2,2-trichloro-1-hydroxyethyl)phosphonate
019713–00338	Aidex Butyl-4E Weed Killer	Butyl 2,4-dichlorophenoxyacetate

TABLE 1. — REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration No.	Product Name	Chemical Name
047000–00029	Economy Swimming Pool Algaecide Containing Hyamine 3500	Ethanol Alkyl* dimethyl benzyl ammonium chloride *(50%C_{14}, 40%C_{12}, 10%C_{16})
049320–00006	Natur-Gro R-50	Ryanodine
049320–00007	Tri-Excel DS Natur-Gro Triple Plus	Pyrethrins Rotenone Cube Resins other than rotenone Ryanodine
055615–00002	Green Turf Weeder 60 Plus	3,5-Dinitro-*N*4,*N*4-dipropylsulfanilamide
055615–00003	Green Turf Weeder 75 Plus	3,5-Dinitro-*N*4,*N*4-dipropylsulfanilamide
055638–00006	Dagger Manufacturing Concentrate	Pseudomonas fluorescens EG-1053 (previously coded 006418)
059639 UT–94–0003	Dibrom 8 Emulsive	1,2-Dibromo-2,2-dichloroethyl dimethyl phosphate
062719–00198	B & G Ban-Bug D	*O,O*-Diethyl *O*-(3,5,6-trichloro-2-pyridyl)phosphorothioate Xylene range aromatic solvent
066676 ND–94–0006	Tree Guard	Benzyl diethyl ((2,6-xylylcarbamoyl)methyl) ammonium benzoate
069421–00001	Black Flag Flying Insect Killer	(Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20% Pyrethrins
069421–00002	Black Flag House and Garden Insect Killer	(Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20% Pyrethrins

Unless a request is withdrawn by the registrant within 90 days of publication of this notice, orders will be issued canceling all of these registrations. Users of these pesticides or anyone else desiring the retention of a registration should contact the applicable registrant directly during this 90-day period. The following Table 2 includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA Company Number.

TABLE 2. — REGISTRANTS REQUESTING VOLUNTARY CANCELLATION

EPA Company No.	Company Name and Address
000121	Spectrum, A Div of United Industries Corp., Box 15842, St Louis, MO 63114.
000257	Cello Corp., 1354 Old Post Rd., Havre De Grace, MD 21078.
000264	Rhone-Poulenc Ag Co., Box 12014, Research Triangle Park, NC 27709.
000279	FMC Corp., Agricultural Products Group, 1735 Market St., Philadelphia, PA 19103.
000352	E. I. Du Pont De Nemours & Co., Inc., Barley Mill Plaza, Walker's Mill, Wilmington, DE 19880.
000400	Uniroyal Chemical Co., Inc., 74 Amity Rd., Bethany, CT 06524.
000904	Miller Chemical & Fertilizer Corp., Pratt-Gabriel Division, Box 333, Hanover, PA 17331.
001021	McLaughlin Gormley King Co., 8810 Tenth Ave North, Minneapolis, MN 55427.
002393	Haco, Inc., Box 7190, Madison, WI 53707.
002935	Wilbur Ellis Co., 191 W. Shaw Ave, Fresno, CA 93704.
003125	Bayer Corp., Agriculture Division, 8400 Hawthorn Rd., Box 4913, Kansas City, MO 64120.
003862	ABC Compounding Co., Inc., Box 16247, Atlanta, GA 30321.
004816	Agrevo Environmental Health, 95 Chestnut Ridge Rd., Montvale, NJ 07645.
005602	Hub States Corp., 8455 Keystone Crossing, Suite 150, Indianapolis, IN 46240.
007501	Gustafson, Inc., Box 660065, Dallas, TX 75266.
008370	Nyco Products Co., 5332 Dansher Rd., Countryside, IL 60525.
009779	Riverside/Terra Corp., 600 Fourth St., Sioux City, IA 51101.
010204	Marko Inc., 1310 Southport Rd., Spartanburg, SC 29306.
011525	CCL Custom Mfg. Inc., Hegeler Lane, Danville, IL 61832.
011556	Bayer Corp., Agriculture Division, Animal Health, Box 390, Shawnee Mission, KS 66201.
019713	Drexel Chemical Co., Box 13327, Memphis, TN 38113.
047000	Chem-Tech Ltd., Attn: James Melton, 4515 Fleur Dr., #303, Des Moines, IA 50321.

TABLE 2. — REGISTRANTS REQUESTING VOLUNTARY CANCELLATION—Continued

EPA Company No.	Company Name and Address
049320	Progressive Agri-Systems, Inc., 125 W. Seventh Street, Wind Gap, PA 18091.
055615	Wilbro, Inc., Corner 3rd & Lexington, Norway, SC 29113.
055638	Ecogen Inc., 2005 Cabot Blvd W., Langhorne, PA 19047.
059639	Valent U.S.A. Corp., 1333 N. California Blvd, Ste 600, Walnut Creek, CA 94596.
062719	DowElanco, 9330 Zionsville Rd., 308/3e, Indianapolis, IN 46268.
066676	Nortech Forest Products Inc., 7600 W. 27th St., Suite B11, St Louis Park, MN 55426.
069421	Black Flag Insect Control Systems, c/o PS & RC, Box 493, Pleasanton, CA 94566.

III. Loss of Active Ingredients

Unless the requests for cancellation are withdrawn, three pesticide active ingredients will no longer appear in any registered products. Those who are concerned about the potential loss of these active ingredients for pesticidal use are encouraged to work directly with the registrant to explore the possibility of their withdrawing the request for cancellation. The active ingredients are listed in the following Table 3, with the EPA Company and CAS Number.

TABLE 3. — ACTIVE INGREDIENTS WHICH WOULD DISAPPEAR AS A RESULT OF REGISTRANTS' REQUESTS TO CANCEL

CAS No.	Chemical Name	EPA Company No.
94–80–4	Butyl 2,4-dichlorophenoxyacetate stems of	019713
53404–31–2	Butoxyethyl 2-(2,4-dichlorophenoxy)propionate	000264
15662–33–6	Ryanodine	049320

IV. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for cancellation must submit such withdrawal in writing to James A. Hollins, at the address given above, postmarked before August 20, 1996. This written withdrawal of the request for cancellation will apply only to the applicable 6(f)(1) request listed in this notice. If the product(s) have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling. The withdrawal request must also include a commitment to pay any reregistration fees due, and to fulfill any applicable unsatisfied data requirements.

V. Provisions for Disposition of Existing Stocks

The effective date of cancellation will be the date of the cancellation order. The orders effecting these requested cancellations will generally permit a registrant to sell or distribute existing stocks for 1 year after the date the cancellation request was received. This policy is in accordance with the Agency's statement of policy as prescribed in Federal Register No. 123, Vol. 56, dated June 26, 1991. Exceptions to this general rule will be made if a product poses a risk concern, or is in noncompliance with reregistration requirements, or is subject to a data call-in. In all cases, product-specific disposition dates will be given in the cancellation orders.

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the cancellation action. Unless the provisions of an earlier order apply, existing stocks already in the hands of dealers or users can be distributed, sold or used legally until they are exhausted, provided that such further sale and use comply with the EPA-approved label and labeling of the affected product(s). Exceptions to these general rules will be made in specific cases when more stringent restrictions on sale, distribution, or use of the products or their ingredients have already been imposed, as in Special Review actions, or where the Agency has identified significant potential risk concerns associated with a particular chemical.

List of Subjects

Environmental protection, Pesticide and pests, Product registrations.

Dated: May 3, 1996.

Frank Sanders,

Director, Program Management and Support Division.

[FR Doc. 96–12603 Filed 5–21–96; 8:45 am]

BILLING CODE 6560–50–F

[FRL–5509–3]

Integrated Report of the Urban Soil Lead Abatement Demonstration Project

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability.

SUMMARY: This notice announces the availability of a final report titled, Integrated Report of the Urban Soil Lead Abatement Demonstration Project (EPA/600/P–93/001 aF), as well as the pertinent underlying data sets and documentation. This Report is an integrated assessment of scientific data from the separate Boston, Baltimore and Cincinnati studies.

ADDRESSES: To obtain a single copy of the Integrated Report, interested parties should contact the ORD Publications Office, Technology Transfer Division, National Risk Management Research Laboratory, U.S. Environmental Protection Agency, 26 W. Martin Luther King Drive, Cincinnati, OH 45268; telephone: 513–569–7562; facsimile:

513–569–7566. Copies of the Integrated Report will be available on or about May 30, 1996. Please provide your name and mailing address, and request the document by the title and EPA number (EPA/600/P–93/001aF). Also, a limited number of the 1993 individual reports on the separate city studies are still available. The EPA document numbers for the separate three city reports are: Boston (EPA/600/AP–93/001b) Baltimore (EPA/600/AP–93/001c) and Cincinnati (EPA/600/AP–93/001d). There will be a limited number of paper copies of the Integrated Report available from the above source. Requests will be filed on a first-come-first-served basis. After the supply is exhausted, copies of the Integrated Report and any of the individual final reports on the separate city studies can be purchased separately or as a set, from the National Technical Information Service (NTIS) by calling (703) 487–4650 or sending a facsimile to (703) 321–8547. The NTIS order numbers are: Urban Soil Lead Abatement Demonstration Project. Volume 1: Integrated Report (PB96–168356), Urban Soil Lead Abatement Demonstration Project. Volume 2: Boston Report (PB96–168364), Urban Soil Lead Abatement Demonstration Project. Volume 3: Baltimore Report (PB96–168372), and Urban Soil Lead Abatement Demonstration Project. Volume 4: Cincinnati Report (PB96–168380). The NTIS ordered number for the four volume set is PB96–168349.

An official copy, on diskette only, of the underlying data sets used in the EPA Integrated Report and a copy of the accompanying documentation, can be obtained by contacting: Dr. Robert W. Elias, National Center for Environmental Assessment (MD–52), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone: (929) 541–4167; facsimile: (919) 541–5078. e-mail: elias.robert@epamail.epa.gov

FOR FURTHER INFORMATION CONTACT: Dr. Robert W. Elias, National Center for Environmental Assessment (MD–52), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone: (919) 541–4167; facsimile: (919) 541–5078. e-mail: elias.robert.@epamail.epa.gov: or Larry J. Zaragoza, Office of Solid Waste and Emergency Response (5204G), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; telephone; (703) 603–8867, facsimile: (703) 603–9100, e-mail: zaragoza.larry@epamail.epa.gov

SUPPLEMENTARY INFORMATION: The Urban Soil Lead Abatement Demonstration Project, generally known as the Three-City Lead Study, was authorized in 1986 under Section 111(b)(6) of the Superfund Amendments and Reauthorization Act [42 U.S.C. § 9611(a)(6)] and was initiated in December 1986 in cooperation with states, state health departments, and local scientists. The purpose was to determine whether abatement of lead in soil could reduce the lead in blood of inner city children. The three selected cities, chosen in late 1987, were Boston, Baltimore, and Cincinnati. The individual results for each of the three cities were initially presented at an EPA-sponsored symposium in August 1992 and published as final reports in August 1993.

While not part of the original project plan, EPA believed that all interested parties would benefit from an integrated assessment of data from the three coordinated studies. Thus, as an adjunct to the original project, this Integrated Report was developed. It includes further statistical analysis and integrates and standardizes, as appropriate, the results of the individual three cities studies into a single report.

The final EPA Integrated Report on the Three-City Lead Study basically confirms the findings of the individual city reports. The Integrated Report concludes that:

(1) When soil is a significant source of lead in the child's environment, the abatement of that soil will result in a reduction in exposure that will, under certain conditions, cause a reduction in childhood blood lead concentrations.

(2) Although these conditions for a reduction in blood are not fully understood, it is likely that four factors are important: (1) The past history of exposure of the child to lead, as reflected in the preabatement blood lead; (2) the magnitude of the reduction in soil lead concentrations; (3) the magnitude of the other sources of lead exposure, relative to soil; and (4) a direct exposure pathway between soil and the child.

Dated: May 16, 1996.

Joseph K. Alexander,

Deputy Assistant Administrator for Research and Development.

[FR Doc. 96–12865 Filed 5–21–96; 8:45 am]

BILLING CODE 6560–50–M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Equal Employment Opportunity Commission.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Commission announces that on May 15, 1996 it submitted the existing collection of information listed below to the Office of Management and Budget for approval. No public comments were received in response to the Commission's March 15, 1996 initial notice of the proposed collection.

DATES: Written comments on this notice must be submitted on or before June 21, 1996.

ADDRESSES: Comments should be submitted to Desk Officer for Equal Employment Opportunity Commission, Office of Management and Budget, New Executive Office Building, 725 Seventeenth Street, N.W., Room 10235, Washington, D.C. 20503, (202) 395–7316, Facsimile (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: Margaret, Ulmer Holmes, Office of Management, Room 2204, 1801 L Street N.W., Washington, D.C. 20507, (202) 663–4279 (voice) or (202) 663–7114 (TDD).

SUPPLEMENTARY INFORMATION:

Collection Title: Recordkeeping Requirements of Uniform Guidelines on Employee Selection Procedures, 29 C.F.R. Part 1607.

Form Number: None.

Frequency of Report: None required.

Type of Respondent: Business, non-for-profit institutions, federal, state, or local governments, and farms.

Standard Industrial Classification (SIC) Code: Multiple.

Description of Affected Public: Any employer, labor, organization, or employment agency covered by the federal equal employment opportunity laws.

Responses: 666,000.

Reporting Hours: 1,450,000.

Number of Forms: None.

Abstract: The records required to be maintained by 29 C.F.R. 1607.4 and 1607.15 are used by respondents to assure that they are complying with Title VII; by the Commission in investigating, conciliating, the litigating charges of employment discrimination; and by complainants in establishing violations of federal equal employment opportunity laws.

Burden Statement: There are no reporting requirements associated with UGESP. Thus the only paperwork burden derives from the required recordkeeping. There are a total of 666.000 employers who have 15 or more employees and that are, therefore, subject to the recordkeeping requirement. Prior to the imposition of

the UGESP recordkeeping requirement, the Commission proposed to conduct a practical utility survey to obtain estimates of burden hours. The intended survey was not approved by OMB, however, and the Commission relied instead on data obtained from the Business Roundtable study on ''Cost of Government Regulation'' conducted by the Arthur Anderson Company.

In its initial estimate of recordkeeping burden the Commission relied on data from that study to derive the estimate of 1.91 million hours. In a subsequent submission to OMB for clearance of the UGESP collection, the Commission made an adjustment to reflect the increase in the incidence of computerized recordkeeping that had resulted in a reduction of total burden hours of approximately 300,000, and had brought the total burden down to 1.6 million hours.

In the calculation of the initial burden of UGESP compliance, the estimated number of employees covered by the guidelines was 71.1 million. Average cost per employee was taken to be $1.79. Since most of this cost, however, was for employers' administrative functions and represented the time spent in reviewing their selection processes for 'adverse impact' and in reviewing and validating their testing procedures, the actual recordkeeping function was estimated to be in the range of 10 to 15 percent of the total per-employee costs, or between $.179 and $.2685 per employee. The Commission used these per-employee costs, even though it believed that they were an over-estimate. In the initial estimate the Commission used the higher end of the range.

The Commission now believes that a better estimate is the midpoint of the range or $.22 per employee. The number of employees also has grown by 15 million since the initial estimate, so that there now are 86 million subject to UGESP. In addition, from the private employer survey the Commission has been conducting for the past 30 years (the EEO–1), it is aware that 29.7 percent of the private employers file their employment reports on magnetic tapes, on diskettes, or on computer printouts. Thus, at a minimum, that proportion of employers has computerized recordkeeping. From the same survey the Commission also has learned that when records are computerized, the burden hours for reporting, and thus for recordkeeping, are about one-fifth of the burden hours associated with non-computerized records. Therefore, the Commission's current estimate of recordkeeping burden hours is as follows:

Computerized recordkeepers—(.29)×86 mil×($.044)=$1,097,360
All other recordkeepers—(.71)×86 mil×($.22)=$13,433,200
Total recordkeeping cost = $14,530,560

Total Burden Hours are then computed by dividing the total cost of recordkeeping by $10, the hourly rate of staff recordkeepers. The total new estimate of burden hours associated with the UGESP recordkeeping then is 1.45 million hours. Assumptions made in deriving the estimate are as follows:

Cost per employee for manual records is $.22*
Cost per employee for computerized records is $.044*
Hourly rate of pay for recordkeeping staff is $10,00**

* Both of these are derived from a private employer study.

** To the extent that this is an under-estimate, the reporting burden is over-estimated.

Dated: May 16, 1996.

For the Commission.

Maria Borrero,

Executive Director.

[FR Doc. 96–12767 Filed 5–21–96; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 96-9394) published on pages 16791 and 16792 of the issue for Wednesday, April 17, 1996.

Under the Federal Reserve Bank of New York heading, the entry for HSBC Holdings plc, London, England, and HSBC Holdngs BV, Amsterdam, The Netherlands, is revised to read as follows:

1. HSBC Holdings plc, London, England; and HSBC Holdings BV, Amsterdam, The Netherlands; to engage *de novo* through its subsidiary, HSBC Futures, Inc., New York, New York, in executing and clearing, executing without clearing, clearing without executing, and providing other related services, including incidental advisory services, with respect to futures and options on futures on certain non-financial commodities. Also, to execute without clearing, and clear without executing, futures on certain financial products. The proposed activities would be provided to institutional investors and employees trading for their own accounts throughout the world. (See, *J.P. Morgan & Co. Incorporated*, 80 Fed. Res. Bull. 151 (1994); and *Northern Trust Corporation*, 79 Fed. Res. Bull. 723 (1993)).

Comments on this application must be received by May 31, 1996.

Board of Governors of the Federal Reserve System, May 16, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96-12794 Filed 5-21-96; 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 June 17, 1996.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. First Financial Corporation, Terre Haute, Indiana; to merge with Crawford Bancorp, Inc., Robinson, Illinois, and thereby indirectly acquire Crawford County State Bank, Robinson, Illinois.

Board of Governors of the Federal Reserve System, May 16, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96-12793 Filed 5-21-96; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RESERVE BOARD

Government in the Sunshine Meeting Notice

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 11:00 a.m., Tuesday, May 28, 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: May 17, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–12931 Filed 5–20–96; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

[File No. 931–0084]

The Loewen Group, Inc; Loewen Group International, Inc.; Propose Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent agreement, accepted subjected to final Commission approval, would require, among other things, the Covington, Kentucky-based company to divest the Castelwood Funeral Home in Castelwood, Virginia within nine months of acquiring it. The Consent Agreement settles allegations that Lowen's proposed acquisition of Heritage Family Funeral Services, Inc., would substantially reduce competition in Castlewood, because Loewen and heritage are the only firms providing funeral services in the Castlewood area.

DATES: Comments must be received on or before July 22, 1996.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Thomas B. Carter, Dallas Regional Office, Federal Trade Commission, 100 N. Central Expressway, Suite 500, Dallas, TX 75201. (214) 767–5518.

Gary D. Kennedy, Dallas Regional Office, Federal Trade Commission, 100 N. Central Expressway, Suite 500, Dallas, TX 75201. (214) 767–5512.

James R. Golder, Dallas Regional Office, Federal Trade Commission, 100 N. Central Expressway, Suite 500, Dallas, TX 75201. (214) 767–5508.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

The Federal Trade Commission (''Commission'') having initiated an investigation of the proposed acquisition of the voting securities of Heritage Family Funeral Services, Inc. by The Loewen Group Inc., a corporation, and Loewen Group International, Inc., a corporation (hereinafter collectively referred to as ''Loewen''), and it now appearing that Loewen is willing to enter into an agreement containing an order to divest certain assets, and to cease and desist from certain acts.

It is hereby agreed by and between Loewen, its duly authorized officers and attorneys, and counsel for the Commission that:

1. Proposed respondent The Loewen Group Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the province of British Columbia, Canada, with its office and principal place of business located at 4126 Norland Avenue, Burnaby, British Columbia, Canada V5G 3S8.

2. Proposed respondent Loewen Group International, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 50 East River Center Boulevard, Covington, Kentucky 41011. Proposed respondent Loewen Group International, Inc. is a wholly-owned subsidiary of The Loewen Group Inc.

3. Loewen admits all the jurisdictional facts set forth in the draft of complaint.

4. Loewen waives:

a. Any further procedural steps;

b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

c. All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

d. Any claim under the Equal Access to Justice Act.

5. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify Loewen, in which even it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as

the circumstances require) and decision, in disposition of the proceeding.

6. This agreement is for settlement purposes only and does not constitute an admission by Loewen that the law has been violated as alleged in the draft of complaint here C13, or that the facts as alleged in the draft complaint, other than jurisdictional facts, are true.

7. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to Loewen, (1) issue its complaint corresponding in form and substance with the draft of complaint E13 and its decision containing the following order to divest and to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to divest and to cease and desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to Loewen's address as stated in this agreement shall constitute service. Loewen waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

8. Loewen has read the proposed complaint and order contemplated hereby. It understands that, once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Loewen further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I.

It is ordered that as used in this order, the following definitions shall apply:

A. ''Loewen'' means The Loewen Group Inc. and Loewen Group International, Inc., their directors, officers, employees, agents and representatives, predecessors, successors and assigns, their subsidiaries, divisions, groups and affiliates controlled by Loewen, and the respective directors, officers, employees, agents, representatives, successors and assigns of each.

B. ''Funeral'' means a group of services provided at the death of an individual, the focus of which is some form of commemorative ceremony of the life of the deceased at which ceremony the body is present; this group of services ordinarily includes, but is not limited to: the removal of the body from the place of death; its embalming or other preparation; making available a place for visitation and viewing, for the conduct of a funeral service, and for the display of caskets and outside cases; and the arrangement for the conveyance of the body to a cemetery or crematory for final disposition.

C. ''Funeral establishment'' means any facility that provides funerals.

D. ''Property to be Divested'' means all of the assets, properties, business and goodwill, tangible and intangible, utilized by the Castlewood Funeral Home located on Highway 58 in Castlewood, Virginia, including, but not limited to:

1. All right, title and interest in and to owned or leased real property, together with appurtenances, licenses and permits;

2. All machinery, fixtures, equipment, furniture, tools and other tangible personal property;

3. All right, title and interest in the trade name of any funeral establishment, *provided that* the trade name ''Heritage'' need not be divested;

4. All right, title and interest in the books, records and files pertinent to the Property to be Divested;

5. Vendor lists, management information systems, software, catalogs, sales promotion literature, and advertising materials; and

6. All right, title, and interest in and to the contracts entered into in the ordinary course of business with customers (together with associated bids and performance bonds), suppliers, sales representatives, distributors, agents, personal property lessors, personal property lessees, licensors, licensees, consignors, and consignees.

II.

It is further ordered that:

A. Within nine (9) months after Loewen acquires the Property to be Divested, Loewen shall divest, absolutely and in good faith, the Property to be Divested. The Property to be Divested is to be divested only to an acquirer or acquirers that receive the prior approval of the Commission, and only in a manner that receives the prior approval of the Commission. The purpose of the divestiture required by this order is to ensure the continued use of the Property to be Divested as an ongoing viable enterprise providing funerals and to remedy the lessening of competition alleged in the Commission's complaint.

B. Pending divestiture of the Property to be Divested, Loewen shall maintain the viability and marketability of the Property to be Divested and shall not cause or permit the destruction, removal, or impairment of any assets or business of the Property to be Divested, except in the ordinary course of business and except for ordinary wear and tear.

C. Loewen shall comply with the Agreement to Hold Separate, attached hereto and made a part hereof as Appendix I. Said agreement shall continue in effect until Loewen has divested the Property to be divested or until such other time as the Agreement to Hold Separate provides.

III.

It is further ordered that:

A. If Loewen has not divested, absolutely and in good faith and with the Commission's prior approval, the Property to be Divested as required by paragraph II of this order within nine (9) months after Loewen has acquired the Property to be Divested, the Commission may appoint a trustee to divest the Property to be Divested. In the event the Commission or the Attorney General brings an action pursuant to Section 5 (*1*), or any other statute enforced by the Commission, Loewen shall consent to the appointment of a trustee in such action. Neither the appointment of a trustee nor a decision not to appoint a trustee under this Paragraph shall preclude the Commission or the Attorney General from seeking civil penalties or any other relief available to it, including a court-appointed trustee, pursuant to Section 5(*1*) of the Federal Trade Commission Act, or any other statute enforced by the Commission, for any failure by Loewen to comply with this order.

B. If a trustee is appointed by the Commission or a court pursuant to Paragraph III.A. of this order, Loewen shall consent to the following terms and conditions regarding the trustee's powers, authorities, duties and responsibilities:

1. The Commission shall select the trustee, subject to the consent of Loewen, which consent shall not be unreasonably withheld. The trustee shall be a person with experience and expertise in acquisitions and divestitures. If Lowen has not opposed, in writing, the selection of any proposed trustee within ten (10) days after notice by the staff of the Commission to

Loewen of the identity of any proposed trustee, Loewen shall be deemed to have consented to the selection of the proposed trustee.

2. Subject to the prior approval of the Commission, the trustee shall have the exclusive power and authority to divest the Property to be Divested.

3. The trustee shall have the power and authority to abrogate any contract or agreement between Loewen and any individual which restricts, limits or otherwise impairs the ability of such individual to purchase the Property to be Divested or to become a director, officer, employee, agent or representative of any acquirer of the Property to be Divested.

4. Within ten (10) days after appointment of the trustee, and subject to the prior approval of the Commission and, in the case of a court-appointed trustee, of the court, Loewen shall execute a trust agreement that transfers to the trustees all rights and powers necessary to permit the trustee to effect the divestiture required by this order.

5. The trustee shall have twelve (12) months from the date the Commission approves the trust agreement described in Paragraph III.B.4 to accomplish the divestiture, which shall be subject to the prior approval of the Commission. If, however, at the end of the twelve-month period the trustee has submitted a plan of divestiture or believes that divestiture can be accomplished within a reasonable time, the divestiture period may be extended by the Commission, or in the case of a court-appointed trustee, by the court; *provided, however,* that the Commission may extend the divestiture period only two (2) times.

6. The trustee shall have full and complete access to the personnel, books, records and facilities relating to the Property to be Divested, or any other relevant information, as the trustee may request. Loewen shall develop such financial or other information as such trustee may request and shall cooperate with the trustee. Loewen shall take no action to interfere with or impede the trustee's accomplishment of the divestiture. Any delays in divestiture caused by Loewen shall extend the time for divestiture under this Paragraph in an amount equal to the delay, as determined by the Commission or for a court-appointed trustee, the court.

7. The trustee shall use his or her best efforts to negotiate the most favorable price and terms available in each contract that is submitted to the Commission, subject to Loewen's absolute and unconditional obligation to divest at no minimum price. The divestiture shall be made in the manner and to the acquirer or acquirers as set out in Paragraph II of this order; provided, however, if the trustee receives bona fide offers from more than one acquiring entity, and if the Commission determines to approve more than one such acquiring entity, the trustee shall divest to the acquiring entity or entities selected by Loewen from among those approved by the Commission.

8. The trustee shall serve, without bond or other security, at the cost and expense of Loewen, on such reasonable and customary terms and conditions as the Commission or the court may set. The trustee shall have authority to employ, at the cost and expense of Loewen, such consultants, accountants, attorneys, investment bankers, business brokers, appraisers, and other representatives and assistants as are reasonably necessary to carry out the trustee's duties and responsibilities. The trustee shall account for all monies derived from the divestiture and all expenses incurred. After approval by the Commission and, in the case of a court-appointed trustee, by the court, of the account of the trustee, including fees for his or her services, all remaining monies shall be paid at the direction of Loewen and the trustee's power shall be terminated. The trustee's compensation shall be based at least in a significant part on a commission arrangement contingent on the trustee's divesting the Property to be Divested.

9. Loewen shall indemnify the trustee and hold the trustee harmless against any losses, claims, damages, liabilities, or expenses arising out of, or in connection with, the performance of the trustee's duties, including all reasonable fees of counsel and other expenses incurred in connection with the preparation for, or defense of any claim, whether or not resulting in any liability, except to the extent that such liabilities, losses, damages, claims, or expenses result from misfeasance, gross negligence, willful or wanton acts, or bad faith by the trustee.

10. If the trustee ceases to act or fails to act diligently, a substitute trustee shall be appointed in the same manner as provided in Paragraph III.A. of this order.

11. The Commission or, in the case of a court-appointed trustee, the court, may on its own initiative or at the request of the trustee issue such additional orders or directions as may be necessary or appropriate to accomplish the divestiture required by this order.

12. The trustee shall have no obligation or authority to operate or maintain the Property to be Divested.

13. The trustee shall report in writing to Loewen and to the Commission every sixty (60) days concerning the trustee's efforts to accomplish divestiture.

IV.

It is further ordered that, for a period of ten (10) years from the date this order becomes final, Loewen shall not, without providing advance written notification to the Commission, directly or indirectly, through subsidiaries, partnerships, or otherwise.

A. Acquire any stock, share capital, equity, or other interest in any concern, corporate or non-corporate, engaged at the time of such acquisition, or within the two years preceding such acquisition, in the provision of funerals in Russell County, Virginia or within fifteen (15 miles of the Russell County, Virginia line; or

B. Acquire any assets used for or used in the previous two years for (and still suitable for use for) funeral establishments in Russell County, Virginia or within fifteen (15) miles of the Russell County, Virginia line.

Said notification shall be given on the Notification and Report Form set forth in the Appendix to Part 803 of Title 16 of the Code of Federal Regulations as amended (hereinafter referred to as ''the Notification''), and shall be prepared and transmitted in accordance with the requirements of that part, except that no filing fee will be required for any such notification, notification shall be filed with the Office of the Secretary of the Commission, notification need not be made to the United States Department of Justice, and notification is required only of Loewen and not of any other party to the transaction. Loewen shall provide the Notification to the Commission at least thirty (30) days prior to acquiring any such interest (hereinafter referred to as the ''first waiting period''). If, within the first waiting period, representatives of the Commission make a written request for additional information, Loewen shall not consumate the acquisition until twenty (20) days after substantially complying with such request for additional information. Early termination of the waiting periods in this paragraph may be requested and, where appropriate, granted by letter from the Commission's Bureau of Competition.

Provided, however, that prior notification shall not be required by this Paragraph IV of this Order for:

1. The construction or development by Loewen of a new funeral establishment; or

2. Any transaction for which notification is required to be made, and

has been made, pursuant to Section 7A of the Clayton Act, 15 U.S.C. 18a.

V.

It is further ordered that:

A. Within sixty (60) days after the date this order becomes final and every sixty (60) days thereafter until Loewen has fully complied with the provisions of Paragraphs II or III of this order, Loewen shall submit to the Commission a verified written report setting forth in detail the manner and form in which it intends to comply, is complying, and has complied with Paragraphs II and III of this order. Loewen shall include in its compliance reports, among other things that are required from time to time, a full description of the efforts being made to comply with Paragraphs II and III of the order, including a description of all substantive contacts or negotiations for the divestiture and the identity of all parties contacted. Loewen shall include in its compliance reports copies of all written communications to and from such parties, all internal memoranda, and all reports and recommendations concerning divestiture.

B. One (1) year from the date this order becomes final, annually for the next nine (9) years on the anniversary of the date this order becomes final, and at other times as the Commission may require, Loewen shall file a verified written report with the Commission setting forth in detail the manner and form in which it has complied and is complying with Paragraph IV of this order. Such reports shall include, but not be limited to, a listing by name and location of all acquisitions of funeral establishments in the United States located within forty (40) miles of a funeral establishment owned by Loewen at the time of the acquisition, including but not limited to acquisitions due to default, foreclosure proceedings or purchases in foreclosure, made by Loewen during the twelve (12) months preceding the date of the report.

VI.

It is further ordered that, for a period of ten (10) years from the date this order becomes final, Loewen shall notify the Commission at least thirty (30) days prior to any proposed change in its organization, such as dissolution, assignment or sale resulting in the emergence of a successor, or the creation or dissolution of subsidiaries, or any other change that may affect compliance obligations arising out of this order.

VII.

It is further ordered that, for the purpose of determining or securing compliance with this order, subject to any legally recognized privilege, upon written request with reasonable notice to Loewen made to its principal officer, Loewen shall permit any duly authorized representative or representatives of the Commission:

A. Access, during the office hours of Loewen and in the presence of counsel, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of Loewen relating to any matters contained in this order; and

B. Upon five (5) days' notice to Loewen and without restraint or interference therefrom, to interview officers or employees of Loewen, who may have counsel present, regarding such matters.

Appendix I

In the Matter of The Loewen Group Inc., a corporation, and Loewen Group International, Inc., a corporation. File No. 931–0084.

Agreement To Hold Separate

This Agreement to Hold Separate (the ''Agreement'') is by and between The Loewen Group Inc. (''Loewen Group''), a corporation organized and existing under the laws of the province of British Columbia, Canada, with its office and principal place of business located at 4126 Norland Avenue, Burnaby, British Columbia, Canada V5G 3S8; Loewen Bropu International, Inc. (''Loewen Group International''), a wholly-owend subsidiary of Loewen Group, which is a corporation organized and existing under the laws of the State of Delaware, with its office and principal place of business located at 50 East River Center Boulevard, Covington, Kentucky 41011; and the Federal Trade Commission (the ''Commission''), an independent agency of the United States Government, established under the Federal Trade Commission Act of 1914, as amended, 15 U.S.C. 41, *et seq.* (collectively, the ''Parties'').

Premises

Whereas, on or about January 26, 1993, Loewen Group through its wholly-owned subsidiary Loewen Group International entered into an Agreement with Heritage Family Funeral Services, Inc. (''Heritage'') in which Loewen Group International agreed to acquire Heritage (the ''Acquisition''); and

Whereas, both Heritage and Loewen Group International own funeral establishments that provide funerals to consumers; and

Whereas, the Commission is now investigating the Acquisition to determine if the Acquisition would violate any of the statutes enforced by the Commission; and

Whereas, if the Commission accepts the Agreement Containing Consent Order (the ''Loewen/Heritage Consent Agreement''), the Commission must place the Loewen/Heritage Consent Agreement on the public record for public comment for a period of at least sixty (60) days and may subsequently withtdraw such acceptance pursuant to the provisions of Section 2.34 of the Commission's Rules; and

Whereas, the Commission is concerned that if an understanding is not reached preserving the *status quo ante* and holding separate the assets and business of the Property to be Divested pursuant to Paragraph II (hereinafter ''Hold Separate Assets'') of the Loewen/Heritage Consent Agreement and the order, once it is final (''Consent Order'') until the divestiture contemplated by the Consent Order has been made, divestiture resulting from any proceeding challenging the legality of the Acquisition might not be possible or might be less than an effective remedy; and

Whereas, the purposes of this Agreement, the Loewen/Heritage Consent Agreement, and the Consent Order are to:

(1) Preserve the Hold Separate Assets as a viable independent business pending the divestiture described in the Loewen/Heritage Consent Agreement and Consent Order;

(2) Preserve the Commission's ability to require the divestiture of the funeral establishment required by the Consent Order; and

(3) Remedy any anticompetitive aspects of the Acquisition; and

Whereas, Loewen Group's and Loewen Group International's entering into this Agreement shall in no way be construed as an admission by Loewen Group and Loewen Group International that the Acquisition is illegal; and

Whereas, Loewen Group and Loewen Group International understand that no act or transaction contemplated by this Agreement shall be deemed immune or exempt from the provisions of the antitrust laws or the Federal Trade Commission Act by reason of anything contained in this Agreement.

Now, therefore, the Parties agree, upon the understanding that the Commission has not yet determined whether the Acquisition will be challenged, and in consideration of the Commission's agreement that, at the time it accepts the Consent Order for public comment, it will grant early termination of the Hart-Scott-Rodino waiting period, as follows:

1. Loewen Group and Loewen Group International agree to execute and be bound by the attached Loewen/Heritage Consent Agreement.

2. Loewen Group and Loewen Group International shall hold the Hold Separate Assets separate and apart from the date this Agreement is accepted until the first to occur of,

a. Three (3) business days after the Commission withdraws its acceptance of the Loewen/Heritage Consent Agreement pursuant to the provisions of section 2.34 of the Commission's Rules; or

b. The day after the divestiture required by the Consent Order is accomplished.

3. Loewen Group's and Loewen Group International's obligation to hold the Hold Separate Assets separate and apart shall be on the following terms and conditions:

a. The Hold Separate Assets, as they are presently constituted, shall be held separate

and apart and shall be operated independently of Loewen Group and Loewen Group International except to the extent that Loewen Group and Loewen Group International must exercise direction and control over the Hold Separate Assets to assure compliance with this Agreement, the Loewen/Heritage Consent Agreement, or the Consent Order.

b. Except as provided herein and as is necessary to assure compliance with this Agreement, the Loewen/Heritage Consent Agreement, and the Consent Order, Loewen Group and Loewen Group International shall not exercise direction or control over, or influence directly or indirectly, the Hold Separate Assets or any of their operations or business.

c. Loewen Group and Loewen Group International shall cause the Hold Separate Assets to continue using their present name and trade name, and shall maintain and preserve the viability and marketability of the Hold Separate Assets and shall not sell, transfer, encumber (other than in the normal course of business), or otherwise impair their marketability or viability.

d. Loewen Group and Loewen Group International shall refrain from taking any actions that may cause any material adverse change in the business or financial conditions of the Hold Separate Assets.

e. Loewen Group and Loewen Group International shall not change the composition of the management of the Hold Separate Assets, except that Loewen Group and Loewen Group International shall have the power to fill vacancies and remove management for cause.

f. Loewen Group and Loewen Group International shall maintain separate financial and operating records and shall prepare separate quarterly and annual financial statements for the Hold Separate Assets and shall provide the Commission with such statements for the funeral establishment within ten days of their availability.

g. Except as required by law, and except to the extent that necessary information is exchanged in the course of evaluating the Acquisition, defending investigations or litigation, or negotiating agreements to dispose of assets, Loewen Group and Loewen Group International shall not receive or have access to, or the use of, any of the Hold Separate Assets' ''material confidential information'' not in the public domain, except as such information would be available to Loewen Group and Loewen Group International in the normal course of business if the Acquisition had not taken place. Any such information that is obtained pursuant to this subparagraph shall only be used for the purpose set out in this subparagraph. (''Material confidential information,'' as used herein, means competitively sensitive or proprietary information not independently known to Loewen Group and Loewen Group International from sources other than Heritage, and includes but is not limited to pre-need customer lists, prices quoted by suppliers, or trade secrets.)

h. All earnings and profits of the Hold Separate Assets shall be held separately. If necessary, Loewen Group and Loewen Group International shall provide the Hold Separate Assets with sufficient working capital to operate at their current rate of operation.

i. Loewen Group and Loewen Group International shall refrain from, directly or indirectly, encumbering, selling, disposing of, or causing to be transferred any assets, property, or business of the Hold Separate Assets, except that the Hold Separate Assets may advertise, purchase merchandise and sell or otherwise dispose of merchandise in the ordinary course of business.

4. Should the Federal Trade Commission seek in any proceeding to compel Loewen Group and Loewen Group International to divest themselves of the shares of Heritage stock that they may acquire, or to compel Loewen Group and Loewen Group International to divest any assets or businesses of Heritage that they may hold, or to seek any other injunctive or equitable relief, Loewen Group and Loewen Group International shall not raise any objection based upon the expiration of the applicable Hart-Scott-Rodino Antitrust Improvements Act waiting period or the fact that the Commission has permitted the Acquisition. Loewen Group and Loewen Group International also waive all rights to contest the validity of this Agreement.

5. For the purpose of determining or securing compliance with this Agreement, subject to any legally recognized privilege, and upon written request with reasonable notice to Loewen Group and Loewen Group International made to their principal offices, Loewen Group and Loewen Group International shall make available to any duly authorized representative or representatives of the Commission:

a. All books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of Loewen Group and Loewen Group International, for inspection and copying during office hours and in the presence of counsel; and

b. Upon five (5) days' notice to Loewen Group and Loewen Group International and without restraint or interference from Loewen Group or Loewen Group International, officers or employees of Loewen Group and Loewen Group International, who may have counsel present, for interviews regarding any such matters.

6. This agreement shall not be binding until approved by the Commission.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement, subject to final approval, to a proposed consent order from The Loewen Group Inc. and Loewen Group International, Inc. (hereinafter collectively referred to as ''Loewen'').

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments from interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether to withdraw from the agreement or make final the agreement's proposed order.

The Commission's complaint in this matter charges Loewen with violating Section 5 of the Federal Trade Commission Act, as amended, and Section 7 of the Clayton Act, as amended, in connection with Loewen's proposed acquisition of Castlewood Funeral Home, in Castlewood, Virginia.

The consent order contains provisions designed to remedy the alleged violations.

Part I of the order contains the definitions of terms that are used in the order.

Part II of the order requires that within nine (9) months of the date that Loewen acquires Castlewood Funeral Home, Loewen must divest Castlewood Funeral Home.

Part III of the order provides for the appointment of a trustee to accomplish the divestiture required by the order if Loewen fails to make a timely divestiture.

Part IV of the order requires Loewen, for ten (10) years, to provide written notification to the Commission prior to acquiring any interest in a funeral home located in Russell County, Virginia, or within fifteen (15) miles of the Russell County, Virginia, line.

Part V of the order requires Loewen to provide periodic compliance reports until the divestiture is completed. Part V also requires Loewen, for ten (10) years, to provide annual compliance reports detailing how it is complying with Part IV of the order.

Part VI of the order requires Loewen, for ten (10) years, to notify the Commission of any changes in corporate structure that might affect compliance with the order.

Part VII of the order permits Commission representatives, for the purpose of determining or securing compliance with the order, to have access to Loewen's offices to inspect and copy documents and, upon five days' notice, to interview Loewen's officers and employees.

Appendix I to the order is an Agreement to Hold Separate in which Loewen has agreed to hold separate and preserve the assets of Castlewood Funeral Home until Loewen divests the home.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of

the agreement and proposed order, or to modify any of their terms.

Donald S. Clark,

Secretary.

[FR Doc. 96–12818 Filed 5–21–96; 8:45 am]

BILLING CODE 6750–01–M

[File No. 931–0052]

The Loewen Group, Inc.; Loewen Group International, Inc.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In the settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require, among other things, the Covington, Kentucky-based company to divest one of its three funeral homes in Brownsville, Texas and divest a large funeral home in San Benito, Texas or two smaller funeral homes in Harlingen, Texas. The Consent Agreement settles allegations that Lowen's acquisition of certain funeral homes in the Brownsville area and the Harlingen/San Benito area of Cameron County, Texas would decrease competition and increase the likelihood of collusion in those markets.

DATES: Comments must be received on or before July 22, 1996.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Thomas B. Carter, Dallas Regional Office, Federal Trade Commission, 100 N. Central Expressway, Suite 500, Dallas, TX 75201. (214) 767–5518.

Gary D. Kennedy, Dallas Regional Office, Federal Trade Commission, 100 N. Central Expressway, Suite 500, Dallas, TX 75201. (214) 767–5512.

James R. Golder, Dallas Regional Office, Federal Trade Commission, 100 N. Central Expressway, Suite 500, Dallas, TX 75201. (214) 767–5512.

James R. Golder, Dallas Regional Office, Federal Trade Commission, 100 N. Central Expressway, Suite 500, Dallas, TX 75201. (214) 767–5508.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Consent Order

The Federal Trade Commission (''Commission'') having initiated an investigation of the acquisition of the assets of Garza Memorial Funeral Home, Inc. and Thomae-Garza Funeral Directors, Inc. by the Loewen Group Inc., a corporation, and Loewen Group International, Inc., a corporation (hereinafter collectively referred to as ''Loewen''), and it now appearing that Loewen is willing to enter into an agreement containing an order to divest certain assets, and to cease and desist from certain acts,

It is hereby agreed by and between Loewen, its duly authorized officers and attorneys, and counsel for the Commission that:

1. Proposed respondent The Loewen Group Inc, is a corporation organized, existing and doing business under and by virtue of the laws of the province of British Columbia, Canada, with its office and principal place of business located at 4126 Norland Avenue, Burnaby, British Columbia, Canada V5G 3S8.

2. Proposed respondent Loewen Group International, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 50 East River Center Boulevard, Covington, Kentucky 41011. Proposed respondent Loewen Group International, Inc. is a wholly-owned subsidiary of The Loewen Group Inc.

3. Loewen admits all the jurisdictional facts set forth in the draft of complaint.

4. Loewen waives:

a. Any further procedural steps;

b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

c. All rights to seek judicial review or otherwise to challenge or context the validity of the order entered pursuant to this agreement; and

d. Any claim under the Equal Access to Justice Act.

5. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify Loewen, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances require) and decision, in disposition of the proceeding.

6. This agreement is for settlement purposes only and does not constitute an admission by Loewen that the law has been violated as alleged in the draft of complaint here, or that the facts as alleged in the draft complaint, other than jurisdictional facts, are true.

7. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to Loewen, (1) issue its complaint corresponding in form and substance with the draft of complaint and its decision containing the following order to divest and to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to divest and to cease and desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to Loewen's address as stated in this agreement shall constitute service. Loewen waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

8. Loewen has read the proposed complaint and order contemplated hereby. It understands that, once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Loewen further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

It is ordered that, as used in this order, the following definitions shall apply:

A. ''Loewen'' means The Loewen Group Inc. and Loewen Group International, Inc., their directors, officers, employees, agents and representatives, predecessors, successors and assigns, their subsidiaries, divisions, groups and affiliates controlled by Loewen, and the respective directors, officers, employees, agents, representatives, successors and assigns of each.

B. ''Funeral'' means a group of services provided at the death of an individual, the focus of which is some form of commemorative ceremony of the life of the deceased at which ceremony the body is present; this group of services ordinarily includes, but is not limited to: the removal of the body from the place of death; its embalming or other preparation; making available a place for visitation and viewing, for the conduct of a funeral service, and for the display of caskets and outside cases; and the arrangement for and conveyance of the body to a cemetery or crematory for final disposition.

C. ''Funeral establishment'' means any facility that provides funerals.

D. ''Properties to be Divested'' means all of the assets, properties, business and goodwill, tangible and intangible, utilized by: (a) either Thomae-Garza Funeral Directors, Inc. or both Pitts, Kriedler-Ashcraft Funderal Directors, Inc. and Garza-Elizondo Funeral Directors in Cameron County, Texas; and (b) either Garza Memorial Funeral Home, Inc., Paragon Trevino Funeral Home, Inc., or Darling-Mouser Funeral Home, Inc. in Cameron County, Texas; including, but not limited to:

1. All right, title and interest in and to owned or leased real property, together with appurtenances, licenses and permits;

2. All machinery, fixtures, equipment, furniture, tools and other tangible personal property;

3. All right, title and interest in the trade name of any funeral establishment;

4. All right, title and interest in the books, records and files pertinent to the Properties to be Divested;

5. Vendor lists, management information systems, software, catalogs, sales promotion literature, and advertising materials; and

6. All right, title, and interest in and to the contracts entered into in the ordinary course of business with customers (together with associated bids and performance bonds), suppliers, sales representatives, distributors, agents, personal property lessors, personal property lessees, licensors, licensees, consignors, and consignees.

II

It is further ordered that:

A. Within twelve (12) months after the date this order becomes final, Loewen shall divest, absolutely and in good faith, the Properties to be Divested. The Properties to be Divested are to be Divested only to an acquirer or acquirers that receive the prior approval of the Commission, and only in a manner that receives the prior approval of the Commission. The purpose of the divestitures required by this order is to ensure the continued use of the Properties to be Divested as ongoing viable enterprises providing funerals and to remedy the lessening of competition alleged in the Commission's complaint.

B. Pending divestiture of the Properties to be Divested, Loewen shall maintain the viability and marketability of the Properties to be Divested and shall not cause or permit the destruction, removal, or impairment of any assets or business of the Properties to be Divested, except in the ordinary course of business and except for ordinary wear and tear.

III

It is further ordered that:

A. If Loewen has not divested, absolutely and in good faith and with the Commission's prior approval, the Properties to be Divested as required by Paragraph II of this order within twelve (12) months after the date this order becomes final, the Commission may appoint a trustee to divest the Properties to be Divested. In the event the Commission or the Attorney General brings an action pursuant to Section 5(*1*) of the Federal Trade Commission Act, 15 U.S.C. § 45(*1*), or any other statute enforced by the Commission, Loewen shall consent to the appointment of a trustee in such action. Neither the appointment of a trustee nor a decision not to appoint a trustee under this Paragraph shall preclude the Commission or the Attorney General from seeking civil penalties or any other relief available to it, including a court-appointed trustee, pursuant to Section 5(*1*) of the Federal Trade Commission Act, or any other statute enforced by the Commission, for any failure by Loewen to comply with this order.

B. If a trustee is appointed by the Commission or a court pursuant to Paragraph III.A. of this order, Loewen shall consent to the following terms and conditions regarding the trustee's powers, authorities, duties and responsibilities:

1. The Commission shall select the trustee, subject to the consent of Loewen, which consent shall not be unreasonably withheld. The trustee shall be a person with experience and expertise in acquisitions and divestitures. If Loewen has not opposed, in writing, the selection of any proposed trustee within ten (10) days after notice by the staff of the Commission to Loewen of the identity of any proposed trustee, Loewen shall be deemed to have consented to the selection of the proposed trustee.

2. Subject to the prior approval of the Commission, the trustee shall have the exclusive power and authority to divest the Properties to be Divested.

3. The trustee shall have the power and authority to abrogate any contract or agreement between Loewen and any individual which restricts, limits or otherwise impairs the ability of such individual to purchase the Properties to be Divested or to become a director, officer, employee, agent or representative of any acquirer of the Properties to be Divested.

4. Within ten (10) days after appointment of the trustee, and subject to the prior approval of the Commission and, in the case of a court-appointed trustee, of the court, Loewen shall execute a trust agreement that transfers to the trustee all rights and powers necessary to permit the trustee to effect the divestitures required by this order.

5. The trustee shall have twelve (12) months from the date the Commission approves the trust agreement described in Paragraph III.B.4 to accomplish the divestitures, which shall be subject to the prior approval of the Commission. If, however, at the end of the twelve-month period the trustee has submitted a plan of divestiture or believes that divestiture can be accomplished within a reasonable time, the divestiture period may be extended by the Commission, or in the case of a court-appointed trustee, by the court; *provided, however,* that the Commission may extend the divestiture period only two (2) times.

6. The trustee shall have full and complete access to the personnel, books, records and facilities relating to the Properties to be Divested, or any other relevant information, as the trustee may request. Loewen shall develop such financial or other information as such trustee may request and shall cooperate with the trustee. Loewen shall take no action to interfere with or impede the trustee's accomplishment of the divestitures. Any delays in divestiture caused by Loewen shall extend the time

for divestiture under this Paragraph in an amount equal to the delay, as determined by the Commission or for a court-appointed trustee, the court.

7. The trustee shall use his or her best efforts to negotiate the most favorable price and terms available in each contract that is submitted to the Commission, subject to Loewen's absolute and unconditional obligation to divest at no minimum price. The divestitures shall be made in the manner and to the acquirer or acquirers as set out in Paragraph II of this order; provided, however, if the trustee receives bona fide offers from more than one acquiring entity, and if the Commission determines to approve more than one such acquiring entity, the trustee shall divest to the acquiring entity or entities selected by Loewen from among those approved by the Commission.

8. The trustee shall serve, without bond or other security, at the cost and expense of Loewen, on such reasonable and customary terms and conditions as the Commission or the court may set. The trustee shall have authority to employ, at the cost and expense of Loewen, such consultants, accountants, attorneys, investment bankers, business brokers, appraisers, and other representatives and assistants as are reasonably necessary to carry out the trustee's duties and responsibilities. The trustee shall account for all monies derived from the divestitures and all expenses incurred. After approval by the Commission and, in the case of a court-appointed trustee, by the court, of the account of the trustee, including fees for his or her services, all remaining monies shall be paid at the direction of Loewen and the trustee's power shall be terminated. The trustee's compensation shall be based at least in a significant part on a commission arrangement contingent on the trustee's divesting the Properties to be Divested.

9. Loewen shall indemnify the trustee and hold the trustee harmless against any losses, claims, damages, liabilities, or expenses arising out of, or in connection with, the performance of the trustee's duties, including all reasonable fees of counsel and other expenses incurred in connection with the preparation for, or defense of any claim, whether or not resulting in any liability, except to the extent that such liabilities, losses, damages, claims, or expenses result from misfeasance, gross negligence, willful or wanton acts, or bad faith by the trustee.

10. If the trustee ceases to act or fails to act diligently, a substitute trustee shall be appointed in the same manner as provided in Paragraph III.A. of this order.

11. The Commission or, in the case of a court-appointed trustee, the court, may on its own initiative or at the request of the trustee issue such additional orders or directions as may be necessary or appropriate to accomplish the divestitures required by this order.

12. The trustee shall have no obligation or authority to operate or maintain the Properties to be Divested.

13. The trustee shall report in writing to Loewen and to the Commission every sixty (60) days concerning the trustee's efforts to accomplish divestiture.

IV

It is further ordered that, for a period of ten (10) years from the date this order becomes final, Loewen shall not, without providing advance written notification to the Commission, directly or indirectly, through subsidiaries, partnerships, or otherwise:

A. Acquire any stock, share capital, equity, or other interest in any concern, corporate or non-corporate, engaged at the time of such acquisition, or within the two years preceding such acquisition, in the provision of funerals in Cameron County, Texas or within fifteen (15) miles of the Cameron County, Texas line; or

B. Acquire any assets used for or used in the previous two years for (and still suitable for use for) funeral establishments in Cameron County, Texas or within fifteen (15) miles of the Cameron County, Texas line.

Said notification shall be given on the Notification and Report Form set forth in the Appendix to Part 803 of Title 16 of the Code of Federal Regulations as amended (hereinafter referred to as ''the Notification''), and shall be prepared and transmitted in accordance with the requirements of that part, except that no filing fee will be required for any such notification, notification shall be filed with the Office of the Secretary of the Commission, notification need not be made to the United States Department of Justice, and notification is required only of Loewen and not of any other party to the transaction. Loewen shall provide the Notification to the Commission at least thirty (30) days prior to acquiring any such interest (hereinafter referred to as the ''first waiting period''). If, within the first waiting period, representatives of the Commission make a written request for additional information, Loewen shall not consummate the acquisition until twenty (20) days after substantially complying with such request for additional information. Early termination of the waiting periods in this paragraph may be requested and, where appropriate, granted by letter from the Commission's Bureau of Competition.

Provided, however, that prior notification shall not be required by this Paragraph IV of this Order for:

1. the construction or development by Loewen of a new funeral establishment; or

2. any transaction for which notification is required to be made, and has been made, pursuant to Section 7A of the Clayton Act, 15 U.S.C. § 18a.

V

It is further ordered that:

A. Within sixty (60) days after the date this order becomes final and every sixty (60) days thereafter until Loewen has fully complied with the provisions of Paragraphs II or III of this order, Loewen shall submit to the Commission a verified written report setting forth in detail the manner and form in which it intends to comply, is complying, and has complied with Paragraphs II and III of this order. Loewen shall include in its compliance reports, among other things that are required from time to time, a full description of the efforts being made to comply with Paragraphs II and III of the order, including a description of all substantive contacts or negotiations for the divestitures and the identity of all parties contacted. Loewen shall include in its compliance reports copies of all written communications to and from such parties, all internal memoranda, and all reports and recommendations concerning divestiture.

B. One (1) year from the date this order becomes final, annually for the next nine (9) years on the anniversary of the date this order becomes final, and at other times as the Commission may require, Loewen shall file a verified written report with the Commission setting forth in detail the manner and form in which it has complied and is complying with Paragraph IV of this order. Such reports shall include, but not be limited to, a listing by name and location of all acquisitions of funeral establishments in the United States located within forty (40) miles of a funeral establishment owned by Loewen at the time of the acquisition, including but not limited to acquisitions due to default, foreclosure proceedings or purchases in foreclosure, made by Loewen during the twelve (12) months preceding the date of the report.

VI

It is further ordered that, for a period of ten (10) years from the date this order becomes final, Loewen shall notify the

Commission at least thirty (30) days prior to any proposed change in its organization, such as dissolution, assignment or sale resulting in the emergence of a successor, or the creation or dissolution of subsidiaries or any other change that may affect compliance obligations arising out of this order.

VII

It is further ordered that, for the purpose of determining or securing compliance with this order, subject to any legally recognized privilege, and upon written request with reasonable notice to Loewen made to its principal offices, Loewen shall permit any duly authorized representative or representatives of the Commission:

A. Access, during the office hours of Loewen and in the presence of counsel, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of Loewen relating to any matters contained in this order; and

B. Upon five (5) days' notice to Loewen and without restraint or interference therefrom, to interview officers or employees of Loewen, who may have counsel present, regarding such matters.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement, subject to final approval, to a proposed consent order from The Loewen Group Inc. and Loewen Group International, Inc. (hereinafter collectively referred to as ''Loewen'').

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments from interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether to withdraw from the agreement or make final the agreement's proposed order.

The Commission's complaint in this matter charges Loewen with violating Section 5 of the Federal Trade Commission Act, as amended, and Section 7 of the Clayton Act, as amended, in connection with Loewen's acquisitions of Garza Memorial Funeral Home, Inc., in Brownsville, Texas, and Thomae-Garza Funeral Directors, Inc., in San Benito, Texas.

The consent order contains provisions designed to remedy the alleged violations.

Part I of the order contains the definitions of terms that are used in the order.

Part II of the order requires that within twelve (12) months of the date that the order becomes final, Loewen must divest: (1) either Thomae-Garza Funeral Directors, Inc., or both Pitts, Kriedler-Ashcraft Funeral Directors, Inc., and Garza-Elizondo Funeral Directors; and (2) Garza Memorial Funeral Home, Inc., or Paragon Trevino Funeral Home, Inc., or Darling-Mouser Funeral Home, Inc.

Part III of the order provides for the appointment of a trustee to accomplish the divestitures required by the order if Loewen fails to make timely divestitures.

Part IV of the order requires Loewen, for ten (10) years, to provide written notification to the Commission prior to acquiring any interest in a funeral home located in Cameron County, Texas, or within fifteen (15) miles of the Cameron County, Texas, line.

Part V of the order requires Loewen to provide periodic compliance reports until the divestitures are completed. Part V also requires Loewen, for ten (10) years, to provide annual compliance reports detailing how it is complying with Part IV of the order.

Part VI of the order requires Loewen, for ten (10) years, to notify the Commission of any changes in corporate structure that might affect compliance with the order.

Part VII of the order permits Commission representatives, for the purpose of determining or securing compliance with the order, to have access to Loewen's offices to inspect and copy documents and, upon five days' notice, to interview Loewen's officers and employees.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order, or to modify any of their terms.

Donald S. Clark,

Secretary.

[FR Doc. 96–12819 Filed 5–21–96; 8:45 am]

BILLING CODE 6750–01–M

GENERAL SERVICES ADMINISTRATION

Office of Transportation Audits; Stocking Change of an Optional Form

AGENCY: Federal Supply Service, General Services Administration.

ACTION: Notice.

SUMMARY: This notice announces the General Services Administration's intent to change the stocking requirement of OF 1121, Bill of Lading Accountability Record because of low user demand. This form is now authorized for local reproduction by all Federal agencies. You can obtain the camera copy in two ways:

On the internet. Address: http://www.gsa.gov/forms, or;

From CARM, Attn.: Barbara Williams, (202) 501–0581.

FOR FURTHER INFORMATION CONTACT: Mr. James Fitzgerald, Director, Transportation Audit Division, Office of Transportation Audits, (202) 219–1494.

DATES: Effective May 22, 1996.

Dated: May 14, 1996.

Theodore D. Freed,

Standard and Optional Forms Management Officer.

[FR Doc. 96–12772 Filed 5–21–96; 8:45 am]

BILLING CODE 6820–BG–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request Proposed Projects

Title: At-Risk Child Care, Annual Report.

OMB No.: 0970–0126.

Description: Completing this form partially fulfills the reporting requirements of Section 402(i)(6)(B) of the Social Security Act (the Act) whereby the Secretary of DHHS must compile and report certain information annually that is pertinent to the At-Risk program. Additionally the report provides a means for each State to report subsequent period expenditure to determine the State's compliance with the non-supplantation provisions found at Section 402(i)(5)(D) of the Act.

Respondents: State Governments.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
ACF–301 ..... Estimated Total Annual Burden Hours: 189.	54	1	3.5	189

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, Division of Information Resource Management Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by title.

In addition, requests for copies may be made and comments forwarded to the Reports Clearance Officer over the Internet by sending message to rsargis@acf.dhhs.gov. Internet messages must be submitted as an ASCII file without special characters or encryption.

The Department specifically requests comments 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; (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 respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: May 16, 1996.

Bob Sargis,

Reports Clearance Officer.

[FR Doc. 96–12809 Filed 5–21–96; 8:45 am]

BILLING CODE 4184–01–M

Federal Allotments to States for Social Services Expenditures, Pursuant to Title XX, Block Grants to States for Social Services; Revised Promulgation for Fiscal Year 1996

AGENCY: Administration for Children and Families, Department of Health and Human Services.

ACTION: Notification of revised allocation of title XX—social services block grant allotments for Fiscal Year 1996.

SUMMARY: This issuance sets forth the individual allotments to States for Fiscal Year 1996, pursuant to title XX of the Social Security Act, as amended (Act). This revision is required by Public Law 104–134, the Omnibus Consolidated Rescissions and Appropriations Act of 1996, which decreased the amount available for title XX allotments to $2.381 billion.

FOR FURTHER INFORMATION CONTACT: Frank A. Burns, (202) 401–5536.

SUPPLEMENTARY INFORMATION: For Fiscal Year 1996, the allotments are based upon the Bureau of Census population statistics contained in its reports ''Updated National/State Population Estimates'' (CB94–43 Table 1) released March 1994, and ''1990 Census of Population and Housing'' (CPH–6–AS and CPH–6–CNMI) published April 1992, which was the most recent data available from the Department of Commerce at the time of the Department's initial promulgation.

EFFECTIVE DATE: The allotments are effective October 1, 1995.

FISCAL YEAR 1996 FEDERAL ALLOTMENTS TO STATES FOR SOCIAL SERVICES—TITLE XX BLOCK GRANTS

	Initial FY 96 allotment	Revised FY 96 allotment
TOTAL	$2,800,000,000	$2,381,000,000
ALABAMA	45,202,466	38,438,240
ALASKA	6,477,545	5,508,227
AMERICAN SAMOA	104,188	88,597
ARIZONA	42,492,693	36,133,964
ARKANSAS	26,169,280	22,253,234
CALIFORNIA	336,951,078	286,528,750
COLORADO	38,498,207	32,737,226
CONNECTICUT	35,378,190	30,084,096
DELAWARE	7,567,931	6,435,445
DIST. OF COL.	6,250,831	5,315,439
FLORIDA	147,677,222	125,578,382
GEORGIA	74,675,294	63,500,670
GUAM	482,759	410,515
HAWAII	12,663,600	10,768,583
IDAHO	11,875,499	10,098,416
ILLINOIS	126,279,733	107,382,874
INDIANA	61,677,021	52,447,495
IOWA	30,379,684	25,833,582
KANSAS	27,324,443	23,235,536
KENTUCKY	40,905,695	34,784,451
LOUISIANA	46,368,424	39,429,720
MAINE	13,376,130	11,374,488
MARYLAND	53,601,682	45,580,573
MASSACHUSETTS	64,904,998	55,192,429

FISCAL YEAR 1996 FEDERAL ALLOTMENTS TO STATES FOR SOCIAL SERVICES—TITLE XX BLOCK GRANTS—Continued

	Initial FY 96 allotment	Revised FY 96 allotment
MICHIGAN	102,323,614	87,011,617
MINNESOTA	48,765,115	41,467,764
MISSISSIPPI	28,533,584	24,263,738
MISSOURI	56,505,781	48,050,095
MONTANA	9,068,563	7,711,516
NEBRASKA	17,349,024	14,752,866
NEVADA	14,995,516	12,751,544
NEW HAMPSHIRE	12,156,192	10,337,105
NEW JERSEY	85,060,957	72,332,192
NEW MEXICO	17,446,187	14,835,490
NEW YORK	196,453,134	167,055,326
NORTH CAROLINA	74,977,580	63,757,721
NORTH DAKOTA	6,866,197	5,838,721
NO. MARIANA ISLANDS	96,552	82,103
OHIO	119,737,413	101,819,564
OKLAHOMA	34,881,578	29,661,800
OREGON	32,733,192	27,834,905
PENNSYLVANIA	129,982,730	110,531,742
PUERTO RICO	14,482,759	12,315,515
RHODE ISLAND	10,806,704	9,189,557
SOUTH CAROLINA	39,329,492	33,444,114
SOUTH DAKOTA	7,729,870	6,573,150
TENNESSEE	55,048,334	46,810,744
TEXAS	194,661,013	165,531,384
UTAH	20,080,388	17,075,502
VERMONT	6,229,239	5,297,077
VIRGIN ISLANDS	482,759	410,515
VIRGINIA	70,076,237	59,589,828
WASHINGTON	56,732,495	48,242,884
WEST VIRGINIA	19,648,552	16,708,287
WISCONSIN	54,389,783	46,250,742
WYOMING	5,084,873	4,323,960

DATED: May 10, 1996.

Donald Sykes,

Director Office of Community Services.

[FR Doc. 96–12860 Filed 5–21–96; 8:45 am]

BILLING CODE 4184–01–P

Food and Drug Administration

Advisory Committees; Notice of Meetings

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

FDA has established an Advisory Committee Information Hotline (the hotline) using a voice-mail telephone system. The hotline provides the public with access to the most current information on FDA advisory committee meetings. The advisory committee hotline, which will disseminate current information and information updates, can be accessed by dialing 1–800–741–8138 or 301–443–0572. Each advisory committee is assigned a 5-digit number. This 5-digit number will appear in each individual notice of meeting. The hotline will enable the public to obtain information about a particular advisory committee by using the committee's 5-digit number. Information in the hotline is preliminary and may change before a meeting is actually held. The hotline will be updated when such changes are made.

MEETINGS: The following advisory committee meetings are announced:

Peripheral and Central Nervous System Drugs Advisory Committee

Date, time, and place. June 6, 1996, 8:30 a.m., Holiday Inn—Bethesda, Versailles Ballrooms III and IV, 8120 Wisconsin Ave., Bethesda, MD.

Type of meeting and contact person. Open public hearing, 8:30 a.m. to 9 a.m., unless public participation does not last that long; open committee discussion, 9 a.m. to 3 p.m.; open public hearing, 3 p.m. to 3:30 p.m., unless public participation does not last that long; William Freas or Sheila D. Langford, Center for Biologics Evaluation and Research (HFM–21), Food and Drug Administration, 1401 Rockville Pike, Bethesda, MD 20852, 301–827–0314, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Peripheral and Central Nervous System Drugs Advisory Committee, code 12543. Please call the hotline for information concerning any possible changes.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational human drugs for use in neurological disease.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before May 31, 1996, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss product license application 96–0350 for Activase™ (alteplase), Genentech, for the management of acute ischemic stroke.

Antiviral Drugs Advisory Committee

Date, time, and place. June 6 and 7, 1996, 8:30 a.m., Quality Hotel, Maryland Ballroom, 8727 Colesville Rd., Silver Spring, MD.

Type of meeting and contact person. Open committee discussion, June 6, 1996, 8:30 a.m. to 11 a.m.; open public hearing, 11 a.m. to 12 m., unless public participation does not last that long; open committee discussion, 12 m. to 5 p.m.; open committee discussion, June 7, 1996, 8:30 a.m. to 11 a.m.; open public hearing, 11 a.m. to 12 m., unless public participation does not last that long; open committee discussion, 12 m. to 5 p.m.; Rhonda W. Stover or Liz Ortuzar, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4695, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Antiviral Drugs Advisory Committee, code 12531. Please call the hotline for information concerning any possible changes.

General function of the committee. The committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of acquired immune deficiency syndrome (AIDS), AIDS-related complex (ARC), and other viral, fungal, and mycobacterial infections.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before May 31, 1996, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On June 6, 1996, the committee will discuss data relevant to new drug application (NDA) 20–585, Bravavir® (sorivudine), Bristol Myers Squibb, for use in the treatment of herpes zoster in immunocompromised adults. On June 7, 1996, the committee will discuss data relevant to NDA 20–636, Viramune® (nevirapine), Boehringer Ingelheim, for use in the treatment of human immunodeficiency virus infection.

Peripheral and Central Nervous System Drugs Advisory Committee

Date, time, and place. June 7, 1996, 8:30 a.m., Holiday Inn—Bethesda, Versailles Ballrooms III and IV, 8120 Wisconsin Ave., Bethesda, MD.

Type of meeting and contact person. Open committee discussion, 8:30 a.m. to 4 p.m.; open public hearing, 4 p.m. to 5 p.m., unless public participation does not last that long; Michael A. Bernstein, Center for Drug Evaluation and Research (HFD–120), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2775, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Peripheral and Central Nervous System Drugs Advisory Committee, code 12543. Please call the hotline for information concerning any possible changes.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational human drugs for use in neurological disease.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before June 1, 1996, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will review data from two clinical studies which evaluated Myotrophin®'s utility in treating patients with amyotrophic lateral sclerosis. Data from these studies have been submitted to FDA in support of a treatment protocol, investigational new drug application 39,927, Cephalon, Inc.

Advisory Committee for Reproductive Health Drugs (formerly Fertility and Maternal Health Drugs Advisory Committee)

Date, time, and place. June 28, 1996, 9 a.m., Holiday Inn—Gaithersburg, Whetstone and Walker Rooms, Two Montgomery Village Ave., Gaithersburg, MD.

Type of meeting and contact person. Open committee discussion, 9 a.m. to 5 p.m.; open public hearing, at the completion of the formal presentations, at approximately 2 p.m. to 3 p.m., unless public participation does not last that long; Philip A. Corfman, Center for Drug Evaluation and Research (HFD–510), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3510, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Advisory Committee for Reproductive Health Drugs, code 12537. Please call the hotline for information concerning any possible changes.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational human drugs for use in the practice of obstetrics and gynecology.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before June 17, 1996, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss the safety and efficacy of certain oral contraceptives for postcoital emergency use. Over the years, there has been increasing interest in this use by health care professionals and consumers. This use has been approved in some countries, and physicians have prescribed oral contraceptives for emergency use in the United States, although contraceptives marketed in the United States are not labeled for this use. On November 23, 1994, the Center for Reproductive Law and Policy submitted a citizen's petition requesting FDA to direct sponsors of certain oral contraceptives to amend the labeling and patient package inserts to include information regarding the use of these products for postcoital emergency contraception (Docket No. 94P–0427). FDA denied the petition but determined that it would be appropriate to discuss the scientific issues related to the safety and effectiveness of this use with the Reproductive Health Drugs Advisory Committee to determine whether the data support the use under certain conditions.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this Federal Register notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting may be requested in writing from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (5 U.S.C. app. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: May 16, 1996.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 96–12797 Filed 5–21–96; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4042–N–02]

Office of the Assistant Secretary for Community Planning and Development; Notice of Funding Availability for Continuum of Care Homeless Assistance; Clarification; Supportive Housing Program (SHP); Shelter Plus Care (S+C); Section 8 Moderate Rehabilitation Single Room Occupancy Program for Homeless Individuals (SRO)

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of funding availability (NOFA); clarification.

SUMMARY: On March 15, 1996 (61 FR 10866), HUD published a notice announcing the availability of fiscal year (FY) 1996 funding for three of its programs which assist communities in combatting homelessness. The three programs are: (1) Supportive Housing; (2) Shelter Plus Care; and (3) Section 8 Moderate Rehabilitation for Single Room Occupancy Dwellings for Homeless Individuals. The Congress had not yet enacted a FY 1996 appropriation for HUD at the time of publication of the March 15, 1996 notice of funding availability (NOFA). Accordingly, the March 15, 1996 NOFA set forth HUD's estimate of the FY 1996 funding that the Congress would make available. The Congress has since enacted a FY 1996 appropriation for HUD. This notice provides the final FY 1996 amount made available under the March 15, 1996 NOFA.

DEADLINE DATES: The original application deadline date is not changed. All applications are due in HUD Headquarters before midnight Eastern Time on June 12, 1996. HUD will treat as ineligible for consideration applications that are received after that deadline. *Applications may not be sent by facsimile (FAX).*

ADDRESSES: For a copy of the application package and supplemental information please call the Community Connections information center at 1–800–998–9999 (voice) or 1–800–483–2209 (TDD), or contact by internet at gopher://amcom.aspensys.com:75/11/funding. Also, you can purchase, for a nominal fee, a video that walks you through the application package and provides general background that can be useful in preparing your application. The fee for the video may be waived in cases of financial hardship. For copies of the relevant portions of your community's Consolidated Plan, please contact the local or State official responsible for that Plan. If you need assistance in identifying this person, please call your local HUD Field Office.

Before close of business on the deadline date completed applications will be accepted at the following address: Special Needs Assistance Programs, Room 7270, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, DC 20410, Attention: Continuum of Care Funding. On the deadline date, hand-carried applications will be received at the South lobby of the Department of Housing and Urban Development at the above address. Two copies of the application must also be sent to the HUD Field Office serving the State in which the applicant's projects are located. A list of Field Offices appears in an appendix of this NOFA. Field Office copies must be received by the application deadline as well, but a determination that an application was received on time will be made solely on receipt of the application at HUD Headquarters in Washington.

ELECTRONIC SUBMISSION: In addition to submitting the application narratives and forms in the traditional manner, you may also include an electronic version of your materials on a 3½″ computer diskette. The inclusion of the computer version this year is strictly an optional supplement to the standard application.

If you use HUD's Consolidated Planning software to generate supplemental maps, charts, or project lists, please include these files on the diskette as well.

FOR FURTHER INFORMATION CONTACT: The Community Connections information center at 1–800–998–9999 (voice) or 1–800–483–2209 (TDD), or by internet at gopher://amcom.aspensys.com:75/11/funding.

SUPPLEMENTARY INFORMATION:

A. The March 15, 1996 NOFA

On March 15, 1996 (61 FR 10866), HUD published a NOFA announcing the 1996 homeless assistance competition to help communities develop Continuum of Care systems to assist homeless persons. These funds are available under three HUD programs to create community systems for combatting homelessness. The three programs are: (1) Supportive Housing; (2) Shelter Plus Care; and (3) Section 8 Moderate Rehabilitation for Single Room Occupancy Dwellings for Homeless Individuals. The March 15, 1996 NOFA contained information concerning the Continuum of Care approach, eligible applicants, eligible activities, application requirements, and application processing.

Congress had not yet enacted a FY 1996 appropriation for HUD at the time of publication of the March 15, 1996 NOFA. Accordingly, the March 15, 1996 NOFA set forth HUD's estimate of the FY 1996 funding that the Congress would make available. HUD published the NOFA in order to give potential applicants adequate time to prepare applications. The purpose of this notice is to publish the final FY 1996 amount made available under the March 15, 1996 NOFA.

B. Final FY 1996 Funding Amount Under the March 15, 1996 NOFA

On April 26, 1996, the President signed the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (OCRA) (Pub.L. 104–134, approved April 26, 1996). The OCRA makes $823,000,000 in FY 1996 funds available for HUD's homeless assistance grants programs. Of this amount, $675 million is being made available under the March 15, 1996 NOFA. Of the remaining amount, HUD is making $115 million available for the Emergency Shelter Grants Program, and $33 million for the renewal of previously awarded grants.

C. Revised Pro Rata Need Estimates

Appendix B to the March 15, 1996 NOFA set forth two columns of pro rata need estimates for use by eligible jurisdictions. These figures were based on different HUD estimates of the FY 1996 funding amount that the Congress would make available. Estimate A, which equalled $675 million, was based on Congressional action authorizing interim spending, referred to as a Continuing Resolution. Estimate B, which totalled $925 million, reflected the Administration's FY 1996 Budget request (published February 1995). As explained above, the final FY 1996 amount made available under the March 15, 1996 NOFA is $675 million. Applicants should therefore utilize Estimate A in determining their relative need estimates. Estimate B should be disregarded.

Dated: May 16, 1996.

Andrew M. Cuomo,

Assistant Secretary for Community Planning and Development.

[FR Doc. 96–12796 Filed 5–21–96; 8:45 am]

BILLING CODE 4210–29–P

Office of the Secretary

[Docket No. FR 4044–D–01]

Office of the Assistant Secretary for Community Planning and Development; Delegation and Redelegation of Authority Concerning the Base Closure Community Redevelopment and Assistance Act of 1994

AGENCY: Office of the Secretary, and Office of the Assistant Secretary for CPD, HUD.

ACTION: Notice of delegation and redelegation of authority.

SUMMARY: The Secretary of the Department of Housing and Urban Development has certain administrative authority under the Base Closure Community Redevelopment and Assistance Act of 1994 and its implementing regulations at 32 CFR Part 92 and 24 CFR Part 586. The Secretary is delegating this authority to administer the Act and implementing regulations to the Assistant Secretary for Community Planning and Development. The Assistant Secretary for Community Planning and Development is redelegating the specific authority to render adverse determinations of base reuse plans, pursuant to the Act and regulations, to the Deputy Assistant Secretary for Economic Development. Additionally, the Secretary is ratifying all actions taken by the Assistant Secretary for Community Planning and Development and the Deputy Assistant Secretary for Economic Development, from October 1, 1995, through the date of signature of this document by the Secretary, with respect to the approval of applications received pursuant to the Act, in accordance with 32 CFR 92.35 and 24 CFR 586.35.

EFFECTIVE DATE: May 10, 1996.

FOR FURTHER INFORMATION CONTACT: Jacquie M. Lawing, Deputy Assistant Secretary for Economic Development, Department of Housing and Urban Development, 451 Seventh Street, S.W., Room 7204, Washington, DC 20410, (202) 708–0270. A telecommunications device for the hearing-impaired (TDD) is available at (202) 708–1455. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: The Base Closure Community Redevelopment and Homeless Assistance Act of 1994, Pub. L. 103–421, 108 Stat. 4346, approved October 25, 1994, 42 U.S.C. 11301, note, (''Redevelopment Act'') amends the Defense Authorization Amendments and Base Closure and Realignment Act of 1988, Pub. L. 100–526, and the National Defense Authorization Act of Fiscal Year 1991, Pub. L. 101–510 (both at 10 U.S.C. § 2687, note), both as amended by the National Defense Authorization Act for Fiscal Year 1994, Pub. L. 103–160. The Redevelopment Act is implemented jointly by both the Department of Defense (''DoD'') and the Department of Housing and Urban Development (''HUD''). DoD published its implementing regulations at 60 FR 40277, 32 CFR Part 92, on August 8, 1995, and HUD published its implementing regulations at 60 FR 42972, 24 CFR Part 586, on August 17, 1995. These regulations vest authority with the Secretary of HUD to make determinations with regard to plans for reuse of closing/realigning military installations. The regulations also provide HUD with the authority to approve waivers upon completion of a determination and finding of good cause, except for deadlines and actions required on the part of DoD.

The present action is intended to delegate to the Assistant Secretary for Community Planning and Development the authority to approve base reuse plans and to grant waivers. The present action is also intended to delegate the authority to render adverse determinations of base reuse plans to the Assistant Secretary for Community Planning and Development, who is redelegating this authority to the Deputy Assistant Secretary for Economic Development. Additionally, by executing the present document, the Secretary is ratifying all actions taken by the Assistant Secretary for Community Planning and Development and the Deputy Assistant Secretary for Economic Development on behalf of the Secretary of HUD, from October 1, 1995, through the date of signature of this document by the Secretary, with respect to the approval of applications received pursuant to the Redevelopment Act, in accordance with 32 CFR 92.35, and 24 CFR 586.35.

Accordingly, the Secretary delegates, and the Assistant Secretary for

Community Planning and Development redelegates authority as follows:

Section A. Authority Delegated

The Secretary of the Department of Housing and Urban Development delegates to the Assistant Secretary for Community Planning and Development the authority to administer the Base Closure Community Redevelopment and Assistance Act of 1994, including:

i. The authority to approve base reuse plans, pursuant to 32 CFR 92.35, and 24 CFR 586.35;

ii. the authority to grant waivers, pursuant to 32 CFR 92.15(b), and 24 CFR 586.15(b); and

iii. the authority to render adverse determinations of base reuse plans, pursuant to 32 CFR 92.40, and 24 CFR 586.40.

Section B. Authority Redelegated

The Assistant Secretary for Community Planning and Development redelegates to the Deputy Assistant Secretary for Economic Development the authority to render adverse determinations of base reuse plans, pursuant to 32 CFR 92.40, and 24 CFR 586.40.

Section C. Actions Ratified

The Secretary of Housing and Urban Development hereby ratifies all actions previously taken by the Assistant Secretary for Community Planning and Development and the Deputy Assistant Secretary for Economic Development, from October 1, 1995, through the date of signature of this document by the Secretary, with respect to the approval of applications for the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, in accordance with 32 CFR 92.35, and 24 CFR 586.35.

Authority: Section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. § 3535(d).

Dated: May 10, 1996.

Henry G. Cisneros,

Secretary of Housing and Urban Development.

Andrew M. Cuomo,

Assistant Secretary for Community Planning and Development.

[FR Doc. 96–12781 Filed 5–21–96; 8:45 am]

BILLING CODE 4210–32–M, 4210–29–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Application

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of application.

The following applicant has applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10 (c) of he Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

PRT–814965

Applicant: Dr. Allan M. Hale, Rust Environment and Infrastructure, Inc., Cincinnati, Ohio.

The applicant requests a permit to take (capture and release) Indiana Bats (*Myotis sodalis*) within Martin, Greene, and Lawrence Counties, Indiana. Surveys are proposed to document presence or absence of the species on behalf of the Crane Division, Naval Surface Warfare Center, Crane, Indiana, and activities are proposed to enhance survival of the species in the wild.

Written data or comments should be submitted to the Regional Director, U.S. Fish and Wildlife Service, Division of Ecological Services Operations, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056, and must be received within 30 days of the date of this publication.

Documents and other information submitted with this application are available for review by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Division of Ecological Services Operations, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056. Telephone: (612/725–3536 x250); FAX: (612/725–3526).

Dated: May 15, 1996.

Matthias A. Kerschbaum,

Acting Assistant Regional Director, Ecological Services, Region 3, Fish and Wildlife Service, Fort Snelling, Minnesota.

[FR Doc. 96–12814 Filed 5–21–96; 8:45 am]

BILLING CODE 4310–55–M

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*):

PRT–810353.

Applicant: Camp Cooley Ranch, Franklin, TX

The applicant requests a permit to authorize interstate and foreign commerce, export, and cull of excess male barasingha (*Cervus duvauceli*) from their captive herd for the purpose of enhancement of the survival of the species.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 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).

PRT–814780

Applicant: Carnegie Museum of Natural History, Pittsburgh, PA.

Type of Permit: Import for public display.

Name and Number of Animals: Polar Bear (*Ursus maritimus*), 1.

Summary of Activity to be Authorized: The applicant has requested a permit to import one polar bear legally harvested in the Northwest Territories, Canada for the purposes of public display.

Source of Marine Mammals for Research/Public Display: Canada.

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 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: May 17, 1996.

Caroline Anderson,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 96–12854 Filed 5–21–96; 8:45 am]

BILLING CODE 4310–55–P

Bureau of Land Management

[AZ–026–05–5440–10–A132; AZA 29170]

Arizona: Continuation of Public Land Segregation, Pima County, Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice continues the segregation on the 20 acres cited in notice documents 95–21078, page 44042 in the issue of Thursday, August 24, 1995; and 95–22914, page 47961 in the issue of Friday, September 15, 1995. The segregation is continued because the noncompetitive sale of public lands cannot take place until the Lower Gila Resource Area RMP Amendment is finalized. The segregation from appropriation under the public land laws, including the mining laws, on the following land will continue for 270 days from the date of this publication:

Gila and Salt River Meridian, Arizona

T. 12 S., R. 6 W.,

Sec. 33, SE¼SW¼NE¼, NE¼NW¼SE¼.

The area described contains 20 acres.

FOR FURTHER INFORMATION CONTACT:

Hector Abrego of the Phoenix District Office, U.S. Bureau of Land Management, 2015 West Deer Valley Rd., Phoenix, Arizona 85027, (602) 780–8090 E-mail: habrego@0033wp.azso.az.blm.gov.

Dated: May 15, 1996.

David J. Miller,

Associate District Manager.

[FR Doc. 96–12724 Filed 5–21–96; 8:45 am]

BILLING CODE 4310–32–M

Bureau of Reclamation

FES 96 29

South Bay Water Recycling Project, San Jose, California

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of availability on the final environmental impact statement.

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA) of 1969 (as amended), the Bureau of Reclamation (Reclamation) has prepared a final environmental impact statement (FEIS) for the South Bay Water Recycling Project (SBWRP). The FEIS is based on a 1992 environmental impact report (EIR) prepared by the City of San Jose (City). The SBWRP would divert treated freshwater effluent from South San Francisco Bay through a water reclamation program. This would include construction of pump stations and recycled distribution pipelines. Reclamation would provide a grant of up to 25 percent of the total project cost to the City to support the SBWRP.

ADDRESSES: Copies of the FEIS are also available for the public at the following locations:

- Bureau of Reclamation, Mid-Pacific Regional Liaison, 1849 C Street NW., Washington, DC 20240; telephone: (202) 208–6274.
- Bureau of Reclamation, Regional Director, Attn: MP–720 2800 Cottage Way, Sacramento, CA 95825–1898; telephone: (916) 979–2297.
- Bureau of Reclamation, Mid-Pacific Regional Library, 2800 Cottage Way, Sacramento, CA. 95825–1898; telephone: (916) 979–2462.
- City of San Jose, Environmental Services Department, Tech. Support Division., 700 Los Esteros Road, San Jose, CA 95134; telephone: (408) 945–5300.

Libraries:

Copies will also be available at public libraries located in San Jose (Main, Alviso, Berryessa, East San Jose, Carnegie, and Empire Branches).

FOR FURTHER INFORMATION CONTACT: Ms. Mona Jefferies-Soniea, Bureau of Reclamation, Division of Planning, 2800 Cottage Way, Sacramento, CA 95825; telephone (916) 979–2297.

SUPPLEMENTARY INFORMATION: The SBWRP, formerly known as the San Jose Nonpotable Reclamation Project, was developed in response to an order from the Environmental Protection Agency (EPA) and the California Regional Water Quality Control Board—San Francisco Region in order to re-establish salinity levels of the salt water marsh in the southern tip of San Francisco Bay. In addition to protecting the South Bay habitat, the program also develops nonpotable water supply for the Santa Clara Valley, which can be used in place of potable water for appropriate purposes. Funding will come from loans from the State Water Resources Control Board and EPA, a grant from Reclamation, and local funding. The SBWRP would be implemented in two phases: Phase I would consist of installing facilities to supply up to 9,000 acre-feet/year of nonpotable water for landscape irrigation, agriculture and industrial uses. Phase II would consist of installing facilities to supply an additional up to 27,000 acre-feet/year for either nonpotable or potable use. The City completed a final EIR for the SBWRP in November 1992 to comply with the California Environmental Quality Act. At that time, Reclamation had not been involved and therefore no federal requirement for compliance with NEPA existed. The FEIS is based on this final EIR. The EIR analyzed Phase I in detail and analyzed Phase II programmatically.

The proposed action (Phase I) is to construct pump stations, storage tanks, 48.5 miles of 6 to 54-inch diameter pipeline and appurtenant facilities in the cities of San Jose, Santa Clara, and Milpitas. There would also be minor modifications of the existing San Jose/Santa Clara Water Pollution Control Plant to provide additional chlorination. Alternatives to the proposed action include:

- Pipeline Alignment Alternative, to avoid construction of pipelines near residences.
- Flow Allocation Alternative, which would allocate most of the reclaimed water for potable uses. The water would be used for groundwater recharge, mainly using percolation basins.
- Habitat Enhancement Alternative, to also supply water to riparian restoration areas along creeks and rivers in the study area, as well as for potable and other nonpotable purposes.
- No Action.

The draft environmental impact statement (DEIS) was issued August 1, 1995. Responses to comments received from interested organizations and individuals on the DEIS are addressed in the FEIS. No decision will be made on the proposed action until 30 days after the release of the FEIS. After the 30-day waiting period, Reclamation will complete a Record of Decision (ROD). The ROD will state the action that will be implemented and will discuss all factors leading to the decision.

Dated: May 7, 1996.
Roger K. Patterson,
Regional Director.
[FR Doc. 96–12747 Filed 5–21–96 8:45 am]
BILLING CODE 4310–94–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–360]

International Harmonization of Customs Rules of Origin

AGENCY: International Trade Commission.

ACTION: Request for public comment on draft proposals for chapters 01–24, 92–97.

EFFECTIVE DATE: May 15, 1996.

FOR FURTHER INFORMATION CONTACT: Eugene A. Rosengarden, Director, Office of Tariff Affairs and Trade Agreements (O/TA&TA) (202–205–2595), Chapters 01–24 Ronald Heller (202–205–2596), or Chapters 92–97 Lawrence A. DiRicco (202–205–2606).

Parties having an interest in particular products or HTS chapters and desiring to be included on a mailing list to receive available documents pertaining thereto should advise Diane Whitfield by phone (202–205–2610) or by mail at the Commission, 500 E St. SW., Room 404, Washington, D.C. 20436. Hearing impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202–205–1810). The media should contact Margaret O'Laughlin, Public Affairs Officer (202–205–1819).

BACKGROUND: Following receipt of a letter from the United States Trade Representative (USTR) on January 25, 1995, the Commission instituted Investigation No. 332–360, International Harmonization of Customs Rules of Origin, under section 332(g) of the Tariff Act of 1930 (60 FR 19605, April 19, 1995).

The investigation is intended to provide the basis for Commission participation in work pertaining to the Uruguay Round Agreement on Rules of Origin (ARO), under the General Agreement on Tariffs and Trade (GATT) 1994 and adopted along with the Agreement Establishing the World Trade Organization (WTO).

The ARO is designed to harmonize and clarify nonpreferential rules of origin for goods in trade on the basis of the substantial transformation test; achieve discipline in the rules' administration; and provide a framework for notification, review, consultation, and dispute settlement. These harmonized rules are intended to make country-of-origin determinations impartial, predictable, transparent, consistent, and neutral, and to avoid restrictive or distortive effects on international trade. The ARO provides that technical work to those ends will be undertaken by the Customs Cooperation Council (CCC) (now informally known as the World Customs Organization or WCO), which must report on specified matters relating to such rules for further action by parties to the ARO. Eventually, the WTO Ministerial Conference is to ''establish the results of the harmonization work program in an annex as an integral part'' of the ARO.

In order to carry out the work, the ARO calls for the establishment of a Committee on Rules of Origin of the WTO and a Technical Committee on Rules of Origin (TCRO) of the CCC. These Committees bear the primary responsibility for developing rules that achieve the objectives of the ARO.

A major component of the work program is the harmonization of origin rules for the purpose of providing more certainty in the conduct of world trade. To this end, the agreement contemplates a 3-year CCC program, to be initiated as soon as possible after the entry into force of the Agreement Establishing the WTO. Under the ARO, the TCRO is to undertake (1) to develop harmonized definitions of goods considered wholly obtained in one country, and of minimal processes or operations deemed not to confer origin, (2) to consider the use of change in Harmonized System classification as a means of reflecting substantial transformation, and (3) for those products or sectors where a change of tariff classification does not allow for the reflection of substantial transformation, to develop supplementary or exclusive origin criteria based on value, manufacturing or processing operations or on other standards.

To assist in the Commission's participation in work under the Agreement on Rules of Origin (ARO), the Commission is making available for public comment draft proposed rules for goods of:

Chapter 01—Live Animals
Chapter 02—Meat and Edible Meat Offal
Chapter 03—Fish and Crustaceans, Molluscs and Other Aquatic Invertebrates
Chapter 04—Dairy Products; Bird's Eggs; Natural Honey; Edible Products of Animal Origin Not Elsewhere Specified or Included
Chapter 05—Products of Animal Origin, Not Elsewhere Specified or Included
Chapter 06—Live Trees and Other Plants; Bulbs, Roots and the Like; Cut Flowers and Ornamental Foliage
Chapter 07—Edible Vegetables and Certain Roots and Tubers
Chapter 08—Edible Fruits and Nuts; Peel of Citrus Fruit or Melons
Chapter 09—Coffee, Tea, Mate and Spices
Chapter 10—Cereals
Chapter 11—Products of the Milling Industry; Malt; Starches; Inulin; Wheat Gluten
Chapter 12—Oil Seeds and Oleaginous Fruits; Miscellaneous Grains, Seeds and Fruits; Industrial or Medicinal Plants; Straw and Fodder
Chapter 13—Lac; Gums, Resins and Other Vegetable Saps and Extracts
Chapter 14—Vegetable Plaiting Materials; Vegetable Products Not Elsewhere Specified or Included
Chapter 15—Animal or Vegetable Fats and Oils and their Cleavage Products; Prepared Edible Fats; Animal or Vegetable Waxes
Chapter 16—Preparations of Meat, of Fish or of Crustaceans, Molluscs or Other Aquatic Invertebrates
Chapter 17—Sugars and Sugar Confectionary
Chapter 18—Cocoa and Cocoa Preparations
Chapter 19—Preparations of Cereals, Flour, Starch, Milk; Pastrycooks Products
Chapter 20—Preparations of Vegetables, Fruit, Nuts or Other Parts of Plants
Chapter 21—Miscellaneous Edible Preparations
Chapter 22—Beverages, Spirits and Vinegar
Chapter 23—Residues and Waste from the Food Industries; Prepared Animal Fodder
Chapter 24—Tobacco and Manufactured Tobacco Substitutes
Chapter 92—Musical Instruments; Parts and Accessories of Such Articles
Chapter 93—Arms and Ammunition; Parts and Accessories Thereof
Chapter 94—Furniture; Bedding, Mattresses, Mattress Supports, Cushions, and Similar Stuffed Furnishings; Lamps and Lighting Fittings, n.e.s.o.i; Illuminated Signs, Illuminated Nameplates and the Like; Prefabricated Buildings
Chapter 95—Toys, Games, and Sports Requisites; Parts and Accessories Thereof
Chapter 96—Miscellaneous Manufactured Articles (e.g., worked carving materials, brooms and brushes, travel sets, buttons, slide fasteners, pens, pencils and similar articles, typewriter ribbons, smoking pipes)
Chapter 97—Works of Art, Collectors' Pieces and Antiques of the

Harmonized System that are not considered to be wholly made in a single country. The rules rely largely on the change of heading as a basis for ascribing origin.

Copies of the proposed revised rules will be available from the Office of the Secretary at the Commission, from the Commission's Internet web server (http://www.usitc.gov), or by submitting a request on the Office of Tariff Affairs and Trade Agreements voice messaging system, 202–205–2592 or by FAX at 202–205–2616.

These proposals, which have been reviewed by interested government agencies, are intended to serve as the basis for the U.S. proposal to the Technical Committee on Rules of Origin (TCRO) of the Customs Cooperation Council (CCC) (now known as the World Customs Organization or WCO). The proposals do not necessarily reflect or restate existing Customs treatment with respect to country of origin applications for all current non-preferential purposes. Based upon a decision of the Trade Policy Staff Committee, the proposals are intended for future harmonization for the nonpreferential purposes indicated in the ARO for application on a global basis. They seek to take into account not only U.S. Customs' current positions on substantial transformation but additionally seek to consider the views of the business community and practices of our major trading partners as well. As such they represent an attempt at reaching a basis for agreement among the contracting parties. The proposals may undergo change as proposals from other government administrations and the private sector are received and considered. Under the circumstances, the proposals should not be cited as authority for the application of current domestic law.

If eventually adopted by the TCRO for submission to the Committee on Rules of Origin of the World Trade Organization, these proposals would comprise an important element of the ARO work program to develop harmonized, non-preferential country of origin rules, as discussed in the Commission's earlier notice. Thus, in view of the importance of these rules, the Commission seeks to ascertain the views of interested parties concerning the extent to which the proposed rules reflect the standard of substantial transformation provided in the Agreement. In addition, comments are also invited on the format of the proposed rules and whether it is preferable to another presentation, such as the format for the presentation of the NAFTA origin or marking rules.

Forthcoming Commission notices will advise the public on the progress of the TCRO's work and will contain any harmonized definitions or rules that have been provisionally or finally adopted.

WRITTEN SUBMISSIONS: Interested persons are invited to submit written statements concerning this phase of the Commission's investigation. Written statements should be submitted as quickly as possible, and follow-up statements are permitted; but all statements must be received at the Commission by the close of business on July 1, 1996, in order to be considered. Information supplied to the Customs Service in statements filed pursuant to notices of that agency has been given to us and need not be separately provided to the Commission. Again, the Commission notes that it is particularly interested in receiving input from the private sector on the effects of the various proposed rules and definitions on U.S. exports. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each marked ''Confidential Business Information'' at the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's Rules of *Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business information, will be available for inspection by interested persons. All submissions should be addressed to the Office of the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436.

Issued: May 16, 1996.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 96–12837 Filed 5–21–96;8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Department of Justice policy, 28 C.F.R. § 50.7, notice is hereby given that a proposed Consent Decree in *United States* v. *Motorola, Inc. et al.,* Civ. No. 4:96–CV–226–Y was lodged on May 6, 1996 with the United States District Court for the Northern District of Texas, Fort Worth division.

The proposed Consent Decree resolves the United States' claim for reimbursement of response costs incurred at the Pesses Company (S'West) site pursuant to Sections 104, 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9604, 9606 and 9607(a) (''CERCLA''). The Consent Decree reimburses the United States and Texas for $2.46 million of its response costs at this Fort Worth, Texas site. The United States filed a Complaint simultaneously with the lodging of the Consent Decree alleging that the defendants by contract, agreement or otherwise arranged for disposal or treatment of hazardous substances at the site and are subject to liability under Section 107(a)(3) of CERCLA, 42 U.S.C. § 9607(a)(3).

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Motorola et al.,* DOJ Ref. No. 90–11–3–665.

The proposed Consent Decree may be examined at the Region VI Office of the Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $6.00 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 96–12773 Filed 5–21–96; 8:45 am]

BILLING CODE 4410–01–P–M

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with Departmental policy, 28 C.F.R. § 50.7, notice is hereby given that a proposed consent decree settling claims brought by the United States and the State of Indiana against Defendant American Chemical Service, Inc. in *United States* v. *Sanitary District of Hammond, et al.,* Civil Action No.

2:93 CV 225 JM, was lodged on April 25, 1996 with the United States District Court for the Northern District of Indiana. The proposed consent decree resolves claims against American Chemical Service, Inc. for penalties and injunctive relief pursuant to Section 309 of the Clean Water Act, 33 U.S.C. § 1319, in connection with wastewater discharges from the American Chemical Service facility in Griffith, Indiana to publicly owned sewers. The proposed consent decree requires American Chemical Service to pay a civil penalty of $59,500 to the United States and $25,500 to the State. In addition, the decree requires American Chemical Service to undertake actions that will bring it into compliance with the effluent limit for toluene prescribed in the industrial discharge permit issued to it by the Hammond Sanitary District.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Sanitary District of Hammond, et al.,* Civil Action No. 2:93 CV 225 JM, and the Department of Justice Reference No. 90–5–1–1–3308A.

The proposed consent decree may be examined at the Office of the United States Attorney, Northern District of Indiana, 1001 Main Street, Suite A, Dyer, Indiana, 46311; the Region 5 Office of the Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590; and at the Consent Decree Library, 1120 G Street, NE., 4th Floor, Washington, DC 20005, 202–624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $4.50 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 96–12774 Filed 5–21–96; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Emergency Review; Comment Request

May 17, 1996.

The Department of Labor has submitted the following (see below) information collection request (ICR), utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995 (P.L. 104–13, 44 U.S.C. Chapter 35). OMB approval has been requested by May 24, 1996. A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor Acting Departmental Clearance Officer, Theresa M. O'Malley ((202) 219–5095).

Comments and questions about ICR listed below should be forwarded to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Occupational Safety and Health Administration, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316).

The Office of Management and Budget is particularly interested in comments which:

- 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;
- Evaluate 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;
- Enhance the quality, utility, and clarify of the information to be collected; and
- 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, e.g., permitting electronic submissions of responses.

Agency: Occupational Safety and Health Administration.

Title: Collection of Information from Stakeholders, Pre-proposal, in Safety and Health Program Standard Rulemaking.

OMB Number: None.

Frequency: One-time.

Affected Public: Stakeholders who wish to respond.

Number of Respondents: 150.

Estimated Time Per Respondent: 45 to 90 minutes.

Total Burden Hours: 150.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintaining): None.

Description: This collection of information has been sent to approximately 200 stakeholders attached to a document summarizing the provisions under consideration for OSHA's proposed Safety and Health Program Standard. The collection of information basically seeks to elicit individual stakeholders general comments on whether the document and OSHA's performance to date are reasonable and responsive to stakeholder's concerns and more specific comments on scope and recordkeeping provisions. The purpose of the collection of information is to make OSHA better informed regarding its performance in the pre-proposal stage of this rulemaking and regarding remaining major concerns of stakeholders, in order for OSHA to set an appropriate agenda for upcoming stakeholder meetings.

Theresa M. O'Malley,

Acting Departmental Clearance Officer.

[FR Doc. 96–12845 Filed 5–21–96; 8:45 am]

BILLING CODE 4510–26–M

Office of the Secretary

Senior Executive Service; Appointment of a Member to the Performance Review Board

Title 5 U.S.C. 4314(c)(4) provides that Notice of the appointment of an individual to serve as a member of the Performance Review Board of the Senior Executive Service shall be published in the Federal Register.

The following individual is hereby appointed to a three-year term on the Department's Performance Review Board:

Cynthia A. Metzler

For Further Information Contact: Mr. Larry K. Goodwin, Director of Human Resources, Room C5526, U.S. Department of Labor, Frances Perkins Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, telephone: (202) 219–6551.

Signed at Washington, D.C., this 17th day of May, 1996.

Robert B. Reich,

Secretary of Labor.

[FR Doc. 96–12862 Filed 5–21–96; 8:45 am]

BILLING CODE 4510–23–M

Employment and Training Administration

Federal-State Unemployment Compensation Program: Unemployment Insurance Program Letters Interpreting Federal Unemployment Insurance Law

The Employment and Training Administration interprets Federal law requirements pertaining to unemployment compensation as part of its role in the administration of the Federal-State unemployment compensation program. These interpretations are issued in Unemployment Insurance Program Letters (UIPLs) to the State Employment Security Agencies (SESAs). The UIPL described below is published in the Federal Register in order to inform the public.

UIPL 14–96

Several States have requested guidance concerning the Federal requirements for experience rating as they relate to Indian tribes. In order to assure consistent treatment of Indian tribes by the States, this UIPL sets forth the applicable Federal law and the Department of Labor's interpretation of the law. This UIPL was developed with the assistance and advice of the Internal Revenue Service.

Dated: May 16, 1996.

Timothy M. Barnicle,

Assistant Secretary of Labor.

Classification: UI
Correspondence Symbol: TEURL

Date: April 12, 1996.

Directive: Unemployment Insurance Program Letter No. 14–96.

To: All State Employment Security Agencies.

From: Mary Ann Wyrsch, Director, Unemployment Insurance Service.

Subject: Experience Rating of Indian Tribes.

1. *Purpose.* To advise States of the application of the experience rating requirements of Federal law to Indian tribes.

2. *References.* Sections 501, 1402(a)(15), 3301–3310 (the Federal Unemployment Tax Act (FUTA)), 7701(a), 7871, and 7873(a)(2) of the Internal Revenue Code (IRC); 25 U.S.C. Sections 450b and 479; Revenue Rulings 56–110, 59–354, 68–493 and 85–194; and Unemployment Insurance Program Letters (UIPLs) 29–83, 29–83, Change 1, 12–87 and 24–89.

3. *Background.* It is the Department's position that the granting of reimbursement status to Indian tribes liable for the Federal unemployment tax is consistent with the experience rating requirements of Section 3303(a)(1), FUTA. However, some States have nevertheless granted such Indian tribes reimbursement status. Although congressional action has been anticipated on this matter for a considerable time, it does not appear to be forthcoming. Therefore, the Department is issuing this UIPL to assure consistent treatment of tribes for experience rating purposes. This UIPL also contains a discussion concerning State jurisdiction over the tribes.

Rescissions: None.
Expiration Date: April 30, 1997.

Unless greater specificity is required, this UIPL will use the term ''tribe'' to describe the Indian tribe, its tribal government as well as other tribal governmental entities and tribal business enterprises. Section 7701(a)(40)(A) of the IRC defines the term ''Indian tribal government'' to mean ''the governing body of any tribe, band, community, village, or group of Indians, or (if applicable) Alaska natives, which is determined by the Secretary [of the Treasury], after consultation with the Secretary of the Interior, to exercise governmental functions.'' Tribal governments, usually called ''tribal councils,'' frequently operate business enterprises. ''Tribe'' is not defined in the IRC. For purposes of the Indian Self-Determination and Education Assistance Act, a tribe is defined as ''any Indian tribe, band, nation or other organized group or community * * * which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.'' 25 U.S.C. § 450b(e). For purposes of the Indian Reorganization Act, a ''tribe'' refers to ''any Indian tribe, organized band, pueblo, or Indians residing on one reservation.'' 25 U.S.C. § 479.

4. *Federal Law Requirements.* Section 3301, FUTA, imposes an excise tax on every employer (as defined in Section 3306(a)(1), FUTA) with ''respect to having individuals in his employ * * *'' To encourage States to cover these services, Section 3302, FUTA, provides for a ''normal'' and an ''additional'' credit against this tax. Also, as described below, FUTA requires States to cover services performed for certain entities which are not subject to the FUTA tax and to offer such entities a reimbursement option.

As a condition of receiving the additional credit, Section 3303(a)(1), FUTA, requires that State law provide that ''no reduced rate of contributions * * * is permitted to a *person* (or group of persons) * * * except on the basis of his (or their) experience with respect to unemployment or other factors bearing a direct relation to unemployment risk.'' (Emphasis added.) Therefore, except as explained below, if an entity is a ''person,'' that entity may be assigned a reduced rate only on the basis of its experience or other factors bearing a direct relation to unemployment risk (hereafter ''experience''). If a ''person'' is assigned a rate that is not based on experience, the State's assignment of rates will conflict with Federal law requirements and all employers in the State will lose the additional credit against the FUTA tax.

To determine if an entity is a ''person,'' States may rely on the entity's FUTA tax status. Section 3306(a)(12), FUTA, defines the term ''employer'' as, in part, ''any person * * *.'' Only ''employers'' are liable for the FUTA tax (Section 3301, FUTA). Thus, any entity determined by the IRS to be an employer subject to and liable for the FUTA tax is a ''person'' which must be experience rated.

However, since the term ''person'' is broader than the term ''employer,'' it is possible for an entity to be a ''person'' even though it is not liable for the FUTA tax. One way this will happen is if all the services performed for a ''person'' are excluded from the definition of ''employment'' in Section 3306, FUTA. Two of these exclusions are described in paragraphs (7) and (8) of Section 3306(c):

(7) service performed in the employ of a State, or any political subdivision thereof, or any instrumentality of any one or more of the foregoing which is wholly owned by one or more States or political subdivisions; and any service performed in the employ of any instrumentality of one or more States or political subdivisions to the extent that the instrumentality is, with respect to such service, immune under the Constitution of the United States from the tax imposed by section 3301;

(8) service performed in the employ of a religious, charitable, educational or other organization described in section 501(c)(3) which is exempt from income tax under section 501(a).

Since these State and local governmental entities and nonprofit organizations are not subject to the FUTA tax, the principal incentive for requiring State unemployment compensation (UC) coverage—the receipt of the tax credits against the FUTA tax for the individual employer—is absent. Sections 3304(a)(6) and 3309, FUTA, therefore, require, as a condition for all employers in a State to receive credit against the FUTA tax, that the State cover these services. These sections further require that States extend the option to make ''payments (in lieu of contributions),'' commonly called reimbursements, based on these services. The only way a ''person'' can qualify for reimbursing status under a State law without conflicting with Federal law is by meeting one of these two exclusions.

Providing reimbursement status is viewed by the Department as assigning a zero rate to the ''person'' because no prospective liability is created. (Similarly, assigning no rate is viewed as assigning a zero rate.) Unless the ''person'' qualified for reimbursement status as discussed in the preceding paragraph, a conflict with Section 3303(a)(1), FUTA, would exist since the zero rate would not be based on experience. In addition, such a zero rate would not be based on the three years of experience immediately preceding the computation date and ''persons'' would not receive rates based on the same factors over the same period of time. (A discussion of these experience rating requirements is found in UIPL 29–83 and its Change 1.)

5. *Status of Tribes under Federal Law.* It is well established that the IRS and the courts consider tribes to be ''persons'' for Federal tax purposes. The term ''person'' is define in Section 7701(a)(1), IRC, ''to mean and include an individual, a trust, estate, partnership, association, company or corporation.'' IRS Revenue Ruling 85–194 addressed whether an Indian tribal

government was a ''person.'' That ruling held that the definition of ''person'' in Section 7701(a)(1), IRC, ''is sufficiently broad to include a governmental body.'' *See Ohio* v. *Helvering,* 292 U.S. 360 (1934). Therefore, the tribal government was a ''person.'' The fact that tribes may perform governmental functions does not, therefore, form a basis for excepting them from the definition of ''person.'' In fact, in cases where they are subject to the FUTA tax, they are plainly ''persons'' under Federal law since only ''persons'' are subject to this tax.

In Revenue Ruling 56–110, the IRS determined that a business enterprise operated by a tribe is not an instrumentality wholly-owned by the United States and, therefore, is liable for the FUTA tax. Revenue Ruling 59–354 held that a tribal council is liable for FUTA taxes for employees of the council and employees of tribal council business enterprises. Revenue Ruling 68–493 held that services performed by an Indian employee are not excepted from the FUTA definition of employment merely because the Indian is a ward of the United States.

Courts have upheld the IRS position that tribes are subject to FUTA. *See Matter of Cabazon Indian Casino,* 57 B.R. 398 (Bankr. 9th Cir. 1986), and *Washoe Tribes* v. *United States,* 79–2 U.S. Tax Cas. (CCH) P97189. Also, *Confederated Tribes of Warm Springs Reservation* v. *Kurtz,* 691 F.2d 878 (9th Cir. 1982), established that tribes are liable for Federal excise taxes. Under Section 3301, FUTA, the FUTA tax is specifically defined as an excise tax.

The FUTA liability of tribes is confirmed by the fact that two special provisions were deemed necessary to exempt certain tribal services from the FUTA tax. First, an amnesty provision was created in 1986 to exempt service in the employ of ''a qualified Indian entity'' from the FUTA tax for a specific period during which the entity (that is, the tribe) was not covered by a State UC program. See UIPL 12–87. Second, Section 1402(a)(15) and 7873(a)(2) were added to the IRC in 1988 to exclude from the FUTA tax services ''performed in a fishing rights-related activity of an Indian tribe by a member of such tribe for another member of such tribe or for a qualified Indian entity.'' See UIPL 24–89.

Even though tribes perform governmental functions, this does not mean that a tribe may be treated as a governmental entity for FUTA purposes. In fact, in Section 7871, IRC, Congress has clearly delineated those situations where a tribe may be treated as a State for Federal tax purposes. These purposes do not include the FUTA tax.[1] The FUTA governmental exclusion in Section 3306(c)(7) applies only to State governments or ''political subdividisons thereof.'' In the attached correspondence, the IRS has confirmed that, even where tribes are considered to be political subdivisions or agencies of a State under State law, the tribes remain subject to the FUTA tax in the same way as other private employers. (The IRS further stated that tribes would likely not be allowed a credit against the FUTA tax for any reimbursements made to a State's unemployment fund.) A State may, for UC purposes, treat a tribe as a Section 3306(c)(7), FUTA, entity only if the tribe is in fact such an entity under Federal law. Merely designating a tribe as a governmental entity under State UC law is not sufficient; the tribe must be a Section 3306(c)(7) entity in all respects. The term ''polical subdivision'' is a Federal law term; it is not affected by the State's use of that term.

In sum, if a tribe is subject to the FUTA tax, it is a ''person.'' This tribe is not a governmental entity described in Section 3306(c)(7) since such entities are exempt from the FUTA tax. The State may not give this tribe reimbursable status and may assign it a reduced rate only on the basis of its experience.

6. *Status of Tribes under State Law—Jurisdictional Issues.* The provisions of FUTA relating to taxable services do not require a State to cover these services for UC purposes. Instead, coverage is encouraged by granting employers credit against the FUTA tax for contributions paid on services covered under State law. Since States have limited jurisdictional rights over tribes or activities on reservations, State UC coverage has not always been extended to the tribes. In some States, the continuation of coverage for tribal services is conditioned on the tribe's payment of its UC benefit costs. If tribes are not covered under State law, then they will not be eligible for any credit against the FUTA tax.

A leading State court decision on this jurisdictional matter is *Employment Security Department* v. *the Cheyenne River Sioux Tribe,* 119 N.W.2d 285 (S.D. 1963). In this case, South Dakota sought to collect from a tribe contributions owed to the State's UC fund. The *Cheyenne* Court noted that the tribal authority in certain areas results in the existence of three forms of government within the geographical confines of the State: the United States of America, the State itself and Indian tribes. In concluding that the Cheyenne River Sioux Tribe was immune from suit, the Court decided that ''unless Congress enacts a statute authorizing, or consenting to, actions to enforce the claimed liability, the courts of this state have no jurisdiction of the Tribe in this civil action.''

The United States Supreme Court has confirmed the States' limited jurisdiction over tribes. In *Bryan* v. *Itasca County,* 426 U.S. 373, 96 S.Ct. 2102 (1976), the Court held that States may not impose a tax, in this case a personal property tax, on Indians living on reservations without the consent of Congress. In *White Mountain Apache Tribe* v. *Bracker,* 448 U.S. 136, 143, 100 S.Ct. 2578, 2583 (1980), the Court held that States could not impose taxes on a non-tribal company operating on a reservation. The *White Mountain* opinion provided a useful summary concerning the status of tribes:

The status of the tribes has been described as '' 'an anomalous one and of complex character,' '' for despite their partial assimilation into American culture, the tribes have retained '' 'a semi-independent position . . . not as States, not as nations, not as possessed of the full attributes of sovereignty, but as a separate people, with the power of regulating their internal and social relations, and thus far not brought under the laws of the Union or the State within whose limits they resided.' '' [Citations omitted.]

At least one State mandates UC coverage of tribes on the basis that, through Section 3305(d), FUTA, Congress has provided States with the authority to cover services on lands held in trust for the tribes by the Federal government. That section provides that ''[n]o person shall be relieved from compliance with a State unemployment compensation law on the ground that services were performed on land or premises owned, held, or possessed by the United States, and any State shall have full jurisdiction and power to enforce the provisions of such law to the same extent and with the same effect as though such place were not owned, held, or possessed by the United States.'' The Department has not, however, taken a position on this.

In short, States have limited jurisdictional authority to impose or collect a State UC tax on tribes. However, unless this tax is imposed by the State and paid by the tribes, the tribes receive no credit against the FUTA tax for which they are liable.

7. *Summary.* Although tribes may perform governmental activities, this does not mean that they are not liable for the FUTA tax. In fact, both the IRS and the courts have concluded that tribes are ''persons'' liable for the tax. For employers in a State to receive the additional credit, the State may assign reduced rates to any ''person'' only on the basis of experience. If a State does not assign a rate based on experience to a FUTA liable employer, this experience requirement is not met. Only entities excluded from the FUTA tax under Sections 3306(c) (7) and (8) qualify for reimbursement status. As FUTA liable tribes are not among those entities qualifying for the reimbursement option, they must be assigned a reduced rate only on the basis of experience.

8. *Action Required.* State agencies should assure that, for experience rating purposes,tribes are treated consistent with the Federal law requirements described herein.

9. *Inquiries.* Please direct inquiries to the appropriate Regional Office.

Attachment

Department of the Treasury

Internal Revenue Service

Washington, D.C. 20224

October 10, 1995.

Ms. Mary Ann Wyrsch,
Director, Unemployment Insurance Service, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210

Dear Ms. Wyrsch: This is in response to your letter of August 29, 1995, to Commissioner Richardson requesting our

[1] Section 7871 lists 17 different provisions/chapters of Federal law, including those addressing charitable contributions, accident and health plans, and bonds. Although Section 7871(a)(2) provides that tribes will be treated as States for purposes of four excise taxes, the FUTA tax is not mentioned. (Section 3301, FUTA, describes the FUTA tax as an excise tax.) The legislative history of Section 7871 is clear that the need for legislation arose because ''Indian tribal governments are not treated as State and local governments.'' S. Rep. No. 646, 97th Cong. 2nd. Sess. 8 (1982). Also, see *Cabazon* at 401.

views on the liability of Indian tribes under the Federal Unemployment Tax Act (FUTA). Your letter was forwarded to this office for reply.

You state that the Colorado Employment Security Act has amended their definition of ''Political Subdivision,'' for purposes of the Employment Security Act, to include an Indian tribe organized pursuant to the Indian Reorganization Act of 1934. This amendment confers on Indian tribes in Colorado the option of either paying contributions to the State unemployment fund or reimbursing the State account for the amount of benefits paid based upon service with the Tribe. You question whether this amendment to Colorado law and the fact that tribes have chosen the reimbursement option changes the status of the tribes for purposes of determining the amount of tax due under FUTA. As explained below, it is the position of the Internal Revenue Service that Indian tribes are treated in the same way as private employers. The amendment to Colorado law does not change our position.

In addition you ask whether Indian tribes being treated as political subdivisions of a State are exempt from FUTA. If tribes are being treated as private employers, you also ask whether the FUTA tax is reduced by any reimbursements made by the tribes. While we are unable to comment directly on the Indian tribes in Colorado, we can provide the following general information.

Section 3301 of the Internal Revenue Code imposes on every employer a tax (the FUTA tax) on the total wages (as defined in section 3306(b)) paid by him during the calendar year with respect to employment (as defined in section 3306(c)). Thus, unless the payments are excepted from the term ''wages'' or the services performed by the employee are excepted from the term ''employment'' such payments will be subject to FUTA.

Section 3306(c)(7) provides an exception from the definition of ''employment,'' for purposes of FUTA, for service performed in the employ of a State or political subdivision.

Section 3309 allows States to provide for unemployment coverage for governmental organization under the ''direct reimbursement method.'' Under the direct reimbursement method, a qualifying organization is allowed to obtain state unemployment coverage for its employees by agreeing to reimburse the State for unemployment benefits that are attributable to services performed for the organization. The reimbursement of benefits is in lieu of paying state unemployment tax based on the experience rate of the organization. This provision applies to service which is excluded from the term ''employment'' by reason of section 3306(c)(7), which is service performed in the employ of a State, or political subdivision thereof.

It is the long-standing position of the Service that American Indian tribes are not political subdivisions or agencies of a state for federal employment tax purposes. For purposes of FUTA, Indian tribes and their tribal activities are treated in the same way as private employers. Although section 7871 of the Code provides that an Indian tribal government is a State for certain enumerated Internal Revenue Code purposes, these purposes do not include federal employment taxes. Thus, service for a tribal government does not qualify for the exception from the definition of ''employment'' under section 3306(c)(7). See Rev. Rul. 59–354, 1959–2 C.B. 24 and Rev. Rul. 68–493, 1968–2 C.B. 426 (copies attached).

Section 3302(a)(1) of the Code provides that the taxpayer may, to the extent provided in subsections (a) and (c), credit against the tax imposed by section 3301, the amount of contributions paid by the taxpayer into an unemployment fund maintained during the taxable year under the unemployment compensation law of a State which is certified as provided in section 3304 for the 12-month period ending on October 31 of such year.

As stated above, for purposes of FUTA, Indian tribes and their tribal activities are treated in the same way as private employers. Thus, if a tribe is not contributing to a State unemployment fund, it would be required to pay FUTA at the full rate. Because the reimbursement option under section 3309 is not available to Indian tribes, we have never addressed the question of whether reimbursements made to a State unemployment fund by an Indian tribe would reduce the amount of FUTA tax owed by the tribe. Section 3302(a) allows a credit for *contributions* paid by a taxpayer. Section 3309 allows for reimbursements *in lieu of contributions*. Given this language, it appears that Indian tribes would not be allowed a credit for any reimbursements they made.

We hope this information is helpful. If we can be of further assistance, please contact Jean M. Casey of my staff at (202) 622–6040.

Sincerely yours,

Mary E. Oppenheimer,

Assistant Chief Counsel, Office of the Associate Chief Counsel (Employee Benefits and Exempt Organizations).

[FR Doc. 96–12751 Filed 5–27–96; 8:45 am]

BILLING CODE 4510–30–M

Employment Standards Administration

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment Standards Administration is soliciting comments concerning the proposed revision collection of FECA Medical Report Forms: CA–7, CA–8, CA–16b, CA–20, CA–20a, CA–1090, CA–1303, CA–1305, CA–1306, CA–1314, CA–1316, CA–1331, CA–1332, A–1336, OWCP–5a, OWCP–5b, and OWCP–5c.

A copy of the proposed information collection request can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before July 24, 1996. The Department of Labor is particularly interested in comments which:

- 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;
- Evaluate 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;
- Enhance the quality, utility and clarity of the information to be collected; and
- 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, e.g., permitting electronic submissions of responses.

ADDRESSEE: Mr. Rich Elman, U.S. Department of Labor, 200 Constitution Ave., NW., Room S–3201, Washington, DC 20210, telephone (202) 219–6375 (this is not a toll-free number), fax 202–219–6592.

SUPPLEMENTARY INFORMATION:

I. Background

Statute 5 USC 8101 et seq. of the Federal Employees' Compensation Act provides for the payment of benefits for wage-loss and/or for permanent payment to a scheduled member, arising out of a work-related injury or disease. The CA–7 and CA–8 request information, allowing the Office of Workers' Compensation Programs to fulfill its statutory requirements for the period of compensation claimed (e.g., the pay rate, dependents, earnings, dual benefits and third party information). The other forms in this proposed revision collection collect medical

information necessary to determine entitlement to benefits under FECA.

II. Current Actions

The Department of Labor seeks the revision approval to collect this information in order to carry out its responsibility to determine eligibility for and the compensation of benefits. The OWCP–5a, OWCP–5b and OWCP–5c are being revised. The CA–1302, formerly included in 1215–0103, is being eliminated.

Type of Review: Revision.

Agency: Employment Standards Administration.

Title: FECA Medical Report Forms.

OMB Number: 1215–0103.

Agency Numbers: CA–7, CA–8, CA–16b, CA–20, CA–20a, CA–1090, CA–1303, CA–1305, CA–1306, CA–1314, CA–1316, CA–1331, CA–1332, A–1336, OWCP–5a, OWCP–5b, and OWCP–5c.

Affected Public: Individuals or households; Businesses or other for-profit; Federal Government.

Total Respondents: 441,855.

Frequency: As needed.

Total Responses: 441,855.

Estimated Total Burden Hours: 43,412.

Total	Form respondents	Responses	Total response time	Burden hours
CA–7	200	200	20 min	67
CA–8	200	200	5 min	17
CA–16B	157,000	157,000	5 min	13,083
CA–17B	134,000	134,000	5 min	11,167
CA–20	92,000	92,000	5 min	7,667
CA–20a	20,000	20,000	5 min	1,667
CA–1090	800	800	5 min	67
CA–1303	4,000	4,000	20 min	1,333
CA–1305	80	80	20 min	27
CA–1306	25	25	10 min	4
CA–1314	1,200	1,200	20 min	400
CA–1316	1,100	1,100	10 min	183
CA–1331	750	750	5 min	63
CA–1332	1,500	1,500	30 min	750
CA–1336	2,000	2,000	5 min	167
OWCP–5a	7,000	7,000	15 min	1,750
OWCP–5b	5,000	5,000	15 min	1,250
OWCP–5c	15,000	15,000	15 min	3,750
Totals	441,855	441,855		43,412

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $141,394.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: May 17, 1996.

Cecily A. Rayburn,

Director, Division of Financial Management, Office of Management, Administration and Planning, Employment Standards Administration.

[FR Doc. 96–12846 Filed 5–21–96; 8:45 am]

BILLING CODE 4510–27–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 030–30266, License No. 30–23697–01E, EA 96–170]

Innovative Weaponry, Inc., Albuquerque, New Mexico; Confirmatory Order Modifying License (Effective Immediately)

I

Innovative Weaponry, Inc. of Nevada, (IWI or Licensee) is the holder of NRC License No. 30–23697–01E issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 30. The license authorizes the Licensee to distribute byproduct material (i.e., tritium) in gunsights as specified in the license. The license was transferred from IWI of New Mexico to IWI of Nevada on April 3, 1995. Although due to expire on June 30, 1993, the license has remained active based on a timely renewal application.

II

Based on its review of the results of an NRC investigation conducted from May 9, 1995, through March 22, 1996, the NRC identified the following apparent violations of IWI's license conditions: (1) IWI distributed tritium in gunsights not approved by the NRC and not specifically authorized on the license; and (2) IWI distributed tritium sources obtained from a manufacturer not authorized on the license. In addition, as indicated in a letter issued to IWI on April 17, 1996, it appeared that the violations were committed by the President and Executive Vice President of the company.

These apparent violations and the concern that they were committed by the President and Executive Vice President were discussed with IWI representatives at a predecisional enforcement conference in Rockville, Maryland on April 23, 1996. The Licensee admitted that violations had occurred but denied that there was any intent to commit the violations. Notwithstanding the Licensee's position on intent, the NRC is concerned that the violations resulted from a lack of effective action to assure compliance with license requirements, despite IWI officials being aware that the NRC license contained limitations on what could and could not be distributed.

III

As a result of the NRC investigation, the NRC staff questioned whether it should have the requisite reasonable assurance that IWI will comply with agency requirements. At the predecisional enforcement conference and a meeting on the same date to discuss license amendment issues, the Licensee voluntarily committed to actions to address the NRC's concerns about its ability to conduct its activities in compliance with the license and applicable NRC requirements. The Licensee offered to develop the following plans and to submit them to the NRC for approval: (1) a training plan to assure that all IWI employees, including management, understand the

NRC license and applicable NRC requirements; (2) an audit plan to assure compliance with requirements to be implemented by a third-party, independent auditor; and (3) development of written procedures to maintain accountability, control, and security of materials authorized by the NRC for distribution. The NRC has concluded that implementation of these commitments, which are described in more detail below, would provide the necessary assurance that licensed activities will be in compliance with NRC requirements in the future.

I find that the Licensee's commitments set forth at the predecisional enforcement conference and licensing meetings conducted on April 23, 1996, are acceptable and necessary and conclude that with these commitments the public health, safety and interest are reasonably assured. In a telephone call on May 8, 1996, with Mr. James Tourtellotte, the Licensee's attorney, the Licensee agreed to this action. I have also determined, based on the Licensee's consent and on the significance of the conduct described above, that the public health and safety require that this Order be immediately effective.

IV

Accordingly, pursuant to sections 81, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 30, IT IS HEREBY ORDERED, EFFECTIVE IMMEDIATELY, THAT LICENSE NO. 30–23697–01E IS MODIFIED AS FOLLOWS:

1. The Licensee shall submit for NRC approval, within 30 days of the issuance of this Order, a training plan designed to assure that all IWI employees, including management, who are involved in activities that may affect compliance with the NRC license are familiar with the conditions and restrictions contained in the license, as well as with all other applicable NRC requirements. The training plan also shall provide for training in accountability, control, and security of licensed material in gunsights authorized by the NRC for distribution to persons exempt from licensing. The training plan shall provide for initial training of all existing employees, including management, within 30 days of the issuance of this Order, training for new employees, including management, prior to their working with licensed materials, and annual refresher training thereafter.

2.a. The Licensee shall submit for NRC approval, within 30 days of the date of this Order, the name and qualifications of an independent auditor or auditors whom the Licensee proposes to conduct the audits described below and who are capable of conducting such audits to assure compliance with all NRC license conditions and requirements.

b. The Licensee shall submit for NRC approval, within 30 days of the NRC's approval of the above auditor, an audit plan which shall provide for periodic audits to assure compliance with all NRC license conditions and requirements. The audit plan shall provide for an initial audit, followed by quarterly audits for a 1-year period, and semi-annual audits thereafter. The audit plan shall provide for audit reports to be issued to the Licensee and the NRC at the same time within 30 days of the completion of each audit. The audit report shall contain findings on the Licensee's state of compliance with NRC requirements and recommendations to achieve compliance if deficiencies are noted. The plan shall provide for the Licensee to respond in writing to all audit findings within 30 days of each audit report, with a copy to the NRC. The response shall state the actions taken by the licensee to address audit recommendations with which the Licensee agrees. For those recommendations that the Licensee disputes, the Licensee shall provide the basis for dispute and any other action taken.

3. The Licensee shall develop and implement, within 30 days of the issuance of this Order, written procedures designed to maintain inventory and accountability of gunsights with sources authorized by the NRC for distribution to persons exempt from licensing.

4. Upon approval of the actions required under items 1 and 2.a above, items 1 and 2.b shall be implemented until relaxed by the Regional Administrator, Region IV.

5. Requests for approval of the auditor, audit plan, training plan, and for changes of the approved auditor, changes to the audit plan, and to reports required to be submitted, shall be submitted to the Regional Administrator, Region IV, with a copy to the Director, Office of Nuclear Materials Safety and Safeguards.

The Regional Administrator, Region IV, may relax or rescind, in writing, any of the above conditions upon a showing by the Licensee of good cause.

V

Any person adversely affected by this Confirmatory Order, other than the Licensee, may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission Washington, D.C. 20555, and include a statement of good cause for the extension. Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Docketing and Service Section, Washington, D.C. 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, NRC Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011, and to the Licensee. If such a person requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), any person other than the Licensee, adversely affected by the Order, may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received. AN ANSWER OR A REQUEST FOR HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF THIS ORDER.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland this 15th day of May 1996.

James Lieberman,

Director, Office of Enforcement.

[FR Doc. 96–12810 Filed 5–21–96; 8:45 am]

BILLING CODE 7590–01–P

UNITED STATES NUCLEAR REGULATORY COMMISSION

Biweekly Notice

Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law 97-415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from April 27, 1996, through May 10, 1996. The last biweekly notice was published on May 8, 1996 (61 FR 20842).

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 Chief, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, 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 June 21, 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 20555-0001, 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 20555-0001, 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.

Baltimore Gas and Electric Company, Docket Nos. 50-317 and 50-318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of amendments request: April 5, 1996

Description of amendments request: Pursuant to 10 CFR 50.80 and 50.90, the Baltimore Gas and Electric Company (BGE) hereby requests the transfer and amendment of Operating License Nos. DPR-53 and DPR-69 for Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2.

The proposed license transfers and amendments are requested as part of the pending merger between BGE and Potomac Electric Power Company into Constellation Energy Corporation. The proposed license transfers would transfer authority to possess and operate Calvert Cliffs from BGE to Constellation Energy Corporation. The proposed amendments would change the licenses as well as the related Technical Specifications, to reflect this transfer by submitting Constellation Energy Corporation in place of BGE as the licensee for Calvert Cliffs.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment will change the name of the licensee authorized to possess and operate Calvert Cliffs Nuclear Power Plant from Baltimore Gas and Electric Company (BGE) to Constellation Energy Corporation. This amendment request is necessary because of a proposed merger of BGE and Potomac Electric Power Company into Constellation Energy Corporation. As a result of the savings achieved through a reduction in operating costs due to the merger, Constellation Energy Corporation will have the financial resources to possess and operate Calvert Cliffs.

In addition, Constellation Energy Corporation personnel will be technically qualified to operate the plant. Baltimore Gas and Electric Company nuclear personnel have been named to management positions in Constellation Energy Corporation, and will remain responsible for Calvert Cliffs operation and maintenance. The proposed amendment involves no changes in the training program or operating organization for Calvert Cliffs.

The proposed amendment does not require any physical change to the facilities or substantive modifications to the Technical Specifications or to procedures. The proposed change does not increase the probability of an accident previously evaluated because it does not affect any initiators in any previously evaluated accidents. The proposed change does not increase the consequences of an accident previously evaluated because it does not affect any of the items on which the consequences depend.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed amendment does not modify the plant's configuration or operations. As a result, no new accident initiators are introduced. Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Would not involve a significant reduction in a margin of safety.

This amendment request is necessary because of a proposed merger of BGE and Potomac Electric Power Company into Constellation Energy Corporation. As a result of the savings achieved through a reduction in operating costs due to the merger, Constellation Energy Corporation will have the financial resources to possess and operate Calvert Cliffs. Also, Constellation Energy Corporation personnel will be technically qualified to operate the plant. Baltimore Gas and Electric Company nuclear personnel have been named to management positions in Constellation Energy Corporation, and will remain responsible for Calvert Cliffs' operation and maintenance. The proposed amendment involves no changes in the training program or operating organization for Calvert Cliffs. In addition, the proposed amendment to substitute Constellation Energy Corporation for BGE does not result in any changes to the physical design or operation of the plant. Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendments request involves no significant hazards consideration.

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland 20678.

Attorney for licensee: Jay E. Silbert, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Susan Frant Shankman, Acting

Carolina Power & Light Company, et al., Docket Nos. 50-325 and 50-324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of amendments request: April 2, 1996

Description of amendments request: The proposed amendments revise the Brunswick Steam Electric Plant, Units 1 and 2, Technical Specifications (TS) to allow uprate of the units to 105 percent of rated thermal power.

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:

. May the proposed activity involve a significant increase in the probability or consequences of an accident evaluated previously in the Safety Analysis Report?

The increase in power level, steam flow, feedwater flow and associated instrument setpoint changes will not significantly increase the probability or consequences of an accident previously evaluated.

The probability (frequency of occurrence) of Design Basis Accidents occurring is not affected by the increase in power level, as plant equipment will remain in compliance with the applicable regulatory criteria (ASME Codes, IEEE Standards, NEMA Standards, Regulatory Guide criteria, etc.). The physical plant changes necessary to support power uprate include instrument setpoint changes, indicating meter scale changes for the RWCU [reactor water cleanup] System flow and Main Steam Flow indicators, Leak Detection, Process Computer, ERFIS [emergency response facility information system], and Feedwater System software changes, and SRV [safety/relief valve] setpoint changes. The setpoints were calculated in accordance with the CP&L Setpoint Methodology. Utilizing this methodology ensures scram setpoints (instrument settings that initiate automatic plant shutdowns) will be established such that there is no significant increase in scram frequency due to uprate. No new challenges to safety related equipment will result from power uprate.

The changes in consequences of hypothetical accidents which would occur from 102% of the uprated power (2609 MWt), compared to those previously evaluated from [greater than or equal to] 102% of the original power (2485 MWt), are not significant, because the accident evaluations at uprated power will not result in exceeding the NRC approved acceptance limits. The spectrum of hypothetical accidents and transients has been investigated, and those accidents/transients currently evaluated in the UFSAR [Updated Final Safety Analysis Report] were shown to meet the plant's current regulatory criteria at uprated conditions (105%). In the area of core design, for example, the fuel operating limits will still be met at the uprated power level, and fuel reload analyses show plant transients will still meet the criteria accepted by the NRC as specified in NEDO-24011, ''GESTAR II.'' Challenges to fuel or ECCS [emergency core cooling system] performance have been evaluated and shown to meet the criteria of 10CFR50 Appendix K. Challenges to the containment have been evaluated and still meet 10CFR50 Appendix A Criterion 38, Long Term Cooling, and Criterion 50, Containment. Bounding events involving radiological releases have been evaluated and were shown to be well within the criteria of 10CFR100.

2. May the proposed activity create the possibility of a new or different kind of accident from any accident previously evaluated in the Safety Analysis Report?

The change in reactor thermal power will not create the possibility of a new or different kind of accident from any accident previously evaluated.

Equipment that could be affected by power uprate has been evaluated. No new operating mode, safety related equipment lineup, accident scenario, or equipment failure mode was identified. The full spectrum of accident considerations defined in the BNP [Brunswick Nuclear Plant] UFSAR has been evaluated and no new or different kind of accident has been identified. Uprate uses developed technology and applies it within the capabilities of existing plant equipment in accordance with existing regulatory criteria including NRC approved codes, standards, and methods. General Electric has designed BWRs [Boiling Water Reactors] of higher power levels than the uprated power of any of the currently uprated BWR/4 fleet and has not identified new power dependent accidents.

The changes to the Technical Specifications required to implement power uprate make little change to the plant's configuration. These changes fall into three major categories. The first includes those changes resulting from power uprate parameter changes. These parameter changes, such as the increase in vessel pressure, temperature and piping system flows are minor in nature. The evaluations have shown the plant is still within its design capabilities when operating under these conditions. The changes required as a result of power uprate will not affect the design function(s) of currently installed equipment; therefore, there is no possibility of a new or different kind of failure mode. The second set of changes is a result of applying setpoint methodology to calculate TS Allowable Values and Normal Trip Setpoints for instruments that are directly affected by the parameter changes due to power uprate. By using CP&L's methodology, the TS values were calculated to ensure adequate margin exists between the analytical limit and the TS Allowable Value. The third change include [sic] setpoints that were reconstituted by the power uprate project. Again, CP&L methodology was applied and the results show the setpoints have moved to a more conservative value. This will reduce the likelihood of spurious scrams and unnecessary challenges to safety systems while ensuring initiation/actuation equipment continues to function consistent with existing accident analyses.

3. Does the proposed activity involve a significant reduction in a margin of safety defined in the basis of any Operating License Technical Specification?

Power Uprate will not involve a significant reduction in a margin of safety. The bounding events which had been analyzed in the UFSAR were reevaluated to demonstrate that power uprate can be implemented without exceeding any analyzed limit. Because the applicable safety analysis criteria and limits are satisfied for power uprate, the margin of safety associated with the safety limits and other limits identified in the Technical Specifications will be maintained.

As discussed in Section 5 of GE Nuclear Energy's License Topical Report NEDO-31984P ''Generic Evaluations of General Electric Boiling Water Reactor Power Uprate,'' the safety margins prescribed by the Code of Federal Regulations (CFR) have been maintained by meeting the appropriate regulatory criteria. Similarly, the margins provided by the application of the ASME design criteria have been maintained. The Brunswick unique analysis NEDC-32466P ''Power Uprate Safety Analysis Report for Brunswick Steam Electric Plant Units 1 and 2'' discusses the effects of power uprate on safety margins for (1) fuel thermal limits, (2) design basis accidents and the challenges for fuel, containment and radiological releases, (3) transient analysis, (4) non-LOCA radiological releases, and (5) environmental consequences. These evaluations conclude that applicable safety analysis criteria and limits are satisfied, and thus, the margins of safety will be maintained.

The changes to the Technical Specification instrumentation will not involve a reduction in the margin of safety. The calculations performed for power uprate have established an analytical limit and calculated the TS Allowable Value and Nominal Trip Setpoint using formal setpoint methodology. This ensures the instrumentation functional requirements are met.

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 North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297.

Attorney for licensee: William D. Johnson, Vice President and Senior Counsel, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602

NRC Project Director: Eugene V. Imbro

Carolina Power & Light Company, Docket No. 50-261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of amendment request: March 29, 1996

Description of amendment request: The proposed amendment would revise the technical specifications (TS) to add an allowance to complete a TS required surveillance within 24 hours of discovery of a missed surveillance in accordance with the guidance of Generic Letter (GL) 87-09, ''Sections 3.0 and 4.0 of the Standard Technical Specifications (STS) on the Applicability of Limiting Conditions for Operation and Surveillance Requirements.'' The wording specifying intervals for testing has been changed to reflect wording consistent the new STS. Typographical errors in the basis are also being corrected.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes clarify and incorporates [sic] NRC guidance for application of extending or moving surveillance intervals by plus or minus 25%, by elimination of restrictive surveillance interval descriptions that conflict with NRC guidance, by allowing for an additional 24 hours to perform missed surveillances, and by providing a defined finite period for the term ''immediate'' for Technical Specification (TS) and Inservice Inspection (ISI) surveillances. The basis for extending or moving surveillances, as stated in GL 89-14, ''Line-Item Improvements in Technical Specifications - Removal of the 3.25 Limit on Extending Surveillance Intervals,'' is to provide plants flexibility for scheduling the performance of surveillances and to permit consideration of plant operating conditions that may not be suitable for conducting a surveillance at the specified time interval. Such operating conditions include transient plant operation or ongoing surveillance or maintenance activities. Extending surveillance intervals during plant operation can result in a benefit to safety when a scheduled surveillances [sic] is due at a time that is not suitable for conducting the scheduled surveillance. NUREG-1431, ''Standard Technical Specifications - Westinghouse Plants,'' states ''the 25% extension does not significantly degrade the reliability that results from performing the surveillance at its specified frequency.'' This is based on the recognition that the most probable result of any particular surveillance being performed is the verification of conformance with the surveillance requirements. The basis for the 24 hour delay period, as stated in the basis for NUREG-1431, includes consideration of unit conditions, adequate planning, availability of personnel, the time required to perform the surveillance, the recognition that the most probable result of any particular surveillance being performed is the verification of conformance with the requirements.'' The basis for defining the term ''immediate'' is to provide guidance to plant personnel for conducting operability testing of the Steam Driven Auxiliary Feedwater pump after extended shutdown periods in order to minimize plant risks and not pose an unsafe operational transient during an unstable plant configuration (i.e., during plant startup). Since these changes do not affect plant design, operation, or the manner in which testing is performed, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes clarify and incorporates [sic] NRC guidance for application of extending or moving surveillance intervals by plus or minus 25%, by elimination of restrictive surveillance interval descriptions that conflict with NRC guidance, by allowing for an additional 24 hours to perform missed surveillances, and by providing a defined finite period for the term ''immediate'' for TS and ISI surveillances. Since these changes do not affect plant design, operation, or the manner in which testing is performed, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed changes do not involve a significant reduction in the margin of safety.

The changes proposed, with the exception of allowing an additional 24 hours to complete missed surveillances, are to clarify existing surveillance intervals and to provide more specific and detailed criteria without changing current surveillance scheduling methodologies. The NRC has determined that allowing an additional 24 hours to complete missed surveillance tests minimizes additional challenges to plant operations such that there is a conservative balance between the risk associated with performing the surveillance during stable plant conditions and the risk of imposing a plant transient due to TS action statements or changing ''modes'' of operation. These extensions are current industry practices endorsed by the NRC which provide flexibility for scheduling and performing surveillances and permit consideration of plant operating conditions that may not be suitable for conducting a surveillance at either the specified time interval or inadvertently missing the surveillance interval. The risk to safety is low in contrast to the alternatives; therefore, the proposed changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Hartsville Memorial Library, 147 West College Avenue, Hartsville, South Carolina 29550

Attorney for licensee: William D. Johnson, Vice President and Senior Counsel, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602

NRC Project Director: Eugene V. Imbro

Commonwealth Edison Company, Docket Nos. 50-373 and 50-374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Date of amendment request: April 8, 1996

Description of amendment request: The proposed amendments would change various sections of the Technical Specifications (TS) to reflect the transition of fuel supplier from Generic Electric to Siemens Power Corporation (SPC). The amendments would revise the definitions and Limiting Conditions for Operation related to Linear Heat Generation Rate, Critical Power Ratio, Maximum Critical Power Ratio, and Fraction of Limiting Power Density to incorporate SPC terms and methodology or to make the TS vendor neutral. Section 6.0 of the TS would be revised to include SPC references. The proposed amendment also adds a requirement to adjust the Average Planar Linear Heat Generation Rate when the reactor is in single loop operation since SPC methodologies may require this reduction factor for SPC fuel. The SPC methodologies to be added to the TS have previously been approved by the NRC. The proposed amendment would also relocate requirements for the traversing in-core probe system from the TS to the Core Operating Limits Report and would upgrade the fuel description in Section 5.0 as a line item from the Improved Technical Specifications.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The probability of an evaluated accident is derived from the probabilities of the individual precursors to that accident. The consequences of an evaluated accident are determined by the operability of plant

systems designed to mitigate those consequences. Limits will be established consistent with NRC approved methods to ensure that fuel performance during normal, transient, and accident conditions is acceptable. The proposed Technical Specifications amendment reflects previously approved SPC methodology used to analyze normal operations, including anticipated operational occurrences (AOOs), and to determine the potential consequences of accidents.

Licensing Methods and Models

The proposed amendment is to support operation with NRC approved fuel and licensing methods supplied from Siemens Power Corporation. In accordance with FSAR Chapter 15, the same accidents and transients will be analyzed with the new fuel and methods as were analyzed by GE for GE fuel. The analysis methods and models are NRC approved (Note the mixed core treatment of critical power ratio is being addressed under separate correspondence). These approved methods and models are used to determine the fuel thermal limits. Traversing In-core Probe (TIP) uncertainty are assumptions in the approved Siemens core monitoring methodologies. The SPC core monitoring code enables the site to monitor k_{eff} as well as rod density to perform the reactivity anomaly surveillance. This is consistent with GE methodology. Therefore, the change in licensing analysis methods and models does not significantly increase the probability of an accident or the consequences of an accident previously identified. The support systems for minimizing the consequences of transients and accidents are not affected by the proposed amendment.

New Fuel Design

The use of ATRIUM 9B fuel at LaSalle does not involve a significant increase in the probability or consequences of any accident previously evaluated in the FSAR. The ATRIUM-9B fuel is generically approved for use as a reload BWR fuel type. (See Boiling Water Reactor Licensing Methodology Summary, Siemens Power Corporation, EMF-94-217(NP)). Limiting postulated occurrences and normal operation have been analyzed using NRC-approved methods for the ATRIUM 9B fuel design to ensure that safety limits are protected and that acceptable transient and accident performance is maintained.

The reload fuel has no adverse impact on the performance of in-core neutron flux instrumentation or control rod drive response. The ATRIUM-9B fuel design will not adversely affect performance of neutron instrumentation nor will it adversely affect the movement of control blades. The exterior dimensions of the ATRIUM-9B fuel assembly are essentially identical to the GE9B; the ATRIUM-9B fuel assembly for LaSalle uses a standard fuel channel and normal control cell positioning (i.e., no offset). Thus, no adverse interactions with the adjacent control blade and nuclear instrumentation are anticipated. Additionally, given the above mentioned overall envelope similarities, no problems are anticipated with other station equipment such as the fuel storage racks, the new fuel inspection stand and the spent fuel pool fuel preparation machine.

The ATRIUM 9B design is neutronically compatible with the existing fuel types and core components in the LaSalle core. SPC tests have demonstrated that the ATRIUM-9B fuel design is hydraulically compatible with the GE9 fuel. The bundle pressure drop characteristics of the ATRIUM 9B bundle are similar to those of the GE9 fuel design, hence core thermal-hydraulic stability characteristics are not adversely affected by the ATRIUM 9B design.

An evaluation of the Emergency Procedures is being performed to ensure that the use of the ATRIUM-9B fuel at LaSalle does not alter any assumptions previously made in evaluating the radiological consequences of an accident at LaSalle Station.

Methods approved by the NRC are being used in the evaluation of fuel performance during normal and abnormal operating conditions. The ComEd and SPC methods to be used for the cycle specific transient analyses have been previously NRC approved. The exception is the mixed core treatment of critical power ratio, which is being addressed under separate correspondence.

The description of the fuel is expanded to be consistent with NUREG-1434. The description of the fuel materials, lead test assembly use, and stating that designs must have been analyzed with NRC Staff approved codes does not change existing methods; it only describes them.

Review of the above concludes that the probability of occurrence and the consequences of an accident previously evaluated in the safety analysis report have not been significantly increased.

* * * * *

2. Create the possibility of a new or different kind of accident from any accident previously evaluated:

Creation of the possibility of a new or different kind of accident would require the creation of one or more new precursors of that accident. New accident precursors may be created by modifications of the plant configuration, including changes in allowable modes of operation.

Licensing Methods and Models

The proposed Technical Specification amendment reflects previously approved SPC methodology used to analyze normal operations, including AOOs, and to determine the potential consequences of accidents. As stated above, the proposed changes do not permit modes of reactor operation which differ from those currently permitted.

New Fuel Design

The basic design concept of a 9x9 fuel pin array with an internal water box has been used in various lead assembly programs and in reload quantities in Europe since 1986. WNP-2 has loaded reload quantities since 1991. Approximately 650 water box assemblies have been irradiated in the United States through 1995, with a substantially higher number being irradiated overseas. The NRC has reviewed and approved the ATRIUM-9B fuel design. (See Boiling Water Reactor Licensing Methodology Summary, Siemens Power Corporation, EMF-94-217(NP)). The similarities in fuel design and operation indicate there would be no expectation of introducing new or different types of accidents than have been considered for the existing fuel. Therefore, the use of ATRIUM-9B fuel at LaSalle does not create the possibility of a new or different kind of accident from any accident previously evaluated.

* * * * *

3. Involve a significant reduction in the margin of safety for the following reasons:

The existing margin to safety is provided by the existing acceptance criteria (e.g., 10CFR50.46 limits). The proposed Technical Specification amendment reflects previously approved SPC methodology used to demonstrate that the existing acceptance criteria are satisfied. The revised methodology has been previously reviewed and approved by the USNRC for application to reload cores of GE BWRs. References for the Licensing Topical Reports which document this methodology, and include the Safety Evaluation Reports prepared by the USNRC, are added to the Reference section of the Technical Specifications as part of this amendment.

Licensing Methods and Models

The proposed amendment does not involve changes to the existing operability criteria. NRC approved methods and established limits (implemented in the Core Operating Limits Report) ensure acceptable margin is maintained. The ComEd and SPC reload methodologies for the ATRIUM-9B reload design are consistent with the Technical Specification Bases. The Limiting Conditions for Operation are taken into consideration while performing the cycle specific and generic reload safety analyses. NRC approved methods are listed in Specification 6.0 of the Technical Specifications.

Analyses performed with NRC-approved methodology have demonstrated that fuel design and licensing criteria will be met during normal and abnormal operating conditions. Therefore, there is not a significant reduction in the margin of safety.

New Fuel Design

The exterior dimensions of the ATRIUM-9B fuel assembly are essentially identical to the GE9B; the ATRIUM-9B fuel assembly for LaSalle uses a standard fuel channel and normal control cell positioning; i.e., no offset. Thus, no adverse interactions with the adjacent control blade and nuclear instrumentation are anticipated. The change does not adversely impact equipment important to safety and, therefore does not reduce the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Local Public Document Room location: Jacobs Memorial Library, Illinois Valley Community College, Oglesby, Illinois 61348.

Attorney for licensee: Michael I. Miller, Esquire; Sidley and Austin, One

First National Plaza, Chicago, Illinois 60603

NRC Project Director: Robert A. Capra

Commonwealth Edison Company, Docket Nos. 50-373 and 50-374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Date of amendment request: April 9, 1996

Description of amendment request: The proposed amendments would eliminate the automatic reactor scram function and the group 1 and 3 isolation valve closure functions associated with the Main Steam Line Radiation Monitoring (MSLRM) system high radiation setpoint. Elimination of these functions will eliminate potential spurious scrams and isolations caused by increased main steam line radiation levels during hydrogen injection. The licensee also proposes to raise the MSLRM system alarm setpoints which are not part of the Technical Specifications to include increased background radiation during hydrogen injection. The proposed amendment would also delete the surveillance requirements for the associated instruments.

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 because:

Redefining the full power radiation background, thus changing the MSLRM alarm setpoint, does not change the probability of occurrence of any accident which has been postulated and analyzed in the UFSAR, but will reduce the probability of the inadvertent MSIV closure transient which is an analyzed transient in the UFSAR. It does not change the probability of malfunction of any equipment important to safety associated with [loss of coolant accident] LOCA, fuel handling accident or [control rod drop accident] CRDA. It also does not change the resultant offsite radiological dose from the bounding design basis CRDA. This is based upon all radioactivity, resulting from the design basis CRDA, going to the condenser instantaneously (or independent of the actual MSLRM setpoint) in the offsite dose calculation.

The elimination of reactor scram and isolation of MSIVs, isolation of main steam line drain valves and reactor water sample line valves, associated with the MSLRM system actuation do not introduce, mitigate, or reduce the probability of any design basis accident, or any accident, evaluated in the UFSAR. The topical report NEDO-31400A has shown that there is essentially no reasonable radiological consequence benefit in a design basis CRDA of retaining the MSLRM associated reactor scram and MSIV isolation function. In addition, the probability of inadvertent scram and isolation is reduced. The proposed change will not adversely impact the operation of the [reactor protection system] RPS or [primary containment isolation system] PCIS with respect to performing its other intended safety functions. The proposed change will not affect the operation of other plant systems or equipment important to safety. The consequences of eliminating the automatic closure of the main steam line drain isolation valves and reactor recirculation water sample line isolation valves along with the MSIVs has been evaluated to be negligible additions to the CRDA doses. A [LaSalle County Station] LSCS unique analysis has demonstrated that the radiological doses as a result of design basis CRDA are acceptable.

The MSLRM system high radiation trip was intended to function in response to a CRDA which has been previously evaluated. No credit for MSIV closure was taken in the CRDA analysis since it postulates that all the radioactive material assumed to be released from the fuel is transported to the main condenser prior to MSIV closure. Furthermore, the probability of a fuel failure is independent of the operation of the MSLRM system.

By eliminating the MSLRM induced MSIV closure, the Offgas system can be utilized to reduce potential offsite doses after a CRDA. The [mechanical vacuum pump] MVP is tripped no later than 15 minutes of a Hi-Hi radiation alarm but analytically results in acceptable offsite doses.

Thus the proposed amendment will not increase the probability of any accident previously evaluated, and the elimination of the MSLRM isolation signal for MSIVs and other small containment valves will not significantly increase the consequences of a CRDA as previously evaluated.

2) Create the possibility of a new or different kind of accident from any accident previously evaluated because:

Redefining the full power radiation background, thus changing the actual MSLRM alarm setpoint, does not alter the configuration of the plant. It does not revise any logic or function of the MSLRM trip channels or add, replace, or delete any equipment important to safety. Therefore it does not introduce any new failure modes or create any possibility of a new accident which may challenge safety to the public and has not been previously analyzed. It also does not involve any equipment which either has not been evaluated previously, or may have any safety consequences to the public.

The proposed Technical Specification changes involve eliminating the MSLRM system high radiation trip function for initiating an automatic reactor scram, and automatic isolations. The proposed changes will not affect the operation of other plant systems or equipment important to safety. The MSLRM system will continue to initiate alarms as before. Plant procedures will be in place to take appropriate mitigative measures in response to a high alarm.

The isolation and reactor scram functions associated with the MSLRM system actuation were originally intended to mitigate, not prevent, a potential accident scenario such as a CRDA or gross fuel failure event. Adding or removing an electronic signal, such as the one from the MSLRM system, does not change system or hardware design within the reactor vessel pressure boundary, and therefore will not create the possibility of a new or different kind of accident from those evaluated in the UFSAR like a LOCA or CRDA during power operation. It also does not create the possibility of a new or different kind of accident outside the reactor vessel pressure boundary from those evaluated in the UFSAR, such as a LOCA or Fuel Handling Accident. Removing the isolation signal also reduces the probability of inadvertent scram and isolation.

Therefore the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously analyzed.

3) Involve a significant reduction in the margin of safety because:

The current MSLRM trip Hi-Hi alarm setpoint (about 4 R/hour with full power background at 1.3 R/hour) is at 3 times the full power radiation background. As indicated in the plant unique analytical result for LSCS, the radiological reading at the MSLRMs for design basis CRDA is equivalent to over 1200 times the normal full power radiation background (1600 R/hour divided by 1.3 R/hour), or 150 times the full power radiation background during peak HWC environment (since the radiation background is 8 times the normal background). Thus the safety margin was very large, and would still be quite large with the HWC background factored into the MSLRM actuation setpoint (3 x 8 x 1.3 = about 50). The Hi alarm setpoint of 1.5 times full power background likewise will have a higher safety margin. Thus there is basically no adverse consequence to the margin of safety in the basis for the LaSalle technical specifications.

The proposed Technical Specification changes to eliminate the MSLRM system high radiation trip function for initiating an automatic reactor scram, and automatic closure of the MSIVs, main steam line drain isolation valves, and reactor recirculation water sample line isolation valves do not cause radiological dose consequences to exceed the limit established by SRP 15.4.9.

Per NEDO-31400A, the elimination of MSLRM trip/scram signal will result in the reduction of potential inadvertent scrams, unnecessary safety-related actuations, undue vessel isolation, and duty challenges during normal plant operation. These can be interpreted to be a potential reduction in core damage frequency, which translates to an improvement in the margin of safety.

Thus the margin of safety as defined in the basis of the technical specifications is essentially unaffected, and is therefore acceptable.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the

requested amendments involve no significant hazards consideration.

Local Public Document Room location: Jacobs Memorial Library, Illinois Valley Community College, Oglesby, Illinois 61348.

Attorney for licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60603

NRC Project Director: Robert A. Capra

Commonwealth Edison Company, Docket Nos. 50-373 and 50-374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Date of amendment request: April 16, 1996

Description of amendment request: The proposed amendments would eliminate the Technical Specification requirement to perform response time testing for selected instruments. The instruments affected are the sensors for selected reactor protection system instrumentation, main steam isolation actuation instrumentation, and all sensors for emergency core cooling system (ECCS) actuation instrumentation. The proposed changes are supported by analyses performed by the Boiling Water Reactor Owners' Group as documented in NEDO-32291-A which was approved by the NRC for use in license amendment applications.

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 because:

The purpose of the proposed Technical Specification (TS) change is to eliminate response time testing requirements for selected components in the Reactor Protection System (RPS), Isolation Actuation instrumentation and Emergency Core Cooling System (ECCS) actuation instrumentation. The Boiling Water Reactor Owners' Group (BWROG) has completed an evaluation which demonstrates that response time testing is redundant to the other TS-required testing. These other tests, in conjunction with actions taken in response to NRC Bulletin 90-01, ''Loss of Fill-Oil in Transmitters Manufactured by Rosemount,'' and Supplement 1, are sufficient to identify failure modes or degradations in instrument response time and ensure operation of the associated systems within acceptable limits. There are no known failure modes that can be detected by response time testing that cannot also be detected by the other TS-required testing. This evaluation was documented in NEDO-32291-A, ''System Analyses for the Elimination of Selected Response Time Testing Requirements,'' dated October 1995. LaSalle County Station, LaSalle, has confirmed the applicability of this evaluation to LaSalle. In addition, LaSalle will complete the actions identified in the NRC staffs safety evaluation of NEDO-32291-A.

Because of the continued application of other existing TS-required tests such as channel calibrations, channel checks, channel functional tests, and logic system functional tests, the response time of these systems will be maintained within the acceptance limits assumed in plant safety analyses and required for successful mitigation of an initiating event. The proposed changes do not affect the capability of the associated systems to perform their intended function within their required response time, nor do the proposed changes themselves affect the operation of any equipment. As a result, LaSalle has concluded that the proposed changes do not involve a significant increase in the probability or the consequences of an accident previously evaluated.

2) Create the possibility of a new or different kind of accident from any accident previously evaluated because:

The proposed changes only apply to the testing requirements for the components identified above and do not result in any physical change to these or other components or their operation. As a result no new failure modes are introduced. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3) Involve a significant reduction in the margin of safety because:

The current TS-required response times are based on the maximum allowable values assumed in the plant safety analyses. These analyses conservatively establish the margin of safety. As described above, the proposed changes do not affect the capability of the associated systems to perform their intended function within the allowed response time used as the basis for the plant safety analyses. The potential failure modes for the components within the scope of this request were evaluated for impact on instrument response time. This evaluation confirmed that, with the exception of loss of fill-oil of Rosemount transmitters, the remaining TS-required testing is sufficient to identify failure modes or degradations in instrument response times and ensure that operation of the applicable instrumentation is within acceptable limits. The actions taken in response to NRC Bulletin 90-01 and Supplement 1 are adequate to identify loss of fill-oil failures of Rosemount transmitters. As a result, it has been concluded that plant and system response to an initiating event will remain in compliance with the assumptions of the safety analysis.

Further, although not explicitly evaluated, the proposed changes will provide an improvement to plant safety and operation by the following:

a. Reducing the time safety systems are unavailable,

b. Reducing the potential for safety system actuations,

c. Reducing plant shutdown risk,

d. Limiting radiation exposure to plant personnel, and

e. Eliminating the diversion of key personnel resources to conduct unnecessary testing.

Therefore, LaSalle has concluded that this request will not significantly reduce the margin of safety, and may actually cause an increase 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 requested amendments involve no significant hazards consideration.

Local Public Document Room location: Jacobs Memorial Library, Illinois Valley Community College, Oglesby, Illinois 61348.

Attorney for licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60603

NRC Project Director: Robert A. Capra

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: November 2, 1994

Description of amendment request: The proposed amendments would delete the content of Appendix B, ''Environmental Protection Plan'' (nonradiological), and modify License Condition 2.C.(2) to delete that portion which refers to the Environmental Protection 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 amendments would not involve a significant increase in the probability or consequences of an accident previously evaluated]:

Deletion of the Environmental Protection Plan and modifying License Condition 2.C.(2) will have no impact on the probability or consequences of an accident previously evaluated because the changes will not have any impact upon the design or operation of any plant systems or components.

2. [The proposed amendments would not create the possibility of a new or different kind of accident from any accident previously evaluated]:

The proposed revision will not create the possibility of a new or different kind of accident from any previously evaluated because the revision is administrative in nature and will not change the types and amounts of effluent that will be released.

3. [The proposed amendments would not involve a significant reduction in a margin of safety]:

The proposed revision will not reduce a margin of safety because it is administrative in nature and will not [a]ffect the margin of safety as defined in the basis for any Technical Specifications.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: 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: April 29, 1996

Description of amendment request: The proposed amendment would revise Technical Specification (TS) 5.3.1 to allow the use of ZIRCO as an alternate zirconium-based fuel rod material and remove the word clad since it has been eliminated from the text of the NRC's improved Standard Technical Specifications (NUREG-1431). Limited substitution of fuel rods by ZIRCO filler rods would also be permitted. The proposed amendment would revise Note 2 on TS Table 3.9-1 to specify that the maximum burnup in the peak fuel rod in a fuel assembly stored in Region 2 spent fuel racks should not exceed the NRC-approved limit for WCAP-12610 rather than the current maximum burnup limit of 60 GWD/MTU.

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 methodologies used in the accident analyses remain unchanged. The proposed changes do not change or alter the design assumptions for the systems or components used to mitigate the consequences of an accident. Use of ZIRLO fuel rod material does not adversely affect fuel performance or impact nuclear design methodology. Therefore, accident analysis results are not impacted.

The operating limits will not be changed and the analysis methods to demonstrate operation within the limits will remain in accordance with NRC approved methodologies. Other than the changes to the fuel assemblies, there are no physical changes to the plant associated with this technical specification change. A safety analysis will continue to be performed for each cycle to demonstrate compliance with all fuel safety design bases.

VANTAGE 5 fuel assemblies with ZIRLO fuel rods meet the same fuel assembly and fuel rod design bases as other VANTAGE 5 fuel assemblies. In addition, the 10 CFR 50.46 criteria are applied to the ZIRLO fuel rods. The use of these fuel assemblies will not result in a change to the reload design and safety analysis limits. Since the original design criteria are met, the ZIRLO fuel rods will not be an initiator for any new accident. The fuel rod material is similar in chemical composition and has similar physical and mechanical properties as Zircaloy-4. Thus, the fuel rod integrity is maintained and the structural integrity of the fuel assembly is not affected. ZIRLO improves corrosion performance and dimensional stability. No concerns have been identified with respect to the use of an assembly containing a combination of Zircaloy-4 and ZIRLO fuel rods.

The dose predictions in the safety analyses are not sensitive to the fuel rod material used; therefore, the radiological consequences of accidents previously evaluated in the safety analysis remain valid. A reload analysis is completed for each cycle, in accordance with NRC approved methodologies. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated.

VANTAGE 5 fuel assemblies with ZIRLO fuel rods satisfy the same design bases as those used for other VANTAGE 5 fuel assemblies. All design and performance criteria continue to be met and no new failure mechanisms have been identified. The ZIRLO fuel rod material offers improved corrosion resistance and structural integrity.

The proposed changes do not affect the design or operation of any system or component in the plant. The safety functions of the related structures, systems, or components are not changed in any manner, nor is the reliability of any structure, system, or component reduced. The changes do not affect the manner by which the facility is operated and do not change any facility design feature, structure, or system. No new or different type of equipment will be installed. Since there is no change to the facility or operating procedures, and the safety functions and reliability of structures, systems, or components are not affected, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the change involve a significant reduction in a margin of safety?

The use of Zircaloy-4, ZIRLO, or stainless steal filler rods in fuel assemblies will not involve a significant reduction in the margin of safety because analyses using NRC approved methodology will be performed for each configuration to demonstrate continued operation within the limits that assure acceptable plant response to accidents and transients. These analyses will be performed using NRC approved methods that have been approved for application to the fuel configuration.

Use of ZIRLO as fuel rod material does not change the VANTAGE 5 reload design and safety analysis limits. The use of these fuel assemblies will take into consideration the normal core operating conditions allowed in the technical specifications. For each reload core, the fuel assemblies will be evaluated using NRC approved reload design methods, including consideration of the core physics analysis peaking factors and core average linear heat rate effects.

Based on the above, it is concluded that the proposed license amendment request does not result in a significant reduction in margin with respect to plant safety as defined in the UFSAR [Updated Final Safety Analysis Report] or any plant technical specification BASES.

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

Entergy Operations, Inc., Docket Nos. 50-313 and 50-368, Arkansas Nuclear One, Unit Nos. 1 and 2 (ANO-1&2), Pope County, Arkansas

Date of amendment request: May 2, 1996

Description of amendment request: The proposed technical specification amendments would extend the allowed outage times for emergency diesel generators at Arkansas Nuclear One, Units 1 and 2 to 7 days with an additional, once per refueling cycle extension of 7 more days for each machine.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Criterion 1 - 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. The EDGs are not accident initiators in any accident previously evaluated. Probabilistic Safety Analysis (PSA) methods were utilized in order to fully evaluate the EDG allowed outage time (AOT) extension proposed in this submittal. The results of these analyses indicate there is not a significant increase in the probability of an 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 current TSs allow for an EDG to be removed from service for an AOT. The proposed amendment extends the current AOT for an EDG. The proposed change does not allow any more equipment to be removed from service at one time. The proposed changes to the AOTs do not affect any of the assumptions used in deterministic safety analysis. By extending the EDG AOT, the consequences of an accident previously evaluated will remain unchanged.

The proposed change removes redundant requirements associated with an inoperable emergency power supply from the TS for the pressurizer proportional heaters. The operability requirements for emergency power supplies and actions to be taken if an EDG is inoperable are already addressed in the ANO-2 TS 3.8.1.1.

The associated changes that remove the requirements to test the EDGs if one or both offsite power supplies are inoperable, for an inoperable station battery, for an inoperable component in the two ESF electrical distribution systems, the accelerated testing requirements of the EDGs, and the daily testing requirements for the operable EDGs improve the reliability for the operable EDGs by reducing the number of unnecessary starts and stops. By improving the EDG reliability, this change will not increase the consequences of the accidents previously evaluated.

The other changes in this submittal associated with the bases are considered administrative in nature and have no effect on 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.

Criterion 2 - Does Not Create the Possibility of a New or Different Kind of Accident from any 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.

Criterion 3 - Does Not Involve a Significant Reduction in the Margin of Safety.

The proposed changes do not affect the Technical Specification limiting conditions for operation or their bases which support the deterministic analyses used to establish the margin of safety.

Calculations performed to analyze the change in risk based on these changes produced acceptable values which are included in the tables located in the description of changes section. These calculated changes in risk fall well within that which is normally considered acceptable. When the additional benefit of maintaining the Emergency Diesel Generators available during shutdown cooling operations associated with refueling outages in considered, the overall change in risk is further reduced.

The remaining proposed changes are either associated with increasing EDG reliability or considered administrative in nature.

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 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: Tomlinson Library, Arkansas Tech University, Russellville, AR 72801

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., Washington, DC 20005-3502

NRC Project Director: William D. Beckner

Entergy Operations, Inc., et al., Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: November 20, 1995, as supplemented by the letter dated December 15, 1995.

Description of amendment request: The licensee has proposed to revise the Grand Gulf Nuclear Station (GGNS), Unit 1, Technical Specifications (TSs) as follows for the drywell, the drywell airlock, and the drywell isolation valves:

1. For the drywell in Limiting Condition of Operation (LCO) 3.6.5.1, the surveillance frequency interval for the drywell bypass test in Surveillance Requirement (SR) 3.6.5.1.1 would be increased from 18 months to 10 years. For this interval change, an increased testing frequency would be required if bypass performance degrades (i.e., the leakage is greater than the limit for two consecutive tests) and the application of SR 3.0.2, the allowance to extend the surveillance interval by 25 percent, would be restricted to 12 months on the 10-year interval. This includes deleting the Note in SR 3.6.5.1.1.

2. For the drywell airlock in LCO 3.6.5.2, the following changes are requested: (a) the leak rate SR 3.6.5.2.2 would be transferred from the airlock LCO (3.6.5.2) to SR 3.6.5.1.3 in the drywell LCO (3.6.5.1), (b) the requirement in SR 3.6.5.2.2 for the air lock to meet a specific overall leakage limit would be deleted, (c) the Note in SR 3.6.5.2.2 that stated that an inoperable air lock door does not invalidate the previous air lock leakage test would be deleted, (d) the test pressure for the air lock leakage test in SR 3.6.5.2.2 would be reduced from 11.5 psig to 3 psid, and (e) the surveillance frequency interval for the air lock leakage and interlock testing, required in SRs 3.6.5.2.1 and 3.6.5.2.2, would be increased from 18 months to 24 months.

3. For the drywell airlock in LCO 3.6.5.2 and the drywell isolation valves in LCO 3.6.5.3, the Action Notes, which identify that the actions required by drywell LCO 3.6.5.1 must be taken when the drywell bypass leakage limit is not met, would be deleted. Action C.1 of LCO 3.6.5.2 and its associated completion time would also be deleted.There would also be changes to the Bases of the TSs for the above LCOs and SRs, based on the proposed changes.

Basis for proposed no significant hazards consideration determination: The amendment request dated November 20, 1995, applied to both the Grand Gulf Nuclear Station (GGNS) and the River Bend Station (RSB); however, not all of the proposed amendments apply to GGNS. This Notice only discusses the amendment request for GGNS. The reference below to proposed amendments which do not apply to GGNS are marked by ''[....]''.

As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration in its application dated November 20, 1995, which is presented below:

Entergy Operations, Inc. proposes to change the current Grand Gulf Nuclear Station (GGNS) [....] Technical Specifications. The specific proposed changes are:

1. The Surveillance Frequency [interval] for the drywell bypass test is changed [increased] from 18 months to 10 years with an increased testing frequency required if performance degrades.

2. The following changes are requested for the drywell air lock testing: (a) the leakage rate surveillance is moved from the air lock Limiting Condition for Operation (LCO) to the drywell LCO, (b) the requirement for the air lock to meet a specific overall leakage limit is deleted, (c) the Note that an inoperable air lock door does not invalidate the previous air lock leakage test is deleted, (d) the GGNS test pressure for the air lock leakage test is changed [reduced] from 11.5 psig to 3 psid, [...,] and ([e]) the Surveillance Frequency [interval] for the air lock leakage test and interlock test is changed [increased] from 18 months to 24 months.

3. The Actions Notes in the drywell air lock LCO and the drywell isolation valve LCO that identifies that the Actions required

by the drywell LCO must be taken when the drywell bypass leakage limit is not met is deleted. [Action C.1 of LCO 3.6.5.2 and its associated completion time would also be deleted.]

[4. ...]

The Commission has provided standards for determining whether a no significant hazards consideration exists as stated in 10 CFR 50.92(c). The proposed changes involve the withdrawal of operating restrictions previously imposed because acceptable operation of the Mark III primary containment design had not been demonstrated at the time of licensing. As published in the Federal Register regarding no significant hazards consideration criteria, granting of a relief, based upon demonstration of acceptable operation from an operating restriction that was imposed because acceptable operation had not yet been demonstrated does not involve a significant hazards consideration (Ref. 48 FR 14870). Furthermore, a proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

Entergy Operations, Inc. has evaluated the no significant hazards consideration in its request for this license amendment, even though the above-mentioned criterion is satisfied by this proposal. In accordance with 10 CFR 50.91(a), Entergy Operations, Inc. is providing the analysis of the proposed amendment against the three standards in 10 CFR 50.92(c). A description of the no significant hazards consideration determination follows:

I. The proposed change does not significantly increase the probability or consequences of an accident previously evaluated.

The requested changes are either administrative changes which clarify the format of the requirement or change the requirement to match the design bases of the plant, a change which relocates the requirement to the Technical Specification Bases, or a change in [the] surveillance interval. Each of these types of change are discussed below:

1. The administrative changes clarify the format of the requirement or change the requirement to match the design bases of the plant. Clarifying [the] administrative format of the Technical Specifications does not result in any changes to the Technical Specification requirements and, as a result, does not involve a significant increase in the probability or consequences of an accident previously evaluated. Also, changing the requirements of the Technical Specifications to more closely match the design bases of the plant will continue to assure that the plant will respond as assumed in the accident analyses and, as a result, does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed changes relocate information to the Technical Specification Bases. In the Technical Specifications Bases the relocated information will be maintained in accordance with 10 CFR 50.59 and subject to the change control provisions in Chapter 5 of Technical Specifications. Since any changes to the Technical Specifications Bases will be evaluated per the requirements of 10 CFR 50.59, no increase (significant or insignificant) in the probability or consequences of an accident previously evaluated will be allowed. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

3. The proposed changes in frequency for the drywell bypass leakage and drywell air lock surveillances will continue to ensure that no paths exist through passive drywell boundary components that would permit gross leakage from the drywell to the primary containment air space and result in bypassing the primary containment pressure-suppression feature beyond the design basis limit. The Mark III primary containment system satisfies General Design Criterion 16 of Appendix A to 10 CFR Part 50. Maximum drywell bypass leakage was determined previously by reviewing the full range of postulated primary system break sizes. The limiting case was a primary system small break loss of coolant accident (LOCA) and yielded a design allowable drywell bypass leakage rate limit of approximately 35,000 scfm for GGNS [....]. The Technical Specifications acceptable limit for the bypass leakage following a surveillance is less than 10% of this design basis value. The most recent bypass leakage value was approximately 2.5% for GGNS [....] of the design allowable leakage rate limit for the limiting event. EOI [Entergy Operations, Inc.] is committed to maintaining programmatic and oversight controls that ensure that drywell bypass leakage remains a small fraction of the design allowable leakage limit.

The drywell is typically exposed to essentially 0 psig during normal plant operation and 3 psig during drywell bypass leak rate testing. These pressures are considerably lower than the structural integrity test pressure and are less likely to initiate a crack or cause an existing crack to grow. Visual inspections of the accessible drywell surfaces that have been performed since the structural integrity tests have not revealed the presence of additional cracking or other abnormalities. Therefore, additional cracking of the drywell structure is not expected due to testing or operation and, similar to the justification for the ten year 10 CFR 50 Appendix J Type A test interval, it is not considered credible for the passive drywell structure to begin to leak sufficiently to impact the design drywell bypass leakage limit.

The primary containment's ability to perform its safety function is fairly insensitive to the amount of drywell leakage, thereby providing a margin to loss of the drywell safety function that is not normally available for systems. This insensitivity is demonstrated by the extremely high limiting event design basis allowable leakage for the drywell (e.g., 35,000 scfm for GGNS [....]). The limiting leakage is almost an order of magnitude higher for other events. Additionally, an even higher allowable leakage can be realistically accommodated by the primary containment due to the margins in the containment design. Because of the margins available, it will take valves in multiple penetration flow paths leaking excessively to cause the primary containment to fail as a result of overpressurization, the probability that drywell isolation valve leakage will result in primary containment failure due to excessive drywell leakage is not considered significant and this drywell/primary containment failure mode is not considered credible.

The proposed Technical Specification changes have no significant impact on the GGNS Individual Plant Examination (IPE) [....] conducted per NRC Generic Letter 88-20. The IPEs considered overpressurization failure of primary containment as part of the primary containment performance assessment. Due to the magnitude of acceptable drywell leakage and the extremely low probabilities of achieving such leakage, primary containment failure due to preexisting excessive drywell leakage was considered a non significant contributor to primary containment failure. Primary containment overpressurization failure can occur with or without preexisting excessive drywell leakage in a severe accident. This is due to physical phenomena associated with potentially extreme environmental conditions inside primary containment following a severe accident. However, the calculated frequency of such extreme conditions is very small. The proposed changes do not impact the IPE evaluated phenomena causing primary containment overpressurization failure nor significantly increase the probability that the drywell has preexisting excessive leakage and therefore would not contribute to these accident scenarios.

For the reasons discussed above, the proposed changes do not have any significant risk impact to accidents previously evaluated and do not significantly increase the consequences of an accident previously evaluated. Additionally, drywell leakage is not the initiator of any accident evaluated; therefore, changes in the frequency of the surveillance for drywell leakage does not increase the probability of any accident evaluated.

Therefore, the proposed changes do not significantly increase the probability or consequences of an accident previously evaluated.

II. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The requested changes are either administrative changes which clarify the format of the requirement or change the requirement to match the design bases of the plant, a change which relocates the requirement to the Technical Specification Bases, or a change in surveillance interval. Each of these types of change are discussed below:

1. The administrative changes in the Technical Specification requirements do not

involve a physical alteration of the plant (no new or different type of equipment will be installed) nor does it change the methods governing normal plant operation. Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

2. The proposed relocation of requirements does not involve a physical alteration of the plant (no new or different type of equipment will be installed) nor does it change the methods governing normal plant operation. The proposed change will not impose or eliminate any requirements. Adequate control of the information will be maintained in the Technical Specification Bases. Thus, the change proposed does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change modifies the surveillance frequency for drywell bypass leakage and drywell air lock surveillances. The changes only impact the test frequency and do not result in any change in the response of the equipment to an accident. The changes do not alter equipment design or capabilities. The changes do not present any new or additional failure mechanisms. The drywell is passive in nature and the surveillance will continue to verify that its integrity has not deteriorated. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

III. The proposed change does not involve a significant reduction in a margin of safety.

The requested changes are either administrative changes which clarify the format of the requirement or change the requirement to match the design bases of the plant, a change which relocates the requirement to the Technical Specification Bases, or a change in surveillance interval. Each of these types of changes are discussed below:

1. The administrative changes in the Technical Specification requirements do not involve a physical alteration of the plant (no new or different type of equipment will be installed) nor does it change the methods governing normal plant operation. Thus, this change does not cause a significant reduction in the margin of safety.

2. The relocation of requirements will not reduce a margin of safety because it has no impact on any safety analysis assumptions. In addition, the requirements to be transferred from the Technical Specifications to the Technical Specifications Bases are the same as the existing Technical Specifications. Since any future changes to these requirements in the Technical Specifications Bases will be evaluated per the requirements of 10 CFR 50.59, no reduction (significant or insignificant) in a margin of safety will be allowed.

3. The proposed change modifies the surveillance frequency for drywell bypass leakage and associated air lock surveillances. Reliability of drywell integrity is evidenced by the measured leakage rate during past drywell bypass leakage surveillances. Appropriate design basis assumptions will be upheld, even when combined with the complementary bypass leakage surveillances as proposed. Drywell integrity will continue to be tested by means of the proposed periodic drywell bypass leakage test, performance of the drywell air lock door latching and interlock mechanism surveillance, and performance of additional surveillances including exercising of drywell isolation valves. The combination of these surveillances will provide adequate assurance that drywell bypass leakage will not exceed the design basis limit. Margins of safety would not be reduced unless leakage rates exceeded the design allowable drywell bypass leakage limit. Therefore, the proposed change does not cause a significant reduction in the margin of safety.

Therefore, the proposed changes do not cause 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: Judge George W. Armstrong Library, 220 S. Commerce Street, Natchez, MS 39120

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., 12th Floor, Washington, DC 20005-3502

NRC Project Director: William D. Beckner

Entergy Operations Inc., Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: August 11, 1995, as supplemented by letter dated February 12, 1996.

Description of amendment request: The proposed change will reduce the minimum reactor coolant cold leg temperature from 544 Degrees F to 541 degrees F in Technical Specification Section 3.2.6, ''Reactor Coolant Cold Leg Temperature.''

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 involves a 3°F reduction in the minimum core inlet temperature. This change will not have any impact on the probability of occurrence of any accident documented in the FSAR.

The impact of this change on the consequences of events documented in the FSAR has been evaluated. The evaluation demonstrated that most events are insensitive to the core inlet temperature. The events that are impacted by lower core inlet temperature are:

Loss of condenser vacuum (LOCV),

Part length CEA drop,

Single CEA withdrawal within deadband, and

CEA ejection.

The LOCV event has been reanalyzed for the upcoming Cycle (Cycle 8) and the results indicate that the peak RCS pressure remains below the acceptable limit (110% of the design pressure, i.e., 2750 psia). The reactivity anomaly events (remaining events) will be reanalyzed as part of COLSS/CPC setpoint calculations. These calculations will be performed prior to Cycle 8 startup and will address the impact of the 3°F reduction on the minimum core inlet temperature. The CPC/COLSS databases and/or addressable constants will be modified, as needed due to proposed change, prior to cycle startup.

A qualitative assessment of the impact of the proposed change on the calculated LOCA blowdown loads that are applied to the major NSSS components, their supports and the reactor vessel internals was also performed. This assessment consisted of an evaluation of the design margins on the major components and a determination of the impact this lower temperature would have on those margins. The evaluation concluded that the impact of a 3°F cold leg temperature reduction will be well within the current design margins. Therefore, the proposed change will not involve a significant increase in the probability or consequences of any accident previously evaluated.

The proposed change to the minimum core inlet temperature does not involve any change to any equipment or the manner in which the plant will be operated. Since no hardware modifications or changes in operation procedures will be made, the proposed change would not create the possibility of a new or different kind of accident from any accident previously evaluated. Therefore, the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The impact of the proposed change on the Waterford 3 FSAR analyses have been evaluated. The evaluation showed that the events that were impacted were important with respect to RCS pressure and fuel thermal limits. One of the events that was impacted by the proposed change was the LOCV event. This event was analyzed and the results showed that the peak RCS pressure remained below the acceptable limit. The impact of this change on other events (reactivity anomaly events) will be evaluated as part of the COLSS/CPC setpoint calculations and the COLSS/CPC databases and/or addressable constants will modified as needed to account for any adverse impact on the results of these events due to the proposed change.

The impact of this change on the Linear Heat Generation Rate limits which varies as a function of the cold leg temperature, is accounted for by Technical Specification 3.2.1, ''Linear Heat Rate''. The impact of this change on LOCA blowdown loads were evaluated to be insignificant compared to the

current design margins. Therefore, the proposed change will not involve a significant reduction in a margin of safety, specifically fuel thermal limits and RCS pressure limit.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, LA 70122

Attorney for licensee: N.S. Reynolds, Esq., Winston & Strawn 1400 L Street N.W., Washington, D.C. 20005-3502

NRC Project Director: William D. Beckner

Florida Power and Light Company, Docket Nos. 50-250 and 50-251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Dates of amendment request: March 20, 1996, and April 23, 1996

Description of amendment request: The licensee proposed to change the Turkey Point Units 3 and 4 Technical Specifications (TS) to relocate the requirements for surveillance testing of the water level and pressure channel instrumentation for the reactor coolant system accumulators and clarify the remaining TS surveillance tests. These amendments also modify the existing action statements of TS 3.5.1 for accumulators to reflect the requirements of NUREG-1431 by requiring a 72-hour period to restore boron concentration if it is not within the limits, and a 1-hour period to restore any other condition rendering the accumulators inoperable.

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 guidance given in Enclosure 1 of the NRC GL [Generic Letter] 93-05. The overall functional capabilities of the Emergency Core Cooling System (ECCS) accumulators will not be modified by the proposed change. This amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated for the following reasons:

1) The Water Level and Pressure Channel Instrumentation does not perform a specific safety function, and merely provides an indicating function. The instrumentation in no way affects the capability of the accumulators to perform their respective safety function.

2) The changes in most of the ACTION statements are more restrictive than current TS requirements due to the one hour vice four hour completion time, and therefore will not increase the probability or consequences of a previously evaluated accident. If one accumulator is inoperable for a reason other than boron concentration, the accumulator must be returned to OPERABLE status within 1 hour. In this condition, the required contents of three accumulators cannot be assumed to reach the core during a Loss Of Coolant Accident (LOCA). Due to the severity of the consequences should a LOCA occur in these conditions, the 1 hour completion time to open the valve, remove power to the valve, or restore the proper water volume or nitrogen cover pressure ensures that prompt action will be taken to return the inoperable accumulator to OPERABLE status. The completion time minimizes the potential for exposure of the plant to a LOCA under these conditions. The 1 hour requirement for restoring a closed isolation valve is merely a clarification of the existing ''immediate'' time requirement.

3) In the case of low-out-of-specification boron concentration in one accumulator, it must be returned to within the limits within 72 hours. In this condition, ability to maintain subcriticality or minimum boron precipitation time may be reduced. The boron in the accumulators contributes to the assumption that the combined ECCS water in the partially recovered core during the early reflooding phase of a large break LOCA is sufficient to keep that portion of the core subcritical. One accumulator below the minimum boron concentration limit, however, will have no effect on available ECCS water and an insignificant effect on core subcriticality during reflood. Boiling of ECCS water in the core during reflood concentrates boron in the saturated liquid that remains in the core. In addition, current Turkey Point analysis demonstrate that the accumulators discharge only a small amount following a large main steam line break. Therefore, their impact on boron concentration in the reactor coolant system is minor and not a design limiting event. Thus, 72 hours is allowed to return the boron concentration to within limits and does not increase the probability or consequences of an accident previously evaluated.

(2) Operation of the facility in accordance with the proposed amendments would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The use of the modified specifications can not create the possibility of a new or different kind of accident from any 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 clarifications, 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 system are unchanged by the proposed amendment. The modified specifications which remove surveillance requirements from the TS to plant procedures are consistent with the NRC GL 93-05 line-item improvement guidance do not significantly reduce any of the margins of safety even though the amount of surveillances is decreased. The modification of the existing ACTION Statements do not have an adverse on [sic] affect on the margin of safety for the following reasons:

1) The SI [Safety Injection] Accumulator Water Level and Pressure Channel instrumentation performs no safety function.

2) The changes in ACTION statements a) and b) are for the most part more restrictive than existing TS requirements, the reason being the removal of instrumentation requirements for operability.

3) In the case of low-out-of-specification boron concentration in one accumulator, the requirement will be less restrictive, but the low boron concentration in one accumulator will have no effect on available ECCS water and an insignificant effect on core subcriticality during reflood and therefore will not significantly reduce the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 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: Frederick J. Hebdon

Illinois Power Company and Soyland Power Cooperative, Inc., Docket No. 50-461, Clinton Power Station, Unit No. 1, DeWitt County, Illinois

Date of amendment request: April 19, 1996

Description of amendment request: The proposed amendment would include revisions to Technical Specification (TS) 3.3.6.1, ''Primary Containment and Drywell Isolation Instrumentation≥; TS 3.3.6.2, ''Secondary Containment Isolation Instrumentation≥; TS 3.3.7.1, ''Control Room Ventilation System Instrumentation≥; TS 3.6.1.2, ''Primary Containment Air Locks≥; TS 3.6.1.3,

''Primary Containment Isolation Valves≥; TS 3.6.4.1, ''Secondary Containment≥; TS 3.6.4.2, ''Secondary Containment Isolation Dampers≥; TS 3.6.4.3, ''Standby Gas Treatment≥; TS 3.7.3, ''Control Room Ventilation≥; and TS 3.7.4, ''Control Room AC System.'' These TSs would be revised to eliminate CORE ALTERATIONS as an applicable condition for which the associated Limiting Conditions for Operation (LCO) must be met. Consistent changes are also proposed for the associated ACTIONS in each of these LCOs, to reflect the changes in the applicable conditions. The intent of these proposed changes is to allow certain activities such as control rod venting, which is considered a CORE ALTERATION in MODE 5, to be performed without the requirements of the identified LCOs being met.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. The proposed changes eliminate CORE ALTERATIONS as an applicable condition requiring operability of the primary and secondary containment and control room ventilation system. As stated in the BASES for the associated Technical Specifications, operability of these systems is primarily required for mitigation of the design basis accident - fuel handling accident (DBA-FHA) and design basis accident - loss of coolant accident (DBA-LOCA). The performance of CORE ALTERATIONS alone is neither a precursor to, nor a condition during which these DBAs are postulated to occur. The proposed changes only delete CORE ALTERATIONS as an applicable condition for the affected Technical Specifications. All other applicable MODES or specified conditions, including operations with the potential for draining the reactor vessels (OPDRVs) and the movement of irradiated fuel assemblies within the primary or secondary containment, remain unchanged. Further, the limitations placed on the handling of light loads are also unchanged. The Technical Specifications (and the separate requirements imposed on the handling of light loads) will thus continue to require that systems or functions designed to mitigate design-basis/previously evaluated accidents are OPERABLE during the relevant operating MODES or conditions. On the basis of the above, it is concluded that the requested amendment will not increase the probability or consequences of any accident previously evaluated.

2. The proposed changes do not involve any modification to the plant design or to the operation of plant systems (except to determine when certain analyzed accident-mitigating systems or features are required to be OPERABLE). The failure modes considered for the proposed changes are the same as those previously considered, therefore, it can be concluded that no new failure modes will be created. On this basis, the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The changes being made to eliminate CORE ALTERATIONS as an applicable condition for which certain LCOs must be met, do not eliminate the requirements for operability of those systems or features assumed to mitigate design-basis or analyzed accidents during the applicable MODES when such systems or features are assumed to be available for performing their mitigating function. The safety margins assumed or established by the accident analyses for those design-basis events (as described in the accident analyses of the Clinton Power Station Updated Final Safety Analysis Report) therefore remain unchanged. Further, the proposed changes do not impact the controls imposed on the handling of light loads (including unirradiated fuel assemblies) for ensuring that such activities cannot result in an event that yields consequences more severe than those calculated for the DBA-FHA. With respect to reactivity concerns during refueling operations (MODE 5), all systems or features required to be OPERABLE for precluding inadvertent criticality and monitoring reactivity changes will continue to be required OPERABLE as per the current Technical Specification requirements. The deletion of CORE ALTERATIONS as an applicable condition only applies to the noted systems which do not contribute to precluding reactivity events. Based on the above, the proposed changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727

Attorney for licensee: Leah Manning Stetener, Vice President, General Counsel, and Corporate Secretary, 500 South 27th Street, Decatur, Illinois 62525

NRC Project Director: Gail H. Marcus

Illinois Power Company and Soyland Power Cooperative, Inc., Docket No. 50-461, Clinton Power Station, Unit No. 1, DeWitt County, Illinois

Date of amendment request: May 1, 1996

Description of amendment request: The proposed amendment would revise the Clinton Power Station (CPS) Operating License and Technical Specifications (TS) to implement 10 CFR Part 50, Appendix J - Option B, by referring to Regulatory Guide 1.163, ''Performance-Based Containment Leak-Test Program.'' Specifically, changes would be made to paragraph 2.D of the Operating License; TS Section 1.1, ''Definitions;'' TS 3.6.1.1, ''Primary Containment;'' TS 3.6.1.1, ''Primary Containment Air Locks;'' TS 3.6.1.3, ''Primary Containment Isolation Valves (PCIVs);'' and TS Section 5.5, ''Programs and Manuals.''

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 implements new Option B of 10 CFR 50 Appendix J for performance-based primary containment leakage testing. The proposed change does not involve a change to the plant design or operation. As a result, the proposed change does not affect any parameters or conditions that contribute to the initiation of any accidents previously evaluated. Thus, the proposed change cannot increase the probability of any accident previously evaluated.

The proposed change potentially affects the leak-tight integrity of the primary containment structure which is designed to mitigate the consequences of a loss-of-coolant accident (LOCA) by limiting the release of fission products contained in the post-LOCA primary containment atmosphere. Functional integrity of the primary containment must be maintained during and following the peak transient pressures and temperatures that may result from a LOCA. Because the proposed change does not alter the plant design, including the primary containment and primary containment penetrations, and because it only affects the frequency of measuring Type A, B, and C leakage without changing the acceptance criteria for the Type A, B, and C leakage rate tests, the proposed change does not directly result in an increase in the primary containment leakage. However, decreasing the test frequency can increase the probability that an increase in primary containment leakage could go undetected for an extended period of time. To minimize that probability, test intervals will be established based on the performance history of components being tested.

NUREG-1493, ''Performance-Based Containment Leak-Test Program,'' provides the technical basis for the NRC's rulemaking to revise primary containment leakage testing requirements for nuclear power reactors in 10 CFR 50, Appendix J. NUREG-1493 documents the NRC's determination that the effect of primary containment leakage on overall accident risk is minimal since risk is dominated by accident sequences that result in failure of bypass of primary containment. NUREG-1493 also documents that increasing the Type A leakage test intervals would have a minimal impact on public risk, and that Type B and C tests can identify the vast majority (greater than ninety five percent) of all leakage paths. Therefore, performance-based alternatives to current local leakage-testing requirements are feasible without significant risk impacts.

Based on the above, IP has concluded that the proposed change will not result in a significant increase in the probability or consequences of any accident previously evaluated.

2. The proposed change does not involve a change to the plant design or operation. As a result, the proposed change does not affect any of the parameters or conditions that could contribute to initiation of any accidents. This change involves the reduction of Type A, B, and C test frequency. Except for the method of defining the test frequency, the methods for performing the actual tests are not changed. No new accident modes are created by extending the testing intervals. No safety-related equipment or safety functions are altered as a result of this change. Thus, extending the test frequency has no influence on, nor does it contribute to the possibility of a new or different kind of accident or malfunction from those previously analyzed.

Based on the above, IP has concluded that the proposed change will not create the possibility of a new or different kind of accident not previously evaluated.

3. The request does not involve a significant reduction in a margin to safety. The proposed change only affects the frequency of the Type A, B, and C testing. Except for the method of defining the test frequency, the methods for performing the actual tests are not changed. However, the proposed change can increase the probability that an increase in primary containment leakage could go undetected for an extended period of time. NUREG-1493 has determined that under several different accident scenarios, the increased risk of radioactivity release from primary containment is negligible with the implementation of these proposed changes.

The margin of safety that has the potential of being impacted by the proposed change involves the offsite dose consequences of postulated accidents which are directly related to the rate of primary containment leakage. The primary containment isolation system is designed to limit leakage to L_a, which is defined by the CPS Technical Specifications to be 0.65% of primary containment air weight per day at the calculated peak containment internal pressure for the design basis loss of coolant accident (P_a). The limitation on the rate of primary containment leakage is designed to ensure that the total leakage volume will not exceed the value assumed in the accident analyses at the peak accident pressure (P_a). The margin of safety for the offsite dose consequences of postulated accidents directly related to the primary containment leakage rate is maintained by continuing to meet the 1.0 L_a acceptance criteria. The L_a value is not being modified by this proposed change.

Except for the method of defining the test frequency, no change in the method of testing is being proposed. The Type A, B, and C tests will continue to be done at full pressure (P_a) or greater. Other programs are in place to ensure that proper maintenance and repairs are performed during the service life of the primary containment and systems and components penetrating the primary containment.

As a result, IP has concluded that the proposed change will not result in 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: Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727

Attorney for licensee: Leah Manning Stetener, Vice President, General Counsel, and Corporate Secretary, 500 South 27th Street, Decatur, Illinois 62525

NRC Project Director: Gail H. Marcus

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of amendment request: January 25, 1996

Description of amendment request: The amendment proposes to extend instrumentation and miscellaneous surveillance test intervals (STI) to support 24-month operating cycles. Additionally, this application proposes: (1) to revise the Trip Level Settings for Emergency Bus Loss of Voltage and Degraded Voltage Instrumentation, (2) to revise the Reactor Protection System (RPS) Normal Supply Electrical Protection Assembly (EPA) Undervoltage Trip Setpoint, and (3) to make editorial revisions, clarification and Bases changes.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Operation of the FitzPatrick plant in accordance with the proposed Amendment would not involve a significant hazards consideration as defined in 10 CFR 50.92, since it would not:

1. involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed STI changes evaluated in Section IV.A do not involve any physical changes to the plant, do not alter the way these systems function, and will not degrade the performance of the plant safety systems. Proposed instrument setpoint changes ensure that plant safety limits are not exceeded due to instrument drift predicted for the longer calibration interval. The type of testing and the corrective actions required if the subject surveillances fail remains the same. The proposed changes do not adversely affect the reliability of these systems or affect the ability of the systems to meet their design objectives. A historical review of surveillance test results supports these conclusions.

The Trip Level Setpoint changes evaluated in Section IV.B ensure that the related systems perform as assumed in the transient and accident analysis by ensuring that plant safety limits are not exceeded due to instrument drift predicted for the longer calibration interval. The changes do not alter the system function, and will not degrade the performance of plant safety systems. The proposed Trip Level Setting changes do not adversely affect the reliability of these systems or adversely affect the ability of these systems to meet their design objectives.

The editorial, clarification and Bases changes evaluated in Section IV.C propose enhancements that clarify the Technical Specifications requirements and are editorial in nature. These changes do not alter any Technical Specification requirement, do not involve physical changes to the plant, or alter any operational setpoints. There are no safety implications in these proposed changes.

2. create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed STI changes evaluated in Section IV.A do not modify the design or operation of the plant, therefore, no new failure modes are introduced. Proposed instrument setpoint changes ensure that plant safety limits are not exceeded due to instrument drift resulting from the longer calibration interval. No changes are proposed to the type and method of testing performed, only to the length of the surveillance test interval. Past equipment performance and on-line testing indicate that longer test intervals will not degrade these systems. A historical review of surveillance test results supports these conclusions.

The Trip Level Setpoint changes evaluated in Section IV.B ensure that the related systems perform as assumed in the transient and accident analysis by ensuring that plant safety limits are not exceeded due to instrument drift predicted for the longer calibration interval. The changes do not alter the system function, introduce any new failure modes, and will not degrade the performance of plant safety systems. The proposed Trip Level Setting changes do not adversely affect the reliability of these systems or adversely affect the ability of these systems to meet their design objectives.

The editorial, clarification and Bases changes evaluated in Section IV.C propose enhancements that clarify the Technical Specifications requirements and are editorial in nature. These changes do not alter any Technical Specification requirement, do not involve physical changes to the plant, or alter any operational setpoints. There are no safety implications in these proposed changes.

3. involve a significant reduction in a margin of safety.

Although the proposed STI changes evaluated in Section IV.A will result in an increase in the interval between surveillance tests, the impact on system reliability is minimal. This is based on more frequent on-line testing and the redundant design of the evaluated systems. A review of past surveillance history has shown no evidence

of failures which would significantly impact the reliability of these systems. Operation of the plant remains unchanged by these proposed STI extensions. The assumptions in the Plant Licensing Basis are not adversely impacted. Therefore, the proposed changes do not result in a significant reduction in the margin of safety.

The Trip Level Setpoint changes evaluated in Section IV.B ensure that the related systems perform as assumed in the transient and accident analysis by ensuring that plant safety limits are not exceeded due to instrument drift predicted for the longer calibration interval. The changes do not alter the system function, introduce any new failure modes, and will not degrade the performance of plant safety systems. The proposed Trip Level Setting changes do not adversely affect the reliability of these systems or adversely affect the ability of these systems to meet their design objectives.

The editorial, clarification and Bases changes evaluated in Section IV.C propose enhancements that clarify the Technical Specifications requirements and are editorial in nature. These changes do not alter any Technical Specification requirement, do not involve physical changes to the plant, or alter any operational setpoints. There are no safety implications in these proposed changes.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Attorney for licensee: Mr. Charles M. Pratt, 1633 Broadway, New York, New York 10019.

NRC Project Director: Susan Frant Shankman, Acting

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of amendment request: April 24, 1996

Description of amendment request: This amendment proposes to relocate Technical Specification (TS) 3.11.B/4.11.B ''Crescent Area Ventilation'' and associated Bases from the TS to an Authority controlled procedure.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Operation of the FitzPatrick plant in accordance with the proposed Amendment will not involve a significant hazards consideration as defined in 10 CFR 50.92, based on the following:

(1) These changes do not involve a significant increase in the probability or consequences of an accident previously evaluated because:

No modifications, no changes to operating procedure requirements, and no reduction in equipment reliability are being made as a result of these changes. Operating limitations will continue to be imposed, and required surveillance will continue to be performed in accordance with regulations, and written procedures and instructions that are auditable by the [Nuclear Regulatory Commission] NRC. Crescent Area Ventilation operability and testing requirements will continue to be an integral part of FitzPatrick plant operation.

Although future changes to the Crescent Area Ventilation system will no longer be controlled by 10 CFR 50.90, proposed changes will be evaluated under 10 CFR 50.59 and plant procedures. Programmatic controls will continue to assure that Crescent Area Ventilation system changes will not adversely affect [Emergency Core Cooling System] ECCS or [Reactor Core Isolation Cooling] RCIC system operability. As such, there is no significant increase in the probability or consequences of an accident previously evaluated.

(2) These changes do not create the possibility of a new or different type of accident previously evaluated because:

No modifications, no changes to operating procedure requirements, and no reduction in equipment reliability are being made as a result of these changes. Compliance with Crescent Area Ventilation system operability and surveillance requirements will be assured by maintaining them in an Authority controlled procedure. Changes to the Crescent Area Ventilation system will be subject to the requirements of 10 CFR 50.59. Therefore, the proposed changes do not introduce any failure mechanism of a different type than those previously evaluated since there are no changes being made to the facility and do not create the possibility of a new or different type of accident previously evaluated.

(3) The proposed amendment does not involve a reduction in a margin of safety because:

The Crescent Area Ventilation system supports Core Spray, [Low Pressure Coolant Injection] LPCI mode of [Residual Heat Removal] RHR, containment cooling mode of RHR, [High Pressure Coolant Injection] HPCI, and RCIC operability, and Crescent Area Ventilation system inoperability does affect these systems. As a result, the requirement for Crescent Area Ventilation to be operable for these systems to be considered operable is implicit in TS Sections 3.5.A, 3.5.B, 3.5.C, 3.5.E, and the definition of OPERABLE contained in TS Section 1.0.J. Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Attorney for licensee: Mr. Charles M. Pratt, 1633 Broadway, New York, New York 10019.

NRC Project Director: Susan Frant Shankman, Acting

Public Service Electric & Gas Company, Docket No. 50-311, Salem Nuclear Generating Station, Unit No. 2, Salem County, New Jersey

Date of amendment request: May 7, 1996

Description of amendment request: The proposed amendment involves a one-time change to Technical Specification (TS) 3/4.7.6, ''Control Room Emergency Air Conditioning System.'' The change would permit refueling of Salem, Unit 2, with the Control Room Emergency Air Conditioning System (CREACS) inoperable in Modes 5 and 6. The change will expire after the completion of the Control Room and CREACS upgrade, which is currently in progress, and the restart and entry into Mode 4 of Unit 2 from the current outage.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The CREACS is not an accident initiator. CREACS functions post-accident to provide cooling for Control Room equipment and habitability for operations personnel. Therefore, CREACS has no influence on the probability of any of the previously evaluated accidents or the other events evaluated as listed below.

Event

Fuel Handling Accident (Salem)

Waste Gas or Volume Control Tank Failures

Uncontrolled Boron Dilution

Loss of Offsite Power

Fuel Handling Accident (Hope Creek)

Liquid and Gaseous Waste Releases (Hope Creek)

Loss of Coolant Accident (LOCA) (Hope Creek)

Chemical Storage

Barge Collision

Control Room Internal and External Fire

Loss of Spent Fuel Pool Cooling

Loss of Decay Heat Removal

The Control Area Air Conditioning System (CAACS) and other measures will be

available to maintain Control Room Envelope (CRE) ambient temperatures and habitability.

The proposed one-time change does not impact the consequences of an accident previously evaluated based on the following discussions.

The fuel has decayed to such low levels for more than six months that doses associated with the fuel handling accident are well within the limits of GDC [General Design Criteria] 19. There is insufficient activity remaining in either gaseous waste storage or liquid waste storage to force a Control Room evacuation. In the event of a Loss of Offsite Power (LOOP), uncontrolled boron dilution event, loss of spent fuel pool cooling or loss of decay heat removal, CREACS is not required in Modes 5 or 6 to mitigate the consequences of this event and CRE habitability will be maintained.

For a Hope Creek fuel handling accident, gaseous radwaste release of LOCA, dose to Salem Control Room personnel will not exceed GDC 19 limits. PSE&G [Public Service Electric & Gas] will maintain the CAACS [Control Area Air Conditioning System] outside air intakes either isolated or capable of being isolated in the event of a Hope Creek LOCA. The Hope Creek Event Classification Guide (ECG) requires notification of the Salem Control Room in the event of an emergency that has the potential to result in a radioactive release. The Salem Control Room will isolate the outside air intakes if isolation has not already been accomplished.

For the other events evaluated, the need for evacuation is not considered credible for any event with the exception of an internal or external fire. However, the possibility of evacuation of the CRE in the event of an internal or external fire would be no different whether or not CREACS is operating. In the event of an internal fire, CAACS will remain in operation to provide purging of the CRE. For the case of a possible external fire, the need for evacuation is not considered credible because of the short duration of the CREACS outage and improbability of the factors which are necessary to require an evacuation of the Control Room (i.e. wind direction, wind speed, amount of smoke). If an external fire is detected, operator action will be taken to isolate the CRE from outside air while CAACS remains available. In the unlikely event that the Control Room would become uninhabitable due to smoke in the atmosphere, evacuation procedures would be followed as in the case of the internal fire.

The one chemical storage type event which might impact the Control Room, rupture of an ammonium hydroxide tanker, is precluded by administrative controls such that no ammonium hydroxide tanker deliveries will be allowed during the system upgrade period.

The CAACS will maintain the current design function and TS Bases requirements of the CREACS that the ambient air temperature does not exceed the allowable temperature for continuous duty rating for equipment and instrumentation cooled by the system for the combined CRE. The CAACS will be maintained functional while modification to the CREACS is ongoing to provide cooling during normal operation and under postulated accident conditions. Should the temperature in the CRE exceed allowable levels (85 Degrees F), administrative controls will be in place to require restoration of the temperature to within acceptable levels using CAACS, and prevent any Core Alteration activities or positive reactivity changes until the temperature is restored to acceptable levels.

Therefore, the proposed one-time TS change does 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 CREACS is not an accident initiator. CREACS functions post-accident to provide cooling for Control Room equipment and habitability for operations personnel. Therefore, CREACS inoperability during Modes 5 and 6 will not result in the creation of a new or different kind of accident from any accident previously evaluated. All pertinent accidents have been assessed and no other scenarios dealing with fuel movement, or the need for an operable CREACS in Mode 5 or 6, have been deemed credible.

Therefore, the proposed one-time change does 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 one-time change does not significantly reduce the margin of safety as defined in the Bases for the TS because (1) there is no credible event as analyzed in Salem UFSAR [updated final safety analysis report] Chapter 15 which can cause an unacceptable environment in the CRE since the fuel has been decaying for at least six months, (2) fuel movement inside the Fuel Handling Building (FHB) is restricted in accordance with plant TS unless FHB ventilation is operable, (3) dose to Salem control room personnel from a potential Hope Creek fuel handling accident, gaseous radwaste release or Loss of Coolant Accident will not exceed GDC 19 limits (4) the one event which might impact the Control Room, rupture of an ammonium hydroxide tanker, is precluded by administrative controls such that no ammonium hydroxide tanker deliveries will be allowed during the CREACS upgrade period, and (5) in the unlikely event that Control Room evacuation is required, there is no impact on operator ability to mitigate the consequences of an accident in the current plant configuration.

Therefore, the proposed one-time TS 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: Salem Free Public library, 112 West Broadway, Salem, New Jersey 08079

Attorney for licensee: Mark J. Wetterhahn, Esquire, Winston and Strawn, 1400 L Street, NW, Washington, DC 20005-3502

NRC Project Director: John F. Stolz

Southern Nuclear Operating Company, Inc., Docket No. 50-364, Joseph M. Farley Nuclear Plant, Unit 2, Houston County, Alabama

Date of amendment request: March 29, 1996

Description of amendment request: The proposed amendment would revise Technical Specification 3/4.4.6 ''Steam Generators'' and its associated Bases. Specifically, the steam generator repair limit would be modified to clarify that the appropriate method for determining serviceability for tubes with outside diameter stress corrosion cracking at the tube support plate is by a methodology that more reliably assesses structural integrity. This amendment request is in accordance with NRC's Generic Letter 95-05, ''Voltage-Based Repair Criteria for Westinghouse Steam Generator Tubes Affected by Outside Diameter Stress Corrosion Cracking.''

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 Farley units in accordance with the proposed license amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Testing of model boiler specimens for free standing tubes at room temperature conditions shows burst pressures as high as approximately 5000 psi for indications of outer diameter stress corrosion cracking with voltage measurements as high as 26.5 volts. Burst testing performed on pulled tubes, including tubes pulled from Farley Unit 2, with up to 7.5 volt indications show burst pressures in excess of 5300 psi at room temperature. As stated earlier, tube burst criteria are inherently satisfied during normal operating conditions by the presence of the tube support plate. Furthermore, correcting for the effects of temperature on material properties and minimum strength levels (as the burst testing was done at room temperature), tube burst capability significantly exceeds the R.G. [Regulatory Guide] 1.121 criterion requiring the maintenance of a margin of 1.43 times the steam line break pressure differential on tube burst if through-wall cracks are present without regard to the presence of the tube support plate. Considering the existing data base, this criterion is satisfied with bobbin coil indications with signal amplitudes over twice the 2.0 volt voltage-based repair criteria, regardless of the indicated depth measurement. This structural limit is based on a lower 95% confidence level limit of the

data at operating temperatures. The 2.0 volt criterion provides a conservative margin of safety to the structural limit considering expected growth rates of outside diameter stress corrosion cracking at Farley. Alternate crack morphologies can correspond to a voltage so that a unique crack length is not defined by a burst pressure to voltage correlation. However, relative to expected leakage during normal operating conditions, no field leakage has been reported from tubes with indications with a voltage level of under 7.7 volts for a 3/4 inch tube with a 10 volt correlation to 7/8 inch tubing (as compared to the 2.0 volt proposed voltage-based tube repair limit). Thus, the proposed amendment does not involve a significant increase in the probability or consequences of an accident.

Relative to the expected leakage during accident condition loadings, the accidents that are affected by primary-to-secondary leakage and steam release to the environment are Loss of External Electrical Load and/or Turbine Trip, Loss of All AC Power to Station Auxiliaries, Major Secondary System Pipe Failure, Steam Generator Tube Rupture, Reactor Coolant Pump Locked Rotor, and Rupture of a Control Rod Drive Mechanism Housing. Of these, the Major Secondary System Pipe Failure is the most limiting for Farley in considering the potential for off-site doses. The offsite dose analyses for the other events which model primary-to secondary leakage and steam releases from the secondary side to the environment assume that the secondary side remains intact. The steam generator tubes are not subjected to a sustained increase in differential pressure, as is the case following a steam line break event. This increase in differential pressure is responsible for the postulated increase in leakage and associated offsite doses following a steam line break event. In addition, the steam line break event results in a bypass of containment for steam generator leakage. Upon implementation of the voltage-based repair criteria, it must be verified that the expected distributions of cracking indications at the tube support plate intersections are such that primary-to-secondary leakage would result in site boundary dose within the current licensing basis. Data indicate that a threshold voltage of 2.8 volts could result in through-wall cracks long enough to leak at steam line break conditions. Application of the proposed repair criteria requires that the current distribution of a number of indications versus voltage be obtained during the refueling outages. The current voltage is then combined with the rate of change in voltage measurement and a voltage measurement uncertainty to establish an end of cycle voltage distribution and, thus, leak rate during steam line break pressure differential. The leak rate during a steam line break is further increased by a factor related to the probability of detection of the flaws. If it is found that the potential steam line break leakage for degraded intersections planned to be left in service coupled with the reduced allowable specific activity levels result in radiological consequences outside the current licensing basis, then additional tubes will be plugged or repaired to reduce steam line break leakage potential to within the acceptance limit. Thus, the consequences of the most limiting design basis accident are constrained to present licensing basis limits.

2) The proposed license amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Implementation of the proposed voltage-based tube support plate elevation steam generator tube repair criteria does not introduce any significant changes to the plant design basis. Use of the criteria does not provide a mechanism that could result in an accident outside of the region of the tube support plate elevations. Neither a single or multiple tube rupture event would be expected in a steam generator in which the repair criteria have been applied during all plant conditions. The bobbin probe signal amplitude repair criteria are established such that operational leakage or excessive leakage during a postulated steam line break condition is not anticipated. Southern Nuclear has previously implemented a maximum leakage limit of 150 gpd per steam generator. The R.G. 1.121 criterion for establishing operational leakage limits that require plant shutdown are based upon leak-before-break considerations to detect a free span crack before potential tube rupture. The 150 gpd limit provides for 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. R.G. 1.121 acceptance criteria for establishing operating leakage limits are based on leak-before-break considerations such that plant shutdown is initiated if the leakage associated with the longest permissible crack is exceeded. The longest permissible crack is the length that provides a factor of safety of 1.43 against bursting at steam line break pressure differential. A voltage amplitude of approximately 9 volts for typical outside diameter stress corrosion cracking corresponds to meeting this tube burst requirement at the 95% prediction interval on the burst correlation. Alternate crack morphologies can correspond to a voltage so that a unique crack length is not defined by the burst pressure versus voltage correlation. Consequently, a typical burst pressure versus through-wall crack length correlation is used below to define the ''longest permissible crack'' for evaluating operating leakage limits.

The single through-wall crack lengths that result in tube burst at 1.43 times steam line break pressure differential and steam line break conditions are about 0.54 inch and 0.84 inch, respectively. Normal leakage for these crack lengths would range from about 0.4 gallons per minute to 4.5 gallons per minute, respectively, while lower 95% confidence level leak rates would range from about 0.06 gallons per minute to 0.6 gallons per minute, respectively.

An operating leak rate of 150 gpd per steam generator has been implemented. This leakage limit provides for detection of 0.4 inch long cracks at nominal leak rates and 0.6 inch long cracks at the lower 95% confidence level leak rates. Thus, the 150 gpd limit provides for plant shutdown prior to reaching critical crack lengths for steam line break conditions at leak rates less than a lower 95% confidence level and for three times normal operating pressure differential at less than nominal leak rates.

Considering the above, the implementation of voltage-based plugging criteria will not create the possibility of a new or different kind of accident from any previously evaluated.

3) The proposed license amendment does not involve a significant reduction in margin of safety.

The use of the voltage-based tube support plate elevation repair criteria is demonstrated to maintain steam generator tube integrity commensurate with the requirements of Generic Letter 95-05 and R.G. 1.121. R.G. 1.121 describes a method acceptable to the NRC staff for meeting GDC [Generic Design Criteria] 2, 14, 15, 31, and 32 by reducing the probability of the consequences of steam generator tube rupture. This is accomplished by determining the limiting conditions of degradation of steam generator tubing, as established by inservice inspection, for which tubes with unacceptable cracking should be removed from service. Upon implementation of the criteria, even under the worst case conditions, the occurrence of outside diameter stress corrosion cracking at the tube support plate elevations is not expected to lead to a steam generator tube rupture event during normal or faulted plant conditions. The most limiting effect would be a possible increase in leakage during a steam line break event. Excessive leakage during a steam line break event, however, is precluded by verifying that, once the criteria are applied, the expected end of cycle distribution of crack indications at the tube support plate elevations would result in minimal, and acceptable primary to secondary leakage during the event and, hence, help to demonstrate radiological conditions are less than an appropriate fraction of the 10 CFR [Part] 100 guideline.

The margin to burst for the tubes using the voltage-based repair criteria is comparable to that currently provided by existing Technical Specifications.

In addressing the combined effects of LOCA [loss-of-coolant accident] + SSE [safe-shutdown earthquake] on the steam generator component (as required by GDC 2), it has been determined that tube collapse may occur in the steam generators at some plants. This is the case as the tube support plates may become deformed as a result of lateral loads at the wedge supports at the periphery of the plate due to either the LOCA rarefaction wave and/or SSE loadings. Then, the resulting pressure differential on the deformed tubes may cause some of the tubes to collapse.

There are two issues associated with steam generator tube collapse. First, the collapse of steam generator tubing reduces the RCS [reactor coolant system] flow area through the tubes. The reduction in flow area increases the resistance to flow of steam from the core during a LOCA which, in turn, may potentially increase Peak Clad Temperature (PCT). Second, there is a potential the partial through-wall cracks in tubes could progress to through-wall cracks during tube deformation or collapse or that short through-

wall indications would leak at significantly higher leak rates than included in the leak rate assessments.

Consequently, a detailed leak-before-break analysis was performed and it was concluded that the leak-before-break methodology (as permitted by GDC 4) is applicable to the Farley reactor coolant system 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 RCS primary loops, the LOCA loads from the large branch line breaks were analyzed at Farley and were found to be of insufficient magnitude to result in steam generator tube collapse or significant deformation.

Regardless of whether or not leak-before-break is applied to the primary loop piping at Farley, any flow area reduction is expected to be minimal (much less than 1%) and PCT margin is available to account for this potential effect. Based on analyses' results, no tubes near wedge locations are expected to collapse or deform to the degree that secondary to primary in-leakage would be increased over current expected levels. For all other steam generator tubes, the possibility of secondary-to-primary leakage in the event of a LOCA + SSE event is not significant. In actuality, the amount of secondary-to-primary leakage in the event of a LOCA + SSE is expected to be less than that originally allowed, i.e., 500 gpd per steam generator. Furthermore, secondary-to-primary in-leakage would be less than primary-to-secondary leakage for the same pressure differential since the cracks would tend to tighten under a secondary-to-primary pressure differential. Also, the presence of the tube support plate is expected to reduce the amount of in-leakage.

Addressing the R.G. 1.83 considerations, implementation of the tube repair criteria is supplemented by 100% inspection requirements at the tube support plate elevations having outside diameter stress corrosion cracking indications, reduced operating leakage limits, eddy current inspection guidelines to provide consistency in voltage normalization, and rotating probe inspection requirements for the larger indications left in service to characterize the principle degradation mechanism as outside diameter stress corrosion cracking.

As noted previously, implementation of the tube support plate elevation repair criteria will decrease the number of tubes that must be taken out of service with tube plugs or repaired. The installation of steam generator tube plugs or tube sleeves would reduce the RCS flow margin, thus implementation of the voltage-based repair criteria will maintain the margin of flow that would otherwise be reduced through increased tube plugging or sleeving.

Considering the above, it is concluded that the proposed change does not result in a significant reduction in margin with respect to plant safety as defined in the Final Safety Analysis Report or any bases of the plant Technical Specifications.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Houston-Love Memorial Library, 212 W. Burdeshaw Street, Post Office Box 1369, Dothan, Alabama 36302

Attorney for licensee: M. Stanford Blanton, Esq., Balch and Bingham, Post Office Box 306, 1710 Sixth Avenue North, Birmingham, Alabama 35201

NRC Project Director: Herbert N. Berkow

Southern Nuclear Operating Company, Inc., Docket No. 50-364, Joseph M. Farley Nuclear Plant, Unit 2, Houston County, Alabama

Date of amendment request: April 22, 1996

Description of amendment request: The proposed amendment would implement a new F* criterion based on maintaining existing safety margins for steam generator tube structural integrity concurrent with allowance for NDE (nondestructive examination) eddy current uncertainty.

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 retains the existing margin in the F* distance used to meet regulatory guidance of draft Regulatory Guide 1.121 and only changes the amount of assumed NDE eddy current uncertainty based on the type of eddy current technology utilized in the inspection. Therefore, there is no 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 previously evaluated. WCAP 11306, Revision 2, ''Tubesheet Region Plugging Criterion for the Alabama Power Company Farley Nuclear Station Unit 2 Steam Generators,'' provides adequate basis for the F* distance proposed of 1.54 plus allowance for eddy current uncertainty measurement. Since the value of 1.54 inches was used in the analysis no new or different kind of accident from any accident previously evaluated will be created.

3. The proposed change does not involve a significant reduction in a margin safety. Since the value of 1.54 inches already is used in the steam generator tube pull out analysis, there is no significant change to a margin 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: Houston-Love Memorial Library, 212 W. Burdeshaw Street, Post Office Box 1369, Dothan, Alabama 36302

Attorney for licensee: M. Stanford Blanton, Esq., Balch and Bingham, Post Office Box 306, 1710 Sixth Avenue North, Birmingham, Alabama 35201

NRC Project Director: Herbert N. Berkow

Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, MissouriDate of application request: February 23, 1996, as supplemented by letter dated April 24, 1996.

Description of amendment request: The amendment would add a footnote in the license for Callaway Plant, Unit No. 1 to indicate that Union Electric Company has entered into a merger agreement with CIPSCO Incorporated which provides for Union Electric Company to become a wholly-owned operating company of Ameren Corporation, a registered public utility holding company under the Public Utility Holding Company Act of 1935, as amended. After the merger, Union Electric Company would continue to own and operate the Callaway Plant as an operating company subsidiary of Ameren Corporation.

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 does not affect accident initiators or assumptions. The radiological consequences of any accident previously evaluated remain unchanged. The change is an administrative change to reflect Union Electric's status as an operating company subsidiary of Ameren.

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 does not reduce the margin of safety assumed in any accident analysis or affect any safety limits. The change is administrative and reflects Union Electric's status as an operating company subsidiary of Ameren.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed change does not reduce the margin of safety assumed in any accident

analysis or affect any safety limits. The change is administrative and reflects Union Electric's status as an operating company subsidiary of Ameren.

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: Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, N.W., Washington, D.C. 20037

NRC Project Director: William H. Bateman

Wisconsin Public Service Corporation, Docket No. 50-305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of amendment request: April 30, 1996

Description of amendment request: The proposed amendment would revise Kewaunee Nuclear Power Plant (KNPP) Technical Specification (TS) 3.1.b.1, its associated bases, and Figure TS 3.1-4 by extending the low temperature overpressure protection (LTOP) requirements through the end of operating cycle 33 or 33.41 effective full power years. The only technical change being proposed is the substitution of end of life fluence for the end of operating cycle 21 fluence.

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.

The LTOP setpoint and revised P/T [pressure/temperature] limits reflected in proposed Figure TS 3.1-4 ensure that the Appendix G pressure/temperature limits are not exceeded, and therefore, help ensure that RCS integrity is maintained. The changes do not modify the reactor coolant system pressure boundary, nor make any physical changes to the facility design, material, construction standards, or setpoints. The LTOP valve setpoint remains set at 500 psi. The LTOP enabling temperature based on Figure TS 3.1-2 is 338°F and is more conservative than a value of 303° Figure TS 3.1-4. The LTOP enabling temperature based on Figure TS 3.1-2 remains unchanged by this PA [proposed amendment]. The probability of a LTOP event occurring is independent of the pressure-temperature limits for the RCS pressure boundary. Therefore, the probability of a LTOP event occurring remains unchanged.

The calculation of pressure temperature limits in accordance with approved regulatory methods provides assurance that reactor pressure vessel fracture toughness requirements are met and the integrity of the RCS [reactor coolant system] pressure boundary is maintained. Similar methodology was used in calculations to support approved amendment 120 to the Kewaunee Technical Specifications dated April 26, 1995. The material property basis, including chemistry factor and initial reference temperature for the unirradiated material (RT_{NDT}), used for this PA is the same as that used in the current TS. The only technical change being made in this PA is the use of end of life fluence.

The use of predicted fluence values through the end of operating cycle 33 is appropriately considered within the calculations in accordance with standard industry methodology previously docketed under WCAP 13227 and WCAP 14279. The neutron exposure projections utilized for calculation of the reference temperature were multiplied by a factor of 1.11 to adjust for biases observed between cycle specific calculations and the results of neutron dosimetry for the four surveillance capsules removed from the KNPP reactor. The factor of 1.11 was derived by taking the average of the measured to calculation (M/C) flux ratios obtained from the dosimetry results of capsules V, R, P, and S removed from the KNPP reactor vessel. The resulting effect of using predicted fluence values through the end of cycle 33 instead of cycle 21 is to require the plant to evaluate LTOP transients to more limiting requirements. The proposed PT limits are shifted to a lower pressure and higher temperature, which is more conservative.

The changes do not adversely affect the integrity of the RCS such that its function in the control of radiological consequences is affected. In addition, the changes do not affect any fission barrier. The changes do not degrade or prevent the response of the LTOP relief valve or other safety related system to accidents described in Chapter 14 of the USAR. In addition, the changes do not alter any assumption previously made in the radiological consequences evaluations nor affect the mitigation of the radiological consequences of an accident described in the USAR. Therefore, the consequences of an accident previously evaluated in the USAR will not be increased.

Thus, the operation of KNPP Unit 1 in accordance with the PA does not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Create the possibility of a new or different type of accident from an accident previously evaluated.

The Appendix G pressure temperature limitations were prepared using methods derived from the ASME Boiler and Pressure Vessel Code and the criteria set forth in NRC Regulatory Standard Review Plan 5.3.2. The changes do not cause the initiation of any accident nor create any new credible limiting failure for safety-related systems and components. The changes do not result in any event previously deemed incredible being made credible. As such, it does not create the possibility of an accident different than any evaluated in the USAR.

The changes do not have any effect on the ability of the safety-related systems to perform their intended safety functions. The changes do not create failure modes that could adversely impact safety-related equipment. Therefore, it will not create the possibility of a malfunction of equipment important to safety different than previously evaluated in the USAR. Thus, the PA does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The use of Paragraph (c)(2)(ii)(A) of 10 CFR 50.61, initial reference temperature of -50°F, and the fluence values through EOC [end of cycle] 33 does not modify the reactor coolant system pressure boundary, nor make any physical changes to the LTOP setpoint or system design. Proposed Figure TS 3.1-4 was prepared in accordance with regulatory requirements and requires evaluation of LTOP events to more limiting requirements of neutron exposure projections of 33.41 EFPY instead of 18.40 EFPY.

Therefore, the PA does not create the possibility of a new or different type of accident from any accident previously evaluated.

3. Involve a significant reduction in the margin of safety.

The Appendix G pressure temperature limitations were prepared using methods derived from the ASME Boiler and Pressure Vessel Code and the criteria set forth in NRC Regulatory Standard Review Plan 5.3.2. These documents along with the calculational limitations specified in 10 CFR 50.61 are an acceptable method for implementing the requirements of 10 CFR 50 Appendices G and H. Inherent conservatism in the P/T limits resulting from these documents include:

a. An assumed defect in the reactor vessel wall with a depth equal to 1/4 of the thickness of the vessel wall (1/4T) and a length equal to 1-1/2 times the thickness of the vessel wall.

b. Assumed reference flaw oriented in both longitudinal and circumferential directions and limiting material property. At KNPP, the only weld in the core region is oriented in the circumferential direction.

c. A factor of safety of 2 is applied to the membrane stress intensity factor.

d. The limiting toughness is based upon a reference value (K_{IR}) which is a lower bound on the dynamic crack initiation or arrest toughness.

e. A 2-sigma margin term is applied in determining the adjusted reference temperature (ART) that is used to calculate the limiting toughness.

Similar methodology was used in calculations to support approved amendment 120 dated April 26, 1995. Beyond the conservatism described above, WPSC

[Wisconsin Public Service Corporation] has incorporated the following additional margin in preparing this PA:

a. The neutron exposure projections were multiplied by a factor of 1.11 to adjust for biases observed between cycle specific calculations and the results of neutron dosimetry for the four surveillance capsules removed from the KNPP reactor. The factor of 1.11 was derived by taking the average of the measured to calculation (M/C) flux ratios obtained from the dosimetry results of capsules V, R, P, and S removed from the KNPP reactor vessel.

b. The calculated material-specific chemistry factor value is 191.27 and is based on KNPP surveillance capsule data from capsules V, R, and P. Utilization of KNPP's most recent surveillance capsule data from capsule S results in chemistry factor value of 190.6. Consistent with calculation C10689, Revision 1 the value used for chemistry factor in this PA remains 191.27, which is conservative.

c. The LTOP enabling temperature based on Figure TS 3.1-2 is 338°F and is more conservative than a value of 303°F which is supported by proposed Figure TS 3.1-4. The LTOP enabling temperature based on Figure TS 3.1-2 remains unchanged by this PA.

d. The reactor coolant pump starting restrictions of TS 3.1.a.1.c remain in place.

An alternative methodology to the safety margins required by Appendix G to 10 CFR Part 50 has been developed by the ASME Working Group on Operating Plant Criteria. This methodology is contained in ASME Code Case N-514. The Code Case N-514 provides criteria to determine pressure limits during LTOP events that avoid certain unnecessary operational restrictions, provide adequate margins against failure of the reactor pressure vessel, and reduce the potential for unnecessary activation of the relief valve used for LTOP. Specifically, the ASME Code Case N-514 allows determination of the setpoint for LTOP events such that the maximum pressure in the vessel would not exceed 110% of the P/T limits of the existing ASME Appendix G; and redefines the enabling temperature as a coolant temperature less than 200°F or a reactor vessel metal temperature less than RT_{NDT} + 50°F greater. Code Case N-514, ''Low Temperature Overpressure Protection,'' has been approved by the ASME Code Committee but not yet approved for use in Regulatory Guide 1.147. The content of this code case has been incorporated into Appendix G of Section XI of the ASME Code and published in the 1993 Addenda to Section XI. It is expected that when the NRC revises 10 CFR 50.55a, it will endorse the 1993 Addenda and Appendix G of Section XI into the regulations. As stated above, this PA utilizes Appendix G limits and an enabling temperature corresponding to a reactor vessel metal temperature less than RT_{NDT} + 90°F, which is more conservative than the alternative methodology contained in Code Case N-514.

The revised calculations meet the NRC acceptance criteria for the LTOP setpoint and system design as described in NRC Safety Evaluation Report (SER) dated September 6, 1995 which concluded that ''the spectrum of postulated pressure transients would be mitigated...such that the temperature pressure limits of Appendix G to 10 CFR 50 are maintained.''

Utilization of methodology set forth in the ASME Boiler and Pressure Vessel Code, NRC Regulatory Standard Review Plan 5.3.2, 10 CFR 50.61, and 10 CFR 50 Appendices G and H with the above additional margins ensures that proper limits and safety factors are maintained. Thus, the PA 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: 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

Wisconsin Public Service Corporation, Docket No. 50-305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of amendment request: May 1, 1996

Description of amendment request: The proposed amendment would revise Kewaunee Nuclear Power Plant (KNPP) Technical Specification (TS) 4.2.b, ''Steam Generator Tubes,'' its associated bases, and Figure TS 4.2-1 by redefining the pressure boundary for Westinghouse mechanical hybrid expansion joint (HEJ) steam generator (SG) tube sleeves. The proposed amendment supersedes in its entirety a previously submitted proposed amendment dated October 6, 1995, which was published in the Federal Register on November 8, 1995 (60 FR 56372).

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:

This proposed change was reviewed in accordance with the provisions of 10 CFR 50.92 to show no significant hazards exist.

1. Operation of the KNPP in accordance with the proposed license amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Mechanical testing shows inherent structural integrity of the HEJ [hybrid expansion joint] upper joint such that the tube rupture capability recommendations of RG [Regulatory Guide] 1.121 are met, even for instances of 100-percent throughwall, 360 degree degradation in the HRLT [hardroll lower transition] region. Structural test results are documented in WCAPs-14157, -14157 Addendum 1, -14446 and -14641. Based on this test data, the structural recommendations of RG 1.121 are satisfied when there is a difference of at least 0.003 inch, between the maximum hardroll diameter of the sleeve, and the diameter at the elevation of the PTI [parent tube indication] center line; i.e. there is an interference lip of 0.003 inch or more. The proposed pressure boundary will allow PTIs located such that there is a minimum diameter change of 0.003 inch (not including an allowance for measurement uncertainty) between the maximum point of the sleeve hardroll, and the diameter at the elevation of the PTI peak amplitude to remain in service. Based on the high degree of structural integrity of the HEJ upper joint, it can be concluded that application of the revised pressure boundary criteria will not result in an increased probability of an accident previously evaluated.

Each sleeved tube with a PTI located in the HRLT such that there is a change in diameter of 0.003 inch to 0.013 inch, will be assigned a conservatively bounding primary-to-secondary SLB [steam line break] leakage value of 0.025 gpm per indication. Indications located such that there is a change in diameter of greater than 0.013 inch will not contribute to the SLB leakage. The total number of indications remaining in service will be limited such that the primary-to-secondary leakage during a postulated SLB will not exceed a small fraction of the 10 CFR Part 100 guidelines. For KNPP this has been calculated to be 34.0 gpm for the faulted loop. Therefore, it can be concluded that application of the revised pressure boundary criteria will not increase the consequences of an accident previously evaluated.

2. The proposed license amendment request does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Implementation of the revised pressure boundary will not introduce a change to the design basis or operation of the plant. Mechanical testing of degraded sleeve joints supports the conclusions that the joint retains structural integrity (tube burst) capability consistent with RG 1.121, and leakage integrity with regards to a small fraction of the 10 CFR Part 100 guidelines. As with the initial installation of the sleeves, implementation of the relocated pressure boundary does not interact with other portions of the reactor coolant system. Any hypothetical accident as a result of potential PTIs is bounded by the existing tube rupture accident analysis. Neither the sleeve design nor implementation of the redefined pressure boundary affects any other component or location of the tube outside of the immediate area repaired. Therefore application of the revised pressure boundary criteria will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed license amendment does not involve a significant reduction in the margin of safety.

The safety factors used in establishment of the HEJ sleeved tube pressure boundary are consistent with the safety factors in the ASME Boiler and Pressure Vessel Code used in SG [steam generator] design. Based on the sleeve-to-tube geometry, it is unrealistic to consider that application of the revised pressure boundary could result in single tube leak rates exceeding the normal makeup capacity during normal operating conditions. The pressure boundary developed in WCAPs-14446 and -14641 have been developed using the methodology of RG 1.121. The performance characteristics of the postulated degraded parent tubes of HEJ sleeve/tube joints have been verified by testing to retain structural integrity and preclude significant leakage during normal and postulated accident conditions. Testing indicates that postulated circumferentially separated tubes which the pressure boundary [addresses] would not experience axial displacement during either normal operation or SLB conditions. The existing offsite dose evaluation performed for KNPP in support of the voltage based repair criteria for axial ODSCC [outside diameter stress corrosion cracking] at TSP [tube support plate] intersections established a faulted loop primary to secondary leak rate of 34.0 gpm. Following implementation of the criteria, postulated leakage from all sources must not exceed 34.0 gpm in the faulted loop. Maintenance of this limit will ensure that offsite doses would not exceed the currently accepted limit of a small fraction of the 10 CFR Part 100 guidelines. The pressure boundary definition uses a conservatively established ''per indication'' leak rate for estimation of SLB leakage. This leak rate is applied to all indications left in service within the HRLT, regardless of indications length and throughwall extent. Application of the revised pressure boundary criteria 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

Wolf Creek Nuclear Operating Corporation, Docket No. 50-482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: July 29, 1994, as superseded by letter dated September 15, 1995, and supplements dated March 8, 1996, and April 18, 1996

Description of amendment request: The proposed amendment revises TS 3/4.8.1 and its associated Bases to improve overall emergency diesel generator reliability and availability.

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.

These proposed changes do not involve a change in the operational limits or physical design of the emergency power system. Emergency diesel generator operability and reliability will continue to be assured while minimizing the number of required emergency diesel generator starts. Also, emergency diesel generator reliability will be enhanced by minimizing severe test conditions which can lead to premature failures.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

These proposed changes do not involve a change in the operational limits or physical design of the emergency power system. The performance capability of the emergency diesel generator will not be affected. Emergency diesel generator reliability and availability will be improved by the implementation of the proposed changes. There is no actual impact on any accident analysis.

3. The proposed change does not involve a significant reduction in a margin of safety.

These proposed change do not involve a change in the operational limits or physical design of the emergency power system. The performance capability of the emergency diesel generator will not be affected. Emergency diesel generator reliability and availability will be improved by the implementation of the proposed changes. No margin of safety is reduced.

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 locations: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, N.W., Washington, D.C. 20037

NRC Project Director: William H. Bateman

Wolf Creek Nuclear Operating Corporation, Docket No. 50-482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: May 1, 1996

Description of amendment request: This license amendment request proposes to revise Section 6.0 of the technical specifications to reflect position title changes within the Wolf Creek Nuclear Operating Corporation (WCNOC) organization.

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 does not involve a significant increase in the probability of consequences of an accident previously evaluated. These changes involve administrative changes to the WCNOC organization and to the position qualification of plant personnel.

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 does not create the possibility of a new or different kind of accident from any accident previously evaluated. This change is administrative in nature and does not involve a change to the installed plant systems or the overall operating philosophy of Wolf Creek Generating Station.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed change does not involve a significant reduction in a margin of safety. This change does not involve any changes in overall organizational commitments. A position title change alone does not reduce the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room locations: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, N.W., Washington, D.C. 20037

NRC Project Director: William H. Bateman

Previously Published Notices Of Consideration Of Issuance Of Amendments To Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, And Opportunity For A Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the Federal Register on the day and page cited. This notice does not extend the notice period of the original notice.

Philadelphia Electric Company, Docket Nos. 50-352 and 50-353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of amendment request: April 25, 1996

Brief description of amendment request: The amendment relocates the technical specification (TS) Traversing In-Core Probe System Limiting Condition for Operation 3/4.3.7.7 and its Bases 3/4.3.7.7 to the Technical Requirements Manual, and modifies Note (f) of TS Table 4.3.1.1-1.

Date of publication of individual notice in Federal Register: May 8, 1996 (61 FR 20840)

Expiration date of individual notice: June 7, 1996

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

The Cleveland Electric Illuminating Company, Centerior Service Company, Duquesne Light Company, Ohio Edison Company, OES Nuclear, Inc., 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: April 26, 1996

Brief description of amendment request: The proposed amendment would correct minor technical and administrative errors in the Improved Technical Specifications prior to its implementation.

Date of individual notice in Federal Register: May 9, 1996 (61 FR 21213)

Expiration date of individual notice: June 10, 1996

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, Ohio

Notice Of Issuance Of Amendments To Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the Federal Register as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved.

Arizona Public Service Company, et al., Docket Nos. STN 50-528, STN 50-529, and STN 50-530, Palo Verde Nuclear Generating Station, Units 1, 2, and 3, Maricopa County, Arizona

Date of application for amendments: February 1, 1996

Brief description of amendments: These amendments revised (1) Technical Specifications (TS) 3/4.1.1.1, 6.9.1.9, and 6.9.1.10 to relocate the shutdown margin (reactor trip breakers open) to the Core Operating Limits Report; (2) TS 3/4.3.2 (Tables 3.3-3 and 3.3-4) to specify an additional restriction for the allowed low-pressurizer-pressure trip setpoint when reducing reactor coolant (RCS) system pressure in Mode 3; (3) TS Section 2.2.1 (Table 2.2-1) to make it consistent with the footnote in TS Tables 3.3-3 and 3.3-4; and (4) TS Sections 3/4.5.2 and 3/4.5.3 to require two emergency core cooling system subsystems to be operable in Mode 3 whenever the RCS cold-leg temperature is equal to or above 485°F. The Table of Contents and the Bases are also revised to reflect these changes.

Date of issuance: April 30, 1996

Effective date: April 30, 1996, to be implemented within 45 days of issuance

Amendment Nos.: Unit 1 - 106; Unit 2 - 98; Unit 3 - 78

Facility Operating License Nos. NPF-41, NPF-51, and NPF-74: The amendments revised the Technical Specifications.

Date of initial notice in Federal Register: March 27, 1996 (61 FR 13522) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 30, 1996.No significant hazards consideration comments received: No.

Local Public Document Room location: Phoenix Public Library, 1221 N. Central Avenue, Phoenix, Arizona 85004

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 27, 1995

Brief description of amendments: These amendments modify Tables 3.3-11 and 4.3-7 of Beaver Valley Power Station, Unit Nos. 1 and 2 (BVPS-1 and BVPS-2) Technical Specification 3.3.3.8 (Accident Monitoring Instrumentation) such that only one valve position indication system for the power-operated relief valves and safety valves is required to be operable. Minor editorial changes to BVPS-1 TS 3.3.3.8 and its associated Action Statements are also being made. These changes make the requirements of TS 3.3.3.8 consistent with the NRC's Improved Standard Technical Specifications (NUREG-1431, Revision 1) and with the guidance of Regulatory Guide 1.97, NUREG-0578, and NUREG-0737.

Date of issuance: May 1, 1996

Effective date: As of the date of issuance, to be implemented within 60 days.

Amendment Nos.: 199 and 81

Facility Operating License Nos. DPR-66 and NPF-73: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: January 31, 1996 (61 FR 3499) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 1, 1996No significant hazards consideration comments received: No.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Duquesne Light Company, et al., Docket No. 50-334, Beaver Valley Power Station, Unit No. 1, Shippingport, Pennsylvania

Date of application for amendment: February 12, 1996

Brief description of amendment: The amendment revises Technical Specification (TS) 4.6.2.2.d to delete the reference to the specific test acceptance criteria for the Containment Recirculation Spray Pumps and replaces the specific test acceptance criteria with reference to the requirements of the Inservice Testing (IST) Program. In addition, the 18-month test frequency is replaced with the test frequency requirements specified in the IST Program. The amendment also revises the Bases for TS 4.6.2.2.d to describe this revision to TS 4.6.2.2.d.

Date of issuance: May 7, 1996

Effective date: As of the date of issuance, to be implemented within 60 days.

Amendment No: 200

Facility Operating License No. DPR-66. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: March 13, 1996 (61 FR 10393) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 7, 1996 No significant hazards consideration comments received: No

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, PA 15001

Florida Power Corporation, et al., Docket No. 50-302, Crystal River Nuclear Generating Plant, Unit No. 3, Citrus County, Florida

Date of application for amendments: March 21, 1996 as supplemented April 8, 15, and 18, 1996.

Description of amendment request: The proposed amendment provides for interim repair criteria for volumetric intergranular attack (IGA) indications in the once-through-steam generators (OTSG). The interim repair criteria is based on bobbin coil voltage response and motorized rotating pancake coil probe dimensional measurements. The amendment would be applicable for IGA indications within the region below the first tube support plate and the secondary face of the lower tubesheet (first span) of the OTSG and for one cycle only until Refuel 11.

Date of issuance: April 30, 1996

Effective date: April 30, 1996Amendment Nos. 154

Facility Operating License No. DPR-72: Amendment revised the Technical Specifications. Public comments requested as to proposed no significant hazards consideration: Yes (61 FR 13888). 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 29, 1996, but indicated that if the Commission makes a final no significant hazards consideration determination any such hearing would take place after issuance of amendment. The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated April 30, 1996

Local Public Document Room location: Coastal Region Library, 8619 W. Crystal Street, Crystal River, Florida 32629

Indiana Michigan Power Company, Docket No. 50-316, Donald C. Cook, Nuclear Plant, Unit No. 2, Berrien County, Michigan

Date of application for amendment: March 12, 1996 (AEP:NRC:1248)

Brief description of amendment: The amendment removes the technical specifications related to shutdown and control rod position indication while in shutdown modes 3, 4, and 5.

Date of issuance: May 2, 1996

Effective date: May 2, 1996, with full implementation within 45 days

Amendment No.: 194

Facility Operating License No. DPR-74. Amendment revises the Technical Specifications.

Date of initial notice in Federal Register: March 27, 1996 (61 FR 13527) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 2, 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

Nebraska Public Power District, Docket No. 50-298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: May 5, 1995 and July 14, 1995, supplemented by letter dated March 5, 1996

Brief description of amendment: The amendment revised the Technical Specifications to 1) verify that the redundant diesel generator is operable upon the loss of one diesel generator, and implement provisions to verify that the operable diesel generator does not have a common cause failure; 2) incorporate provisions to allow a modified start for the diesel generators; and 3) remove the requirement that the reactor power level be reduced to 25% of rated power upon loss of both diesel generator units or both incoming power sources (start-up and emergency transformers). In addition, the period of time allowed for continued reactor operation with both diesels inoperable was reduced from 24 to two hours.

Date of issuance: April 29, 1996

Effective date: April 29, 1996

Amendment No.: 175

Facility Operating License No. DPR-46: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: September 27, 1995 (60 FR 49939) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 29, 1996.No significant hazards consideration comments received: No.

Local Public Document Room location: Auburn Memorial Library, 1810 Courthouse Avenue, Auburn, NE 68305.

North Atlantic Energy Service Corporation, Docket No. 50-443, Seabrook Station, Unit No. 1, Rockingham County, New Hampshire

Date of amendment request: September 22, 1995

Description of amendment request: The amendment changes the ACTION specified in Table 3.3-3, Engineered Safety Features Actuation System Instrumentation, from ACTION 18 to ACTION 15 for Functional Unit 8.b, Automatic Switchover to Containment Sump - RWST Level Low-Low.

Date of issuance: May 7, 1996,

Effective date: As of the date of issuance, to be implemented within 60 days.

Amendment No.: 47

Facility Operating License No. NPF-86. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: December 6, 1995 (60 FR 62493) The Commission's related

evaluation of the amendment is contained in a Safety Evaluation dated May 7, 1996. No significant hazards consideration comments received: No.

Local Public Document Room location: Exeter Public Library, Founders Park, Exeter, NH 03833.

Northeast Nuclear Energy Company, et al., Docket No. 50-336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut

Date of application for amendment: May 26, 1995, as supplemented October 20, 1995, and May 3, 1996.

Brief description of amendment: The amendment modifies Technical Specification (TS) 3.8.1.2, ''Electrical Power Systems, Shutdown,'' TS 3.8.2.2, ''Electrical Power Systems, A.C. Distribution - Shutdown,'' and TS 3.8.2.4, ''Electrical Power Systems, D.C. Distribution - Shutdown,'' to provide operational flexibility as well as consistency between action statements and to eliminate certain surveillance requirements that are not applicable in Mode 5 or 6.

The proposed changes relating to TS 3.8.1.1, ''Electrical Power Systems, A.C. Sources, Operating,'' are not included in this amendment since this portion of the TS change is still under review by the staff and will be addressed at a later date.

Date of issuance: May 6, 1996

Effective date: As of the date of issuance, to be implemented within 30 days.

Amendment No.: 197

Facility Operating License No. DPR-65. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: December 6, 1995 (60 FR 62493) The October 20, 1995, letter formally withdrew the need for exigent handling of the May 26, 1995, request and requested an additional change to TS 3.8.2.4. The May 3, 1996, letter withdrew a portion of the initial request which did not affect the initial proposed no significant hazards consideration. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 6, 1996. No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, CT 06360, and Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, CT 06385.

Power Authority of the State of New York, Docket No. 50-286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of application for amendment: March 14, 1996

Brief description of amendment: The amendment allows a one-time extension of the intervals for the pressurizer safety valve setpoint and snubber functional testing that is due in May 1996.

Date of issuance: May 3, 1996

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 165

Facility Operating License No. DPR-26: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: April 3, 1996, (61 FR 14835) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 3, 1996.No significant hazards consideration comments received: No

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Public Service Electric & Gas Company, Docket Nos. 50-272 and 50-311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of application for amendments: January 4, 1996

Brief description of amendments: The amendments change Technical Specification 3/4.8.2.5, ''28-Volt D.C. Distribution - Operating.'' The amendment for Unit 1 makes Unit 1 requirements similar to Unit 2 by defining the specific battery chargers that are required for each train and by restricting the use of the backup battery charger to 7 days. The amendments for both units also require that the 28-Volt DC bus be energized for that bus to be OPERABLE.

Date of issuance: April 29, 1996

Effective date: Both units, as of date of issuance, to be implemented within 60 days.Amendment Nos. 182 and 163

Facility Operating License Nos. DPR-70 and DPR-75. The amendments revised the Technical Specifications.

Date of initial notice in Federal Register: February 14, 1996 (61 FR 5818) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 29, 1996No significant hazards consideration comments received: No

Local Public Document Room location: Salem Free Public Library, 112 West Broadway, Salem, New Jersey 08079

Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of application for amendment: September 6, 1995, as supplemented by letters dated January 30, 1996, March 27, 1996, and April 2, 1996.

Brief description of amendment: The amendment revises TS 5.3.1 to reflect a change in the maximum initial enrichment for reload fuel, subject to the integral fuel burnable absorber (IFBA) requirements, and a change in the maximum fuel enrichment not requiring IFBAs. The amendment also changes the maximum reference $k_{infinity}$ in TS 5.6.1.1 for fuel storage in Region 1 of the spent fuel pool and revises TS Figure 3.9-1 to reflect a change to the maximum initial enrichment for fuel stored in Region 2 of the spent fuel pool.

Date of issuance: April 30, 1996

Effective date: April 30, 1996, to be implemented within 30 days from the date of issuance.

Amendment No.: 109

Facility Operating License No. NPF-30: The amendment revised the Technical Specifications.

Date of initial notice in Federal Register: November 8, 1995 (60 FR 56372). The January 30, 1996, March 27, 1996, and April 2, 1996, supplemental letters provided additional clarifying information and did not change the original no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 30, 1996.No significant hazards consideration comments received: No.

Local Public Document Room location: Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251.

Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of application for amendment: February 9, 1996

Brief description of amendment: The amendment revised Technical Specification 5.3.1 to allow the use of ZIRLO clad fuel rods and ZIRLO filler rods.

Date of issuance: April 30, 1996

Effective date: April 30, 1996, to be implemented within 30 days of issuance.

Amendment No.: 110

Facility Operating License No. NPF-30: The amendment revised the Technical Specifications.

Date of initial notice in Federal Register: February 28, 1996 (61 FR 7558) The Commission's related

evaluation of the amendment is contained in a Safety Evaluation dated April 30, 1996.No significant hazards consideration comments received: No.

Local Public Document Room location: Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251.

Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia.

Date of application for amendments: January 30, 1996

Brief description of amendments: These amendments modify the Technical Specifications requirements for the sampling of the reactor coolant for dissolved oxygen chlorides and fluorides.

Date of issuance: 209 and 209

Effective date: April 29, 1996

Amendment Nos. 209 and 209

Facility Operating License Nos. DPR-32 and DPR-37: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: March 27, 1996 (61 FR 13533) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 29, 1996.No significant hazards consideration comments received: No

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185

Washington Public Power Supply System, Docket No. 50-397, Nuclear Project No. 2, Benton County, Washington

Date of application for amendment: January 19, 1996, as supplemented by letter dated March 19, 1996.

Brief description of amendment: The amendment modifies the Technical Specifications for leak tests of containment isolation valves. The amendment replaces the current specified surveillance intervals for containment leak testing with new surveillance requirements to conduct containment leak testing according to a performance-based containment leak test program.

Date of issuance: May 8, 1996

Effective date: May 8, 1996, to be implemented within 30 days of issuance.

Amendment No.: 144

Facility Operating License No. NPF-21: The amendment revised the Technical Specifications.

Date of initial notice in Federal Register: February 14, 1996 (61 FR 5820) The March 19, 1996, supplemental letter provided additional clarifying information and did not change the initial no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 8, 1996.No significant hazards consideration comments received: No.

Local Public Document Room location: Richland Public Library, 955 Northgate Street, Richland, Washington 99352

Dated at Rockville, Maryland, this 15th day of May 1996.

For the Nuclear Regulatory Commission

Steven A. Varga,

Director, Division of Reactor Projects - I/II, Office of Nuclear Reactor Regulation

[Doc. 96-12691 Filed 5-21-96; 8:45 am]

BILLING CODE 7590-01-F

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Industry Policy and Sector/ Functional Advisory Committee Meetings

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of Industry Policy and Sector/Functional Advisory Committee meetings.

SUMMARY: The meetings will include a review and discussion of current issues which influence U.S. trade policy. Pursuant to section 2155(f)(2) of title 19 of the United States Code, the U.S. Trade Representative has determined that these meetings will be concerned with matters the disclosure of which would seriously compromise the Government's negotiating objectives or bargaining positions. Accordingly, these meetings will be closed to the public.

DATES: The period of March 1, 1996 to March 1, 1998.

ADDRESSES: All meetings will be held at the U.S. Department of Commerce, 14th Street and Independence Avenue, Washington, D.C. 20230, unless an alternate site is necessary.

FOR FURTHER INFORMATION CONTACT: Ms. Phyllis Shearer Jones, Assistant U.S. Trade Representative for Intergovernmental Affairs and Public Liaison, Office of the United States Trade Representative at (202) 395–6120 or Wendy Smith, Director of the Trade Advisory Center, Department of Commerce at (202) 482–3268.

Charlene Barshefsky,

Acting United States Trade Representative.

[FR Doc. 96–12858 Filed 5–21–96; 8:45 am]

BILLING CODE 3190–01–M

PRESIDENTIAL ADVISORY COMMITTEE ON GULF WAR VETERANS' ILLNESSES

Notice of Open Meeting

AGENCY: Presidential Advisory Committee on Gulf War Veterans' Illnesses.

SUMMARY: This notice is hereby given to announce an open meeting of a panel of the Presidential Advisory Committee on Gulf War Veterans' Illnesses. The panel will discuss scientific and clinical issues related to reproductive health and Gulf War veterans and will receive comment from members of the public. Dr. Joyce C. Lashof, Advisory Committee chair, will chair this panel meeting.

DATES: June 17, 1996, 9:30 a.m.–4:15 p.m.; June 18, 1996, 8:30 a.m.–12:30 p.m.

PLACE: Renaissance Madison Hotel, 515 Madison Street, Seattle, WA 98104.

SUPPLEMENTARY INFORMATION: The President established the Presidential Advisory Committee on Gulf War Veterans' Illnesses by Executive Order 12961, May 26, 1995. The purpose of this Advisory Committee is to review and provide recommendations on the full range of government activities associated with Gulf War veterans' illnesses. The Advisory Committee reports to the President through the Secretary of Defense, the Secretary of Health and Human Services, and the Secretary of Veterans Affairs. Advisory Committee members have expertise relevant to the functions of the Committee and are appointed by the President from non-Federal sectors.

Tentative Agenda

Monday, June 17, 1996.

9:30 a.m. Call to order and opening remarks
9:40 a.m. Public comment
10:40 a.m. Break
11:00 a.m. Public comment (cont.)
12:00 .m. Lunch
1:15 p.m. Biological plausibility: teratology, ovarian toxicity, and spermatotoxicity
2:00 p.m. Reproductive toxicology, hazard assessment, and the Gulf War
2:45 p.m. Break
3:00 p.m. Epidemiology of infertility, subfertility, fetal loss, and birth defects in the U.S.
3:35 p.m. Evaluating rates of congenital anomalies in children of Gulf War veterans
4:15 p.m. Recess

Tuesday, June 18, 1996

8:30 a.m. Call to order

8:35 a.m. Assessing reproductive health in special populations
9:55 a.m. Diagnosis, defining syndromes, determining prevalence, and surveillance
10:45 a.m. Break
11:00 a.m. Genetic services, referral, and outreach: Department of Veterans Affairs
11:40 a.m. Genetic services, referral, and outreach: Department of Defense
12:15 p.m. Committee and staff discussion
12:30 p.m. Adjourn

A final agenda will be available at the meeting.

Public Participation

The meeting is open to the public. Members of the public who wish to make oral statements should contact the Advisory Committee at the address or telephone number listed below at least five business days prior to the meeting. Reasonable provisions will be made to include on the agenda presentations from individuals who have not yet had an opportunity to address the Advisory Committee. Priority will be given to Gulf War veterans and their families. The panel chair is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. People who wish to file written statements with the Advisory Committee may do so at any time.

FOR FURTHER INFORMATION CONTACT: John D. Longbrake, Presidential Advisory Committee on Gulf War Veterans' Illnesses, 1411 K Street, N.W., suite 1000, Washington, DC 20005–3404, Telephone: (202) 761–0066, Fax. (202) 761–0310.

Dated: May 17, 1996.

Carol A. Bock,

Federal Register Liaison Officer, Presidential Advisory Committee on Gulf War Veterans' Illnesses.

[FR Doc. 96–12853 Filed 5–21–96; 8:45 am]

BILLING CODE 3610–76–M

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Proposed New Collections

Rule 101	SEC File No. 270–408.	OMB Control No. 3235–new.
Rule 102	SEC File No. 270–409.	OMB Control No. 3235–new.
Rule 103	SEC File No. 270–410.	OMB Control No. 3235–new.
Rule 104	SEC File No. 270–411.	OMB Control No. 3235–new.

Proposed Revisions

Rule 17a–2	SEC File No. 270–189.	OMB Control No. 3235–0201.
Regulation S–K.	SEC File No. 270–2.	OMB Control No. 3235–0071.
Regulation S–B.	SEC File No. 270–370.	OMB Control No. 3235–0417.
Form S–1	SEC File No. 270–58.	OMB Control No. 3235–0065.
Form S–2	SEC File No. 270–60.	OMB Control No. 3235–0072.
Form S–3	SEC File No. 270–61.	OMB Control No. 3235–0073.
Form S–11 ...	SEC File No. 270–64.	OMB Control No. 3235–0067.
Form SB–1	SEC File No. 270–374.	OMB Control No. 3235–0423.
Form SB–2	SEC File No. 270–366.	OMB Control No. 3235–0418.
Form F–1	SEC File No. 270–249.	OMB Control No. 3235–0258.
Form F–2	SEC File No. 270–250.	OMB Control No. 3235–0257.
Form F–3	SEC File No. 270–251.	OMB Control No. 3235–0256.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget requests for approval of proposed new collections and proposed revisions on the following rules and forms:

Rules 101 and 102 would prohibit distribution participants form purchasing activities during a distribution of securities. These covered persons may seek to use an exception to this rule that would require such persons to calculate the average daily trading volume of the securities in distribution, maintain and audit a policy regarding information barriers between their affiliates, and maintain a written policy regarding general compliance with Regulation M. The Commission estimates that 1,597 respondents would collect information under Rule 101 and that approximately 43,522 hours would be required annually for these collections. In addition, the Commission estimates that 577 respondents would collect information under Rule 102 and that approximately 577 hours would be required for these collections.

Rule 103 provides an exception to Rule 101 for passive market making in Nasdaq securities. A distribution participant that seeks use of this exception would be required to disclose to third parties its intention to engage in passive market making. The Commission estimates that 375 respondents would collect information under Rule 103 and that approximately 375 hours would be required annually for these collections.

Rule 104 would permit stabilizing by a distribution participant during a distribution so long as the distribution participant discloses information to the market and investors. This rule requires disclosure in offering materials of the potential stabilizing transactions and to inform the market when a stabilizing bid is made. It also requires the distribution participants (*i.e.*, the syndicate manager) to maintain information regarding syndicate covering transactions and penalty bids. The Commission estimates that 522 respondents would collect information under Rule 104 and that approximately 522 hours would be required annually for these collections.

Rule 17a–2 requires underwriters to maintain information regarding stabilizing activities. This rule would be amended to reflect the new records required under proposed Rule 104. The Commission estimates that 522 respondents would collect information under Rule 17a–2 and that approximately 2,610 hours would be required annually for these collections.

Item 502(d) of Regulation S–K and Regulation S–B requires disclosure in offering materials of stabilization and passive market making. These provisions would be amended to require new wording of the legends already required. Item 508 of Regulation S–K and Regulation S–B requires disclosure in offering materials regarding underwriting activities. These provisions would be amended to require that potential stabilizing activities be described more fully. These amendments would affect the information required in Forms S–1, S–2, S–3, S–11, SB–1, SB–2, F–1, F–2, and F–3, which incorporate Items 502(d) and 508. The Commission estimates that each form would incur an additional .5 burden hour to comply with these revisions.

General comments regarding the estimated burden hours should be directed to the Desk Officer for the Securities and Exchange Commission at the address below. Any comments concerning the accuracy of the estimated average burden hours for compliance with Commission rules and forms should be directed to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549 and Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: May 6, 1996.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–12778 Filed 5–21–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–37212; File No. SR–DCC–96–07]

Self Regulatory Organizations; Delta Clearing Corp.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Addition of Tullet and Tokyo Securities Inc. as an Interdealer Broker for Delta Clearing Corp.'s Repurchase Agreement Clearance System

May 14, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on April 29, 1996, Delta Clearing Corp. (''DCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by DCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to notify the Commission that Tullet and Tokyo Securities Inc. (''Tullet'') has been authorized as an interdealer broker in DCC's over-the-counter clearance and settlement system for U.S. Treasury repurchase (''repo'') transactions.

[1] 15 U.S.C. 78s(b)(1) (1988).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

DCC's system clears repro agreements that have been agreed to through the facilities of interdealer brokers that have been authorized by DCC (''Authorized Brokers'') to offer their services to DCC participants,[3] Currently, Liberty Brockerage, Inc., RMJ Special Brokerage Inc., Euro Brokers Maxcor Inc., Prebon Securities (USA) Inc., and Tradition (Government Securities) Inc. are Authorized Brokers. The purpose of the proposed rule change is to notify the Commission that Tullet has been authorized to act as an Authorized Broker in DCC's clearance and settlement system for repo trades.

The proposed rule change will facilitate the prompt and accurate clearance and settlement of securities transactions, and therefore, the proposed rule change is consistent with the requirements of the Act, specifically Section 17A of the Act, and the rules and regulations thereunder.[4]

(B) Self-Regulatory Organization's Statement on Burden on Competition

DCC does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited nor received.

[2] The Commission has modified parts of these statements.

[3] For a complete description of DCC's repo clearance system, see Securities Exchange Act Release No. 36367 (October 13, 1995), 60 FR 54095.

[4] 15 U.S.C. 78q–1 (1988).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [5] and Rule 19v–4(e)(4) thereunder,[6] in that the proposal effects a change in an existing service of a registered clearing agency that does not adversely affect the safeguarding of securities or funds in the custody or control of the clearing agency or for which it is responsible and does not significantly affect the respective rights or obligations of the clearing agency or persons using the service. At any time within sixty days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communication relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and coping in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at DCC. All submissions should refer to File No. SR–DCC–96–07 and should be submitted by June 12, 1996.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–12812 Filed 5–21–96; 8:45 am]

BILLING CODE 8010–01–M

[5] 15 U.S.C. 78s(b)(3)(A)(iii) (1988).

[6] 17 CFR 240.19b–4(e)(4) (1995).

[7] 17 CFR 200.30–3(a)(12) (1995).

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments and Recommendations

ACTION: Notice of request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval of a new, and/or currently approved information collection.

DATES: Comments should be submitted on or before July 22, 1996.

FOR FURTHER INFORMATION CONTACT: Curtis B. Rich, Management Analyst, Small Business Administration, 409 3rd Street, S.W., Suite 5000, Washington DC 20416. Phone Number: 202–205–6629.

SUPPLEMENTARY INFORMATION:

Title: ''Application For Small Business Size Determination''.

Type of Request: Extension of a Currently Approved Collection.

Description of Respondents: Small Businesses Requesting an SBA Size Status Determination.

Annual Responses: 4,125.

Annual Burden: 16,500.

Comments: Send all comments regarding this information collection to Joan Bready, Small Business Administration, 409 3rd Street, S.W., Suite 8300 Washington, D.C. 20416. Phone No.: 202–205–7323.

Send comments regarding whether this information collection is necessary for the proper performance of the function of the agency, accuracy of burden estimate, in addition to ways to minimize this estimate, and ways to enhance the quality.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 96–12791 Filed 5–21–96; 8:45 am]

BILLING CODE 8025–01–M

SOCIAL SECURITY ADMINISTRATION

Privacy Act of 1974; Computer Matching Program (SSA/Department of the Treasury, Bureau of the Public Debt (BPD))—Match Number 1038

AGENCY: Social Security Administration.

ACTION: Notice of Computer Matching Program.

SUMMARY: In accordance with the provisions of the Privacy Act, as amended, this notice announces a computer matching program that SSA plans to conduct with BPD.

DATES: SSA will file a report of the subject matching program with the Committee on Governmental Affairs of the Senate, the Committee on Government Reform and Oversight of the House of Representatives and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The matching program will be effective as indicated below.

ADDRESSES: Interested parties may comment on this notice by either telefax to (410) 966–5138 or writing to the Associate Commissioner for Program and Integrity Reviews, 860 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235. All comments received will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: The Associate Commissioner for Program and Integrity Reviews as shown above.

SUPPLEMENTARY INFORMATION:

A. General

The Computer Matching and Privacy Protection Act of 1988 (Public Law (Pub. L.) 100–503) amended the Privacy Act (5 U.S.C. 552a) by establishing the conditions under which computer matching involving the Federal Government could be performed and adding certain protections for individuals applying for and receiving Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) further amended the Privacy Act regarding protections for such individuals. The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, State, or local government records. Among other things, it requires Federal agencies involved in computer matching programs to:

(1) Negotiate written agreements with the other agency or agencies participating in the matching programs;

(2) Obtain the Data Integrity Boards' approval of the match agreements;

(3) Furnish detailed reports about matching programs to Congress and OMB;

(4) Notify applicants and beneficiaries that their records are subject to matching; and

(5) Verify match findings before reducing, suspending, terminating or denying an individual's benefits or payments.

B. SSA Computer Matches Subject to the Privacy Act

We have taken action to ensure that this computer matching program complies with the requirements of the Privacy Act, as amended.

Dated: May 9, 1996.

Shirley S. Chater,

Commissioner of Social Security.

Notice of Computer Matching Program, Social Security Administration (SSA) with the Department of the Treasury, Bureau of Public Debt (BPD)— Match Number 1038

A. Participating Agencies

SSA and BPD.

B. Purpose of the Matching Program

The purpose of this matching program is to establish conditions and procedures for BPD disclosure of certain savings bond information useful to SSA in verifying eligibility and payment amount under the supplemental security income (SSI) program provided under title XVI of the Social Security Act (Act) to individuals with income and resources below levels established by law and regulations.

C. Authority for Conducting the Matching Program

Section 1631(e)(1)(B) and (f) of the Act (42 U.S.C. 1383(e)(1)(B) and (f)).

D. Categories of Records and Individuals Covered by the Match

SSA will provide BPD with a finder file, extracted from SSA's Supplemental Security Income Record System, containing Social Security numbers of individuals who receive SSI payments. This information will be matched with BPD files in BPD's savings bond registration system of records (United States savings-type securities) and a reply file of matched records will be furnished to SSA. Upon receipt of BPD's reply file, SSA will match identifying information from the BPD file with SSA's records to ensure that the data pertain to the relevant SSI recipients.

E. Inclusive Dates of the Match

The matching program shall become effective no sooner than 40 days after a copy of the agreement, as approved by the Data Integrity Boards of both agencies, is sent to Congress and the Office of Management and Budget (OMB) (or later if OMB objects to some or all of the agreement), or 30 days after publication of this notice in the Federal Register, whichever date is later. The matching program will continue for 18 months from the effective date and may be extended for an additional 12 months thereafter, if certain conditions are met.

[FR Doc. 96–12832 Filed 5–21–96; 8:45 am]

BILLING CODE 4190–29–P

Privacy Act of 1974; Report of Altered System of Records and New Routine Use

AGENCY: Social Security Administration (SSA).

ACTION: Altered system of records and new routine use.

SUMMARY: In accordance with the Privacy Act (5 U.S.C. 552a), we are issuing public notice of our intent to alter an existing system of records entitled ''Master Representative Payee File (MRPF).'' We are proposing to alter the MRPF by expanding the categories of records maintained to include an additional type of record. The proposed alteration will expand the categories of records maintained to include information about persons convicted of statutory violations where a violation was committed in connection with the individual's service as a Social Security representative payee. We also are proposing to establish a new routine use of the information that is maintained in the system. We invite public comment on this publication.

DATES: We filed a report of the proposed altered system and new routine use with the Chairman, Committee on Government Reform and Oversight of the House of Representatives, the Chairman, Committee on Governmental Affairs of the Senate, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget on May 3, 1996. The proposed alteration will become effective on July 1, 1996, unless we receive comments on or before that date which would result in a contrary determination.

ADDRESSES: Interested individuals may comment on this publication by writing to the SSA Privacy Officer, Social Security Administration, Room 3–A–6 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235. Comments may be faxed to (410) 966–0869. All comments received will be available for public inspection at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Ron Martorana, Social Insurance Specialist, Confidentiality and Disclosure Branch, Office of Disclosure Policy, Social Security Administration, 3–D–1 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone 410–965–1745.

SUPPLEMENTARY INFORMATION:

I. Discussion of the Proposed Alteration—Expansion of Categories of Records Maintained in the MRPF

The MRPF maintains information that Social Security field offices use when screening applicants to determine suitability as representative payees for Social Security claimants and beneficiaries who are incapable of handling their Social Security benefits and those who are required by law to have payees. The MRPF currently contains records about persons who have been convicted under sections 208 or 1632 of the Social Security Act (the Act), and others whose certification as representative payees SSA has revoked due to misuse of funds paid under Title II or Title XVI of the Act. The past performance of individuals as representative payees is therefore considered material to decisions that are made regarding future appointments. In order to afford better protection for our beneficiaries, we are now proposing that information about convictions of individuals for violations of statutes other than sections 208 and 1632 of the Act be made available to Social Security personnel, when such violations were committed in connection with the individual's service as a Social Security representative payee. We will obtain this information from the SSA, Office of Inspector General (OIG). The OIG will obtain this information as a result of its investigation of alleged payee misuse cases. Accordingly, we are proposing to revise the MRPF to include the following information as a new category of records:

Names and Social Security Numbers (SSNs) or Employer Identification Numbers (EINs)) of persons convicted of violations of statutes other than sections 208 and 1632 of the Social Security Act, when such violations were committed in connection with an individual's service as a Social Security representative payee.

II. Proposed Routine Use Disclosure of Data in the System

We are proposing to establish the following new routine use of information maintained in the MRPF system; the new routine use will be #16.

16. Information may be disclosed to the Office of Personnel Management (OPM) for the administration of that Office's representative payee programs.

We contemplate disclosing information to OPM under this routine use only in situations in which an applicant has filed to serve on behalf of a Social Security beneficiary and also filed to serve for an OPM annuitant. Information maintained in this system of records about the applicant's qualifications or past performance as a representative payee on behalf of SSA will be disclosed for consideration by OPM in evaluating the suitability of an applicant to serve as representative payee for OPM clients.

III. Compatibility of the Proposed Routine Use

The Privacy Act (5 U.S.C. 552a(a)(7) and 5 U.S.C. 552a(b)(3)) and our disclosure regulation (20 CFR part 401) permit us to disclose data for a routine use, i.e., a use serving a purpose which is compatible with the purpose for which we collected the information. Section 401.310 of the regulation permits us to disclose information under a routine use for administering our programs or, under certain circumstances, for use in similar income-maintenance or health-maintenance programs of other agencies.

The proposed routine use will permit SSA to disclose information to OPM when an individual who has applied to serve as a representative payee on behalf of a Social Security beneficiary applies to serve as a representative payee for an OPM annuitant. The relevant OPM program has the same income maintenance purpose as SSA programs and the information to be disclosed is relevant to identical matters in both programs. Thus, the proposed routine use is appropriate and meets the criteria in the Privacy Act and SSA's regulations.

IV. Effect of the Proposed Alteration and Routine Use Disclosure on Individual Privacy Rights

The system will maintain additional information about current and past representative payees and representative payee applicants to ensure that the best applicants are selected as representative payees on behalf of incapable beneficiaries. The MRPF system will identify an individual convicted under a statute other than sections 208 or 1632 of the Act only if the violation was committed in connection with the individual's service as a Social Security representative payee. Disclosing information to OPM about violations related to payee service will result in a more effectively administered pension program. The information that will be disclosed to OPM will assist that agency in enhancing public service and in protecting the property rights of incapable pensioners. Since information will be shared only in tightly controlled situations, we do not believe that the proposed changes to the MRPF will

have any unwarranted effect on individual privacy rights.

V. Minor Revisions

We have made the following minor revisions to the notice of the MRPF system:

- Changed ''ORSI'' in the system name to ''OPBP,''
- Changed ''Office of Retirement and Survivors Insurance'' in the system manager section to ''Office of Program Benefits Policy.''
- Because SSA is now independent of the Department of Health and Human Services we have assigned a new SSA identification number (OPPEC–005) to the MRPF and added language to the ''notification procedure'' section of the MRPF notice indicating that HHS regulations governing notification procedures for the system are still in effect at this time.

Dated: May 3, 1996.

Shirley S. Chater,

Commissioner of Social Security.

09–60–0222

SYSTEM NAME:

Master Representative Payee File, SSA/OPBP.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

The system database will be available by direct electronic access by Social Security field offices (FOs). Addresses of FOs can be found by calling the number listed in local telephone directories under ''United States Department of Health and Human Services, Social Security Administration'' or under ''Social Security Administration.'' The data base is housed at the: National Computer Center, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system maintains information about persons whose certifications as representative payees have been revoked or terminated on or after January 1, 1991; persons who have been convicted of a violation of section 208 or section 1632 of the Social Security Act (the Act); persons who are acting or have acted as representative payees, representative payee applicants who were not selected to serve as representative payees, and beneficiaries/applicants who are being served by representative payees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Data in this system consist of:

- Names and Social Security Numbers (SSNs) (or employer identification numbers (EINs)) of representative payees whose certifications for payment of benefits as representative payees have been revoked or terminated on or after January 1, 1991, because of misuse of benefits under title II or title XVI of the Act;
- Names and SSNs (or EINs) of all persons convicted of violations of sections 208 or 1632 of the Act;
- Names, addresses, and SSNs (or EINs) of persons convicted of violations of statutes other than sections 208 and 1632 of the Act, when such violations were committed in connection with the individual's service as a Social Security representative payee;
- Names, addresses, and SSNs (or EINs) of representative payees who are receiving benefit payments pursuant to section 205(j) or section 1631(a)(2) of the Act;
- Names, addresses, and SSNs of individuals for whom representative payees are reported to be providing representative payee services under section 205(j) or section 1631(a)(2) of the Act;
- Names, addresses, and SSNs of representative payee applicants who were not selected as representative payees;
- Names, addresses, and SSNs of persons who were terminated as representative payees for reasons other than misuse of benefits paid to them on behalf of beneficiaries/recipients;
- Information on the representative payees' relationship to the beneficiaries/recipients they serve;
- Names, addresses, and EINs of organizations authorized to charge a fee for providing representative payee services;
- Codes which indicate the relationship (other than familial) between the beneficiaries/recipients and the individuals who have custody of the beneficiaries/recipients;
- Dates and reasons for payee terminations (e.g., performance not acceptable, death of payee, beneficiary in direct payment, etc.) and revocations;
- Codes indicating whether representative payee applicants were selected or not selected;
- Dates and reasons representative payee applicants were not selected to serve as payees and dates and reasons for changes of payees (e.g., beneficiary in direct payment, etc.);
- Amount of benefits misused;
- Identification number assigned to the claim on which the misuse occurred;
- Date of the determination of misuse; and
- Information about a felony conviction reported by the representative payee.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 205(a), 205(j) and 1631(a) of the Act.

PURPOSE(S):

Information maintained in this system will assist SSA in the representative payee selection process by enabling Social Security field offices to more carefully screen applicants and to determine their suitability to become representative payees. SSA also will use the data for management information and workload projection purposes and to prepare annual reports to Congress on representative payee activities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information may be disclosed for routine uses as indicated below.

1. Information may be disclosed to the Department of Justice (DOJ), to a court or other tribunal, or to another party before such tribunal, when

(a) SSA, or any component thereof; or

(b) Any SSA employee in his/her official capacity; or

(c) Any SSA employee in his/her individual capacity where DOJ (or SSA, where it is authorized to do so) has agreed to represent the employee; or

(d) The United States or any agency thereof where SSA determines that the litigation is likely to affect SSA or any of its components,

is a party to litigation or has an interest in such litigation. Disclosure will occur only if SSA determines that the use of such records before the tribunal is relevant and necessary to the litigation, would help in the effective representation of the governmental party, and, in each case, such disclosure is compatible with the purpose for which the records were collected.

2. Information pertaining to an individual may be disclosed to a Congressional office in response to an inquiry from that office made at the request of the subject of the records.

3. Information may be disclosed to the General Services Administration and the National Archives and Records Administration for the purpose of conducting records management studies under 44 U.S.C. 2904 and 2906, when such disclosure is not prohibited by Federal law.

4. Information may be disclosed to the Department of Veterans Affairs (DVA) Regional Office in the Philippines for

the administration of the Social Security Act in the Philippines through services and facilities of that agency.

5. Information may be disclosed to the Department of State for administration of the Social Security Act in foreign countries through services and facilities of that agency.

6. Information may be disclosed to the Department of Interior for administration of the Social Security Act in the Trust Territory of the Pacific Islands through services and facilities of that agency.

7. Information may be disclosed to the American Institute in Taiwan for administration of the Social Security Act in Taiwan through services and facilities of that agency.

8. Information may be disclosed to DOJ for:

(a) Investigating and prosecuting violations of the Act to which criminal penalties attach,

(b) Representing the Secretary, and

(c) Investigating issues of fraud or violations of civil rights by officers or employees of SSA.

9. Information about an individual may be disclosed to the Office of the President for responding to an inquiry received from that individual or from a third party acting on that individual's behalf.

10. Information may be disclosed to DVA for the shared administration of that Department's and SSA's representative payee programs.

11. Information may be disclosed to contractors and other Federal Agencies, as necessary, for the purpose of assisting SSA in the efficient administration of its programs. We contemplate disclosing information under this routine use only in situations in which SSA may enter into a contractual or similar agreement to obtain assistance in accomplishing an SSA function relating to this system of records.

12. Information may be disclosed to a third party such as a physician, social worker, or community service worker, who has, or is expected to have, information which is needed to evaluate one or both of the following:

(a) The claimant's capability to manage or direct the management of his/her affairs.

(b) Any case in which disclosure aids investigation of suspected misuse of benefits, abuse or fraud, or is necessary for program integrity, or quality appraisal activities.

13. Information pertaining to the identity of a payee or payee applicant, the fact of the person's application for or service as a payee, and, as necessary, the identify of the beneficiary, may be disclosed to a third party where necessary to obtain information on employment, sources of income, criminal justice records, stability of residence and other information relating to the qualifications and suitability of representative payees or representative payee applicants to serve as representative payees or their use of the benefits paid to them under section 205(j) or section 1631(a) of the Act.

14. Information pertaining to the address of a representative payee applicant or a selected representative payee may be disclosed to a claimant or other individual authorized to act on his/her behalf when this information is needed to pursue a claim for recovery of misapplied or misused benefits.

15. Information may be disclosed to the Railroad Retirement Board (RRB) for the administration of RRB's representative payment program.

16. Information may be disclosed to the Office of Personnel Management for the administration of that Office's representative payee programs.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records will be stored in magnetic media (e.g., magnetic tape and disc).

RETRIEVABILITY:

Data are retrieved from the system by the name, SSN or EIN, and the ZIP code (in a situation where the representative payee is an institution) of the representative payee, or the name or SSN of the beneficiary/recipient.

SAFEGUARDS:

For computerized records electronically transmitted between Central Office and Field Office locations (including organizations administering SSA programs under contractual agreements), safeguards include a lock/unlock password system, exclusive use of leased telephone lines, a terminal-oriented transaction matrix, and an audit trail. All microfilm and paper files are accessible only by authorized personnel who have a need for the information in performing their official duties. Magnetic tapes are in secured storage areas accessible only to authorized personnel.

RETENTION AND DISPOSAL:

The magnetic media are updated periodically. Out-of-date tapes are erased.

SYSTEM MANAGER(S) AND ADDRESSES:

Associate Commissioner, Office of Program Benefits Policy, Room 760 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235.

NOTIFICATION PROCEDURE:

An individual can determine if this system contains data about him/her by writing to the system manager at the address shown above and providing his/her name, address and SSN or EIN. An individual requesting notification via mail must submit sufficient evidence (i.e., the individual's notarized signature or a signed statement that he/she is the individual to whom the record pertains and that he/she understands that there are criminal penalties for making a knowing and willful request for access to records concerning another individual under false pretenses) to establish identity. An individual requesting notification of data in person need not furnish any special documents of identity. Documents he/she would normally carry on his/her person would be sufficient (e.g., credit cards, driver's license, or voter registration card). An individual requesting notification via telephone must furnish a minimum of his/her name, SSN or EIN, date of birth and address in order to establish identity.

RECORD ACCESS PROCEDURES:

Same as notification procedures above. Also, a requester should reasonably identify and specify the information he/she is attempting to obtain. These procedures are in accordance with HHS Regulations 45 CFR part 5b.

CONTESTING RECORD PROCEDURES:

Same as notification procedures above. Also, an individual contesting records in the system should identify the record, specify the information he/she is contesting, state the corrective action sought, and the reasons for the correction with supporting justification showing how the record is incomplete, untimely, inaccurate, or irrelevant.

RECORD SOURCE CATEGORIES:

Data in this system are obtained from representative payee applicants and representative payees, the SSA Office of Inspector General, and other SSA systems of records (e.g., Claims Folder System (09–60–0089), Master Beneficiary Record (09–60–0090), Supplemental Security Income Record (09–60–0103), Master Files of SSN Holders (09–60–0058), Recovery, Accounting for Overpayments (09–60–0094)).

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 96– 12712 Filed 5–21–96; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice 2393; Delegation of Authority No. 145–13]

Delegation of Authority

Pursuant to the Arms Export Control Act as amended (22 U.S.C. 2778 *et seq.*); section 504 and 508 of the FREEDOM Support Act (Public Law 102–511); Executive Order 11958, January 18, 1977, 42 FR 4311, as amended; the President's Memorandum Delegation of Authority dated April 21, 1994; and Section 1(a)(4) of the State Department Basic Authorities Act, as amended, State Department Delegation of Authority No. 145 of February 4, 1990, 45 FR 11655, as amended, is further amended as follows:

(a) Section 1(a)(3) is amended:

(1) by striking the word ''and'' at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting in lieu thereof: '', and''; and

(3) by adding the following new subparagraph:

(D) Section 1324(a) of Title XIII of the Defense Authorization Act, 1996 (Public Law 104–106).

(b) Section 1(a)(8) is amended by striking ''The functions specified in section 504 of the FREEDOM Support Act (22 U.S.C. 5801)'' and inserting in lieu thereof: ''The functions specified in sections 504 and 508 of the FREEDOM Support Act (22 U.S.C. 5801 *et seq.*)''.

This delegation of authority shall be published in the Federal Register.

Dated: May 16, 1996.

Warren Christopher,

Secretary of State.

[FR Doc. 96–12875 Filed 5–21–96; 8:45 am]

BILLING CODE 4710–10–M

TENNESSEE VALLEY AUTHORITY

Chickamauga Dam—Navigation Lock Project

AGENCY: Tennessee Valley Authority.

ACTION: Issuance of record of decision.

SUMMARY: This notice is provided in accordance with the Council on Environmental Quality's regulations and with TVA's procedures implementing the National Environmental Policy Act. TVA has decided to adopt the preferred alternative identified in TVA's final environmental impact statement (EIS) made available to the public on March 26, 1996. A Notice of Availability of the final EIS was published in the Federal Register on April 5, 1996 (61 FR 15252). The preferred alternative is to construct a new 110 x 600 foot lock to replace the existing lock at Chickamauga Dam. Because of structural problems and safety concerns caused by concrete growth, the existing lock at Chickamauga Dam has a limited life expectancy, at most 10 years. TVA will continue to monitor the existing lock and make the necessary repairs to keep the lock in operation until the new lock is available for service. Design and construction of the new lock, subject to available funding, are expected to begin five years prior to closure of the existing lock. This will allow the new lock to be operational before the existing lock is closed, thereby maintaining navigation on the upper Tennessee River.

FOR FURTHER INFORMATION CONTACT: W. Gary Brock, Manager, Water Resources Projects and Planning, Tennessee Valley Authority, West Tower 10C–432, Knoxville, Tennessee 37902, or by calling (423) 632–8877.

SUPPLEMENTARY INFORMATION: The Tennessee River is formed at the confluence of the Holston and French Bread Rivers near Knoxville in eastern Tennessee. From this confluence, the river flows 652 miles through Tennessee, northern Alabama, northeastern Mississippi, and western Kentucky to enter the Ohio River near Paducah, Kentucky. Along most of its counsel, the river falls gradually for a total of 515 feet except in the Muscle Shoals, Alabama, area where a drop of 100 feet occurs in less than 20 miles.

The existing navigation system on the Tennessee River consists of nine multipurpose dams and lock projects with a total of 13 navigation locks. The system creates a series of navigation pools that provide a nine foot navigable channel along the entire length of the river except for a three mile stretch at Knoxville where, in periods of low water, the depth diminishes to seven feet and the channel width diminishes to about 200 feet. Navigation locks on the Tennessee River range in size from 110 x 1000 foot lock at Pickwick Dam to 60 x 300 foot double lift auxiliary lock at Wilson Dam.

The upper Tennessee River navigation system begins at Chickamauga Dam, river mile 471, and extends 181 upstream to the confluence of the Holston and French Broad Rivers. The system consists of four navigation locks located at Chickamauga, Watts Bar, Fort Loudoun, and Melton Hill dams. The four locks were constructed in 1937, 1941, 1942 and 1963 respectively. The predominant commodities trafficked on the upper Tennessee River system are asphalt, grains, ores and minerals, and forest products.

TVA's Chickamauga Dam and Navigation Lock Project is located in Hamilton County, Tennessee, approximately 13 miles northeast of downtown Chattanooga, Tennessee. Chickamauga Lock currently has a traffic level of about 2.1 million tons per year.

TVA and the United States Army Corps of Engineers (USACE) began studying navigation problems on the upper Tennessee River in 1987. The study results were published in 1988 by the Nashville District of the USACE in a report entitled, Commodity Traffic and Benefit Study for Navigation Improvements on the Upper Tennessee River. Both agencies agreed that the small and aging locks on the upper Tennessee River—Chickamauga, Watts Bar, Fort Loudoun—were constraints to navigation and that concrete growth at Chickamauga lock threatened its continued operation. Concrete growth was not a problem at Watts Bar and Fort Loudoun because of the type of cement and aggregate used to construct the projects.

The 1988 study examined the feasibility of increasing the existing locks to 110 x 600 feet size in order to bring the upper Tennessee navigation locks into conformance with locks below Chickamauga on the lower Tennessee River. The study concluded, however, that the benefits would not justify the cost of three new locks on the upper Tennessee River, and that TVA transportation planners should concentrate on improvements at Chickamauga and Watts Bar Locks.

The results of the study of lock improvement benefits at Chickamauga and Watts Bar Dams were presented in a USACE report entitled Upper Tennessee River Navigation Improvement Study Navigation System Analysis (1993) which was produced under contract for TVA. The focus of this study was to estimate benefits that would accrue from a new 110 x 600 foot lock at Chickamauga which would be constructed before the existing lock was closed for an 18 month rehabilitation. At that time, engineering data indicated that the lock could be rehabilitated to function as an auxiliary lock. The study concluded that if any capacity constraints occurred at Watts Bar Lock, nonstructural measures could be used to

control the situation. TVA will continue to evaluate Watts Bar and Fort Loudoun projects. However, TVA has no planned upgrades of these facilities in the foreseeable future.

Because of structural problems and safety concerns TVA continued to perform engineering analyses of the Chickamauga Lock and Dam using new methodology referred to as finite element analysis. The finite element analysis completed in 1995, revealed that because of concrete growth the lock could not be rehabilitated and that, at best, could function for another ten years. At some point, the lock would have to be closed to form a permanent water barrier at the dam. To close the lock, a concrete plug would be poured into the lock chamber to form a permanent water barrier.

Extensive structural repairs and maintenance activities to alleviate problems resulting from concrete continue to be made at Chickamauga Lock. Instrumentation was installed to monitor structural movements and internal stresses.

In its evaluation of alternatives to replace the existing lock at Chickamauga Dam, plugging the lock was defined as TVA's no action alternative. At this time, the alternative of taking absolutely no action is not acceptable because of the deteriorating nature of the lock and potential consequences of dam safety and navigation.

TVA issued a draft EIS on May 10, 1995, that considered the alternative of continued operation of the existing lock. The final EIS does not consider the alternative of rehabilitating the lock because of information described above that became available after release of the draft EIS.

Alternatives Considered

The following four alternatives were considered by TVA in its final EIS in attempting to address the structural problems and safety concerns caused by concrete growth at the Chickamauga Lock.

Alternative 1. Construct a new 110 x 600 foot lock (preferred alternative).

Alternative 2. Permanently close existing lock (no action alternative).

Alternative 3. Construct new 60 x 360 foot lock (replacement in-kind).

Alternative 4. Construct new 75 x 400 foot lock.

The environmental impacts of these alternatives were evaluated in the final EIS. Because of the structural problems and safety concerns, all construction alternatives include plugging the existing lock after the new lock is completed.

Under the no action alternative, the existing lock would have been plugged and no replacement lock built in its place. This would have eliminated navigation through Chickamauga Dam. Upstream industries dependent upon barge transportation would be forced to shift to truck or rail transport of commodities, and recreational boaters and commercial tour operator would not be able to move between Chickamauga and Nickajack Reservoirs. Plugging the existing lock at a cost of $6.8 million to form a permanent water barrier at the dam would have been the least cost alternative for solving the structural problems at the lock.

The 110 x 600 foot lock represents the general standard for locks on the lower Tennessee River and thus, is well suited for barges in general use today. Lock capacity for the 110 x 600 foot lock has been rated at 35.7 million tons. Construction of the 110 x 600 foot lock is estimated to cost $225 million. Total cost of the new lock, including $6.8 million for closure of the existing lock, is $231.8 million in 1995 dollars. Construction of the 60 x 360 and 75 x 400 foot locks would have cost $135 million and $160 million respectively.

Basis for the Decision

TVA decided to adopt Alternative 1, that is, construct a new 110 x 600 foot lock, to address the structural problems at Chickamauga Lock based on environmental, social, economic, recreational, and engineering and public safety considerations. Alternative 1 was chosen as the preferred alternative because it would maintain navigation on the upper Tennessee River and represents the general standard for locks on the lower Tennessee River and, thus is well suited for barges in general use today.

Overall benefits include (1) economies related to a more efficient lock at Chickamauga, (2) a cheaper competitive barge alternative to overland transportation, and (3) construction of a reliable lock at Chickamauga.

Among the three lock sizes considered in this EIS, the benefit cost ratio (4.3) for the 110 x 600 foot lock is higher than the benefit cost ratio (2.5) for the other two locks. The environmental impacts from the construction and operation of the smaller 60 x 360 and 75 x 400 foot locks would be similar to the impacts associated with the preferred 110 x 600 foot lock.

A new 110 x 600 foot lock is expected to generate 467 new jobs and $16.7 million in new income annually in the Hamilton County area over its five-year construction period. Of the 467 jobs, 267 would be directly created while 200 mostly commercial sector positions would be indirectly created. The $9.8 million directly generated income would also result in an additional $6.87 million in indirect monetary gain. While the bulk of these employment and income benefits would accrue to Hamilton County, the project would also have a positive impact on seven other counties identified in the project area.

Under alternative 2, plugging the lock would result in the abandonment of 297 miles of navigable inland waterway and the public's investment in three navigation locks (Watts Bar, Fort Loudoun, and Melton Hill) above Chickamauga. The loss of commercial traffic on the upper Tennessee River is estimated to cost the nation $25 million annually. Additionally, having a lock in place at Chickamauga Dam provides shippers in east Tennessee, North Carolina, Virginia, and South Carolina a competitive alternative to overland transportation modes and a low cost source of certain commodities. For these reasons, the no action alternative is unacceptable to TVA.

TVA also considered the use of portage facilities around Chickamauga Dam to support upstream barge use without the construction of a new lock. However, because this alternative was not economically feasible, it was not evaluated in detail.

Construction of a new lock would result in the loss of some specimen of the endangered pink mucket during dredging for channel improvements. Other potential adverse environmental impacts from construction of a new lock can be substantially avoided or minimized through mitigation measures. By comparison, the no action alternative of plugging the lock without replacing it would stop navigation between Chickamauaga and Nickajack reservoirs, isolate the upper from the lower Tennessee River, and block the potential upstream movement of spawning migratory species such as sauger and buffalo. TVA has therefore concluded that there is no clear environmentally preferable alternative for the Chickamauga Dam—Navigation Lock Project.

Environmental Consequences and Commitments

Environmental consequences associated with construction of a new 110 x 600 foot lock are set out in the final EIS. Environmental impacts include minor loss of aquatic habitat and resident population of freshwater mussels, included one listed

endangered species (pink mucket, *Lampsillis orbiculata*) These losses would be mitigated by relocating the mussels and possibly by other means to be determined during consultation with the United States Fish and Wildlife Service. Disposal sites would be landscaped and vegetated, and potential impacts to a federally endangered plant (Mountain skullcap, *Scutellaria montana*) located adjacent to a disposal site will be mitigated through maintenance of a contiguous 250-foot forest buffer zone. Shoreline restoration downstream will be performed so as to offset erosion and improve riverine wetlands downstream of the project. Fugitive dust would be reasonably controlled through periodic wetting of construction road surfaces or as required by local and state air regulations. No chemical agents, such as oils, will be used to control fugitive dust. Construction of a new lock will have an impact on the existing historic dam complex and will require a Section 106 review. No potential adverse effects on archaeological or cultural resources are anticipated. Temporary high noise levels and navigation traffic congestion would be expected during construction.

Environmental impacts associated with the operation of the new lock include socioeconomic benefits associated with the continuation of commercial and recreation lockages and the loss of four spillway bays. Loss of four spillways bays will not adversely impact TVA's ability to control flooding up to a 5500 year flood event. Further, through appropriate design of discharge structures, TVA will attempt to minimize potential impact on the upstream migration of certain fish species, such as sauger and buffalo.

The construction and operational environmental impacts for the smaller 60×360 and 75×400 foot locks would be similar to the impacts associated with the proposed 110×600 foot lock.

Environmental impacts associated with the no action alternative of plugging the lock without replacing it, include blocking the potential upstream movement of spawning migratory fishes, such as sauger and buffalo. Additionally, navigation through Chickamauga Dam would cease, causing significant economic impact to industry and recreation and would isolate the upper Tennessee River from the lower river system for commercial navigation. This would result in a shift to land transport of goods shipped through Chickamauga Lock which would have adverse impact on air quality from increased truck and rail traffic. Further, separation of the National Oak Ridge Laboratory and other industry from access to barge transportation could result in lost opportunities for industrial expansion, and at Oak Ridge, the inability to move certain national defense equipment there for maintenance and repair.

Additionally, a number of mitigation and monitoring requirements will be incorporated in construction and operational permits needed for the Chickamauga Dam—Navigation Lock Project.

Dated: May 13, 1996.

Kathryn J. Jackson,

Senior Vice President, Resource Group.

[FR Doc. 96–12815 Filed 5–21–96; 8:45 am]

BILLING CODE 8120–01–M

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Tennessee Valley Authority.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 61 FR 22078 (May 13, 1996).

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m. (CDT), Wednesday, May 15, 1996.

PREVIOUSLY ANNOUNCED PLACE OF MEETING: TVA Customer Service Center, 310 Research Boulevard, Starkville, Mississippi.

CHANGES IN THE MEETING: Each member of the TVA Board of Directors has approved the addition of the following items to the previously announced agenda:

F—Unclassified

1. Board approval of a 1996 Funding Plan for nuclear plant decommissionings.

For more information, contact TVA Public Relations at (423) 632–6000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 898–2999.

Dated: May 17, 1996.

William L. Osteen,

Associate General Counsel and Assistant Secretary.

[FR Doc. 96–13023 Filed 5–20–96; 1:15 pm]

BILLING CODE 8120–08–M

DEPARTMENT OF TRANSPORTATION

Security Measures; Hellenikon International Airport, Athens, Greece

Summary

The Secretary of Transportation has now determined that Hellenikon International Airport, Athens, Greece, maintains and carries out effective security measures.

Notice

By notice published on March 28, 1996, I announced that I had determined that Hellenikon International Airport, Athens, Greece, did not maintain and carry out effective security measures and that, pursuant to 49 U.S.C. 44907(d), I was providing public notification of that determination. I now find that Hellenikon International Airport maintains and carries out effective security measures. My determination is based on a recent Federal Aviation Administration (FAA) assessment which reveals that security measures used at the airport now meet or exceed the Standards and Recommended Practices established by the International Civil Aviation Organization.

I have directed that a copy of this notice be published in the Federal Register and that the news media be notified of my determination. In addition, as a result of this determination, the FAA will direct that signs posted in U.S. airports relating to my March 21, 1996, determination be removed, and U.S. and foreign air carriers will no longer be required to provide notice of that determination to passengers purchasing tickets for transportation between the United States and Athens, Greece.

Dated: May 15, 1996.

Federico Peña,

Secretary of Transportation.

[FR Doc. 96–12800 Filed 5–21–96; 8:45 am]

BILLING CODE 4910–62–P

Federal Aviation Administration

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), this notice announces that the information collection request described below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The FAA is requesting an emergency clearance by June 3, 1996, in accordance with 5 CFR § 1320.13. The following information describes the nature of the information collection and its expected burden.

SUPPLEMENTARY INFORMATION:

TITLE: Application for Employment with the Federal Aviation Administration.

The collection of information is an application for employment with the Federal Aviation Administration. Applicants will have to complete a number of background questions to determine their basic eligibility for Federal employment and also answer specific occupation-related questions to determine their qualifications.

NEED: P.L. 104–50 authorized the Federal Aviation Administration to establish its own personnel system outside most of the requirements of Title 5. The only provisions related to hiring that will continue to apply are those dealing with veteran's preference. One of the recommendations of our personnel reform task forces, and in keeping with reengineered business processes under the National Performance Review, we are attempting to centralized and automate some of our application, evaluation and hiring processes. This application is a part of that effort.

We propose to utilize the information collected to make determinations on applicant's eligibility for Federal employment as well as determining their qualifications for employment and certifying the name of qualified applicants to line managers who will make hiring decisions.

RESPONDENTS: The likely respondents will be the general public who are interested in employment with this agency. We estimate that the average number of respondents on an annual basis to be 5,000, each applying one time. The submission of this information is completely voluntary on the part of the applicant.

FREQUENCY: The frequency is based on the respondent, however, we estimate one time per respondent.

BURDEN: The estimated reporting burden is 5,000 hours annually.

Copies of the proposed collection of information may be obtained from: The Federal Aviation Administration, Office of Human Resource Management, Room 515, 800 Independence Avenue, SW., Washington, DC 20591.

Comments may be submitted to the agency at the address above or to: Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street, NW., Washington, DC 20503.

Issued in Washington, DC on May 15, 1996.

Steve Hopkins,

Manager, Corporate Information Division.

[FR Doc. 96–12803 Filed 5–21–96; 8:45 am]

BILLING CODE 4910–13–M

[Summary Notice No. PE–96–25]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before June 10, 1996.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, D.C. 20591.

Comments may also be sent electronically to the following internet address: nprmcmts@mail.hq.faa.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT:

Mr. D. Michael Smith, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–7470.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on May 16, 1996.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No: 28469.
Petitioner: Neptune, Inc.
Sections of the FAR Affected: 14 CFR 137.53(b)(2).
Description of Relief Sought: To permit appropriately trained pilots employed by Neptune, who have less than 100 hours of flight experience as pilot in command in dispensing agriculture materials or chemicals, to conduct aerial firefighting operations over congested areas.

Docket No.: 28503.
Petitioner: Mr. Kenneth R. Pearce.
Sections of the FAR Affected: 14 CFR 91.109 (a) and (b)(3).
Description of Relief Sought: To allow Mr. Pearce to provide recurrent flight training and simulated instrument flight training in Beechcraft Bonanza, Baron, and Travel Air aircraft equipped with a functioning throwover control wheel for the purpose of meeting recency of experience requirements contained in §§ 61.56 (a), (c), (e), (g), and 61.57(e)(2).

Docket No.: 28512.
Petitioner: Mr. Robert P. Lavery.
Sections of the FAR Affected: 14 CFR 91.109 (a) and (b)(3).
Description of Relief Sought: To allow Mr. Lavery to conduct recurrent flight training in Beechcraft Bonanza, Baron, and Travel Air aircraft; and recurrent flight training in simulated instrument flight in Beechcraft Baron and Travel Air aircraft, when those aircraft are equipped with a functioning throwover control wheel in place of functioning dual controls.

Docket No.: 28514.
Petitioner: Mr. Henry D. Canterbury.
Sections of the FAR Affected: 14 CFR 91.109 (a) and (b)(3).
Decription of Relief Sought: To allow Mr. Canterbury to conduct recurrent flight training in Beechcraft Bonanza, Baron, and Travel Air aircraft; and recurrent flight training in simulated instrument flight in Beechcraft Baron and Travel Air aircraft, when those aircraft are equipped with a functioning throwover control wheel in place of functioning dual controls.

Docket No.: 28515.
Petitioner: Mr. Kenneth L. Fossler.
Sections of the FAR Affected: 14 CFR 91.109 (a) and (b)(3).
Decription of Relief Sought: To allow Mr. Fossler to conduct recurrent flight training in Beechcraft Bonanza, Baron, and Travel Air aircraft; and recurrent flight training in simulated instrument

flight in Beechcraft Baron and Travel Air aircraft, when those aircraft are equipped with a functioning throwover control wheel in place of functioning dual controls.

Docket No.: 28517.
Petitioner: Mr. Samuel D. James.
Sections of the FAR Affected: 14 CFR 91.109 (a) and (b)(3).
Decription of Relief Sought: To allow Mr. James to conduct recurrent flight training in Beechcraft Bonanza, Baron, and Travel Air aircraft; and recurrent flight training in simulated instrument flight in Beechcraft Baron and Travel Air aircraft, when those aircraft are equipped with a functioning throwover control wheel in place of functioning dual controls.

Docket No.: 28530.
Petitioner: Mr. John A. Porter.
Sections of the FAR Affected: 14 CFR 91.109 (a) and (b)(3).
Decription of Relief Sought: To allow Mr. Porter to conduct recurrent flight training in Beechcraft Bonanza, Baron, and Travel Air aircraft; and recurrent flight training in simulated instrument flight in Beechcraft Baron and Travel Air aircraft, when those aircraft are equipped with a functioning throwover control when in place of functioning dual controls.

Docket No.: 28533.
Petitioner: Tradewind Turbines Corp.
Sections of the FAR Affected: 14 CFR 21.19.
Decription of Relief Sought: To permit Tradewind Turbines Corp., to apply for a supplemental type certificate rather than a new type certificate for a design change that would replace two piston engines with one turbine engine on the Beechcraft 58P Baron.

Docket No.: 28536.
Petitioner: Mr. Kenneth W. Brown.
Sections of the FAR Affected: 14 CFR 91.109 (a) and (b)(3).
Decription of Relief Sought: To allow Mr. Brown to conduct recurrent flight training in Beechcraft Bonanza, Baron, and Travel Air aircraft; and recurrent flight training in simulated instrument flight in Beechcraft Baron and Travel Air aircraft, when those aircraft are equipped with a functioning throwover control wheel in place of functioning dual controls.

Docket No.: 28538.
Petitioner: Mr. John M. Hirsch.
Sections of the FAR Affected: 14 CFR 91.109 (a) and (b)(3)
Decription of Relief Sought: To allow Mr. Hirsch to conduct recurrent flight training in Beechcraft Bonanza, Baron, and Travel Air aircraft; and recurrent flight training in simulated instrument flight in Beechcraft Baron and Travel Air aircraft, when those aircraft are equipped with a functioning throwover control wheel in place of functioning dual controls.

Disposition of Petitions

Docket No.: 133CE.
Petitioner: Pilatus Aircraft LTD.
Sections of the FAR Affected: 14 CFR 23.562(c)(5).
Description of Relief Sought/ Disposition: To allow Pilatus Aircraft LTD to continue delivering aircraft while they solve the problem of meeting the requirements of § 25.562(c)(5) with a customer acceptable solution.
Partial Grant, April 23, 1996, Exemption No. 6429.

Docket No.: 28370.
Petitioner: Cessna Aircraft Company.
Sections of the FAR Affected: 14 CFR 25.562.
Description of Relief Sought/ Disposition: To permit the Cessna Aircraft Company exemption from the emergency landing dynamic conditions of § 25.562 for multiple-occupancy, side-facing divans in the Cessna Model 750 airplane.
Partial Grant, April 25, 1996, Exemption No. 6432.

Docket No.: 28463.
Petitioner: Cessna Aircraft Company.
Sections of the FAR Affected: 14 CFR 25.161(d).
Description of Relief Sought/ Disposition: To permit the Cessna Aircraft Company exemption from the engine-out lateral/directional trim requirements of § 25.161(d) of the FAR.
Grant, April 26, 1996, Exemption No. 6431.

[FR Doc. 96–12805 Filed 5–21–96; 8:45 am]
BILLING CODE 4910–13–M

Airport Capital Improvement Program National Priority System; Comment Request

AGENCY: Federal Aviation Administration (FAA), (DOT).

ACTION: Notice of Airport Capital Improvement Program (ACIP) National Priority System; opportunity to comment.

SUMMARY: The FAA is clarifying details of the ACIP National Priority System. Comments and recommendations for improving the effectiveness of the ACIP National Priority System are solicited.

DATES: Comments and/or recommendations must be submitted on or before July 22, 1996.

ADDRESSES: Comments may be delivered or mailed to the FAA, Airports Financial Assistance Division, Programming Branch, APP–520, Room 615, 800 Independence Ave, SW, Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Mr. Stan Lou, Manager, Programming Branch, Airports Financial Assistance Division, Office of Airport Planning and Programming, APP–520, on (202) 267–8809.

SUPPLEMENTARY INFORMATION: FAA Order 5100.39, ''Airport Capital Improvement Plan'' describes procedures that are intended to guide the distribution of Airport Improvement Program (AIP) funds to the highest priority projects nationally. In order to implement the ACIP Order, a standard database has been established. This database (NPIAS–CIP) provides a common data structure to compile and analyze airport development needs. A key element of this process is the determination of objective priority ratings for items of work.

The National Priority is a numerical, computer-generated system for prioritizing work items in accordance with agency goals. The ACIP is used as a vehicle to evaluate requests for AIP funded airport development in an airport's five year Capital Improvement Program (CIP).

The ACIP uses a national priority calculation as prescribed by Order 5100.39. Priority numbers are calculated based on the size and type of airport (service level) and the type of project (as described by the NPIAS–CIP project codes). The national priority calculation:

- Provides a standard means to sort projects from high to low priority.
- Is used to measure how well funding plans (the ACIP) address the highest priority needs.
- Imitates the existing AIP priority system.
- Is not intended to be the sole gauge for project approval.

The national priority calculation is as follows:

(P*(APT+C+1)+T)*10+APT

Where:

P=Purpose Points (0 to 5 pts)
Safety/Security=0 pt.
Reconstruction=1 pt.
Standards=2 pts.
Environment=1pt.
Upgade=3 pts.
Capacity=3 pts.
New Airport (Community)= 5 pts.
New Airport (Capacity)=3 pts.
Planning=1 pt.
C=Component Points (1 to 6 pts)
Land=3 pts.
Runway=1 pt.
Taxiway=3 pts.
Apron=4 pts.

Lighting=3 pts.
Approach Aids=2 pts.
Terminal=5 pts.
Access=5 pts.
Planning=1 pt.
Equipment=3 pts.
Other=3 pts.

T=Type Points (1 to 3 points), and
Access=2 pts.
Acquire Airport=2 pts.
Terminal Building Bond=2 pts.
Runway Centerline Lights=1 pt.
Construction=2 pts.
Land for Development=2 pts.
Extension/Expansion=2 pts.
Runway Friction=1 pt.
Gates=2 pts.
Grooving=1 pt.
Helicopter Landing=2 pts.
High Intensity Runway Lights=1 pt.
Improvements=1 pt.
Mass Transit/Master Plan=2 pts.
Metropolitan Planning=2 pts.
Medium Intensity Runway Lights=1 pt.
Miscellaneous=3 pts.
Noise Barrier=2 pts.
Landscaping For Noise=2 pts.
Noise Plan/Suppression=2 pts.
Soundproofing=2 pts.
Obstruction Removal=2 pts.
Parking=3 pts.
Partial Instrument=2 pts.
Relocation Assistance (Non-Noise)=2 pts.
ARFF Vehicle=1 pt.
Relocation Assistance (Noise)=2 pts.
Rehab Runway Lights=1 pt.
Rehab Taxiway Lights=2 pts.
Saftety Related Building=2 pts.
Sealcoat=2 pts.
Security Improvement=1 pt.
Runway Safety Area=1 pt.
Service Road Improvement=3 pts.
Snow Removal Equipment=2 pts.
Runway Sensors =2 pts.
Safety Zone=1 pt.
Terminal=2 pts.
Visual Approach Aids=2 pts.
Construct V/TOL Runway/Vertical Plan=2 pts.
Weather Reporting=2 pts.
Runway/Taxiway Signs=1 pt.
Taxiway Sensors/State Planning =2 pts.
Air Navigation Facilities=2 pts.
Deicing Facilities=1 pt.
Fuel Farm Development=3 pts.
Utility Development=3 pts.

APT=Airport Points (1, 2, 3, or 6 pts). Airport Points are calculated as follows:

Primary and Reliever Airports
Large and Medium Hub=1 pt.
Small and Non Hub=2 pts.
Commercial Service Airports=3 pts.
General Aviation Airports
Aircraft/Operations
100 or 50,000=1 pt.
50 or 20,000=2 pts.
20 or 8,000=3 pts.
<20 of <8,000=6 pts.

The ACIP is used to help make AIP fund allotment decisions for each airport/development type. Funds are allotted to regions through two mechanisms: Commitments and Priorities. Commitments are projects that are believed to merit funding regardless of their relative priority calculation. These projects typically include Letters of Intend (LOI) and ''phased'' projects where it is important to complete a development program to derive an acceptable level of benefit for both the airport and the national system. Funds for Commitment projects are ''set aside'' for each airport/development category. The remainder of the available discretionary funds are distributed to the highest priority projects which remain unfunded in the ACIP. Priority distribution uses a priority ''cut-off'' for each airport/development category.

Issued in Washington, D.C. on May 2, 1996.

Stan Lou,

Manager, Programming Branch.

FR Doc. 96–12813 Filed 5–21–96; 8:45 am]

BILLING CODE 4910–13–M

Aviation Rulemaking Advisory Committee Meeting on Noise Certification Issues

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration Aviation Rulemaking Advisory Committee to discuss noise certification issues.

DATES: The meeting will be held on June 12, 1996, at 9 a.m. Arrange for oral presentations by May 31, 1996.

ADDRESSES: The meeting will be held at the General Aviation Manufacturers Association, suite 801, 1400 K Street, NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Carolina Forrester, Federal Aviation Administration, Office of Rulemaking (ARM–206), 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–9690; fax (202) 267–5075.

SUPPLEMENTARY INFORMATION: Pursuant to § 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II), notice is hereby given of a meeting of the Aviation Rulemaking Advisory Committee to be held on June 12, 1996, at the General Aviation Manufacturers Association, Suite 801, 1400 K Street, NW, Washington, DC 20005. The agenda will include:

- Opening Remarks.
- Committee administration.
- Presentation of Work Plan by the FAR/JAR Harmonization Working Group for Helicopters.
- Presentation of Work Plan by the FAR/JAR Harmonization Working Group for Propeller-Driven Small Airplanes.
- Presentation of Work Plan by the FAR/JAR Harmonization Working Group for Subsonic Transport Category Large Airplanes and Subsonic Turbo jet Powered Airplanes.
- A discussion of future meeting dates, activities, and plans.
- Adjourn.

Attendance is open to the interested public, but will be limited to the space available. The public must make arrangements by May 31, 1996, to present oral statements at the meeting. The public may present written statements to the committee at any time by providing 25 copies to the Executive Director, or by bringing the copies to him at the meeting. In addition, sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Washington, DC, on May 15, 1996.

Paul R. Dykeman,

Assistant Executive Director for Noise Certification Issues, Aviation Rulemaking Advisory Committee.

[FR Doc. 96–12804 Filed 5–21–96; 8:45 am]

BILLING CODE 4910–03–M

RTCA, Inc.; Government/Industry Free Flight Steering Committee

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for an RTCA Government/Industry Free Flight Steering Committee meeting to be held June 13, 1996, starting at 1:30 p.m. The meeting will be held at the Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, in Conference Room 8ABC (8th floor).

The agenda will be as follows: (1) Welcome/Opening Remarks; (2) Review Summary of April 11 Meeting; (3) FAA Presentation of National Airspace System Architecture; (4) Program Management Team Presentation of Recommended Government/Industry Free Flight Action Plan

(Responsibilities, Priorities, Milestones); (5) Free Flight Steering Committee Discussion (Guidance and Direction; Plans for August 14 Meeting); (6) Closing Remarks.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036; (202) 833–9339 (phone) or (202) 833–9434 (fax). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on May 17, 1996.

Janice L. Peters,

Designated Federal Officer.

[FR Doc. 96–12840 Filed 5–21–96; 8:45 am]

BILLING CODE 4910–13–M

RTCA, Inc.; Special Committee 159 Working Group 4; Minimum Operational Performance Standards For Airborne Navigation Equipment Using Global Positioning System (GPS); Precision Approach and Landing (Cat II/III)

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 159 Working Group 4 meeting to be held June 3–5, 1996, starting at 9:00 a.m. This is less than 15 days notice due to increased emphasis on this group's work effort and the need to begin this process immediately. The meeting will be held at the Holiday Inn Solomons, 155 Holiday Drive, Solomons, MD, 20688, phone (800) 356–2009/(410) 326–6311; Mr. Glenn Colby, host, (301) 342–4441 (phone), (301) 342–2626 (fax).

The agenda will include presentations on CAT II/III requirements, technology and test results, and a review of the status of the draft CAT II/III Minimum Aviation System Performance Standards (MASPS) document; discussion of a paper on user differential range error, planned for June 4 at 9:00 a.m.; circulation of the changes to RTCA/DO–217, MASPS DGNSS Instrument Approach System: Special Category I (SCAT–I), for final action by the Special Committee 159 plenary on July 12; and topics for discussion at the Working Group 4 meeting to be held at RTCA July 9–11.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact Mr. Keith McDonald, Chair of Working Group 4, at (703) 578–0700; Dr. George Ligler, Co-Chair of Working Group 4A, at (301) 983–4388; or Mr. Harold Moses, RTCA Program Director, at (202) 833–9339. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on May 17, 1996.

Janice L. Peters,

Designated Federal Officers.

[FR Doc. 96–12841 Filed 5–21–96; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Request To Amend an Approved Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Miami International Airport, Miami, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on a Request to Amend an Approved Application.

SUMMARY: The FAA proposes to rule and invites public comment on the request to amend the approved application to impose and use the revenue from a PFC at Miami International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before June 21, 1996.

ADDRESSES: Comments on this request may be mailed or delivered in triplicate to the FAA at the following address: Orlando Airports District Office, 9677 Tradeport Drive, Suite 130, Orlando, Florida 32827.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Gary Dellapa, Director of the Dade County Aviation Department at the following address: P.O. Box 592075, Miami, Florida 33159.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Dade County Aviation Department under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Bart Vernace, Plans & Programs Manager, 9677 Tradeport Drive, Suite 130, Orlando, Florida, 32827, 407–648–6583, extension 27. The request may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the request to amend the application to impose and use the revenue from a PFC at Miami International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On May 7, 1996, the FAA received the request to amend the application to impose and use the revenue from a PFC submitted by the Dade County Aviation Department within the requirements of Section 158.37(b) of Part 158. The FAA will approve or disapprove the amendment, in whole or in part, no later than September 4, 1996.

The following is a brief overview of the request. Proposed increase in total estimated PFC revenue: From $28,637,000 to $76,386,000.

Any person may inspect the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may inspect the request in person at the Dade County Aviation Department.

Issued in Orlando, Florida on May 14, 1996.

Charles E. Blair,

Manager, Orlando Airports District Office Southern Region.

[FR Doc. 96–12806 Filed 5–21–96; 8:45 am]

BILLING CODE 4910–13–M

MARITIME ADMINISTRATION

[Docket No. M–017]

Information Collection Available for Public Comments and Recommendations

AGENCY: Maritime Administration.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Maritime Administration's (MARAD's) intentions to request extension of approval for three years of a currently approved information collection.

DATES: Comments should be submitted on or before July 22, 1996.

FOR FURTHER INFORMATION CONTACT: Linda C. Somerville, Division of Vessel Transfer and Disposal, Maritime Administration, MAR–631, Room 7324,

400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–5821 or fax 202–366–3889. Copies of this collection can also be obtained from that office.

SUPPLEMENTARY INFORMATION:

Title of Collection: Trustee's Supplemental Certification.

Type of Request: Extension of currently approved information collection.

OMB Control Number: 2133–0015.

Form Number: MA–580.

Expiration Date of Approval: August 31, 1996.

Summary of Collection of Information: Provide for approval of banks and trust companies to act as Trustees under certain ship financing trusts and provide a procedure for assuring the validity and preferred status of mortgages on U.S. flag vessels and certain mortgages requiring Secretarial approval. The approved bank or trust company is required to furnish its supplemental certification every five years in order to remain on the Roster of Approved Trustees. The processing fee for this application is $215.00 per filing.

Need and Use of the Information: Information collection provides information that will be used by the Maritime Administration to determine whether the bank or trust company continues to meet the statutory requirements to serve as Trustees.

Description of Respondents: Banks and trust companies.

Annual Responses: 68.

Annual Burden: 51 hours.

Comments: Send all comments regarding this information collection to Joel C. Richard, Department of Transportation, Maritime Administration, MAR–120, Room 7210, 400 Seventh Street, SW., Washington, DC 20590. Send comments regarding whether this information collection is necessary for proper performance of the function of the agency and will have practical utility, accuracy of the burden estimates, ways to minimize this burden, and ways to enhance quality, utility, and clarity of the information to be collected.

By Order of the Maritime Administrator.

Dated: May 16, 1996.

Joel C. Richard,

Secretary.

[FR Doc. 96–12798 Filed 5–21–96; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition for Modification of Exemption From the Vehicle Theft Prevention Standard; General Motors Corporation

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petition for modification of a previously approved antitheft device.

SUMMARY: On April 9, 1991, this agency granted in part General Motors Corporation's (GM) petition for exemption from the parts-marking requirements of the vehicle theft prevention standard for the Buick Park Avenue car line. This notice grants in full GM's petition for modification of the previously approved antitheft device for that line. The agency grants this petition because it has determined, based on substantial evidence, that the modified antitheft device described in GM's petition to be placed on the car line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements.

DATES: The exemption granted by this notice is effective beginning with model year (MY) 1997.

FOR FURTHER INFORMATION CONTACT: Ms. Rosalind Proctor, Office of Planning and Consumer Programs, NHTSA, 400 Seventh Street, S.W., Washington, DC 20590. Ms. Proctor's telephone number is (202)366–1740. Her fax number is (202) 493–2739.

SUPPLEMENTARY INFORMATION: In April 1991, NHTSA published in the Federal Register a notice granting in part the petition from General Motors Corporation (GM) for an exemption from the parts-marking requirements of the Theft Prevention Standard (49 CFR Part 541) for the model year 1992 Buick Park Avenue car line. (See 56 FR 14413, April 9, 1991). The agency determined that the PASS-Key antitheft device, which GM intended to install on the Buick Park Avenue car line as standard equipment, was likely to be as effective in reducing and deterring motor vehicle theft as would compliance with the parts-marking requirements of the Theft Prevention Standard. The agency decided based on the information available at that time that a full exemption was not appropriate and granted a partial exemption, which required that the engine and transmission on this line continue to be marked. The agency limited the exemption because the antitheft device lacked both an audible and a visual alarm to call attention to unauthorized entry of the vehicle. The lack of such a warning device made the agency uncertain whether the device would be as effective as parts marking in deterring theft of this vehicle.

On February 16, 1996, GM submitted its petition for modification to its previously approved PASS-Key antitheft device. The petition also asked that the line be granted a full rather than partial exemption. GM's submittal is considered a complete petition, as required by 49 CFR Part 543.9(d), in that it meets the general requirements contained in § 543.5 and the specific content requirements of § 543.6. GM requested confidential treatment for some of the information and attachments submitted in support of its petition for modification. In a letter to GM dated March 1, 1996, the agency granted the petitioner's request for confidential treatment.

In its petition for MY 1992, GM included a detailed description of the identity, design and location of the components of the PASS-Key antitheft device, including diagrams of components and their location in the vehicle. GM described the PASS-Key antitheft device installed as standard equipment as passively activated. The PASS-Key antitheft device utilizes an ignition key, an ignition lock cylinder and a decoder module.

GM stated that for MY 1997, the PASS-Key III antitheft device will utilize more advanced technology than the PASS-Key or PASS-Key II devices. The PASS-Key III device will add new features and refinements to some of the previous PASS-Key/PASS-Key II components. As with the PASS-Key and PASS-Key II antitheft devices, the PASS-Key III device will remain fully functional once the ignition has been turned off and the key has been removed. No operator action will be required other than removing the key. The PASS-Key III will also use a special ignition key and decoder module. The conventional mechanical key unlocks and releases the steering wheel and transmission lever. However, before the vehicle can be operated, the key's electrical code must be sensed by the key cylinder and properly decoded by the decoder module.

GM stated that the transponder, now embedded in the head of the key for the PASS-Key III device, is stimulated by a coil surrounding the key cylinder. The transponder in the key then emits a modulated signal at a specified radio frequency. The identity of the key is an integral and unique code within the

modulated signal. The PASS-Key III device has the potential for four trillion or more unique electrical key codes. The key cylinder coil receives and sends the modulated signal to the decoder. When the decoder module recognizes a valid key code, it sends an encoded message to the Powertrain Control Module (PCM) to enable fuel flow and starter operation. If an invalid key is detected, the PASS-Key III decoder module will transmit a different password to the PCM to disable fuel flow and starter operation.

The PASS-Key II device was designed to shut down for three to four minutes if an invalid key was detected, preventing further attempts at starting the vehicle during that shutdown. However, GM believes that the time-consuming task of attempting to defeat the device having over four trillion key codes by a trial-and-error method eliminates the need for such an extensive shutdown period. Therefore, with the PASS-Key III device, a shut-down period occurs only if someone is attempting to program a new electronically coded key. Shut-down occurs for ten seconds with a valid key and thirty minutes with a non-valid key. As an additional security measure, GM will provide the MY 1997 Buick Park Avenue owner/operator with a ''valet'' version of the PASS-Key III ignition key that will be modified to prevent the ten-second code-duplication possible with the normal ignition key.

The PASS-Key III decoder module and antenna will be located in the steering column for MY 1997. GM stated that the device cannot be defeated by removing and then subsequently reapplying vehicle power. Additionally, GM stated that replacement of the decoder module will not defeat the device because of its decoder module password.

Upon starting the vehicle, the ignition switch will enable power to the PASS-Key III device causing the decoder module to illuminate a ''security'' light on the instrument cluster. GM states that this ''bulb check'' sequence will last for five seconds and then the light will return to the normal state (''off'') for a valid key. Any attempts to start the vehicle with an electronically invalid key will cause the ''security'' light to turn on. Should an error arise during normal operation, the ''security'' light is enabled, signaling to the operator that a fault has been detected in the PASS-Key III device. According to GM, the vehicle will continue to operate despite the fault, however, vehicle security may be compromised.

GM stated that the PASS-Key III device has been designed to enhance the functionality and theft protection of the first and second-generation PASS-Key and PASS-Key II devices. However, as in the first and second-generation PASS-Key devices, the PASS-Key III device does not provide an alarm, either audible or visual to attract the attention to the efforts of an unauthorized person to enter or move the vehicle by means other than a key (49 CFR § 543.6(a)(3)(ii).) To substantiate its belief that an alarm system is not a necessary feature to effectively deter the theft of a vehicle, GM compared the reduction in thefts for Corvettes equipped with a passive antitheft device *with* an audible/visible alarm feature (24% reduction), and the Chevrolet Camaro and Pontiac Firebird car lines equipped with a passive antitheft device *without* an alarm feature (66% and 69% reduction).

The following GM car lines have the ''PASS-Key'' device as standard equipment and have been exempted in part from the requirements of 49 CFR Part 541: the Chevrolet Camaro and Pontiac Firebird, beginning with MY 1990 (See 54 FR 3365, August 15, 1989); the Cadillac DeVille/Fleetwood and Oldsmobile 98, beginning with MY 1991 (See 55 FR 17854, April 27, 1990); and the Pontiac Bonneville and Buick Park Avenue, beginning with MY 1992 (See 56 FR 14413, April 9, 1991). NHTSA has also granted exemptions in part for the following GM car lines that have PASS-Key II as standard equipment: the Oldsmobile 88 Royale and Buick LeSabre, beginning with MY 1993 (See 57 FR 10517, March 26, 1992) and the Cadillac Eldorado and Cadillac Seville, beginning with MY 1994 (see 58 FR 11659, February 26, 1993).

The agency had granted partial, rather than full exemptions for the car lines listed above because neither the PASS-Key nor PASS-Key II antitheft devices included an audible or visual alarm system. As such, the GM systems lack, as standard equipment, an important feature that the agency has defined in its rulemaking on Part 543 as one of several attributes which contribute to the effectiveness of an antitheft device: automatic activation of the device; an audible or visual signal that is connected to the hood, doors, and trunk, and draws attention to vehicle tampering; and a disabling mechanism designed to prevent a thief from moving a vehicle under its own power without a key.

Since deciding those petitions, however, the agency has become aware that theft data show declining theft rates for GM vehicles equipped with either version of the PASS-Key device. A comparison of theft data for car lines incorporating the PASS-Key and PASS-Key II devices does not show that the lack of an audible or visual alarm system detracts from the effectiveness of the PASS-Key and PASS-Key II devices. The agency believes that the data show that over time, despite the absence of an audible or visual alarm system, the PASS-Key and PASS-Key II devices, when placed on car lines as standard equipment, are as likely to be as effective in deterring and reducing motor vehicle theft as compliance with the parts-marking requirements.

Based on this information, the agency has granted two GM petitions for full exemptions for car lines equipped with the PASS-Key II antitheft device. Those lines are the Chevrolet Lumina and Buick Regal car lines (See 60 FR 25938, May 15, 1995) and the Buick Riviera and Oldsmobile Aurora car lines (See 58 FR 44872, August 25, 1993). In both of those instances, the agency concluded that a full exemption was warranted because the PASS-Key II device had shown itself to be as likely as parts marking to be effective protection against theft despite the absence of a visual or audible alarm. Because the PASS-Key III device to be used in the Buick Park Avenue beginning in MY 1997 is an improved version of these systems, the agency concludes that a full exemption is appropriate for this car line as well.

To ensure reliability and durability of the device, GM stated that it conducted tests based on its own specified standards. GM provided the test results for the PASS-Key III device showing that the device complied with the specified performance requirements of each test. GM stated that the PASS-Key III device complied with it standards for power temperature cycling, high and low temperature storage, humidity, salt fog, drop, dust, thermal shock, frost, altitude, shock, random vibration and potential contaminants.

To substantiate its beliefs as to the effectiveness of the PASS-Key III antitheft device, GM compared its MY 1997 antitheft modification to similar devices that have previously been granted exemptions by the agency. GM provided data on the Chevrolet Camaro, Pontiac Firebird, Cadillac DeVille/ Fleetwood, Cadillac Seville and Cadillac Eldorado car line theft rates for MYs 1986 through 1991. PASS-Key was made standard on the Camaro, Firebird, Seville and Eldorado beginning with MY 1989 and on the DeVille/ Fleetwood beginning with MY 1990. The data provided by GM were reported by the Federal Bureau of Investigation's National Crime Information Center (NCIC), which is NHTSA's official source of theft data (See 50 FR 46666,

November 12, 1985). The NCIC receives reports on all thefts.

The NCIC data reported by GM showed that the Camaro, Firebird, DeVille/Fleetwood, Seville and Eldorado theft rates (per thousand vehicles) by Model Year were: For MY 1986, 29.49 for the Camaro, 27.83 for the Firebird, 7.11 for the DeVille/Fleetwood, 1.71 for the Seville and 2.27 for the Eldorado; for MY 1987, 26.03 for the Camaro, 30.14 for the Firebird, 6.16 for the DeVille/Fleetwood, 9.24 for the Seville and 3.90 for the Eldorado; for MY 1988, 25.74 for the Camaro, 29.39 for the Firebird, 7.91 for the DeVille/Fleetwood, 9.54 for the Seville and 3.16 for the Eldorado; for MY 1989, 8.69 for the Camaro, 9.00 for the Firebird, 5.57 for the DeVille/Fleetwood, 8.31 for the Seville and 2.35 for the Eldorado; for MY 1990, 9.04 for the Camaro, 8.04 for the Firebird, 3.85 for the DeVille/Fleetwood, 9.43 for the Seville and 2.44 for the Eldorado; for MY 1991, 7.80 for the Camaro, 6.37 for the Firebird, 4.06 for the DeVille/Fleetwood, 7.95 for the Seville and 2.83 for the Eldorado.

GM believes that based on the reduced theft rates of its PASS-Key and PASS-Key II equipped car lines and the proven theft-deterrence success of transponder electronics security, the PASS-Key III device to be introduced on the MY 1997 Buick Park Avenue is likely to be more effective in reducing and deterring motor vehicle theft than compliance with the parts marking requirements of 49 CFR Part 541.

The agency believes that there is substantial evidence indicating that the modified antitheft device to be installed as standard equipment on the MY 1997 Buick Park Avenue car line will likely be as effective in reducing and deterring motor vehicle theft as compliance with the requirements of the Theft Prevention Standard (49 CFR Part 541). This determination is based on the information that GM submitted with its petition and on other available information. The agency believes that the modified device will continue to provide the types of performance listed in Section 543.6(a)(3): promoting activation; attracting attention to unauthorized entries; preventing defeat or circumventing of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

As required by 49 CFR Section 543.6(a)(4), the agency also finds that GM has provided adequate reasons for its belief that the modified antitheft device will reduce and deter theft. This conclusion is based on the information GM provided on its PASS-Key III device. This information included a description of reliability and functional tests conducted by GM for the PASS-Key III antitheft device and its components.

For the foregoing reasons, the agency hereby exempts the Buick Park Avenue car line, which is the subject of this notice, in whole, from the requirements of 49 CFR Part 541.

Section 543.9(h)(2)(i), specifically reads, ''* * * an exemption under this section takes effect on the first day of the model year following the model year in which NHTSA issued the modification decision.'' Therefore, since the agency is issuing its decision on the General Motors Corporation modification during model year 1996, the modification for the Buick Park Avenue car line becomes effective beginning with Model Year 1997.

If, in the future, GM decides not to use the exemption for the car line that is the subject of this notice, it should formally notify the agency. If such a decision is made, the car line must be fully marked according to the requirements under 49 CFR Section 541.5 and Section 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if GM wishes in the future to modify the device on which this exemption is based, it may have to submit a petition to modify the exemption. Part 543.7(d) states that a Part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the antitheft device on which the line's exemption is based. Further, Section 543.9(c)(2) provides for the submission of petitions ''(t)o modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption.''

The agency wishes to minimize the administrative burden which section 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend in drafting Part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be de minimis. Therefore, NHTSA suggests that if the manufacturer contemplates making any changes the effects of which might be characterized as de minimis, it should consult the agency before preparing and submitting a petition to modify.

Authority: 49 U.S.C. 33106; delegation of authority at 49 CFR 1.50.

Issued on: May 17, 1996.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 96–12842 Filed 5–21–96; 8:45 am]

BILLING CODE 4910–59–P

Research and Special Programs Administration

Office of Hazardous Materials Safety; Notice of Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions form the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the ''Nature of Application'' portion of the table below as follow: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before (30 days after publication).

ADDRESS COMMENTS TO: Dockets Unit, Research and Special Programs, Administration, U.S. Department of Transportation, Washington, DC 20590. Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption application number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Unit, Room 8426, Nassif Building, 400 7th Street, SW., Washington, DC.

NEW EXEMPTIONS

Application	Applicant	Regulations(s) affected	Nature of exemption thereof
1167–N	Chaparral, Inc., Lubbock, TX	49 CFR 171.11, 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107 Appendix B.	To authorize the transportation in commerce of Division 1 explosives presently forbidden or in quantities greater than those authorized for shipment by air. (Mode 4.)
11678–N	Air Transport Association, Washington, DC.	49 CFR 172.200, 172.201, 172.202, 172.203, 172.204, 172.300, 172.301, 172.415, 172.600–604, 173.29 & 175.33.	To authorize the transportation in commerce of DOT approved cylinders, not to exceed 7.5 cu. ft., used in connection with calibration devices for alcohol testing units for flight crews, containing Division 2.2. material to be transported without required marking, labelling, shipping paper, and notification of pilot in command. (Modes 4, 5.)
11679–N	Dorbyl Engineering, Container Division (DHE), Republic of South Africa.	49 CFR 178.245–1(b)	To authorize the manufacture, mark and sale of non-DOT specification portable tanks, mounted in ISO frames, to be used for the transportation in commerce of Division 2.1., 2.2 and 2.3 material. (Modes 1, 2, 3.)
11680–N	Citergaz SA, 86 400 Civray, FR	49 CFR 178.245–1(b)	To authorize the manufacture, mark and sale of non-DOT specification portable tank containers similar DOT specification 51 equipped with openings in areas other than on the top or at the end for use in transporting gases in Division 2.1 and 2.2. (Modes 1, 2, 3.)
11681–M	Citergaz SA, 86 400 Civray, FR	49 CFR 178.245–1(b)	To authorize the manufacture, mark and sale of non-DOT specification portable tank comparable to DOT Specification 51, except for the location of the openings to be used for the transportation in commerce of certain Division 2.1 and 2.2 gases. (Modes 1, 2, 3.)
11682–N	Cryolor, Argancy, 57365 Ennery—France.	49 CFR 178.338–2 (a)&(e)	To authorize the transportation in commerce of a vacuum insulated, non-DOT specification portable tank permanently fitted within an ISO frame for the use in transporting certain refrigerated liquid, Division 2.2. (Modes 1, 2, 3.)
11686–N	Bridgeview, Inc., Morgantown, PA	49 CFR 171.8, 172.101(8.c), 173.197	To authorize the transportation in commerce of regulated medical waste in plastic bags in non-DOT specification steel roll-off containers as outer packaging. (Mode 1.)
11687–N	Tri-Tank Corp., Syracuse, NY	49 CFR 178.245–6	To authorize the transportation in commerce of non-DOT specification 51 cargo tank with specification plate located on the sideshell for use in transporting Class 8 material. (Mode 1.)
11690–N	CP Industries, Inc., McKeesport, PA	49 CFR 178.45–2(b)	To authorize the manufacture, mark and sale of 3T cylinder in sizes smaller than 1000 lbs. capacity for use in transporting various non-liquefied and liquefied compressed gases Division 2.1 and 2.2. (Mode 1.)
11691–N	PepsiCo International, Valhalla, NY ...	49 CFR 176.331, 176.800(a), 176.83(d).	To authorize the transportation in commerce of various classes of hazardous materials and foodstuffs to be exempt from segregation requirements during vessel stowage. (Mode 3.)
11692–N	SCM Technologies, Tilbury, OR	49 CFR 173.301, 173.302, 173.304, 175.3, 178.45.	To authorize the manufacture, mark and sale of a non-DOT specification cylinder similar to DOT 3T, except with a lower minimum allowable wall thickness for use in transporting certain Division 2.1, 2.2, and 2.3 material. (Modes 1, 2, 3, 4.)
11693–N	Kemin Industries, Inc., Des Moines., IA.	49 CFR 173.218(c)	To authorize the bulk transportation by vessel, in freight containers, of fishmeal treated with NATUROX instead of ethoxyqui, Division 4.2. (Mode 3.)
11697–N	Department of Defense, Falls Church, VA.	49 CFR 176.116	To authorize an alternative stowage method for MSC chartered LASH type vessels to carry Division 1 explosives in LASH barges within 10 feet of machinery spaces under certain conditions. (Mode 3.)

This notice of receipt of applications for new exemptions is published in accordance with Part 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on May 15, 1996.

J. Suzanne Hedgepeth,

Director, Office of Hazardous Materials Exemptions and Approvals.

[FR Doc. 96–12801 Filed 5–21–96; 8:45 am]

BILLING CODE 4910–60–M

Office of Hazardous Materials Safety, Notice of Applications for Modification of Exemptions or Applications To Become a Party to an Exemption

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applications for modification of exemptions or applications to become a party to an exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier Federal Register publications, they are not repeated here. Requests for modifications of exemptions (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) are described in footnotes to the application number. Application numbers with the suffix ''M'' denote a modification request. Application numbers with the suffix ''P'' denote a party to request. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comments must be received on or before (15 days after publication).

ADDRESS COMMENTS TO: Dockets Unit, Research and Special Programs, Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption number.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Unit, Room 8426, Nassif Building, 400 7th Street SW., Washington, DC.

Application No.	Applicant	Renewal of exemption
9413–M	EM Science, Cincinnati, OH (See Footnote 1).	9413
9926–M	Implementos Agricolas, Gomez Palacio, DGO, MX (See Footnote 2).	9926
10798–M	Olin Corp., Stamford, CT (See Footnote 3).	10798
11227–M	Western Atlas International, Houston, TX (See Footnote 4).	11227
11658–M	AFR Arbel Fauvet Rail, Douai, France (See Footnote 5).	11658
11661–M	AFR Arbel Fauvet Rail, (See Footnote 6).	11661

(1) To modify the exemption to provide for rail as an additional mode of transportation for use in transporting chemical kits.

(2) To modify the exemption to increase the service pressure to 2200 psi for non-DOT specification cylinders manufactured in accordance with DOT–39 specification except for material of construction.

(3) To modify the exemption to provide for the unloading of several additional classes of hazardous material from tank cars while connections are attached when no product is being transferred.

(4) To modify the exemption to provide for an additional power device, Division 1.4C, in specially designed vehicles and offshore tool pallets.

(5) To reissue exemption originally issued on an emergency basis to authorize the transportation in commerce of certain Division 2.1 and 2.2 gases in non-DOT specification IMO Type 5 portable tanks which are comparable to DOT specification 51 except the tank has bottom outlets.

(6) To reissue the exemption originally issued on an emergency basis to authorize the manufacture, marking and sale of non-DOT specification portable tanks for the transportation of refrigerant gases. Tanks meet DOT Specification 51 except for location of openings.

Application No.	Applicant	Parties to exemption
7835–P	Praxair Distribution, Inc., Austin, TX.	7835
8451–P	Action Manufacturing Company, Philadelphia, PA.	8451
8554–P	Evenson Explosives, LLC, Morris, IL.	8554
9275–P	SmithKline Beecham, King of Prussia, PA.	9275
9275–P	Ohmeda, Inc., Liberty Corner, NJ.	9275
9273–P	Seacoast Ocean Services, Incorporated, Portland, ME.	9723
9769–P	Laidlaw Environmental Svcs. de Mexico, SA de C.V., Columbia, SC.	9769
9769–P	Laidlaw Environmental Services (Quebec), Ltd., Columbia, SC.	9769
9769–P	Laidlaw Environmental Services, Ltd., Columbia, SC.	9769
9769–P	Laidlaw Environmental Services (Recovery), Inc., Columbia, SC.	9769
9769–P	Laidlaw Environmental Services of South Carolina, Columbia, SC.	9769
9769–P	Laidlaw Environmental Services of Bartow, Inc., Columbia, SC.	9769
9769–P	Laidlaw Environmental Services (WT), Inc., Columbia, SC.	9769
9769–P	Laidlaw Environmental Services of Chattanooga, Columbia, SC.	9769
9769–P	Municipal Services Corportion, Inc., Columbia, SC.	9769
9769–P	Solvent Service Company, Inc., Columbia, SC.	9769
9769–P	Masters Wash Products, Inc., Columbia, SC.	9769
9769–P	Clean Venture, Inc., Elizabeth, NJ.	9769
9769–P	Chemical Conservation Corporation, Orlando, FL.	9769
10001–P	Tristate Airgas, Inc. d/b/a Randall-Graw Co., Inc., La Crosse, WI.	10001
10441–P	Superior Special Services, Inc., Port Washington, WI.	10441
10441–P	Environmental Options, Inc., Rocky Mount, VA.	10441
10751–P	Austin Powder Company Cleveland, OH.	10751
10933–P	Environmental Options, Inc., Rocky Mount, VA.	10933
10933–P	Hydrocarbon Recyclers, Inc., Columbia, SC.	10933
10996–P	Luna Tech, Inc., Owens Cross Roads, AL.	10996
11043–P	Superior Special Services. Inc., Port Washington, WI.	11043
11043–P	Chemical Conservation Corporation, Orlando, FL.	11043
11055–P	Superior Special Services, Inc., Port Washington, WI.	11055

Application No.	Applicant	Parties to exemption
11153–P	Chemical Conservation Corporation, Orlando, FL.	11153
11156–P	Buckley Powder Co. of Oklahoma, Inc., Mill Creek, OK.	11156
11373–P	P.B. & S. Chemical Company, Inc., Henderson, KY.	11373
11458–P	American Home Food Products, Inc., Milton, PA.	11458
11458–P	Prestone Products Corporation, Danbury, CT.	11458
11458–P	Sherwin-Williams Diversified Brands, Inc., Solon, Oh.	11458
11472–P	Industrial Solid Propulsion, Inc., Las Vegas, NV.	11472
11472–P	Aero Tech, Inc., Las Vegas, NV.	11472
11588–P	American Type Culture Collection, Rockville, MD.	11588
11588–P	Culver Enterprises, Inc., Salisbury, MD.	11588
11588–P	Safety Disposal System, Inc., Opa Locka, FL.	11588
11588–P	Health Care Incinerators, Fargo, ND.	11588
11588–P	GRP & Associates, Inc., Clear Lake, IA.	11588

This notice of receipt of applications for modification of exemptions and for party to an exemption is published in accordance with Part 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on May 15, 1996.

J. Suzanne Hedgepeth,

Director, Office of Hazardous Materials Exemptions and Approvals.

[FR Doc. 96–12802 Filed 5–21–96; 8:45 am]

BILLING CODE 4910–60–M

Surface Transportation Board [1]

[STB Finance Docket No. 32938]

Bootheel Regional Rail Corporation and Bootheel Rail Properties, Inc.—Acquisition and Operation Exemption—Burlington Northern Santa Fe Corporation

Bootheel Regional Rail Corporation (BRRC) and Bootheel Rail Properties, Inc. (BRPI), noncarriers, have filed a verified notice of exemption under 49 CFR 1150.31 for BRPI to acquire and BRRC to operate a 26.63-mile rail line (together with incidental and appendent branch line rights-of-way, now discontinued, and spur tracks) from the Burlington Northern Santa Fe Railroad as follows: (1) Branch Line between Hayti, MO, (milepost 212.73), and Kennett, MO, (milepost 230.00); (2) discontinued Branch Line right-of-way from Kennett, MO, (milepost 230.00), to Holcomb, MO, (milepost 233.15); (3) discontinued Branch Line right-of-way from Kennett, MO, (milepost 230.00), to Senath, MO, (milepost 233.52); (3) discontinued Piggott Stub Branch Line right-of-way, (milepost 222.19 to milepost 223.40); and (4) discontinued Branch Line from Hayti, MO, (milepost 212.90), to Caruthersville, MO, (milepost 214.38).

The transaction was to be consummated on or after May 8, 1996.

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 revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 32938, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, N.W., Washington, DC 20423. In addition, a copy of each pleading must be served on Allan A. Maki, Jr., Esq., 1563 Grandview Drive, Cape Girardeau, MO 63701–2223.

Decided: May 16, 1996.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96–12830 Filed 5–21–96; 8:45 am]

BILLING CODE 4915–00–P

Surface Transportation Board [1]

[STB Finance Docket No. 32941]

Livonia, Avon & Lakeville Railroad Corp.—Acquisition and Operation Exemption—Steuben County Industrial Development Agency (19492)

Livonia, Avon & Lakeville Railroad Corp. (LAL), a Class III common carrier by rail, has filed a verified notice under 49 CFR 1180.2(d)(2) to acquire the exclusive right to operate over Steuben County Industrial Development Authority's rail line (Subject Line) between milepost ±8.68 at Hammondsport and milepost ±0.85 at Bath,[2] and from that point (which is also designated as milepost ±285.10) to milepost ±311.30 at Wayland, a distance of approximately 34.03 route miles.

Consummation of the transaction was expected to occur on May 8, 1996, or soon thereafter.

LAL owns and operates a line of railroad between Rochester and Lakeville, NY. This transaction is exempt from the prior approval requirements of 49 U.S.C. 11323 because LAL states that: (1) The Subject Line does not connect with the existing rail lines of LAL; (2) the proposed transaction is not part of a series of anticipated transactions that would connect LAL's existing lines with the Subject Line; and (3) the transaction does not involve a Class I carrier.

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 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. 32941, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, N.W., Washington, DC 20423. In addition, a copy of each pleading must be served on

[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.

[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 (ICC) 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.

[2] At the time the Steuben County Industrial Development Agency (SCIDA) obtained approval from the ICC to acquire the Subject Line, it did not seek the requisite authority to obtain that portion of the Subject Line between Bath and Hammondsport. *See Steuben County Industrial Development Agency and Champaigne Railroad, Inc.—Acquisition and Operation Exemption—Line of Consolidated Rail Corporation,* Finance Docket No. 32133 (ICC served Dec. 23, 1992). LAL indicates that SCIDA will be seeking a retroactive exemption for this acquisition in the near future.

Kevin M. Sheys, Oppenheimer Wolff & Donnelly, 1020 Nineteenth Street, N.W., Suite 400, Washington, DC 20036–6015.

Decided: May 14, 1996.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96–12828 Filed 5–21–96; 8:45 am]

BILLING CODE 4915–00–P

Surface Transportation Board [1]

[STB Finance Docket No. 32891]

Norfolk Southern Railway Company—Corporate Family Transaction Exemption—Southern Railway-Carolina Division

Norfolk Southern Railway Company (NSR), a Class I common carrier by railroad, and Southern Railway-Carolina Division (SRCD), a Class III common carrier railroad, have jointly filed a verified notice of exemption. The exempt transaction is a merger of SRCD with and into NSR.[2]

The transaction is expected to be consummated on or after June 1, 1996.

The proposed merger will eliminate SRCD as a separate corporate entity, thereby simplifying the corporate structure of NSR and the NSR system, and eliminating costs associated with separate accounting, tax, bookkeeping and reporting functions.

This is a transaction within a corporate family of the type specifically exempted from prior review and approval under 49 CFR 1180.2(d)(3). The parties state that the transaction will not result in adverse changes in service levels, significant oerational changes, or a change in the competitive balance with carriers outside the corporate family.

As a condition to this exemption, any employees adversely affected by the transaction will be protected by the conditions set forth in *New York Dock Ry.—Control—Brooklyn Eastern Dist.,* 360 I.C.C. 60 (1979).

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. 32891, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, N.W., Washington, DC 20423. In addition, a copy of each pleading must be served on James A. Squires, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510–2191.

Decided: May 16, 1996.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96–12831 Filed 5–21–96; 8:45 am]

BILLING CODE 4915–00–P

Surface Transportation Board [1]

[STB Docket No. AB–55 (Sub-No. 529X)]

CSX Transportation, Inc.—Abandonment Exemption—in Cincinnati, Hamilton County, OH

CSX Transportation, Inc. (CSXT) filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon approximately 1.5 miles of its line of railroad between Valuation Station 1+82.8 near Smith Street and Valuation Station 81+12 near Mill Creek, in Cincinnati, Hamilton County, OH.

CSXT has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on 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 June 21, 1996, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29[4] must be filed by June 3, 1996. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by June 11, 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: Charles M. Rosenberger, Senior Counsel, 500 Water Street J150, Jacksonville, FL 32202.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

CSXT 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 May 24, 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.

[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. 11323–24.

[2] SRCD is a wholly owned, direct subsidiary of NSR with authorized capital stock of 77,987 shares of Common Stock, 41,762 of which are issued and outstanding and owned by NSR. NSR has leased and operated the properties of SRCD since approximately 1902. The proposed agreement and plan of merger states that any outstanding shares of SRCD's capital stock will be canceled and retired, and no consideration will be paid in respect of such shares.

[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] 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.

[3] *See Exempt. of Rail Abandonment—Offers of Finan.* Assist., 4 I.C.C.2d 164 (1987).

[4] 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.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: May 15, 1996.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96–12829 Filed 5–21–96; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 637

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 637, Application for Registration (For Certain Excise Tax Activities).

DATES: Written comments should be received on or before July 22, 1996 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Application for Registration (For Certain Excise Tax Activities).

OMB Number: 1545–0014.

Form Number: Form 637.

Abstract: Form 637 is used to apply for excise tax registration. The registration applies to a person required to be registered under Internal Revenue Code section 4101 for purposes of the federal excise tax on taxable fuel imposed under Code sections 4041 and 4081; and to certain manufacturers or sellers and purchasers that must register under Code section 4222 to be exempt from the excise tax on taxable articles. The data is used to determine if the applicant qualifies for the exemption. Taxable fuel producers are required by Code section 4101 to register with the Service before incurring any tax liability.

Current Actions: Part III of Form 637 is revised and expanded to let taxpayers enter the required information directly on the form instead of on attachments. Lines 1 through 6 of Part III are for the general information required by all applicants. Lines 7 through 14 of Part III are generally for fuel applicants only. All of the information requested in Part III as revised was previously requested in the instructions of Form 637 and reported by taxpayers on attachments to the form.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit organizations and not-for-profit institutions.

Estimated Number of Respondents: 2,000.

Estimated Time per Respondent: 9 hrs. 22 min.

Estimated Total Annual Burden Hours: 18,720.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the 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 collection of information; (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 respondents, including through the use of automated collection techniques or other forms of information technology.

Approved: May 15, 1996.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 96–12752 Filed 5–21–96; 8:45 am]

BILLING CODE 4830–01–U

Office of Thrift Supervision

[AC–32; OTS No. 3667]

Algiers Homestead Association, New Orleans, Louisiana; Approval of Conversion Application

Notice is hereby given that on May 13, 1996, the Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Algiers Homestead Association, New Orleans, Louisiana, to convert to the stock form of organization. Copies of the application are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552, and the Midwest Regional Office, Office of Thrift Supervision, 122 W. John Carpenter Freeway, Suite 600, Irving, Texas 75039–2010.

Dated: May 16, 1996.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 96–12769 Filed 5–21–96; 8:45 am]

BILLING CODE 6720–01–P

[AC–33; OTS No. 5201]

The Dime Savings Bank of Williamsburgh, Brooklyn, New York; Approval of Conversion Application

Notice is hereby given that on May 14, 1996, the Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of The Dime Savings Bank of Williamsburg, Brooklyn, New York, to convert to the stock form of organization. Copies of the application are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552, and the Northeast Regional Office, Office of Thrift Supervision, 10 Exchange Place, 18th Floor, Jersey City, New Jersey 07302.

Dated: May 16, 1996.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 96–12770 Filed 5–21–96; 8:45 am]

BILLING CODE 6720–01–P

[AC–34; OTS No. 1437]

Ocean Federal Savings Bank, Brick, New Jersey; Approval of Conversion Application

Notice is hereby given that on May 14, 1996, the Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Ocean Federal Savings Bank, Brick, New Jersey, to convert to the stock form of organization. Copies of the application are available for inspection at the Dissemination Branch, Office of

Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552, and the Northeast Regional Office, Office of Thrift Supervision, 10 Exchange Place, 18th Floor, Jersey City, New Jersey 07302.

Dated: May 16, 1996.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 96–12771 Filed 5–21–96; 8:45 am]

BILLING CODE 6720–01–P

Federal Register

Wednesday
May 22, 1996

Part II

Department of Justice

Civil Rights Division

Disability Rights Section; The Americans With Disabilities Act Technical Assistance Grants To Promote Voluntary Compliance With the Act; Notice

DEPARTMENT OF JUSTICE

Civil Rights Division

Disability Rights Section; The Americans With Disabilities Act Technical Assistance Grants To Promote Voluntary Compliance With the Act

AGENCY: Disability Rights Section, Civil Rights Division, U.S. Department of Justice.

ACTION: Notice of availability of funds and of solicitation for grant applications.

PURPOSE: The Disability Rights Section of the Civil Rights Division, United States Department of Justice (DOJ), announces the availability of up to $500,000 to fund projects under the ADA Technical Assistance Program. The program seeks to inform and educate covered entities and persons with disabilities about their responsibilities and rights under title II and title III of the Americans with Disabilities Act of 1990 (ADA). The term ''covered entities'' refers to businesses, commercial properties, institutions, State and local governments or their agencies, and other organizations or enterprises that have responsibilities under title II or title III of the ADA. The primary objective of this program is to encourage and facilitate voluntary compliance with titles II and III of the ADA and the Department's implementing regulations through education and information sharing.

This year, the Department is seeking grant applications in the following two (2) priority areas:

(1) Statewide projects to educate small businesses about the basic requirements of title III of the ADA. The projects, utilizing local business and professional organizations, will make businesses aware of the ADA and the ADA resources available locally, within the State, and from the Federal government; and promote the exchange of ideas and information on successful compliance efforts within their communities. The Department anticipates funding projects in larger States in amounts up to $100,000 and projects in smaller States in amounts up to $50,000.

(2) Projects to conduct statewide ADA information-sharing conferences for State and local government officials. These conferences will provide information on the requirements of title II of the ADA and the ADA resources available locally, within the State, regionally, and from the Federal government; and promote the exchange of ideas and information on successful compliance efforts within the State. The Department anticipates that projects will be funded in amounts up to $40,000 each.

Detailed information regarding these specific priorities may be found in the *Program Priorities* section of this solicitation. Proposals not responsive to the established priority areas will not be considered.

Grants will be awarded to selected applicants who propose cost-effective and efficient methods for carrying out projects related to this year's priorities. The Department is particularly interested in receiving proposals that: reflect an ability to begin project activities in an expedited manner; demonstrate an ability to reach and work effectively with established business, professional, trade, or municipal organizations; utilize materials already developed by Federal agencies and their grantees or contractors; draw on people within the State who have ADA expertise; represent long-term joint ventures between business, professional, trade, or municipal organizations and organizations that represent persons with disabilities; and specifically address how members of minority communities will be included within the population targeted by the applicant for receipt of technical assistance.

ELIGIBLE APPLICANTS: This grant competition is open to non-profit organizations, including trade and professional associations or their subsidiaries, organizations representing State and local governments or their employees, other organizations representing entities covered by the ADA, State and local government agencies, organizations representing persons with disabilities, and individuals. Preference will be given to the specific types of organizations described under Priority 1 and Priority 2 in the *Program Priorities* section of this solicitation.

GRANT PERIOD AND AWARD AMOUNT: The period of performance will be twelve months from the date of the grant award. An October 1, 1996 project start date is anticipated. A total of up to $500,000 is available for this solicitation. It is anticipated that Priority 1 grants will be awarded in amounts up to $100,000 in larger States and up to $50,000 in smaller States. Priority 2 grants will be awarded in amounts up to $40,000. However, the estimated funding level announced in this notice does not bind the Department of Justice to make any awards or to any specific number of awards or funding levels.

APPLICATION DEADLINE: Applications must be received by the close of business (5:30 p.m. EST) on July 22, 1996, at the Disability Rights Section, Civil Rights Division, U.S. Department of Justice, 1425 New York Ave., NW., Room 4039, Washington, DC 20005 (overnight, express, or hand deliveries) or P.O. Box 66738, Washington, DC 20035–6738 (U.S. Postal Service mail). Applications may not be sent by facsimile. Applications received after 5:30 p.m. on July 22, 1996, will not be considered for award, even if the application was postmarked before that date. Incomplete applications will not be considered for award. In order to be considered complete, one bound original and two unbound copies of the application packet described in the *Application Requirements* section of this solicitation must be submitted.

FOR FURTHER INFORMATION CONTACT: Ruth Hall Lusher, ADA Technical Assistance Program Manager, Disability Rights Section, Civil Rights Division, U.S. Department of Justice, P.O. Box 66738, Washington, DC 20035–6738. Grant application packages may be ordered by calling 1–800–514–0301 (Voice) or 1–800–514–0383 (TTY), 24 hours a day, seven days a week. This Notice and other related information, with the exception of standard forms, are available in alternate formats, e.g., large print, braille, audiotape, and computer disk. With the exception of standard forms, this information may also be accessed through the Disability Rights Section's electronic bulletin board at (202) 514–6193.

Background and Program Description

On January 26, 1992, the major provisions of titles II and III of the Americans with Disabilities Act (ADA) went into effect. The ADA prohibits discrimination against individuals with disabilities by employers, public accommodations and commercial facilities, State and local governments, transportation providers, and telecommunications services. Title III prohibits discrimination on the basis of disability in a broad range of public accommodations, commercial facilities and certain transportation services. Title II prohibits discrimination on the basis of disability in State and local government programs, activities, and services, including transportation and employment. The employment provisions (title I), most transportation provisions (title II, Subpart B), and telecommunications provisions (title IV) of the ADA are regulated by other

Federal agencies and are not the subject of this Notice.

Section 506 of the ADA requires the Department of Justice to provide technical assistance to entities and individuals that have responsibilities or rights under title II (subtitle A, State and local government services) and title III (public accommodations and commercial facilities) of the ADA.

Pursuant to this requirement, the Department provides a variety of ADA-related services and information, including:

—A toll-free ADA Information Line (for voice and TTY callers) through which the public may obtain free publications and answers to questions about how the ADA applies to their own unique situation. The line, which fields up to 2,000 calls per week, also provides on-line service for Spanish-speaking callers;

—An ADA speakers bureau providing speakers from the Civil Rights Division to address a variety of ADA topics;

—Development and distribution of technical assistance materials, including the Department's regulations implementing titles II and III, technical assistance manuals for titles II and III, a series of ADA questions and answers publications, and other technical assistance materials targeted toward businesses, State and local government officials, professionals, and the general public. These materials may also be obtained through the Disability Rights Section's electronic bulletin board and through FedWorld on the Internet; and

—An outreach program to identify, inform, and work with covered entities and persons with disabilities, including disseminating information about the ADA and the Department's ADA Information Line to 6 million businesses through the IRS quarterly mailing, distributing television and radio Public Service Announcements on the ADA featuring the Attorney General to broadcast stations, and disseminating ADA information and technical assistance materials to other targeted audiences including mayors of large cities, 11,000 law enforcement programs and national advocacy and service organizations representing people with disabilities, African Americans, and Hispanics, among others.

Under section 506(d) of the Act, the Department has authority to award grants to non-profit entities and individuals for the purpose of supplementing the Department's technical assistance efforts. The Technical Assistance Grant Program is designed to develop and implement cost effective strategies to disseminate information about the responsibilities or rights of covered entities and individuals under titles II and III of the ADA and to provide practical information on effective ways to achieve compliance with the ADA. Through this program, the Department works with organizations and individuals representing the many constituencies affected by the ADA to develop and deliver educational programs and materials targeted to these audiences nationwide. The goal of the program is to foster voluntary compliance with the ADA.

Because the grant program is educational in nature, the Department does not fund projects to research or resolve issues that are outside the scope of the Department's current ADA regulations and court interpretations. The program is not intended to fund or support site-specific compliance implementation (e.g., funding to make specific facilities more accessible), or to fund or support inspections, reviews, or tests to determine whether an entity is meeting its compliance obligations.

Since the initiation of the grant program in 1991, the Department has awarded over 50 grants to non-profit organizations and State government entities. Previous recipients have included a wide range of groups conducting a variety of projects.

Title III projects have been directed toward educating owners and operators of hotels and motels, retail stores, grocery stores, restaurants and bars, professional offices, recreation and fitness centers, museums and other places of public display or collection, travel and tour agents, hospitals and health care providers, service providers for elderly persons, day care centers, small shops and stores, and large commercial properties.

Title II projects have worked toward educating mayors of medium and large cities and small towns, law enforcement personnel, 911/emergency response operators, officers of State courts, State social service agencies, persons involved in testing for licensure and certification purposes, and members and staff of local historic preservation commissions.

Other projects have been directed toward persons who can assist others in complying with the ADA, including professors and students in architecture, interior design, industrial design, and landscape architecture schools and programs; State and local building code officials; disability advocates; librarians; local historic preservation commissions; community and professional mediators; and building contractors and construction tradespeople. Simple, easy to understand materials about the ADA have been translated into Spanish and other languages.

The Department has undertaken other initiatives to ensure that materials developed by the Department and those developed under the grant program are available in localities across the country. An ADA Information File, which contains more than 60 ADA technical assistance documents, has been placed in 15,000 libraries throughout the country. Additional materials will be added to the ADA Information File in the coming months. The Department also disseminated similar informational packets to 6,000 Chambers of Commerce nationwide. As a result, a wealth of resources and educational information exists today in local communities. (A listing of materials contained in the ADA Information File will be included in the Grant Application Packet.)

The Department of Justice and other agencies have also taken steps to ensure that ADA technical assistance is available nationally, regionally, and locally. The Department, the Equal Employment Opportunity Commission (EEOC), and the Architectural and Transportation Barriers Compliance Board (Access Board) all operate toll-free ADA Information Lines to provide direct technical assistance to the public. The Department and the EEOC jointly funded a project to create the ADA Training and Implementation Network, a network of approximately 400 individuals who completed an intensive ADA training course. Members of the Network are currently located in every State in the country to serve as local resources for businesses, governments, and persons with disabilities. The U.S. Department of Education funds ten Regional Disability and Business Technical Assistance Centers (DBTACs) to provide technical assistance to covered entities and individuals with disabilities at the local, State, and regional level.

Despite these efforts and the availability of ADA information and resources, the Department has learned—through calls to its ADA Information Line, meetings with the public, Congressional inquiries, and studies conducted by the Government Accounting Office and by Louis Harris & Associates, Inc. for the National Organization on Disability—that:

—Many people continue to be unaware of what the ADA requires and how easy it can be to comply;

—Many people still believe that the ADA's requirements are more stringent than they are, or are unaware of cost-effective solutions for achieving compliance with the ADA;
—Some people who are trying in good faith to comply with the ADA are making needless and costly mistakes; and
—This lack of understanding can lead people to resist making efforts to comply, or make them vulnerable to hard-sell tactics by individuals who would profiteer from their lack of knowledge.

For these reasons, under its fiscal year 1995 grant program, the Department funded sixteen (16) organizations to conduct statewide pilot projects to work with and educate both small businesses and State and local government officials. Title III projects for small businesses were conducted in the States of Alaska, California, Louisiana, Michigan, Nebraska, Nevada, New York, Pennsylvania, South Dakota, and Texas. Title II projects for State and local government officials were conducted in Arizona, Connecticut, Kansas, Massachusetts, New Hampshire, and North Carolina.

These pilot projects, although not all of them have been completed, have already reached thousands of small business owners and State and local government officials at the local level, resulting in the identification of available community resources and the means for continuing, long term exchange of ideas and information. Because the pilot projects have been successful, the Department will fund additional statewide outreach and educational projects, as described in the following section.

Program Priorities

For fiscal year 1996, the Department is again establishing absolute funding priorities and will fund multiple statewide projects under each priority. The objectives of funding priorities one and two are (1) to increase awareness of the ADA; (2) to increase knowledge of existing materials and resources available locally, within the State, regionally, and from the Federal government to assist people in understanding and complying with titles II and III of the ADA; and (3) to promote the exchange of ideas and information on successful compliance efforts. The Department will not consider proposals for funding that are duplicative of projects funded in individual States in 1995 (see list of funded projects and States in *Background and Program Description*).

The Department is soliciting proposals that address the following two (2) specific priority areas:

Priority 1: Statewide pilot projects to educate small businesses about the basic requirements of title III of the ADA.

The ADA provides a general framework to eliminate discrimination against people with disabilities while providing flexibility to address the unique circumstances of the estimated 6 million businesses in the United States. While this flexibility allows business owners and managers to make their own decisions about exactly how they can comply, many do not know where to turn for accurate, practical information and assistance within their own communities. Business owners and managers may attempt to comply and yet not be successful, or they may be reluctant to implement any kind of strategy for compliance.

Studies show that business owners can comply with the ADA easily and reasonably if provided with adequate information and support. These projects are intended to use existing business and professional organizations to increase awareness of the ADA and the availability of ADA resources, and to engage members of local business communities in helping each other find practical, successful ways to comply with the ADA.

Preference will be given to state-based organizations that demonstrate an established relationship with the business community across that particular State. Examples include, but are not limited to, state-based private, non-profit professional and trade organizations (e.g., a State association of small business owners, a State Chamber of Commerce, a statewide retail or hospitality association, etc.), or State government agencies that work with the business community (e.g., Departments of Resource and Economic Development, Small Business Development Centers, a State Bureau of Travel or Tourism, etc.).

Applications will be considered only from organizations located within the state of the defined target audience. Applications submitted by organizations not meeting this requirement will not be considered.

Proposed projects must work with established local business and professional organizations using their regularly scheduled meetings, local and regional ADA resources and individuals with ADA expertise, and ADA publications and materials available free from the Department of Justice to reach and educate small businesses, non-profit groups, and others who must comply with title III of the ADA.

Project activities must be conducted in all regions of the State, reach a diverse representation of title III entities statewide, and represent a joint venture with organizations representing people with disabilities.

It is not anticipated that projects funded under this priority will develop new technical assistance material. Projects must use existing ADA material developed by the Department, other Federal agencies, or grantees, and approved by the Department. Grantees may not use non-approved material in conducting the project.

Statewide projects to educate small businesses about the basic requirements of title III of the ADA shall include the following major components:

—Conduct ADA educational programs in all regions of the State, working with established local business and professional organizations using their regularly scheduled meetings. A minimum of 50 programs must be conducted in larger States and a minimum of 25 programs must be conducted in smaller States. Letters of commitment from groups such as Merchant Associations, Jaycees, Kiwanis, Lions, Rotary Clubs, or similar organizations to utilize their existing meetings to conduct the project must be included with the grant application (proposals not based on using the regularly scheduled meetings of these organizations will not be considered);
—Programs must provide: basic information on the requirements of title III of the ADA using approved technical assistance materials available from the Department of Justice, including the ''Open for Business'' videotape, the Americans with Disabilities Act Guide for Small Businesses (publication date: 7/96), the Checklist for Readily Achievable Barrier Removal, the ADA Questions and Answers booklet, the IRS Tax Credit form, etc.; a list of technical assistance resources available locally, within the State, and from the Federal government that participants may use to obtain technical assistance at a later time; and time for local businesses to discuss issues, share ideas, and identify practical, cost-effective solutions that they have used successfully to comply with the ADA. An outline of a model program (one to two hours in length) must be included with the grant application;
—Use local, State, and regional ADA resources and individuals knowledgeable about the ADA for

assistance to conduct the educational programs. It is anticipated that speakers and presenters will voluntarily provide their services. Grant funds may be used to reimburse individual travel expenses, but may not be used to provide honoraria for speakers. Letters of cooperation or support from groups such as the regional Disability and Business Technical Assistance Center (DBTAC) or local DBTAC affiliates, Independent Living Centers, other organizations representing people with disabilities, or members of the ADA Training and Implementation Network must be included with the grant application;

—Develop a marketing pamphlet or flyer that can be easily tailored, reproduced, and used by local business groups hosting the programs;

—Ensure that businesses owned or operated by people who are members of racial and ethnic minority groups will be included within the audiences reached;

—In carrying out the project, the grant recipient must use existing ADA publications and materials reviewed by the Federal government that are available from the Department and other agencies.

—Provide a brief final report on the project, including an identification of the strengths and weaknesses of the project, the number and types of participants involved, examples of known positive changes that may have occurred as a result of the project, and suggestions for improvement for the Department.

Priority 2: Statewide ADA information-sharing conferences for government officials.

In the United States today, an estimated 86,000 units of State, county, and municipal governments are working to understand and meet their obligations under title II of the ADA. The ADA provides the general framework to eliminate discrimination against people with disabilities, but also the flexibility to address the unique circumstances encountered by State and local government programs and activities. While this allows State and local government officials with ADA compliance responsibilities to decide exactly how to comply, many may not know where to turn for accurate, practical information and assistance within their own communities and may be reluctant to take needed action.

While many State and local governments have been successful in making their programs and activities accessible to people with disabilities, misinformation about the requirements of the ADA continues to exist, making voluntary compliance more confusing and burdensome for some than it need be. For example, many believe the ADA requires that all buildings must be accessible, when, in fact, the ADA actually requires that a public entity make its programs accessible to people with disabilities through means such as relocation of programs to an accessible location, structural modifications, or other alternatives. For those State and local government officials having the authority and the responsibility for developing and implementing ADA compliance strategies, access to information and other assistance is paramount if compliance efforts are to be successful. Yet, the significant resources that exist at the State and local level are often overlooked and underutilized, including other State and local governments that have already successfully resolved compliance issues.

One of the Department's primary roles and responsibilities is to assist local communities, both small and large, to understand the ADA's requirements through education and technical assistance. To accomplish this, the Department will fund projects to conduct statewide ADA information-sharing conferences for State and local government officials. These conferences will provide information on the requirements of title II the ADA, the ADA resources available locally, regionally and from the Federal government, and promote the exchange of ideas and information on successful compliance efforts within the State.

Proposed projects should target participants with decision making authority over programs that serve the public, particularly those with responsibility for ADA compliance activities. Preference will be given to State agencies or state-based organizations that demonstrate the existence of an established relationship with the target audience across that particular State. Examples include, but are not limited to, a State office on accessibility and ADA compliance, a State building code council, or state-based organizations that represent or work with local and State government officials such as a State municipal association, association of counties, association of cities or towns, council of mayors or city managers, etc.

Applications will be considered only from organizations located within the state of the defined target audience. Applications submitted by organizations not meeting this requirement will not be considered.

Proposed projects must bring State and local government officials from across the State together with individuals knowledgeable about the ADA from local, regional, and Federal sources, use approved ADA publications and materials available free from the Department or other sources, and provide a mechanism for the continuing exchange of information and ideas among the conference participants.

The statewide conference must reach a diverse representation of title II entities statewide.

It is not anticipated that projects funded under this priority will develop new technical assistance material. Projects must use existing ADA material developed by the Department, other Federal agencies, or grantees, and approved by the Department. Grantees may not use non-approved material in conducting the project.

Projects to conduct a statewide ADA information-sharing conferences for local and State government officials shall include the following major components:

—Working with State and local government agencies, officials, and employees, plan and promote the ADA conference to ensure representation from local and State agencies and programs from around the State. Letters of cooperation or support from such organizations must be included with the grant application;

—An outline plan for promoting the conference and its goals, including use of the media, must be included with the grant application;

—Identify and develop a list of local, State, regional, and Federal ADA resources that serve the State (e.g., regional DBTAC and local DBTAC affiliates, Centers for Independent Living, other organizations representing people with disabilities, members of the ADA Training and Implementation Network, local and State officials with ADA expertise, Federal ADA information lines, electronic bulletin boards, the ADA Information File in local libraries, etc.);

—Plan and conduct one statewide conference that will provide: information on the requirements of title II of the ADA specifically tailored to the needs of the targeted audience; information about technical assistance resources available locally, within the State, and from the Federal government; a variety of workshops or break-out sessions tailored to address specific issues and to enable

participants to discuss issues, share ideas, and learn of practical, cost-effective solutions that have been used successfully to comply with the ADA; and a mechanism for the continuing exchange of information and ideas among the conference participants (such as distributing lists of ADA resources and the names and addresses of conference participants to all conference attendees). A detailed outline of the proposed agenda for the conference must be included with the grant application;

—In carrying out the conference, the grant recipient must use existing ADA publications and materials reviewed by the Federal government that are available from the Department and other agencies, and the local, State, regional, and Federal ADA resources that serve the State, as described above. Letters of cooperation or support from groups or individuals who will be participating as speakers must be included with the grant application;

—Provide a final report on the project, including an identification of the strengths and weaknesses of the project, the number and types of participants involved, examples of known positive changes that may have occurred as a result of the project, and suggestions for improvement for the Department.

Selection Criteria

Applicants will be evaluated in each of the following four selection criteria areas for a total of 100 points:

Project Strategy and Plan of Action (50 Points)

Applicants must demonstrate a thorough understanding of the grant proposal priority, including the background, intended audience, and intended approach. Applicants must be located within the State in which the project will be conducted and also demonstrate the ability to reach as diverse a segment of the target audience as possible in a cost-efficient manner. Project goals and expected outcomes should be clearly articulated. Clarity, quality, and appropriateness of the plans, methodologies, and procedures to achieve the goals listed in the application will be carefully considered. Proposals should reflect the involvement of State and local business and government organizations with local, State, and regional organizations that provide ADA technical assistance and organizations that represent people with disabilities. Proposals must include letters of commitment as previously described under each program priority.

The plan of action must be sound and well-reasoned, with evidence of the ability to implement the plan immediately and complete the project within the period of performance. Project strategy must include a plan for documenting known positive changes that may occur as a result of the project and for evaluating the strengths and weaknesses of the project, as previously described under each program priority.

Staff Capability (25 Points)

Applicants must provide evidence of qualified personnel to undertake the project. The application must contain necessary position description(s), resume(s), and assurances of the timely availability of key staff (salaried or contract staff) with appropriate competencies and experience. Duties outlined for grant-funded position(s) must be clearly appropriate to the scope of the work being carried out under the project.

Organizational Capability and Management Plan (20 Points)

Applicants must demonstrate the ability to reach and work effectively with the targeted audience and offer evidence of proven organizational ability to provide high quality results utilizing appropriate key personnel. Applications must include a management plan that provides evidence of project control by management, efficient and timely use of staff and other resources, and effective quality control mechanisms.

Resources/Facilities/Equipment (5 Points)

Applicants must demonstrate the availability and appropriateness of resources (other than personnel), physical facilities, and equipment proposed to be used to carry out the project.

General Requirements for Grant Recipients

The following general grant program requirements should be considered by each applicant in developing both its project timeline and budget. Successful applicants must adhere to all conditions as specified; any deviation from the requirements in this section must be negotiated with DOJ.

Coordination with Other Agencies and Organizations. Grantees are expected to coordinate their project activities with the Department of Justice, and, where appropriate, with other Federally sponsored ADA technical assistance activities, such as the Department of Education's Disability and Business Technical Assistance Centers (DBTACs). Grantees must utilize existing technical assistance materials developed by the Department, its grantees, other Federal agencies and their grantees.

Grantee Orientation and Post-Award Monitoring. The Department intends to provide grant recipients with the maximum amount of post-award guidance and technical assistance possible within budget and staff constraints. Within approximately one month of the grant award, the Department will conduct a mandatory one-day orientation session on the ADA and grant management procedures. Each grant recipient will be invited to send one staff person to this session. Funds for travel to Washington, D.C. for this orientation session may be included in the proposed grant budget. Applicants are advised that DOJ staff may make periodic site visits to provide grant recipients with guidance and technical assistance and to monitor the progress of the grant. The Office of Justice Programs (OJP), a component of the Department of Justice, will provide financial management and other services in support of the Disability Rights Section in the administration of this program. Applicants are advised that copies of both the quarterly progress reports and quarterly financial reports sent to OJP must also be sent to the Disability Rights Section.

DOJ Review of Grantee Materials. All materials used or developed by grant recipients must be approved by DOJ in advance of use. This includes all media releases, scripts, program outlines/agendas, and handouts. However, it is not anticipated that grant recipients will develop new technical assistance materials under these priorities.

Availability of Existing Materials. Publications and resource lists that are currently available to the public from the Department of Justice (DOJ) will be provided, in bulk, to grant recipients free of charge, as resources permit. Grantees are not responsible for the duplication of DOJ materials. If an applicant wishes to use materials produced by previous DOJ grant recipients or recipients of grants from other Federal agencies, including the National Institute on Disability and Rehabilitation Research, it should coordinate such requests with DOJ.

Copyrights. The grantor agency reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal government purposes: (1) The copyright in any work developed under a grant,

subgrant, or contract under a grant or subgrant; and (2) any rights of copyright to which a grantee, subgrantee, or a contractor purchases ownership with grant support.

Program Income. Grantee recipients may charge for grant-related activities and products (e.g., new materials developed and disseminated, conference registration fees), as long as all income derived from such activities and products is added to funds committed to the grant and its activities. Specifically, this program income (gross income earned by the grantee, during the funding period, as a direct result of the grant award or its activities) must be used ''to further the eligible project or program objectives'' or ''to finance the non-Federal share of the project or program'' (e.g., obtaining equipment or other assets required for the project). Program income may not be used to support or further a grantee's general organization, its programs or its services.

Costs associated with the provision of refreshments may not be paid for with grant funds. It is anticipated that speakers and presenters will voluntarily provide their services. Grant funds may be used to reimburse individual travel and accommodation expenses, but may not be used to provide honoraria for speakers. Fees charged by grantees (if any) must be nominal and there shall be no charge for materials provided to audience participants.

Alternate Formats (Print and Audiovisual). All materials produced in standard print must also be produced in large print, in Braille, and on audiotape in proportion to anticipated demand by persons with vision impairments in the targeted population(s). Audiotapes of lengthy materials must be voice- or tone-indexed.

Effective Communication and Accessibility Requirements. Applicants who plan to list a voice telephone number on correspondence or promotional materials concerning the grant activities, or on materials produced under the grant, must also list a telephone number for TTY users. Applicants who plan to use an automated telephone information system to respond to voice calls concerning grant activities must provide comparable service for TTY users. The cost of establishing an automated TTY information system or purchasing a TTY may not be included in the proposed project budget.

All grant activities must be held in accessible facilities. All programs must be accessible to attendees with communication disabilities.

Materials to be Provided to DOJ. Twenty-five (25) copies of each media release, marketing flyer, or other materials developed to promote the project must be provided to DOJ.

If grant project activities are videotaped, one copy must be submitted to DOJ. If videotapes are intended for commercial use, all must be captioned.

A copy of the final text of each document or videotape script produced must be provided to DOJ on computer disk in ASCII or Wordperfect.

Application Requirements

Under Section 506(d) of the Americans with Disabilities Act, the Department is authorized to award grants to individuals and non-profit organizations to supplement its ADA technical assistance efforts. All applicants must submit, in the order given, one bound original and two unbound copies of the following information:

1. A signed SF 424 and SF 424A (Rev. 4/88) application form and a signed Form 4000/3 (Assurances—Attachment to SF–424). The grant priority number under which the applicant is submitting the proposal must be clearly identified in box number 11 on form SF 424.

2. A one-page Abstract that summarizes the goals of the project, the nature and size of the population(s) to be reached through the project, and the project strategy. Applicants should state explicitly the number of people expected to be served in the course of the project's activities.

3. A Project Strategy and Plan of Action (maximum length 15 pages) that:

—Addresses each major component identified in the program priority for which applicant is applying;

—Describes major activities and events;

—Provides a description of the applicant's plan for working with other local, State, regional, and Federal ADA resources; and

—Provides a plan for evaluating the effectiveness of the project, as described under the program priorities.

4. A Management Plan that includes a timeline for completion of all project objectives, activities, events, and products.

5. A Budget Narrative required by the SF 424 (Rev. 4/88), which includes the basis for all costs presented in the budget.

6. A brief statement identifying the facilities, equipment, and other resources available for carrying out the project.

7. Job description(s) for key position(s) that are proposed to be funded under the grant.

8. Resume(s) or qualification(s) of the key individual(s) who will fill the grant position(s), including consultants, if any (maximum length 3 pages each).

9. Letters of commitment from organizations and/or individuals that will be involved in the project. (Letters of reference are not required and, if submitted, will not be considered.)

10. A signed certification regarding lobbying, debarment, suspension, other responsibility matters, and drug-free workplace requirements, OJP Form 4061/6.

11. A disclosure of lobbying activities, SF LLL.

(Please Note: Non-profit applicants who have not previously received Federal financial assistance from the Department of Justice may also be required to submit a disclosure of financial capability statement or other documentation prior to the grant award.)

Dated: May 16, 1996.

Deval L. Patrick,

Assistant Attorney General, Civil Rights Division.

[FR Doc. 96–12779 Filed 5–21–96; 8:45 am]

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Part III

Department of Housing and Urban Development

Availability of Additional Units for the Housing Finance Agency Risk-Sharing Program; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4064–N–01]

Office of the Assistant Secretary for Housing—Federal Housing Commissioner; Availability of Additional Units for the Housing Finance Agency Risk-Sharing Program

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

ACTION: Notice of the Availability of Additional Units for the Housing Finance Agency Risk-Sharing Program.

SUMMARY: This Notice announces the availability of an additional 10,000 units for the Housing Finance Agency Risk-Sharing program and invites qualified Housing Finance Agencies (HFAs) that are not yet approved to participate in the program (new applicants) to apply for approval to participate in the program. HFAs that are currently approved to participate in the program will be notified by certified mail that they may request additional units by letter to the Department.

The Housing Finance Agency Risk-Sharing program is authorized under section 542(c) of the Housing and Community Development Act of 1992, as amended. Section 8 of the Housing Opportunity Program Extension Act of 1996 extends section 542(c) by authorizing the Secretary to enter into HUD mortgage insurance commitments processed by State and local HFAs for an additional 12,000 multifamily units for Fiscal Year 1996. Ten thousand of those units are being made available by this invitation. The balance of the 12,000 new units (2,000) are being retained by HUD Headquarters to meet the immediate needs of current risk-sharing participants so that they can maintain essential risk-sharing operations and staff resources.

APPLICATION DEADLINE: The deadline for receipt of applications from new applicants to participate in this program is 4:00 pm, Eastern Daylight Savings Time on July 22, 1996. Applications received after the date and time stated herein will not be accepted and will be returned to the sender. HFAs are encouraged to submit applications prior to the end of the 60-day period, as applications will be reviewed and approved as they are received. Applicants should obtain a copy of the program handbook (Handbook 4590.01 REV–1) and the program regulations at 24 CFR part 266 to become familiar with program requirements. If there are differences between the handbook and this Notice, the requirements of this Notice shall prevail. Qualified agencies may call Jane Luton at 202–708–2556 for a copy of the handbook and regulations. This is not a toll-free number. Hearing- or speech-impaired persons may access that number by calling toll-free the Federal Information Relay Service at (800) 877–8339.

ADDRESS FOR SUBMISSION: Applications for participation in the program must be identified on the envelope or wrapper and be submitted as follows: Director, Office of Multifamily Housing Development, Application for Housing Finance Agency Risk-Sharing Program, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6142, Washington, DC 20410.

HFAs shall submit an original and three copies (a FAX copy is NOT acceptable) of the application to the above address by the application deadline.

Note: Any new applicant that is not a HUD-approved mortgagee at the time of its application to participate in the program (see 2.(ii) under Application Requirements below) must submit an Application for Approval as a HUD-Approved Mortgagee. Such applications must be identified on the envelope or wrapper as such and submitted by the application deadline to the following address: Director, Office of Lender Activities and Land Sales Registration, Application for Housing Finance Agency Risk-Sharing Program, U.S. Department of Housing and Urban Development, Room 9156, Washington, DC 20410.

APPLICATION FEE: New applicants must submit an application fee of $10,000 through FEDWIRE. The Federal Deposit System offers individual and corporate remitters the ability to move funds electronically from their bank account to the Treasury. The remitter identifies the payment and the Department of Housing and Urban Development as the government agency to be credited on the funds transfer message. Instructions for your bank to follow to complete a FEDWIRE are listed in Attachment A.

FOR FURTHER INFORMATION CONTACT: Jane Luton, Director, New Products Division, Office of Multifamily Housing Development, Room 6142, U.S. Department of Housing and Urban Development, Washington, D.C. 20410. Telephone: (202) 708–2556; (This number is not toll-free.) Hearing- or speech-impaired persons may access that number by calling toll-free the Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The information collection requirements contained in this Notice have been approved by the Office of Management and Budget (OMB), under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), and assigned OMB Control Number 2502–0500. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

Purpose and Program Summary

Section 542(c) of the Housing and Community Development Act of 1992 authorized the Department to implement a multifamily mortgage insurance risk-sharing pilot program with qualified State and local Housing Finance Agencies (HFAs). On December 3, 1993, the Department promulgated interim regulations implementing the pilot program, the purpose of which was to demonstrate the effectiveness of providing new forms of Federal credit enhancement for the development of affordable multifamily housing by State and local HFAs. On December 5, 1994, the Department promulgated final regulations for the program. To date, the Department has allocated 30,000 units which were available for Fiscal Years 1993, 1994, and 1995 to 31 participating HFAs. These HFAs have received HUD Firm Approval Letters (notifications that units have been reserved for proposed projects) for over 14,000 units.

The program has been designed to increase the supply of affordable multifamily housing through partnerships between HUD and State and local housing finance agencies. Qualified HFAs are authorized to originate, underwrite, and close loans for multifamily housing projects requiring new construction and substantial rehabilitation as well as certain acquisitions and refinancings. HUD will endorse such loans for full mortgage insurance upon presentation of appropriate certifications. HFAs will be responsible for the full range of loan management, servicing, and property disposition activities associated with these projects.

Through a Risk-Sharing Agreement between HUD and the HFA, the HFA contracts to assume a portion of the risk on each loan it underwrites. HUD, in turn, commits to pay 100 percent of the outstanding principal mortgage balance upon default of the loan and filing of a claim. The HFA will issue a debenture for the amount of the claim pending the final settlement of the loss. HUD and the HFA will share in any loss in accordance with the amount of risk assumed by each under the Risk-Sharing Agreement.

HFAs will be approved on one of the following three levels: (1) Level I; (2) Level II; or (3) a combination of Level I and Level II. The primary distinction between Level I and Level II is in the level of risk apportionment an HFA agrees to accept. HFAs participating at Level I are those that will assume 50 percent or more of the risk associated with a loan default. These HFAs may use their own underwriting standards and loan terms and conditions without further approval from HUD. HFAs participating at Level II will assume less than 50 percent of the risk and must have their underwriting standards and loan terms and conditions approved by HUD.

This document contains information concerning: (a) Deadline and address for submission of applications; (b) eligibility requirements; (c) allocation of units; (d) application requirements; (e) establishment of dedicated account; (f) application review procedures; (g) approval of applications; and, (h) authorization to use the unit set-aside.

Eligibility

To participate in the program, an HFA must meet the qualifications set forth in 24 CFR 266.100 and the requirements in 24 CFR 266.105 (a).

Allocation of Units

HUD will set aside units for approved HFAs as follows:

(1) *Unit set-aside.* Each approved HFA will receive a set-aside of units based upon an assessment of their previous multifamily housing experience, their current capacity to utilize the number of units requested, the population size of the HFA's jurisdiction in comparison to other new applicants and participating HFAs, and the number of units requested by the HFA. The unit set-aside will be reserved in a Risk-Sharing Agreement executed by the HFA and HUD.

(2) *Headquarters reserve.* HUD may hold back a small portion of the 10,000 units for future use in FY 1996 to meet unforeseen needs of current and new HFA participants.

(3) *Credit subsidy.* The set-aside of units will be subject to the availability of credit subsidy which will be obligated and allocated in accordance with outstanding Department instructions.

Application Requirements

New applicants must submit an application containing the following information:

(1) *Name, title, telephone and fax numbers.* Provide the name, title, telephone and fax numbers of the person most familiar with the material contained in the application in case HUD needs to contact the HFA for clarification and/or further information.

(2) *Evidence of eligibility.* The HFA must provide evidence that it meets the following:

(i) Be a HUD-approved mortgagee in good standing;

(Note: HFAs that are not HUD-approved mortgagees at the time of their application to participate in this program must submit, concurrently, separate applications for approval to participate in this program and for approval to operate as a HUD-approved mortgagee. An application for approval to operate as a HUD-approved mortgagee must be submitted to HUD in accordance with the requirements established under 24 CFR 202.10 through 202.19);

(ii) Has at least five years experience in multifamily underwriting; and

(iii) Carries the designation of ''top tier'' or its equivalent, as evaluated by Standard and Poors or any other nationally recognized rating agency; OR

(iv) Has a current overall rating of ''A'' for its general obligation bonds from a nationally recognized rating agency; OR

(v) For HFAs not qualifying as (iii) or (iv), the Housing Finance Agency Questionnaire (Attachment B to this Notice)

(3) *Application fee.* Evidence that the application fee of $10,000 has been wire-transferred to the U.S. Treasury. This fee will not be refunded once the application has been accepted for review.

(4) *Units requested.* A statement indicating the number of units the HFA is requesting as well as the number of units the HFA proposes to process to firm approval letter by September 30, 1997.

(5) *Risk-sharing arrangement.* HFA declaration of the risk-sharing arrangement it has selected, i.e., Level I, Level II or both Level I and Level II.

(6) *Legal opinion.* A letter from the HFA's legal counsel providing its opinion, after careful review of the HFA's program, that the HFA has the necessary powers and ability to comply with all program requirements. The opinion for an HFA with an overall rating of ''A'' on its general obligation bonds must also state that the general obligation will extend to the HFA's responsibilities under the Risk-Sharing Agreement and any debenture issued by the HFA to the Commissioner. If the opinion of counsel does not include this statement, the HFA must establish a dedicated reserve account in the amount of $500,000 in accordance with the requirements in 24 CFR 266.110 (b).

(7) *Underwriting procedures, loan terms and conditions, investment policies and business and financial practices.* A description of the following: (i) The manner in which the HFA will process mortgage loans, including its underwriting procedures and loan terms and conditions as follows: (A) The approval process and fee schedule, (B) maximum mortgage term, (C) minimum debt service coverage, (D) maximum loan-to-value ratio, (E) maximum loan amount, (F) minimum equity requirement, (G) minimum income-to-expense ratio, (H) prepayment requirements, (I) title requirements, (J) escrow and reserves (including replacement reserves), and (K) hazard insurance requirements; (ii) loan management, loan servicing and property disposition activities; (iii) the manner in which the HFA's and mortgagor's reserves and escrows (including letters of credit) will be established and controlled; and (iv) a description of the HFA's investment policies and overall business practices.

(8) *Underwriting staff.* Identification, background description and years of experience of individuals with final underwriting approval authority (e.g., chief underwriter) and the individual responsible for project management, loan servicing and property disposition (e.g., asset manager). These functions may not be contracted out by the HFA.

(9) *Default history.* A description of the default history (including workouts) for all HFA-financed multifamily projects.

(10) *Oversight.* A description of oversight by State or local government agencies.

(11) *Financial statements.* Copies of audited financial statements for the HFA's last three fiscal years.

(12) *Certification.* A certification (Attachment C to this Notice) signed by an authorized official from the HFA that certifies to the following:

(i) The HFA will at all times comply with the financial requirements of 24 CFR 266.110 and, where applicable, maintain required reserves in a dedicated account in liquid funds (i.e., cash, cash equivalents, or readily marketable securities) in a financial institution acceptable to HUD;

(ii) The Department of Justice has not brought a civil rights suit against the Agency and no suit is pending;

(iii) There has not been an adjudication of a civil rights violation in a civil action brought against the Agency by a private individual, unless the Agency is operating in compliance with a court order, or implementing a HUD-approved compliance agreement designed to correct the areas of non-compliance; and,

(iv) There are no outstanding findings of noncompliance with civil rights statutes, Executive Orders, or regulations as a result of formal administrative procedures, or the Secretary of HUD has not issued a charge against the Agency under the Fair Housing Act, unless the Agency is operating under a compliance agreement designed to correct the areas of noncompliance.

(13) Sample debenture form issued by the HFA.

(14) The Housing Finance Agency Questionnaire (Attachment B) The Questionnaire is to be completed only by HFAs that do *not* carry the designation ''top-tier'' or its equivalent, or do *not* currently receive an overall rating of ''A'' for their general obligation bonds from a nationally recognized rating agency.

Establishment of Dedicated Account

Prior to execution of the Risk-Sharing Agreement, HFAs that do not have a top-tier rating, have not received an overall rating of ''A'' on their general obligation bonds or those whose opinion of legal counsel (required above) did not state that the general obligation will extend to the HFA's responsibilities under the Risk-Sharing Agreement and any debenture issued by the HFA to the Commissioner must establish a specifically identified dedicated account (see Attachment D). This account must consist entirely of liquid assets (i.e., cash, cash equivalents, or readily marketable securities) and be located in a financial institution acceptable to HUD. Such an institution has assets of not less than $100,000,000; is organized under the laws of the United States or a State thereof; and is regulated and examined by the Comptroller of the Currency, Federal Deposit Insurance Corporation or the Federal Reserve Board, has a long-term bank deposit rating of ''A–1'' or better by Moody's Investors Service or ''A+'' rating by Standard and Poors. Reserve requirements are set forth in 24 CFR 266.110 of the regulations.

Application Review Procedures

1. *Additional Information.* If HUD requires additional data from a new applicant, the new applicant will have 5 business days from the date of notification to submit such data to the appropriate HUD official. (If notification is by mail, an HFA will be presumed to receive notification five business days from the date of such notification.)

2. *Review Criteria.* HUD will review each application to determine if the applicant meets all the requirements of the regulation and this Notice and demonstrates the ability to underwrite, originate, process, close, service, manage, and dispose of multifamily loans in a prudent manner.

3. *Acceptability Standards.* HUD will review the submissions of HFAs which do not have a top-tier rating or have not received an overall rating of ''A'' on their general obligation bonds in accordance with the above Review Criteria and the standards set forth below:

(i) Demonstrated capability to carry out program responsibilities, including: (A) continuity of management; (B) staff qualifications and experience; and (C) the HFA's established track record of performing multifamily loan processing, servicing, loan management (including capability to enforce regulatory agreements and to perform workouts), and property disposition for the types of loans eligible under this program.

(ii) Adequacy of the HFA's administrative capabilities to ensure sound underwriting and loan management.

(iii) Soundness of the HFA's multifamily portfolio, including default experience.

(iv) Strength of the relationship between the HFA and the State or local government.

(v) The HFA's fiscal soundness, including (A) amounts and sources of revenues for housing activities and its investment policies for fund balances (if any); (B) how it proposes to meet any monetary obligations required under this program; and (C) the adequacy of funding to commit to the level requested in the application.

Approval of Applications

1. *Notification.* HUD will notify new applicants of approval or disapproval within 60 days of the deadline for applications.

2. *Approval Levels.* HFAs will be approved to operate under one of three requested risk-sharing arrangements as follows:

(i) Level I—the HFA is approved to originate, service and dispose of multifamily mortgages using its own underwriting standards and loan terms and conditions. The HFA assumes 50 to 90 percent of the risk in increments of 10 percent.

(ii) Level II—the HFA is approved to originate, service and dispose of multifamily mortgages where the HFA uses underwriting standards and loan terms and conditions approved by HUD, and

A. When the loan-to-replacement cost ratio for new construction and substantial rehabilitation projects or the loan-to-value ratio for existing projects are greater than or equal to 75 percent, the HFA shall assume at least 25 percent of the risk.

B. When the loan-to-replacement cost ratio for new construction and substantial rehabilitation projects or the loan-to-value ratio for existing projects are less than 75 percent, the HFA shall assume 10 percent or 25 percent of the risk, at the HFA's option.

(iii) Combined Levels I/II—For HFAs which plan to use Level I and Level II process, the underwriting standards and loan terms and conditions to be used on Level II loans must be approved by HUD as described in (ii), above.

3. *Risk-Sharing Agreement.* When an HFA is determined by HUD to be qualified to participate in the program, the Department will grant tentative approval to the HFA and forward the Risk-Sharing Agreement (similar to that shown in Attachment E) to the HFA for signature. The Risk-Sharing Agreement will set aside the number of units for the HFA. It will also set forth other obligations of the HFA. The HFA must return the executed document, along with evidence that the dedicated reserve account has been established (where appropriate).

Authorization to Use Unit Set-Aside

After receipt of the signed Risk-Sharing Agreement, HUD will return a copy of the Risk-Sharing Agreement executed on behalf of the Department and notify the HFA that it may begin using its unit set-aside. No HFA will be authorized to process loans for mortgage insurance until it has received HUD-approved mortgagee status, been approved under the Risk-Sharing program, has executed a Risk-Sharing Agreement and, where required, provided evidence to the Department that it has established a dedicated reserve account.

Other Matters

Environmental Finding. A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50 implementing section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The Finding of No Significant Impact is available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the Office of the Rules Docket Clerk, 451 Seventh Street, SW., Room 10276, Washington, DC 20410.

Executive Order 12612, Federalism. The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism,* has determined that the policies and procedures contained in this Notice will

not have substantial direct effects on States or their political subdivisions, or the relationship between the federal government and the States, or on the distribution of power and responsibilities among the various levels of government. As a result, the Notice is not subject to review under the Order.

Executive Order 12606, The Family. The General Counsel, as the Designated Official for Executive Order 12606, *The Family,* has determined that this Notice will likely have a beneficial impact on family formation, maintenance and general well-being. Accordingly, since the impact on the family is beneficial, no further review is considered necessary.

Accountability in the Provision of HUD Assistance. The Department has promulgated a final rule to implement section 102 of the Department of Housing and Urban Development Reform Act of 1989 (HUD Reform Act). The final rule is codified at 24 CFR part 12. Section 102 contains a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by the Department. On January 16, 1992, the Department published at 57 FR 1942, additional information that gave the public (including applicants for, and recipients of, HUD assistance) further information on the implementation, public access, and disclosure requirements of section 102. The documentation, public access, and disclosure requirements of section 102 are applicable to assistance awarded under this Notice as follows:

(1) *Documentation and Public Access.* The Department will ensure that documentation and other information regarding each application submitted pursuant to this Notice are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this Notice in its Federal Register notice of all recipients of HUD assistance awarded on a competitive basis. (See 24 CFR 12.14(a) and 12.16(b), and the notice published in the Federal Register on January 16, 1992 (57 FR 1942), for further information on these requirements.)

(2) *HUD Responsibilities—Disclosures.* The Department will make available to the public for five years all applicant disclosure reports (Form HUD–2880) submitted in connection with this Notice. Update reports (also Form HUD–2880) will be made available along with the applicant disclosure reports, but in no case for a period less than three years. All reports, both applicant disclosures and updates, will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. (See 24 CFR part 12, Subpart C, and the notice published in the Federal Register on January 16, 1992 (57 FR 1942), for further information on these disclosure requirements.)

Prohibition Against Advance Information on Funding Decisions. HUD's regulation implementing section 103 of the Department of Housing and Urban Development Reform Act of 1989, codified as 24 CFR part 4, applies to the funding competition announced today. The requirements of the rule continue to apply until the announcement of the selection of successful applicants. HUD employees involved in the review of applications and in the making of funding decisions are limited by part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR part 4.

Applicants or employees who have ethics related questions should contact the HUD Office of Ethics (202) 708–3815. Hearing- or speech-impaired individuals may access this number via TTY by calling the Federal Information Relay Service at 1–800–877–8339. (With the exception of the ''800'' number, these are not toll-free numbers.) For HUD employees who have specific program questions, such as whether particular subject matter can be discussed with persons outside HUD, the employee should contact the appropriate Field Office Counsel, or Headquarters counsel for the program to which the question pertains.

Prohibition against Lobbying Activities. The use of assistance under this Notice is subject to the disclosure requirements and prohibitions of section 319 of the Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S.C. 1352)(the ''Byrd Amendment'') and the implementing regulations at 24 CFR part 87. These authorities prohibit recipients of Federal contracts, grants, or loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant, or loan. The prohibition also covers the awarding of contracts, grants, cooperative agreements, or loans unless the recipient has made an acceptable certification regarding lobbying. Under 24 CFR part 87, applicants, recipients and subrecipients of assistance exceeding $100,000 must certify that no Federal funds have been or will be spent on lobbying activities in connection with the assistance.

Catalog of Federal Domestic Assistance Program. The Catalog of Federal Domestic Assistance program title and number is 14.188, Housing Finance Agency Risk-Sharing Program.

Authority: Section 542(c) of the Housing and Community Development Act of 1992, as amended, 12 U.S.C. 1707.

Dated: May 16, 1996.

Stephanie A. Smith,

Acting General Deputy Assistant Secretary for Housing, Federal Housing Commissioner.

BILLING CODE 4210–27–P

ATTACHMENT A

FEDWIRE INSTRUCTIONS

INSTRUCTIONS FOR COMPLETING REQUEST TO TRANSFER FUNDS BY FEDWIRE

ITEM 1 - RECEIVER-DFI#: The Treasury Department's ABA number for deposit messages is 021030004. This number should be entered by the sending bank for all deposit messages sent to the Treasury.

ITEM 2 - TYPE-SUBTYPE-CD: The type and subtype code will be provided by the sending bank.

ITEM 3 - SENDER-DFI#: This number will be provided by the sending bank.

ITEM 4 - SENDING-REF#: The sixteen character reference number is inserted by the sending bank at its option.

ITEM 5 - AMOUNT: The transfer amount must be punctuated with commas and decimal points; use of the "$" is optional. This item will be provided by the depositor.'

ITEM 6 - SENDER-DFI-NAME: This information is automatically inserted by the Federal Reserve Bank.

ITEM 7 - RECEIVER-DFI-NAME: The Treasury Department's name for deposit messages is "TREAS NYC". This name should be entered by the sending bank.

ITEM 8 - PRODUCT CODE: A product code of "CTR" for customer transfer should be the first data in the RECEIVER - TEXT field. Other values may be entered, if appropriate, using the ABA's options. A slash must be entered after the product code.

ITEM 9 - AGENCY LOCATION CODE: THIS ITEM IS OF CRITICAL IMPORTANCE. IT MUST APPEAR ON THE FUNDS TRANSFER DEPOSIT MESSAGE IN THE PRECISE MANNER AS STATED TO ALLOW FOR THE AUTOMATED PROCESSING AND CLASSIFICATION OF THE FUNDS TRANSFER MESSAGE TO THE AGENCY LOCATION CODE OF THE APPROPRIATE AGENCY. The agency's unique code must be specified in the funds transfer message in order for the funds to be correctly classified to the respective agency. The ALC identification sequence includes the beneficiary code field tag, BNF=, and identifier code, "/AC", followed by the appropriate ALC number. This component must be in the following format:

BNF=/AC-86090300

The ALC identification sequence can, if necessary, begin on one line and end on the next line; however, the field tag "BNF=" must be one line and cannot contain any spaces.

ITEM 10 THIRD PARTY INFORMATION: This contains the appropriate information to identify the reason for the funds transfer. The Originator to Beneficiary information field tag "OBI=" is used to signify the beginning of the free-form third party text. The field tag "OBI=" must be on the same line and cannot contain any spaces. The field tag is placed following the ALC identification sequence and preceded by a space. An example of this data line is as follows:

BNF=/AC-86090300 OBI=Housing Finance Agency Risk-Sharing Program for MF Project Loans

(1)	(2)	
021030004		
(3)	(4)	(5)
		$10,000.00
(6)		
(7) (8)		
TREAS NYC/CTR/		
(9)	(10)	
BNF=/AC-86090300 OBI=		
HOUSING FINANCE AGENCY RISK-SHARING PROGRAM FOR MF		
PROJECT LOANS		

BILLING CODE 4210–27–C

Attachment B—Housing Finance Agency Questionnaire

Responses to this questionnaire fulfill the documentation requirements pursuant to 24 CFR 266.10(d)(4)(iii). All Housing Finance Agencies (HFAs) seeking approval to participate in the HFA Risk-Sharing program who do not have ''top-tier'' designation or an overall rating of ''A'' on their general obligation bonds from one of the nationally recognized rating agencies must complete this questionnaire.

The questionnaire addresses 5 different aspects of the HFA and are consistent with conditions set forth in Section 542(d)(2) of the Housing and Community Development Act of 1992. Applicants should be careful to craft responses so that they clearly address the issues set forth in the body of this Notice. Responses should represent a summary of the detailed information that may be found in the HFA's operating, administrative and quality control manuals or guidelines. In order to ensure that the Department can expeditiously review and approve applications, ALL NARRATIVE RESPONSES ARE LIMITED TO 15 PAGES. Responses to questions related to the portfolio (item II) may be presented in tabular form, where appropriate, and attached as exhibits to the 15 page narrative responses. The Department encourages HFAs to prepare responses in a manner similar to that which might be used for the HFAs Annual Reports and reports to the Board of Directors.

I. Organizational History

Describe the history and organizational background of the HFA. Indicate how long it has been in existence, when it began to finance multifamily loans, and an overall description of its multifamily lending activities.

Describe the HFA's relationship to the State or local government, as appropriate. Clearly indicate whether or not State or local government officials serve on the HFA's board of directors and describe, if any, the role State or local officials play in the HFA's program operations.

Discuss any State or local appropriations for the past 5 years and any anticipated appropriations over the next 3 years to support the HFA's multifamily housing goals.

II. Portfolio Information

Indicate how many multifamily loans have been financed within the past 10 years (dates specified), by year. Include the number and type of projects (family, elderly, assisted living, cooperative, etc.) and units in each, type of loan (first mortgage, second, gap loan, credit support, new construction, rehabilitation, refinancing with or without repairs, etc.) and original mortgage amounts, outstanding principal balances, status (current, default, foreclosed, workout) and location (urban/suburban/central city/rural).

For the multifamily loans currently in the HFA's portfolio, indicate how many are HFA owned, owned by other public agencies, nonprofit organizations, privately owned and other ownership types.

III. Staff Capacity

Describe general background and indicate years of experience of individual responsible for the overall underwriting decision (e.g., chief underwriter) and for project management, loan servicing and property disposition (e.g., Director of Asset Management). Note that these functions may not be contracted out by the HFA.

IV. Operating Procedures

A. Cost Certification

Describe the HFA's cost certification process. Explain how it will prevent fraud and misrepresentation, ensure legitimate costs and completion of repairs prior to acceptance of certification. Describe how mortgage excesses and mandatory prepayments will be handled.

B. Loan Approval

Describe the loan approval process. Describe circumstances if any, under which the chief underwriter's recommendations can be overridden.

Describe any situations where loans are not referred to a committee, what they are and to whom they are referred.

C. Loan Servicing

Describe the HFA's overall loan servicing system and the procedures for enforcing the Regulatory Agreement.

Describe the computerization of its portfolio, project audits/reviews and procedures for resolving deficiencies.

D. Workout Procedures

State the number of workout plans developed by the HFA over the last five years, elements of the agreement and current status. If there is no previous experience with workouts, describe plans, tools or strategies proposed to establish workout agreements.

V. Financial Capability

Describe the amount and sources of funds the HFA has available to support multifamily housing programs. If funds are earmarked for specific projects or programs, or otherwise have a contingent liability, indicate how much and for what purpose. Indicate how much of the funds are unrestricted, how those funds are governed (e.g., approval of the board of directors or state or local government) and the eligible uses of these funds. Identify any funding sources available to supplement less than break-even projects.

Indicate the overall percentage of total unrestricted funds to total debt and the percentage of liquid unrestricted funds to total mortgages outstanding.

Describe the collateral the HFA will use if it does not have the authority to pledge its full faith and credit to back debentures issued against claims.

Describe how the HFA intends to fund the dedicated account, its procedures for ensuring required balances are in place at all times and that the amounts are increased at each loan closing. Describe the funding source (all funds in the account must be liquid) for the dedicated account and identify the financial institution in which the HFA proposes to maintain these funds.

Describe the circumstances or conditions under which other governmental entities or public bodies have access to the HFA's funds.

Describe briefly, the types of financial and quality control audits performed on the HFA. Indicate the State or local HFA or authority that has responsibility for conducting the annual financial audit and when that audit is conducted.

Describe the mechanism for disposing/resolving audit findings.

Identify any periodic reports required for the board of directors and/or other organizational oversight body.

Describe the procedures in place to generate financial reports, changes in fund balances, and changes in financial position. Describe procedures in place for the prompt notification to HUD of negative changes in the HFA's financial position.

Attachment C—Certifications Housing Finance Agency Letterhead

I _____ (name of authorized official) hereby certify that I am the _____ (title) of the _____ (name of housing finance agency) _____ ''the Agency'', and that I am authorized to make the certifications set forth below on behalf of the Agency.

I hereby certify that:

(1) The Agency will at all times comply with the financial requirements of 24 CFR 266.110 of the Risk-Sharing Program and, where applicable, maintain required reserves in a dedicated account in liquid funds (i.e., cash, cash equivalents, or readily marketable securities) in a financial institution acceptable to HUD.

(2) The Department of Justice has not brought a civil rights suit against the Agency and no suit is pending;

(3) There has not been an adjudication of a civil rights violation in a civil action brought against the Agency by a private individual, unless the Agency is operating in compliance with a court order, or implementing a HUD-approved compliance agreement designed to correct the areas of noncompliance; and

(4) There are no outstanding findings of noncompliance with civil rights statutes, Executive Orders, or regulations as a result of formal administrative procedures, or the Secretary of HUD has not issued a charge against the Agency under the Fair Housing Act, unless the Agency is operating under a compliance agreement designed to correct the areas of non-compliance.

Dated: _____

_____

Name of Agency

By: _____

Title: _____

Attachment D—Housing Finance Agency Risk-Sharing Program Section 542(C)

Dedicated Reserve Account

The following information is required to evidence establishment of a dedicated reserve account in an initial amount of $500,000 to be used solely in connection with the Housing Finance Agency (HFA) Risk-Sharing Program. Thereafter, the HFA shall make additional deposits at each loan closing in accordance with 24 CFR 266.110.

Duplicate originals of the attached agreement and one copy must be forwarded by the HFA to a financial institution with whom it intends to establish a Dedicated Reserve Account. In each of the attached agreements and on the copy, such financial

institution will certify to the existence of the dedicated reserve account by inserting the date the account was established, the account number, and the account balance. Upon completion of the certification, the financial institution shall sign and return an original and one copy to the HFA which, in turn, will forward the original to HUD. The HFA should retain a duplicate copy for its records. This information must be submitted to Linda D. Cheatham, Director, Office of Multifamily Housing Development, Room 6134, 451 Seventh Street, S.W., Washington, D. C. 20410 prior to the HFA's approval to participate in the program.

Agreement for HFA's Dedicated Reserve Account

HFA Name _____
Address _____
(Street Number)

_____
(City, State and Zip Code)
Date _____

_____
(Name of Institution)

_____
(Street)

_____
(City, State, and Zip Code)

You are authorized and requested to establish a Reserve Account to be specifically designated *''(HFA Name)/HUD Risk-Sharing''*. This account may be drawn upon by the Department of Housing and Urban Development (hereinafter ''HUD'') and may be used by the HFA only with the prior written approval of HUD for the purpose of meeting the HFA's risk-sharing obligations under this program.

This letter is submitted to you in duplicate originals. Please execute the duplicate originals of the certification below, acknowledging the existence of such account, so that we may present an original signed by you to HUD. Specimen signatures of HFA representatives and identification of authorized HUD signatory positions are enclosed.

_____
(Signature of HFA authorized official)

To Be Completed By the Financial Institution

To: The Department of Housing and Urban Development

The undersigned institution certifies to HUD that the above account was established on _____ in the amount of _____ in this institution under account number _____ and agrees with the HFA named above and HUD to honor withdrawals from the account as set forth above and agrees to send quarterly statements regarding the account to both HUD and the HFA. The financial institution further certifies that it:

(1) has assets of not less than $100,000,000;

(2) is organized under the laws of the United States or a State thereof;

(3) is regulated and examined by the Comptroller of the Currency, Federal Deposit Insurance Corporation or the Federal Reserve Board; and

(4) has a long-term bank deposit rating of ''A–1'' or better by Moody's Investors Service or ''A+'' by Standard and Poor's.

_____
(Name of Institution)
By: _____
Title: _____
Date: _____

Authorized HUD Signatory Positions

Persons in the following positions are authorized to withdraw from the HFA/HUD Risk-Sharing Account on behalf of HUD and/or approve on behalf of HUD, the withdrawal of funds from the Account by the HFA:

Director, Office of Multifamily Housing Development
Deputy Director, Office of Multifamily Housing Development
Director, Office of Multifamily Asset Management and Disposition
Associate Director for Program Management, Office of Multifamily Asset Management and Disposition
Associate Director for Program Operations, Office of Multifamily Asset Management and Disposition

Specimen Signatures of HFA Authorized Officials

Based upon prior approval from HUD, the following individuals are authorized to withdraw funds from the HFA/HUD Risk-Sharing Account on behalf of the HFA:

(Name) _____
(Title) _____
(Name) _____
(Title) _____

Attachment E—Sample Risk-Sharing Agreement and Addendum

(subject to revision)

This Risk-Sharing Agreement (hereinafter referred to as ''Agreement'') is entered into on this _____ day of _____, 19_____, by and between _____ whose address is _____ and its successors (hereinafter referred to as ''HFA'') and the undersigned Secretary of Housing and Urban Development and his/her successors and assigns acting by and through the Assistant Secretary for Housing-Federal Housing Commissioner (hereinafter referred to as ''Commissioner'').

WHEREAS, the Housing and Community Development Act of 1992 authorizes, under Section 542(c) thereof, the development of a Risk-Sharing Pilot Program under which the Commissioner will enter into Risk-Sharing Agreements with qualified housing finance agencies and provide for full mortgage insurance through the Federal Housing Administration of loans for affordable housing originated by the qualified housing finance agencies;

WHEREAS Section 8 of the Housing Opportunity Program Extension Act of 1996 extends Section 542(c) through the end of Fiscal Year 1996;

WHEREAS, under the authority of Section 542(c), the Commissioner has published implementing regulations at 24 CFR Part 266.

WHEREAS, the HFA seeks to participate in the Risk-Sharing Program, in accordance with Section 542(c), the regulations issued pursuant thereto and the terms set forth herein, in order to obtain full insurance on loans made by the HFA for affordable multifamily housing for persons in its community;

WHEREAS, the Commissioner seeks to enter into this Agreement with the HFA in order to test the effectiveness of Federal credit enhancement for loans for affordable multifamily housing through a system of risk-sharing agreements with the HFA; and

NOW THEREFORE, in consideration of the foregoing, the parties agree as follows:

Article I—Allocation/Credit Subsidy

In furtherance of this Agreement,

A. The Commissioner has set aside _____ units of affordable multifamily housing to be originated by the HFA.

B. The Commissioner reserves the right to modify the number of units set forth in this Agreement to: (1) Allocate additional units in excess of the number set aside above, or (2) to reduce such allocation based on the Commissioner's review of the HFA's use of its prior set-aside(s). Any such changes shall be incorporated by an addendum to this Agreement.

C. Credit subsidy is required for all insured projects, including projects insured pursuant to this Agreement. Credit subsidy is subject to availability in accordance with the Commissioner's outstanding instructions. The HFA shall be notified that the Firm Approval Letter will be delayed if credit subsidy has been exhausted.

Article II—Definitions

As used in this Agreement the term:

''Addendum'' means that document attached to this Agreement, which shall be used for reserving units and establishing the risk share percentage for specific projects, modifying the number of units set aside to the HFA and for other purposes.

''Amendment'' means a modification of the terms and conditions of this Agreement requiring the consent of both the Commissioner and the HFA or a modification by HUD to 24 CFR Part 266.

''Contract of Insurance'' means the agreement evidenced by the endorsement of the Commissioner upon the credit instrument given in connection with a mortgage, incorporating by reference the regulations in 24 CFR Part 266 and the applicable provisions of Section 542(c).

''Credit Subsidy'' means the cost of a direct loan or loan guarantee under the Federal Credit Reform Act of 1990 as defined in Subpart B of Title 13 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508, approved November 5, 1990).

''Dedicated Account'' means an account maintained in a financial institution acceptable to the Commissioner which consists entirely of liquid assets (i.e., cash or cash equivalents or readily marketable securities.)

''Exhibit'' means a document which provides names, titles and/or specimen signatures of principal staff of the HFA.

''Firm Approval Letter'' means a letter issued by the Commissioner or his/her designee to an HFA upon the positive completion of the HUD-retained reviews described in 24 CFR Section 266.210. The letter will apportion units and obligate credit subsidy to the property and provide that, so long as the HFA complies with any conditions included therein or attached

thereto, is in good standing, makes the required certifications at the time of the HUD closing, and absent fraud or misrepresentation by the HFA, the Commissioner shall endorse the property mortgage for insurance.

''Mortgage'' means such single first lien upon the real estate as is commonly given to secure advances on, or the unpaid purchase price of, real estate under the laws of the jurisdiction where the real estate is situated, together with the credit instrument, if any, secured thereby.

''Mortgagee'' refers to the original lender under a Mortgage and its successors approved by the Commissioner.

''Project'' means the mortgaged property and all assets wherever situated, used in or owned by the owner of the Mortgaged property in the business conducted on the Mortgaged property.

''Reservation'' means the number of units from an HFA's set-aside committed upon issuance of a Firm Approval Letter. The number of units reserved may be adjusted upon endorsement, for a specific project to be insured under Section 542(c).

''Set-aside'' includes the total number of units allocated for use by an HFA under Section 542(c) which allocation may be increased or decreased from time to time by the Commissioner in accordance with the Commissioner's administrative instructions.

Article III—Certifications

In consideration of the endorsement for full insurance by the Commissioner of loans covering the units set aside in Article I, Paragraph A of this Agreement, and in order to comply with the requirements of the risk-sharing program established by Section 542(c) and the regulations adopted by the Commissioner pursuant thereto, the HFA agrees and certifies for itself, and its successors, that in connection with any mortgage insured under Section 542(c) and so long as the Commissioner is obligated to insure mortgages pursuant to this Agreement that:

A. The HFA has been approved by the Commissioner as a Level I ____ and/or Level II____ [check one or both, as appropriate] Participant as defined in 24 CFR Sections 266.5 and 266.100(b).

B. The individuals (principal staff) employed by the HFA as the persons responsible for the overall underwriting decision and for project management, loan servicing and property disposition with respect to loans insured or to be insured under Section 542(c) are listed in Exhibit A to this Agreement. The HFA agrees to notify the Commissioner promptly in writing any time the HFA changes principal staff.

C. The individuals, whose names, titles and specimen signatures appear in Exhibit B have authority to sign loan documents on behalf of the HFA and otherwise commit the HFA under the Section 542(c) Risk-Sharing Program. The HFA agrees to notify the Commissioner promptly in writing of any changes of individuals authorized to sign loan documents on behalf of the HFA and provide the Commissioner with specimen signatures of such new individuals.

D. The HFA shall allow periodic auditing and review by the Commissioner, the Inspector General and the General Accounting Office or their duly authorized agents regarding the HFA's participation in the risk-sharing program.

E. The HFA shall permit an inspection and examination of its financial records and records associated with loans insured under Section 542(c) by the Commissioner and/or his duly authorized agents upon reasonable notice.

F. The HFA has fully disclosed and provided copies of all of its underwriting standards and procedures, loan terms and conditions to the Commissioner, and, if the HFA operates as, or originates or processes any loans as a Level II agency, it has obtained the Commissioner's prior written approval to utilize such underwriting standards and procedures, loan terms and conditions. The HFA's originating, underwriting, closing, project management, servicing and property disposition procedures utilized in processing and servicing the loans insured or to be insured under Section 542(c) are incorporated herein by reference and made a part hereof.

G. The HFA shall notify the Commissioner before implementing any amendment to the HFA's underwriting standards and procedures, loan terms and conditions and will provide the Commissioner with copies of any amendments within ____ business days before implementation of such amendments by the HFA. If the HFA operates as, or originates or processes any loans as a Level II agency, it shall also obtain the prior written approval of the Commissioner before implementing any amendment to its underwriting standards and procedures, loan terms and conditions.

H. If the HFA (a) does not meet the qualification requirements of 24 CFR 266.110(a) (i.e., top-tier rating or equivalent designation or has an overall ''A'' rating on its general obligation bonds), or (b) has an overall ''A'' rating but cannot provide the necessary legal opinion of counsel requisite to participation in the risk-sharing program, it has established a specifically identified Dedicated Account (meeting the requirements of 24 CFR 266.110(b) and the administrative requirements of the Commissioner) in _____ (insert name of financial institution) a financial institution which has assets of not less than $100,000,000, is organized under the laws of the United States or a State thereof and is regulated and examined by the Comptroller of the Currency, Federal Deposit Insurance Corporation or the Federal Reserve Board, and has a long term bank deposit rating of ''A–1'' or better by Moody's Investors Service or ''A+'' by Standard and Poor's. The Commissioner may determine that higher levels of reserves may be necessary.

I. If at any time the HFA loses the designation or rating, as applicable, set forth in 24 CFR 266.110(a), or can no longer provide the legal opinion requisite to participation in the program, it shall, within 5 business days, provide the Commissioner with notice of the loss of its designation or rating or of its inability to provide the statement noted above. Within 15 business days after the loss of the HFA's designation or rating or its inability to provide the requisite legal opinion, the HFA shall establish a Dedicated Account funded in accordance with Paragraph H above. The HFA must calculate the deposits to this Dedicated Account in accordance with the requirements of 24 CFR 266.110(b) so that the account reflects all loans in the HFA's portfolio insured under Section 542(c).

J. Within 90 days following the end of its fiscal year, the HFA shall furnish the Commissioner with a complete annual financial audit based upon an examination of the books and records of the HFA prepared and certified in accordance with the requirements of the State or locality in which the HFA is located.

K. The HFA shall at all times comply with the financial requirements of the Section 542(c) program and it shall notify the Commissioner of any pending or actual changes in its financial status that would adversely affect the HFA's operating or financial status within 5 business days after becoming aware of such pending or actual changes.

L. Within 90 days following the end of its fiscal year, the HFA shall furnish the Commissioner, along with a copy of the audit specified in Paragraph J above, a certification signed by an authorized official of the HFA that there have been no changes that would adversely affect the HFA's organization, business activities, financial status and other information submitted with its application to participate in the Section 542(c) program and that the HFA has complied with all eligibility requirements for participation in the program during the past year. If there has been a change in information submitted with the HFA's application relating to the HFA's organization, business activities, financial status or other information submitted with its application, the certification will state the nature of the change.

M. The HFA shall comply with the Fair Housing Act, as implemented by 24 CFR Part 100; titles II and III of the Americans with Disabilities Act of 1990, as implemented by 28 CFR Part 35; Section 3 of the Housing and Urban Development Act of 1968, (12 U.S.C. Section 1701u), implemented by 24 CFR Part 135, the Equal Credit Opportunity Act, implemented by 12 CFR Part 202; Executive Order 11063, as amended, and implemented by 24 CFR Part 107; Executive Order 11246, as implemented by 41 CFR Part 60; other applicable Federal laws and regulations issued pursuant to these authorities; and applicable State and local fair housing and equal opportunity laws. In addition, the HFA shall require that mortgagors which receive Federal financial assistance must also certify to the HFA that, so long as the mortgage is insured under Section 542(c), it shall comply with title VI of the Civil Rights Act of 1964, as implemented by 24 CFR Part 1; the Age Discrimination Act of 1975, as implemented by 24 CFR 146; and section 504 of the Rehabilitation Act of 1973, as implemented by 24 CFR Part 8.

N. During the period that the Commissioner is the insurer of any mortgage endorsed under Section 542(c), the HFA shall remain the mortgagee of record and shall perform all functions in connection with loans originated under the 542(c) program

including loan servicing (including workouts), property management and property disposition functions. The Commissioner shall have no obligation to recognize or deal with anyone other than the HFA in its role as mortgagee of record with respect to the rights and obligations of the HFA under the contract of mortgage insurance and this agreement.

O. The HFA shall retain records pertaining to origination and servicing of all mortgages insured under Section 542(c) for as long as the mortgage insurance remains in effect. In the event of a default and mortgage insurance claim, all records pertaining to the insured mortgage, the mortgage default and insurance claim shall be retained three (3) years after the date of final settlement as final settlement is described in 24 CFR Section 266.654.

P. The HFA shall maintain a Lender's Fidelity Bond/Surety Bond and Errors and Omissions Insurance in a form and amount satisfactory to the Commissioner.

Q. The HFA shall issue Debentures as defined in 24 CFR Section 266.638 acceptable to the Commissioner as collateral for the full amount of its risk-sharing obligation under this agreement pending final settlement of any insurance claim. The Debentures shall be backed by the full faith and credit of the HFA. If the HFA operates as a department or division of the State in which it is located, or as a unit of local government, and the HFA cannot pledge the full faith and credit of the HFA, the HFA shall collateralize its obligation through a letter of credit, reinsurance, or other form of credit acceptable to the Commissioner.

R. Any reinsurance obtained by the HFA to cover its portion of the risk shall: (i) Be subordinate to the HUD-insured mortgage; (ii) not affect reimbursement to the Commissioner, notwithstanding the timing of the actual settlement between the HFA and the reinsurer; (iii) not be used to reduce any reserve or fund balance requirements established by the Commissioner; and (iv) not result in the Federal Government incurring any liability as a result of the reinsurance agreement.

S. With respect to any project mortgage endorsed for insurance under Section 542(c), the HFA shall furnish to the Commissioner project information in a format specified by the Commissioner in HUD Handbook 4590.01. Basic underwriting and closing information shall accompany the initial and final closing dockets submitted for each project. Information relating to project management, servicing and disposition shall be submitted to the Commissioner on a periodic basis after endorsement in accordance with the requirements set forth in Handbook 4590.01.

T. The HFA shall enforce the Regulatory Agreement between the HFA and mortgagor and take action against the mortgagor for violation of any provision(s) thereof.

U. The HFA shall perform annual physical inspections of all projects insured under Section 542(c) and shall submit a copy of the inspection report to the Commissioner (i.e., showing and certifying that the project is in safe and sanitary condition). If a project is not in safe and sanitary condition, the HFA will provide the Commissioner with a summary of required actions, with target dates, to correct unresolved findings.

V. The HFA shall analyze the project's annual audit and within 30 days of the date of the audit, provide the Commissioner with a summary of unresolved findings disclosed in the audit and a summary of actions planned, with target dates, to correct unresolved findings. The HFA shall analyze the project's annual audit and within 6 months of the date of the audit, provide the Commissioner with a summary of unresolved findings disclosed in the audit and a summary of actions planned, with target dates, to correct unresolved fundings.

W. The HFA shall submit semi-annual reports to the Commissioner for all projects insured under Section 542(c) setting forth the original mortgage amounts and outstanding principal balances on mortgages the HFA has underwritten, the status of all projects (e.g., whether current, in default, acquired, under workout agreement, in bankruptcy, etc.). For projects where the mortgagor has declared bankruptcy, the HFA will submit information containing the date the bankruptcy was filed and the date the HFA requested the Court to dismiss the bankruptcy proceedings.

X. All appraisal functions will be completed by Certified General Appraisers licensed in the state in which the property is located, and all appraisal functions will be completed in accordance with the Uniform Standards of Professional Appraisal Practice.

Y. In the event of a default on a multifamily mortgage insured under Section 542(c) which results in the Commissioner having to pay a claim under a Contract of Insurance to the HFA, the HFA will, upon determination of the loss, assume the percentage of loss specified in an Addendum to this Agreement (such Addendum being made a part of this Agreement) and in the endorsement panel of the mortgage note, and reimburse the Commissioner, pursuant to administrative instructions of the Commissioner, the amount based on that percentage pursuant to 24 CFR Section 266.654. (The HFA's percentage of loss specified in the Addendum for a particular project must be consistent with the percentage of loss associated with the HFA's approval level specified in Paragraph A of Article III of this Agreement. A loan which refinances an HFA-financed loan which was in monetary default (as that term is defined in 24 CFR Section 266.626) 12 months prior to the application for refinancing hereunder, the HFA's percentage of loss specified in the Addendum shall be at least 50 percent of the risk). An HFA-financed loan which goes into default after the submission of an application for refinancing of such loan under Section 542(c) will not be eligible for insurance under Section 542(c).

Z. The HFA shall require that the mortgagor keep the improvements now existing or hereafter erected on the mortgaged property insured against loss by fire and such other hazards, casualties, and contingencies, as may be stipulated by the Commissioner upon the insurance of the mortgage and other hazards as may be required from time to time by the HFA. All such insurance shall be evidenced by a standard Fire and Extended Coverage Insurance Policy or policies, in amounts not less than necessary to comply with the applicable coinsurance clause percentage, but in no event shall the amounts of coverage be less than eighty per centum (80%) of the actual cash value of the insurable improvements and equipment of the project, and in default thereof the HFA shall have the right to obtain such insurance in accordance with the mortgage. Such hazard insurance policies shall be endorsed with the standard mortgagee clause with loss payable to the HFA. The hazard insurance policy shall be deposited with the HFA.

AA. The HFA shall ensure that loans insured hereunder shall be on properties which comply with the affordable housing requirements defined in 24 CFR 266.5.

Article IV—Mortgage Insurance Endorsement

Absent fraud or material misrepresentation on the part of the HFA, the Commissioner shall endorse any mortgage presented for mortgage insurance by the HFA in accordance with the provisions of Section 542(c), subject to the Commissioner's right to adjust the amount of mortgage insurance in accordance with 24 CFR Section 266.417, so long as the HFA is in good standing with the Commissioner, has been issued a Firm Approval Letter pursuant to 24 CFR Section 266.300(c) and/or Section 266.305(c), and complies with any conditions therein or attached thereto, and submits with each loan to be endorsed a closing docket in accordance with 24 CFR Section 266.420(b) and written certifications that:

a. The property covered by the mortgage is free from all liens other than the lien of the FHA insured mortgage, except that the property may be subject to such inferior lien or liens, as approved by the HFA, as long as the insured mortgage has first priority for payment.

b. All contractual obligations in connection with the mortgage transaction, including the purchase of the property and the improvements to the property, have been paid. An exception is made for obligations that are approved by the HFA and determined by the HFA to be inferior to the lien of the insured mortgage.[1]

c. The property owner has submitted and the HFA has approved an Affirmative Fair Housing Marketing Plan which complies with the provisions set forth in 24 CFR Part 200, Subpart M.

d. Equal employment requirements were followed by the property owner pursuant to Executive Order 11246 as implemented by 41 CFR Part 60.

e. The property owner has executed the regulatory agreement which complies with the provisions set forth in 24 CFR Section 266.505.

f. The property has been processed, prudently underwritten (including a determination that a market exists for the project), cost certified (if the loan is being submitted for final endorsement) and closed in full compliance with the HFA's standards and requirements and are in full compliance with HUD standards established in connection with approval of advances for

[1] Pursuant to 24 CFR Section 266.415(b), this certification is made at final closing only.

insurance and cost certification. (Note: For mortgages originated under Level II, the certification will state ''in full compliance with the underwriting standards and loan terms and conditions as approved by the Commissioner.'') Further, the loan shall be serviced and the property managed in accordance with procedures disclosed and made a part of this Agreement.

g. For periodic advances cases, that each advance made was proportionate to construction progress as evidenced by HFA inspection prior to approval of the advance.

h. The HFA's Dedicated Account, if required, has been established and has been increased by the amounts required pursuant to 24 CFR Section 266.110(b).

i. For properties subject to Davis-Bacon requirements under 24 CFR Section 266.225, laborers and mechanics employed in the construction of the project have been paid not less than the prevailing wages determined by the Secretary of Labor in accordance with 24 CFR Section 266.225(a).

Article V—Sanctions

Upon a violation of any of the provisions of this Agreement by the HFA, or upon commission of any violation cited in 24 CFR Section 266.120, or of the administrative requirements established by the Commissioner for the Section 542(c) program, the Commissioner or his designee may declare a default under this agreement and impose any of the sanctions set forth at 24 CFR Section 266.125. Any sanction imposed by the Commissioner will be in accordance with the provisions of 24 CFR Section 266.125(d). Any sanction involving a suspension or withdrawal of the HFA's participation in the Section 542(c) program will not affect any mortgage insurance endorsement in effect on the date of the suspension or withdrawal action.

Article VI—Amendments/Modifications

A. This Agreement shall not be modified or amended without the consent of both parties hereto, except for changes made by the Commissioner to items covered by Article VII, and amendments or modifications that may be made by the Commissioner as set forth in the attached Addendum to this Agreement which: (1) Specify the number of units set aside to the HFA, and (2) other changes that conform to statutory or regulatory amendments. No such modification or amendment will adversely affect the interest of a HFA for any project for which a Firm Approval letter has been issued.

B. The HFA hereby agrees that its written consent to an Addendum executed by the Commissioner which modifies this Agreement to list: (1) Changes in its principal staff or individuals with authority to sign loan documents; (2) changes to existing HFA underwriting standards and procedures, loan terms and conditions; and/or (3) a change in the financial institution in which the Dedicated Account is deposited, will not be necessary if such change(s) was requested by the HFA in writing.

Article VII—Incorporation of Regulations

The regulations set forth in 24 CFR Part 266 are incorporated into this Agreement by reference and made a part hereof. The HFA shall, at all times, comply with the applicable regulations and with all other applicable Federal laws, rules and regulations.

Article VIII—Warranty

The HFA warrants that it has not, and will not, execute any other agreement with provisions contradictory to, or in opposition to, the provisions hereof, and that, in any event, the requirements of this Agreement and the regulations set forth in 24 CFR Part 266 and any administrative requirements established by the Commissioner are paramount and controlling as to the rights and obligations set forth herein and supersede any other requirements in conflict herewith.

Article IX—Miscellaneous

The Article headings set forth in this Agreement are not intended to be a limitation on what materials are included within each Article.

This Agreement shall bind, and the benefits shall inure to, the parties, their successors and assigns so long as any Contract of Insurance remains in full force and effect.

The invalidity of any clause, part or provision of this Agreement shall not affect the validity of the remaining portions hereof.

In witness hereof, the undersigned have caused this Agreement to be duly executed as of the date and year first written above.

Department of Housing and Urban Development

By: _____

Name: _____

Title: _____

Housing Finance Agency

By: _____

Name: _____

Title: _____

Warning: U.S. Criminal Code, Section 1001, Title 18 U.S.C., ''Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully * * * makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than five years, or both.''

Addendum to Risk-Sharing Agreement

HQ [ ]

FO [ ]

Number _____

This addendum modifies the Risk-Sharing Agreement, and/or any addendum thereto, by and between _____ (HFA) whose address is _____ and the Assistant Secretary for Housing—Federal Housing Commissioner (the Commissioner) dated the ____ day of _____, 199____.

The purpose of this addendum is to [check one]:

A. ( ) Reserve units and to establish the risk-share percentage between the HFA and Commissioner for Project Number _____ located at _____.

Units reserved _____

Risk-share apportionment

HUD _____/HFA _____

B. ( ) Modify the present set-aside of units. The number of units presently set-aside is _____, which is ( ) increased by _____ units, ( ) decreased by _____ units to a total of _____ units.

C. ( ) New principal staff or individuals with authority to sign loan documents or commit the HFA under the Section 542(c) program are:

D. ( ) New provisions, or changes to existing, HFA underwriting standards and procedures, loan terms and conditions are incorporated by reference into the Risk-Sharing Agreement and are as follows:

E. ( ) The name and address of the new financial institution in which dedicated account is deposited is:

_____

(Name of Financial Institution)

_____

(Address)

F. [Reserved for other purposes.]

Department of Housing and Urban Development

_____

Authorized Agent

Date _____

Exhibit A

The following individuals (principal staff) are employed by the HFA as the persons responsible for the overall underwriting decision and for project management, loan servicing and property disposition with respect to loans insured or to be insured under Section 542(c):

_____

(Name and Title)

_____

(Name and Title)

Exhibit B

The following individuals, whose names, titles and specimen signatures appear below, have the authority to sign loan documents on behalf of the HFA and otherwise commit the HFA under the Section 542(c) Risk-Sharing Program.

_____

(Name and Title)

_____

(Signature)

_____

(Name and Title)

_____

(Signature)

[FR Doc. 96–12795 Filed 5–21–96; 8:45 am]

BILLING CODE 4210–27–P

Federal Register

Wednesday
May 22, 1996

Part IV

The President

Federal Register
Vol. 61, No. 100
Wednesday, May 22, 1996

Presidential Documents

Title 3—

The President

Proclamation 6897 of May 17, 1996

National Safe Boating Week, 1996

By the President of the United States of America

A Proclamation

Each year, more Americans choose recreational boating as a means of appreciating our Nation's scenic lakes, beautiful rivers, and vast ocean waterways. Boating is a leisure activity that can be enjoyed by people of all ages and abilities, offering a unique perspective on an unparalleled variety of natural landscapes. This pastime is not without risk, however, and a thorough knowledge of water safety techniques and equipment is an essential part of being a responsible boater.

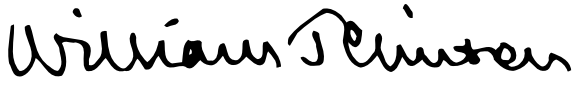
Studies show that in more than 77 percent of the fully documented recreational boating fatalities that occur every year, the victim was not wearing a life jacket. Falling overboard and capsizing are the leading causes of these deaths, and more than half of all boating accidents are alcohol-related—facts that clearly illustrate the importance of not mixing alcohol and boating, and of properly using personal flotation devices. Skippers, crew members, passengers, and all those who participate in nautical sports should wear safety equipment every time they take to the water.

I commend the United States Coast Guard and the many State and local recreational boating organizations that are working with Government agencies and volunteers across the country to promote the use of life jackets and to educate the public about other lifesaving measures. As we look forward to the summer months and spending time with family and friends on America's waterways, such efforts are vital to ensuring our citizens' health and safety.

In recognition of the value of safe boating practices, the Congress, by joint resolution approved June 4, 1958 (36 U.S.C. 161), as amended, has authorized and requested the President to proclaim annually the seven day period prior to the Memorial Day Weekend as ''National Safe Boating Week.''

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim May 18 through May 24, 1996, as National Safe Boating Week. I encourage the Governors of the 50 States and the Commonwealth of Puerto Rico, and officials of other areas subject to the jurisdiction of the United States, to join in observing this occasion. I urge all Americans to practice safe boating habits during this week and throughout the year.

IN WITNESS WHEREOF, I have hereunto set my hand this seventeenth day of May, 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. 96–13054
Filed 5–21–96; 8:45 am]
Billing code 3195–01–P

Presidential Documents

Proclamation 6898 of May 17, 1996

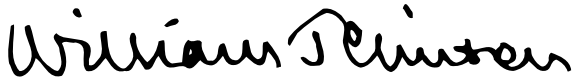
Death of Admiral Jeremy M. Boorda

By the President of the United States of America

A Proclamation

As a mark of respect for the memory of Admiral Jeremy M. Boorda, Chief of Naval Operations, I hereby order, by the authority vested in me as President of the United States of America by section 175 of title 36 of the United States Code, that the flag of the United States shall be flown at half-staff upon all public buildings and grounds, at all military posts and naval stations, and on all naval vessels of the Federal Government in the District of Columbia and throughout the United States and its Territories and possessions until sunset on the day of interment. I also direct that the flag shall be flown at half-staff for the same period at all United States embassies, legations, consular offices, and other facilities abroad, including all military facilities and naval vessels and stations.

IN WITNESS WHEREOF, I have hereunto set my hand this seventeenth day of May, 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. 96–13080
Filed 5–21–96; 8:45 am]
Billing code 3195–01–P

Presidential Documents

Proclamation 6899 of May 20, 1996

World Trade Week, 1996

By the President of the United States of America

A Proclamation

International commerce is vital to domestic economic growth—perhaps more so now than at any other time in recent U.S. history. Our Nation's prosperity depends in large part on our ability to develop and produce high-quality products, identify and open markets, and promote American goods and services across the globe. The U.S. jobs supported by exports are increasingly important, paying an average of 13 percent more than other positions and accounting for nearly one out of ten American workers and one in five of those in the manufacturing sector. The theme of this year's World Trade Week, ''Winning with Exports,'' is an invitation and a challenge to U.S. firms to reap the benefits of doing business abroad.

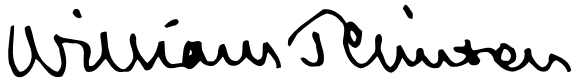
My Administration has developed a National Export Strategy that places special emphasis on helping small- and medium-sized companies seize trade opportunities. As part of this plan, we have created a country-wide network of U.S. Export Assistance Centers to provide information and capital to businesses seeking to expand. The results speak for themselves; in 1995, actions taken by Centers like those in Chicago and Baltimore dramatically increased the number of U.S. firms entering new markets and boosting export sales.

Trade is also a means of fostering understanding and stability around the world, helping our Nation to build partnerships founded on mutual prosperity. American commerce and investments are strengthening new democracies whose viability depends on economic growth and raised standards of living. From South Africa, to Central Europe, the Baltic States, Russia, Ukraine, and the Newly Independent States, exporting is allowing our country to play a pivotal role in settling and solidifying crucial foreign markets. Trade is also essential to troubled regions such as the Middle East, Northern Ireland, and Bosnia, where job creation and economic improvements play an important role in efforts to achieve peace.

As we observe World Trade Week, 1996, let us strive to give our Nation's exporters every opportunity to sell products freely and fairly and help our companies to meet the challenge of exploring markets abroad. Their efforts to maintain efficient, high-quality production and to promote American goods and services to an international clientele will lead to a stronger economy and a brighter future for us all.

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 May 19 through May 25, 1996, as World Trade Week. I call upon the people of the United States to observe this week with ceremonies, activities, and programs that celebrate the potential of international trade.

IN WITNESS WHEREOF, I have hereunto set my hand this twentieth day of May, 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. 96–13102
Filed 5–21–96; 10:58 am]
Billing code 3195–01–P

Presidential Documents

Executive Order 13004 of May 17, 1996

Establishing an Emergency Board To Investigate Disputes Between Certain Railroads Represented by the National Railway Labor Conference and Their Employees Represented by Certain Labor Organizations

Disputes exist between certain railroads represented by the National Railway Labor Conference and their employees represented by certain labor organizations. The railroads and labor organizations involved in these disputes are designated on the attached lists, which are made a part of this order.

These disputes have not heretofore been adjusted under the provisions of the Railway Labor Act, as amended (45 U.S.C. 151 *et seq.*) (the ''Act'').

In the judgment of the National Mediation Board, these disputes threaten substantially to interrupt interstate commerce to a degree that would deprive a section of the country of essential transportation service.

NOW, THEREFORE, by the authority vested in me as President by the Constitution and the laws of the United States, including section 10 of the Act (45 U.S.C. 160), it is hereby ordered as follows:

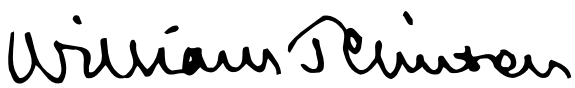
Section 1. *Establishment of Emergency Board (''Board'').* There is established effective May 17, 1996, a Board of three members to be appointed by the President to investigate the disputes. No member shall be pecuniarily or otherwise interested in any organization of railroad employees or any railroad carrier. The Board shall perform its functions subject to the availability of funds.

Sec. 2. *Report.* The Board shall report to the President with respect to the dispute within 30 days of its creation.

Sec. 3. *Maintaining Conditions.* As provided by section 10 of the Act, from the date of the creation of the Board and for 30 days after the Board has made its report to the President, no change, except by agreement of the parties, shall be made by the railroads or the employees in the conditions out of which the disputes arose.

Sec. 4. *Records Maintenance.* The records and files of the Board are records of the Office of the President and upon the Board's termination shall be maintained in the physical custody of the National Mediation Board.

Sec. 5. *Expiration.* The Board shall terminate upon the submission of the report provided for in sections 2 and 3 of this order.



THE WHITE HOUSE,
May 17, 1996.

RAILROADS

Alameda Belt Line Railway

Alton & Southern Railroad

American Refrigerator Transit Company

Arkansas Memphis Bridge Company

Atchison, Topeka and Santa Fe Railway Company

Bangor and Aroostook Railroad Company

Belt Railway Company of Chicago

Brownsville & Matamoros Bridge Company

Burlington Northern Railroad Company
- Allouez Taconite Facility
- Brainerd Timber Treating Plant
- Western Fruit Express Company

Camas Prairie Railroad Company

Canadian National North America

Central California Traction Company

Chicago Heights Terminal Railroad

Chicago Heights Terminal Transfer Railroad

Chicago and North Western Railway Company

Chicago South Shore and South Bend Railroad

Consolidated Rail Corporation

CSX Transportation, Inc.
- The Baltimore and Ohio Railroad Company (former)
- The Chesapeake and Ohio Railway Company (former)
- Louisville and Nashville Railroad Company (former)
- Seaboard Coast Line Railroad Company (former)

Houston Belt and Terminal Railway

Joint Railroad Agency - National Stock Yards

The Kansas City Southern Railway Company
- CP-Kansas City Southern Joint Agency

Kansas City Terminal Railway Company

Lake Superior & Ishpeming Railroad Company

Los Angeles Junction Railroad Company

Missouri Pacific Railroad

New Orleans Public Belt Railroad

Norfolk and Portsmouth Belt Line Railroad Company

Norfolk Southern Corporation

Norfolk Southern Railway Company
- The Alabama Great Southern Railroad Company
- Atlantic & East Carolina Railway Company
- Central of Georgia Railroad Company
- The Cincinnati, New Orleans and Texas Pacific Railway Company
- Georgia Southern and Florida Railway Company
- Norfolk & Western Railway Company
- Tennessee, Alabama and Georgia Railway Company

Northern Indiana Commuter Transportation District

Peoria and Pekin Union Railway Company

The Pittsburgh, Chartiers & Youghiogheny Railway Company

Port Terminal Railroad Association

Portland Terminal Railroad Company

Spokane International Railroad

Terminal Railroad Association of St. Louis

Texarkana Union Station Trust Company

Union Pacific Fruit Express

Union Pacific Railroad

Galveston, Houston and Henderson Railroad

Missouri-Kansas-Texas Railroad

Oklahoma, Kansas & Texas Railroad

Western Pacific Railroad

Wichita Terminal Association

LABOR ORGANIZATIONS

Brotherhood of Railroad Signalmen

International Association of Machinists & Aerospace Workers, AFL-CIO

International Brotherhood of Electrical Workers

Sheet Metal Workers International Association

[FR Doc. 96–13081
Filed 5–21–96; 8:45 am]
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Federal Register

Vol. 61, No. 100

Wednesday, May 22, 1996

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The rules and proposed rules in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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Nonfat dry milk; spray process; published 4-22-96

Winter pears grown in Oregon, Washington, and California; published 4-22-96

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Air programs:

Ambient air quality standards, national--

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Clean Air Act:

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Radio stations; table of assignments:

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FEDERAL TRADE COMMISSION

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Port of New York and New Jersey; safety zone; published 5-16-96

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Civil Aeronautics Board, public meetings; release of internal staff memoranda; published 4-22-96

Medals of Honor; award clarification; published 4-22-96

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Official seal; use; published 4-22-96

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Food Safety and Inspection Service

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National Oceanic and Atmospheric Administration

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