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**Electronic Bulletin Board**
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# Presidential Documents

**Title 3—**

## The President

**Memorandum of July 24, 1997**

## Delegation of Authority Under Section 1424 of the National Defense Authorization Act for Fiscal Year 1997

**Memorandum for the Secretary of Defense**

By the authority vested in me by the Constitution and the laws of the United States of America, including section 301 of title 3 of the United States Code, I hereby delegate to you, in consultation with the Secretary of State, the authority vested in the President under section 1424(c) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201).

You are authorized and directed to publish this memorandum in the **Federal Register**.

William J. Clinton

THE WHITE HOUSE,
*Washington, July 24, 1997.*

[FR Doc. 97–20276
Filed 7–29–97; 8:45 am]
Billing code 5000–04–M

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### 7 CFR Part 80

**[Docket No. FV–97–80–02]**

**RIN 0581–AA93**

## Regulations Governing the Fresh Irish Potato Diversion Program, 1996 Crop

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

**ACTION:** Final rule.

**SUMMARY:** The Department of Agriculture (USDA) is adopting, with changes, an interim final rule previously published in the **Federal Register** setting forth the Fresh Irish Potato Diversion Program (PDP) for the 1996 crop. This rule will allow the program to continue through August 27, 1997, to assist fresh Irish potato growers faced with oversupplies and low prices.

**EFFECTIVE DATE:** July 25, 1997.

**FOR FURTHER INFORMATION CONTACT:** Susan Proden, Acting Chief, Commodity Procurement Branch, Fruit and Vegetable Division, AMS, USDA, room 2548—South Building, 1400 Independence Avenue, S.W., Washington, DC 20250, (202) 720–6391.

**SUPPLEMENTARY INFORMATION:**

### Executive Order 12866

The Department of Agriculture is issuing this rule in conformance with Executive Order 12866, and the Office of Management and Budget has determined that it is ''not a significant action.''

### Executive Order 12988

This final rule has been reviewed under USDA procedures established in accordance with Executive Order 12988, Civil Justice Reform. The provisions of the final rule do not preempt State law and are not retroactive. Before any judicial action may be brought regarding the provisions of this final rule, the appeal and mediation procedure in 7 CFR part 780 must be exhausted.

### Paperwork Reduction Act

Information collection requirements contained in this part have been approved by the Office of Management and Budget (OMB) in accordance with the provisions of 44 U.S.C. chapter 35, and have been assigned OMB control number 0560–0145.

### Regulatory Flexibility Act

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has determined that this action will not have a significant economic impact on a substantial number of small entities. The purpose of the RFA is to fit regulatory actions of the scale of business subject to such actions in order that small businesses will not be unduly or disproportionally burdened. The Small Business Administration (13 CFR 121.1) has defined small agricultural producers as those having gross revenue for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $5,000,000. Because there is a preponderance of entities shipping fresh Irish potatoes that meet these growers revenue limitations, it is anticipated that the majority of the program participants could be classified as small entities without substantial regulatory restriction. Therefore, the provisions of the RFA are not applicable and no Regulatory Flexibility analysis is required.

### Executive Order 12372

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

### Executive Order 12612

It has been determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on states or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government.

### Background Information

On June 2, 1997, AMS issued an interim rule setting forth the terms for conducting PDP. See, 62 F.R. 29650 (June 2, 1997). PDP is authorized by clause (2) of section 32 of the Act of August 24, 1935, as amended (7 U.S.C. 612c) (Section 32). Section 32 authorizes the Secretary of Agriculture to ''encourage the domestic consumption of such [agricultural] commodities or products by diverting them, by the payment of benefits or indemnities or by other means, from the normal channels of trade and commerce * * *.'' Section 32 also authorizes the Secretary to use Section 32 funds ''at such times, in such manner, and in such amounts as the Secretary of Agriculture finds will effectuate substantial accomplishment of any one or more of the purposes of this section.'' Furthermore, ''determinations by the Secretary as to what constitutes diversion, and what constitutes normal channels of trade and commerce, and what constitutes normal production for domestic consumption shall be final.''

USDA statistics indicated that as of May 1, 1997, that the supply of fresh Irish potatoes stored in 15 states exceeded by 32 percent the amount of stocks held on May 1, 1996. Based on these statistics the Secretary determined that the 1996 fresh Irish potato crop was in surplus supply, and that the domestic consumption of such potatoes would be encouraged by using section 32 funds to divert fresh Irish potatoes from the normal channels of trade and commerce under a diversion program. PDP encompasses all types and varieties of potatoes (except sweet potatoes) of U.S. Grade No. 2 (fairly clean) and U.S. Grade No. 2 Processing, including varieties commonly used for processing, chipping and table stock. Due to a need for expediency in implementing PDP and concern about undue delay in conducting environmental analysis and impact studies on composting, PDP was limited to charitable institutions and livestock feed.

The price established for fresh Irish potatoes destined for animal feed included all costs, including transportation. The price established for fresh Irish potatoes destined for use by

charitable institutions covered all costs except transportation. USDA arranged and paid for the transportation costs between the grower and the charitable institution because it believed that in most instances, it would be in a better position than the grower to match the grower efficiently and effectively with the charitable institutions already identified by USDA.

**Summary of Comments**

The public had until July 2, 1997, to comment on the interim rule. USDA received comments from four Irish potato producers, three potato processors, and one trade association. These comments are on file in room 2548—South Building, 1400 Independence Avenue, S.W., Washington, DC 20250.

Four comments opposed PDP on the grounds that such diversion purchases create more difficulties than they solve, distort market conditions, and only exacerbate negative economic conditions for most growers. Also, some growers felt that USDA should not provide price support for fresh Irish potatoes, and due to the late effective date of the program, many fresh Irish potatoes would not meet minimum grade for condition. Pursuant to Section 32, the Secretary found that establishment of the PDP would tend to benefit Irish potato producers given current supply and market conditions.

Four comments expressed concern that composting was not offered as a diversion outlet in the PDP, and recommended that it be allowed. As stated in the preamble to the interim rule, including composting would have required an environmental impact study, and because of the time required to conduct such a study, inclusion of composting would have resulted in an undue delay in the implementation of PDP, to the detriment of potato producers.

Four comments recommended that USDA make PDP retroactive to May 9, 1997, the date the Secretary of Agriculture announced his intent to offer a diversion program. USDA had considered this option, but concluded that it would be difficult to ensure compliance with the program's requirements retroactively, and that a retroactive initial effective date would not have provided equitable treatment to all producers.

One comment expressed concern that the PDP assists growers and not processors. The comment stated that no programs have been set up by USDA to address the hardships faced by fresh or refrigerated potato processors, and recommended that the final rule be revised to include a provision to assist this group. While USDA is sympathetic to these concerns, Section 32 is intended to assist only producers by diverting or purchasing surplus supplies of certain agricultural commodities. Therefore, no change is being made to the final rule based on this comment.

Three comments questioned the amount of funds allocated to each state for PDP and recommended additional funds be allocated to certain states. Although $8.5 million has been allocated to this program, and applications have been approved to divert product, as of July 21, 1997, only $1.4 million had actually been paid to potato producers. Since producers have additional time to complete their diversions, it is not yet known how much money will actually be spent on the PDP.

However, to further address these concerns, USDA has determined that potato producers need additional time to comply with the provisions of the PDP, including completing their diversions and submitting the required documentation to receive payment, and that additional changes are required to help ensure that PDP is available to as many producers as possible. These changes include placing deadlines on diversions and removing the packaging requirement. Accordingly, the provisions contained in the interim rule will remain in effect except for the following modifications:

(1) PDP is extended for an additional 30 days through August 27, 1997.

(2) All producers receiving the approved form, Potato Diversion Program Application for Participation (FSA–117) dated May 29 through July 11 must complete the diversion and submit all required documentation by July 28, 1997. Any of these producers who have not completed the diversion and submitted the required documentation by July 28 will no longer be eligible for payment. However the producer may again apply for program participation.

(3) All producers receiving approved FSA–117's dated July 14 through July 28 will have until August 13, 1997, to complete the diversion and submit all required documentation. After August 13, any unused allocation will no longer be available to those producers.

(4) Producers who receive FSA–117's from July 29 through August 27 must complete their diversions and submit all required documentation by August 27, when the program ends.

(5) Final dates to complete diversions and submit required documentation may be waived by USDA if it is determined that severe weather conditions prevented the completion of the diversion during the allotted time period.

(6) Producers who registered for diversion during the original program dates of May 29 through July 28 and whose FSA–117's were not approved in whole or part because of a lack of funding need not register again. Producers who previously were approved and did not divert potatoes may again register to participate in the program.

(7) Potatoes may also be shipped in bulk if the charitable institution agrees to accept bulk deliveries during the additional 30-day period. For diversions of potatoes to charitable institutions that are not in bags or cartons, USDA will pay the producer $0.75 per hundredweight. In the event the charitable institution does not agree to accept bulk deliveries, producers may have the option to divert deliveries to charitable institutions in 50 lb cartons or bags.

**List of Subjects in 7 CFR Part 80**

Administrative practice and procedures, Agriculture, Agricultural commodities, Reporting and recordkeeping requirements.

Accordingly, the interim final rule amending 7 CFR part 80 which was published at 62 FR 29649 on June 2, 1997, is adopted as a final rule with the following changes:

## PART 80—FRESH IRISH POTATO DIVERSION PROGRAM

1. The authority citation for part 80 continues to read as follows:

**Authority:** 7 U.S.C. 612c.

2. In § 80.4, the date ''July 28'' is revised to read ''August 27,'' each time it appears and a new sentence is added at the end of the section to read as follows:

### § 80.4 Length of program.

* * * Application for charitable diversions as well as for livestock feed will be accepted until August 27, 1997.

3. In § 80.5, paragraph (a) is revised to read as follows:

### § 80.5 Rate of payment.

(a) The rate of payment for potatoes for charitable institutions will be $1.50 per hundredweight for fresh Irish potatoes if packed in bags or cartons, and will be $0.75 if shipped in bulk. All eligible fresh Irish potatoes intended for donation to charitable institutions must: Meet U.S. Grade No. 2 (fairly clean) requirements as certified by the AMS or the Federal-State Inspection Service; and be in a quantity of 40,000 pounds

net or a multiple of 40,000 pounds net. Only transportation costs associated with donations to charitable institutions may be arranged for and paid by USDA. USDA will make no other payment with respect to such potatoes.

* * * * *

4. In § 80.6, paragraph (a)(5) is revised to read as follows:

**§ 80.6 Eligibility for payment.**

(a) * * *

(5) Diverts fresh Irish potatoes and submits required documentation by July 28, 1997, if Form FSA–117 is approved by USDA from May 29 through July 11, 1997; or diverts fresh Irish potatoes and submits required documentation by August 13, 1997, if Form FSA–117 is approved by USDA from July 14 through July 28, 1997; or diverts fresh Irish potatoes and submits required documentation by August 27, 1997, if Form FSA–117 is approved by USDA from July 29 through August 27, 1997. Allocations unused by the applicable date will no longer be available for that producer. Final dates to complete diversions and submit documentation may be waived by USDA if it is determined that severe weather conditions prevented the completion of the diversion during the allotted time period.

* * * * *

Dated: July 24, 1997.

**Lon Hatamiya,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 97–20091 Filed 7–25–97; 3:59 pm]

**BILLING CODE 3410–02–P**

## FEDERAL DEPOSIT INSURANCE CORPORATION

### 12 CFR Part 329

**RIN 3064–AC09**

### Prohibition Against Payment of Interest on Demand Deposits

**AGENCY:** Federal Deposit Insurance Corporation (FDIC).

**ACTION:** Interpretive rule.

**SUMMARY:** The FDIC has amended an interpretive rule to provide an additional exception to the limitations on premiums that may be given in connection with demand deposits. Section 18(g) of the Federal Deposit Insurance Act (FDI Act) requires that the FDIC by regulation prohibit the payment of interest or dividends on demand deposits. 12 CFR part 329 implements this prohibition. As an exception to the prohibition, an interpretive rule permits premiums of up to $10 for deposits of less than $5000 and up to $20 for deposits of $5000 or more not more than twice per year. The interpretive rule also limits the timing of such premiums to the opening of a new account or an addition to an existing account.

The FDIC has amended the interpretive rule to provide an additional exception that permits premiums which are unrelated to the balance in a demand deposit account and the duration of the account balance. Therefore, insured nonmember banks and insured branches of foreign banks are now permitted to give premiums on demand deposits, without limitation as to the amount of the premium, provided that the premiums are not related to, or dependent upon, the balance in the account and the duration of the account balance. This amendment maintains substantial parity with Regulation Q, 12 CFR Part 217, as recently amended by the Board of Governors of the Federal Reserve System (FRB).

**DATES:** Effective July 30, 1997.

**FOR FURTHER INFORMATION CONTACT:** Marc Goldstrom, Counsel, Regulation and Legislation Section, Legal Division, (202–898–8807); Louise Kotoshirodo, Review Examiner, Division of Compliance and Consumer Affairs, (202–942–3599).

**SUPPLEMENTARY INFORMATION:**

#### Background

Section 18(g) of the FDI Act provides that the Board of Directors of the FDIC shall by regulation prohibit the payment of interest or dividends on demand deposits in insured nonmember banks and in insured branches of foreign banks. (12 U.S.C. 1828(g)). Accordingly, the FDIC promulgated regulations prohibiting the payment of interest or dividends on demand deposits at 12 CFR part 329. The Board of Governors of the Federal Reserve System (FRB) has a corresponding prohibition for member banks at 12 CFR part 217 (Regulation Q). As an exception to the prohibition, the FDIC issued an interpretive rule that generally permits (1) premiums only at the time of the opening of a new account or an addition to, or renewal of, an existing account; (2) no more than two premiums per deposit in any twelve-month interval; and (3) that the value of the premiums does not exceed $10 for deposits of less than $5000 and $20 for deposits of $5000 or more. (12 CFR 329.103). The FRB has a corresponding exception for member banks at 12 CFR 217.101.

Section 18(g) of the FDI Act also provides that the FDIC shall make such exceptions to this prohibition as are prescribed with respect to demand deposits in member banks by section 19 of the Federal Reserve Act, as amended, or by regulation of the FRB. (12 U.S.C. 1828(g)). The FRB has recently amended its interpretation to establish an additional exception with respect to member banks. The amendment permits member banks to give premiums on demand deposits, without regard to the amount of the premium, provided that the premiums are not related to, or dependent upon, the balance in an account and the duration of the account balance. (12 CFR 217.101(b)). The FDIC is now amending its interpretive rule to provide a similar exception for state nonmember banks and insured branches of foreign banks.

Premium limitations were first adopted by the FDIC and the FRB in 1970. These premium limitations originally applied to all types of deposits and were established in part to prevent evasion of interest rate ceilings at a time when interest rates were regulated. The Depository Institutions Deregulation and Monetary Control Act of 1980 deregulated interest rates on time and savings deposits (including NOW accounts). In 1980, the Depository Institutions Deregulation Committee adopted these premium limitations with respect to time and savings deposits in an effort to preserve a relatively level playing field during the period of deposit interest rate deregulation, which ended in 1986. Since then, banks have been permitted to offer premiums on interest-bearing accounts, including NOW, time, and savings accounts, without regard to the premium limitations. The premium limitations, therefore, have only applied to demand deposit accounts.

Because the preexisting exception is restricted to the opening of, addition to, or renewal of, a deposit account, it has constrained the ability of depository institutions to offer incentives to use their products, including the use of new services such as ATM or debit cards. In the past, the exception has prevented a bank from offering incentives to existing demand deposit customers who signed up for an ATM card because the incentives did not coincide with the opening of, addition to, or renewal of, an account. For the same reason the exception has prevented another bank from offering incentives to encourage deposit customers to use an ATM card more than three times per month. Premiums from the use of a debit card, which reduces the amount on deposit, would also constitute interest on the deposit under the preexisting exception, since they are also not paid upon the

opening of, addition to, or renewal of, an account.

The FDIC believes that in cases where a premium is not related to, or dependent on, the balance in a demand deposit account and the duration of that balance, such a premium generally should not be viewed as interest. From an economic point of view, such premiums do not appear to constitute interest on the account, since interest is generally a payment to, or for the account of, a depositor as compensation for the use of the depositor's funds. (12 CFR 329.1(c)).

As an additional matter, since interest rates on time deposits were deregulated, there is no longer any need to provide that premiums that are paid at the time of renewal are permissible. This revision removes the reference to renewal in the preexisting exception.

In light of all the foregoing, the FDIC is amending its interpretive rule effective on date of publication in the **Federal Register** to except from the prohibition of the payment of interest on demand deposits, any premiums that are not related to the balance in an account and the duration of the account balance.

### Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires an agency to publish a regulatory flexibility analysis for any final rule for which the agency was required to publish a general notice of proposed rulemaking. Under 5 U.S.C. 553(b), a general notice of proposed rulemaking is not required for interpretative rules. Accordingly, no regulatory flexibility analysis is required in this case.

Under 5 U.S.C. 553(d), a 30-day period between publication date and effective date is not required for interpretative rules. Accordingly, this interpretive rule is effective on date of publication in the **Federal Register**.

### Paperwork Reduction Act

No collections of information pursuant to the Paperwork Reduction Act are contained in the rule.

### List of Subjects in 12 CFR Part 329

Banks, banking, Interest rates.

For the reasons set forth in the preamble, the FDIC amends 12 CFR part 329 as set forth below:

## PART 329—INTEREST ON DEPOSITS

1. The authority citation for part 329 continues to read as follows:

**Authority:** 12 U.S.C. 1819, 1828(g) and 1832(a).

2. In § 329.103, paragraph (a)(1) is amended by removing '', or renewal of,'', and a new paragraph (e) is added after paragraph (d) to read as follows:

* * * * *

**§ 329.103 Premiums.**

* * * * *

(e) Notwithstanding paragraph (a) of this section, any premium that is not, directly or indirectly, related to or dependent on the balance in a demand deposit account and the duration of the account balance shall not be considered the payment of interest on a demand deposit account and shall not be subject to the limitations in paragraph (a) of this section.

By order of the Board of Directors.

Dated at Washington, D.C. this 23rd day of July, 1997.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**

*Executive Secretary.*

[FR Doc. 97–20018 Filed 7–29–97; 8:45 am]

**BILLING CODE 6714–01–P**

## SECURITIES AND EXCHANGE COMMISSION

### 17 CFR Part 240

**[Release No. 34–38870; File No. S7–30–95]**

**RIN 3235–AG66**

### Order Execution Obligations

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Revised compliance dates; exemptive order.

**SUMMARY:** The Securities and Exchange Commission (''Commission'') is announcing the final phase-in schedule for compliance with Rules 11Ac1–1(c)(5) (''ECN Amendment'' of the ''Quote Rule'') and 11Ac1–4 (''Limit Order Display Rule'') under the Securities Exchange Act of 1934 (''Exchange Act'') and is providing exemptive relief to accommodate the new schedule. In addition, the Commission is providing temporary exemptive relief from compliance with the 1% requirement of the Quote Rule with respect to non-19c–3 securities.

**DATES:** *Effective Date:* July 24, 1997. *Compliance Dates:* The phase-in schedule with respect to the remaining approximately 5,766 Nasdaq securities will be as follows: 250 Nasdaq securities on August 4, 1997; 250 Nasdaq securities on August 11, 1997; 850 Nasdaq securities on September 8, 1997; 850 Nasdaq securities on September 15, 1997; 850 Nasdaq securities on September 22, 1997; 850 Nasdaq securities on September 29, 1997; 850 Nasdaq securities on October 6, 1997; and the remaining approximately 930 Nasdaq securities on October 13, 1997. Concurrently, the Commission is exempting responsible broker and dealers, electronic communications networks, exchanges and associations from compliance with the Order Execution Rules, with respect to the Nasdaq securities that are not phased in under such schedule, until October 13, 1997. In addition, the Commission is exempting substantial market makers and specialists from compliance with the 1% requirement of the Quote Rule with respect to non-Rule 19c–3 securities until September 30, 1997.

**FOR FURTHER INFORMATION CONTACT:** Gail Marshall-Smith, Special Counsel, or David Oestreicher, Special Counsel, (202) 942–0158, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., Mail Stop 5–1, Washington, DC 20549.

**SUPPLEMENTARY INFORMATION:**

### Background

On August 28, 1996, The Commission adopted Rule 11Ac1–4, the Limit Order Display Rule, and amendments to Rule 11AC1–1, the Quote Rule under the Exchange Act.[1] The Limit Order Display Rule requires over-the-counter (''OTC'') market makers and exchange specialists to publicly display certain customer limit orders. The ECN Amendment of the Quote Rule requires OTC market makers and specialists to publicly disseminate the best prices that they enter into an electronic communications network (''ECN''),[2] or to comply indirectly with the ECN Amendment by using an ECN that furnishes the best market maker and specialist prices therein to the public quotation system (the ''ECN Display Alternative'').[3] In addition, the Quote Rule term ''subject security'' [4] was amended, thereby requiring OTC market makers and specialist to publish quotes in any exchange-listed security if their volume in that security exceeds 1% of the aggregate volume during the most recent calendar quarter.[5]

[1] See Securities Exchange Act Release No. 37619A (September 6, 1996), 61 FR 48290 (September 12, 1996) (''Adopting Release'').

[2] 17 CFR 240.11Ac1–1(c)(5)(i).

[3] 17 CFR 240.11Ac1–1(c)(5)(ii).

[4] 17 CFR 240.11Ac1–1(a)(25).

[5] 17 CFR 11Ac1–1(c)(1). See Securities Exchange Act Release No. 38110 (January 2, 1997), 62 FR 1279 (January 9, 1997) which postponed the effective date of the 1% Rule, with respect to the amended definition of ''subject security,'' from January 10, 1997, to April 10, 1997. See also Securities Exchange Act Release No. 38490 (April

**Discussion**

On January 20, 1997, the Order Execution Rules became effective.[6] The Commission recognized in adopting the Order Execution Rules that they would result in a significant change in the order handling practices of OTC market makers. The Commission thereafter chose to require compliance with the rules over a phased-in period. Subsequently, the Commission required compliance with the Order Execution Rules for the Nasdaq securities on a phased-in basis through July 7, 1997.[7] The Commission, therefore, provided exemptive relief, until July 28, 1997, from compliance with the Order Execution Rules with respect to the Nasdaq securities not phased in under the Order Execution Rules. To date, compliance is mandatory for all exchange-traded securities and 700 of the 1,000 most actively traded Nasdaq securities.

The Commission has been closely monitoring the implementation of the rules and has found that the implementation appears to be occurring successfully. The success to date is due, in-part, to affording market participants time to adapt to the new regulatory requirements.

Moreover, the Commission has provided Nasdaq the time necessary to upgrade its systems to improve its ability to handle the additional quotation traffic resulting from the Order Execution Rules.[8] The Commission believes it has succeeded in striking a reasonable balance between the desire to provide the benefits of the Order Execution Rules to investors and the need to ensure that implementation of the Rules do not compromise the integrity or capacity of automated systems operated by Nasdaq, broker-dealers, ECNs, or vendors. Accordingly, the Commission believes it is appropriate to continue phasing in both the Limit Order Display Rule and the ECN Amendment for the remaining Nasdaq securities.[9]

The 700 Nasdaq securities currently in compliance with the Order Execution Rules account for over 62% of the total share volume on Nasdaq and over 85% of the total dollar volume. The Commission, therefore, believes that the remaining Nasdaq securities can be phased in on a more accelerated schedule.

The new compliance schedule for the remaining, approximately 5,766 Nasdaq securities is as follows: 250 Nasdaq securities on August 4, 1997, of which 150 securities will be selected from the 1,000 most actively traded Nasdaq securities and 100 securities will be selected from the remaining Nasdaq securities; [10] 250 Nasdaq securities on August 11, 1997, of which 150 securities will be the last of the 1,000 most actively traded Nasdaq securities not already phased-in and 100 securities will be selected from the remaining Nasdaq securities; 850 Nasdaq securities on September 8, 1997; [11] 850 Nasdaq securities on September 15, 1997; 850 Nasdaq securities on September 22, 1997; 850 Nasdaq securities on September 29, 1997; 850 Nasdaq securities on October 6, 1997; and the remaining approximately 930 Nasdaq securities on October 13, 1997. To accommodate this phase-in schedule and pursuant to Rule 11Ac1-1(d) [12] of the Exchange Act, the Commission is exempting responsible brokers and dealers, electronic communications networks, exchanges, and associations, until October 13, 1997, from the requirements of Rule 11Ac1-1(c)(5)(i), the ECN Amendment, with respect to all Nasdaq securities not phased in as of October 13, 1997. The Commission is also exempting, pursuant to Rule 11Ac1-4(d) [13] of the Exchange Act, responsible brokers and dealers, electronic communications networks, exchanges, and associations, until October 13, 1997 from the requirements of Rule 11Ac1-4, the Limit Order Display Rule, with respect to all Nasdaq securities not phased in as of October 13, 1997.

The Commission has granted this exemptive relief to permit the continued phase-in and orderly operation of the Order Execution Rules. Moreover, the Commission believes that a three-week pause after 200 of the less active Nasdaq securities are phased in will provide an opportunity to enable broker-dealers to make any necessary operational adjustments to handle the remaining approximately 5,180 securities. Accordingly, the Commission finds that the exemptive relief provided herein to responsible brokers and dealers, electronic communications networks, exchanges, and associations is consistent with the public interest, the protection of investors and the removal of impediments to and perfection of the mechanism of a national market system.

In addition, the Commission, pursuant to Rule 11Ac1–1(d), is extending the exemptive relief granted to responsible broker dealers [14] from the requirements of Rule 11Ac1–1(c)(1), with respect to non-Rule 19c–3 securities [15] until the current calendar quarter ends September 30, 1997.[16] OTC market makers and specialists, therefore, responsible for more than 1% of the aggregate trading volume during the calendar quarter ending September 30, 1997, must, within 10 business days, commence quoting regular and continuous two-sided markets.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 97–20053 Filed 7–29–97; 8:45 am]

BILLING CODE 8010–01–M

9, 1997), 62 FR 18514 (April 16, 1997) which further postponed the effective date of the definition of ''subject security'' until July 28, 1997.

[6] See Securities Exchange Act Release Nos. 37619A (September 6, 1996), 37972 (November 22, 1996), 38110 (January 2, 1997), and 38139 (January 8, 1997).

[7] See Securities Exchange Act Release Nos. 38246 (February 5, 1997) and 38490 (April 9, 1997) outlining previous phase-in schedules for the Order Execution Rules. The Commission notes that a broker-dealer's duty of best execution discussed in the Adopting Release is applicable to all securities and is not based on whether or not the security has been phased-in under the Limit Order Display Rule or the ECN Amendment.

[8] The Nasdaq Stock Market made system enhancements in mid-July which were designed to improve its capacity levels.

[9] The Commission notes, however, that while ECNs qualifying for the ECN Display Alternative must publicly display quotes in Nasdaq securities once those securities are phased in pursuant to the phase-in schedule, these ECNs may voluntarily begin publicly displaying quotes in any Nasdaq security beginning August 4, 1997.

[10] The Nasdaq Stock Market will continue to identify which Nasdaq securities are to be phased in, and will notify market participants of the specific securities at least a week prior to the securities being phased-in.

[11] These 850 securities, as well as the subsequent securities phased-in under this schedule, will be selected from the remaining approximately 5,180 Nasdaq securities.

[12] 17 CFR 240.11Ac1-1(d).

[13] 17 CFR 240.11Ac1-4(d).

[14] The term ''responsible broker or dealer'' is defined in Rule 11Ac1–1(a)(21).

[15] See 17 CFR 240.19c–3. Exchange Act Rule 19c–3 prohibits the application of off-board trading restrictions to securities that (1) were not traded on an exchange before April 26, 1979; or (2) were traded on an exchange on April 26, 1979, but ceased to be traded on an exchange for any period of time thereafter. Accordingly, exchange-traded securities not subject to off-board trading restrictions are referred to as Rule 19c–3 securities, and exchange-traded securities subject to off-board trading restrictions are referred to as non-Rule 19c–3 securities.

[16] OTC market makers and specialists are currently required to publish two-sided quotes in Rule 19c–3 securities if their aggregate trading volume exceeds 1% during the most recent calendar quarter. This obligation with respect to Rule 19c–3 securities remains unchanged by this action.

[17] 17 CFR 200.30(a)(28) and (61).

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### 32 CFR Chapter I, Subchapter A

### Acquisition

**AGENCY:** Department of Defense.

**ACTION:** Final rule; correcting amendment.

**SUMMARY:** This rule is published to give the heading ''Acquisition'' for 32 CFR Chapter I, Subchapter A. On April 10, 1997 (62 FR 17549), the Department of Defense added to subchapter A a new regulation on criteria for nominating an acquisition program as a participant in the Defense Acquisition Pilot Program. This rule correctly designates a heading for subchapter A which was inadvertently omitted in the April 10 regulation.

**EFFECTIVE DATE:** July 30, 1997.

**FOR FURTHER INFORMATION CONTACT:** L. Bynum or P. Toppings, 703–697–4111.

**SUBCHAPTER A—ACQUISITION**

By the authority of 10 U.S.C. 301, the heading for 32 CFR Chapter I, Subchapter A is added as set forth above.

Dated: July 23, 1997.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 97–19989 Filed 7–29–97; 8:45 am]

**BILLING CODE 3810–01–M**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[TN–171–01–9764a; FRL–5863–9]**

### Approval and Promulgation of Implementation Plans Tennessee: Approval of Revisions to the SIP Regarding Emission Standards and Monitoring Requirements for Additional Control Areas

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving revisions to the Tennessee State Implementation Plan (SIP) which were submitted to EPA by the Tennessee Department of Air Pollution Control (TDAPC), on April 30, 1996. The EPA is approving these revisions to the Tennessee regulations regarding emission standards and monitoring requirements for additional control areas.

**DATES:** This final rule is effective September 29, 1997 unless adverse or critical comments are received by August 29, 1997. If the effective date is delayed, timely notice will be published in the **Federal Register**.

**ADDRESSES:** Written comments on this action should be addressed to Karen C. Borel at the Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303. Copies of documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day. Reference file TN171–01–9764. The Region 4 office may have additional background documents not available at the other locations.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303, Karen C. Borel, 404/562–9029.

Tennessee Department of Environment and Conservation, Division of Air Pollution Control, L & C Annex, 9th Floor, 401 Church Street, Nashville, Tennessee 37243–1531, 615/532–0554.

**FOR FURTHER INFORMATION CONTACT:** Karen C. Borel at 404/562–9029.

**SUPPLEMENTARY INFORMATION:** On April 30, 1996, the State of Tennessee submitted formal revisions to the Tennessee SIP. EPA found the submittal to be complete on July 8, 1996. These revisions to the SIP consisted of the entire Chapter 1200–3–19 ''Emission Standards and Monitoring Requirements for Additional Control Areas.'' This chapter establishes specific emission standards for existing air contaminant sources located in nonattainment areas within the State. EPA is approving the revised Chapter 19 as described in the paragraphs below.

1. The phrase ''a nonattainment area'' has been changed to ''an additional control area'' throughout this chapter. The State has changed this description so that it now refers to areas which are in nonattainment and areas which were formerly nonattainment but have been redesignated to attainment. These redesignated areas are under additional controls as required by their maintenance plans, as well as any contingency measures that they may be implementing.

2. Chapter 1200–3–19.05(4) Operating Permits and Emissions Limiting Conditions—This subparagraph has been revised to require that a source, which is subject to enforceable limits on a RACT permit, must also apply for a construction permit. Once the source has received a construction permit, the RACT permit will be deleted from the SIP.

3. The phrase ''asphalt concrete plant'' has been changed to ''hot mix asphalt plant'' throughout this chapter. The requirements for these plants have not been revised.

**Final Action**

The EPA is approving the aforementioned revisions contained in the State's April 30, 1996, submittal. The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective September 29, 1997 unless, by August 29, 1997, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective September 29, 1997.

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

**Administrative Requirements**

*A. Executive Order 12866*

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

*B. Regulatory Flexibility Act*

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare

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

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Regional Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2)and 7410(k)(3).

*C. Unfunded Mandates*

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

*D. Submission to Congress and the General Accounting Office*

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

*E. Petitions for Judicial Review*

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 29, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements.

Dated: July 9, 1997.

**Michael V. Peyton,**

*Acting Regional Administrator.*

Part 52 of chapter I, title 40, Code of Federal Regulations, is amended as follows:

## PART 52—[AMENDED]

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

**Authority:** 42. U.S.C. 7401–7671q.

## Subpart RR—Tennessee

2. Section 52.2220, is amended by adding paragraph (c)(155) to read as follows:

**§ 52.2220 Identification of plan.**

* * * * *

(c) * * *

(155) Revisions to Tennessee state implementation plan submitted to EPA by the State of Tennessee on April 30, 1996, regarding emission standards and monitoring requirements for additional control areas.

(i) Incorporation by reference.

Tennessee Division of Air Pollution Control Regulations, Chapter 1200–3–19, adopted September 7, 1988.

(ii) Other material. None.

* * * * *

[FR Doc. 97–20056 Filed 7–29–97; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 180

**[OPP–300519; FRL–5732–1]**

**RIN 2070–AB78**

## Buprofezin; Pesticide Tolerances for Emergency Exemptions

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes time-limited tolerances for combined residues of buprofezin and its metabolite BF 12 in or on citrus; dried citrus pulp; cotton seed; cotton gin byproducts; milk; and cattle, sheep, hogs, goats, and horse meat, fat, and meat by-products . This action is in response to EPA's granting of emergency exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on cotton in Arizona and California, and on citrus in California. This regulation establishes maximum permissible levels for residues of buprofezin in these food commodities pursuant to section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996. The tolerances will expire and are revoked on July 31, 1998.

**DATES:** This regulation is effective July 30, 1997. Objections and requests for hearings must be received by EPA on or before September 29, 1997.

**ADDRESSES:** Written objections and hearing requests, identified by the docket control number, [OPP–300519], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300519], must also be submitted to:

Public Information and Records Integrity Branch, Information Resources and Services Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number [OPP–300519]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

**FOR FURTHER INFORMATION CONTACT:** By mail: Andrea Beard, Registration Division 7505C, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 308-9356, e-mail: beard.andrea@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** EPA, on its own initiative, pursuant to section 408(e) and (l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e) and (l)(6), is establishing tolerances for combined residues of the insecticide buprofezin, in or on citrus fruit at 2.0 part per million (ppm); dried citrus pulp at 10 ppm; cotton seed at 1.0 ppm; cotton gin byproducts at 20 ppm; milk at 0.03 ppm; and cattle, sheep, hogs, goats, and horse meat and fat at 0.02 ppm, and meat by-products at 0.5 ppm. These tolerances will expire and are revoked on July 31, 1998. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations.

## I. Background and Statutory Authority

The Food Quality Protection Act of 1996 (FQPA) (Pub. L. 104–170) was signed into law August 3, 1996. FQPA amends both the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 301 *et seq*., and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq*. The FQPA amendments went into effect immediately. Among other things, FQPA amends FFDCA to bring all EPA pesticide tolerance-setting activities under a new section 408 with a new safety standard and new procedures. These activities are described below and discussed in greater detail in the final rule establishing the time-limited tolerance associated with the emergency exemption for use of propiconazole on sorghum (61 FR 58135, November 13, 1996)(FRL-5572-9).

New section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Section 18 of FIFRA authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that ''emergency conditions exist which require such exemption.'' This provision was not amended by FQPA. EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

Section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment.

Because decisions on section 18-related tolerances must proceed before EPA reaches closure on several policy issues relating to interpretation and implementation of the FQPA, EPA does not intend for its actions on such tolerance to set binding precedents for the application of section 408 and the new safety standard to other tolerances and exemptions.

## II. Emergency Exemptions for Buprofezin on Citrus and Cotton and FFDCA Tolerances

Requests were received from Arizona and California for use of two insect growth regulators, buprofezin and pyriproxyfen (residues and associated risk assessments of pyriproxyfen are addressed in a separate **Federal Register** document. See July 25, 1997 issue of the **Federal Register**) for control of a recently introduced strain or species of sweetpotato whitefly, which has had devestating effects on cotton and various vegetable crops in the southwest for the past several years. This newer strain of whitefly, often referred to as the silverleaf whitefly, appears to be capable of quickly developing resistance, and is resistant to available alternative controls. Use of two chemicals was approved because the use patterns of each only allow one application, which will not be sufficient to control whitefly populations throughout the season.. EPA has authorized under FIFRA section 18 the use of buprofezin on cotton for control of whiteflies in Arizona and California. After having reviewed the submission, EPA concurs that emergency conditions exist.

A request was recieved from California for use of buprofezin and imidacloprid on citrus to control red scale, which has developed resistance in some localized citrus-producing areas of California, causing significant losses to the affected citrus producers. Over the past several years, control of scale in citrus has required increasing amounts of pesticide applications due to the resistance development. A pesticide with a different mode of action is required, and California has requested the use of two materials based on the ability of this pest to quickly develop resistance. After having reviewed the submission, EPA concurs that an emergency condition exist, and has authorized the use of buprofezin on citrus for control of red scale in California under FIFRA section 18.

As part of its assessment of these emergency exemptions, EPA assessed the potential risks presented by residues of buprofezin in or on citrus and cotton commodities, milk, and meat. In doing so, EPA considered the new safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the new safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting

food is safe and lawful, EPA is issuing this tolerance without notice and opportunity for public comment under section 408(e), as provided in section 408(l)(6). Although these tolerances will expire and are revoked on July 31, 1998, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerances remaining in or on citrus fruit and dried pulp, cotton seed, cotton gin byproducts, meat, and milk after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA. EPA will take action to revoke these tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because these tolerances are being approved under emergency conditions EPA has not made any decisions about whether buprofezin meets EPA's registration requirements for use on citrus and cotton or whether permanent tolerances for these uses would be appropriate. Under these circumstances, EPA does not believe that these tolerances serve as a basis for registration of buprofezin by a State for special local needs under FIFRA section 24(c). Nor do these tolerances serve as the basis for any State other than Arizona and California to use this pesticide on these crops under section 18 of FIFRA without following all provisions of section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemptions for buprofezin, contact the Agency's Registration Division at the address provided above.

## III. Risk Assessment and Statutory Findings

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides based primarily on toxicological studies using laboratory animals. These studies address many adverse health effects, including (but not limited to) reproductive effects, developmental toxicity, toxicity to the nervous system, and carcinogenicity. Second, EPA examines exposure to the pesticide through the diet (e.g., food and drinking water) and through exposures that occur as a result of pesticide use in residential settings.

### *A. Toxicity*

1. *Threshold and non-threshold effects.* For many animal studies, a dose response relationship can be determined, which provides a dose that causes adverse effects (threshold effects) and doses causing no observed effects (the ''no-observed effect level'' or ''NOEL'').

Once a study has been evaluated and the observed effects have been determined to be threshold effects, EPA generally divides the NOEL from the study with the lowest NOEL by an uncertainty factor (usually 100 or more) to determine the Reference Dose (RfD). The RfD is a level at or below which daily aggregate exposure over a lifetime will not pose appreciable risks to human health. An uncertainty factor (sometimes called a ''safety factor'') of 100 is commonly used since it is assumed that people may be up to 10 times more sensitive to pesticides than the test animals, and that one person or subgroup of the population (such as infants and children) could be up to 10 times more sensitive to a pesticide than another. In addition, EPA assesses the potential risks to infants and children based on the weight of the evidence of the toxicology studies and determines whether an additional uncertainty factor is warranted. Thus, an aggregate daily exposure to a pesticide residue at or below the RfD (expressed as 100% or less of the RfD) is generally considered acceptable by EPA. EPA generally uses the RfD to evaluate the chronic risks posed by pesticide exposure. For shorter term risks, EPA calculates a margin of exposure (MOE) by dividing the estimated human exposure into the NOEL from the appropriate animal study. Commonly, EPA finds MOEs lower than 100 to be unacceptable. This hundredfold MOE is based on the same rationale as the hundredfold uncertainty factor.

Lifetime feeding studies in two species of laboratory animals are conducted to screen pesticides for cancer effects. When evidence of increased cancer is noted in these studies, the Agency conducts a weight of the evidence review of all relevant toxicological data including short-term and mutagenicity studies and structure activity relationship. Once a pesticide has been classified as a potential human carcinogen, different types of risk assessments (e.g., linear low dose extrapolations or MOE calculation based on the appropriate NOEL) will be carried out based on the nature of the carcinogenic response and the Agency's knowledge of its mode of action.

2. *Differences in toxic effect due to exposure duration.* The toxicological effects of a pesticide can vary with different exposure durations. EPA considers the entire toxicity data base, and based on the effects seen for different durations and routes of exposure, determines which risk assessments should be done to assure that the public is adequately protected from any pesticide exposure scenario. Both short and long durations of exposure are always considered. Typically, risk assessments include ''acute,'' ''short-term,'' ''intermediate term,'' and ''chronic'' risks. These assessments are defined by the Agency as follows.

Acute risk, by the Agency's definition, results from 1-day consumption of food and water, and reflects toxicity which could be expressed following a single oral exposure to the pesticide residues. High end exposure to food and water residues are typically assumed.

Short-term risk results from exposure to the pesticide for a period of 1-7 days, and therefore overlaps with the acute risk assessment. Historically, this risk assessment was intended to address primarily dermal and inhalation exposure which could result, for example, from residential pesticide applications. However, since enactment of FQPA, this assessment has been expanded to include both dietary and non-dietary sources of exposure, and will typically consider exposure from food, water, and residential uses when reliable data are available. In this assessment, risks from average food and water exposure, and high-end residential exposure, are aggregated. High-end exposures from all 3 sources are not typically added because of the very low probability of this occurring in most cases, and because the other conservative assumptions built into the assessment assure adequate protection of public health. However, for cases in which high-end exposure can reasonably be expected from multiple sources (e.g. frequent and widespread homeowner use in a specific geographical area), multiple high-end risks will be aggregated and presented as part of the comprehensive risk assessment/characterization. Since the toxicological endpoint considered in this assessment reflects exposure over a period of at least 7 days, an additional degree of conservatism is built into the assessment; i.e., the risk assessment nominally covers 1-7 days exposure, and the toxicological endpoint/NOEL is selected to be adequate for at least 7 days of exposure. (Toxicity results at lower levels when the dosing duration is increased.)

Intermediate-term risk results from exposure for 7 days to several months. This assessment is handled in a manner similar to the short-term risk assessment.

Chronic risk assessment describes risk which could result from several months to a lifetime of exposure. For this

assessment, risks are aggregated considering average exposure from all sources for representative population subgroups including infants and children.

*B. Aggregate Exposure*

In examining aggregate exposure, FFDCA section 408 requires that EPA take into account available and reliable information concerning exposure from the pesticide residue in the food in question, residues in other foods for which there are tolerances, residues in groundwater or surface water that is consumed as drinking water, and other non-occupational exposures through pesticide use in gardens, lawns, or buildings (residential and other indoor uses). Dietary exposure to residues of a pesticide in a food commodity are estimated by multiplying the average daily consumption of the food forms of that commodity by the tolerance level or the anticipated pesticide residue level. The Theoretical Maximum Residue Contribution (TMRC) is an estimate of the level of residues consumed daily if each food item contained pesticide residues equal to the tolerance. In evaluating food exposures, EPA takes into account varying consumption patterns of major identifiable subgroups of consumers, including infants and children.The TMRC is a ''worst case'' estimate since it is based on the assumptions that food contains pesticide residues at the tolerance level and that 100% of the crop is treated by pesticides that have established tolerances. If the TMRC exceeds the RfD or poses a lifetime cancer risk that is greater than approximately one in a million, EPA attempts to derive a more accurate exposure estimate for the pesticide by evaluating additional types of information (anticipated residue data and/or percent of crop treated data) which show, generally, that pesticide residues in most foods when they are eaten are well below established tolerances.

Percent of crop treated estimates are derived from federal and private market survey data. Typically, a range of estimates are supplied and the upper end of this range is assumed for the exposure assessment. By using this upper end estimate of percent of crop treated, the Agency is reasonably certain that exposure is not understated for any significant subpopulation group. Further, regional consumption information is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups, to pesticide residues. For this pesticide, the most highly exposed population subgroup (non-nursing infants, less than 1 year old) was not regionally based.

## IV. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action, EPA has sufficient data to assess the hazards of buprofezin and to make a determination on aggregate exposure, consistent with section 408(b)(2), for time-limited tolerances for combined residues of buprofezin and its metabolite BF 12 on citrus fruit at 2.0 ppm; dried citrus pulp at 10 ppm; cotton seed at 1.0 ppm; cotton gin byproducts at 20 ppm; milk at 0.03 ppm; and cattle, sheep, hogs, goats, and horse meat and fat at 0.02 ppm, and meat by-products at 0.5 ppm; . EPA's assessment of the dietary exposures and risks associated with establishing the tolerances follows.

*A. Toxicological Profile*

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by buprofezin are discussed below.

1. *Acute toxicity*. EPA has selected the developmental NOEL of 200 mg/kg/day from a rat developmental study, for the acute dietary endpoint; at the LOEL of 800 mg/kg/day, decreased fetal body weight and delayed ossification was observed. The population subgroup of concern is females 13+ years of age.

2. *Chronic toxicity*. EPA has calculated a temporary RfD for buprofezin at 0.002 milligrams/kilogram/day (mg/kg/day). This RfD is based on the systemic lowest effect level (LEL) of 2.0 mg/kg/day (lowest dose tested) from a 2-year dog study (an NOEL was not established), and uses a thousandfold uncertainty factor); an extra factor of 10 was added to the standard hundredfold uncertainty factor since the RfD was based on an LEL (rather than an NOEL) and the database is lacking an adequate reproductive study). At the LEL, slight liver effects were observed.

3. *Carcinogenicity*. There is no concern for cancer risks identified by the EPA; data from available studies do not indicate a treatment-related tumor problem, and cancer risk endpoints have not been identified.

*B. Exposures and Risks*

1. *From food and feed uses.* Risk assessments were conducted by EPA to assess dietary exposures and risks from these section 18 uses of buprofezin as follows:

i. *Acute exposure and risk.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one day or single exposure. The acute dietary risk assessment (only contribution is tolerances in connection with this use on cotton) used tolerance-level residue values and assumed 100% of crop treated. The resulting high-end exposure estimate of 0.04 mg/kg/day results in a dietary MOE of 5,000 for the population subgroup of concern, females 13+ years old. This MOE is a conservative risk assessment; refinement using anticipated residue values and percent crop treated data in conjunction with Monte Carlo analysis would result in a lower acute dietary exposure estimate.

ii. *Chronic exposure and risk.* In conducting this chronic dietary risk assessment, the only refinement to the data estimates used was calculating anticipated residue levels for citrus commodities. For the other commodities, EPA used the very conservative assumptions that residues would occur in 100% of the U.S. cotton and livestock commodities at tolerance levels; and that the anticiated residues calculated would occur in 100% of the U.S. citrus crop. In actuality, under these exemptions, only a portion of the cotton crop in Arizona and California may potentially be treated; and a very small portion of the citrus crop in California (portions of Kerns and Tulare Counties only) may potentially be treated. Under these very conservative assumptions, these time-limited tolerances on citrus, cotton, and livestock commodites result in an ARC that is equivalent to the following percentages of the RfD: U.S. Population, 23%; Non-Nursing Infants (<1 year old), 104%; Nursing Infants, 23%; Children (1-6 years old), 63%; Children (7-12 years old), 40%. Additional refinement using anticipated residue values for cotton and livestock commodities, and percent of crop treated would result in much lower dietary exposure estiomates, especially considering that this use is only for a small portion of the cotton grown in California and Arizona, and an extremely limited area of citrus in California only.

2. *From drinking water.* Because the Agency lacks sufficient water-related exposure data to complete a comprehensive drinking water risk assessment for many pesticides, EPA has commenced and nearly completed a process to identify a reasonable yet conservative bounding figure for the potential contribution of water-related exposure to the aggregate risk posed by a pesticide. In developing the bounding figure, EPA estimated residue levels in water for a number of specific pesticides using various data sources. The Agency then applied the estimated residue levels, in conjunction with appropriate toxicological endpoints (RfD's or acute dietary NOEL's) and assumptions about body weight and consumption, to calculate, for each pesticide, the increment of aggregate risk contributed by consumption of contaminated water. While EPA has not yet pinpointed the appropriate bounding figure for exposure from contaminated water, the ranges the Agency is continuing to examine are all below the level that would cause buprofezin to exceed the RfD if the tolerance being considered in this document were granted. The Agency has therefore concluded that the potential exposures associated with buprofezin in water, even at the higher levels the Agency is considering as a conservative upper bound, would not prevent the Agency from determining that there is a reasonable certainty of no harm if the tolerance is granted.

3. *From non-dietary exposure.* Buprofezin is not registered for any residential uses at this time. Therefore, no non-dietary, non-occupational exposure is antipated..

4. *Cumulative exposure to substances with common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.'' The Agency believes that ''available information'' in this context might include not only toxicity, chemistry, and exposure data, but also scientific policies and methodologies for understanding common mechanisms of toxicity and conducting cumulative risk assessments. For most pesticides, although the Agency has some information in its files that may turn out to be helpful in eventually determining whether a pesticide shares a common mechanism of toxicity with any other substances, EPA does not at this time have the methodologies to resolve the complex scientific issues concerning common mechanism of toxicity in a meaningful way. EPA has begun a pilot process to study this issue further through the examination of particular classes of pesticides. The Agency hopes that the results of this pilot process will increase the Agency's scientific understanding of this question such that EPA will be able to develop and apply scientific principles for better determining which chemicals have a common mechanism of toxicity and evaluating the cumulative effects of such chemicals. The Agency anticipates, however, that even as its understanding of the science of common mechanisms increases, decisions on specific classes of chemicals will be heavily dependent on chemical specific data, much of which may not be presently available.

Although at present the Agency does not know how to apply the information in its files concerning common mechanism issues to most risk assessments, there are pesticides as to which the common mechanism issues can be resolved. These pesticides include pesticides that are toxicologically dissimilar to existing chemical substances (in which case the Agency can conclude that it is unlikely that a pesticide shares a common mechanism of activity with other substances) and pesticides that produce a common toxic metabolite (in which case common mechanism of activity will be assumed).

EPA does not have, at this time, available data to determine whether buprofezin has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, buprofezin does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that buprofezin has a common mechanism of toxicity with other substances.

### *C. Aggregate Risks and Determination of Safety for U.S. Population*

1. *Acute risk.* For the population of concern (females 13 years and older), the calculated MOE value (for food only) is 5,000. Although theoretically there is the potential for exposure to buprofezin in dringking water, EPA does not expect that exposure would result in an aggregate MOE (food blus water) that would exceed the levels of concern for acute dietary exposure.

2. *Chronic risk.* Using the ARC exposure assumptions described above, EPA has concluded that aggregate exposure to buprofezin from food will utilize 23 percent of the RfD for the U.S. population. The major identifiable subgroup with the highest aggregate exposure is Non-nursing infants, < 1 year old, discussed below. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to buprofezin in drinking water and from non-dietary, non-occupational exposure, EPA does not expect the aggregate exposure to exceed 100% of the RfD. EPA concludes that there is a reasonable certainty that no harm will result from aggregate exposure to buprofezin residues.

Therefore, EPA concludes that there is reasonable certainty that no harm will result from exposure to buprofezin through these uses.

### *D. Aggregate Cancer Risk for U.S. Population*

There is no concern for cancer risks identified by the EPA; data from available studies do not indicate a treatment-related tumor problem, and cancer risk endpoints have not been identified.

### *E. Aggregate Risks and Determination of Safety for Infants and Children*

1. *Safety factor for infants and children*— a. *In general.* In assessing the potential for additional sensitivity of infants and children to residues of buprofezin, EPA considered data from developmental toxicity studies in the rat and rabbit. EPA currently has an incomplete database (no adequate reproduction study) and no NOEL for the chronic study which was used to determine the temporary RfD. Therefore, a thousandfold margin/factor was applied to the chronic study which provides a reasonable certainty of safety for infants and children exposed to residues of buprofezin. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from maternal pesticide xeposure during gestation. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity.

FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for pre-and post-natal toxicity and the completeness of the database unless EPA determines that a different margin of safety will be safe for infants and

children. Margins of safety are incorporated into EPA risk assessments either directly through use of a MOE analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. EPA believes that reliable data support using the standard hundredfold safety factor (usually 100 for combined inter- and intra-species variability) and not the additional tenfold safety factor when EPA has a complete data base under existing guidelines and when the severity of the effect in infants or children or the potency or unusual toxic properties of a compound do not raise concerns regarding the adequacy of the standard safety factor. As stated above, EPA currently has an incomplete database for buprofezin, and therefore an additional tenfold safety factor was added onto the standard hundredfold safety factor, providing a reasonable certainty of no harm to infants and children exposed to buprofezin through these uses.

b. *Developmental toxicity studies.* In the rat developmental toxicity study, the maternal (systemic) NOEL was 200 mg/kg/day, based on mortality, decreased pregnancy, and increased resorption rates, at the LOEL of 800 mg/kg/day. The developmental (fetal) NOEL was 200 mg/kg/day, based on the increased incidence of delayed ossifications and decreased pup weight at the LOEL of 800 mg/kg/day.

In the rabbit developmental study, the maternal (systemic) NOEL was 50 mg/kg/day, based on decreased body weight and food consumption and possibly increased fetal loss at the LOEL of 250 mg/kg/day. The developmental (fetal) NOEL was 250 mg/kg/day highest dose tested.

c. *Reproductive toxicity study.* While a 2-generation rat reproductive study was submitted, it does not satisfy guideline requirements for a reproductive study, and is considered a data gap in the buprofezin database.

d. *Pre- and post-natal sensitivity.* The toxicology database is currently incomplete for evaluating post-natal, but not pre-natal, risks to infants and children. Based on the results of the rat developmental toxicity study, an acute dietary risk assessment was conduected for females 13+ years of age. The MOE of 5,000 obtained for this risk assessment demonstrates that acute developmental (pre-natal) risks are low.

e. *Conclusion.* The rat reproductive study is a data gap and a tenfold modifying factor has been added to the usual hundredfold uncertainty factor for a total uncertainty factor of 1,000 in calculation of the RfD. This additional uncertainty factor provides a reasonable certainty of safety for infants and children exposed to dietary residues of buprofezin.

2. *Acute risk.* The acute, aggregate dietary MOE of 5,000 which was calculated for females 13+ years old, accounts for both maternal and fetal exposure. The large aggregate MOE calculated provides assurance that there is a reasonable certainty of no harm to infants and children.

3. *Chronic risk.* Using the conservative exposure assumptions described above, EPA has concluded that aggregate exposure to buprofezin from food will utilize from 23% of the RfD for the subgroup nursing infants, to 104% of the RfD for the subgroup, non-nursing infants (< 1 year old). EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Although the percentage of the RfD utilized is 104% for Non-nursing infants, this estimate was arrived at using extremely conservative assumptions, and is an overestimate of the actual risk. If further refinement of the estimates, as described above, were used, the dietary exposure estimates would be considerably lower. EPA does not expect that aggregate exposure will exceed 100% of the RfD for any of the infant and children population subgroups. Taking into account the completeness and reliability of the toxicity data and this conservative exposure assessment, EPA concludes that there is reasonable certainty that no harm will result to infants and children from chronic aggregate exposure to buprofezin residues.

## V. Other Considerations

### *A. Metabolism In Plants and Animals*

For the puposes of these uses under section 18, the nature of the residues in plants and animals is adequately undersotood. The residue of concern is the parent buprofezin BF 01, 2-tert-butylimino-3-isopropyl-5-phenyl-1,3,5-thiadiazinan-4-one] only.

### *B. Analytical Enforcement Methodology*

Adequate methodology is available to enforce these tolerances. The methodology for buprofezin and its mtebolites is summarized in the following reports: ''Determination of Buprofezin and BF 12 Residues in Cottonseed and Gin Trash,'' method BF-01-96; ''Determination of Residues of Buprofezin and the Metabolite BF 12 in Beef Tissues via Solid Phase Extraction and Gas Chromatography With MS Detection,'' method BF-05-97; ''Determination of BF 02 Residues in Beef Tissues by Gas Chromatography Using Nitrogen Phosphorus Detection,'' method BF-06-97; ''An Analytic Method for the Determination of Residues of Buprofezin at Estimated Tolerance Levels in Almonds, Cotton Seed, Citrus (lemons), and Grapes by Gas Chromatography Using Nitrogen Phosphorous Detection,'' method BF-09-97; AgrEvo Corporation, Wilmington, Delaware.

### *C. Magnitude of Residues*

Residues of buprofezin are not expected to exceed the following, as a result of these emergency exemption uses: 2.0 ppm in citrus fruit; 10 ppm in dried citrus pulp; 1.0 ppm in cotton seed; 20 ppm in cotton gin byproducts; 0.03 ppm in milk; 0.02 ppm in meat and fat, and 0.5 ppm in meat byproducts, of cattle, sheep, hogs, goats, and horses.

### *D. International Residue Limits*

There are no maximum residue levels (MRLs) established for buprofezin on any cotton or livestock commodities, and Canadian or Mexican MRLs established for buprofezin in/on citrus. A temporary Codex MRL of 0.3 mg/kg has been established for buprofezin on oranges.

## VI. Conclusion

Therefore, the tolerances are established for residues of buprofezin in the various commodities at the levels given as follows: 2.0 ppm in citrus fruit; 10 ppm in dried citrus pulp; 1.0 ppm in cotton seed; 20 ppm in cotton gin byproducts; 0.03 ppm in milk; 0.02 ppm in meat and fat, and 0.5 ppm in meat byproducts, of cattle, sheep, hogs, goats, and horses.

## VII. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to ''object'' to a tolerance regulation issued by EPA under new section 408(e) and (l)(6) as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by September 29, 1997, file written objections to any aspect of this regulation and may also request a hearing on those objections.

Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as Confidential Business Information (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

## VIII. Public Docket

EPA has established a record for this rulemaking under docket control number [OPP–300519] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Electronic comments may be sent directly to EPA at:

opp-docket@epamail.epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

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

## IX. Regulatory Assessment Requirements

This final rule establishes a time-limited tolerance under FFDCA section 408(l)(6). The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4). Nor does it require any prior consultation as specified by Executive Order 12875, entitled Enhancing the Intergovernmental Partnership (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997).

In addition, since these tolerances and exemptions that are established under FFDCA section 408 (l)(6), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency has previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance acations published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

## X. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, the Agency has submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the General Accounting Office prior to publication of this rule in today's **Federal Register**. This is not a ''major rule'' as defined by 5 U.S.C. 804(2).

## List of Subjects in 40 CFR Part 180

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

Dated: July 16, 1997.

**James Jones,**

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

Therefore, 40 CFR Chapter I is amended as follows:

## PART 180—[AMENDED]

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

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

2. By adding § 180.511, to read as follows:

### § 180.511 Buprofezin; Tolerances for Residues.

(a) *General .*

(b) *Section 18 emergency exemptions.* Time-limited tolerances are established for the residues of the insect growth regulator buprofezin, in connection with use of the pesticide under section 18 emergency exemptions granted by EPA. The tolerances will expire on the dates specified in the following table.

| Commodity | Parts per million | Expiration/Revocation Date |
|---|---|---|
| Cattle, fat | 0.02 | July 31, 1998 |
| Cattle, MBYP | 0.5 | July 31, 1998 |
| Cattle, meat | 0.02 | July 31, 1998 |
| Citrus fruit | 2.0 | July 31, 1998 |
| Citrus, pulp, dried | 10 | July 31, 1998 |
| Cotton seed | 1.0 | July 31, 1998 |
| Cotton, gin byproducts | 20 | July 31, 1998 |
| Goats, fat | 0.02 | July 31, 1998 |
| Goats, MBYP | 0.5 | July 31, 1998 |
| Goats, meat | 0.02 | July 31, 1998 |
| Hogs, fat | 0.02 | July 31, 1998 |
| Hogs, MBYP | 0.5 | July 31, 1998 |
| Hogs, meat | 0.02 | July 31, 1998 |
| Horses, fat | 0.02 | July 31, 1998 |
| Horses, MBYP | 0.5 | July 31, 1998 |
| Horses, meat | 0.02 | July 31, 1998 |
| Milk | 0.03 | July 31, 1998 |
| Sheep, fat | 0.02 | July 31, 1998 |
| Sheep, MBYP | 0.5 | July 31, 1998 |
| Sheep, meat | 0.02 | July 31, 1998 |

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

[FR Doc. 97–20061 Filed 7-29-97; 8:45 am]

**BILLING CODE 6560–50–F**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 721

**[OPPTS–50581E; FRL–5733–5]**

### Revocation of Significant New Use Rule for Certain Chemical Substances; Correction

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

**ACTION:** Final rule; technical correction.

**SUMMARY:** EPA issued a document (FR Doc. 97–17178) in the **Federal Register** of July 2, 1997 (62 FR 35690) revoking two significant new use rules (SNUR). That document inadvertently contained an incorrect CFR section number. EPA intended to revoke the SNURs as stated in the preamble of the proposed revocation for these two substances (62 FR 6160, February 11, 1997) (FRL–5580–8). This action is necessary so that the correct SNURs are removed from part 721. Because this is a nonsubstantive change, notice and public comment are not required.

**DATES:** This document is effective on August 1, 1997.

**FOR FURTHER INFORMATION CONTACT:** Susan Hazen, Director, Environmental Assistance Division (TS–799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Room E–543A, 401 M St., SW., Washington, DC 20460; telephone: (202) 554–1404; TDD: (202) 554–0551; e-mail: TSCA-Hotline@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** EPA issued a document (FR Doc. 97–17178) in the **Federal Register** of July 2, 1997 (62 FR 35690) (FRL–5715–3) inadvertently removing § 721.3020. This document correctly removes § 721.3060.

On page 35691, in the first column, amendatory item 2 should read: ''2. By removing § 721.3060.''

Dated: July 22, 1997.

**Charles M. Auer,**

*Director, Chemical Control Division, Office of Pollution Prevention and Toxics.*

[FR Doc. 97–20062 Filed 7–29–97; 8:45 am]

**BILLING CODE 6560–50–F**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 36 and 54

**[CC Docket No. 96–45; FCC 97–246]**

### Universal Service

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; order on reconsideration; errata.

**SUMMARY:** On May 8, 1997, we adopted the Universal Service Report and Order (Order) implementing section 254 of the Communications Act of 1934, as amended (the Act). We reconsider on our own motion several issues with respect to school and library contracts, the school and library discount matrix, the method used to calculate the limit placed on the amount of corporate operations expense, the source of support and administration of support for high loop costs, and the new monitoring program and Monitoring Report. In addition, we reiterate our holdings in the Order with respect to the Commission's authority to assess universal service contributions from intrastate and interstate revenues, the Commission's authority to require any carrier to seek state authority to recover a share of its contribution through intrastate rates, section 254(k), and the Commission's review of decisions by state commissions not to waive the ''no-disconnect'' requirement for the Lifeline program. The intended effect of these rules is to implement fully the universal service provisions of the Act.

**DATES:** All policies and rules adopted herein shall be effective August 29, 1997, except for the amendments to § 54.500, which will take effect July 30, 1997.

**FOR FURTHER INFORMATION CONTACT:** Valerie Yates, Legal Counsel, Common Carrier Bureau, (202) 418–1500, or Sheryl Todd, Common Carrier Bureau, (202) 418–7400.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Order on Reconsideration adopted and released on July 10, 1997 and reflecting the changes included in errata released on July 14, 1997 and on July 24, 1997. The full text of the Order on Reconsideration and the errata is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M St., NW., Washington, DC.

Pursuant to the Telecommunications Act of 1996, the Commission released a Notice of Proposed Rulemaking and

Order Establishing Joint Board, Federal-State Joint Board on Universal Service, CC Docket No. 96–45 on March 8, 1996 (61 FR 10499 (March 14, 1996)), a Recommended Decision on November 8, 1996 (61 FR 63778 (December 2, 1996)), a Public Notice on November 18, 1996 (61 FR 63778 (December 2, 1996)), and a Report and Order that was adopted on May 7, 1997 and released on May 8, 1997 (62 FR 32862 (June 17, 1997)) implementing rules for §§ 254 and 214(e) of the Act relating to universal service.

As required by the Regulatory Flexibility Act, (RFA), this Order on Reconsideration contains a Final Regulatory Flexibility Analysis. Pursuant to § 604 of the RFA, the Commission performed a comprehensive analysis of the Report and Order with regard to small entities and small incumbent LECs which has remained unchanged in this Order on Reconsideration. This Order on Reconsideration does not contain any information collection requirements subject to the Paperwork Reduction Act (PRA).

**Summary of the Order on Reconsideration**

*School and Library Contracts*

1. *Existing Contracts.* We now conclude that we will make a limited extension of the competitive bidding exemption in order to accommodate schools and libraries that negotiate and sign contracts prior to the date that the competitive bidding system becomes fully operational. We conclude that any contract signed after November 8, 1996 and before the first date that the competitive bidding system is operational will be considered an ''existing contract'' under § 54.511 of our rules, but only if the contract terminates no later than December 31, 1998. We adopt a definition of ''existing contract'' that includes this additional exemption.

2. We extend the competitive bidding exemption because services obtained pursuant to a contract signed after November 8, 1996 and prior to the date that the competitive bidding system becomes operational would otherwise not be eligible for federal universal service discounts. We extend this exemption for the same reasons we adopted the existing competitive bidding exemption. Specifically, we do not wish to penalize schools or libraries that seek to or must negotiate contracts prior to the date that the universal service competitive bidding system becomes fully operational. The competitive bidding requirement, however, is important because it implements the principle of competitive neutrality by allowing all providers access to information about particular schools' and libraries' needs and because it helps to ensure that schools and libraries will receive the lowest possible pre-discount price. To ensure that schools, libraries, and service providers that qualify for this additional competitive bidding exemption do not negotiate long-term contracts during this interim period, and thus avoid the competitive bidding requirement altogether, we conclude that, in order to receive universal service discounts, contracts signed between November 8, 1996 and the date the competitive bidding system becomes operational must cover only services provided before December 31, 1998. We conclude that allowing the contract to govern service provided until December 1998 should give schools enough flexibility to procure service for the 1997–1998 school year and will allow schools and libraries to submit a single request for services for the entire 1998 funding year, but will also limit the set of contracts that are exempt from the competitive bidding requirement.

3. We conclude, as we did in the Order, that schools and libraries that invoke this exemption have sufficient incentive to negotiate low rates. Although we acknowledge that, unlike schools and libraries that signed contracts prior to November 8, 1996, schools and libraries that sign contracts after that date were on notice that discounts might be available for the contracts they were negotiating. We find, however, that these entities continue to have an incentive to minimize their costs in obtaining service even if they receive section 254(h) discounts. Most important, they will pay a portion of the costs—between ten percent and eighty percent—of any contact price that they negotiate. In addition, we note that many schools and libraries must comply with state or local government competitive procurement requirements. Finally, our decision that contracts that benefit from this additional exemption may not cover services provided after December 31, 1998 will prevent schools, libraries, and providers from avoiding the competitive bidding requirement by signing contracts for extended periods of time. We find that this solution will assist schools and libraries signing contracts prior to the date the competitive bidding mechanism becomes available to obtain service for 1997–1998 school year without unduly diminishing the benefits of our competitive bidding requirement.

4. We will consider the competitive bidding system to be fully operational when both: (1) The Universal Service Administrator is ready to accept and post requests for service from schools and libraries on a website and (2) that website may be used by potential service providers. We will issue a public notice, which we will publish in the **Federal Register**, identifying the exact date that the competitive bidding system will be fully operational. Finally, we note that this limitation on the duration of a contract applies only to contracts signed after November 8, 1996 and before the date on which the competitive bidding system becomes fully operational. As we held in the Order, schools and libraries may sign multi-year contracts after the competitive bidding mechanisms is in place. We do not impose here, nor did we impose in the Order, any durational limitations or competitive bidding requirements on contracts signed prior to November 8, 1996.

5. *Date Services Must Be Supplied.* We now find it necessary to adopt a rule to clarify that only services provided to schools and libraries after January 1, 1998 will be eligible for universal service discounts. This rule applies regardless of the date when the contract for these services was signed. The Order stated that the funding year would be the calendar year, we adopted a funding cap based on the calendar year, we stated the support would begin to flow on January 1, 1998, and we required the universal service administrator to approve funding on an annual basis. Nevertheless, we incorrectly stated in paragraph 545 that services supplied after the effective date of our rules would be supported. The amount of funding reflected in the funding cap anticipates only the expected demand by schools and libraries for the six-month period between January 1, 1998 and June 30, 1998. If all services supplied after the date our rules become effective were eligible for support, we would be attempting to support services supplied during the eleven and a half month period between July 17, 1997 and June 30, 1998 using funds that were estimated to be sufficient to support services supplied during the six month period between January 1, 1998 and June 30, 1998.

6. We conclude that this change will not impose a significant hardship on schools and libraries, particularly in light of our other holdings in the Order. As indicated above, other decisions in the Order are consistent with our intent and decision to provide funding to

schools after January 1, 1998. In addition, we determined that all schools and libraries must comply with the application process, which will likely be completed by the first schools or libraries during mid-fall 1997, before being assured of receiving funding. In this context, we find it highly unlikely that any school or library relying upon our decisions in the Order would have made irrevocable decisions based on their anticipation that they would receive funding for services provided prior to January 1, 1998.

7. *Modifications to the Discount Matrix*. We now clarify that the Commission shall consult the members of the 96–45 Federal-State Joint Board before adopting any changes to the discount matrix, including those changes that might occur prior to the date we reconvene the 96–45 Joint Board. (We concluded that we would reconvene the 96–45 Federal-State Joint Board no later than January 1, 2001.) We find that this approach will promote the joint federal-state cooperation we envisioned in the Order and will provide us with the benefits of states' experience and knowledge.

*Corporate Operations Expense*

8. We now reconsider on our own motion the formula we established to cap the amount of corporate operations expense that carriers can recover from high loop cost support mechanisms. There are two features of the formula that we believe warrant modification. First, under the existing formula, carriers with very small numbers of working loops might be unable to recover portions of corporate operations expense that are fixed or do not vary with the number of loops. This attribute occurs because, under the current formula, allowable corporate operations expense is determined by a factor that is multiplied by the number of loops. The second problem pertains to the relationship between the recoverable amount of support for corporate operation expenses produced by the formula and the number of working loops. Although, based on our analysis of data submitted by NECA, we expected that applying the formula would provide carriers with a total recoverable amount of support for corporate operating expenses that increases with the number of access lines or working loops, Pursuant to 47 CFR 36.611(a)(8), ''working loops'' are defined as ''the number of working Exchange Line C&WF loops used jointly for exchange and message telecommunications service, including C&WF subscriber lines associated with pay telephones in C&WF Category 1, but excluding WATS closed end access and TWX access,'' we have determined that, within the range of 6,780 to 12,913 working loops, support for corporate operations expense does not increase with the number of working loops. For example, applying the formula to a carrier with 5,000 working loops would result in a cap of $98,440.00 of support for corporate operations expense [($27.12 − .002×5,000) ×1.15×5,000=98,440]. Under our provision for carriers with more than 10,000 working loops, however, a carrier with 11,000 working loops would receive no more than $90,060.00 [$7.12×1.15×11,000=90,060]. Accordingly, we make modifications to the formula set forth in § 36.621 of the Commission's rules for calculating the amount of support recoverable for carriers' corporate operating expenses. We set forth the methodology on which we base these modification below.

9. Based on the conclusions set forth below, we modify the existing formula as follows:

For study areas with 6,000 or fewer working loops the amount per working loop shall be $27.12 − (0.002×the number of working loops)×1.15 or 1.15×$8,266/the number of working loops, whichever is greater;

For study areas with more than 6,000 but fewer than 17,988 working loops, the amount per working loop shall be $72,024/the number of working loops+$3.12;

For study areas with 17,988 or more working loops, the amount per working loop shall be $7.12.

The range from 6,000 to 17,988 is wider than the range identified as problematic in paragraph 14 (6,780 to 12,913). This extended range allows the formula to fit the available data more closely. We conclude that these modifications will result in total recoverable support amounts that increase proportionally with the number of working loops. By way of example, under these formulae, a carrier with 5,000 working loops could recover a total of $98,440.00 for corporate operations expenses [($27.12 − (0.002×5,000))×1.15×5,000 = 98,440] and a carrier with 11,000 working loops could recover $122,295.60 [($72,024/ 11,000+3.12)×1.15×11,000 = $122,295.60].

10. The original formula also determined allowable corporate operating expense by multiplying the number of loops by a factor. This may have caused small firms to have difficulty recovering portions of corporate operations expense that are fixed or do not vary with the number of loops. It is necessary to modify the formula in order to allow carriers with small numbers of working loops to receive sufficient support to recover these initial or fixed corporate operations expenses. According to our analysis of data submitted by NECA, we estimate the minimum corporate operations expense per month to be $8,266. Using a sample of stand-alone companies with fewer than 2,000 working loops, total operating expense was regressed on working loops. The minimum total operating expense was estimated as the y intercept from the linear regression. Therefore, we are revising the formula appearing in the Order to ensure that no carrier recovers less than 1.15×$8,266 ($9,505.90). The revised formula for maximum allowable support for monthly corporate operations expense per loop will be 1.15×$8,266 divided by the number of working loops or the result of the formula for study areas with 6,000 or fewer working loops set forth in § 36.621, whichever is greater.

11. We find that these adjustments lead to results that are consistent with both the policies and intended outcomes enunciated in the Order. These modifications do not reduce the amount of corporate operations expenses carriers can recover through the support mechanisms for high loop costs. The new formulae continue to reflect our recognition that small study areas may experience greater amounts of corporate operations expense per working loop than large study areas. As stated above, we seek by this Order merely to eliminate outcomes that would result in carriers with fewer working loops receiving a total support amount that is greater than that of carriers with more working loops.

*Funding for the High Cost Loop Support Mechanism*

12. We clarify that, although the rules that describe the high loop cost support mechanisms and govern separations between the interstate and intrastate jurisdictions remain in part 36, the expense adjustment for high cost loops, like the support for DEM weighting, LTS, Lifeline, Linkup, and Internet access for schools and libraries, will be administered and funded through part 54 of our rules. We make this clarification because we find that the Order did not articulate that the expense adjustment calculated pursuant to part 36 would be administered and funded through the new universal service mechanism set forth in part 54.

*Universal Service Support Mechanisms*

13. *Commission Jurisdiction Over Universal Service Support Mechanisms.* We take this opportunity to reiterate that, although the Order concluded that the Commission has authority to assess universal service contributions from intrastate and interstate revenues and to require carriers to recover some share of the contribution from intrastate revenues, the Commission has not exercised this authority. Recently, the Commission's Office of General Counsel (OGC) responded to an inquiry by clarifying that the Commission has not yet ''crystallized its position regarding the proper treatment of the recovery of intrastate revenues and in any event has not required carriers to seek a portion of the contribution in intrastate rates.'' *See* Letter from William E. Kennard, General Counsel, FCC, to Lawrence G. Malone, General Counsel, New York State Dep't of Public Service, dated June 13, 1997.

Accordingly, the OGC concluded that any judicial challenge to paragraphs 813 through 823 of the Order would not be ''ripe'' at this time. Because of the importance of this issue and the possibility that other interested parties have similar concerns, we take this opportunity to reiterate that, although the Act empowers it to do so, the Commission has neither assessed universal service contributions from intrastate and interstate revenues nor required carriers to recover some share of the contribution from intrastate revenues. For these reasons, any challenges to the Commission's authority are not currently ripe. The Order anticipated that the Joint Board would continue to consult with the Commission regarding the sufficiency of universal service support mechanisms and we recognize that this issue is of primary concern to the Joint Board.

14. *Assessment of the Revenue Base for the High Cost and Low-Income Support Mechanisms.* The Order anticipated that states would take steps similar to those taken by the Commission in the Order to convert implicit intrastate support mechanisms into explicit support mechanisms. As discussed in the Order, the 25 percent allocation factor for loop costs is historically applied to the interstate jurisdiction. By funding 25 percent of the cost of universal service through federal support mechanisms beginning January 1, 1999, we sought to coordinate this approach with the shift of universal service support for rural, insular, and high cost areas served by non-rural LECs from the access charge regime to the new section 254 universal service support mechanisms. We recognize that prior to that date, the costs of universal service will be carefully considered by the Commission, which will establish a forward-looking economic cost mechanism, and by the states, which may conduct their own forward-looking economic cost studies. States should elect by August 15, 1997 whether they will conduct their own forward-looking economic cost studies and those that elect to do so must file the cost studies with the Commission on or before February 6, 1998. Accordingly, it is premature for us to reexamine our decision to fund 25 percent of universal service at this time. Our action today, does not, however, foreclose the possibility that, as states replace their programs with explicit support mechanisms, the Commission will reassess whether there is a need for additional federal support. Instead, we stress the need for federal-state partnership in order to allay any concerns that support amounts will be insufficient. Because it is critical to the preservation and advancement of universal service, we anticipate that this issue will be an important subject in future consultations between the Commission and the Joint Board.

15. *Preventing Subsidization of Competitive Services.* We clarify that, because section 254(k) assigns the duty of preventing the subsidization of competitive services to the Commission, with respect to interstate services, and to the states, with respect to intrastate services, the Commission did not discuss section 254(k) in the Order. Instead, in a separate order, the Commission adopted the statutory language, which will serve as the basis for Commission action with respect to the establishment of ''cost allocation rules, accounting safeguards, and guidelines to ensure that services included in the definition of universal service bear no more than a reasonable share of the joint and common cost of facilities used to provide those services'' for interstate services. *Implementation of 254(k) of the Communications Act of 1934,* as amended, FCC 97–163 (released May 8, 1997). We expect that each state will also take action to implement safeguards for intrastate services.

*Review Process for Carrier Petitions for Waivers*

16. We reiterate that carriers disagreeing with state commission decisions regarding a request to waive the no-disconnect rule may pursue their concerns with the Commission. This approach will offer such carriers an additional forum for resolving their concerns. Nevertheless, in considering a carrier's arguments on the merits, the Commission will give great weight to a state commission's articulated rationales for denying a waiver request.

*Monitoring Reports*

17. We now reconsider on our own motion a limited aspect of that decision and clarify that the Bureau shall consult with the state staff of the 96–45 Joint Board to implement the new monitoring program. Because the Monitoring Report will be based on information regarding the universal service support mechanisms, we find that participation by the 96–45 Joint Board will ensure that the Bureau will have full access to the expertise of state staff. Because of its experience in implementing section 254, we find that the 96–45 Joint Board is fully able to help implement a monitoring program for the new universal service support mechanisms without drawing on the resources of the 80–286 Joint Board. We also clarify that, until the permanent administrator is chosen by a Federal Advisory Committee, the temporary administrator of the support mechanisms shall maintain and report to the Commission detailed records relating to the determination and amount of payments made and monies received through the support mechanisms which shall be used in the preparation of the Monitoring Report.

*Explanation of Methodology for Modifications to Corporate Operations Expense Formulae Included in Appendix B of Order*

18. This analysis, included in Appendix B of the Order, describes the procedure used to derive the formulae, set forth in § 36.621, for determining the allowable amount of corporate operations expenditures recoverable through universal service support mechanisms.

19. *Selecting the Basic Model.* In order to determine the best formula, we applied a statistical analysis to a number of different models that compared the relationship between corporate operations expense per loop and the number of loops using data supplied by NECA. Outliers were removed from the sample before estimation. These outliers were those companies whose corporate operations expense exceeded the mean of the sample by 3 times the sample standard deviation. The companies excluded from the sample had corporate operations expense exceeding $74.00 per loop. Also, two companies which reported negative corporate operations expense were removed from the sample. We used statistical regression

techniques that focused on the relationship between expenses per loop, rather than total expense, in order to find a model under which the cap on corporate operations expense per line declines as the number of loops increases for a range of smaller companies so that economies of scale, which are evident in the data, can be reflected in the model. Of the models studied, the linear spline was found to have the highest $R^2$, a measure indicating that this model provides the best fit with the data. The linear spline model in this case is two line segments joined together at a single point or knot. In general, the linear spline model allows the cap on corporate operations expense to decline as the number of loops increases for the smaller companies having fewer loops than the knot point. Estimates of the linear spline model suggest that the cap on corporate operations expense per loop for companies with a number of loops higher than the spline knot is constant.

20. Choosing the spline model also required selecting a knot, the point at which the two line segments of differing slopes meet. We had two primary objectives in selecting the knot point. First, the model had to characterize accurately the relationship between corporate operations expense per loop and the number of working loops. Second, the model had to characterize accurately the relationship between total corporate operations expense and the number of working loops. To achieve these objectives, we examined the $R^2$s for both total corporate operations expense and corporate operations expense per loop over a wide range of knot points. The highest $R^2$ for per loop corporate operations expense was obtained for a knot point at 3800. We found, however, that the highest $R^2$ that reflects goodness of fit for the total corporate operations expense using the estimated model was obtained at 13,408 working loops. Visual inspection of the data representing corporate operations cost per loop indicates that cost per loop appears to flatten close to 10,000 loops. *See* Figure 1. At 10,000 loops, both $R^2$s remain near the maximum $R^2$s obtained for both per loop and total corporate operations expense. Accordingly, we selected 10,000 loops as the knot point that best meets both objectives.

21. The regression results, which incorporate a spline model that uses data provided by NECA, are as follows:

- For companies having fewer than 10,000 working loops, maximum allowable corporate operations expense per loop for each month equals $\$27.12—0.002 \times$ (number of working loops);
- For companies with working loops greater than or equal to 10,000 loops, maximum allowable corporate operations expense per loop for each month equals $7.12. The $R^2$ associated with this regression is 0.396.

22. *Correcting for Nonmonotonic Behavior in Model's Total Corporate Operations Expenses.* The spline model has one undesirable feature. For a certain range, it yields a total allowable corporate operations cost that declines as the number of working loops increases. This occurs because multiplying the linear function that defines the first line segment of the estimated spline model ($27.12—0.002 \times$ the number of loops) by the number of loops defines a quadratic function that determines total allowable corporate operations expense. This quadratic function assumes its maximum value at 6,780 loops, well below the selected knot point of 10,000. (The feature exists with all knot points considered. The practical effect of the function peaking at 6,780 loops is that a carrier with more than 6,780 loops, but less than 10,000 loops, will receive less corporate operations expense support than one with just 6,780 loops.) To correct this problem, we refined the formula defining allowable per loop expense to ensure that the total allowable corporate operations expense always increases as the number of loops increases. We chose a point to the left of the point at which the total corporate operations expense estimate peaks. At that selected point, the slope of the function defining total corporate operations expense is positive. We then calculated the slope at that point and extended a line with the same slope upward to the right of that point until the line intersected the original estimated total operations expense, which is represented by $7.12 \times$ the number of loops. See Figure 2. Thus, we created a line segment with constant slope covering the region over which the original model of corporate operations expenses declines so that total corporate operations expense continues to increase with the number of loops. We chose the point that leads to a line segment that yields the highest $R^2$.

23. Using this procedure, we selected 6000 as the point. The slope of total operations expense at this point is 3.12 and the line extended intersects the original total operations expense model at 17,988. Accordingly, the line segment formed for total corporate operations expenses, to be applied from 6000 loops to 17,988 loops, is $\$72,024 + \$3.12 \times$ the number of working loops. Dividing this number by the number of working loops defines the maximum allowable corporate operations expense per loop for the range from 6000 to 17,988 working loops, i.e., ($72,024 • (number of working loops)) + $3.12. *See* Figures 1, 2.

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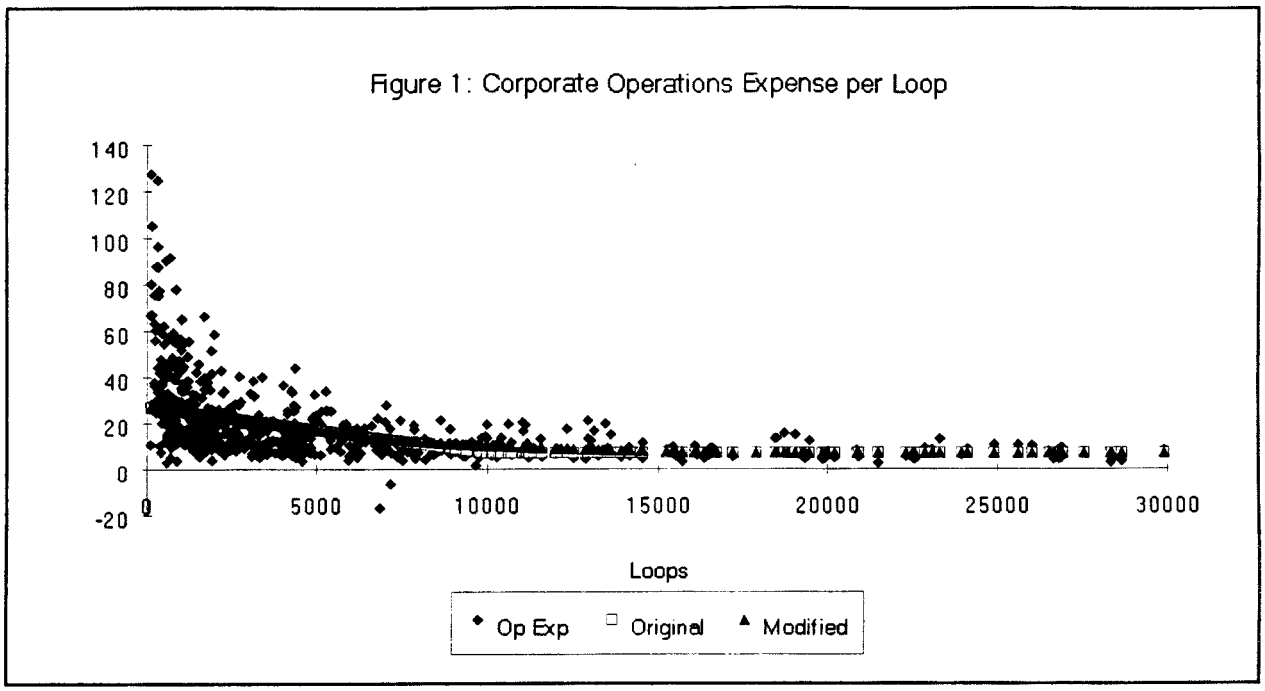


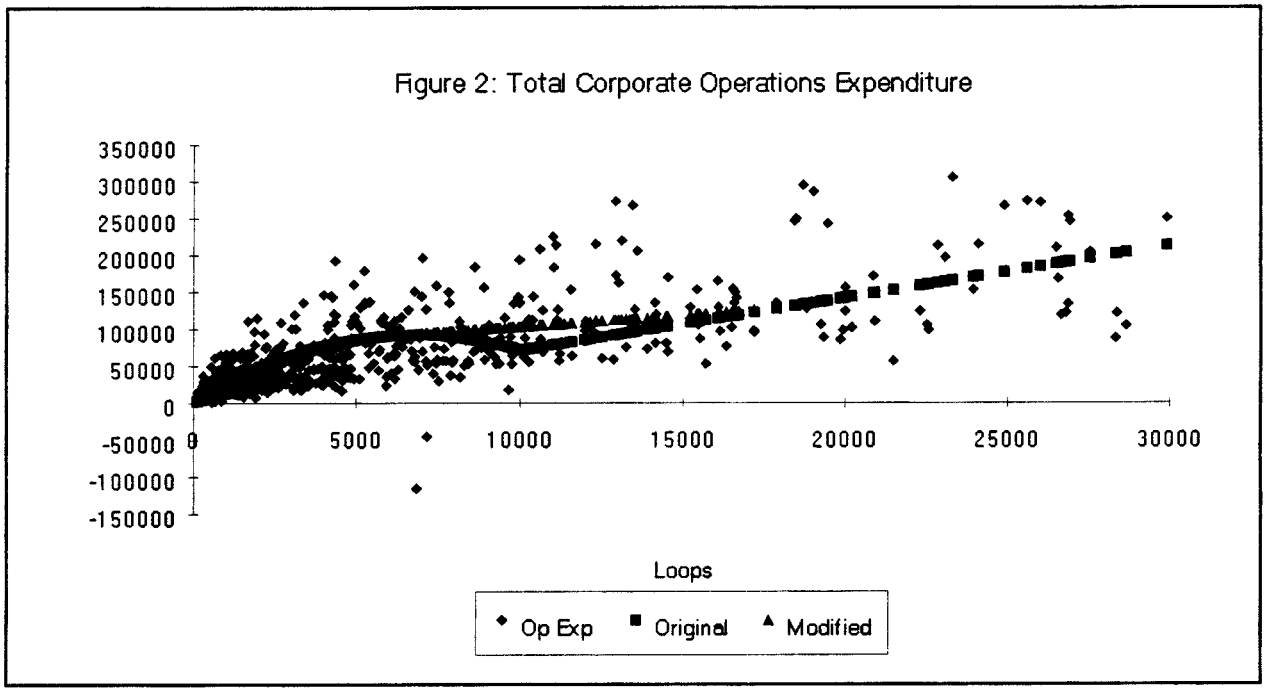


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**Final Regulatory Flexibility Analysis**

24. In the Order, we conducted a Final Regulatory Flexibility Analysis, as required by section 603 of the Regulatory Flexibility Act, as amended by the Contract With America Advancement Act of 1996, Public Law 104–121, 110 Stat. 847 (1996). The changes we adopt in this Order do not affect that analysis.

**List of Subjects**

*47 CFR Part 36*

Communications common carriers, Reporting and recordkeeping requirements, Telephone.

*47 CFR Part 54*

Libraries, Schools, Telecommunications, Telephone.

Federal Communications Commission.

**William F. Caton,**

*Acting Secretary.*

**Rule Changes**

Parts 36 and 54 of title 47 of the Code of Federal Regulations are amended as follows:

## PART 36—JURISDICTIONAL SEPARATIONS PROCEDURES: STANDARD PROCEDURES FOR SEPARATING TELECOMMUNICATIONS PROPERTY COSTS, REVENUES, EXPENSES, TAXES AND RESERVES FOR TELECOMMUNICATIONS COMPANIES

1. The authority citation for part 36 continues to read as follows:

**Authority:** 47 USC Secs. 151, 154 (i) and (j), and 205, 221(c), 254, 403, and 410.

2. Section 36.601 is amended by adding a last sentence to paragraph (a) to read as follows:

**§ 36.601 General.**

(a) * * * Beginning January 1, 1998, the expense adjustment calculated pursuant to this subpart will be administered and funded through the new universal service system discussed in part 54 of this chapter.

* * * * *

3. Section 36.621 is amended by revising paragraph (a)(4) introductory text, the first sentence of paragraph (a)(4)(ii), paragraph (a)(4)(ii)(A) and (a)(4)(ii)(B) and adding new paragraph (a)(4)(ii)(C) to read as follows:

**§ 36.621 Study area total unseparated loop cost.**

(a) * * *

(4) Corporate Operations Expenses, Operating Taxes and the benefits and rent portions of operating expenses, as reported in § 36.611(a)(5) attributable to investment in C&WF Category 1.3 and COE Category 4.13. This amount is calculated by multiplying the total amount of these expenses and taxes by the ratio of the unseparated gross exchange plant investment in C&WF Category 1.3 and COE Category 4.13, as reported in § 36.611(a)(1), to the unseparated gross telecommunications plant investment, as reported in § 36.611(a)(6). Total Corporate Operations Expense, for purposes of calculating universal service support payments beginning January 1, 1998, shall be limited to the lesser of:

(i) * * *

(ii) A per-line amount computed according to paragraphs (a)(4)(ii)(A), (a)(4)(ii)(B), and (a)(4)(ii)(C) of this section. * * *

(A) For study areas with 6,000 or fewer working loops; [($27.12 minus (0.002 times the number of working loops)) times 1.15] or [1.15 × $8,266 divided by the number of working loops], whichever is greater.

(B) For study areas with more than 6,000 but fewer than 17,988 working loops; [($72,024 divided by the number of working loops) + $3.12)] times 1.15.

(C) For study areas with 17,988 or more working loops; $7.12 times 1.15, which equals $8.19.

* * * * *

## PART 54—UNIVERSAL SERVICE

4. The authority citation for part 54 continues to read as follows:

**Authority:** 47 U.S.C. Secs. 1, 4(i), 201, 205, 214, and 254 unless otherwise noted.

5. Section 54.500 is amended by redesignating paragraphs (b) through (h) as paragraphs (c) through (i) and adding new paragraph (b) to read as follows:

**§ 54.500 Terms and definitions.**

* * * * *

(b) *Existing contract.* For the purpose of § 54.511(c), an ''existing contract'' is any signed contract for services eligible for discounts pursuant to this subpart between an eligible school or library as defined under § 54.501 and a service provider that either:

(1) Was signed prior to November 8, 1996; or

(2) Is limited to services provided before December 31, 1998 and was signed on or after November 8, 1996 but before the first date that the universal service competitive bidding system described in § 54.504 is operational. The competitive bidding system will be deemed to be operational when both the universal service administrator is ready to accept and post requests for service from schools and libraries on a website and that website may be used by potential service providers.

* * * * *

6. Section 54.507 is amended by redesignating paragraph (f) as paragraph (g), and adding new paragraph (f) to read as follows:

**§ 54.507 Cap.**

* * * * *

(f) *Date services must be supplied.* The administrator shall not approve funding for service received by a school or library before January 1, 1998.

* * * * *

[FR Doc. 97–20031 Filed 7–29–97; 8:45 am]

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## DEPARTMENT OF ENERGY

## 48 CFR Parts 909, 952, and 970

**RIN 1991–AB26**

## Acquisition Regulation; Revisions to Organizational Conflicts of Interest

**AGENCY:** Office of Procurement and Assistance Management, Department of Energy.

**ACTION:** Final rule.

**SUMMARY:** The Department of Energy (DOE) publishes today amendments to its Acquisition Regulation that effect changes to its Organizational Conflicts of Interest policies as a result of the repeal of the two statutory provisions upon which DOE's system for treating organizational conflicts of interest was based.

**DATES:** These regulations will be effective on August 29, 1997.

**FOR FURTHER INFORMATION CONTACT:**

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Edward Lovett, U.S. Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 586–8614

**SUPPLEMENTARY INFORMATION:**

## I. Background

Subsections (b) (2) and (5) of section 4304 of the Federal Acquisition Reform Act of 1996 (FARA), Public Law 104–106, repealed section 33 of the Federal Energy Administration Act of 1974 (15 U.S.C. 789) and section 19 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5918). These two statutory provisions provided the basis for the Department of Energy organizational conflict of interest (OCI) regulation that is codified at 48 CFR Subpart 909.5. As a result of the repeal of the underlying statutes, the Department has re-examined the OCI systems established in the Department of Energy Acquisition Regulation (DEAR) and the Federal Acquisition Regulation (FAR) and is amending the DEAR to implement and supplement the current FAR provisions in the manner described below. The objective of the revision is to streamline the Department's OCI procedure and reduce the burdens on contractors, but also to preserve the necessary protections provided by an OCI control system.

A proposed rule to accomplish this purpose was published for public comment on August 6, 1996, at 61 FR 40775.

## II. Discussion of Public Comments

The Department received five sets of comments in response to the publication of the proposed rule. Three sets of those comments were from entities that manage and operate DOE facilities, one of which is a university and two of which are large businesses. Two sets of comments were received from trade associations. The comments fall into four areas and are discussed below.

### *A. Scope of Coverage*

One commenter suggested that it be made clear that ''advisory and assistance services'' do not include research contracts with universities. The Department believes that the FAR definition is clear. See FAR 37.201. The definition of advisory and assistance services provides that such services may be used in support of research and development; however, it does not include research and development itself. Therefore, the Department sees no need for clarification in the text of the rule, and intends that each procurement request for support services be evaluated against that definition to determine whether the services to be procured are advisory and assistance services and, therefore, should be covered by the organizational conflicts of interest process.

Another commenter questioned the use of the clause at 952.209–72 in ''all contracts, rather than limiting its application to the contractor's performance of technical consulting and management support services.'' The basis of this comment is unclear. The proposed rule and the final rule provide for the use of the organizational conflicts of interest clause only in those contracts that provide advisory and assistance services and that are valued in excess of the simplified acquisition threshold. The Department does not intend that the clause be used routinely in other contracts. It should be noted, however, that FAR 9.502(b) provides that the applicability of Subpart 9.5 is not limited to any particular kind of acquisition and thus allows for the possibility that the contracting officer will determine that it is appropriate in rare instances to include the organizational conflicts of interest clause in individual contracts involving other types of work.

### *B. Disclosure Requirement*

Two commenters suggested that the Department ought to limit the disclosure requirement to that of the FAR. In the time since publication of the proposed rule, the FAR solicitation provision has been deleted. See 62 FR 224 (1997). However, Subsection 9.507–1 still provides for including a solicitation provision in affected solicitations. The revised FAR requires that this solicitation provision, among other things, state the nature of any potential conflicts identified by the contracting officer, but is not explicit about how the contracting officer is to make this judgment.

The Department's substantial experience in the area of organizational conflicts of interest has demonstrated that specificity in defining disclosure requirements facilitates the entire process by providing the contracting officer with the best information available. The quality of the ultimate decision as to whether an organizational conflict of interest may exist is only as good as the information that the decision-maker has at hand. The ability to craft meaningful remedies to situations that may present an organizational conflict of interest is as well dependent upon having complete and accurate information before the decision-maker.

One commenter suggested that ''[i]n many cases, agency personnel are aware of the issues and activities that would impair the objectivity of their actual or potential contractors or that would impact the fairness of a procurement.'' The Department disagrees. One type of conflict of interest consists of conflicting financial, contractual, or organizational interests of the individual contractor that might reasonably be expected to impair the objectivity of the contractor or its ability to render impartial analysis or advice. The potential for conflicting financial interests can be meaningfully identified only by a disclosure of relevant interests, and there is no meaningful way to address this facet of organizational conflicts of interest without disclosure by the proposer.

The final rule supplements the FAR disclosure requirements to ensure that the apparent successful offeror discloses all information relevant to the OCI determination. The Department has limited the disclosure period nominally to 12 months. Also, the Department has limited the requirement to the apparent successful offeror and does not require disclosure from subcontractors, except under management and operating contracts and other contracts for the operation or remediation of a DOE site or facility, or affiliates.

### *C. The Organizational Conflicts of Interest Clause*

Other commenters questioned various portions of the clause.

#### 1. Affiliates

Three commenters argued that affiliates of the contractor should not be covered by the organizational conflicts of interest clause at 952.209–72. The Department believes this provision is necessary because an organizational conflict of interest may arise where the interests of an affiliate may affect the objectivity of a contractor, or an affiliate may benefit from an unfair competitive advantage. A detailed discussion of this point was contained in the proposed rule at 61 FR 40777 (Aug. 6, 1996). Affiliates are unaffected by this clause unless they attempt to propose in situations described in the clause that present the potential for an organizational conflict of interest. The FAR provides for the drafting of a clause to deal with organizational conflicts of interest. The clause in this final rule has been drafted to deal systematically with the potential sources of organizational conflicts of interest relating to the performance of the contractor.

In this regard, the clause has been drafted to protect the integrity of the

procurement process as it relates to future procurements and to protect the integrity of any advice or recommendations produced by the contractor in the performance of its contract, which advice or recommendations then may be used in Departmental decision-making and policy setting processes.

2. Contracting Officer Discretion

Another commenter believed that the clause limits the discretion of the contracting officer to deal with identified organizational conflicts of interest. The Department disagrees. The clause provides a generic remedy to almost every type of post-contract award organizational conflict of interest. In addition, section 909.507–2 of this rule provides that ''[c]ontracting officers may make appropriate modifications where necessary to address the potential for organizational conflicts of interest in individual contracts.'' This language provides adequate authority for contracting officers to consider and adopt appropriate changes to the clause. The contracting officer is, of course, required by 909.507–2 to determine the duration of the bar in paragraph (b)(1)(i) against a contractor's or its affiliate's proposing on work ''stemming directly from'' work performed under the contract.

3. Five Year Prohibition

Two other commenters believed that the prohibitions against the contractor or its affiliates proposing for five years on work stemming ''directly from the contractor's performance of work under this contract'' or where the contractor prepares a statement of work or specifications for future competitive solicitations is excessive. The Department has made a change to allow the contracting officer more discretion in using the clause at 952.209–72. As a preliminary matter, one should recognize that the prohibitions of the clause do not prevent the contractor or its affiliates from proposing on the follow-on support services contract.

The clause has been revised to provide the contracting officer the discretion to determine the term of the bar in paragraph (b)(1)(i) against a contractor's or its affiliate's proposing on work ''stemming directly from'' work performed under the contract. That term should be between three and five years in the normal contract for advisory and assistance services, but the contracting officer may select a period of greater or lesser duration.

*E. Subcontracts*

Comments were received questioning the flowdown of the organizational conflicts of interest concerns to subcontracts for advisory and assistance services valued in excess of the simplified acquisition threshold, particularly in light of the general Government-wide practice of not applying organizational conflicts of interest to subcontracts. The Department has chosen to limit the mandatory flowdown of organizational conflicts of interest coverage to subcontracts under management and operating contracts and other contracts for the operation or management of a DOE facility or environmental remediation of a specific DOE site or sites. To achieve this result, the organizational conflict of interest in those contracts will contain Alternate I to the organizational conflicts of interest clause at 952.209–72.

Contractors under other contracts awarded by DOE generally will not be required to acquire disclosure from prospective subcontractors and will not be required to flowdown the clause at 952.209–72 in subcontracts for advisory and assistance services valued in excess of the simplified acquisition threshold. However, there is provision for the contracting officer to use Alternate I in other contracts where he or she believes there will be sufficient subcontracting for advisory and assistance services awarded to warrant its use. It is believed that this change will limit the burden of organizational conflicts of interest requirements, but permit discretionary application where the nature and extent of anticipated subcontracting warrant additional protection for the Government.

## III. Procedural Requirements

*A. Review Under Executive Order 12866*

Today's regulatory action has been determined not to be a ''significant regulatory action'' under Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Accordingly, this action was not subject to review under that Executive Order by the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB).

*B. Review Under Executive Order 12988*

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (February 7, 1996), imposes on Executive agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. With regard to the review required by section 3(a), section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, these final regulations meet the relevant standards of Executive Order 12988.

*C. Review Under the Regulatory Flexibility Act*

This final rule has been reviewed under the Regulatory Flexibility Act of 1980, 5 U.S.C. 601 *et seq.*, that requires preparation of an initial regulatory flexibility analysis for any proposed rule which is likely to have significant economic impact on a substantial number of small entities. In the proposed rule, DOE certified that these regulations will not have a significant economic impact on a substantial number of small entities, and, therefore, no initial regulatory flexibility analysis was prepared. The Department received no comments on this certification.

*D. Review Under the Paperwork Reduction Act*

No additional information or record keeping requirements are imposed by this rulemaking. Accordingly, no OMB clearance is required under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

*E. Review Under the National Environmental Policy Act*

DOE has concluded that promulgation of this rule falls into a class of actions which would not individually or cumulatively have significant impact on the human environment, as determined by DOE's regulations (10 CFR Part 1021,

Subpart D) implementing the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*). Specifically, this rule is categorically excluded from NEPA review because the amendments made to the DEAR would be strictly procedural (categorical exclusion A6). Therefore, this rule does not require an environmental impact statement or environmental assessment pursuant to NEPA.

*F. Review Under Executive Order 12612*

Executive Order 12612, (52 FR 41685, October 30, 1987), requires that regulations, rules, legislation, and any other policy actions be reviewed for any substantial direct effects on States, on the relationship between the Federal Government and the States, or in the distribution of power and responsibilities among the various levels of Government. If there are sufficient substantial direct effects, then the Executive Order requires the preparation of a federalism assessment to be used in all decisions involved in promulgating and implementing a policy action. This rule revises certain policy and procedural requirements. States which contract with DOE will be subject to this rule. However, DOE has determined that this rule will not have a substantial direct effect on the institutional interests or traditional functions of the States.

*G. Review Under Unfunded Mandate Reform Act of 1995*

The Unfunded Mandate Reform Act of 1995 requires preparation of a budgetary impact statement for rules that may result in estimated costs to state, local, or tribal governments in the aggregate, or in the private sector, of $100 million or more. It also requires a plan for informing and advising any small governments that may be uniquely impacted by the rule.

DOE has determined that the rule will not impose estimated costs of $100 million or more and that it will not significantly or uniquely affect small government. Accordingly, there are no actions required to comply with the Unfunded Mandate Reform Act of 1995.

*H. Review Under Small Business Regulatory Enforcement Fairness Act of 1996*

Prior to the effective date of this regulatory action, set forth above, DOE will submit a report to Congress containing the rule and other information, as required by 5 U.S.C. 801(a)(1)(A). The report will state that the rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

**List of Subjects in 48 CFR Parts 909, 952, and 970**

Government Procurement.

**Richard H. Hopf,**

*Deputy Assistant Secretary for Procurement and Assistance Management.*

For the reasons set out in the preamble, Chapter 9 of Title 48 of the Code of Federal Regulations is amended as set forth below.

## PART 909—CONTRACTOR QUALIFICATIONS

1. The authority citation for Part 909 continues to read as follows:

**Authority:** 42 U.S.C. 7254, 40 U.S.C. 486(c).

2. Subpart 909.5 is revised to read as set forth below:

### Subpart 909.5—Organizational and Consultant Conflicts of Interest



**§ 909.503 Waiver.**

Heads of Contracting Activities are delegated the authorities in 48 CFR (FAR) 9.503 regarding waiver of OCI requirements.

**§ 909.504 Contracting Officer's Responsibility. (DOE coverage-paragraphs (d) and (e)).**

(d) The contracting officer shall evaluate the statement by the apparent successful offeror or, where individual contracts are negotiated with all firms in the competitive range, all such firms for interests relating to a potential organizational conflict of interest in the performance of the proposed contract. Using that information and any other credible information, the contracting officer shall make written determination of whether those interests create an actual or significant potential organizational conflict of interest and identify any actions that may be taken to avoid, neutralize, or mitigate such conflict. In fulfilling their responsibilities for identifying and resolving potential conflicts, contracting officers should avoid creating unnecessary delays, burdensome information requirements, and excessive documentation.

(e) The contracting officer shall award the contract to the apparent successful offeror unless a conflict of interest is determined to exist that cannot be avoided, neutralized, or mitigated. Before determining to withhold award based on organizational conflict of interest considerations, the contracting officer shall notify the offeror, provide the reasons therefor, and allow the offeror a reasonable opportunity to respond. If the conflict cannot be avoided, neutralized, or mitigated to the contracting officer's satisfaction, the contracting officer may disqualify the offeror from award and undertake the disclosure, evaluation, and determination process with the firm next in line for award. If the contracting officer finds that it is in the best interest of the United States to award the contract notwithstanding a conflict of interest, a request for waiver shall be submitted in accordance with 48 CFR 909.503. The waiver request and decisions shall be included in the contract file.

**§ 909.507 Solicitation provisions and contract clause.**

**§ 909.507–1 Solicitation provisions. (DOE coverage-paragraph (e)).**

(e) The contracting officer shall insert the provision at 48 CFR 952.209–8, Organizational Conflicts of Interest Disclosure-Advisory and Assistance Services, in solicitations for advisory and assistance services expected to exceed the simplified acquisition threshold. In individual procurements, the Head of the Contracting Activity may increase the period subject to disclosure in 952.209–8 (c)(1) up to 36 months.

**§ 909.507–2 Contract Clause.**

(a) (1) The contracting officer shall insert the clause at 48 CFR 952.209–72, Organizational Conflicts of Interest, in each solicitation and contract for advisory and assistance services expected to exceed the simplified acquisition threshold.

(2) Contracting officers may make appropriate modifications where necessary to address the potential for organizational conflicts of interest in individual contracts. Contracting officers shall determine the appropriate term of the bar of paragraph (b)(1)(i) of the clause at 48 CFR 952.209–72 and enter that term in the blank provided. In the usual case of a contract for advisory and assistance services a period of three, four, or five years is appropriate; however, in individual cases the contracting officer may insert a term of greater or lesser duration.

(3) The contracting officer shall include Alternate I with the clause in instances in which a meaningful amount of subcontracting for advisory and assistance services is expected.

(b) Contracts, which are not subject to part 970 but provide for the operation of

a DOE site or facility or environmental remediation of a specific DOE site or sites, shall contain the organizational conflict of interest clause at 48 CFR 952.209–72. The organizational conflicts of interest clause in such contracts shall include Alternate I to that clause.

## PART 952—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. The authority citation for Part 952 continues to read as follows:

**Authority:** 42 U.S.C. 7254; 40 U.S.C. 486(c).

4. Subsection 952.209–8 is added as follows:

### § 952.209–8 Organizational Conflicts of Interest-Disclosure.

As prescribed in 48 CFR 909.507–1(e), insert the following provision:

Organizational Conflicts of Interest Disclosure-Advisory and Assistance Services (June 1997)

(a) Organizational conflict of interest means that because of other activities or relationships with other persons, a person is unable or potentially unable to render impartial assistance or advice to the Government, or the person's objectivity in performing the contract work is or might be otherwise impaired, or a person has an unfair competitive advantage.

(b) An offeror notified that it is the apparent successful offeror shall provide the statement described in paragraph (c) of this provision. For purposes of this provision, ''apparent successful offeror'' means the proposer selected for final negotiations or, where individual contracts are negotiated with all firms in the competitive range, it means all such firms.

(c) The statement must contain the following:

(1) A statement of any past (within the past twelve months), present, or currently planned financial, contractual, organizational, or other interests relating to the performance of the statement of work. For contractual interests, such statement must include the name, address, telephone number of the client or client(s), a description of the services rendered to the previous client(s), and the name of a responsible officer or employee of the offeror who is knowledgeable about the services rendered to each client, if, in the 12 months preceding the date of the statement, services were rendered to the Government or any other client (including a foreign government or person) respecting the same subject matter of the instant solicitation, or directly relating to such subject matter. The agency and contract number under which the services were rendered must also be included, if applicable. For financial interests, the statement must include the nature and extent of the interest and any entity or entities involved in the financial relationship. For these and any other interests enough such information must be provided to allow a meaningful evaluation of the potential effect of the interest on the performance of the statement of work.

(2) A statement that no actual or potential conflict of interest or unfair competitive advantage exists with respect to the advisory and assistance services to be provided in connection with the instant contract or that any actual or potential conflict of interest or unfair competitive advantage that does or may exist with respect to the contract in question has been communicated as part of the statement required by (b) of this provision.

(d) Failure of the offeror to provide the required statement may result in the offeror being determined ineligible for award. Misrepresentation or failure to report any fact may result in the assessment of penalties associated with false statements or such other provisions provided for by law or regulation.

(End of provision)

### § 952.209–70 [Removed]

5. Subsection 952.209–70 is removed.

6. Subsection 952.209–72 is revised to read as follows:

### § 952.209–72 Organizational conflicts of interest.

As prescribed at 48 CFR 909.507–2, insert the following clause:

Organizational Conflicts of Interest (June 1997)

(a) Purpose. The purpose of this clause is to ensure that the contractor (1) is not biased because of its financial, contractual, organizational, or other interests which relate to the work under this contract, and (2) does not obtain any unfair competitive advantage over other parties by virtue of its performance of this contract.

(b) Scope. The restrictions described herein shall apply to performance or participation by the contractor and any of its affiliates or their successors in interest (hereinafter collectively referred to as ''contractor'') in the activities covered by this clause as a prime contractor, subcontractor, cosponsor, joint venturer, consultant, or in any similar capacity. For the purpose of this clause, affiliation occurs when a business concern is controlled by or has the power to control another or when a third party has the power to control both.

(1) Use of Contractor's Work Product. (i) The contractor shall be ineligible to participate in any capacity in Department contracts, subcontracts, or proposals therefor (solicited and unsolicited) which stem directly from the contractor's performance of work under this contract for a period of (Contracting Officer see DEAR 9.507–2 and enter specific term) years after the completion of this contract. Furthermore, unless so directed in writing by the contracting officer, the Contractor shall not perform any advisory and assistance services work under this contract on any of its products or services or the products or services of another firm if the contractor is or has been substantially involved in their development or marketing. Nothing in this subparagraph shall preclude the contractor from competing for follow-on contracts for advisory and assistance services.

(ii) If, under this contract, the contractor prepares a complete or essentially complete statement of work or specifications to be used in competitive acquisitions, the contractor shall be ineligible to perform or participate in any capacity in any contractual effort which is based on such statement of work or specifications. The contractor shall not incorporate its products or services in such statement of work or specifications unless so directed in writing by the contracting officer, in which case the restriction in this subparagraph shall not apply.

(iii) Nothing in this paragraph shall preclude the contractor from offering or selling its standard and commercial items to the Government.

(2) Access to and use of information. (i) If the contractor, in the performance of this contract, obtains access to information, such as Department plans, policies, reports, studies, financial plans, internal data protected by the Privacy Act of 1974 (5 U.S.C. 552a), or data which has not been released or otherwise made available to the public, the contractor agrees that without prior written approval of the contracting officer it shall not:

(A) use such information for any private purpose unless the information has been released or otherwise made available to the public;

(B) compete for work for the Department based on such information for a period of six (6) months after either the completion of this contract or until such information is released or otherwise made available to the public, whichever is first;

(C) submit an unsolicited proposal to the Government which is based on such information until one year after such information is released or otherwise made available to the public; and

(D) release such information unless such information has previously been released or otherwise made available to the public by the Department.

(ii) In addition, the contractor agrees that to the extent it receives or is given access to proprietary data, data protected by the Privacy Act of 1974 (5 U.S.C. 552a), or other confidential or privileged technical, business, or financial information under this contract, it shall treat such information in accordance with any restrictions imposed on such information.

(iii) The contractor may use technical data it first produces under this contract for its private purposes consistent with paragraphs (b)(2)(i) (A) and (D) of this clause and the patent, rights in data, and security provisions of this contract.

(c) Disclosure after award. (1) The contractor agrees that, if changes, including additions, to the facts disclosed by it prior to award of this contract, occur during the performance of this contract, it shall make an immediate and full disclosure of such changes in writing to the contracting officer. Such disclosure may include a description of any action which the contractor has taken or proposes to take to avoid, neutralize, or mitigate any resulting conflict of interest. The Department may, however, terminate the contract for convenience if it deems such termination to be in the best interest of the Government.

(2) In the event that the contractor was aware of facts required to be disclosed or the existence of an actual or potential organizational conflict of interest and did not disclose such facts or such conflict of interest to the contracting officer, DOE may terminate this contract for default.

(d) Remedies. For breach of any of the above restrictions or for nondisclosure or misrepresentation of any facts required to be disclosed concerning this contract, including the existence of an actual or potential organizational conflict of interest at the time of or after award, the Government may terminate the contract for default, disqualify the contractor from subsequent related contractual efforts, and pursue such other remedies as may be permitted by law or this contract.

(e) Waiver. Requests for waiver under this clause shall be directed in writing to the contracting officer and shall include a full description of the requested waiver and the reasons in support thereof. If it is determined to be in the best interests of the Government, the contracting officer may grant such a waiver in writing.

(End of clause)

ALTERNATE I: In accordance with 909.507–2 and 970.0905, include the following alternate in the specified types of contracts.

(f) Subcontracts. (1) The contractor shall include a clause, substantially similar to this clause, including this paragraph (f), in subcontracts expected to exceed the simplified acquisition threshold determined in accordance with FAR Part 13 and involving the performance of advisory and assistance services as that term is defined at FAR 37.201. The terms ''contract,'' ''contractor,'' and ''contracting officer'' shall be appropriately modified to preserve the Government's rights.

(2) Prior to the award under this contract of any such subcontracts for advisory and assistance services, the contractor shall obtain from the proposed subcontractor or consultant the disclosure required by DEAR 909.507–1, and shall determine in writing whether the interests disclosed present an actual or significant potential for an organizational conflict of interest. Where an actual or significant potential organizational conflict of interest is identified, the contractor shall take actions to avoid, neutralize, or mitigate the organizational conflict to the satisfaction of the contractor. If the conflict cannot be avoided or neutralized, the contractor must obtain the approval of the DOE contracting officer prior to entering into the subcontract.

(End of alternate)

## PART 970—DOE MANAGEMENT AND OPERATING CONTRACTS

7. The authority citation for part 970 continues to read as follows:

**Authority:** Sec. 161 of the Atomic Energy Act of 1954 (42 U.S.C. 2201), sec. 644 of the Department of Energy Organization Act, Public Law 95–91 (42 U.S.C. 7254).

8. Section 970.0905 is revised to read as follows:

**§ 970.0905 Organizational conflicts of interest.**

Management and operating contracts shall contain an organizational conflict of interest clause substantially similar to the clause at 48 CFR 952.209–72 and appropriate to the statement of work of the individual contract. In addition, the contracting officer shall assure that the clause contains appropriate restraints on intra-corporate relations between the contractor's organization and personnel operating the Department's facility and its parent corporate body and affiliates, including personnel access to the facility, technical transfer of information from the facility, and the availability from the facility of other advantages flowing from performance of the contract. The Contracting Officer is responsible for ensuring that M&O contractors adopt policies and procedures in the award of subcontracts that will meet the Department's need to safeguard against a biased work product and an unfair competitive advantage. To this end, the organizational conflicts of interest clause in the management and operating contract shall include Alternate I.

9. Subsection 970.5204–44 is amended by revising clause paragraph (b)(15) to read as follows:

**§ 970.5204–44 Flowdown of contract requirements to subcontracts.**

* * * * *

(b) * * *

(15) Organizational Conflicts of Interest. Clause at 48 CFR (DEAR) 952.209–72 in accordance with 48 CFR (DEAR) 970.0905.

* * * * *

[FR Doc. 97–20022 Filed 7–29–97; 8:45 am]

BILLING CODE 6450–01–P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 300

**(Docket No. ; I.D. 021197C)**

## International Code of Conduct for Responsible Fisheries; Implementation Plan

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

**ACTION:** Notice of final implementation plan.

**SUMMARY:** On July 25, 1996, NMFS announced the availability of a Draft Implementation Plan for the Code of Conduct for Responsible Fisheries (Implementation Plan) in the **Federal Register** and requested comments by September 23, 1996. At the close of this period, it became clear that several of the public comments raised substantive issues. During the same period, two other relevant developments took place. First, in October 1996, the Congress passed the Sustainable Fisheries Act (SFA) which contained numerous and significant amendments to the Magnuson-Stevens Fishery Conservation and Management Act; and, second, NOAA/NMFS moved into the final and substantive phase of its long-term program planning exercise, the NOAA Fisheries Strategic Plan (Strategic Plan).

The requirements of the SFA and the Strategic Plan point in the same directions as the Code of Conduct. In effect, NMFS will implement the Code of Conduct domestically as it carries out its Congressionally mandated responsibilities and the objectives of the Strategic Plan. Accordingly, NMFS redrafted the Implementation Plan, taking into account (1) the comments received on the first draft; (2) the guidance provided by Congress in the SFA; and (3) the long-term program planning that was being developed through the Strategic Plan.

The revised Implementation Plan was made available for public comment in a **Federal Register** notice on March 12, 1997 (62 FR 11410), and comments were requested by April 28, 1997. The public may request a copy of the final plan (see **ADDRESSES**) or access it on the NMFS home page at http://www.nmfs.gov.

**ADDRESSES:** Questions regarding this document may be directed to Matteo Milazzo, International Fisheries Division, Office of Sustainable Fisheries, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

**FOR FURTHER INFORMATION CONTACT:** Matteo Milazzo, 3O1–713–2276.

**SUPPLEMENTARY INFORMATION:** For background and rationale for the Implementation Plan, please refer to the notices of availability published on July 25, 1996 (61 FR 38703) and March 12, 1997

(62 FR 11410).

### Comments and Responses

Five written comments were received regarding the proposed Implementation Plan. All were generally supportive of the Implementation Plan but made specific suggestions about various of its provisions. Specific comments and responses are given below:

*Comment*: One response urged that the Implementation Plan should be

actively supported and implemented by all the Federal and state agencies involved in marine fisheries and recommended that NMFS strive to include these agencies and upgrade the document from an NMFS to a United States Government Implementation Plan.

*Response*: NMFS has determined that, since it is the Federal agency responsible for marine fisheries, it is appropriate at this time for NMFS to take the lead in implementation of the

Code of Conduct for Responsible Fisheries and move forward with its Implementation Plan. At the same time, NMFS will work closely with other Federal, state, and local agencies on various elements of the Implementation Plan, as noted in the Implementation Plan. The intent to collaborate closely with these other government agencies, especially with respect to fisheries management, marine aquaculture, international fisheries agreements, and trade is stressed in the Implementation Plan.

*Comment*: One response recommended that the treatment of aquaculture be more detailed, proactively developmental, less regulatory, and more specific about resources that NMFS can make available in this area.

*Response*: The final Implementation Plan's treatment of aquaculture reflects the fact that, in April 1997, the Strategic Plan was approved, with a significantly modified section on marine aquaculture development. Therefore, the revised Implementation Plan includes more specific information regarding the NMFS marine aquaculture objective: To promote robust and environmentally sound aquaculture.

*Comment*: One comment was critical of the prominence assigned to individual transferable quotas (ITQs) as a means to deal effectively with overfishing and overcapitalization.

*Response*: NMFS believes that ITQs are a potentially useful management tool. However, largely in view of the fact that the SFA mandates that the National Academy of Sciences conduct a study of their effectiveness, NMFS agreed to identify ITQs as a type of limited entry in the revised Implementation Plan.

*Comment*: Some comments noted that the Implementation Plan generally dealt more with goals than with the specific means to reach those goals and suggested that it should be more forthcoming about particular action steps.

*Response*: In some instances, it was felt that the comment had some validity, and the Implementation Plan was modified. As examples, the treatments of aquaculture, recreational fisheries, and the agency's obligations under the Convention for International Trade in Endangered Species and the Endangered Species Act are stated with greater specificity. More generally, an entirely new section was added to the end of the Implementation Plan, ''Implementation Steps,'' that details the agency's resolve to work with all our constituencies, mainly through the regional Fishery Management Councils, to develop specific implementation plans on certain issues. On the other hand, NMFS is presently unable to spell out precise action steps in all areas for a variety of reasons, including the needs to complete Congressionally mandated studies, and to await future appropriation decisions.

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

Dated: July 21, 1997.

**David Evans,**

*Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.*

[FR Doc. 97–20042 Filed 7–29–97; 8:45 am]

BILLING CODE 3510–22–F

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 679

**[Docket No. 961126334–7052–02; I.D. 072397A]**

### Fisheries of the Exclusive Economic Zone Off Alaska; ''Other Rockfish'' Species Group in the Western Regulatory Area of the Gulf of Alaska

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

**ACTION:** Closure.

**SUMMARY:** NMFS is prohibiting retention of the ''other rockfish'' species group in the Western Regulatory Area of the Gulf of Alaska (GOA). NMFS is requiring that catch of the ''other rockfish'' species group in this area be treated in the same manner as prohibited species and discarded at sea with a minimum of injury. This action is necessary because the ''other rockfish'' species group 1997 total allowable catch (TAC) in this area has been reached.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), July 25, 1997, until 2400 hrs, A.l.t., December 31, 1997.

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

**SUPPLEMENTARY INFORMATION:** The groundfish fishery in the GOA exclusive economic zone is managed by NMFS according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 1997 TAC of the ''other rockfish'' species group in the Western Regulatory Area of the GOA was established by the Final 1997 Harvest Specifications of Groundfish for the GOA (62 FR 8179, February 24, 1997) as 20 metric tons (mt). See § 679.20(c)(3)(ii).

In accordance with § 679.20(d)(2), the Administrator, Alaska Region, NMFS, has determined that the 1997 TAC for the ''other rockfish'' species group in the Western Regulatory Area of the GOA has been reached. Therefore, NMFS is requiring that further catches of the ''other rockfish'' species group in the Western Regulatory Area of the GOA be treated as prohibited species in accordance with § 679.21(b).

#### Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately to prevent overharvesting the 1997 TAC for the ''other rockfish'' species group in the Western Regulatory Area of the GOA. Providing an opportunity for prior notice and comment would be impracticable and contrary to public interest. The fleet has already taken the directed fishing allowance for the ''other rockfish'' species group. Further delay would only result in overharvest and disrupt the FMP's objective of allowing incidental catch to be retained throughout the year. NMFS finds for good cause that the implementation of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.20 and is exempt from review under E.O. 12866.

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

Dated: July 24, 1997.

**Bruce Morehead,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 97–20007 Filed 7–25–97; 9:24 am]

BILLING CODE 3510–22–F

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 679

**[Docket No. 961126334–7052–02; I.D. 072397C]**

## Fisheries of the Exclusive Economic Zone Off Alaska; ''Other Rockfish'' Species Group in the Central Regulatory Area of the Gulf of Alaska

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

**ACTION:** Closure.

**SUMMARY:** NMFS is prohibiting retention of the ''other rockfish'' species group in the Central Regulatory Area of the Gulf of Alaska (GOA). NMFS is requiring that catches of the ''other rockfish'' species group in this area be treated in the same manner as prohibited species and discarded at sea with a minimum of injury. This action is necessary because the ''other rockfish'' species group 1997 total allowable catch (TAC) in this area has been reached.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), July 25, 1997, until 2400 hrs, A.l.t., December 31, 1997.

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

**SUPPLEMENTARY INFORMATION:** The groundfish fishery in the GOA exclusive economic zone is managed by NMFS according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 1997 TAC of the ''other rockfish'' species group in the Central Regulatory Area of the GOA was established by the Final 1997 Harvest Specifications of Groundfish for the GOA (62 FR 8179, February 24, 1997) as 650 metric tons (mt). See § 679.20(c)(3)(ii).

In accordance with § 679.20(d)(2), the Administrator, Alaska Region, NMFS, has determined that the 1997 TAC for the ''other rockfish'' species group in the Central Regulatory Area of the GOA has been reached. Therefore, NMFS is requiring that further catches of the ''other rockfish'' species group in the Central Regulatory Area of the GOA be treated as prohibited species in accordance with § 679.21(b).

### Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately to prevent overharvesting the 1997 TAC for the ''other rockfish'' species group in the Central Regulatory Area of the GOA. Providing an opportunity for prior notice and comment would be impracticable and contrary to public interest. The fleet has already taken the directed fishing allowance for the ''other rockfish'' species group. Further delay would only result in overharvest and disrupt the FMP's objective of allowing incidental catch to be retained throughout the year. NMFS finds for good cause that the implementation of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.20 and is exempt from review under E.O. 12866.

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

Dated: July 24, 1997.

**Bruce Morehead,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 97–20008 Filed 7–25–97; 9:24 am]

BILLING CODE 3510–22–F

# Proposed Rules

Federal Register
Vol. 62, No. 146
Wednesday, July 30, 1997

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

### 7 CFR Part 301

**[Docket No. 96–016–21]**

**RIN 0579–AA83**

## Karnal Bunt; Compensation for Wheat Seed and Straw in the 1995–1996 Crop Season

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

**ACTION:** Proposed rule.

**SUMMARY:** We are proposing to amend the Karnal bunt regulations by adding compensation provisions for growers and seed companies for the loss in value of wheat seed and straw in the 1995–1996 crop season. The payment of compensation is necessary in order to reduce the economic impact of the Karnal bunt regulations on affected wheat growers and other individuals.

**DATES:** For comments on all portions of this proposed rule except the rule's information collection and recordkeeping requirements that are subject to the Paperwork Reduction Act, consideration will be given only to comments received on or before August 29, 1997. For comments on the Paperwork Reduction Act requirements of this proposed rule, consideration will be given only to comments received on or before September 29, 1997.

**ADDRESSES:** Please send an original and three copies of your comments to Docket No. 96–016–21, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 96–016–21. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

**FOR FURTHER INFORMATION CONTACT:** Mr. Mike Stefan, Operations Officer, Domestic and Emergency Operations, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1236, (301) 734–8247.

**SUPPLEMENTARY INFORMATION:**

### Background

Karnal bunt is a fungal disease of wheat (*Triticum aestivum*), durum wheat (*Triticum durum*), and triticale (*Triticum aestivum* X *Secale cereale*), a hybrid of wheat and rye. Karnal bunt is caused by the smut fungus *Tilletia indica* (Mitra) Mundkur and is spread by spores. In the absence of measures taken by the U.S. Department of Agriculture (USDA) to prevent its spread, the establishment of Karnal bunt in the United States could have significant consequences with regard to the export of wheat to international markets. The regulations regarding Karnal bunt are set forth in 7 CFR 301.89–1 through 301.89–14. Among other things, the regulations define areas regulated for Karnal bunt and restrict the movement of certain regulated articles, including wheat seed and grain, from the regulated areas.

In an interim rule effective June 27, 1996, and published in the **Federal Register** on July 5, 1996 (61 FR 35102–35107, Docket No. 96–016–7), the Animal and Plant Health Inspection Service (APHIS) amended the regulations to provide compensation for certain wheat growers and handlers, owners of grain storage facilities, and flour millers in order to mitigate losses and expenses incurred in the 1995–1996 crop season because of actions taken by the Secretary to prevent the spread of Karnal bunt. On May 6, 1997, we published a document in the **Federal Register** (62 FR 24745–24753, Docket No. 96–016–17, effective April 30, 1997) making final the July 5 interim rule, and adding compensation provisions for handlers of wheat that was tested and found negative for Karnal bunt and participants in the National Karnal Bunt Survey whose wheat tested positive for Karnal bunt in the 1995–1996 crop season. Several comments on the July 5 interim rule requested compensation for loss in value of wheat seed and straw in the 1995–1996 crop season. We stated in the May 6 final rule that we were still considering what compensation was appropriate for these losses. The provisions of the compensation plan for seed and straw are proposed in this document.

The Agency has identified three principles for deciding whether to provide compensation. First, compensation may be appropriate where quarantine and emergency actions result in economic costs over and above those that would result from the normal operation of market forces. Payment of compensation would reflect the incremental burdens of complying with regulatory requirements insofar as market forces would not otherwise impose similar or analogous costs. Second, compensation may be appropriate where parties undertake actions that confer significant benefits on others. Under this principle, payment of compensation would be intended to overcome the usual disincentives to produce such benefits. Third, compensation may be appropriate where a small number of parties necessarily bear a disproportionate share of the burden of providing such benefits. This principle rests on the widely shared belief that burden-sharing is a fundamental principle of equity. Our decisions concerning the compensation we are proposing for seed and straw were made after consideration of these three principles.

### Compensation for Seed

In the 1995–1996 crop season, areas in Arizona, California, New Mexico, and Texas were regulated for Karnal bunt. For 1995–1996 crop season wheat, commercial shipments of wheat to be used for seed were prevented from moving outside of the regulated areas. Wheat seed grown in the regulated areas could be planted within the regulated areas, but only after it tested negative for Karnal bunt and was treated. These restrictions prevented most wheat seed from being shipped to intended markets. Growers and seed companies were permitted to sell their wheat seed for use as grain (for milling or animal feed). However, even under normal market conditions, the value of grain is less than for seed. In the 1995–1996 crop season, grain from the regulated areas was also decreased in value because of the Karnal bunt regulations. It is estimated that 1.5 million bushels of

wheat seed grown in the regulated areas sustained loss in value of between $5 and 6 million in the 1995–1996 crop season.

Seed companies had contracts with growers in the regulated areas to produce commercial quantities of wheat seed (a seed company acquires wheat and processes it for sale as seed). Under a typical contract, a grower agreed to produce a specified quantity of seed for a price that was normally equal to the price the wheat would be worth as grain plus a 30 to 50 cents per bushel seed premium. This premium reflects the added precautions taken by the grower in production to ensure seed integrity and cleanliness. Some contract prices, including the seed premiums, were set in the contracts prior to the discovery of Karnal bunt in Arizona in March 1996. However, many of the contracts specified that the prices were to be set at harvest, which was after the discovery of Karnal bunt. Contract prices set at harvest were, therefore, likely to reflect the loss in value of wheat seed due to the restrictions on moving seed in the Karnal bunt regulations. Growers experienced a loss in the expected value of their seed if seed companies did not pay the full contract price specified in the contract prior to harvest, or if a price was determined in the contract at harvest, after the discovery of Karnal bunt.

For seed companies, the price for which they are able to sell their seed consists of the market value for wheat grain plus the seed margin. The seed margin is the difference between the value of wheat sold as seed and wheat sold as grain, and reflects various costs to seed companies for producing seed, including seed premiums paid by the seed company to the grower. Seed companies also contract with growers to produce both public and private variety seed. Private variety seed is seed that has a plant variety protection patent. In the case of private variety seed production, the seed margin would also reflect premiums paid by the seed company to the private firm that owns the plant variety protection patent. Seed margins in the regulated areas average $4.50 per bushel for private variety seed and $2.40 per bushel for public variety seed.

In the 1995–1996 crop season, seed companies with wheat seed produced in the regulated areas experienced loss in the expected value of their seed because, under the Karnal bunt regulations, they were unable to move their seed to intended markets outside the regulated areas. Seed companies could have sold their seed as grain, for milling or to make animal feed. However, they would have lost the seed margin, and they would have had to sell the seed for the reduced prices offered for wheat grain from the regulated areas in the 1995–1996 crop season.

We are proposing to offer compensation to wheat seed growers and seed companies to help mitigate the losses in the value of wheat seed in the 1995–1996 crop season due to the Karnal bunt regulations. The proposed regulations for wheat seed and straw compensation would be added to § 301.89–14, which contains compensation provisions for losses incurred in the 1995–1996 crop season. In the regulations, we would refer to wheat seed as ''propagative wheat'' or ''wheat grown for propagative purposes.'' Because the Secretary of Agriculture is authorized to compensate only individuals who are in States for which an extraordinary emergency has been declared, we would state that growers and seed companies would be eligible for compensation only if the wheat was grown in a State where the Secretary has declared an extraordinary emergency. Further, pursuant to an interim rule effective on April 25, 1997, and published in the **Federal Register** on May 1, 1997 (62 FR 23620–23628, Docket 96–016–19), some areas that were regulated for Karnal bunt in the 1995–1996 crop season are no longer regulated for Karnal bunt. For this reason, we would stipulate that the wheat for which compensation is being claimed must have been grown in an area of that State that was regulated for Karnal bunt or under Emergency Action Notification (EAN)(PPQ Form 523) for Karnal bunt during the 1995–1996 crop season. (EANs are issued by APHIS inspectors to temporarily regulate an area, in accordance with § 301.89–3(d) of the Karnal bunt regulations.)

**Compensation for Growers Who Sold Propagative Wheat**

As discussed previously in this document, growers experienced a loss in the expected value of their 1995–1996 crop season propagative wheat if seed companies did not pay the full contract price specified in the contract prior to harvest, or if a price was determined in the contract at harvest, after the discovery of Karnal bunt in March 1996. We are not proposing to pay compensation to growers if a price was determined in the contract prior to the discovery of Karnal bunt and that contract price was honored by the seed company. These growers would have received the full expected value of their propagative wheat.

Growers had the option of selling their propagative wheat as grain, instead of selling it to the seed company with which it was contracted. Growers could then move the wheat out of the regulated areas under less burdensome restrictions than those that applied to commercial shipments of wheat seed. Some growers who chose to do this also filed compensation claims under the regulations for 1995–1996 crop season nonpropagative wheat (see § 301.89–14(b)). These growers would still have experienced the loss of the expected seed premium. We are proposing, therefore, that growers of wheat grown for propagative purposes be eligible for different levels of compensation depending on whether they sold their wheat under contract to a seed company or they sold their wheat elsewhere for nonpropagative purposes. If they sold their wheat elsewhere for nonpropagative purposes, compensation would depend on whether or not they claimed compensation under the regulations for nonpropagative wheat.

Compensation for growers who sold their wheat under contract to a seed company would be as follows:

1. If the wheat was grown under contract and a price was determined in the contract on or before March 1, 1996, and the contract price was not honored by the seed company, the compensation rate would equal the contract price (CP) including the seed premium specified in the contract (SP)(contract) minus the higher of either the salvage value (SV) plus the actual seed premium received by the grower, if any, (SP)(actual), or the actual price received by the grower (AP) plus the actual seed premium received by the grower, if any, (SP)(actual). The equation for this compensation would be as follows: Compensation rate = [CP + SP(contract)]—[higher of (SV + SP(actual)) or (AP + SP(actual))].

2. If the wheat was grown under contract and a price was determined in the contract after March 1, 1996, the compensation rate would equal the estimated market price for grain (EMP) plus the seed premium specified in the contract (SP)(contract) minus the higher of either the salvage value (SV) plus the actual seed premium received by the grower (SP)(actual), or the actual price received by the grower (AP) plus the actual seed premium received by the grower (SP)(actual). The equation for this compensation would be as follows: Compensation rate = [EMP + SP(contract)]—[higher of (SV + SP(actual)) or (AP + SP(actual))].

Compensation for growers of propagative wheat who sold their wheat under contract to a seed company would not exceed $2.80 per bushel under any circumstances. This maximum compensation amount

represents the maximum $2.50 per bushel compensation for nonpropagative wheat provided in the regulations (see § 301.89–14(b)) plus a $.30 seed premium.

The salvage value used in the calculations described above is intended to represent the actual value of wheat from the regulated areas as a result of Karnal bunt. The salvage values used for propagative wheat would be the same as those used for nonpropagative wheat compensation in the 1995–1996 crop season (see § 301.89–14(b)(3)). As with nonpropagative wheat, the salvage values for propagative wheat would vary depending on whether or not the wheat was positive or negative for Karnal bunt, and the use for which the wheat was sold. In each case, the amount of the actual price or the salvage value of the propagative wheat would include the value of any proceeds accrued through insurance claims, judgments, or from any other source. However, the minimum salvage value under any circumstances would be $3.60 per bushel.

The estimated market price used in the calculations described above is intended to represent what the value of the wheat would have been if there were no regulations for Karnal bunt. Estimated market prices were used in calculating compensation for nonpropagative wheat in the 1995–1996 crop season. Estimated market prices were calculated for nonpropagative durum wheat and nonpropagative hard red winter wheat for the harvest months of May and June. The estimated market prices for durum wheat were calculated based on the following: the daily closing cash prices for choice milling durum wheat traded on the Minneapolis Grain Exchange during the period of May 1 to June 30, 1996, adjusted to account for the handling and transportation charges incurred in getting the wheat from the regulated areas in California and Arizona to the central market in Minneapolis. These adjustments were based on the average difference between the Minneapolis cash price and the cash prices within the regulated areas for 1995. Estimated market prices for hard red winter wheat were calculated in a similar manner, based on the daily closing futures prices for the July hard red winter wheat contract traded on the Kansas City Board of Trade during the period of May 1 to June 30, 1996, adjusted to account for the handling and transportation charges incurred in getting the wheat from a central point in the regulated areas to the market in Kansas City. These adjustments were based on the average difference between the Kansas City futures price and the cash prices within the regulated areas for 1995. We would use the same estimated market prices that were calculated for nonpropagative wheat for the propagative wheat compensation calculations in this proposed rule.

Growers of 1995–1996 crop season wheat grown for propagative purposes who sold the wheat for nonpropagative purposes would be eligible to receive compensation as follows:

1. If the grower has not claimed compensation under the regulations for nonpropagative wheat, the compensation rate would equal the estimated market price for grain (EMP) minus the actual price received by the grower (AP), plus the seed premium specified in the contract the grower had with a seed company (SP). The equation for this compensation would be as follows: Compensation rate = (EMP—AP) + SP.

2. If the grower has claimed compensation under the regulations for nonpropagative wheat (§ 301.89–14(b)), the compensation rate would be equal to the seed premium specified in the contract the grower had with a seed company.

**Compensation for Seed Companies That Sold Propagative Wheat**

As discussed previously in this document, seed companies experienced a loss in the expected value of propagative wheat produced in the regulated areas because, under the Karnal bunt regulations, they were unable to move their wheat to intended markets outside the regulated areas. Seed companies could have sold their wheat as grain, for milling or to make animal feed. However, they would have lost the seed margin, and they would have had to sell the seed for the reduced prices offered for wheat grain from the regulated areas in the 1995–1996 crop season.

Unlike growers, who typically sell their wheat seed at harvest, seed companies sometimes keep wheat seed inventories from past crop seasons on hand. These wheat inventories were subject to the same restrictions on movement as 1995–1996 crop season wheat. For this reason, we are proposing that seed companies with 1995–1996 crop season wheat grown for propagative purposes and seed companies with propagative wheat inventories in their possession that were unsold as of March 1, 1996, be eligible to receive compensation.

Further, as discussed previously in this document, an interim rule effective on April 25, 1997, and published in the **Federal Register** on May 1, 1997, amended the regulated areas so that some areas that were regulated for Karnal bunt in the 1995–1996 crop season are no longer regulated for Karnal bunt. Many seed companies in the previously regulated areas had held their 1995–1996 crop season wheat seed. These seed companies are now able to move their wheat for propagative purposes without restriction. However, because the wheat seed market is down this year as compared to last year, and because the regulations prevented them from marketing their wheat last year when they may have received a higher price, the seed companies will probably still experience a loss in value of their propagative wheat.

Seed companies handling propagative wheat grown in areas that remain regulated with regard to seed would continue to be subject to the restrictions on moving wheat outside of the regulated areas that apply to commercial shipments of seed, and will likely sell their wheat as grain. We are proposing separate compensation for seed companies depending on whether the propagative wheat is sold for nonpropagative purposes (such as milling or animal feed) or for propagative purposes (planting). We are also proposing different compensation for seed companies that sold propagative wheat for nonpropagative purposes depending on whether or not they have already claimed compensation under the regulations for nonpropagative wheat (see § 301.89–14(b)).

Compensation for seed companies that have sold propagative wheat for nonpropagative purposes, and that have not claimed compensation under the regulations for nonpropagative wheat, would be as follows:

1. If the wheat was grown in the 1995–1996 crop season, was under contract, and the seed company honored the contract by paying the grower the full contract price, including the seed premium, the compensation rate would equal the estimated market price for grain (EMP) plus the seed margin (SM) minus the higher of either the actual price received by the seed company (AP) or the salvage value (SV). The equation for this compensation would be as follows: Compensation rate = EMP + SM—(higher of AP or SV). The seed margin would be set at $4.50 per bushel for private variety seed and set at $2.40 per bushel for public variety seed. However, compensation would not exceed $7.00 per bushel for private variety seed and $4.90 per bushel for public variety seed under any circumstances. (The maximum compensation amounts represent the seed margins plus the maximum $2.50

compensation for nonpropagative wheat provided in the regulations (see § 301.89–14(b)).

2. If a seed company had wheat inventories from past crop seasons on hand as of March 1, 1996, the compensation rate would equal the estimated market price for grain (EMP) plus the seed margin (SM) minus the higher of either the actual price received by the seed company (AP) or the salvage value (SV). The equation for this compensation would be as follows: Compensation rate = EMP + SM—(higher of AP or SV). The seed margin would be set at $4.50 per bushel for private variety seed and set at $2.40 per bushel for public variety seed. However, compensation would not exceed $7.00 per bushel for private variety seed and $4.90 per bushel for public variety seed under any circumstances.

Seed companies that have sold propagative wheat for nonpropagative purposes, and that have claimed compensation under the regulations for nonpropagative wheat, would be eligible for a compensation rate equal to the seed margin. The seed margin would be $4.50 per bushel for private variety seed and $2.40 per bushel for public variety seed.

The compensation we are proposing for seed companies that sold propagative wheat for propagative purposes would be as follows: The compensation rate would equal the estimated market price for grain (EMP) plus the seed margin (SM) minus the higher of either the actual price received by the seed company (AP), or the salvage value (SV). The equation for this compensation would be as follows: Compensation rate = (EMP + SM)—(higher of AP or SV). The seed margin would be $4.50 per bushel for private variety seed and $2.40 per bushel for public variety seed. However, compensation would not exceed $7.00 per bushel for private variety seed and $4.90 per bushel for public variety seed under any circumstances.

The salvage values and estimated market prices used in the calculations described above for seed companies would be the same as discussed previously in this document for growers of propagative wheat. In each case, the amount of the actual price or the salvage value of the propagative wheat would include the value of any proceeds accrued through insurance claims, judgments, or from any other source.

**Growers and Seed Companies—To Claim Compensation**

We are proposing that compensation payments for the loss in value of propagative wheat would be issued by the Farm Service Agency (FSA) of the U.S. Department of Agriculture. Growers and seed companies that are eligible for compensation under this proposed rule would have to submit the same documents to the local FSA county office, as follows: A grower or seed company would have to submit a Karnal Bunt Compensation Claim form, provided by FSA. If the wheat was grown in an area that is not a regulated areas, but for which an EAN for Karnal bunt has been issued, the grower or seed company would have to submit a copy of the EAN. A grower or seed company would also have to submit a copy of the contract under which the wheat was grown; a copy of the Karnal bunt certificate issued by APHIS that shows the Karnal bunt test results; a copy of the receipt for the final sale of the wheat, showing the intended use for which the wheat was sold, total bushels sold, and the total price received by the grower or seed company; and verification as to the actual (not estimated) weight of the wheat for which compensation is being claimed (such as a copy of the limited permit under which the wheat is being moved, or other verification). In addition, a seed company that is claiming compensation on seed inventories would have to certify to FSA that the propagative wheat was in the seed company's possession as of March 1, 1996.

**Other Seed Company Compensation**

The compensation for seed companies with propagative wheat proposed above applies only to seed companies that sold their wheat. We are proposing that seed companies would be eligible to receive compensation under an additional circumstance: If a seed company is not able to or elects not to sell 1995–1996 crop season wheat grown for propagative purposes or propagative wheat inventories in their possession that were unsold as of March 1, 1996, the compensation rate would equal $7.00 per bushel for private variety seed and $4.90 per bushel for public variety seed. These amounts represent the seed margins of $4.50 for private variety seed and $2.40 for public variety seed plus the maximum $2.50 per bushel compensation for nonpropagative wheat provided in the regulations (see § 301.89–14(b)). Compensation would only be paid if the seed company has destroyed the wheat by burying it in a sanitary landfill or other site that has been approved by APHIS.

Compensation for seed companies under this additional circumstance would be necessary in a small number of cases where seed companies had their seed treated with a fungicide and bagged. Such treatment is typical in seed production to make it suitable for planting and so that it can be stored for extended periods, but it renders the wheat unusable for nonpropagative purposes. Most seed companies did not treat and bag their 1995–1996 crop season wheat seed. Some seed companies, however, had wheat seed from past crop seasons on hand that had already been treated in this manner. If these seed companies choose not to or are unable to market their wheat for planting within the regulated areas, then they may bury their wheat and qualify for the compensation described above.

To claim compensation under this additional circumstance, a seed company would have to submit documents to the local FSA county office, as follows: A seed company would have to submit a Karnal Bunt Compensation Claim form, provided by FSA. If the wheat was grown in an area that is not a regulated area, but for which an EAN for Karnal bunt has been issued, the seed company would have to submit a copy of the EAN. A seed company would also have to submit a copy of the contract under which the wheat was grown and verification of how much wheat was buried, in the form of a receipt from the sanitary landfill or verification signed by an APHIS inspector. In addition, a seed company that is claiming compensation on seed inventories would have to certify to FSA that the propagative wheat was in the seed company's possession as of March 1, 1996.

**Compensation for Straw**

Some growers contract to sell wheat straw to supplement their wheat grain income. Straw is sold for use at places such as racetracks, highway shoulders, feed yards, and parks for erosion control and to minimize muddy conditions. Wheat straw is listed in the Karnal bunt regulations as a regulated article. In the 1995–1996 crop season, wheat straw could not move outside of the regulated areas because it could not meet the conditions in the regulations for moving regulated articles outside the regulated areas (see § 301.89–5). This prevented wheat straw producers in the regulated areas from shipping their 1995–1996 crop season wheat straw to the intended markets. Some wheat straw was sold to alternative markets within the regulated areas for a lower price. However, most wheat straw was not able to be sold.

We are adding a new § 301.89–14(i) to provide compensation for wheat straw producers for the losses experienced because of the Karnal bunt regulations. We would define wheat straw producers to include either growers who bale their

own wheat straw or individuals contracted by growers to remove wheat straw from the growers' fields. We would require that the wheat straw producers must have produced the straw under contract. This would ensure that compensation is not claimed by individuals who did not intend to sell their straw, but produced it for their own use. Producers of wheat straw made from wheat grown in the regulated areas in the 1995–1996 crop season would be eligible to receive compensation on a one-time-only basis at the rate of $1.00 per 80-pound bale or $1.25 per hundredweight. Producers of straw contracted for sale would be eligible for compensation regardless of whether or not the straw was delivered to the contractee. Compensation payments would be issued by the Farm Service Agency (FSA). To claim compensation, a wheat straw producer would have to submit a Karnal Bunt Compensation Claim form, provided by FSA, and a copy of the contract under which the straw was produced to the local FSA county office.

**Deadline for Claiming Compensation**

We are proposing to set a deadline for claiming compensation under this proposed rule. Claims for either seed or straw compensation would have to be received by FSA on or before 60 days after the date that the provisions of this proposed rule are made final. The Administrator could extend this deadline, upon request in specific cases, when unusual and unforeseen circumstances occur which prevent or hinder a claimant from requesting compensation prior to that date.

**Executive Order 12866 and Regulatory Flexibility Act**

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

The quarantine and regulations for Karnal bunt were established by a series of interim rules and a final rule published in the **Federal Register** on October 4, 1996. A final rule effective on April 30, 1997, and published in the **Federal Register** on May 6, 1997, amended the regulations to provide compensation for certain wheat grain growers and handlers, owners of grain storage facilities, flour millers, and participants in the National Karnal Bunt Survey in order to mitigate losses and expenses incurred in the 1995–1996 crop season because of actions taken by the Secretary of Agriculture to prevent the spread of Karnal bunt. The economic impact of the series of interim rules and the October 1996 final rule establishing the Karnal bunt quarantine and regulations, and the May 1997 final rule on compensation, was discussed in a regulatory flexibility analysis and regulatory impact analysis also published in the **Federal Register** on May 6, 1997 (62 FR 24753–24765, Docket No. 96–016–20). The analyses estimate that losses due to the discovery of Karnal bunt and the subsequent emergency regulatory actions amounted to $44 million (see table below). These losses were associated with the plowdown of fields in New Mexico and Texas that were known to be planted with Karnal bunt-infected seed, decontamination of grain storage facilities, the decline in market value of wheat grain testing either positive or negative for Karnal bunt, treatment of millfeed required by the regulations, the decline in market value of wheat seed and straw, and damages to combine harvesters due to required disinfection treatment.

In order to alleviate some of the economic hardships caused by the Karnal bunt regulations, and to ensure full and effective compliance with the regulatory program, compensation to mitigate certain losses was offered to affected parties in the regulated areas. A discussion of losses and the rationale for compensation can be found in the regulatory flexibility analysis and regulatory impact analysis cited above. Funding for compensation in the amount of $39 million has been made available through apportionment action (transfers from the Commodity Credit Corporation). Of the $39 million, $26.5 million has been allocated specifically for compensation for plowdown, decontaminating grain storage facilities, loss in value of grain, and millfeed treatment.

This proposed rule would amend the Karnal bunt regulations by adding compensation provisions for wheat straw producers and wheat seed growers and seed companies for the loss in value of their straw and seed due to the regulations for Karnal bunt. As discussed in the regulatory impact analysis referred to above, losses to seed growers were estimated to be about $6 million; losses to straw producers were estimated at about $200,000. The regulatory flexibility analysis referred to above discusses the impact of the Karnal bunt regulations on small entities. The majority of the affected entities in the regulated areas have been determined to be small entities. Compensation in the amount of $10.8 million has been apportioned for compensation to seed producers and companies for the loss in value of their seed. Straw compensation was made available through funds appropriated for the loss in value of grain (see table below).

ESTIMATED LOSS IN VALUE DUE TO KARNAL BUNT REGULATIONS, 1995–96 CROP YEAR

[In million dollars]

| Action | Estimated loss in value |
|---|---|
| 1. Plowdown of NM and TX fields planted with infected seed | $1.2 |
| 2. KB-positive grain diverted to animal feed market | 4.2 |
| 3. KB-negative grain that experienced loss in value | [1] 28.0 |
| 4. Cost of sanitizing storage facilities | 0.3 |
| 5. Millfeed treatment of KB-negative grain | 1.6 |
| 6. Loss in value of seed | 6.0 |
| 7. Loss in value of straw | 0.2 |
| 8. Loss related to cleaning and disinfecting of combine harvesters | 2.0 |
| Total | 44.0 |

[1] $28 million is the potential *maximum* amount of loss in value of uninfected wheat.

**Executive Order 12372**

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

**Executive Order 12988**

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

**Paperwork Reduction Act**

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under OMB control number 0579–0121 in conjunction with APHIS Dockets 96–016–15 and 96–016–17, with two exceptions.

The first exception is the proposed requirement that growers and handlers submit to FSA a Karnal Bunt

Compensation Claim form. This information collection was submitted for approval to OMB in conjunction with Docket 96–016–15 for 1996–1997 compensation claims, but not for 1995–1996 compensation claims (the crop season covered by this docket). The second exception is that, in order for FSA to complete the Karnal Bunt Compensation Claim form, the local FSA office would have to complete a Karnal Bunt Compensation Worksheet for 1995–1996 Propagative Wheat (PPQ Form 928). Completion of the worksheet would be necessary in order to calculate the rate of compensation in accordance with the regulations proposed in this docket. This worksheet would be completed using the information collected by FSA in completing the Karnal Bunt Compensation Claim form. This information collection was not submitted to OMB in conjunction with APHIS Dockets 96–016–15 and 96–016–17 because the need for FSA to complete a Karnal Bunt Compensation Worksheet for 1995–1996 Propagative Wheat is particular to this proposed rule.

*Estimate of burden:* Public reporting burden for this collection of information is estimated to average .46 hours per response.

*Respondents:* Growers and seed companies.

*Estimated number of respondents:* 122.

*Estimated number of responses per respondent: 3.9.*

*Estimated total annual burden on respondents:* 216 hours.

We are soliciting comments from the public (as well as affected agencies) concerning the information collection and recordkeeping requirements in this proposed rule, and concerning the information collection in support of the National Karnal Bunt Survey. We need this outside input to help us:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected;

(4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission responses).

Information collection in support of the National Karnal Bunt Survey:

Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. 96–016–21. Please send a copy of your comments to: (1) Docket No. 96–016–21, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238, and (2) Clearance Officer, OIRM, USDA, room 404–W, 14th Street and Independence Avenue SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

Copies of this information collection can be obtained from: Ms. Cheryl Jenkins, APHIS Information Collection Coordinator, (301)734–5360.

**List of Subjects in 7 CFR Part 301**

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, 7 CFR part 301 would be amended as follows:

## PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 would continue to read as follows:

**Authority:** 7 U.S.C. 147a, 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.22, 2.80, and 371.2(c).

2. In § 301.89–14, paragraph (f)(2), the reference to ''paragraph (d)'' would be removed both times it appears and a reference to ''paragraph (f)'' would be added in its place.

3. In § 301.89–14, paragraphs (d), (e), and (f) would be redesignated as paragraphs (f), (g), and (h) respectively; and new paragraphs (d), (e), and (i) would be added to read as set forth below.

**§ 301.89–14 Compensation for the 1995–1996 crop season.**

* * * * *

(d) *Growers and seed companies that sold propagative wheat.* Growers of and seed companies with wheat grown for propagative purposes are eligible for compensation for the loss in value of their wheat, in accordance with this section, if the wheat was grown in a State where the Secretary has declared an extraordinary emergency, and if the wheat was grown in an area of that State that was regulated for Karnal bunt or under Emergency Action Notification (PPQ Form 523) for Karnal bunt during the 1995–1996 crop season.

(1) *Growers who sold propagative wheat under contract.* Growers of 1995–1996 crop season wheat grown for propagative purposes are eligible to receive compensation as described in paragraphs (d)(1)(i) and (d)(1)(ii) of this section if they sold the wheat under contract to a seed company. However, compensation will not exceed $2.80 per bushel under any circumstances.

(i) If the wheat was grown under contract and a price was determined in the contract on or before March 1, 1996, and the contract price was not honored by the seed company, the compensation rate will equal the contract price (CP) including the seed premium specified in the contract (SP)(contract) minus the higher of either the salvage value (SV), as described in paragraph (d)(6) of this section, plus the actual seed premium received by the grower (SP)(actual), or the actual price received by the grower (AP) plus the actual seed premium received by the grower (SP)(actual). In each case, the amount of the actual price or the salvage value of the propagative wheat will include the value of any proceeds accrued through insurance claims, judgments, or from any other source. The equation for this compensation is: Compensation rate = [CP + SP(contract)]—[higher of (SV + SP(actual)) or (AP + SP(actual))].

(ii) If the wheat was grown under contract and a price was determined in the contract after March 1, 1996, the compensation rate will equal the estimated market price for grain (EMP) plus the seed premium specified in the contract (SP)(contract) minus the higher of either the salvage value (SV), as described in paragraph (d)(6) of this section, plus the actual seed premium received by the grower (SP)(actual), or the actual price received by the grower (AP) plus the actual seed premium received by the grower (SP)(actual). In each case, the amount of the actual price or the salvage value of the propagative wheat will include the value of any proceeds accrued through insurance claims, judgments, or from any other source. The equation for this compensation is: Compensation rate = [EMP + SP(contract)]—[higher of (SV + SP(actual)) or (AP + SP(actual))]. The estimated market price will be calculated by APHIS for each class of wheat, taking into account the prices offered by relevant terminal markets (animal feed, milling, or export) for the period between May 1 and June 30, 1996, with adjustments for transportation and other handling costs.

(2) *Growers who sold propagative wheat for nonpropagative purposes.* Growers of 1995–1996 crop season wheat grown for propagative purposes who sold the wheat for nonpropagative purposes are eligible to receive compensation in accordance with paragraphs (d)(2)(i) and (d)(2)(ii) of this section.

(i) If the grower has not claimed compensation under paragraph (b) of this section, the compensation rate will equal the estimated market price for grain (EMP) minus the actual price received by the grower (AP), plus the seed premium specified in the contract the grower had with a seed company (SP). In each case, the amount of the actual price of the propagative wheat will include the value of any proceeds accrued through insurance claims, judgments, or from any other source. The equation for this compensation is: Compensation rate = (EMP—AP) + SP. Growers who claim compensation under this paragraph may not claim compensation under paragraph (b) of this section.

(ii) If the grower has claimed compensation under paragraph (b) of this section, the compensation rate will equal the premium specified in the contract the grower had with a seed company.

(3) *Seed companies that sold propagative wheat for nonpropagative purposes and that have not claimed compensation.* Seed companies with 1995–1996 crop season wheat grown for propagative purposes and seed companies with propagative wheat inventories in their possession that were unsold as of March 1, 1996, are eligible to receive compensation as described in paragraphs (d)(3)(i) and (d)(3)(ii) of this section if the propagative wheat was sold for nonpropagative purposes and if the seed company has not claimed compensation under paragraph (b) of this section. Seed companies that claim compensation under paragraph (d)(3)(i) or (d)(3)(ii) of this section may not claim compensation under paragraph (b) of this section.

(i) If the wheat was grown in the 1995–1996 crop season, was under contract, and the seed company honored the contract by paying the grower the full contract price, including the seed premium, the compensation rate will equal the estimated market price for grain (EMP) plus the seed margin (SM) minus the higher of either the actual price received by the seed company (AP) or the salvage value (SV), as described in paragraph (d)(6) of this section. The equation for this compensation is: Compensation rate = EMP + SM—(higher of AP or SV). The seed margin is $4.50 per bushel for private variety seed and $2.40 per bushel for public variety seed. In each case, the amount of the actual price or the salvage value of the propagative wheat will include the value of any proceeds accrued through insurance claims, judgments, or from any other source. However, compensation will not exceed $7.00 per bushel for private variety seed and $4.90 per bushel for public variety seed under any circumstances.

(ii) If a seed company had wheat inventories from past crop seasons on hand as of March 1, 1996, the compensation rate will equal the estimated market price for grain (EMP) plus the seed margin (SM) minus the higher of either the actual price received by the seed company (AP) or the salvage value (SV), as described in paragraph (d)(6) of this section. The equation for this compensation is: Compensation rate = EMP + SM—(higher of AP or SV). The seed margin is $4.50 per bushel for private variety seed and $2.40 per bushel for public variety seed. In each case, the amount of the actual price or the salvage value of the propagative wheat will include the value of any proceeds accrued through insurance claims, judgments, or from any other source. However, compensation will not exceed $7.00 per bushel for private variety seed and $4.90 per bushel for public variety seed under any circumstances.

(4) *Seed companies that sold propagative wheat for nonpropagative purposes and that have claimed compensation.* Seed companies with 1995–1996 crop season wheat grown for propagative purposes and seed companies with propagative wheat inventories in their possession that were unsold as of March 1, 1996, are eligible to receive compensation as described in this paragraph if the propagative wheat was sold for nonpropagative purposes and if the seed company has claimed compensation under paragraph (b) of this section. The compensation rate will equal the seed margin. The seed margin is $4.50 per bushel for private variety seed and $2.40 per bushel for public variety seed.

(5) *Seed companies that sold propagative wheat for propagative purposes.* Seed companies with 1995–1996 crop season wheat grown for propagative purposes and seed companies with propagative wheat inventories in their possession that were unsold as of March 1, 1996, are eligible to receive compensation as described in this paragraph if the propagative wheat was sold for propagative purposes. The compensation rate will equal the estimated market price for grain (EMP) plus the seed margin (SM) minus the higher of either the actual price received by the seed company (AP) or the salvage value (SV), as described in paragraph (d)(6) of this section. In each case, the amount of the actual price or the salvage value of the propagative wheat will include the value of any proceeds accrued through insurance claims, judgments, or from any other source. The equation for this compensation is: Compensation rate = (EMP + SM)—(higher of AP or SV). The seed margin is $4.50 per bushel for private variety seed and $2.40 per bushel for public variety seed. However, compensation will not exceed $7.00 per bushel for private variety seed and $4.90 per bushel for public variety seed under any circumstances.

(6) *Salvage value.* Salvage values will be determined as follows:

(i) If the wheat is positive for Karnal bunt and is sold for use as animal feed, salvage value equals $6.00 per hundredweight or $3.60 per bushel for all classes of wheat.

(ii) If the wheat is positive for Karnal bunt and is sold for a use other than animal feed, salvage value equals whichever is higher of the following: the average price paid in the region of the regulated areas where the wheat is sold for the relevant class of wheat (meaning type of wheat, such as durum or hard red winter) for the period between May 1 and June 30, 1996; or, $3.60 per bushel.

(iii) If the wheat is negative for Karnal bunt and is sold for any use, salvage value equals whichever is higher of the following: the average price paid in the region of the regulated areas where the wheat is sold for the relevant class of wheat (meaning type of wheat, such as durum or hard red winter) for the period between May 1 and June 30, 1996; or, $3.60 per bushel.

(7) *To claim compensation.* Compensation payments for claims made under paragraph (d) of this section will be issued by the Farm Service Agency (FSA). Claims for compensation must be received by FSA on or before [date 60 days after effective date of final rule]. The Administrator may extend this deadline, upon request in specific cases, when unusual and unforeseen circumstances occur which prevent or hinder a claimant from requesting compensation on or before that date. To claim compensation, a grower or seed company must submit to the local FSA county office a Karnal Bunt Compensation Claim form, provided by FSA. If the wheat was grown in an area that is not a regulated areas, but for which an Emergency Action

Notification (PPQ Form 523)(EAN) for Karnal bunt has been issued, the grower or seed company must submit a copy of the EAN. A grower or seed company must also submit to the local FSA county office a copy of the contract under which the wheat was grown; a copy of the Karnal bunt certificate issued by APHIS that shows the Karnal bunt test results; a copy of the receipt for the final sale of the wheat, showing the intended use for which the wheat was sold, total bushels sold, and the total price received by the grower or seed company; and verification as to the actual (not estimated) weight of the wheat for which compensation is being claimed (such as a copy of the limited permit under which the wheat is being moved, or other verification). In addition, a seed company that is claiming compensation on seed inventories must certify to FSA that the propagative wheat was in the seed company's possession as of March 1, 1996.

(e) *Other seed company compensation for propagative wheat.* Seed companies are also eligible to receive compensation under the following circumstance: If a seed company is not able to or elects not to sell 1995–1996 crop season wheat grown for propagative purposes or propagative wheat inventories in their possession that were unsold as of March 1, 1996, the compensation rate will equal $7.00 per bushel for private variety seed and $4.90 per bushel for public variety seed. Compensation will only be paid if the seed company has destroyed the wheat by burying it in a sanitary landfill or other site that has been approved by APHIS. The compensation will be issued by the Farm Service Agency (FSA). To claim compensation, a seed company must submit to the local FSA county office a Karnal Bunt Compensation Claim form, provided by FSA. If the wheat was grown in an area that is not a regulated areas, but for which an Emergency Action Notification (PPQ Form 523)(EAN) for Karnal bunt has been issued, the seed company must submit a copy of the EAN. A seed company must also submit to the local FSA county office a copy of the contract under which the wheat was grown and verification of how much wheat was buried, in the form of a receipt from the sanitary landfill or verification signed by an APHIS inspector. In addition, a seed company that is claiming compensation on seed inventories must certify to FSA that the propagative wheat was in the seed company's possession as of March 1, 1996. Claims for compensation must be received by FSA on or before [date 60 days after effective date of final rule]. The Administrator may extend this deadline, upon request in specific cases, when unusual and unforeseen circumstances occur which prevent or hinder a claimant from requesting compensation on or before that date.

* * * * *

(i) *Wheat straw producers.* Producers of wheat straw (either growers who bale their own wheat straw or individuals contracted by growers to remove wheat straw from the growers' fields) made from wheat grown in the regulated areas in the 1995–1996 crop season are eligible to receive compensation on a one-time-only basis at the rate of $1.00 per 80-pound bale or $1.25 per hundredweight. Producers are eligible for compensation regardless of whether or not the straw is sold, but the straw must have been produced under contract. Compensation payments will be issued by the Farm Service Agency (FSA). To claim compensation, a wheat straw producer must submit a Karnal Bunt Compensation Claim form, provided by FSA, and a copy of the contract under which the wheat straw was produced to the local FSA county office. Claims for compensation must be received by FSA on or before [date 60 days after effective date of final rule]. The Administrator may extend this deadline, upon request in specific cases, when unusual and unforeseen circumstances occur which prevent or hinder a claimant from requesting compensation prior to that date.

Done in Washington, DC, this 24th day of July 1997.

**Terry L. Medley,**

*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 97–20005 Filed 7–29–97; 8:45 am]

BILLING CODE 3410–34–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. 97–NM–68–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Raytheon (Beech) Model 400, 400A, 400T, MU–300, and MU–300–10 Airplanes

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

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

**SUMMARY:** This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Raytheon (Beech) Model 400, 400A, MU–300–10, and 2000 airplanes, and Model 200, B200, 300, and B300 series airplanes, that currently requires replacement of outflow/safety valves with serviceable valves. That AD was prompted by a report of cracking and consequent failure of outflow safety valves in the pressurization system. The actions specified by that AD are intended to prevent such cracking and consequent failure of the outflow/safety valves, which could result in rapid decompression of the airplane. This action would revise the applicability of the existing AD to add an airplane model and to remove other airplanes, as well as to reference additional service bulletins that identify the serial numbers of affected airplanes.

**DATES:** Comments must be received by September 23, 1997.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–68–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 am and 3:00 pm, Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Allied Signal Aerospace, Technical Publications, Dept. 65–70, P.O. Box 52170, Phoenix, Arizona 85072–2170. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas.

**FOR FURTHER INFORMATION CONTACT:** Michael D. Imbler, Aerospace Engineer, Systems and Propulsion Branch, ACE–116W, FAA, Small Airplane Directorate, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4147; fax (316) 946–4407.

**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 97–NM–68–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. 97–NM–68–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

**Discussion**

On August 12, 1996, the FAA issued AD 96–17–10, amendment 39–9719 (61 FR 42996, August 20, 1996), applicable to certain Raytheon (Beech) Model 400, 400A, Mu–300–10, and 2000 airplanes, and Model 200, B200, 300, and B300 series airplanes, to require replacement of the outflow/safety valves with serviceable valves. That action was prompted by a report of cracking and consequent failure of the outflow safety valves in the pressurization system. The requirements of that AD are intended to prevent such cracking and consequent failure of the outflow/safety valves, which could result in rapid decompression of the airplane.

**Explanation of Relevant Service Information**

The FAA has reviewed and approved Raytheon Service Bulletin No. 2476, Revision II. dated June 1997. The replacement procedures described in this service bulletin is essentially identical to those described in AlliedSignal Service Bulletin 103570–21–4012, Revision 1, dated May 30, 1995, which was referenced in AD 96–17–10 as one of two appropriate sources of service information. However, the effectivity listing of Raytheon Service Bulletin No. 2476 specify the serial numbers of the affected airplanes and also adds an airplane model [i.e., Model 400 T(military)] that is subject to the addressed unsafe condition.

**FAA's Conclusions**

The FAA has determined that the applicability of AD 96–17–10 must be revised to: (1) Include Raytheon (Beech) Model MU–300 and 400T (military) airplanes, and (2) reference Raytheon Service Bulletin No. 2476 as the appropriate sources of service information for identifying the serial numbers of the affected airplanes.

In addition, the FAA inadvertently included Raytheon (Beech) Model 2000 airplanes and Model 200, B200, 300 and B300 series airplanes in the applicability of AD 96–17–10. The FAA finds that these airplanes should have been addressed in a separate rulemaking action. Therefore, the FAA has removed these airplanes from the applicability of this proposed AD. The FAA also has removed references to the corresponding service information for those airplanes from the proposed AD. The FAA is considering further rulemaking to address the identified unsafe condition for those airplanes.

**Explanation of Requirements of Proposed Rule**

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 96–17–10 to continue to require replacement of outflow/safety valves with serviceable valves. The proposed AD would revise the applicability of the existing AD to add an airplane model and to remove other airplanes, as well as to reference additional service bulletins that identify the serial numbers of affected airplanes.

**Cost Impact**

There are approximately 142 Raytheon (Beech) Model 400, 400A, 400T, Mu–300 and Mu–300–10 airplanes of the affected design in the worldwide fleet. The FAA estimates that 110 airplanes of U.S. registry would be affected by this proposed AD.

The actions that are currently required by AD 96–17–10, and retained in this proposed AD, take approximately 12 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 of the currently required actions on U.S. operators is estimated to be $79,200, or $720 per airplane.

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

**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 U.S.C. 106(g), 40113, 44701.

**§ 39.13 [Amended]**

2. Section 39.13 is amended by removing amendment 39–9719 (61 FR 42996, August 20, 1996), and by adding

a new airworthiness directive (AD), to read as follows:

**Raytheon Aircraft Company** (Formerly Beech, Raytheon Corporate Jets, British Aerospace, Hawker Siddley, et al.): Docket 97–NM–68–AD. Supersedes AD 96–17–10, Amendment 39–9719.

*Applicability:* The following models and series of airplanes, certificated in any category, equipped with AlliedSignal outflow/safety valves, as identified in AlliedSignal Aerospace Service Bulletin 103570–21–4012, Revision 1, dated May 30, 1995:

| Model of airplane | Serial Nos. |
|---|---|
| 400 ..... | RJ–1 through RJ–65, inclusive. |
| 400A ..... | RK–1 through RK–42, inclusive. |
| 400T (military). | TT–4 and TT–19. |
| MU–300 ... | S/N A001SA through A091SA. |
| MU–300–10. | A1001SA through A1011SA, inclusive. |

**Note 1:** This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. for airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

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

To prevent cracking and consequent failure of the outflow/safety valves, which could result in rapid decompression of the airplane, accomplish the following:

(a) Within 18 months after September 24, 1996 (the effective date of AD 96–17–10, amendment 39–9719), replace the outflow/safety value in accordance with AlliedSignal Aerospace Service Bulletin 103570–21–4012, Revision 1, dated May 30, 1995.

(b) As of September 24, 1996, no person shall install an outflow/safety valve, having a part number and serial number identified in AlliedSignal Aerospace Service Bulletin 103570–21–4012, Revision 1, dated May 30, 1995, on any airplane unless that valve is considered to be serviceable in accordance with the applicable service bulletin.

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

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

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

Issued in Renton, Washington, on July 24, 1997.

**Darrell M. Pederson,**

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

[FR Doc. 97–20011 Filed 7–29–97; 8:45 am]

BILLING CODE 4910–13–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Parts 207, 225, 510, 514, 515, and 558

**[Docket No. 97N–0276]**

### Animal Drug Availability Act; Medicated Feed Mill Licenses

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Proposed rule.

**SUMMARY:** The Food and Drug Administration (FDA) is proposing to amend the animal drug regulations to provide for feed mill licensing in accordance with the Animal Drug Availability Act (ADAA) of 1996. The ADAA amends the Federal Food, Drug, and Cosmetic Act (the act) to require a single facility license for the manufacture of feeds containing approved new animal drugs, rather than multiple medicated feed applications (MFA's) for each feed mill, as previously required by the act. The proposed regulation implements the requirements for feed mill licensing set forth in the ADAA.

**DATES:** Submit written comments on the proposed rule by October 28, 1997. Submit written comments on the information collection provisions by August 29, 1997. The agency proposes that any final rule that may issue based on this proposal become effective 30 days after date of publication of the final rule.

**ADDRESSES:** Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. Submit written comments on information collection requirements to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Desk Officer for FDA.

**FOR FURTHER INFORMATION CONTACT:** William D. Price, Center for Veterinary Medicine (HFV–200), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1724.

**SUPPLEMENTARY INFORMATION:**

#### I. Background

The ADAA (Pub. L. 104–250), which amended section 512(a) and (m) of the act (21 U.S.C. 360b(a) and (m)), replaces the system for the approval of specific medicated feeds with a general licensing system.

Prior to the passage of the ADAA, an approved MFA was required by the act for the manufacture of medicated feed. The act required a feed mill to submit a separate MFA for each medicated feed to be manufactured by the firm. The ADAA eliminates the requirement that a feed mill submit a separate MFA for the manufacture of each type of medicated feed and instead provides for feed mills to be licensed and allows a licensed facility to manufacture any feed containing an approved new animal drug. Additionally, section 512(m)(6) of the act, as added by the ADAA, provides the agency with the authority, to the extent consistent with the public health, to exempt facilities that manufacture certain types of medicated feed from the requirement of a medicated feed mill license. The ADAA sets forth the requirements for such licensing.

The proposed regulation will require only one facility license for the manufacture of animal feeds containing approved new animal drugs, instead of multiple approved MFA's. Furthermore, those medicated feeds exempted from the MFA requirement under § 558.4 (21 CFR 558.4) will also be exempt from the requirement of a medicated feed mill license under this proposal. Thus, the regulation, in implementing the statute, would reduce the overall costs of regulatory compliance for industry. Additionally, because of the reduction in the number of applications that FDA would process annually, the proposed regulation, in implementing the statute, would reduce costs for the Federal Government.

The ADAA contains a transitional provision that provides that any person currently engaged in the manufacture of a medicated feed under an approved MFA shall be deemed to hold a medicated feed mill license for the manufacturing site identified in the application. Such transitional license

expires April 9, 1998, 18 months after the date of enactment of the ADAA, unless the person has obtained a medicated feed mill license by that date.

**II. Description of the Proposed Rule**

The proposed regulation implements the requirements of section 512(m) of the act for medicated feed mill licensing. The proposed rule would add a new part 515 to provide the requirements for feed mill licensing. The proposed rule would amend part 514 (21 CFR part 514) to remove the provisions regarding MFA's.

Section 515.10 sets forth the criteria for medicated feed mill license applications. Section 515.10(b)(1) requires the applicant to provide the full business name and address of the feed manufacturing facility and the facility's FDA registration number. Section 515.10(b)(2) requires the applicant to provide the name, title, and original signature of the responsible individual or individuals for that facility. Section 515.10(b)(3) requires the applicant to certify that the feed manufacturing facility is manufacturing and labeling the animal feed bearing or containing new animal drugs in accordance with applicable regulations published under section 512(i) of the act. Section 515.10(b)(4) requires the applicant to certify that the feed manufacturing facility is in conformity with current good manufacturing practice (CGMP) requirements. All of these requirements are set forth in section 512(m)(1) of the act, as amended by the ADAA.

Section 515.10(b)(5) requires the applicant to certify that the feed manufacturing facility will comply with applicable regulations or orders issued under sections 512(m)(5)(A) or 504(a)(3)(A) (21 U.S.C. 354(a)(3)(A)) of the act for record and reporting requirements. This certification requirement is based on section 512(m)(5)(A) of the act, which sets forth the agency's authority to issue record and reporting requirements applicable to medicated feed mill licensees, and section 512(m)(4)(B)(i) of the act, which sets forth the agency's authority to revoke a license for the licensee's failure to comply with such requirements.

Section 515.10(b)(6) requires the applicant to commit to the possession of current approved Type B and/or Type C medicated feed labeling for each animal feed containing an approved new animal drug. The labeling is submitted in the new animal drug application (NADA) under § 514.1(b)(3)(v)(*b*). This commitment to possess the approved labeling is based on section 512(a)(1)(B) of the act, which requires that at the time of removal of the Type A medicated article from a manufacturing, packing, or distributing establishment, such establishment must possess an unrevoked written statement from the feed manufacturing facility that such facility possesses a medicated feed mill license and current approved medicated feed labeling for the use of the Type A medicated article in animal feed. The facility can provide such a statement to the manufacturing, packing, or distributing establishment only if that facility is currently in possession of the approved labeling, which is the labeling approved in the NADA for the new animal drug in animal feed.

Section 515.10(b)(7) requires the applicant to commit to renew registration with FDA every year, in accordance with §§ 207.20 and 207.21 (21 CFR 207.20 and 207.21). Section 207.20(a) requires owners or operators of all drug establishments, not exempt under § 207.10 (21 CFR 207.10), that engage in the manufacture, preparation, propagation, compounding, or processing of a drug or drugs to register with FDA; and § 207.21 requires the yearly renewal of such registration. Section 207.10(f) exempts domestic establishments that manufacture only certain types of medicated feed from the registration requirement. If a feed mill manufactures any type of medicated feed that is not exempt under § 207.10(f), then the feed mill must register the establishment with FDA under § 207.20. The types of feed that would require registration of the establishment under § 207.20 would also require a medicated feed mill license under § 558.4. Thus, under §§ 207.10(f) and 558.4, each medicated feed mill that must possess a license must also register the establishment with FDA. Medicated feed mill licensees, however, are exempt from any drug listing requirement under § 207.20(a).

Section 515.10(d) provides for the return of applications that are ''facially deficient.'' The agency would apply this provision to those applications that fail to provide sufficient information for the agency to make a determination regarding approvability, such as if the application is unsigned or undated. Thus, the provision is intended to allow the agency to respond quickly to facially deficient applications so that the applicant may have an opportunity to correct the deficiencies and resubmit the application.

Section 515.11 sets forth the criteria for supplemental medicated feed mill license applications. Section 515.11(a) requires a licensee to supplement an application for a change in ownership and/or mailing address of the facility site. The relocation of the feed manufacturing facility to a new site would require the submission of a new medicated feed mill license application, because an approved license is site specific.

Section 515.11(c) requires the agency to approve a supplemental medicated feed mill license application within 30 days after the filing of such an application if the Commissioner of Food and Drugs (the Commissioner) determines that the application provides ''adequate information'' respecting the change in ownership and/or mailing address of the facility site. The agency views supplemental applications as a means to ensure the accuracy of agency records regarding a licensed site. Thus, under this provision, the supplemental application would be approved if the application provided the agency with a complete and accurate description of the change in ownership and/or mailing address of the facility site.

Section 515.11(c) also requires the agency to return supplemental applications that fail to provide adequate information respecting a change in ownership and/or mailing address of the facility site. Because of the limited nature of the changes requiring an approved supplemental application, the agency believes it would be inefficient to deny applications that do not provide adequate information regarding such a change. Therefore, a supplemental application that does not provide a complete and accurate description of a change would be returned to the applicant to complete.

Section 515.20 sets forth the requirements for the approval of medicated feed mill license applications, and § 515.21 sets forth the requirements for the refusal to approve a medicated feed mill license application. Section 515.22 sets forth the requirements for the suspension and/or revocation of a medicated feed mill license and § 515.23 provides for the voluntary revocation of a medicated feed mill license. Section 515.24 provides for the notice of revocation of medicated feed mill licenses, § 515.25 provides for the revocation of an order refusing to approve an application or suspending or revoking a license, and § 515.26 provides for the service of notices and orders.

Section 515.30 sets forth the provisions for a notice of opportunity for a hearing concerning a refusal to approve a medicated feed mill license application or a revocation of approval of a medicated feed mill license. Section 515.31 describes the procedures for hearings, and § 515.40 provides for the

judicial review of an order entered by the Commissioner.

The proposed regulation also provides conforming amendments to the Code of Federal Regulations by removing references to MFA's and inserting appropriate references to medicated feed mill licenses. In particular, the references to ''medicated feed application'' in other sections have been eliminated and replaced, where appropriate, with the new term ''medicated feed mill license.''

The proposed rule would amend § 207.10(f) in order to clarify the exemption from the requirement of establishment registration, as set forth in § 207.20. Section 207.10(f), as amended, clarifies the types of feed manufactured exclusively by a facility that would not require the registration of that facility. This clarification would make the scope of this exemption from the requirement of establishment registration identical to the scope of the exemption from the requirement of a medicated feed mill license in § 558.4(b).

The general scheme for categories and types of medicated feeds set forth in § 558.3 (21 CFR 558.3) would remain under medicated feed mill licensing. Those medicated feeds exempted from the MFA requirement under § 558.4 also would be exempt from the requirement of a medicated feed mill license under this proposal. Thus, the manufacture of a Type B or Type C medicated feed from a Category I Type A medicated article or from a Category II Type B or Type C medicated feed would be exempt from the required license, unless otherwise specified.

Section 512(m)(6) of the act, as amended by the ADAA, provides the agency with the authority, consistent with the public health, to establish such an exemption. Category I Type A medicated articles, as defined in § 558.3(b)(1), require no withdrawal period at the lowest use level in each species for which they are approved. Because Category I Type A medicated articles do not require a withdrawal period, the agency has determined that the exemption from the licensing requirement for facilities that manufacture only Type B and Type C medicated feed from Category I Type A articles, with the exception of certain types of liquid and free choice medicated feed, would be consistent with the protection of the public health. Furthermore, because Category II, Type B and Type C medicated feeds are much more dilute than the Type A medicated articles, Type B and Type C medicated feeds manufactured from Category II Type B and Type C medicated feeds are unlikely to produce unsafe (above tolerance) residues when such feed is fed to animals. Thus, the agency has determined that the exemption from the licensing requirement for facilities that manufacture only Type B or Type C medicated feeds from Category II Type B or Type C medicated feeds would be consistent with the protection of the public health.

The references to ''medicated feed application'' in the sections for liquid medicated feed (21 CFR 558.5), and free-choice medicated feed (21 CFR 510.455), will be amended in a future proposal that may incorporate substantive changes to these provisions. The agency is reviewing a citizen petition filed by the American Feed Industry Association (AFIA) on April 30, 1993, as amended on March 3, 1994, and December 6, 1996, concerning liquid medicated feed. Additionally, the references to ''medicated feed application'' in 21 CFR 558.311 and 558.355 for lasalocid and monensin, respectively, will be amended in the future proposal.

Finally, the reference to ''medicated feed application'' in the section for records and reports (21 CFR 510.301), has been changed in this proposal to ''medicated feed mill license.'' The agency intends to propose other changes to this section in a future proposal in response to a citizen petition filed by AFIA and the Animal Health Institute on November 13, 1995, as amended on December 6, 1996, concerning the records and reports requirements for medicated feed manufacturing facilities.

## III. Proposed Effective Date

The agency proposes that any final rule that may issue based on this proposal become effective 30 days after date of publication of the final rule.

## IV. Environmental Impact

FDA has carefully considered the potential environmental impacts of this proposed rule.

The agency has determined under 21 CFR 25.24(a)(8) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Feed mill licensing is a procedure established by the ADAA as a replacement for FDA's previous MFA system. The proposed action substitutes a facility licensing program for a system of feed by feed approval to manufacture feeds containing approved new animal drugs, thereby substantially reducing the number of approval requests required from facilities manufacturing feeds containing new animal drugs. A medicated feed mill license authorizes a feed mill to manufacture any feed containing an approved new animal drug. Previously, a feed mill was required to submit a MFA for each applicable feed containing an approved new animal drug.

This paperwork streamlining in no way reduces the responsibility of each facility to manufacture medicated feeds in full compliance with CGMP's regulations. Nor does the proposed action prevent the FDA from inspecting facilities and their records or taking actions to bring facilities into compliance.

The licensing of a feed mill by FDA does not reduce or change the responsibilities of the mill management to comply with requirements of other Federal, State, or local workplace waste management and emissions laws and regulations. Consistent failure of a facility to comply with hazard communication requirements, to provide necessary worker protection, or to adequately manage wastes could be regarded by FDA as an indication that the facility has a systemic problem that calls into question the ability of the feed mill to comply with FDA CGMP's regulations.

## V. Analysis of Impacts

FDA has examined the impact of the proposed rule under Executive Order 12866, under the Regulatory Flexibility Act (5 U.S.C. 601–612), and under the Unfunded Mandates Reform Act (Pub. L. 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages, distributive impacts and equity).

Under the Regulatory Flexibility Act, unless an agency certifies that a rule will not have a significant impact on a substantial number of small entities, the agency must analyze regulatory options that would minimize any significant impact of a rule on small entities. The Unfunded Mandates Reform Act requires (in section 202) that agencies prepare an assessment of anticipated costs and benefits before proposing any expenditure by State, local, and tribal governments, in the aggregate, or by the private sector of $100 million.

The agency has reviewed this proposed rule and has determined that the rule is consistent with the principles set forth in the Executive Order and in these two statutes. FDA finds that the proposed rule will not be a significant regulatory action under the Executive

Order. Further, the agency finds that the proposed rule will not have a significant effect on a substantial number of small entities. Also, because the expenditures required by the proposed rule are under $100 million, FDA is not required to perform a cost/benefit analysis according to the Unfunded Mandates Reform Act.

As provided in this proposed rule, FDA would amend the process for obtaining approval to manufacture medicated feeds. Instead of requiring an approved MFA for each applicable medicated feed, this proposed regulation requires only a single facility license per feed mill, as appropriate. The ADAA grants a transitional license to all feed manufacturing facilities currently holding an approved MFA. This transitional license is valid for 18 months. During this time, the facilities can obtain a permanent license by submitting a license application and a copy of an approved MFA to FDA. One goal of this proposed rule is to streamline paperwork requirements for facilities and FDA. Despite this switch from MFA's to facility licenses, all other existing reporting responsibilities for each drug remain unchanged.

The only costs that will be incurred are the paperwork costs associated with applying for a facility license. FDA estimates that approximately 2,000 feed mills will be affected by this proposed rule, and that it will take approximately 15 minutes for each facility to complete its application. Taking 1,995 median weekly earnings of $684[1] for the executives, administrators, and managers who will complete the applications, and adding 40 percent for fringe benefits, yields average hourly earnings of $23.94. Thus, the combined paperwork costs for all facilities total $11,970 for the first year, and $599 for the estimated 100 mills expected to apply for licensing or license supplements in each subsequent year. This total cost translates into approximately $6 per mill.

Eliminating the MFA requirement provides industry with a large savings in paperwork burden. Over the past 5 years, the agency has received approximately 3,300 MFA's per year including both original applications and MFA supplements. In the past, FDA surveyed several feed mills and animal drug manufacturers, and determined that it took industry about 2 hours to complete an MFA. Therefore, FDA estimates this proposed rule will save industry over $158,000 per year, or approximately $79 per mill per year, on average. The mills that have routinely submitted a larger number of MFA's will realize a larger total savings than those mills that routinely submit fewer MFA's.

FDA will also experience a cost savings in response to the feed mill licensing requirement. Since 1994, the agency spent approximately $180,000 per year for a contractor to process the MFA's. In contrast, FDA estimates that it will take 40 minutes to process each feed mill license application at a cost of $25 per hour for a GS–13 Government employee. In the first year, it will cost the agency $33,500 to process the expected 2,000 applications, and a startup cost of $10,000 for a tracking and indexing computerized database. It is expected to cost only $1,700 to process the 100 applications for each year thereafter.

The Small Business Administration (SBA) defines all manufacturers of prepared feeds and feed ingredients for animals and fowls having 500 employees or fewer as a small business. FDA estimates that approximately 20 percent of the affected feed mills belong to large conglomerates that have an overall employee count of higher than 500. Therefore, the remaining 80 percent of the affected facilities would be considered small businesses by SBA's standards. However, the agency concludes that these altered paperwork burdens will constitute an insignificant percentage of gross revenue. FDA finds the proposed rule will provide a net economic savings for all facilities, as well as the Federal Government. Therefore, in accordance with the Regulatory Flexibility Act, FDA certifies that this proposed rule will not have a significant economic effect on a substantial number of small entities.

## VI. Paperwork Reduction Act of 1995

This proposed rule contains information collection provisions that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The title, description, and respondent description of the information collection provisions are shown below with an estimate of the annual reporting and recordkeeping burden. Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing each collection of information.

FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

*Title*: Medicated Feed Mill License Application.

*Description*: This proposed rule implements the ADAA's medicated feed mill licensing provisions. It would require that any medicated feed manufacturing facility seeking a license submit an application to FDA. In § 515.10 of the proposed regulations, FDA is proposing that the medicated feed mill license application form include:

(1) Manufacturing site legal business name,
(2) Address,
(3) Phone number,
(4) Fax number,
(5) Type of application,
(6) FDA registration number, and
(7) Date and signature.

The information on the form will be used to issue medicated feed mill licenses. The information requested on the form is specifically mandated by the ADAA, except for the phone number and fax number. These numbers are needed so that FDA can contact the firm quickly when necessary. The additional burden of supplying this information is minimal.

Section 515.11 of the proposed regulations also specifies that supplemental applications must be submitted for a change in ownership and/or a change in mailing address. A medicated feed mill licensee would submit such information to FDA on the medicated feed mill license application form. Furthermore, § 515.23 of the proposed regulations also provides for voluntary revocation of the license. A medicated feed mill licensee would submit in writing to FDA a request for voluntary revocation of a license. Finally, § 515.30 of the proposed regulations provides procedures for refusing to approve license applications when, among other reasons, the application is incomplete, false, or misleading or the manufacturing, processing, and packaging of the animal feed do not comply with applicable provisions of the act. A medicated feed manufacturing facility would have the option to submit a request for a hearing

[1] *Employment and Earnings*, U.S. Department of Labor Bureau and Labor Statistics, vol. 43, No. 1, p. 205, January 1996.

in writing to FDA in response to the agency's proposal to refuse to approve a medicated feed mill license application.

*Description of Respondents*: Medicated feed manufacturing facilities.

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN: FIRST YEAR

| 21 CFR Section | No. of Respondents | Annual Frequency per Response | Total Annual Responses | Hours per Response | Total Hours |
|---|---|---|---|---|---|
| 515.10 | 2,000 | 1 | 2,000 | 0.25 | 500 |
| 515.11 | 25 | 1 | 25 | 0.25 | 6.25 |
| 515.23 | 50 | 1 | 50 | 0.25 | 12.25 |
| 515.30 | 0.15 | 1 | 0.15 | 24 | 3.6 |

There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2.—ESTIMATED ANNUAL REPORTING BURDEN: EACH SUCCEEDING YEAR

| 21 CFR Section | No. of Respondents | Annual Frequency per Response | Total Annual Responses | Hours per Response | Total Hours |
|---|---|---|---|---|---|
| 515.10 | 100 | 1 | 100 | 0.25 | 25 |
| 515.11 | 25 | 1 | 25 | 0.25 | 6.25 |
| 515.23 | 50 | 1 | 50 | 0.25 | 12.25 |
| 515.30 | 0.15 | 1 | 0.15 | 24 | 3.6 |

There are no capital costs or operating and maintenance costs associated with this collection of information.

FDA estimates 2,000 respondents for the submission of a medicated feed mill license application within the first year based on the number of current MFA holders (approximately 2,000). Furthermore, FDA estimates 100 respondents for the submission of a medicated feed mill license application during each succeeding year based on the average number of new firms that began to manufacture medicated feed in past years. FDA estimates 25 respondents per year for the submission of supplements based on the average number of supplements that FDA received for MFA's in past years. FDA estimates 50 respondents per year for the submission of voluntary revocation requests based on the average number of cancellation requests that FDA received for feed mill registration in past years. Finally, FDA estimates 0.15 respondents per year for the submission of hearing requests based on the fact that FDA received only approximately five such requests for MFA's in the past 33 years.

FDA has already begun accepting and acting on feed mill license applications in accordance with its statutory authority to do so under the ADAA. This proposed rule would not significantly change the application form that is now being used for such applications. To allow FDA to begin implementing the ADAA promptly, the OMB approved this collection of information, including the use of the application Form FDA 3448, on a temporary basis under the emergency processing provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(j)). The approval is under OMB control number 0910–0337 and it was announced in a notice published in the **Federal Register** of March 31, 1997 (62 FR 15186). The March 31, 1997, **Federal Register** notice solicited public comment on the collection of information and provided 60 days for such comments. FDA received no comments in response to this notice.

In compliance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the agency has submitted the information collection provisions of this proposed rule to OMB for review. Interested persons are requested to send comments regarding information collection by August 29, 1997, to (address above).

## VII. Request for Comments

Interested persons may, on or before, October 28, 1997, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Interested persons may, on or before August 29, 1997, submit written comments on the information collection provisions to the Office of Information and Regulatory Affairs, OMB (address above).

## List of Subjects

*21 CFR Part 207*

Drugs, Reporting and recordkeeping requirements.

*21 CFR Part 225*

Animal drugs, Animal feeds, Labeling, Packaging and containers, Reporting and recordkeeping requirements.

*21 CFR Part 510*

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

*21 CFR Part 514*

Administrative practice and procedure, Animal drugs, Confidential business information, Reporting and recordkeeping requirements.

*21 CFR Part 515*

Administrative practice and procedure, Animal drugs, Confidential business information, Reporting and recordkeeping requirements.

*21 CFR Part 558*

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that title 21 of the Code of Federal Regulations be amended as follows:

## PART 207—REGISTRATION OF PRODUCERS OF DRUGS AND LISTING OF DRUGS IN COMMERCIAL DISTRIBUTION

1. The authority citation for 21 CFR part 207 continues to read as follows:

**Authority:** Secs. 301, 501, 502, 505, 506, 507, 510, 512, 701, 704 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331, 351, 352, 355, 356, 357, 360, 360b, 371, 374); sec. 351 of the Public Health Service Act (42 U.S.C. 262).

2. Section 207.10 is amended by revising paragraph (f) to read as follows:

### § 207.10 Exemptions for domestic establishments.

* * * * *

(f) Persons who only manufacture the following:

(1) Type B or Type C medicated feed using Category I, Type A medicated articles or Category I, Type B or Type C medicated feeds, and/or;

(2) Type B or Type C medicated feed using Category II, Type B or Type C medicated feeds.

(3) Persons who manufacture free-choice feeds, as defined in § 510.455 of this chapter, or medicated liquid feeds, as defined in § 558.5 of this chapter, where a medicated feed mill license is required are not exempt.

* * * * *

### § 207.20 [Amended]

3. Section 207.20 *Who must register and submit a drug list* is amended in paragraph (c) by removing the words ''medicated feed application,'' and adding in its place ''medicated feed mill license application,''.

### § 207.21 [Amended]

4. Section 207.21 *Times for registration and drug listing* is amended in paragraph (a), in the second sentence, by removing the phrase ''medicated feed application,'' and adding in its place ''medicated feed mill license application,''.

## PART 225—CURRENT GOOD MANUFACTURING PRACTICE FOR MEDICATED FEEDS

5. The authority citation for 21 CFR part 225 continues to read as follows:

**Authority:** Secs. 501, 502, 512, 701, 704 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351, 352, 360b, 371, 374).

6. Section 225.1 is amended by revising paragraph (b)(2) and by adding a new paragraph (c) to read as follows:

### § 225.1 Current good manufacturing practice.

* * * * *

(b) * * *

(2) The regulations in §§ 225.10 through 225.115 apply to facilities manufacturing one or more medicated feeds for which an approved medicated feed mill license is required. The regulations in §§ 225.120 through 225.202 apply to facilities manufacturing solely medicated feeds for which an approved license is not required.

(c) In addition to the recordkeeping requirements in this part, Type B and Type C medicated feeds made from Type A articles or Type B feeds under approved new animal drug applications and a medicated feed mill license are subject to the requirements of § 510.301 of this chapter.

### § 225.58 [Amended]

7. Section 225.58 *Laboratory controls* is amended in paragraph (b)(1) by revising the first sentence to read ''For feeds requiring a medicated feed mill license (Form FDA 3448) for their manufacture and marketing, at least three representative samples of medicated feed containing each drug or drug combination used in the establishment shall be collected and assayed by approved official methods, at periodic intervals during the calendar year, unless otherwise specified in this chapter.''

8. Section 225.115 is amended by revising paragraph (b)(2) to read as follow:

### § 225.115 Complaint files.

* * * * *

(b) * * *

(2) For medicated feeds whose manufacture require a medicated feed mill license (Form FDA 3448), records and reports of clinical and other experience with the drug shall be maintained and reported, under § 510.301 of this chapter.

## PART 510—NEW ANIMAL DRUGS

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

**Authority:** Secs. 201, 301, 501, 502, 503, 512, 701, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 376e).

10. Section 510.301 is amended by revising the section heading to read as follows:

### § 510.301 Records and reports concerning experience with animal feeds bearing or containing new animal drugs for which an approved medicated feed mill license application is in effect.

* * * * *

11. Section 510.305 is revised in its entirety to read as follows:

### § 510.305 Maintenance of copies of approved medicated feed mill licenses to manufacture animal feed bearing or containing new animal drugs.

Each applicant shall maintain in a single accessible location on the premises of each establishment:

(a) A copy of the approved medicated feed mill license (Form FDA 3448); and

(b) Approved labeling for Type B and/or Type C feeds being manufactured.

## PART 514—NEW ANIMAL DRUG APPLICATIONS

12. The authority citation for 21 CFR part 514 continues to read as follows:

**Authority:** Secs. 501, 502, 512, 701, 721, 801 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351, 352, 360b, 371, 379e, 381).

### § 514.2 [Removed]

13. Section 514.2 *Applications for animal feeds bearing or containing new animal drugs* is removed.

### § 514.9 [Removed]

14. Section 514.9 *Supplemental applications for animal feeds bearing or containing new animal drugs* is removed.

### § 514.105 [Amended]

15. Section 514.105 *Approval of applications* is amended by removing paragraph (b) and by redesignating paragraphs (a)(1) and (a)(2) as paragraphs (a) and (b) and by removing the designation ''(a)'' from the first paragraph.

### § 514.111 [Amended]

16. Section 514.111 *Refusal to approve an application* is amended by removing paragraph (b) and redesignating paragraph (c) as paragraph (b).

### § 514.112 [Removed]

17. Section 514.112 *Return of applications for animal feeds bearing or containing new animal drugs* is removed.

### § 514.115 [Amended]

18. Section 514.115 *Withdrawal of approval of applications* is amended in paragraphs (a), (b), (c), and (d) by removing the phrase ''or (m)(2)''; in paragraph (c)(1) by removing the phrases ''or (m)(5)(A)'' and ''or (m)(5)(B)''; in paragraph (c)(3) by removing the phrase ''or animal feed''; and in paragraph (e) by removing the second sentence.

19. Section 514.201 is revised to read as follows:

**§ 514.201 Procedures for hearings.**

Hearings relating to new animal drugs under section 512(d) and (e) of the act shall be governed by part 12 of this chapter.

20. Part 515 is added to read as follows:

## PART 515—MEDICATED FEED MILL LICENSE

### Subpart A—Applications

Sec.



### Subpart B—Administrative Actions on Licenses



### Subpart C—Hearing Procedures



### Subpart D—Judicial Review



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

### Subpart A—Applications

**§ 515.10 Applications for licenses to manufacture animal feeds bearing or containing new animal drugs (medicated feed mill license).**

(a) Applications (Form FDA 3448) to be filed under section 512(m) of the Federal Food, Drug, and Cosmetic Act (the act) shall be completed, signed, and submitted in the form described in paragraph (b) of this section to the Division of Animal Feeds (HFV–220), Center for Veterinary Medicine, 7500 Standish Pl., Rockville, MD 20855.

(b) Each application for a license to manufacture animal feeds bearing or containing new animal drugs shall include the following information:

(1) A full statement of the business name and address of the specific facility at which the manufacturing is to take place and the facility's FDA registration number assigned under section 510 of the act.

(2) The name, title, and original signature of the responsible individual or individuals for that facility.

(3) A certification that the animal feeds bearing or containing new animal drugs are manufactured and labeled in accordance with the applicable regulations published under section 512(i) of the act.

(4) A certification that the methods used in, and the facilities and controls used for, manufacturing, processing, packaging, and holding such animal feeds are in conformity with current good manufacturing practice as described in section 501(a)(2)(B) of the act and part 225 of this chapter.

(5) A certification that the facility will establish and maintain all records required by regulation or order issued under section 512(m)(5)(A) or 504(a)(3)(A) of the act, as published in § 515.30, and will permit access to, or copying or verification of such records.

(6) A commitment that current approved Type B and/or Type C medicated feed labeling for each animal drug in animal feed will be in the possession of the feed manufacturing facility prior to receiving the Type A medicated article containing such drug.

(7) A commitment to renew registration every year with FDA as required in §§ 207.20 and 207.21 of this chapter.

(c) Upon approval, the original copy of the application will be signed by an authorized employee of the Food and Drug Administration designated by the Commissioner of Food and Drugs, and a copy will be returned to the applicant.

(d) Applications that are facially deficient will be returned to the applicant. All reasons for the return of the application will be made known to the applicant.

(e) Applications (Form FDA 3448) may be obtained from the Public Health Service, Consolidated Forms and Publications Distribution Center, Washington Commerce Center, 3222 Hubbard Rd., Landover, MD 20785.

**§ 515.11 Supplemental medicated feed mill license applications.**

(a) After approval of a medicated feed mill license application to manufacture animal feed, a supplemental application shall be submitted for a change in ownership and/or a change in mailing address of the facility site.

(b) Each supplemental application should be accompanied by a fully completed Form FDA 3448 and include an explanation of the change.

(c) Within 30 working days after a supplemental application has been filed, if the Commissioner of Food and Drugs determines that the application provides adequate information respecting the change in ownership and/or postal address of the facility site, then he shall notify the applicant that it is approvable by signing and mailing to the applicant a copy of the Form FDA 3448. Supplemental applications that do not provide adequate information shall be returned to the applicant and all reasons for the return of the application shall be made known to the applicant.

### Subpart B—Administrative Actions on Licenses

**§ 515.20 Approval of medicated feed mill license applications.**

Within 90 days after an application has been filed under § 515.10, if the Commissioner of Food and Drugs determines that none of the grounds for denying approval specified in section 512(m)(3) of the Federal Food, Drugs, and Cosmetic Act applies, he shall notify the applicant that it is approved by signing and mailing to the applicant a copy of the Form FDA 3448.

**§ 515.21 Refusal to approve a medicated feed mill license application.**

(a) The Commissioner of Food and Drugs shall within 90 days, or such additional period as may be agreed upon by the Commissioner and the applicant, after the filing of an application under § 515.10, inform the applicant in writing of his intention to issue a notice of opportunity for a hearing on a proposal to refuse to approve the application, if the Commissioner determines upon the basis of the application, on the basis of a preapproval inspection, or upon the basis of any other information before him that:

(1) The application is incomplete, false, or misleading in any particular; or

(2) The methods used in and the facilities and controls used for the manufacturing, processing, and packaging of such animal feed are not adequate to preserve the identity, strength, quality, and purity of the new animal drug therein; or

(3) The facility manufactures animal feeds bearing or containing new animal drugs in a manner that does not accord with the specifications for manufacture or labels animals feeds bearing or containing new animal drugs in a manner that does not accord with the conditions or indications of use that are

published under section 512(i) of the Federal Food, Drug, and Cosmetic Act.

(b) The Commissioner, as provided in § 515.30, shall expeditiously notify the applicant of an opportunity for a hearing on the question of whether such application is approvable, unless by the 30th day following the date of issuance of the letter informing the applicant of the intention to issue a notice of opportunity for a hearing the applicant:

(1) Withdraws the application; or

(2) Waives the opportunity for a hearing; or

(3) Agrees with the Commissioner on an additional period to precede issuance of such notice of hearing.

**§ 515.22 Suspension and/or revocation of a medicated feed mill license application.**

(a) The Secretary may suspend a medicated feed mill license approved under section 512(m)(2) of the Federal Food, Drug, and Cosmetic Act and give the person holding the medicated feed mill license application prompt notice of his action and afford the applicant the opportunity for an expedited hearing on a finding that there is an imminent hazard to the health of man or of the animals for which such animal feed is intended.

(b) The Commissioner of Food and Drugs shall notify in writing the person holding an application approved under section 512(m)(2) of the act and afford an opportunity for a hearing on a proposal to revoke approval of such application if he finds:

(1) That the application contains any untrue statement of a material fact; or

(2) That the applicant has made any changes that would cause the application to contain any untrue statements of material fact or that would affect the safety or effectiveness of the animal feeds manufactured at the facility unless the applicant has supplemented the application by filing a supplemental application under § 515.11.

(c) The Commissioner may notify in writing the person holding an application approved under section 512(m)(2) of the act and afford an opportunity for a hearing on a proposal to revoke approval of such application if he finds:

(1) That the applicant has failed to establish a system for maintaining required records, or has repeatedly or deliberately failed to maintain such records or to make required reports in accordance with a regulation or order under section 512(m)(5)(A) or 504(a)(3)(A) of the act, or the applicant has refused to permit access to, or copying, or verification of, such records as required by section 512(m)(5)(B) or 504(a)(3)(B) of the act; or

(2) That on the basis of new information before him, evaluated together with the evidence before him when such license was issued, the methods used in, or the facilities and controls used for, the manufacture, processing, packing, and holding of such animal feed are inadequate to ensure and preserve the identity, strength, quality, and purity of the new animal drug therein, and were not made adequate within a reasonable time after receipt of written notice from the Commissioner specifying the matter complained of; or

(3) That on the basis of new information before him, evaluated together with the evidence before him when such license was issued, the labeling of any animal feeds, based on a fair evaluation of all material facts, is false or misleading in any particular and was not corrected within a reasonable time after receipt of written notice from the Commissioner specifying the matter complained of; or

(4) That on the basis of new information before him, evaluated together with the evidence before him when such license was issued, the facility has manufactured, processed, packed, or held animal feed bearing or containing a new animal drug adulterated under section 501(a)(6) of the act, and the facility did not discontinue the manufacture, processing, packing, or holding of such animal feed within a reasonable time after receipt of written notice from the Commissioner specifying the matter complained of.

**§ 515.23 Voluntary revocation of medicated feed mill license.**

A license issued under section 512(m)(2) of the Federal Food, Drug, and Cosmetic Act will be revoked on the basis of a request for its revocation submitted in writing by a responsible individual holding such license on the grounds that the facility no longer manufactures any animal feed covered under § 558.4 of this chapter. A written request for such revocation shall be construed as a waiver of the opportunity for a hearing as otherwise provided for in this section. Revocation of approval of a medicated feed mill license under the provisions of this paragraph shall be without prejudice.

**§ 515.24 Notice of revocation of a medicated feed mill license.**

When a license approved under section 512 of the Federal Food, Drug, and Cosmetic Act is revoked by the Commissioner, he will give appropriate public notice of such action by publication in the Federal Register.

**§ 515.25 Revocation of order refusing to approve a medicated feed mill license application or suspending or revoking a license.**

The Commissioner of Food and Drugs, upon his own initiative or upon request of an applicant stating reasonable grounds therefor and if he finds that the facts so require, may issue an order approving a medicated feed mill license application that previously has had its approval refused, suspended, or revoked.

**§ 515.26 Service of notices and orders.**

All notices and orders under this part and section 512 of the Federal Food, Drug, and Cosmetic Act pertaining to medicated feed mill licenses shall be served:

(a) In person by any officer or employee of the Department of Health and Human Services designated by the Commissioner of Food and Drugs; or

(b) By mailing the order by certified mail addressed to the applicant or respondent at his last known address in the records of the Food and Drug Administration.

**Subpart C—Hearing Procedures**

**§ 515.30 Contents of notice of opportunity for a hearing.**

(a) The notice to the applicant of opportunity for a hearing on a proposal by the Commissioner of Food and Drugs to refuse to approve a medicated feed mill license application or to revoke the approval of a medicated feed mill license will specify the grounds upon which he proposes to issue his order. On request of the applicant, the Commissioner will explain the reasons for his action. The notice of opportunity for a hearing will be published in the **Federal Register** and will specify that the applicant has 30 days after issuance of the notice within which he is required to file a written appearance electing whether:

(1) To avail himself of the opportunity for a hearing; or

(2) Not to avail himself of the opportunity for a hearing.

(b) If the applicant fails to file a written appearance in answer to the notice of opportunity for hearing, his failure will be construed as an election not to avail himself of the opportunity for the hearing, and the Commissioner without further notice may enter a final order.

(c) If the applicant elects to avail himself of the opportunity for a hearing, he is required to file a written appearance requesting the hearing

within 30 days after the publication of the notice, giving the reason why the application should not be refused or the medicated feed mill license should not be revoked, together with a well-organized and full-factual analysis of the information he is prepared to prove in support of his opposition to the Commissioner's proposal. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing there is a genuine and substantial issue of fact that requires a hearing. When it clearly appears from the information in the application and from the reasons and factual analysis in the request for the hearing that no genuine and substantial issue of fact precludes the refusal to approve the application or the revocation of approval of the application, the Commissioner will enter an order on this information, stating his findings and conclusions. If a hearing is requested and is justified by the applicant's response to the notice of opportunity for a hearing, the issues will be defined, an Administrative Law Judge will be named, and he shall issue a written notice of the time and place at which the hearing will commence. In the case of denial of approval, such time shall be not more than 90 days after the expiration of such 30 days unless the Administrative Law Judge and the applicant otherwise agree; and, in the case of withdrawal of approval, such time shall be as soon as practicable.

(d) The hearing will be open to the public; however, if the Commissioner finds that portions of the application which serve as a basis for the hearing contain information concerning a method or process entitled to protection as a trade secret, the part of the hearing involving such portions will not be public, unless the respondent so specifies in his appearance.

**§ 515.31 Procedures for hearings.**

Hearings relating to new animal drugs under section 512(m)(3) and (m)(4) of the Federal Food, Drug, and Cosmetic Act shall be governed by part 12 of this chapter.

**Subpart D—Judicial Review**

**§ 515.40 Judicial review.**

The transcript and record shall be certified by the Commissioner of Food and Drugs. In any case in which the Commissioner enters an order without a hearing under § 314.200(g) of this chapter, the request(s) for hearing together with the data and information submitted and the Commissioner's findings and conclusions shall be included in the record certified by the Commissioner.

## PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

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

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

**§ 558.3 [Amended]**

22. Section 558.3 *Definitions and general considerations applicable to this part* is amended in paragraphs (b)(2) and (b)(5) by removing the phrase ''an application approved under 514.105(a) of this chapter'' and in paragraphs (b)(3)and (b)(4) by removing the phrase ''an application approved under § 514.105(b) of this chapter'' and adding in their places ''a medicated feed mill license application approved under § 515.20 of this chapter''.

23. Section 558.4 is amended by revising the section heading and paragraphs (a), (b), and (c) to read as follows:

**§ 558.4 Requirement of a medicated feed mill license.**

(a) A feed manufacturing facility must possess a medicated feed mill license in order to manufacture a Type B or Type C medicated feed from a Category II, Type A medicated article.

(b) The manufacture of the following types of feed are exempt from the required license, unless otherwise specified:

(1) Type B or Type C medicated feed using Category I, Type A medicated articles or Category I, Type B or Type C medicated feeds; and

(2) Type B or Type C medicated feed using Category II, Type B or Type C medicated feeds.

(c) The use of Type B and Type C medicated feeds shall conform to the conditions of use provided for in subpart B of this part and in §§ 510.515 and 558.15 of this chapter.

* * * * *

Dated: July 22, 1997.

**William B. Schultz,**

*Deputy Commissioner for Policy.*

[FR Doc. 97–19820 Filed 7–29–97; 8:45 am]

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## DEPARTMENT OF THE INTERIOR

## Office of Surface Mining Reclamation and Enforcement

## 30 CFR Part 924

**[SPATS No. MS–012–FOR]**

## Mississippi Regulatory Program

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

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

**SUMMARY:** OSM is announcing receipt of a proposed amendment to the Mississippi regulatory program (hereinafter the ''Mississippi program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to the Mississippi Surface Coal Mining and Reclamation Law pertaining to definitions, reorganization, adoption of rules and regulations, small operator assistance program, permit applications, permit fees, reclamation plans, performance bonds, permit issuance, permit reissuance, permit revision, public participation, public hearings, formal hearings, confidentiality claims, environmental protection performance standards, postmining land use, underground coal mining, mine entrance signs, violation complaints, civil penalties, bond release, bond forfeiture, suspension and revocation of permits, designating lands unsuitable for surface coal mining, and creation of a ''Surface Coal Mining and Reclamation Fund.'' The amendment is intended to revise the Mississippi program to be consistent with SMCRA, clarify ambiguities, and improve operational efficiency.

This document sets forth the times and locations that the Mississippi program and proposed amendment to that program are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and the procedures that will be followed regarding the public hearing, if one is requested.

**DATES:** Written comments must be received by 4:00 p.m., c.d.t., August 29, 1997. If requested, a public hearing on the proposed amendment will be held on August 25, 1997. Requests to speak at the hearing must be received by 4:00 p.m., c.d.t. on August 14, 1997.

**ADDRESSES:** Written comments and requests to speak at the hearing should be mailed or hand delivered to Arthur

W. Abbs, Director, Birmingham Field Office, at the address listed below.

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

Arthur W. Abbs, Director, Birmingham Field Office, Office of Surface Mining Reclamation and Enforcement, 135 Gemini Circle, Suite 215, Homewood, Alabama 35209, Telephone: (205) 290–7282.

Mississippi Department of Environmental Quality, Office of Geology, 2380 Highway 80 West, P.O. Box 20307, Jackson, Mississippi 39289–1307, Telephone: (601) 961–5500.

**FOR FURTHER INFORMATION CONTACT:** Arthur W. Abbs, Director, Birmingham Field Office, Telephone: (205) 290–7282.

**SUPPLEMENTARY INFORMATION:**

## I. Background on the Mississippi Program

On September 4, 1980, the Secretary of the Interior conditionally approved the Mississippi program. Background information on the Mississippi program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the September 4, 1980, **Federal Register** (45 FR 58520). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 924.10, 924.12, and 924.16.

## II. Description of the Proposed Amendment

By letter dated May 6, 1997 (Administrative Record No. MS–0338), Mississippi submitted a proposed amendment to its program pursuant to SMCRA. Mississippi submitted the proposed amendment in response to the required amendment at 30 CFR 924.16. On March 10, 1997, the Governor of Mississippi signed Senate Bill No. 2725, which contains both substantive and nonsubstantive changes to the Mississippi Surface Coal Mining and Reclamation Law (Mississippi Code of 1972). The full text of the proposed program amendment submitted by Mississippi is available for public inspection at the locations listed above under **ADDRESSES.** A brief discussion of the proposed amendment is presented below.

### *A. Nonsubstantive Changes to the Mississippi Code of 1972*

Mississippi proposes minor wording changes, citation corrections, revised paragraph notations, and other organizational changes resulting from this amendment throughout its statutes, including the following sections: § 53–9–3, Legislative findings and declarations; § 53–9–5, Purpose; § 53–9–19, Financial interest of persons employed under this chapter—penalty—monitoring and enforcement; § 53–9–21, Surface coal mining and reclamation permit—term—extensions—use by successor in interest—termination; § 53–9–49, Authorized departures from performance standards; § 53–9–51, Records, reports and equipment to be maintained by permittees—evaluation of results—specification of monitoring sites—entry and inspection—release of materials to public; § 53–9–61, Criminal penalties—resisting, preventing, impeding, or interfering with performance of duties; § 53–9–63, Nonexclusivity of penalty provisions; § 53–9–73, Cooperation with secretary of interior; § 53–9–75, Application of chapter to public corporations; § 53–9–83, Lease of state coal deposits; § 53–9–85, Enforcement and protection of water rights; and § 53–9–87, Training, examination, and certification of persons responsible for blasting.

### *B. Statutes Removed From the Mississippi Code of 1972*

The following statutes were repealed: § 53–9–13, Creation of surface mining and reclamation operations section; § 53–9–15, Creation of surface mining review board; § 53–9–17, Director of bureau of geology and energy resources—powers and duties; § 53–9–59, Criminal penalties—failure to make or making of false statement, representation or certification; § 53–9–79, Review board—judicial review of decision; and § 53–9–91, Fees.

### *C. Substantive Changes to the Mississippi Code of 1972*

1. *Section 53–9–7, Definitions.* Mississippi amended its definition section by deleting old terms, adding new terms, and revising existing terms as follows:

The following previously approved defined terms were removed: § 53–9–7(a), Act; § 53–9–7(b), Administrator; § 53–9–7(d), Bureau; § 53–9–7(e), Chief; § 53–9–7(i), Director; § 53–9–7(j), Division; § 53–9–7(r), Public Law 95–87; § 53–9–7(t), Review board; and § 53–9–7(u), Section.

A definition for the term ''Appeal'' was added at § 53–9–7(a) to mean ''an appeal to an appropriate court of the state taken from a final decision of the permit board or commission made after a formal hearing before that body.''

At § 53–9–7(b), the term ''Approximate original contour'' was revised by adding language which allows water impoundments on reclaimed areas if the permit board determines that the impoundments are in compliance with § 53–9–45(2)(g).

At § 53–9–7(c), the terminology ''As recorded in the minutes of the permit board'' was defined as ''the date of the permit board meeting at which the action concerned is taken by the permit board.''

At § 39–9–7(d), the term ''Coal'' was revised to mean ''combustible carbonaceous rock, classified as anthracite, bituminous, subbituminous, or lignite by the American Society of Testing and Materials.''

At § 53–9–7(e), the term ''Commission'' was revised to mean ''the Mississippi Commission on Environmental Quality.''

At § 53–9–7(f), the term ''Department'' was revised to mean ''the Mississippi Department of Environmental Quality.''

At § 53–9–7(g), the term ''Executive Director'' was defined as ''the executive director of the department.''

At § 53–9–7(i), the term ''Federal Act'' was defined as ''the Surface Mining Control and Reclamation Act of 1977, as amended, which is codified as Section 1201 et seq. of Title 30 of the United States Code.''

At § 53–9–7(j), the term ''Formal hearing'' was defined to mean ''a hearing on the record, as recorded and transcribed by a court reporter, before the commission or permit board where all parties to the hearing are allowed to present witnesses, cross-examine witnesses and present evidence for inclusion into the record, as appropriate under rules promulgated by the commission or permit board.''

A definition for ''Interested party'' was added at § 53–9–7(l) to mean ''any person claiming an interest relating to the surface coal mining operation and who is so situated that the person may be affected by that operation, or in the matter of regulations promulgated by the commission, any person who is so situated that the person may be affected by the action.''

At § 53–9–7(m), the term ''Lignite'' was defined as ''consolidated lignite coal having less than eight thousand three hundred (8,300) British thermal units per pound, moist and mineral matter free.''

At § 53–9–7(p), the term ''Permit area'' was revised by adding the requirement that the permit area be

covered by the operator's performance bond.

At § 53–9–7(q), the term ''Permit board'' was defined to mean the permit board created under Section 49–17–28.''

At § 53–9–7(r), the term ''Person'' was revised by adding a joint venture, cooperative, and any agency, unit or instrumentality of federal, state or local government, including any publicly owned utility or publicly owned corporation to those who are considered a person.

The terms ''Public hearing,'' ''informal hearing,'' or ''public meeting'' were defined at § 53–9–7(t) to mean ''a public forum organized by the commission, department or permit board for the purpose of providing information to the public regarding a surface coal mining and reclamation operation or regulations proposed by the commission and at which members of the public are allowed to make comments or ask questions or both of the commission, department or the permit board.''

At § 53–9–7(v), the term ''Revision'' was defined to mean ''any change to the permit or reclamation plan that does not significantly change the effect of the mining operation on either those persons impacted by the permitted operations or on the environment, including, but not limited to, incidental boundary changes to the permit area or a departure from or change within the permit area, incidental changes in the mining method or incidental changes in the reclamation plan.''

The term ''State geologist'' was defined at § 53–9–7(x) to mean ''the head of the office of geology and energy resources of the department or a successor office.''

At § 53–9–7(aa), the terminology ''Unwarranted failure to comply'' was revised to mean ''the failure of a permittee to prevent or abate the occurrence of any violation of a permit, this chapter or any regulations promulgated under this chapter due to indifference, lack of diligence or lack of reasonable care.''

2. *Section 53–9–9, General Responsibilities of the Department of Environmental Quality, the Commission on Environmental Quality, and the Permit Board.* The Department of Environmental Quality is designated as the agency to administer the Mississippi program. The Commission on Environmental Quality is designated as the body to enforce the Mississippi program, including the issuance of penalty orders, promulgation of regulations, and designation of lands unsuitable for surface coal mining. The Permit board is designated as the body to issue, modify, revoke, transfer, suspend, and reissue permits and to require, modify or release performance bonds.

3. *Section 53–9–11, Promulgation of Rules and Regulations by Commission on Environmental Quality.* Section 53–9–11(1) was revised to clarify the Commission on Environmental Quality's (commission) authority and responsibilities for rules and regulations. The commission may adopt, modify, repeal, and promulgate rules and regulations after notice and hearing and in accordance with the Mississippi Administrative Procedures Law. The commission may also enforce rules and regulations and make exceptions to and grant exemptions and variances from them where not otherwise prohibited by Federal or State law. No exceptions, exemptions or variances shall be less stringent than rules and regulations promulgated under SMCRA.

Section 53–9–11(1)(a)(iv) was revised to reflect changes in and add to the list of State agencies that are to receive notice of the public hearing that is required before the adoption of any rules and regulations.

Section 53–9–11(1)(b) was revised by requiring the publication of the notice of the public hearing in one newspaper instead of three.

Section 53–9–11(2) was revised by adding a provision specifying that failure of any person to submit comments within the time period established by the commission would not preclude action by the commission.

4. *Section 53–9–23, Permit Reissuance.* Section 53–9–23(3) was revised by adding a provision that allows an operator, if the application was timely filed, to continue surface coal mining operations until the permit board takes action on his reissuance application.

5. *Section 53–9–25, Application fee—contents of application—Insurance Coverage—Blasting Plan.* Section 53–9–25(1)(a) was revised to require information regarding ownership and performance history of the applicant. Also required is a statement as to whether the applicant, subsidiary, affiliate or persons controlled by or under common control with the applicant had held a mining permit which in the five-year period before filing of the application had been suspended or revoked or the performance bond forfeited.

Section 53–9–25(2)(b) was revised to require that the insurance policy include compensation to persons damaged as a result of surface coal mining and reclamation operations, including use of explosives, and entitled to compensation under applicable State law.

Section 53–9–25(3) was added to require the applicant to file a list of administrative orders or notices of violation issued under the State act, the law of any state or the United States, any rule or regulation of any department or agency of any state or the United States, related to air or water environmental protection, incurred by the applicant in connection with any surface coal mining operation during the three-year period preceding the filing date of the application. The list also must indicate the final resolution of any orders or notices. This new provision also specifies the conditions and circumstances for which the Permit board will issue or not issue a permit after its review of the applicant and operator's violation history.

6. *Section 53–9–27, Filing of Application.* Mississippi revised § 53–9–27 by requiring an applicant to file a copy of the application for public inspection within 10 days after filing with the permit board and by clarifying the type of information that the applicant may omit from the application filed for public inspection if the commission determines the information to be confidential under § 53–9–43.

7. *Section 53–9–29, Reclamation Plan.* Section 53–9–29(1) was revised by adding the requirement that a reclamation plan include an identification of lands subject to surface coal mining operations over the estimated life of those operations.

At § 53–9–29(5), the applicant must also include in the reclamation plan the steps to be taken to comply with the performance standards applicable to reclamation.

8. *Section 53–9–31, Filing, Deposit, and Adjustment of Bond—Requirement of Surety—Liability Under Bond.* Section 53–9–31(1) was revised by adding the requirements that the performance bond be filed before the issuance of a permit and that the amount of the bond be determined by the permit board after consultation with the state geologist.

Section 53–9–31(2) was revised by adding ''letters of credit'' to the types of bond allowed in lieu of a surety bond. The banks which issue the alternative types of bond must be insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation or a similar federal banking or savings and loan insurance organization.

9. *Section 53–9–33, Requisites for Approval of Application for Permit—Schedule of Notices of Violation—Permit to Mine on Prime Farmland.*

Section 53–9–33 is amended to authorize the permit board to issue, deny, or modify a permit based upon a complete application and to specify general requirements for issuance or modification of a permit, including public notification and opportunity for public hearing. The applicant for a permit or modification of a permit shall have the burden of establishing that the application is in compliance with the requirements of the Mississippi program.

New subsection 53–9–33(4) specifies that no transfer, assignment or sale of the rights granted under any permit shall be made without approval of the permit board.

New subsection 53–9–33(5) requires the permit board to review outstanding permits and allows the permit board to require reasonable modification of the permit provisions during the term of the permit.

10. *Section 53–9–35, Permit Revisions.* This section was revised by specifying that a decision by the executive director to grant or deny a revision of a permit shall be subject to formal hearing and appeal. Existing subsections (2) and (3) were removed and the substantive provisions added to § 53–9–33.

11. *Section 53–9–37, Advertisement of Land Ownership—Public Comment on Intention to Mine or Objections to Application for Permit—Informal Conferences—Authority of Administrator to Conduct Hearings.* Several modifications were made to this section regarding the notification and publication requirements for a permit application and requirements for public hearings, including the following:

At the time of submission, the applicant shall place the notice of land ownership and location in a local and regional newspaper of general circulation in the county in which the proposed mine is to be located. If no local newspaper of general circulation in the county is published, notice shall be published in a regional newspaper and in a newspaper of general statewide circulation published in Jackson, Mississippi.

The failure of any person to submit comments within the time established by the commission shall not preclude action by the commission.

Any interested party may request a public hearing within 45 days after the last publication of the newspaper notice. The permit board shall hold a public hearing in the county of the proposed surface coal mining and reclamation operations within 90 days after receipt of the first request for a public hearing. The public hearing shall be advertised once a week for four consecutive weeks with the last notice being published at least 30 days before the scheduled public hearing date. Any person requesting transcription of the hearing record shall bear the costs of the transcription. Upon request by an interested party who requested a public hearing, the permit board shall arrange reasonable access to the area of the proposed operation for the purpose of gathering information relevant to the proceeding. Access may not be provided before the public hearing if requested in less than one week of the hearing.

The permit board shall act upon a complete permit application within 60 days after the date of the public hearing. If no public hearing is requested or required, the permit board shall act within 60 days after the last publication of the applicant's newspaper notice. The time frames may be extended if agreed in writing by the department and the applicant.

12. *Section 53–9–39, Disposition of Application for Permit—Manner of Notifying Interested Parties—Hearing Before Permit Board and Notification of Decision—Temporary Relief—Right to Judicial Appeal.* Several modifications were made to this section regarding notification of the action taken by the permit board on a permit application, administrative review of the action, and appeal of the final action, including the following:

Within 14 days after issuing or denying a permit or granting or denying a modification to an existing permit, the permit board shall notify by mail the applicant, the mayor of each municipality and the president of the board of supervisors of each county in which the permit area is located, persons who submitted written comments, and persons who requested the public hearing. The notification shall include a description of the permit area and a summary of the mining and reclamation plan. If the permit board denies the permit, it shall provide the applicant in writing specific reasons for the denial.

Within 45 days after the action of the permit board, the applicant or any other interested party may request a formal hearing. If the permit board fails to take action within the time allowed under § 53–9–37, any interested party may request a formal hearing on that failure to act. Any formal hearing shall be conducted within 60 days after receipt of the first request for a formal hearing. At the conclusion of the formal hearing or within 30 days after the formal hearing, the permit board shall enter in its minutes a final decision affirming, modifying and reversing its prior decision to issue or deny the permit. The permit board shall mail within seven days after its final decision a notice of that decision to the applicant and all persons who participated as a party in the formal hearing. The deadlines may be extended by written agreement of the parties.

13. *Section 53–9–41, Coal Exploration Permit.* This section was modified by deleting language regarding confidential information. The language on confidential information was added to § 53–9–43.

14. *Section 53–9–43, Confidentiality of Information.* This section was modified by removing the existing language regarding issued permits meeting all applicable performance standards and by adding language on the confidentiality of information. The deleted language was added to § 53–9–45. Section 53–9–43 now authorizes the commission to determine confidentiality claims and to provide penalties for unauthorized disclosure of confidential information. The applicant must submit a written confidentiality claim to the commission before the submission of the information. The commission shall promulgate rules and regulations consistent with the Mississippi Public Records Act regarding access to confidential information. A person convicted of making unauthorized disclosures shall be fined $1,000 and dismissed from public office or employment.

15. *Section 53–9–45, Promulgation of Regulations and Performance Standards Relating to Surface Mining—Variances.* This section was modified to require surface coal mining and reclamation permits to meet general environmental protection performance standards by adding the language from existing § 53–9–43.

It was also amended to make various clarifying language revisions to the existing provisions concerning the general environmental protection performance standards that the commission shall promulgate by regulations, including the following:

At § 53–9–45(2)(c), the regulations shall assure restoration of the approximate original contour of the land with all highwalls, spoil piles and depressions eliminated, unless an exception is provided under § 53–9–45.

At § 53–9–45(2)(g), the operator may elect to impound water to provide lakes or ponds for wildlife, recreational or water supply purposes if it is a part of the approved mining and reclamation plan and if those impoundments are constructed in accordance with applicable Federal and state laws and regulations.

At § 53–9–45(2)(h), the regulations shall govern the proper conduct of augering operations or prohibit those operations under certain circumstances.

At § 53–9–45(4)(b)(ii), additional criteria was added for a variance from the requirement to restore to approximate original contour and to reclaim the land to an industrial, commercial, residential or public use. Notification must be made to appropriate Federal, state, and local governmental agencies providing an opportunity to comment on the proposed use; the proposed postmining land use must be compatible with adjacent land uses and state and local and land use planning; and the proposed postmining land use must be economically practical.

16. *Section 53–9–47, Promulgation of Regulations Relating to Surface Effects of Underground Coal Mining.* This section was amended to make various clarifying language revisions to the existing provisions concerning the surface effects of underground coal mining operations that the commission may promulgate by regulations, including the following:

At § 53–9–47(1), the commission is now given the option of promulgating regulations regarding the surface effects of underground coal mining operations.

Section 53–9–47(2)(d) was revised by clarifying the contents of the waste piles that must be stabilized. The operator must stabilize all waste piles containing mine wastes, tailings, coal processing wastes, and other wastes in areas other than the mine workings or excavations.

17. *Section 53–9–53, Mine Entrance Sign.* This section was revised by adding additional information that the mine entrance sign must contain. The signs must also state that questions and complaints regarding the operation may be directed to the department and it must show the department's telephone number.

18. *Section 53–9–55, Civil Penalties.* This section was amended to add new provisions and make various clarifying language revisions to the existing provisions concerning administrative enforcement and assessment of civil penalties, including the following:

Section 53–9–55(1)(a) authorizes the commission to issue a written compliant for violations of the Mississippi program. It specifies the content of the written complaint and requires the alleged violator to appear before the commission not less than 20 days from the date of the mailing or service of the complaint. Section 53–9–55(1)(b) requires the commission to offer an opportunity for a formal hearing, and allows the commission to assess penalties. Section 53–9–55(1)(c) specifies the requirements for proof of service for notices or other instruments issued by or under authority of the commission.

Section 53–9–55(2) authorizes the commission, after notice and opportunity for a formal hearing, to assess a civil penalty not to exceed $25,000 per violation. If a cessation order is issued under Section 53–9–69, the commission shall assess a civil penalty.

Section 53–9–55(3) is revised to allow the commission to promulgate regulations regarding a waiver from the requirement to post a penalty payment bond upon a showing by the operator of an inability to post the bond.

Section 53–9–55(5) is revised to also allow civil penalties to be recovered in a civil action in the chancery or circuit court of any county in which the surface coal mining and reclamation operation exists or in which the defendant may be found.

New § 53–9–55(6) specifies that ''provisions of this section and chapter regarding liability for the costs of clean-up, removal, remediation or abatement of any pollution, hazardous waste or solid waste shall be limited as provided in § 49–17–42 and rules promulgated under that section.''

19. *Section 53–9–57, Criminal Penalties.* This section was revised to provide criminal penalties for making false statements, representations, and certifications.

20. *Section 53–9–65, Bond Release and Bond Forfeiture.* Section 53–9–65 was revised to authorize the permit board to release performance bonds, to clarify the existing public hearing provisions, to provide for administrative review and appeal of decisions of the permit board, and to establish a procedure for bond forfeiture.

21. *Section 53–9–67, Civil Action.* Existing § 53–9–67(b), regarding a civil action by a person who is injured in his person or property through a violation by an operator, was removed. New § 53–9–67(6) specifies that ''provisions of this section and chapter regarding liability for the costs of clean-up, removal, remediation or abatement of any pollution, hazardous waste or solid waste shall be limited as provided in § 49–17–42 and rules promulgated under that section.''

22. *Section 53–9–69, Inspection—Cessation Order—Suspension or Revocation of Permit—Hearing.* This section was amended to revise existing procedures for inspections; issuance of enforcement orders of the Commission on Environmental Quality, Executive Director or the Executive Director's authorized representative; suspension and revocation of permits by the permit board; formal hearings regarding enforcement and suspension and revocation of permits; and civil actions to enforce orders.

23. *Section 53–9–71, Designation of Lands as Unsuitable for Surface Coal Mining Operations.* Section 53–9–71 was amended to modify the procedures for petitioning to designate lands unsuitable for surface coal mining and reclamation and to revise the provisions for public hearings and formal hearings.

24. *Section 53–9–77, Formal Hearings.* This section was amended to provide for administrative review and appeal of decisions of the permit board and commission and to provide for the powers of the permit board and the commission in conducting hearings.

25. *Section 53–9–81, Exceptions.* The existing provision at § 53–9–81(c), concerning the extraction of coal incidental to the extraction of other materials, was removed.

26. *Section 53–9–89, Deposit of Funds.* Section 53–9–89 was amended to create the ''Surface Coal Mining and Reclamation Fund''; to create the ''Surface Coal Mining Program Operations Account'' and the ''Surface Coal Mining Reclamation Account within the fund; to provide for use of the accounts; and to require certain funds to be deposited into the fund. Monies in the ''Surface Coal Mining Program Operations Account'' are to be used to pay the reasonable direct and indirect costs of administering and enforcing the Mississippi program. Monies in the ''Surface Coal Mining Reclamation Account'' are to be used to pay for the reclamation of lands for which bonds or other collateral were forfeited. The ''Surface Coal Mining Program Operations Account'' may receive monies from any available public or private source. The ''Surface Coal Mining Reclamation Account'' may receive monies from fines, penalties, the proceeds from the forfeiture of bonds or other collateral and interest.

*D. Statues Added to the Mississippi Code of 1972*

1. *Section 53–9–26, Small Operator Assistance Program.* This new section authorizes the Mississippi Department of Environmental Quality to provide assistance to small operators of surface coal mines.

2. *Section 53–9–28, Permit Fees.* This new section requires permit fees for surface coal mining and reclamation permits and authorizes the Mississippi Commission on Environmental Quality to set those fees.

3. *Section 53–9–32, Application Summary.* This new section requires the State Geologist (head of the Office of Geology and Energy Resources) to prepare a plain language summary of the proposed surface coal mining and reclamation operation based on a complete application. The summary shall be made available to the public.

## III. Public Comment Procedures

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

*Written Comments*

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under ''DATES'' or at locations other than the Birmingham Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

*Public Hearing*

Persons wishing to speak at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., c.d.t. on August 14, 1997. The location and time of the hearing will be arranged with those persons requesting the hearing. Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT**. If no one requests an opportunity to speak at the public hearing, the hearing will not be held.

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

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

*Public Meeting*

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

## IV. Procedural Determinations

*Executive Order 12866*

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

*Executive Order 12988*

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulartory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

*National Environmental Policy Act*

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

*Paperwork Reduction Act*

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

*Regulatory Flexibility Act*

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

*Unfunded Mandates*

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

**List of Subjects in 30 CFR Part 924**

Intergovernmental relations, Surface mining, Underground mining.

Dated: July 21, 1997.

**Brent Wahlquist,**

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

[FR Doc. 97–19962 Filed 7–29–97; 8:45 am]

**BILLING CODE 4310–05–M**

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## DEPARTMENT OF THE TREASURY

### 31 CFR Part 103

**RIN 1506–AA09, 1506–AA20**

### Financial Crimes Enforcement Network; Bank Secrecy Act Regulations; Money Services Businesses—Stored Value Products and Issuers, Sellers, and Redeemers of Money Orders or Traveler's Checks; Open Working Meetings

**AGENCY:** Financial Crimes Enforcement Network, Treasury.

**ACTION:** Meetings on proposed regulations.

**SUMMARY:** The Financial Crimes Enforcement Network (''FinCEN'') will hold two working meetings to give interested persons the opportunity to discuss with FinCEN officials issues arising under the proposed Bank

Secrecy Act regulations for money services businesses published on May 21, 1997. These meetings, which along with two earlier meetings, were first announced in the **Federal Register** on July 8, 1997, will specifically deal with stored value products and with issuers, sellers, and redeemers of money orders or traveler's checks, respectively. The date of the last of these meetings has been changed, from August 11, 1997 to August 15, 1997.

**DATES:** 1. Stored value products—August 1, 1997, 9:30 a.m. to 3:00 p.m., San Jose, California.

2. Issuers, sellers, and redeemers of money orders or traveler's checks—August 15, 1997, 9:30 a.m. to 3:00 p.m., Chicago, Illinois.

**ADDRESSES:** 1. Stored value products—The Fairmont Hotel, Regency Ballroom I, 170 South Market Street, San Jose, California 95113.

2. Issuers, sellers, and redeemers of money orders or traveler's checks—Chicago Marriott Downtown Hotel, (room to be determined), 540 North Michigan Avenue, Chicago, Illinois 60611.

**FOR FURTHER INFORMATION CONTACT:**

*Legal or Technical:* Eileen Dolan, Legal Assistant, Office of Legal Counsel, FinCEN, at (703) 905–3590 or Charles Klingman, Financial Institutions Policy Specialist, FinCEN, at (703) 905–3602.

*Attendance:* Camille Steele, at (703) 905–3819, or Karen Robb, at (703) 905–3770.

*General:* FinCEN's Information telephone line, at (703) 905–3848, or www.ustreas.gov/treasury/bureaus/fincen (''What's New'' section).

**SUPPLEMENTARY INFORMATION:** On May 21, 1997, FinCEN issued three proposed regulations relating to the treatment of money services businesses under the Bank Secrecy Act. The first proposed regulation (62 FR 27890) would define money services businesses and require the businesses to register with the Department of the Treasury and to maintain a current list of their agents. The second proposed regulation (62 FR 27900) would require money transmitters, and issuers, sellers, and redeemers, of money orders and traveler's checks, to report suspicious transactions involving at least $500 in funds or other assets. The third proposed regulation (62 FR 27909) would require money transmitters and their agents to report and retain records of transactions in currency or monetary instruments of at least $750 in connection with the transmission or other transfer of funds to any person outside the United States, and to verify the identity of senders of such transmissions or transfers.

On July 8, 1997 (62 FR 36475), FinCEN announced that it would hold four working meetings to give interested persons the opportunity to discuss with FinCEN officials issues arising under the proposed regulations. At that time, only the specific time and address of the first meeting, scheduled for July 22, 1997, dealing specifically with the definition and registration of money services businesses, had been determined. FinCEN announced the second meeting's time and address on July 18, 1997 (62 FR 38511).

FinCEN is announcing today the times and addresses of the third and fourth meetings. The third meeting is being held August 1, 1997, to discuss issues arising under the proposed regulations as they relate to stored value products. The fourth meeting, which was originally planned for August 11, 1997, will now be held August 15, 1997. That meeting is being held to discuss issues arising under the regulations as they relate to issuers, sellers, and redeemers of money orders or traveler's checks.

These meetings are not intended as a substitute for FinCEN's request for written comments in the notice of proposed rulemaking published May 21, 1997. Rather, the meetings are intended to help make the comment process as productive as possible by providing a forum between the industry and FinCEN concerning the issues arising under the proposed regulations. The meetings will be open to the public and will be recorded. A transcript of the meetings will be available for public inspection and copying; prepared statements will be accepted for inclusion in the record. Accordingly, oral or written material not intended to be disclosed to the public should not be raised at the meetings.

In the interest of providing as broad and convenient an opportunity as possible for persons to discuss these regulatory measures, FinCEN will provide time (at approximately midafternoon) during these meetings to discuss issues relating to any of the three proposed regulations published May 21, 1997. Thus, persons wishing to discuss aspects of the regulations other than those for which a particular meeting is called should feel free to participate in one or more of the meetings.

Persons wishing to attend or to participate in either of these meetings should inform either Camille Steele or Karen Robb as listed under the **FOR FURTHER INFORMATION CONTACT** section.

Dated: July 24, 1997.

**Eileen P. Dolan,**

*Federal Register Liaison Officer, Financial Crimes Enforcement Network.*

[FR Doc. 97–19985 Filed 7–29–97; 8:45 am]

**BILLING CODE 4820–03–P**

## DEPARTMENT OF THE TREASURY

## 31 CFR Part 103

**RIN 1506–AA09, 1506–AA20, 1506–AA19**

## Financial Crimes Enforcement Network; Bank Secrecy Act Regulations; Money Services Businesses—Definition and Registration; Suspicious Transaction Reporting; Special Currency Transaction Reporting

**AGENCY:** Financial Crimes Enforcement Network, Treasury.

**ACTION:** Proposed regulations; extension of comment period.

**SUMMARY:** The Financial Crimes Enforcement Network (''FinCEN'') is extending the comment period for the three proposed Bank Secrecy Act regulations for money services businesses published on May 21, 1997. FinCEN previously announced that four open working meetings on these proposals are being held. It has also distributed copies of a report on money services businesses prepared for it by Coopers & Lybrand (and referred to in the documents containing the proposed regulations), and draft copies of the forms that will be used to implement the proposed regulations. FinCEN is extending the comment period, in light of the scheduling of the opening meetings and distribution of the relevant additional materials, to ensure that all parties interested in the proposed regulations are given adequate time to submit their written comments.

**DATES:** Written comments on all aspects of the proposals are welcome and must be received on or before September 30, 1997.

**ADDRESSES:** Written comments should be submitted to: Office of Legal Counsel, Financial Crimes Enforcement Network, Department of the Treasury, 2070 Chain Bridge Road, Vienna, VA 22182, *Attention*: (as applicable) NPRM—MSB Registration, NPRM—Suspicious Transaction Reporting—Money Services Businesses, NPRM—Money Transmitters—Special CTR Rule. Comments also may be submitted by electronic mail to the following Internet address: ''regcomments@fincen.treas.gov'' with the appropriate attention line in the body of the text.

**FOR FURTHER INFORMATION CONTACT:** Peter Djinis, Associate Director, and Charles Klingman, Financial Institutions Policy Specialist, FinCEN, at (703) 905–3920; Stephen R. Kroll, Legal Counsel, Joseph M. Myers, Deputy Legal Counsel, Cynthia L. Clark, on detail to the Office of Legal Counsel, Albert R. Zarate, Attorney-Advisor, and Eileen P. Dolan, Legal Assistant, Office of Legal Counsel, FinCEN, at (703) 905–3590.

**SUPPLEMENTARY INFORMATION:** On May 21, 1997, FinCEN issued three proposed regulations relating to the treatment of money services businesses under the Bank Secrecy Act. The first proposed regulation (62 FR 27890) would define money services businesses and require the businesses to register with the Department of the Treasury and to maintain a current list of their agents. The second proposed regulation (62 FR 27900) would require money transmitters, and issuers, sellers, and redeemers, of money orders and traveler's checks, to report suspicious transactions involving at least $500 in funds or other assets. The third proposed regulation (62 FR 27909) would require money transmitters and their agents to report and retain records of transactions in currency or monetary instruments of at least $750 in connection with the transmission or other transfer of funds to any person outside the United States, and to verify the identity of senders of such transmissions or transfers.

FinCEN is announcing today the extension of the comment period, from August 19, 1997 to September 30, 1997, for all three of these proposed regulations. FinCEN wishes to give all persons interested in commenting on the regulations adequate time to do so.

On July 8, 1997 (62 FR 36475), July 18, 1997 (62 FR 38511), and elsewhere in today's **Federal Register**, FinCEN announced that it would hold four open working meetings to give interested persons the opportunity to discuss with FinCEN officials issues arising under the proposed regulations. The last of these meetings is scheduled for August 15, 1997, four days before the original date of the expiration of the comment period.

In addition, FinCEN has distributed, and will soon make available on its website, (i) copies of a report on money services businesses prepared for it by Coopers & Lybrand (and referred to in the documents containing the proposed regulations), and (ii) draft copies of the forms that will be used to implement the proposed regulations. The address of FinCEN's website is ''http://www.ustreas.gov/treasury/ bureaus/ fincen''.

FinCEN believes that the extension will, *inter alia,* provide adequate time for the results of the open meetings and review of the additional relevant material that it is distributing, to be reflected in the written comments on the three proposed regulations.

Dated: July 24, 1997.

**Eileen P. Dolan,**

*Federal Register Liaison Officer, Financial Crimes Enforcement Network.*

[FR Doc. 97–19986 Filed 7–29–97; 8:45 am]

**BILLING CODE 4820–03–P**

## LIBRARY OF CONGRESS

## Copyright Office

## 37 CFR Part 201

**[Docket No. 97–5]**

## Copyright Restoration of Works in Accordance With the Uruguay Round Agreements Act; Corrections Procedure

**AGENCY:** Copyright Office, Library of Congress.

**ACTION:** Proposed rule.

**SUMMARY:** This document is issued to advise the public that the Copyright Office is proposing a new regulation to govern the filing of Correction Notices of Intent to Enforce a Restored Copyright [Correction NIEs] under section 104A of the copyright law, as amended pursuant to the Uruguay Round Agreements Act. The effect of the proposed regulation is to establish procedures for the correction of errors in previously filed Notices of Intent to Enforce a Restored Copyright and to provide a suggested format for submitting such information.

**DATES:** Comments must be received by August 29, 1997.

**ADDRESS:** If delivered by hand, an original and ten (10) copies of comments should be delivered to: Library of Congress, Office of the General Counsel, Copyright Office, James Madison Memorial Building, Room LM–403, First and Independence Avenue, SE, Washington, DC 20540. If sent by mail, an original and ten (10) copies of comments should be addressed to: Nanette Petruzzelli, Acting General Counsel, Copyright GC/ I&R, PO Box 70400, Southwest Station, Washington, DC 20024.

**FOR FURTHER INFORMATION CONTACT:** Nanette Petruzzelli, Acting General Counsel, or Charlotte Douglass, Principal Legal Advisor to the General Counsel, Copyright GC/I&R, PO Box 70400, Southwest Station, Washington, DC 20024. Telephone: (202) 707–8380. Telefax: (202) 707–8366.

**SUPPLEMENTARY INFORMATION:**

### I. Background

The Copyright Office has promulgated final regulations that provide for filing Notices of Intent to Enforce a Restored Copyright (NIEs) with the Office. 60 FR 50414 (Sept. 29, 1995). These regulations include brief procedures for correcting errors made in recorded NIEs; however, more detailed instructions for correcting NIEs have been requested. The Office is now proposing more detailed procedures.

Corrections are provided for by law and by Copyright Office regulation. The Uruguay Round Agreements Act (URAA) states that:

> Minor errors or omissions may be corrected by further notice at any time after the notice of intent is filed. Notices of corrections for such minor errors or omissions shall be accepted after the period established in subsection (d)(2)(A)(i) * * * [and] shall be published in the **Federal Register** * * * .

17 U.S.C. 104A(e)(1)(A)(iii). In its Sept. 29, 1995, regulation, the Copyright Office referenced this provision in the law that allows correction of minor errors:

> The URAA allows a party who has filed an NIE with the Copyright Office to correct minor errors or omissions by further notice at any time after the NIE is filed. The procedures and fees are the same for filing an NIE which corrects a previously filed NIE, except that the party making the correction should refer to the previous NIE's volume and page number in the Copyright Office Documents Records, if known, on the corrected NIE.

60 FR 50414 (1995).

### II. Procedures for Correcting Notices of Intent To Enforce

*A. Who May File a Correction Notice of Intent To Enforce (Correction NIE)*

Correction NIEs may be filed by or on behalf of the same copyright owner or rightholder who filed the original NIE. The ''same copyright owner'' includes successors in interest.

A certification by a third party is not sufficient to authorize a correction of an earlier NIE recorded in the name of another party/copyright owner, unless that third party is also the authorized agent of the copyright owner in whose name the original NIE was recorded. An authorized agent may file a Correction NIE whether or not that agent filed the original NIE.

*B. Definition of Major and Minor Error*

The Copyright Office has received a number of questions about the appropriate procedure to correct NIE errors—some of which errors may be deemed as major. In responding to these inquiries, the Office had to consider the proper timeframe for making corrections to NIEs and concludes that major errors, not defined or referenced within the statutory provisions, may be corrected only within the two-year period of eligibility for initially filing NIEs. Minor errors may be corrected at any time under the URAA provisions. (17 U.S.C. 104A(e), as amended.)

The Office has determined that major errors are errors concerning the following NIE statutory requirements: The name of the copyright owner or rightholder; the title of the work (as opposed to its translation, if any); and a written agency relationship, if applicable. The Office considers these items of information to be basic identifiers crucial to the effectiveness of adequately informing the public of the existence of a particular work which is subject to a Notice of Intent to Enforce. The title of a work and the identity of the rights owner in the work, including information regarding an agent of the rights owner, must be present in the Copyright Office NIE records in order for the NIE filer to meet the requirements of the statute and to allow the public through a reasonable search to locate the essential information within Office NIE records about a given work restored to copyright under the URAA. Where the original NIE did not adequately identify the owner of the restored work or the title of the restored work or an agency relationship, the Office will refuse to record a Correction NIE that is submitted after the two-year period following a work's restoration to copyright protection.

Adequate identification of a restored work means that accurate and sufficient information concerning the three statutorily required items of owner identity, title, and agency relationship, if any, is present in the original NIE. The necessary accuracy and sufficiency of information for the original NIE includes, but is not limited to, completeness of the information, accurate spelling of names and titles, and correct sequencing of wording within names and titles so that a reasonable search of the NIE records will reveal the work in question. The following are examples where original NIEs contain information which would not result in a reasonable search revealing the actual, correct title or owner identity for the restored work:

Title in original NIE: Robert Meets the Green Rabbit Again
Title in Correction NIE: Here We Go Again-The Green Rabbit and Robert
Title in original NIE: Now Are the Times That Try Men's Souls
Title in Correction NIE: Trying Times for Mankind
Owner in original NIE: Kathy and Lori Film Production, Inc.
Owner in Correction NIE: Kathy Lorenzo and Lori Lorenzo

Where the two-year period has expired and where there is doubt as to whether an error is major or minor, i.e., whether the error is such that it would fail to inform the public doing a reasonable search of the Copyright Office records of the existence of a work that is subject to a Notice of Intent to Enforce, the Office will correspond with the filer concerning the doubt and, if appropriate, may resolve the doubt in favor of the filer and record the Correction NIE .

Because the regulations of the Copyright Office allow the recordation of any document pertaining to a copyright, in instances where the Office refuses the recordation of a Correction NIE because the two-year period of eligibility for initial filing of an NIE has passed, a party may record any document including one concerning rights restored under the URAA for a given work but may not designate the document on its face to be a Notice of Intent to Enforce or a Correction Notice of Intent to Enforce. See 37 CFR 201.4 for Copyright Office regulations on recordation of transfers and other documents. All documents, including NIEs and Correction NIEs, submitted for recordation with the Office are found within the same bibliographic database and a reasonable search by title or owner should reveal all recordations filed with the Offices concerning the same title or owner identity.

*C. Multiple NIEs for the Same Work and Correction Cross-References*

When rights in a restored work are owned by several different parties, multiple NIEs for the same work may have been submitted. For example, one person may own the exclusive right of reproduction and public distribution and another the exclusive right of public performance. When a work has multiple rights owners, each owner must file a separate NIE subject to the requirements for initial filing within two years of eligibility. In the instance of multiple owners of rights in a single work, if a party is acting on behalf of an earlier owner of record in an NIE and purporting to correct that earlier NIE, the Office points out that only the NIE record in the name of that particular earlier owner will be cross-referenced. Nevertheless, all NIE records for a given title will be easily retrievable as a group; if the works as recorded bear the same title, the NIE records would appear together in any title search of online records.

*D. Cancellations and Withdrawals*

The Office will not cancel a recordation of an NIE unless the recordation fee is uncollectible. While the recordation of NIEs may not, with the exception of an uncollectible fee, be canceled (i.e., expunged from the record), a request to record an NIE may be withdrawn if the request to withdraw is received before the record of the NIE has been made available to the public through the Internet. In order to withdraw an NIE, the filer must contact the Documents Unit of the Copyright Office before the online record (Copyright Office Publication and Interactive Cataloging System (COPICS)) has been made publicly available.

*E. Fees*

The fee for a correction is the same as that for an initial NIE: for one work, the fee is thirty U.S. Dollars; for multiple works that meet the conditions for being filed on the same NIE, the fee is thirty U.S. Dollars for the first work, plus one dollar for each additional work. For NIE filings, including corrections, *see* 37 CFR 201.33(e) for fee information.

The filing fee partially reimburses the Office for its processing costs and the Office does not refund fees for errors made by filers in NIEs.

*F. Designation for a Correction Notice of Intent To Enforce*

A Correction NIE must be clearly indicated as such, i.e., the document filed should bear the title ''Correction Notice of Intent To Enforce,'' or ''Correction NIE.'' It must also specify the volume and document number for the recordation of the original NIE. This will enable the Office to record the correction with the appropriate cross-reference to the volume and document number of the original NIE.

*G. Format Information for Correction NIEs*

The suggested format for filing Correction NIEs generally follows the outline of the suggested format for the original filing. This is included as Appendix A below.

The format will be made available over the Internet from where it can be downloaded for use. Where a party wishes to correct in the same filing NIEs for many titles, he or she can adapt the suggested format to allow more space

for titles. Use of the format enables the filer to furnish information prescribed by the original NIE regulation in orderly form.

When information [either required or optional] has been correctly given on the original NIE, the Correction NIE need not repeat that information. Filers should include information in the Correction NIE, however, that was omitted from the previous NIE and which will help identify the restored work(s) involved.

Correction NIEs must be in English, except for the original title, and either typed or printed by hand legibly in dark, preferably black, ink. They should be on 8½″ by 11″ white paper of good quality, with at least a 1″ (or 3 cm) margin.

**List of Subjects in 37 CFR Part 201**

Copyright, Restoration of copyright.

**Proposed Regulation**

In consideration of the foregoing, the Copyright Office proposes to amend 37 CFR part 201 in the manner set forth below:

## PART 201—GENERAL PROVISIONS

1. The authority citation for part 201 is revised to read as follows:

**Authority:** 17 U.S.C. 702.

2. A new section 201.34 is added to read as follows:

### § 201.34 Procedures for filing Correction Notices of Intent to Enforce a Copyright Restored under the Uruguay Round Agreements Act.

(a) *General.* This section prescribes the procedures for submission of corrections of Notices of Intent to Enforce a Copyright Restored under the Uruguay Round Agreements Act of December 8, 1994, as required by 17 U.S.C. 104A(e), as amended by Public Law 103–465, 108 Stat. 4809, 4976 (1994).

(b) *Definitions.* For purposes of this section, the following definitions apply.

(1) *Major error.* A major error in filing a Notice of Intent to Enforce a Copyright Restored under the Uruguay Round Agreements Act is an error in the name of the copyright owner or rightholder, in the title of the work (as opposed to its translation, if any) or concerning the written agency relationship where such error fails to adequately identify the restored work through a reasonable search of the Copyright Office NIE records.

(2) *Minor error.* A minor error in filing a Notice of Intent to Enforce a Copyright Restored under the Uruguay Round Agreements Act is any error that is not a major error.

(3) *Restored work.* For the definition of works restored under the URAA, *see* 37 CFR 201.33.

(c) *Forms.* The Copyright Office does not provide forms for Correction Notices of Intent to Enforce filed with the Copyright Office. It requests that filers of such Correction NIEs follow the format set out in Appendix A of this section and give all information listed in paragraph (d) of this section. Correction NIEs must be in English, and should be typed or legibly printed by hand in dark, preferably black ink, on 8 ½″ by 11″ white paper of good quality with at least a 1″ (or three cm) margin.

(d) *Requirements for Correction Notice of Intent to Enforce a Copyright Restored under the Uruguay Round Agreements Act.* (1) A correction for a Notice of Intent to Enforce should be clearly designated as a ''Correction Notice of Intent to Enforce'' or ''Correction NIE.''

(2) Correction Notices of Intent to Enforce should be sent to the following address: URAA/GATT, NIEs and Registrations, PO Box 70400, Southwest Station, Washington, DC 20024, USA.

(3) A Correction NIE shall contain the following information:

(i) The volume and document number of the previous Notice of Intent to Enforce [NIE] which is to be corrected;

(ii) The title of the work as it appears on the previous NIE, including alternative titles, if they appear;

(iii) The English translation of the title, if any, as it appears on the previous NIE;

(iv) A statement of the erroneous information as it appears on the previous NIE;

(v) A statement of the correct information as it should have appeared and an optional explanation of its correction; or

(vi) A statement of the information to be added. This includes optional information such as:

(A) Type of work;

(B) Rights owned by the party on whose behalf the Correction Notice is filed;

(C) Name of author;

(D) Source country;

(E) Year of publication;

(F) Alternative titles;

(G) An optional explanation of the added information.

(vii) The name and address:

(A) To which correspondence concerning the document should be sent; and

(B) To which the acknowledgment of the recordation of the Correction NIE should be mailed; and

(viii) A certification. The certification shall consist of:

(A) A statement that, for each of the works named above, the person signing the Correction NIE is the copyright owner, or the owner of an exclusive right, or the owner's authorized agent, and that the information is correct to the best of that person's knowledge;

(B) The typed or printed name of the person whose signature appears;

(C) The signature and date of signature; and

(D) The telephone and telefax number at which owner, rightholder, or agent thereof can be reached.

(4) A Correction NIE may cover multiple works in multiple NIE documents for one fee provided that: each work is identified by title; all the works are by the same author; all the works are owned by the same copyright owner or owner of an exclusive right. In the case of Correction NIEs, the notice must separately designate each title to be corrected, noting the incorrect information as it appeared on the previously filed NIE, as well as the corrected information. A single notice covering multiple titles need bear only a single certification.

(5) Copies, phonorecords or supporting documents cannot be made part of the record of a Correction NIE and should not be submitted with the document.

(6) Time for Submitting Correction NIEs.

(i) Major errors. The Copyright Office will accept a Correction NIE for a major error concerning a restored work during the 24-month period beginning on the date of restoration of the work, as provided for original NIEs in Section 104A(d)(2)(A) of title 17.

(ii) Minor errors. The Office will accept a Correction NIE for a minor error or omission concerning a restored work at any time after the original NIE has been filed, as provided in Section 104A(e)(1)(A)(iii) of title 17.

(e) *Fee*—(1) *Amount.* The filing fee for recording Correction NIEs is 30 U.S. dollars for each Correction Notice covering one work. For single Correction NIEs covering multiple works, that is, for works by the same author and owned by the same copyright owner or owner of an exclusive right, the fee is 30 U.S. dollars, plus one dollar for each additional work covered beyond the first designated work.

(2) *Method of Payment. See* 37 CFR 201.33(e)(1)(2).

(f) *Public online access.* Information contained in the Correction Notice of Intent to Enforce is available online in the Copyright Office History Documents (COHD) file through the Library of Congress electronic information system,

available through the Internet. This file is available from computer terminals located in the Copyright Office itself or from terminals located in other parts of the Library of Congress through the Library of Congress Information System (LOCIS). Alternative ways to connect through Internet are the World Wide Web (WWW), using the Copyright Office Home Page at: http:/www.loc.gov/copyright; directly to LOCIS through the telnet address at locis.loc.gov; or the Library of Congress through gopher LC MARVEL and WWW which are available 24 hours a day. LOCIS is available 24 hours a day, Monday through Friday. For the purpose of researching the full Office record of Correction NIEs on the Internet, the Office has made online searching instructions accessible through the Copyright Office Home Page. Researchers can access them through the Library of Congress Home Page on the World Wide Web by selecting the copyright link. Select the menu item ''Copyright Office Records'' and/or ''URAA, GATT Amends U.S. law.'' Images of the complete Correction NIEs as filed will be stored on optical disk and will be available from the Copyright Office.

**Appendix A to § 201.34—Correction Notice of Intent to Enforce**

**CORRECTION OF NOTICE OF INTENT TO ENFORCE**

1. Name of Copyright Owner (or owner of exclusive right) [If this correction notice is to cover multiple works, the author and the rights owner must be the same for all works covered by the notice]

_____

2. Title(s) (or brief description)
   (a) Work No. 1— _____
   Volume and Document Number:
   _____
   English Translation: _____
   (b) Work No. 2 (if applicable)—
   _____
   Volume and Document Number:
   _____
   English Translation: _____
   (c) Work No. 3 (if applicable)—
   _____
   Volume and Document Number:
   _____
   English Translation: _____
   (d) Work No. 4 (if applicable)—
   _____
   Volume and Document Number:
   _____
   English Translation: _____
3. Statement of incorrect information on earlier NIE: _____
4. Statement of correct (or previously omitted) information
   _____
   Give the following only if incorrect or omitted on earlier NIE:
   (a) Type of work _____
   (b) Rights owned _____
   (c) Name of author (of entire work)
   _____
   (d) Source Country _____
   (e) Year of Publication (Approximate if precise year is unknown)
   _____
   (f) Alternative titles _____
5. Explanation of error _____
6. Certification and Signature: I hereby certify that for each of the work(s) listed above, I am the copyright owner, or the owner of an exclusive right, or the owner's authorized agent, the agency relationship having been constituted in a writing signed by the owner before the filing of this notice, and that the information given herein is true and correct to the best of my knowledge.

Name and Address (typed or printed): _____
Telephone/Fax: _____
As agent for: _____
Date and Signature: _____

Dated: July 22, 1997.

**Marybeth Peters,**

*Register of Copyrights.*

[FR Doc. 97–19903 Filed 7–29–97; 8:45 am]

BILLING CODE 1410–30–P

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[TN–171–01–9764b; FRL–5864–1]**

## Approval and Promulgation of Air Quality Implementation Plans, Tennessee; Approval of Revisions to the Tennessee SIP Regarding Emission Standards and Monitoring Requirements for Additional Control Areas

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

**ACTION:** Proposed rule.

**SUMMARY:** The EPA proposes to approve revisions to the Tennessee State Implementation Plan (SIP) regarding emission standards and monitoring requirements for additional control areas. In the final rules section of this **Federal Register**, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

**DATES:** To be considered, comments must be received by August 29, 1997.

**ADDRESSES:** Written comments on this action should be addressed to Karen Borel, at the EPA Regional Office listed below. Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303.

Tennessee Department of Environment and Conservation, Division of Air Pollution Control, 9th Floor L & C Annex, 401 Church Street, Nashville, Tennessee 37243–1531.

**FOR FURTHER INFORMATION CONTACT:** Interested persons wanting to examine documents relative to this action should make an appointment with the Region 4 Air Programs Branch at least 24 hours before the visiting day. To schedule the appointment or to request additional information, contact Karen Borel, Regulatory Planning and Development Section, Air Planning Branch, Air, Pesticides & Toxics Management Division, Region 4 EPA, 61 Forsyth Street, SW, Atlanta, Georgia 30303. The telephone number is 404/562–9029. Reference file TN171–01–9764.

**SUPPLEMENTARY INFORMATION:** For additional information see the direct final rule which is published in the rules section of this **Federal Register**.

Dated: July 9, 1997

**Michael V. Peyton,**

*Acting Regional Administrator.*

[FR Doc. 97–20057 Filed 7–29–97; 8:45 am]

BILLING CODE 6560–50–P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 300**

**[FRL–5864–3]**

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

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of intent to delete Silver Mountain Mine from the National Priorities List.

**SUMMARY:** The Environmental Protection Agency (EPA) Region 10 announces the intent to delete the Silver Mountain Mine site (''the site'') from the National Priorities List (NPL) and requests public comment on this proposed action. The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, as amended. EPA and the State of Washington Department of Ecology (Ecology) have determined that the remedial action for the site has been successfully executed.

**DATES:** Comments on this site may be submitted to EPA on or before August 29, 1997.

**ADDRESSES:** Comments may be mailed to: Anne D. Dailey, U.S. Environmental Protection Agency, 1200 Sixth Avenue, Mailstop ECL–111, Seattle, WA 98101.

Comprehensive information on this site is available through the Region 10 public docket which is available for viewing by appointment only. Appointments for copies of the background information from the Regional public docket should be directed to the EPA Region 10 docket office at the following address: SUPERFUND Records Center, U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, WA 98101.

The deletion docket is also available for viewing at the following location:

County Clerks Office, Okanogan County Courthouse, 149 N. 3rd, Okanogan, Washington 98840.

**FOR FURTHER INFORMATION CONTACT:** Anne D. Dailey, U.S. Environmental Protection Agency, 1200 Sixth Avenue, Mailstop ECL–111, Seattle, WA 98101, (206) 553–2110 or 1–800–424–4372.

**SUPPLEMENTARY INFORMATION:**

Table of Contents



### I. Introduction

The U.S. Environmental Protection Agency (EPA) Region 10 announces its intent to delete the Silver Mountain Mine site in Okanogan County, Washington, from the National Priorities List (NPL) and requests public comment on this proposed action. The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, as amended. EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as the list of these sites. EPA and the State of Washington Department of Ecology (Ecology) have determined that the remedial action for the site has been successfully executed.

EPA will accept comments on the proposal to delete this site for thirty (30) days after publication of this document in **Federal Register**.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses the procedures EPA is using for this action. Section IV discusses the Silver Mountain Mine site and explains how the site meets the deletion criteria.

### II. NPL Deletion Criteria

Section 300.425(e)(1) of the NCP provides that releases may be deleted from, or recategorized on the NPL where no further response is appropriate. In making a determination to delete a release from the NPL, EPA shall consider, in consultation with the state, whether any of the following criteria have been met:

i. Responsible parties or other parties have implemented all appropriate actions required;

ii. All appropriate response under CERCLA has been implemented, and no further action by responsible parties is appropriate; or

iii. The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, taking remedial measures is not appropriate.

Even if a site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the site above levels that allow for unlimited use and restricted exposure, EPA's policy is that a subsequent review of the site will be conducted at least every five years after the initiation of the remedial action at the site to ensure that the site remains protective of public health and the environment. If new information becomes available which indicates a need for further action, EPA may initiate additional remedial actions. Whenever there is a significant release from a deleted site from the NPL, the site may be restored to the NPL without application of the Hazard Ranking System.

In the case of this site, the selected remedy is protective of human health and the environment. Consistent with the State Superfund Contract, Ecology has agreed to take over operation and maintenance of the site and conduct an annual inspection. EPA has conducted the first five-year review of the final remedy, and will also perform future five-year reviews.

### III. Deletion Procedures

The following procedures were used for the intended deletion of this site: (1) All appropriate response under CERCLA has been implemented and no further action by EPA is appropriate; (2) Ecology has concurred with the proposed deletion decision; (3) a notice has been published in the local newspapers and has been distributed to appropriate federal, state, and local officials and other interested parties announcing the commencement of a 30-day public comment period on EPA's Notice of Intent to Delete; and (4) all relevant documents have been made available in the local site information repositories.

Deletion of the site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. The NPL is designed primarily for informational purposes and to assist Agency management. As mentioned in section II of this notice, § 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions.

For deletion of this site, EPA's Regional Office will accept and evaluate public comments on EPA's Notice of Intent to Delete before making a final decision to delete. If necessary, the Agency will prepare a Responsiveness Summary to address any significant public comments received.

A deletion occurs when the Regional Administrator places a final notice in the **Federal Register**. Generally, the NPL will reflect deletions in the final update following the Notice. Public notices and copies of the Responsiveness Summary will be made available to local residents by the Regional Office.

## IV. Basis of Intended Site Deletion

The following site summary provides the Agency's rationale for the proposal to delete this site from the NPL.

### Site Background and History

Silver Mountain Mine is an abandoned heap-leach mining operation located approximately six air miles northwest of Tonasket, in Okanogan County, Washington. The site consists of five acres of range land on a 358-acre tract of privately owned land. The site was placed on the NPL in 1984 due to concerns about a cyanide-contaminated leachate pond, saturated mine tailings, and the potential for arsenic and cyanide contamination of the regional ground water aquifer.

The risk assessment identified arsenic and cyanide as the primary contaminants of concern. The Remedial Investigation (RI) identified and evaluated three potential sources of contaminants at the site: the heap leach pile, the unprocessed rock, and the mine drainage water. Potential exposure pathways for contaminants were identified as: On-site soils, on-site surface water, on-site ground water in a shallow aquifer, and off-site ground water in the region. During the RI, the highest arsenic levels found were in the mined material (1080 mg/kg) and in the water from a stock water tank (95 ug/l). Both arsenic and cyanide were also found in the perched shallow aquifer just at the edge of the heap leach pile.

The Feasibility Study screened twenty-three various methods of cleaning up the site. From this list, eight alternatives were developed and evaluated against criteria listed in the NCP. Alternatives ranged from capping on-site to treatment and off-site disposal.

### Response Actions

The Record of Decision (ROD) for Silver Mountain Mine was signed on March 27, 1990, and included a number of construction elements to implement the Remedial Action. In October 1994, EPA completed an Explanation of Significant Differences (ESD) to document changes in the Remedial Action due to unforeseen conditions encountered at the site during implementation of the selected remedy. The remedial action at the site ultimately included:

—Consolidating and contouring contaminated mine waste overburden and tailings,
—Covering and capping the site with a soil and clay cap,
—Fencing the site to protect the cap and allow seeded grass cover to develop,
—Closure of the mine entrance and diversion of the mine drainage so that it flows away from the site, and
—Deed restrictions on property to protect the cap.

Construction was completed during 1992 and the deed restrictions were finally obtained in December 1996.

The five-year review inspection occurred on May 27, 1997, and determined that the remedial objectives have been achieved. The constructed remedy is performing as designed and is controlling the risks to human health and the environment as specified in the ROD and ESD. The cap was in excellent shape with no evidence of subsidence, erosion, or animal burrows. The grass cover is well established and provides thorough coverage of the cap; minimal weeds and woody vegetation were growing on the cap. The mine entrance and mine vent were both closed and covered with rocks.

### Cleanup Standards

The remedial action cleanup activities at the Silver Mountain Mine site are consistent with the objectives of the NCP and will provide protection to human health and the environment. The cleanup standards for the heap leach pile and mine dump materials and the surrounding soils are 200 mg/kg for arsenic and 95 mg/kg for total cyanide. According to the data obtained during the construction work, the cyanide in the soils is below detection (0.5 mg/kg), and the concentrations of arsenic that remain in the areas that were cleaned up are less than 100 mg/kg. Risks at the site have been reduced below the Hazard Index of 1.0 or health based levels; and for arsenic, a human carcinogen, the cancer risk factor has been reduced below one in ten thousand.

The major source of contaminants identified in the ROD, the rock material from the mining operations (heap and mine dump), has been addressed. The mine drainage was reevaluated in the Explanation of Significant Differences and it was determined that the mine drainage did not pose an ecological threat. According to the risk assessment and amended risk assessment, the inhalation and ingestion of the contaminated soils were the major routes of exposure. The arsenic-laden waste rock from the mine was contained and capped. The cleanup also reduced the impacts to the ground water by diverting the run-on water away from the capped mine waste and by limiting potential leachate generation.

*Operations and Maintenance*

The site is designed to require very little maintenance. The area is remote and the semi-arid climatic conditions suggest that only minimal maintenance is expected. The mined rock material under the cover is not expected to settle which is often the major cause of cap disturbance. The rainfall is low with an annual average precipitation of 11 inches/year which is primarily as snow and spring rain. It is expected that the Ecology personnel, per the State Superfund Contract, will be able to provide the annual maintenance with a minimal amount of work.

*Five-Year Review*

The Comprehensive Environmental Response, Compensation and Liability Act (CERCLA or Superfund) requires a five-year review of all sites with hazardous substances remaining above the health-based levels for unrestricted use of the site. Since the cleanup of the Silver Mountain Mine site utilized containment of the hazardous materials as the method to reduce the risk, the five-year review process will be used to insure that the cap is still intact and blocking exposure pathways for human health and the environment. As indicated above, EPA has conducted the first five-year review and has determined that the remedy selected for Silver Mountain Mine remains protective of human health and the environment. For future five-year reviews, EPA will review Ecology's annual reports on the operation and maintenance at the site and as needed perform a five-year review inspection.

*Community Involvement*

EPA published its Community Relations Plan in December 1987, after interviews with local residents and officials. An information repository was established at the Okanogan County Courthouse and all of the documents used to make the decision were placed there before the final Record of Decision was signed. All other reports and fact sheets were sent to the repository as they were completed. Those individuals on the mailing list were informed by fact sheet prior to construction activities on-site. No public meetings have been requested thus far.

*Applicable Deletion Criteria*

One of the three criteria for site deletion specifies that EPA may delete a site from the NPL if ''all appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate.'' 40 CFR 300.425(e)(1)(ii). EPA, with the concurrence of Ecology, believes that this criterion for deletion has been met. Subsequently, EPA is proposing deletion of this site from the

NPL. Documents supporting this action are available from the docket.

*State Concurrence*

The Washington Department of Ecology concurs with the proposed deletion of the Silver Mountain Mine Superfund site from the NPL.

Dated: July 17, 1997.

**Charles Findley,**

*Acting Regional Administrator, U.S. EPA Region 10.*

[FR Doc. 97–19940 Filed 7–29–97; 8:45 am]

**BILLING CODE 6560–50–P**

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 226

**[Docket No. 970715175–7175–01; I.D. No. 042997B]**

**RIN 0648–AG58**

## Designated Critical Habitat; Umpqua River Cutthroat Trout

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

**ACTION:** Proposed rule; request for comments; and notice of public hearings.

**SUMMARY:** NMFS proposes to designate critical habitat for the Umpqua River cutthroat trout (*Oncorhynchus clarki clarki*) pursuant to the Endangered Species Act of 1973 (ESA) to include: The Umpqua River from a straight line connecting the west end of the South jetty and the west end of the North jetty and including all Umpqua River estuarine areas (including the Smith River) and tributaries proceeding upstream from the Pacific Ocean to the confluence of the North and South Umpqua Rivers; the North Umpqua River, including all tributaries, from its confluence with the mainstem Umpqua River to Toketee Falls; the South Umpqua River, including all tributaries, from its confluence with the mainstem Umpqua River to its headwaters (including Cow Creek, tributary to the South Umpqua River). Critical habitat includes all waterways below longstanding, natural impassable barriers (i.e., natural water falls in existence for over several hundred years). Such areas represent the current freshwater and estuarine range of the listed species. The economic and other impacts resulting from this proposed critical habitat designation are expected to be minimal.

**DATES:** Comments must be received on or before September 29, 1997. Public hearings on this proposed action are scheduled for the month of August. See **SUPPLEMENTARY INFORMATION** for dates and times of public hearings.

**ADDRESSES:** Comments should be sent to NMFS, Environmental and Technical Services Division, 525 NE Oregon St. Suite 500, Portland, OR 97232–2737. See **SUPPLEMENTARY INFORMATION** for locations of public hearings.

**FOR FURTHER INFORMATION CONTACT:** Garth Griffin, NMFS, Environmental and Technical Services Division, 525 NE Oregon St. Suite 500, Portland, OR 97232–2737, telephone (503/231–2005) or Joe Blum, NMFS, 1335 East-West Highway, Silver Spring, MD 20910, telephone (301/713–2322).

**SUPPLEMENTARY INFORMATION:**

### Background

On August 9, 1996, NMFS published its determination to list Umpqua River cutthroat trout (*Oncorhynchus clarki clarki*) as endangered under the ESA (61 FR 41514). In its final listing determination, NMFS concluded that all cutthroat trout life history forms (i.e., anadromous, potamodromous, and resident) should be included in the listed Umpqua River cutthroat trout Evolutionarily Significant Unit. This conclusion was based on studies conducted by Oregon Department of Fish and Wildlife (ODFW) and others which indicate that these life history forms are not completely reproductively isolated and, therefore, should be considered a single ''distinct population segment,'' under the ESA and NMFS'' ESA species policy (See 61 FR 41516).

Historically, anadromous, potamodromous, and resident cutthroat trout likely occurred throughout the Umpqua River basin. The current freshwater distribution of anadromous and potamodromous life forms is thought to be limited primarily to the mainstem, Smith, and North Umpqua Rivers. Resident cutthroat trout appear to remain broadly distributed throughout the Umpqua River basin, including areas of the South Umpqua River not thought to support significant anadromous cutthroat trout populations.

Section 4(a)(3)(A) of the ESA requires that, to the maximum extent prudent and determinable, NMFS designate critical habitat concurrently with a determination that a species is endangered or threatened. On July 19, 1993, NMFS published a **Federal Register** document (58 FR 38544) soliciting information and data regarding the present and historic status of the Umpqua River cutthroat trout, as well as information on areas that may qualify as critical habitat. At the time of the final listing, critical habitat was not determinable, since information necessary to perform the required analyses was not available. NMFS has determined that sufficient information now exists to designate critical habitat for this species. NMFS has considered all available information and data in making this proposal.

### Definition of Critical Habitat

Critical habitat is defined in section 3(5)(A) of the ESA as ''(i) the specific areas within the geographical area occupied by the species * * * on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by the species * * * upon a determination by the Secretary of Commerce (Secretary) that such areas are essential for the conservation of the species.'' (See 16 U.S.C. 1532(5)(A)). The term ''conservation,'' as defined in section 3(3) of the ESA, means '' * * * to use and the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this Act are no longer necessary.'' (See 16 U.S.C. 1532(3)).

In designating critical habitat, NMFS considers the following requirements of the species: (1) Space for individual and population growth, and for normal behavior; (2) food, water, air, light, minerals, or other nutritional or physiological requirements; (3) cover or shelter; (4) sites for breeding, reproduction, or rearing of offspring; and, generally, (5) habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of this species (See 50 CFR 424.12(b)). In addition to these factors, NMFS also focuses on the known physical and biological features (primary constituent elements) within the designated area that are essential to the conservation of the species and may require special management considerations or protection. These essential features may include, but are not limited to, spawning sites, food resources, water quality and quantity, and riparian vegetation (See *Id.*).

**Consideration of Economic, Environmental, and Other Factors**

The economic, environmental, and other impacts of a critical habitat designation have been considered and evaluated. NMFS identified present and anticipated activities that may adversely modify the area(s) being considered or be affected by a designation. An area may be excluded from a critical habitat designation if NMFS determines that the overall benefits of exclusion outweigh the benefits of designation, unless the exclusion will result in the extinction of the species (See 16 U.S.C. 1533(b)(2)).

The impacts considered in this analysis are only those incremental impacts specifically resulting from a critical habitat designation, above the economic and other impacts attributable to listing the species or resulting from other authorities. Since listing a species under the ESA provides significant protection to a species' habitat, in many cases, the economic and other impacts resulting from the critical habitat designation, over and above the impacts of the listing itself, are minimal (see Significance of Designating Critical Habitat section of this preamble). In general, the designation of critical habitat highlights geographical areas of concern and reinforces the substantive protection resulting from the listing itself.

Impacts attributable to listing include those resulting from the ''take'' prohibitions contained in section 9 of the ESA and associated regulations. ''Take,'' as defined in the ESA means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct (See 16 U.S.C. 1532(19)). Harm can occur through destruction or modification of habitat (whether or not designated as critical) that significantly impairs essential behaviors, including breeding, feeding, rearing or migration.

**Significance of Designating Critical Habitat**

The designation of critical habitat does not, in and of itself, restrict human activities within an area or mandate any specific management or recovery actions. A critical habitat designation contributes to species conservation primarily by identifying critically important areas and by describing the features within those areas that are essential to the species, thus alerting public and private entities to the area's importance. Under the ESA, the only regulatory impact of a critical habitat designation is through the provisions of section 7. Section 7 applies only to actions with Federal involvement (e.g., authorized, funded, conducted) and does not affect exclusively state or private activities.

Under the section 7 provisions, a designation of critical habitat would require Federal agencies to ensure that any action they authorize, fund, or carry out is not likely to destroy or adversely modify designated critical habitat. Activities that destroy or adversely modify critical habitat are defined as those alternatives that ''appreciably diminish the value of critical habitat for both the survival and recovery'' of the species (see 50 CFR 402.02). Regardless of a critical habitat designation, Federal agencies must ensure that their actions are not likely to jeopardize the continued existence of the listed species. Activities that jeopardize a species are defined as those actions that ''reasonably would be expected, directly or indirectly, to reduce appreciably the likelihood of both the survival and recovery'' of the species (see 50 CFR 402.02). Using these definitions, activities that destroy or adversely modify critical habitat may also be likely to jeopardize the species. Therefore, the protection provided by a critical habitat designation generally duplicates the protection provided under the section 7 jeopardy provision. Critical habitat may provide additional benefits to a species in cases where areas outside the species' current range have been designated. When actions may affect these areas, Federal agencies are required to consult with NMFS under section 7 (see 50 CFR 402.14(a)), which may not have been recognized but for the critical habitat designation.

A designation of critical habitat provides a clear indication to Federal agencies as to when section 7 consultation is required, particularly in cases where the action would not result in direct mortality, injury, or harm to individuals of a listed species (e.g., an action occurring within the critical area when a migratory species is not present). The critical habitat designation, describing the essential features of the habitat, also assists in determining which activities conducted outside the designated area are subject to section 7 (i.e., activities that may affect essential features of the designated area).

A critical habitat designation will also assist Federal agencies in planning future actions, since the designation establishes, in advance, those habitats that will be given special consideration in section 7 consultations. With a designation of critical habitat, potential conflicts between Federal actions and endangered or threatened species can be identified and possibly avoided early in the agency's planning process.

Another indirect benefit of a critical habitat designation is that it helps focus Federal, state, and private conservation and management efforts in such areas. Management efforts may address special considerations needed in critical habitat areas, including conservation regulations to restrict private as well as Federal activities. The economic and other impacts of these actions would be considered at the time of those proposed regulations and, therefore, are not considered in the critical habitat designation process. Other Federal, state, and local authorities, such as zoning or wetlands and riparian lands protection, may also provide special protection for critical habitat areas.

**Process for Designating Critical Habitat**

Developing a proposed critical habitat designation involves three main considerations. First, the biological needs of the species are evaluated and essential habitat areas and features are identified. If alternative areas exist that would provide for the conservation of the species, such alternatives are also identified. Second, the need for special management considerations or protection of the area(s) or features are evaluated. Finally, the probable economic and other impacts of designating these essential areas as ''critical habitat'' are evaluated. After considering the requirements of the species, the need for special management, and the impacts of the designation, the proposed critical habitat is published in the **Federal Register** for comment. The final critical habitat designation, considering comments on the proposal and impacts assessment, is published within 1 year of the proposed rule. Final critical habitat designations may be revised, using the same process, as new information becomes available.

A description of the essential habitat, need for special management, impacts of designating critical habitat, and the proposed action are described in the following sections for Umpqua River cutthroat trout.

**Essential Habitat of Umpqua River Cutthroat Trout**

Available biological information for listed Umpqua River cutthroat trout can be found in the species' Status Review (Johnson et al. 1994) and in **Federal Register** notices of proposed and final listing determinations (see 59 FR 35089, July 8, 1994; 61 FR 41514, August 9, 1996). Essential Umpqua River cutthroat trout habitat consists of five components: (1) Spawning and juvenile

rearing areas; (2) juvenile migration corridors; (3) areas for growth and development to adulthood; (4) adult migration corridors; and (5) over-wintering habitat. The Pacific Ocean areas used by listed cutthroat trout for growth and development to adulthood are not well understood, and essential areas and features have not been identified.

The current geographic range of Umpqua River cutthroat trout includes nearshore ocean areas, the mainstem Umpqua River and its tributaries, and the North and South Umpqua Rivers and their tributaries. NMFS has determined that the current freshwater and estuarine range (referred to as the in-river range) of the species is adequate to ensure the species' conservation. The species' current in-river range encompasses all essential habitat features (e.g., riverine conditions, estuaries, headwater areas) in sufficient quantity to ensure conservation of the species. Therefore, designation of habitat areas outside the species' current in-river range is not necessary.

NMFS recognizes that the Umpqua River estuary is an essential migration corridor for listed Umpqua River cutthroat trout and, accordingly, has included estuary areas as critical habitat in this designation. However, the importance of marine habitats (i.e., oceanic or near shore areas seaward of the mouth of the Umpqua River) is not well understood (Pauley, 1989; Behnke, 1992). In addition to a lack of biological information concerning the marine life history phase of cutthroat trout, there does not appear to be a need for special management consideration or protection of this habitat. Based on present information, degradation of this portion of the species' habitat does not appear to have been a significant factor in the decline of the species. Specifically, existing laws appear adequate to protect these areas, and special management of this habitat is not considered necessary at this time. Therefore, NMFS does not propose to designate critical habitat in marine areas at this time. If additional information becomes available that supports the inclusion of such areas, NMFS may revise this designation.

Essential features of the designated in-river areas include adequate: (1) Substrate; (2) water quality; (3) water quantity; (4) water temperature; (5) food; (6) riparian vegetation; and (7) access. Juvenile migration corridors include the North and South Umpqua Rivers and the mainstem Umpqua River to the Pacific Ocean. Essential features of the juvenile migration corridors include adequate: (1) Substrate; (2) water quality; (3) water quantity; (4) water temperature; (5) water velocity; (6) cover/shelter; (7) food; (8) riparian vegetation; (9) space; and (10) safe passage conditions. Adult migration corridors and their essential features are the same as those identified for juvenile migration corridors.

**Need for Special Management Considerations or Protection**

In order to assure that the essential areas and features are maintained or restored, special management may be needed. Activities that may require special management considerations for listed Umpqua River cutthroat trout spawning and juvenile rearing areas include, but are not limited to: (1) Land management; (2) timber harvest; (3) water pollution; (4) livestock grazing; (5) habitat restoration; (6) irrigation water withdrawal; (7) mining; (8) road construction; and (9) dam operation and maintenance. For juvenile and adult migration corridors, special management considerations also include: (10) Dredge and fill activities; and (11) dam operations. Not all of these activities are necessarily of current concern; however, they indicate the potential types of activities that will require consultation in the future. No special management considerations have been identified for listed Umpqua River cutthroat trout while they are residing in the ocean environment.

**Activities That May Affect the Essential Habitat**

A wide range of activities may affect the essential habitat requirements of listed Umpqua River cutthroat trout. These activities include water and land management actions of Federal agencies (i.e., U.S. Forest Service, U.S. Bureau of Land Management, the Federal Highway Administration, and the Federal Energy Regulatory Commission) and related or similar actions of other Federally-regulated projects and lands including livestock grazing allocations in the Umpqua River Basin by the U.S. Forest Service and U.S. Bureau of Land Management; hydropower operators (i.e., PacifiCorp) in the Umpqua River system licensed by the Federal Energy Regulatory Commission; timber sales in the Umpqua River Basin conducted by the U.S. Forest Service and U.S. Bureau of Land Management; road building activities authorized by the Federal Highway Administration, U.S. Forest Service, and U.S. Bureau of Land Management; and mining and road building activities authorized by the state of Oregon. Other actions of concern include dredge and fill, mining, and bank stabilization activities authorized and/or conducted by the U.S. Army Corps of Engineers throughout the Umpqua River Basin.

The Federal agencies that will most likely be affected by this critical habitat designation include the U.S. Forest Service, U.S. Bureau of Land Management, U.S. Bureau of Reclamation, U.S. Army Corps of Engineers, the Federal Highway Administration, and the Federal Energy Regulatory Commission. This designation will provide clear notification to these agencies, private entities, and the public of critical habitat designated for listed Umpqua River cutthroat trout and the boundaries of the habitat and protection provided for that habitat by the section 7 consultation process. This designation will also assist these agencies and others in evaluating the potential effects of their activities on listed Umpqua River cutthroat trout and their critical habitat and in determining when consultation with NMFS would be appropriate.

**Proposed Critical Habitat; Geographic Extent**

Proposed critical habitat for listed Umpqua River cutthroat trout includes: The Umpqua River from a straight line connecting the west end of the South jetty and the west end of the North jetty and including all Umpqua River estuarine areas (including the Smith River) and tributaries proceeding upstream from the Pacific Ocean to the confluence of the North and South Umpqua Rivers; the North Umpqua River, including all tributaries, from its confluence with the mainstem Umpqua River to Toketee Falls; the South Umpqua River, including all tributaries, from its confluence with the mainstem Umpqua River to its headwaters (including Cow Creek, tributary to the South Umpqua River). Critical habitat includes all waterways below longstanding, natural impassable barriers (i.e., natural water falls in existence for over several hundred years). Critical habitat includes the bottom and water of the waterways and adjacent riparian zone. The riparian zone includes those areas within 300 ft (91.4 m) of the normal line of the high water mark of the stream channel or from the shoreline of a standing body of water.

**Expected Economic Impacts of Designating Critical Habitat**

The economic impacts to be considered in a critical habitat designation are the incremental effects of critical habitat designation above the economic impacts attributable to listing or attributable to authorities other than the ESA (see Consideration of

Economic, Environmental and Other Factors section of this preamble). Incremental impacts result from special management activities in areas outside the present distribution of the listed species that have been determined to be essential to the conservation of the species. However, NMFS has determined that the present in-river species range contains sufficient habitat for conservation of the species. Therefore, NMFS finds that there are no incremental impacts associated with this critical habitat designation.

### Public Comments Solicited; Public Hearings

NMFS is soliciting information, comments and/or recommendations on any aspect of this proposal from all concerned parties (see **ADDRESSES**). NMFS will consider all information, comments, and recommendations received before reaching a final decision.

Department of Commerce ESA implementing regulations state that the Secretary ''shall promptly hold at least one public hearing if any person so requests within 45 days of publication of a proposed regulation to designate critical habitat.'' (See 50 CFR 424.16(c)(3)). Public hearings on the proposed rule provide the opportunity for the public to give comments and to permit an exchange of information and opinion among interested parties. NMFS encourages the public's involvement in such ESA matters.

The public hearings on this action are scheduled as follows:

1. Wednesday, August 20, 6:30 p.m. to 9:30 p.m., Douglas County Court House, Hearing Room 216, 1036 SE Douglas, Roseburg, OR 97470.

2. Thursday, August 21, 6:30 p.m. to 9:30 p.m., Reedsport Community Building, Council Chambers, 451 Winchester Avenue, Reedsport, OR 97467.

Interested parties will have an opportunity to provide oral and written testimony at the public hearings. These hearings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Jim Lynch at (503) 230–5422.

### National Environmental Policy Act

NMFS has determined that Environmental Assessments and Environmental Impact Statements, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared for critical habitat designations made pursuant to the ESA. See *Douglas County* v. *Babbitt,* 48 F.3D 1495 (9th Cir. 1995), cert. denied, 116 S.Ct. 698 (1996).

### Classification

The Assistant Administrator for Fisheries, NOAA (AA), has determined that this is not a ''major rule'' requiring a regulatory impact analysis under E.O. 12291. The regulations are not likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions; or (3) a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The General Counsel of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration, that the proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities as described in the Regulatory Flexibility Act. NMFS completed an assessment of the economic impacts of designating critical habitat. NMFS found that since listing species under the ESA provides significant protection to the species habitat, the economic and other impacts resulting from critical habitat designation are minimal. Therefore, a regulatory flexibility analysis is not required.

This rule does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act.

The AA has determined that the proposed designation is consistent to the maximum extent practicable with the approved Coastal Zone Management Program of the State of Oregon. This determination has been submitted for review by the responsible state agencies under section 3.7 of the Coastal Zone Management Act.

### References

The complete citations for the references used in this document can be obtained by contacting Garth Griffin, NMFS (see **ADDRESSES**).

### List of Subjects in 50 CFR Part 226

Endangered and Threatened Species.

Dated: July 24, 1997.

**David L. Evans,**

*Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 226 is proposed to be amended as follows:

## PART 226—DESIGNATED CRITICAL HABITAT

1. The authority citation for part 226 continues to read as follows:

**Authority:** 16 U.S.C. 1533.

2. § 226.22, introductory paragraph, is amended by revising the sixth sentence to read as follows:

### § 226.22 Snake River Sockeye Salmon (Oncorhynchus nerka), Snake River Spring/Summer Chinook Salmon (Oncorhynchus tshawytscha), Snake River Fall Chinook Salmon (Oncorhynchus tshawytscha).

* * * Hydrologic units (Table 3) are those defined by the Department of the Interior (DOI), U.S. Geological Survey (USGS) publication, ''Hydrologic Unit Maps,'' Water Supply Paper 2294, 1986'', and the following DOI, USGS, 1:500,000 scale hydrologic unit maps: State of Oregon (1974) and State of California (1978), which are incorporated by reference. * * *

3. Section 226.23 is added to subpart C to read as follows:

### § 226.23 Umpqua River cutthroat trout (Oncorhynchus clarki clarki).

The following areas consisting of the water, waterway bottom, and adjacent riparian zone of specified lakes and river reaches in hydrologic units presently accessible to listed Umpqua River cutthroat trout: The Umpqua River from a straight line connecting the west end of the South jetty and the west end of the North jetty and including all Umpqua River estuarine areas (including the Smith River) and tributaries proceeding upstream from the Pacific Ocean to the confluence of the North and South Umpqua Rivers; the North Umpqua River, including all tributaries, from its confluence with the mainstem Umpqua River to Toketee Falls; the South Umpqua River, including all tributaries, from its confluence with the mainstem Umpqua River to its headwaters (including Cow Creek, tributary to the South Umpqua River). Critical habitat includes all river reaches below longstanding, natural impassable barriers (i.e., waterfalls in existence for several hundred years) in the following hydrologic units: North Umpqua, South Umpqua, and Umpqua. Critical habitat borders on or passes through the following counties in Oregon: Douglas, Lane, Coos, Jackson, and Klamath counties. Perennial rivers and creeks within the defined areas are also included in the critical habitat designation (but are not specifically named), unless otherwise noted. Adjacent riparian zones are defined as those areas within a horizontal distance of 300 ft (91.4 m) from the normal line

of high water of a stream channel (600 ft or 182.8 m, when both sides of the stream channel are included) or from the shoreline of a standing body of water. Figure 1 identifies the general geographic extent of larger rivers, lakes, and streams within hydrologic units designated as critical habitat for Umpqua River cutthroat trout. Note that Figure 1 does not constitute the definition of critical habitat but, instead, is provided as a general reference to guide Federal agencies and interested parties in locating the general boundaries of critical habitat for listed Umpqua River cutthroat trout. The complete text delineating the critical habitat for the species follows.

Hydrologic units (Table 1) are those defined by the Department of the Interior (DOI), U.S. Geological Survey (USGS) publication, ''Hydrologic Unit Maps,'' Water Supply Paper 2294, 1986, and the following DOI, USGS, 1:500,000 scale hydrologic unit maps: State of Oregon, 1974, which are incorporated by reference. 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 of the USGS publication and maps may be obtained from the USGS, Map Sales, Box 25286, Denver, CO 80225. Copies may be inspected at NMFS, Protected Species Program, Environmental and Technical Services Division, 525 NE Oregon St.—Suite 500, Portland, OR 97232–2737, or NMFS, Office of Protected Resources, 1335 East-West Highway, Silver Spring, MD 20910, or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC. Critical habitat maps are available upon request from Garth Griffin, NMFS, Protected Species Branch, Environmental and Technical Services Division, 525 NE Oregon St. Suite 500, Portland, OR 97232–2737, telephone (503/230–5430).

3. Table 4 and Figure 9 are added to part 226 to read as follows:

Table 4 to part 226—Hydrologic Units [2] Containing Critical Habitat for Endangered Umpqua River cutthroat trout and counties contained in each Hydrologic Unit.

| Hydrologic unit name | Hydrologic unit number | Counties contained in hydrologic unit |
|---|---|---|
| North Umpqua. | 17100301 | Douglas, Lane, Klamath. |
| South Umpqua. | 17100302 | Douglas, Jackson, Coos. |
| Umpqua | 17100303 | Douglas, Lane, Coos. |

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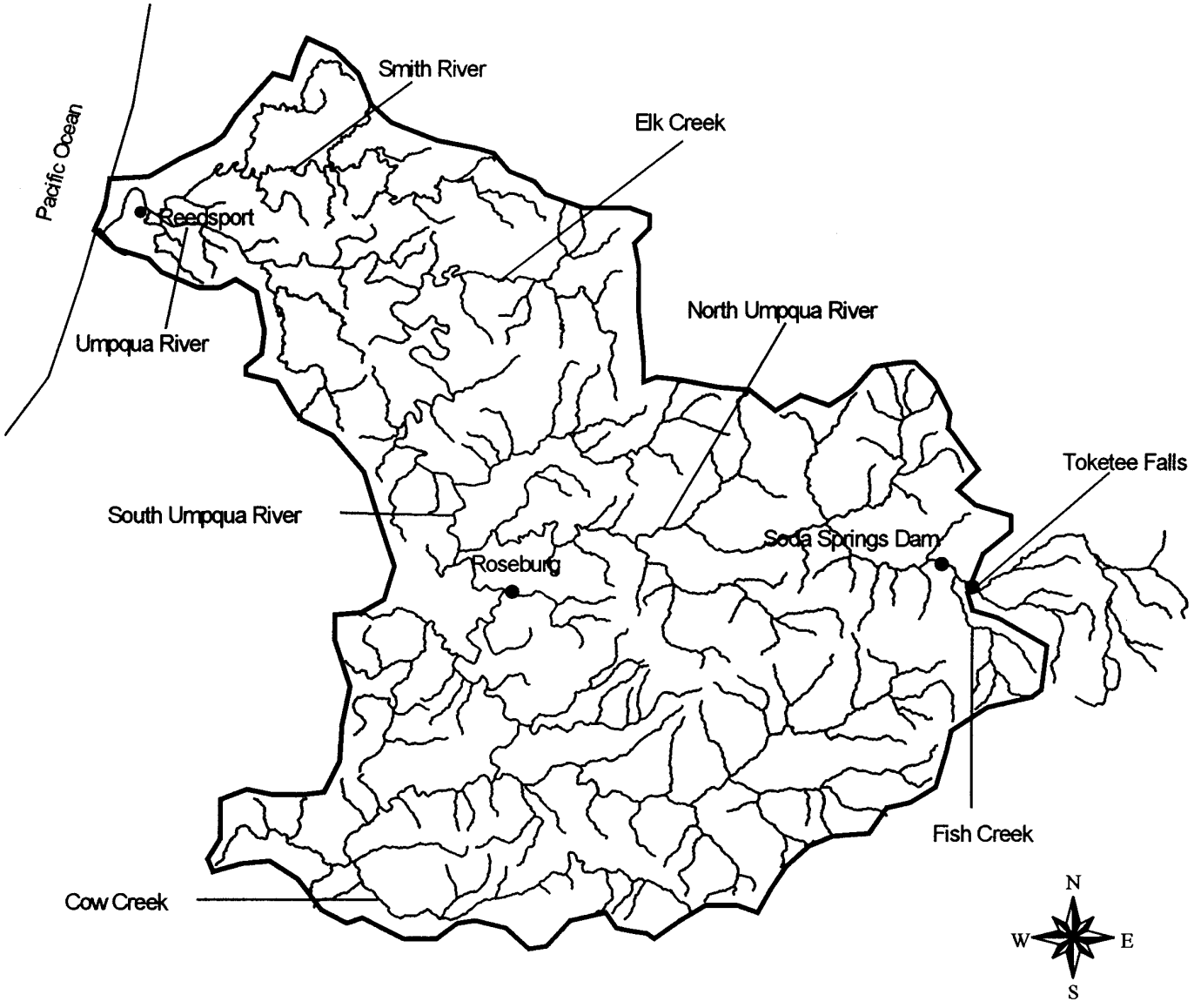
[2] Hydrologic units and names taken from DOI, USGS 1:500,000 scale State of Oregon (1974) hydrologic unit map (available from USGS).

Figure 9 to part 226 - Proposed Critical Habitat for Umpqua River Cutthroat Trout

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# Notices

**Federal Register**

Vol. 62, No. 146

Wednesday, July 30, 1997

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Final Conformity Determination for Proposed Carlota Copper Project, Pinal and Gila Counties, Arizona

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice: Final Conformity Determination for the Proposed Carlota Copper Project, Pinal and Gila Counties, Arizona.

**SUMMARY:** In accordance with the federal Conformity Rule (November 30, 1993, 40 CFR 93.150–160), the United States Department of Agriculture, Forest Service—Tonto National Forest (Tonto NF) has reviewed the air quality analysis conducted for the proposed Carolta Copper Project. The project is proposed to be within Hayden/Miami Planning Area and the Miami Sulfur Dioxide Nonattainment Area, designated nonattainment areas for particulate matter less than 10 microns in aerodynamic diameter ($PM_{10}$) and sulfur dioxide ($SO_2$), respectively. The Tonto NF's review has been conducted consistent with the requirements of 40 CFR part 93, Subpart B: ''Determining Conformity of General Federal Activities to State or Federal Implementation Plans (SIP)'', issued on November 30, 1993.

The Tonto NF has determined that total annual emissions of $SO_2$ from the proposed project are less than the *de minimis* emission threshold (40 CFR part 93) that triggers the requirement to conduct a conformity determination.

Annual $PM_{10}$ emissions have been determined to exceed the $PM_{10}$ *de minimis* threshold and the Tonto NF has prepared a conformity determination for this pollutant. As per the requirement in 40 CFR 93.153(h)(1), this **Federal Register** notice lists the proposed activities that are presumed to conform and the bases for the presumptions. A comprehensive presentation of the bases for the conformity presumptions are included in the report, ''Final Conformity Determination: Carlota Copper Project, Pinal and Gila Counties, Arizona,'' USDA, Forest Service—Tonto National Forest, July 1997 (the report). This document is available to the public for reference purposes.

**ADDRESSES:** The report, ''Final Conformity Determination: Carlota Copper Project, Pinal and Gila Counties, Arizona,'' USDA, Forest Service—Tonto National Forest, Arizona, July 1997, is available for reference purposes at the following locations: Tonto National Forest Supervisor's Office, Phoenix, Arizona; Globe Ranger District Office, Globe, Arizona.

**FOR FURTHER INFORMATION CONTACT:** Paul M. Stewart, Tonto National Forest, 2324 E. McDowell Road, Phoenix, AZ 85006, (602) 225–5200.

**SUPPLEMENTARY INFORMATION:**

#### I. Background

The Carlota Copper Company has submitted a Plan of Operations (1992), a subsequent Update to the Plan of Operations (1993), and numerous letter submittals documenting changes to the Plan of Operations (as documented in Chapter 2 of the Final Environmental Impact Statement for the Carlota Copper Project) to the United States Department of Agriculture, (USDA) Forest Service—Tonto National Forest (Tonto NF) for the construction, operation, and reclamation of the Carlota Copper Project (project), a copper mining and processing operation. The project is designated by rule and regulation as a Class II minor source to be permitted by the Arizona Department of Environmental Quality (ADEQ). The proposed project is located on private land and on lands administered by the Tonto NF. Specifically, the project is located in Gila and Pinal Counties, approximately 7 miles west of Miami, Arizona.

A portion of the project is proposed to be within the northern part of an area that has been designated by the United States Environmental Protection Agency (EPA) as a nonattainment area for the annual 24-hour National Ambient Air Quality Standard (NAAQS) for particulate matter less than 10 microns in aerodynamic diameter ($PM_{10}$). The first phase of the $PM_{10}$ nonattainment designation occurred August 7, 1987, (52 **Federal Register** (FR) 29383) when EPA identified and listed the Group I and Group II area in each state. The Hayden/Miami Planning Area was designated a Group I area. A Group I area is an area that has been estimated by EPA to have a 95 percent or greater probability of exceeding the $PM_{10}$ standards (Hayden $PM_{10}$ State Implementation Plan (SIP) p. 14).

On November 15, 1990, EPA designated all Group I areas as ''nonattainment'' for $PM_{10}$. At the same time, EPA announced that all areas designated as nonattainment area for $PM_{10}$ were classified as ''moderate'' nonattainment areas. Therefore, the Hayden/Miami Planning Area is classified as a moderate nonattainment area for $PM_{10}$. A moderate area is a nonattainment area that the Administrator has determined can practicably attain the NAAQS for $PM_{10}$ by the attainment date for moderate areas (as expeditiously as practicable but no later than the sixth calendar year after the area's designation as nonattainment). (Clean Air Act, Section 188(a–c)). The Hayden/Miami Planning Area consists of:

- Township: T4S, R16E; T5S, R16E; T6S, R16E,
- The portion of Township T3S, R16E that does not lie on the San Carlos Indian Reservation, and
- The rectangle formed by, and including Townships: T1N, R13E; T1N, R15E; T6S, R13E; T6S, R15E.

The portion of the project area that is within the moderate nonattainment area is in the rectangle formed by the four townships. Specifically, the project area is located within Township T1N, R13E.

On November 10, 1994, ADEQ petitioned EPA to realign the Hayden/Miami Planning Area $PM_{10}$ nonattainment boundary. Based on topographical and climatological differences, as well as no monitored exceedances of the $PM_{10}$ NAAQS in the Miami area, ADEQ requested that Townships T1N, R13E–R15E and T1S, R13E–R15E be excluded from the nonattainment area. This area includes the proposed Carlota Copper Project area. To date, there has been no action by EPA to realign the Hayden/Miami Planning Area, Therefore, the proposed project remains within the nonattainment area.

Tonto NF concurs with ADEQ's classification of the proposed Carlota Copper Project as a Class II minor

source in a nonattainment area. Consequently, the New Source Review (NSR) permitting programs (i.e., Prevention of Significant Deterioration (PSD) review for attainment area and nonattainment area (NAA) review for nonattainment areas) do not apply. Because the Carlota Copper Project is not subject to these major source permitting requirements, the Carlota Copper Project cannot take advantage of the conformity determination exclusion offered under 40 CFR 93.153(d)(1) and a formal conformity determination is required.

The area has also been classified as a Priority IA Region (40 CFR 52.121) for sulfur dioxide ($SO_2$). States are required to prepare and submit a SIP that demonstrates attainment and maintenance of the NAAQS in Priority I Regions. The Priority IA classification is for any area that has been designated a Priority I region primarily because of emissions from a single source. In this case, the designation is based on copper smelting operations in Miami, Arizona. The area is in attainment for all other criteria pollutants: carbon monoxide, nitrogen dioxide, lead, and ozone.

Section 110 of the Clean Air Act requires that the State of Arizona prepare and submit to the EPA a SIP to reduce particulate emissions to achieve and maintain attainment of both the $SO_2$ and $PM_{10}$ NAAQS. ADEQ has developed a $PM_{10}$ SIP designed to reduce and maintain ambient concentrations of $PM_{10}$ to levels below the NAAQS for $PM_{10}$. EPA has proposed partial approval of the Hayden $PM_{10}$ SIP. To date, there has been no final approval of the SIP. ADEQ is in the process of developing the Miami $SO_2$ SIP.

Due to the proposed location of the project in the nonattainment area and the Tonto NF's affirmative role as Federal Land Manager, the Tonto NF has the responsibility under the Clean Air Act section 176(c)(4) (November 15, 1990) to make a determination as to whether the proposed project conforms with all aspects of the applicable SIP for the area. The Tonto NF has reviewed the air quality analysis conducted for this project consistent with the requirements of 40 CFR part 93 Subpart B: ''Determining Conformity of General Federal Actions to State or Federal Implementation Plans (SIP)'', issued on November 30, 1993.

The Tonto NF has determined that total annual emissions of $SO_2$ from the project are less than the *de minimis* emission threshold (40 CFR 93.153(b)(1)) that triggers the requirement to conduct a conformity determination. Therefore, although the Miami area has been designated a nonattainment area for $SO_2$, a conformity determination for $SO_2$ emissions is not required. Annual $PM_{10}$ emissions have been determined to exceed the *de minimis* threshold and the Tonto NF has determined that a conformity determination is required for $PM_{10}$.

## II. Requirements of the Conformity Determination

In the absence of a fully approved $PM_{10}$ SIP for the Hayden/Miami planning area, according to 40 CFR 93.151, the federal conformity regulations contained in 40 CFR part 93 apply to the Carlota Copper Project.[1] These regulations require a demonstration that total direct and indirect emissions from the project will not:

1. Cause or contribute to any new violation of any standard in the area,
2. Interfere with provisions in the applicable SIP for maintenance of any standard,
3. Increase the frequency or severity of any existing violation of any standard in any area, or
4. Delay timely attainment of any standard or any required interim emission reductions or other milestones in the SIP for purposes of

(a) Demonstration of reasonably further progress (RFP),

(b) Demonstration of attainment, or

(c) Maintenance plan.

The Tonto NF has determined that this Conformity Determination is to establish through a local modeling analysis that $PM_{10}$ emissions from Carlota emission sources on private and public lands will not create any new exceedances of the $PM_{10}$ NAAQS (''general'' requirement ''1,'' above). For the reasons stated below, the activities of the proposed Carlota Copper Project conform to general requirements 2, 3, and 4.

The proposed SIP only serves to bring ambient $PM_{10}$ concentrations in the Hayden area to levels that are below the NAAQS. The $PM_{10}$ nonattainment designation for the Hayden/Miami Planning Area is a result of expected exceedances of the $PM_{10}$ NAAQS proximate to the coppersmelting activities in the town of Hayden. As a result, the ''design value'' (i.e., the predicted ambient level of $PM_{10}$ upon which the controls in the SIP are based) pertains to particulate levels in Hayden (not to the proposed project site). Hayden is located in the southern tip of Gila County, approximately 25 miles south of the proposed project.

Ambient concentrations monitored in the project area (see the discussion of background concentrations in the report) and $PM_{10}$ monitoring in the town of Miami demonstrate that exceedances of the NAAQS in the nonattainment area have not occurred outside of the town of Hayden. Review of the local modeling analysis for the Carlota Copper Project (discussed in detail in the report) indicate that particulate impacts in Hayden (25 miles south of the project) due to emissions from the project are expected to be negligible (or zero). The proposed project is not expected to interfere with maintenance of the standard in Hayden and the local modeling analysis demonstrates protection of the NAAQS in the project area. The Tonto NF has therefore determined the proposed action to conform with requirement 2.

Similarly, requirement 3 is met because the project is not expected to cause any impacts in Hayden, thus emissions from the project will not increase the frequency or severity of violations of the $PM_{10}$ NAAQS that have been monitored in Hayden. There have been no monitored violations of the $PM_{10}$ NAAQS in the proposed project area.

Lastly, requirement 4 is met because there are no interim emission reductions or other milestones in the proposed SIP that pertain to any emission sources at the Carlota Copper Project. Particulate emission control measures in the proposed SIP pertain only to control of $PM_{10}$ emissions at two specific copper smelters (and associated activities) located in Hayden. Any demonstration of ''reasonable further progress,'' attainment, or compliance with a maintenance plan would only pertain to ambient $PM_{10}$ levels in Hayden and/or emission control measures implemented on the subject emission sources.

## III. Conformity Determination Methodology

*Local Modeling Analysis.* The final Conformity Rule (40 CFR part 93) specifically allows for the use of a local

[1] Given the receipt of several public comments on the issue of requirements of a conformity determination, it is important to note that an increment consumption analysis is not a required portion of a federal conformity determination. For the Carlota Copper Project, this position is justified on two levels: (1) The conformity rule (40 CFR part 93) explicitly lists the requirements of a conformity determination and does not include an increment consumption analysis on the list of requirements; and (2) because the proposed Carlota Copper Project is classified as an Arizona Class II (minor) source in a nonattainment area, an increment consumption analysis is expressly not required under state or federal rules and regulations. Concurrence on this position has been offered by the Tonto NF, ADEQ, EPA Region IX, and the Pinal County Air Pollution Control District. As a measure of the significance of impacts from the Carlota Copper Project, the Tonto NF included an assessment of increment consumption in the Final Environmental Impact Statement.

modeling analysis for a conformity determination. 40 CFR 93.158(a)(4)(l) stipulates:

''Where the State agency primarily responsible for the applicable SIP determines that an area-wide air quality modeling analysis is not needed, the total of direct and indirect emissions from the action meet the requirements specified in paragraph (b) of this section, based on local air quality modeling analysis * * *''

Paragraph (b) (40 CFR 93.158) requires that the local air quality modeling analysis shows that an action does not cause or contribute to any new violation of any standard in any area. Paragraph (b) also requires that a local air quality analysis meet the applicable requirements of 40 CFR 93.159, *Procedures for Conformity Determinations of General Federal Actions.* The applicable requirements of 93.159 are:

- The analysis must be based on the latest and most accurate emission estimation techniques (including estimation of emission control efficiencies) available for stationary and area sources of emissions, defined as the latest emission factors specified by EPA in AP–42 (''Compilation of Emission Factors''), unless more accurate emission data are available (93.159.b.2) (site-specific parameters are used when available);
- The analysis must be based on the applicable air quality models, data bases, and other requirements specified in the most recent version of the ''Guideline on Air Quality Models (Revised)'' (1986) including supplements (93.159.c); and
- The analysis must be based on the total of direct and indirect emissions from the action and must reflect emission scenarios that are expected to occur the year during which total emissions are expected to be the greatest on an annual basis (93.159.d.2).

*Emissions.* For the purposes of a conformity determination, direct and indirect emissions are defined as follows (40 CFR 92.152):

- Direct Emissions: Those emissions of a criteria pollutant or its precursors that are caused or initiated by the Federal action and occur at the same time and place as the action;
- Indirect Emissions: Those emissions of a criteria pollutant or its precursors that:

1. Are caused by the Federal action, but may occur later in time and/or may be further removed in distance from the action itself but are still reasonably foreseeable; and

2. The Federal agency can practicably control and will maintain control over due to a continuing program responsibility of the Federal agency.

For the Carlota Copper Project, the Tonto NF has determined that the emissions inventory prepared for the air quality analysis includes the total of direct and indirect emissions from Carlota sources on private and Federal lands using the latest emission factors (for emission estimates and control efficiencies) specified in AP–42 and site-specific parameters when available (40 CFR 93.159(b)(2)). The Tonto NF has determined only emissions sources of $PM_{10}$ at the proposed project are of concern with regard to $PM_{10}$ conformity requirements. The basis for designation of the area as nonattainment was $PM_{10}$ emissions (not precursors) from mining activities (associated with smelting activities in Hayden, AZ). Precursors of $PM_{10}$ were also not incorporated in the SIP analysis for the nonattainment area. The Tonto NF maintains that a conformity determination based on $PM_{10}$ emissions will be adequate to assess conformity and to protect the $PM_{10}$ NAAQS at the process area boundary.

The local modeling analysis utilized the EPA-approved ISCST3 dispersion model (Version 95200) with the dry deposition algorithm. The Tonto NF has reviewed the modeling analysis and has determined that the model has been run according to the most recent modeling guidelines and supplements.

Emissions from process and non-process sources at the project are direct emissions under the definition above. The Tonto NF has determined that the hourly and annual emission estimates prepared for the air quality analysis are representative of the maximum of $PM_{10}$ emission rates expected to occur over the life of the project. The distribution of emission sources in the modeling analysis has been assessed by the Tonto NF to be representative of the spatial extent of the emissions sources that is expected to produce the maximum off-site $PM_{10}$ impacts over the life of the project (40 CFR 93.159(d)(2)). Further, the Tonto NF has not identified any other emissions or emission sources that the Tonto NF can practicably control or maintain control of due to a continuing program responsibility for the project. The report includes a detailed description of emission sources and controls at the project.

*Offsets.* As an option to a modeling analysis, 40 CFR 93.158 allows an action to fully offset its emissions within the same nonattainment area through a revision to the applicable SIP or an equally enforceable measure that effects emission reductions equal to or greater than the total of direct and indirect emissions from the action so that there is no net increase in emissions of that pollutant (§ 93.158(a)(5)(iii)). The Tonto NF has determined that since the local modeling analysis satisfies the requirements of 40 CFR 93.158(b) and because there is not a fully approved SIP for the Hayden/Miami Planning Area that could be revised to include offsets, the local modeling analysis allowed for in § 93.158(a)(4) is adequate for determining the conformity of the action.

## IV. Presumption of Conformity

The United States Department of Agriculture (USDA) Forest Service—Tonto National Forest has reviewed the air quality analysis conducted for the Carlota Copper Project (consistent with the requirement of 40 CFR part 93, ''Determining Conformity of General Federal Actions to State or Federal Implementation Plans (SIP)'', issued on November 30, 1993).

For purposes of emissions of sulfur dioxide ($SO_2$), the project is proposed to be located in an area designated as nonattainment for $SO_2$ (the Miami Sulfur Dioxide Nonattainment Area) although there is not an approved $SO_2$ SIP for the nonattainment area. The Tonto NF has reviewed the air quality analysis and determined that predicted direct and indirect emissions of $SO_2$ are 26 tons per year based on a required AQCP condition (as issued by ADEQ) to use low sulfur content diesel fuel. (0.05 percent sulfur by weight) in stationary combustion sources and the commitment to use low sulfur diesel fuel in all mobile combustion equipment. This is below the *de minimis* level of 100 tons per year for $SO_2$ as defines in the general conformity rule (40 CFR 93.153). Because projected annual $SO_2$ emissions from the proposed facility are below the *de minimis* $SO_2$ level, no further conformity determination is necessary.

For purposes of emissions of particulate matter with aerodynamic diameter less than 10 microns ($PM_{10}$), the project is proposed to be located in an area designated as a moderate nonattainment area for $PM_{10}$ (the Hayden/Miami Planning Area). The air quality analysis for the project indicates that predicted direct and indirect emissions of $PM_{10}$ exceed the *de minimis* level for moderate $PM_{10}$ areas (100 tons per year). Therefore, the Tonto NF has reviewed the local $PM_{10}$ emissions modeling analysis for the project and has determined the following:

- The methods for estimating direct and indirect emissions from the project

meet the requirements of 40 CFR 93.159. The emissions scenario used in the air quality analysis is expected to produce the greatest off-site impacts on a daily and annual basis. (A detailed description of the emission sources and detailed emissions inventory tables are included in the report.)

- The local $PM_{10}$ emissions modeling methodology is appropriate for determining whether emissions from the project will cause or contribute to any new violation of the $PM_{10}$ National Ambient Air Quality Standard (NAAQS) and meet the requirements of 40 CFR 93.159. (A detailed description of the local $PM_{10}$ emissions modeling methodology is included in the report.)
- The results of the modeling analysis using the EPA-approved ISCST3 dispersion model (Version 95200) with the dry deposition algorithm predict maximum 24-hour ambient concentrations (impact plus background) at the process area boundary to be 110.8 $\mu g/m^3$. This is below the 24-hour $PM_{10}$ NAAQS of 150 $\mu g/m^3$. (A detailed description of the modeling analysis results and the printouts of the model input and output files are included in the report.)
- The results of the modeling analysis predict the maximum average annual ambient concentration at the process area boundary to be 36.9 $\mu g/m^3$. This is below the annual $PM_{10}$ NAAQS STANDARD OF 50 $\mu g/m^3$. [2]
- The action does not cause or contribute to any new violation of any standard in any area (40 CFR 93.158(b)(2)(i)).
- The action does not increase the frequency or severity of any existing violation of any standard in any area (40 CFR 93.158(b)(2)(ii)).
- The action does not violate any requirements or milestones in the SIP (no requirements or milestones are applicable to the project) (40 CFR 93.158(c)).

The Tonto NF has also determined that the planned PM10 controls for the project are equivalent to Best Available Control Technology (BACT) for sources of $PM_{10}$ emissions associated with open-pit mining operations.

Based on these determinations, the activities at the Carlota Copper Project is presumed to conform to the applicable conformity requirements for the project area. The list of activities at the Carlota Copper Project that are presumed to conform include:

| Process | Non-process |
|---|---|
| Primary crusher system<br>Conveyor systems<br>Secondary crusher system<br>Boiler<br>Back-up generator | Topsoil removal.<br>Topsoil unloading to stockpiles.<br>Blast hole drilling.<br>Blasting.<br>Loading/unloading of ore and mine rock.<br>Hauling or ore and mine rock.<br>Combustion emissions from mobile equipment.<br>Travel of mine equipment other than haul trucks.<br>Haul road maintenance. |

This presumption of conformity is based on adequate activity limits, emission limits, emission controls, and monitoring requirements that have been included in the AQCP No. 071437P0–99 for the Carlota Copper Project issued by ADEQ. The presumption of conformity assumes that the requirements in the permit will be adequately enforced by ADEQ. The Tonto NF lists the following permit requirements (contained in the Attachment B to the permit) as being critical to the presumption of conformity of the Carlota Copper Project:

- Maximum speed limit of 35 mph for all vehicles and an average speed for the heavy-duty haul trucks of 15 mph. (Condition II.D.1)
- Unpaved roadway treatment with magnesium chloride, calcium chloride, or other chemical dust suppressants with equivalent or better control efficiency in sufficient quantity and frequency to maintain a ground inventory of 0.25 gallons per square yard. (Condition II.E.2)
- Water sprays installed, operated, and maintained continuously during the times of operation of the primary crusher. (Condition II.E.2)
- Water sprays installed, operated, and maintained continuously (except as provided by the excess emission rule, A.A.C. R18–2–306 and 310) during the times of operation of the conveyor systems, transfer points, process equipment, and storage piles at the stacker discharge points. (Condition II.E.3)
- Baghouse installed and operated on the secondary crusher and associated vibrating screen. (Condition II.G.1)
- A weight rate of mined rock (waste rock and ore combined) shall not exceed 125,000 tons per 24-hour calendar day and 29 million tons per year. (Condition III.A)
- Burn only diesel no. 2 fuel with a sulfur content of less than 0.05 percent in the SX/EW tankhouse boiler and backup generator and the leach pad backup generator. (Condition II, Boiler and Generator Emissions, C.1)
- An ambient $PM_{10}$ monitor installed, near the boundary of the mining activity in the general direction of the Superstition Wilderness, operated on an every-sixth-day schedule, and maintained in accordance with applicable manufacturer's instructions, EPA handbooks, and federal requirements (Condition IV.A).

Dated: July 22, 1997.

**Charles R. Bazan,**

*Forest Supervisor.*

[FR Doc. 97–20010 Filed 1–29–97; 8:45 am]

BILLING CODE 3410–01–M

[2] Predicted maximum concentrations (impact plus background) at Top-of-the-World (located within the nonattainment area) area are 20.4 $\mu g/m^3$ for the 24-hour average and 17.3 $\mu g/m^3$ for the annual average.

## DEPARTMENT OF AGRICULTURE

### Natural Resources Conservation Service

### Lower Stillwater Watershed, Darke and Miami Counties, Ohio

**AGENCY:** Natural Resources Conservation Service, USDA.

**ACTION:** Notice of finding of no significant impact.

**SUMMARY:** Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Regulations (40 CFR Part 1500); and the Natural Resources Conservation Service Regulations (7 CFR 650); the Natural

Resources Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Lower Stillwater Watershed, Darke and Miami Counties, Ohio.

**FOR FURTHER INFORMATION CONTACT:** Patrick Wolf, State Conservationist, Natural Resources Conservation Service, 200 North High Street, Columbus, Ohio 43215, telephone 614–469–6962.

**SUPPLEMENTARY INFORMATION:** The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Patrick Wolf, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project purposes are water quality improvement and watershed protection. The project purposes will be met through accelerated technical assistance in the planning and installation of conservation measures such as conservation tillage, grassed waterways, filter strips, animal waste facilities, cover crops, watering facilities, grade stabilizations, and nutrient management plans.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Patrick Wolf.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904, Watershed Protection and Flood Prevention)

**Patrick Wolf,**

*State Conservationist.*

[FR Doc. 97–20030 Filed 7–29–97; 8:45 am]

**BILLING CODE 3410–16–M**

## DEPARTMENT OF AGRICULTURE

### Natural Resources Conservation Service

### Upper Stillwater Watershed, Darke and Miami Counties, Ohio

**AGENCY:** Natural Resources Conservation Service, USDA.

**ACTION:** Notice of finding of no significant impact.

**SUMMARY:** Pursuant to Section 102(2)(c) of the Natural Environmental Policy Act of 1969; the Council on Environmental Quality Regulations (40 CFR Part 1500); and the Natural Resources Conservation Service Regulations (7 CFR 650); the National Resources Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Upper Stillwater Watershed, Darke and Miami Counties, Ohio.

**FOR FURTHER INFORMATION CONTACT:** Patrick Wolf, State Conservationist, Natural Resources Conservation Service, 200 North High Street, Columbus, Ohio 43215, telephone 614–469–6962.

**SUPPLEMENTARY INFORMATION:** The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Patrick Wolf, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project purposes are water quality improvement and watershed protection. The project purposes will be met through accelerated technical assistance in the planning and installation of conservation measures such as conservation tillage, grassed waterways, filter strips, animal waste facilities, cover crops, watering facilities, grade stabilizations, and nutrient management plans.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be revised by contracting Patrick Wolf.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904, Watershed Protection and Flood Prevention)

**Patrick Wolf,**

*State Conservationist.*

[FR Doc. 97–20029 Filed 7–29–97; 8:45 am]

**BILLING CODE 3410–16–M**

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

**[Order No. 907]**

### Expansion of Foreign-Trade Zone 170; Clark County, Indiana

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, an application from the Indiana Port Commission, grantee of Foreign-Trade Zone 170, Clark County, Indiana, for authority to expand FTZ 170 to include an additional site in Charlestown, Indiana, was filed by the Board on August 15, 1996 (FTZ Docket 63–96, 61 FR 43527, 8/23/96);

Whereas, notice inviting public comment was given in the **Federal Register** and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board 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 the proposal is in the public interest;

Now, Therefore, the Board hereby orders:

The application to expand FTZ 170 is approved, subject to the Act and the Board's regulations, including Section 400.28, and subject to the standard 2,000-acre activation limit for the overall zone project.

Signed at Washington, DC, this 23rd day of July 1997.

**Jeffrey P. Bialos,**

*Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.*

[FR Doc. 97–20069 Filed 7–29–97; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

**[Order No. 908]**

### Approval of Manufacturing Activity Within Foreign-Trade Zone 210; Port Huron, Michigan; Petri, Inc. (Automotive Steering Wheels, Airbag Components)

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u)(the Act), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, § 400.28(a)(2) of the Board's regulations, requires approval of the Board prior to commencement of new manufacturing/processing activity within existing zone facilities;

Whereas, the Port Huron-St. Clair County Industrial Development Corporation, grantee of FTZ 210, has requested authority under § 400.28(a)(2) of the Board's regulations on behalf of Petri, Inc., to manufacture automotive steering wheels and related components under zone procedures within FTZ 210, Port Huron, Michigan (filed 12–10–96; FTZ Doc. 83–96, 61 FR 66651, 12–18–96);

Whereas, the Board adopts the findings and recommendation of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied and that the proposal is in the public interest;

Now, therefore, the Board hereby approves the request subject to the Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this day of 1997.

**Jeffrey P. Bialos,**

*Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.*

Attest:

**John J. Da Ponte, Jr.,**

*Executive Secretary.*

[FR Doc. 97–20070 Filed 7–29–97; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

## Foreign-Trade Zones Board

**[Order No. 901]**

## Grant of Authority for Subzone Status Abbott Manufacturing, Inc.; (Infant Formula, Adult Nutritional Products) Sturgis, Michigan

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 City of Battle Creek, Michigan, grantee of Foreign-Trade Zone 43, for authority to establish special-purpose subzone status for export activity at the infant formula and adult nutritional products manufacturing plant of Abbott Manufacturing, Inc., in Sturgis, Michigan, was filed by the Board on March 12, 1996, and notice inviting public comment was given in the **Federal Register** (FTZ Docket 22–96, 61 FR 12059, 3–25–96); 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 for export manufacturing is in the public interest;

Now, therefore, the Board hereby grants authority for subzone status at the Abbott Manufacturing, Inc., plant in Sturgis, Michigan (Subzone 43C), at the location described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28, and subject to the further requirement that all foreign origin dairy products and sugar admitted to the subzone shall be reexported.

Signed at Washington, DC, this 23rd day of July 1997.

**Jeffrey P. Bialos,**

*Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.*

[FR Doc. 97–20068 Filed 7–29–97; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

## Foreign-Trade Zones Board

**[Order No. 910]**

## Expansion of Foreign-Trade Zone 38; Spartanburg County, South Carolina

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, an application from the South Carolina State Ports Authority, grantee of Foreign-Trade Zone 38, Spartanburg County, South Carolina, for authority to expand FTZ 38 to include an additional site at Wingo Corporate Park in Spartanburg County, South Carolina, was filed by the Board on August 21, 1996 (FTZ Docket 65–96, 61 FR 45400, 8/29/96);

Whereas, notice inviting public comment was given in **Federal Register** and the application has been processed pursuant to the FTZ Act and the Board's regulations; 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 the proposal is in the public interest;

Now, therefore, the Board hereby orders:

The application to expand FTZ 38 is approved, subject to the Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this 23rd day of July 1997.

**Jeffrey P. Bialos,**

*Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.*

Attest:

**John J. Da Ponte, Jr.,**

*Executive Secretary.*

[FR Doc. 97–20071 Filed 7–29–97; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

## International Trade Administration

**[A–549–807]**

## Certain Carbon Steel Butt-Weld Pipe Fittings From Thailand; Final Results of the Antidumping Duty Administrative Review

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce

**SUMMARY:** On April 7, 1997, the Department of Commerce (''Department'') published in the **Federal Register** its preliminary results of the administrative review of the antidumping duty order on certain carbon steel butt-weld pipe fittings from Thailand (62 FR 16541). This review covers TTU Industrial Corp., Ltd. (''TTU''), a manufacturer/exporter of the subject merchandise to the United States. The period of review (''POR'') is July 1, 1995, through June 30, 1996. Although we gave interested parties an opportunity to comment on our preliminary results, none of the interested parties did so. Because TTU failed to respond to the Department's questionnaire, as in the preliminary results of this review, we have used facts otherwise available in reaching the final results.

**EFFECTIVE DATE:** July 30, 1997.

**FOR FURTHER INFORMATION CONTACT:** Howard Smith or James Terpstra, Office of Antidumping and Countervailing Duty Enforcement Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230; telephone: (202) 482–5193, or (202) 482–3965, respectively.

**SUPPLEMENTARY INFORMATION:**

### Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (''the Act'') by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all references to the Department's regulations are to 19 CFR part 353 (1997).

### Background

The Department published in the **Federal Register** on July 8, 1996 (61 FR 35712), a notice of opportunity to request an administrative review of the antidumping duty order on certain carbon steel butt-weld pipe fittings from Thailand. On July 30, 1996, the petitioner requested, in accordance with § 353.22(a) of the Department's regulations (19 CFR 353.22(a)) a review of TTU. On August 15, 1996, the Department published a notice of initiation of an administrative review of this order for the period July 1, 1995, through June 30, 1996 (61 FR 42416). On April 7, 1997, the Department published the preliminary results of this review. We gave interested parties an opportunity to comment on the preliminary results. We received no comments. The Department has now completed this administrative review in accordance with section 751(a) of the Act.

### Scope of the Review

The product covered by this order is certain carbon steel butt-weld pipe fittings, having an inside diameter of less than 14 inches, imported in either finished or unfinished form. These formed or forged pipe fittings are used to join sections in piping systems where conditions require permanent, welded connections, as distinguished from fittings based on other fastening methods (e.g., threaded, grooved, or bolted fittings). Carbon steel butt-weld pipe fittings are currently classified under subheading 7307.93.30 of the harmonized tariff schedule (''HTS''). Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

### Use of Facts Otherwise Available

The Department has found that TTU withheld information and failed to cooperate to the best of its ability by not responding to the Department's questionnaire. Therefore, in accordance with sections 776(a) and (b) of the Act, and consistent with the preliminary results, for the final results the Department has based the antidumping duty margin for TTU on facts otherwise available and made adverse inferences in selecting from among such facts. Section 776(b) of the Act notes that adverse inferences may include reliance on information derived from (1) the petition; (2) a final determination in the investigation; (3) any previous review; or 4) any other information placed on the record. In the preliminary results we used, as adverse facts available, the 50.84 percent margin which was used as best information available (''BIA'') in the less than fair value (''LTFV'') investigation. The 50.84 percent margin from the investigation was based on the greatest alleged margin in the antidumping petition, 52.60 percent, adjusted to exclude the export subsidies of 1.76 percent found during the period of investigation. However, because the countervailing duty order was revoked effective January 1, 1995 (60 FR 40569), it is no longer appropriate to adjust the petition rate. Therefore, for the final results we have used the 52.60 percent margin from the petition.

Section 776(c) of the Act provides that where the Department relies on ''secondary information'', the Department shall, to the extent practicable, corroborate that information. The Statement of Administrative Action (''SAA'') accompanying the URAA clarifies that information from the petition is ''secondary information'' (See H.R. Doc. 316, Vol. 1, 103d Cong., 2d sess. 870 (1994). The SAA also clarifies that ''corroborate'' means to determine that the information used has probative value (See SAA at 870). Thus, in accordance with section 776(c) of the Act, we have, to the extent practicable, corroborated the 52.60 percent BIA margin by examining the basis of the rate contained in the petition. See the preliminary results of this administrative review for further details regarding corroboration (62 FR 16541).

### Final Results of the Review

As a result of our review, we determine that a margin of 52.60 percent exists for TTU for the period July 1, 1995, through June 30, 1996.

The Department shall determine, and the Customs service shall assess, antidumping duties on all appropriate entries. Individual differences between the United States price and normal value may vary from the percentage stated above. The Department will issue appraisement instructions directly to the U.S. Customs Service.

Further, the following deposit requirements will be effective, upon publication of this notice of final results of review for all shipments of carbon steel butt-weld pipe fittings from Thailand entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed company will be 52.60 percent; (2) for previously investigated companies not covered in this review, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 39.10 percent, the ''all others'' rate established in the LTFV investigation (57 FR 29702, July 6, 1992).

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as the only reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with section § 353.34(d) of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)), section 771(i) of the Act (19 U.S.C. 1677f(i)) and 19 CFR 353.22.

Dated: July 22, 1997.

**Robert S. LaRussa,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 97–20067 Filed 7–29–97; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### International Trade Administration

### Scope Rulings

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of scope rulings and anticircumvention inquiries.

**SUMMARY:** The Department of Commerce (the Department) hereby publishes a list of scope rulings and anticircumvention inquiries completed by Import Administration, between April 1, 1997 and June 30, 1997. In conjunction with this list, the Department is also publishing a list of pending requests for scope clarifications and anticircumvention inquiries. The Department intends to publish future lists within 30 days of the end of each quarter.

**EFFECTIVE DATE:** July 30, 1997.

**FOR FURTHER INFORMATION CONTACT:** Ronald M. Trentham, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230; telephone: (202) 482–4793.

### Background

The Department's regulations (19 CFR 351.225 (o)) provide that on a quarterly basis the Secretary will publish in the **Federal Register** a list of scope rulings completed within the last three months.

This notice lists scope rulings and anticircumvention inquiries completed by Import Administration, between April 1, 1997, and June 30, 1997, and pending scope clarification and anticircumvention inquiry requests. The Department intends to publish in October 1997 a notice of scope rulings and anticircumvention inquiries completed between July 1, 1997, and September 30, 1997, as well as pending scope clarification and anticircumvention inquiry requests.

The following lists provide the country, case reference number, requester(s), and a brief description of either the ruling or product subject to the request.

### I. Scope Rulings Completed Between April 1, 1997 and June 30, 1997

*Country: People's Republic of China*

A–570–504 *Petroleum Wax Candles*

Institutional Financing Services—Red/white candles packaged as peppermint candles are within the scope of the order. 4/9/97.

Hallmark Cards, Inc.—The 399FMB5503 Formed Wax Peppermint Candy Candle is within the scope of the order. 4/9/97.

Dollar Tree Stores—Item #416750, a taper candle with a design depicting a painted ''Christmas scene'' of holly, ivy and berries, is outside the scope of the order. 4/9/97.

*Country: Japan*

A–588–055 *Acrylic Sheet from Japan*

Calsak Corporation—Noble Lite, an acrylic-based material, produced by Kuraray Co., Ltd., is outside the scope of the order. 4/10/97.

### II. Anticircumvention Rulings Completed Between April 1, 1997 and June 30, 1997

None.

### III. Scope Inquiries Terminated Between April 1, 1997 and June 30, 1997

None.

### IV. Anticircumvention Inquiries Terminated Between April 1, 1997 and June 30, 1997

None.

### V. Pending Scope Clarification Requests as of June 30, 1997

*Country: Canada*

A–122–823 *Certain Cut-to-Length Carbon Steel Plate*

Petitioners—Clarification to determine whether certain carbon steel plate with boron added is within the scope of the order.

*Country: Germany*

A–428–801 *Antifriction Bearings (Other Than Tapered Roller Bearings, and Parts Therof*

FAG Aerospace & Superprecision Bearings GmbH—Clarification to determine whether certain aerospace bearings which have entered the United States but have been returned to Germany for repair or refurbishing and which then reenter the United States are within the scope of the order.

*Country: People's Republic of China*

A–570–501 *Natural Bristle Paint Brushes and Brush Heads*

Kwick Clean and Green Ltd.—Clarification to determine whether a group of bristles held together at the base with glue, which are to be used as replaceable parts within the cavity of the paintbrush body, is within the scope of the order.

A–570–504 *Petroleum Wax Candles*

Enesco Corporation—Clarification to determine whether a birthday candle (style # 9500340) is within the scope of the order.

Indio Products Inc.—Clarification to determine whether various tapers, votives and rounds are within the scope of the order.

Sun-It Corporation—Clarification to determine whether taper candles containing oil of citronella are within the scope of the order.

Ocean State Jobbers—Clarification to determine whether taper candles consisting of a blend of petroleum wax and beeswax are within the scope of the order.

American Drug Stores—Clarification to determine whether spherical candles with a ''wax veneer'' are within the scope of the order.

M.G. Maher & Co. Inc.—Clarification to determine whether a 12 inch spiral candle is within the scope of the order.

A–570–808 *Chrome-Plated Lug Nuts*

Wheel Plus, Inc.—Clarification to determine whether imported zinc-plated lug nuts which are chrome-plated in the United States are within the scope of the order.

A–570–822 *Helical Spring Lock Washers (HSLWs)*

Shakeproof Industrial Products Division of Illinois Tool Works (SIP)—Clarification to determine whether HSLWs which are imported to the United States in an uncut, coil form are within the scope of the order.

A–570–827 *Certain Cased Pencils*

Nadel Trading Corporation—Clarification to determine whether a plastic, ''quasi-mechanical'' pencil (also known as the ''Bensia'' pencil) is within the scope of the order.

A–570–836 *Glycine*

Consolidated Pharmaceutical Group, Inc.—Clarification to determine whether D(-) Phenylglycine Ethyl Dane Salt is within the scope of the order.

*Country: South Korea*

A–580–803 *Small Business Telephones from Korea*

TT Systems Corporation—

Clarification to determine whether the ''Model 4300'' should be excluded from the scope of the order because it is a ''blocking'' system, whereas the order pertains to ''non-blocking'' systems.

*Country: Taiwan*

A–583–820 *Helical Spring Lock Washers (HSLWs)*
Shakeproof Industrial Products Division of Illinois Tool Works (SIP)—Clarification to determine whether HSLWs imported into the United States in an uncut, coil form are within the scope of the order.

*Country: Japan*

A–588–802 *3.5'' Microdisks*
Maxell Corporation of America—Clarification to determine whether Maxell's OSD325-Floptical Disk-is within the scope of the order.

A–588–804 *Antifriction Bearings (Other Than Tapered Roller Bearings), and Parts Thereof*
Koyo Seiko Co., Ltd.—Clarification to determine whether a cylindrical roller bearing, supposedly without a precision rating, for use as an axle bearing in cars and trucks is within the scope of the order.

A–588–813 *Light-Scattering Instruments and Parts Thereof*
Thermo Capillary Electrophoresis, Inc.—Clarification to determine whether diode array detectors and cell flow units are within the scope of the order.

A–588–824 *Corrosion Resistant Carbon Steel Flat Products*
Drive Automotive Industries—Clarification to determine whether 2000 millimeter wide, made to order, corrosion resistant carbon steel coils are within the scope of the order.

A–588–833 *Stainless Steel Bar*
Keystone Stainless Inc.—Clarification to determine whether ''Keystone 2000,'' a specialty stainless steel bar product, should be excluded from the scope of the order because the manufacture of the product substantially differentiates it from any other product available.

**VI. Pending Anticircumvention Inquiries as of March 31, 1997**

*Country: Mexico*

A–201–805 Certain Welded Non-Alloy Steel Pipe
Allied Tube & Conduit Corp., Sawhill Tubular Division of Tex-Tube Co., Century Tube Corp., Laclede Steel Co., LTV Tubular Products Co., Sharon Tube Co., Western Tube & Conduit Co., Wheatland Tube Co., and CSI Tubular Products, Inc. (Petitioners)—Anticircumvention inquiry to determine whether imports of (i) pipe certified to the American Petroleum Institute (API) 5L line pipe specifications (API 5L or line pipe) and (ii) pipe certified to both the API 5L line pipe specifications and the less stringent American Society for Testing and Materials (ASTM) A–53 standard pipe specifications (dual certified pipe), falling within the physical dimensions outlined in the scope of the order, are circumventing the antidumping duty order.

*Country: United Kingdom*

A–412–810 *Lead and Bismuth Carbon Steel Products*
C–412–811 Inland Steel Bar Company and USS/Kobe Steel Company (Petitioners)—Anticircumvention inquiry to determine whether British Steel PLC is circumventing the order by shipping leaded steel billets to the United States, where they are converted into the hot-rolled carbon steel products covered by the order.

*Country: Germany*

A–428–811 *Lead and Bismuth Carbon Steel Products*
C–429–812 Inland Steel Bar Company and USS/Kobe Steel Company (Petitioners)—Anticircumvention inquiry to determine whether Saarstahl A.G. and Thyssen s Stahl A.G. are circumventing the order by shipping leaded steel billets to the United States, where they are converted into the hot-rolled carbon steel products covered by the order.

*Country: Korea*

A–580–008 *Color Television Receivers from Korea*
International Brotherhood of Electrical Workers, the International Union of Electronic Electrical, Salaried, Machine & Furniture Workers, and the Industrial Union Department (the Unions)—Anticircumvention inquiry to determine whether Samsung Electronics Co., L.G. Electronics Inc., and Daewoo Electronics Co., are circumventing the order by shipping Korean-origin color picture tubes, printed circuit boards, color television kits, chassis, and other materials, parts and components to plants operated by related parties in Mexico where the parts are then assembled in CTVs and shipped to the United States.
Additionally, an anticircumvention inquiry to determine whether Samsung by shipping Korean-origin color picture tubes and other CTV parts to a related party in Thailand for assembly into complete CTVs prior to exportation to the United States is circumventing the order.

Interested parties are invited to comment on the accuracy of the list of pending scope clarification requests. Any comments should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room B–099, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Dated: July 24, 1997.

**Joseph A. Spetrini.**

*Deputy Assistant Secretary, Enforcement Group III.*

[FR Doc. 97–20072 Filed 7–29–97; 8:45 am]
**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### National Institute of Standards and Technology

### Judges Panel of the Malcolm Baldrige National Quality Award

**AGENCY:** National Institute of Standards and Technology, Department of Commerce.

**ACTION:** Notice of closed meeting.

**SUMMARY:** Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. 2, notice is hereby given that there will be a closed meeting of the Judges Panel of the Malcolm Baldrige National Quality Award on Wednesday, August 6, 1997. The Judges Panel is composed of nine members prominent in the field of quality management and appointed by the Secretary of Commerce. The purpose of this meeting is to review the 1997 Award applications and to select applications to be considered in the site visit stage of the evaluation. The applications under review contain trade secrets and proprietary commercial information submitted to the Government in confidence.

**DATES:** The meeting will convene August 6, 1997, at 8:00 a.m. and adjourn at 5:00 p.m. on August 6, 1997. The entire meeting will be closed.

**ADDRESSES:** The meeting will be held at the National Institute of Standards and Technology, Administration Building, Gaithersburg, Maryland 20899.

**FOR FURTHER INFORMATION CONTACT:** Dr. Harry Hertz, Director, National Quality Program, National Institute of Standards and Technology,

Gaithersburg, Maryland 20899, telephone number (301) 975–2361.

**SUPPLEMENTARY INFORMATION:** The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on February 10, 1997, that the meeting of the Judges Panel will be closed pursuant to Section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. app. 2, as amended by Section 5(c) of the Government in the Sunshine Act, Public Law 94–409. The meeting, which involves examination of records and discussion of Award applicant data, may be closed to the public in accordance with Section 552b(c)(4) of Title 5, United States Code, since the meeting is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential.

Dated: July 22, 1997.

**Elaine Bunten-Mines,**

*Director, Program Office.*

[FR Doc. 97–19988 Filed 7–29–97; 8:45 am]

**BILLING CODE 3510–13–M**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[I.D. 072297F]**

### Magnuson Act Provisions; Essential Fish Habitat; Public Meeting

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

**ACTION:** Notice of meeting.

**SUMMARY:** The NMFS Alaska Region will hold an essential fish habitat (EFH) team meeting to discuss the following items: development of FY 98 funding proposals; review of salmon, crab, scallop, and groundfish habitat assessment reports; discussion of a process for public involvement and incorporation of traditional knowledge; Geographical Information Systems needs, research needs.

**DATES:** The Alaska Region core EFH team will meet August 4–5, 1997, in Juneau, AK. The meeting will begin at 8:00 a.m. each day.

**ADDRESSES:** The team will meet in room 445 B and 445 C in the Federal Building located at 709 W. 9th Street, Juneau, AK.

Questions be addressed to Protected Resources Management Division, 709 W. 9th Street, Suite 461, P.O. Box 21668, Juneau, AK 99802–1668; telephone: (907) 586–7235.

**FOR FURTHER INFORMATION CONTACT:** Cindy Hartmann, NMFS, (907) 586–7585; e-mail: cindy.hartmann@noaa.gov

**SUPPLEMENTARY INFORMATION:**

#### Background

The NMFS Alaska Region core EFH team was formally established in April 1997 to implement the EFH provisions of the Magnuson-Stevens Fishery Conservation and Management Act. EFH provisions include the description and identification of essential fish habitat and threats to that habitat.

#### Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Cindy Hartmann, (907) 586–7235, at least 5 working days prior to the meeting date.

Dated: July 24, 1997.

**Bruce C. Morehead,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 97–20043 Filed 7–29–97; 8:45 am]

**BILLING CODE 3510–22–F**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[I.D. 072197D]**

### Mid-Atlantic Fishery Management Council; Meetings

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

**ACTION:** Notice of public meetings.

**SUMMARY:** The Mid-Atlantic Fishery Management Council (Council) and its Habitat Committee, Atlantic Mackerel, Squid, and Butterfish Monitoring Committee, Scientific & Statistical Committee, Bluefish Monitoring Committee, Surfclam and Ocean Quahog Committee, Atlantic Mackerel, Squid, and Butterfish Committee, Bluefish Advisory Committee, together with the Atlantic States Marine Fisheries Commission's (ASMFC) Bluefish Advisory Committee, and the Coastal Migratory Committee of the Whole with the ASMFC Bluefish Board will hold a public meeting.

**DATES:** The meetings will be held on August 11–14, 1997. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

**ADDRESSES:** These meetings will be held at the Sheraton Society Hill Hotel, One Dock Street, Philadelphia, PA 19106–3996; telephone: 215–238–6000.

*Council address*: Mid-Atlantic Fishery Management Council, 300 S. New Street, Dover, DE 19904; telephone: 302–674–2331.

**FOR FURTHER INFORMATION CONTACT:** David R. Keifer, Executive Director, Mid-Atlantic Fishery Management Council; telephone: 302–674–2331.

**SUPPLEMENTARY INFORMATION:** On Monday, August 11, 1997, the Habitat Committee and the Atlantic Mackerel, Squid, and Butterfish Monitoring Committee will meet simultaneously from 1:00–4:00 p.m. On Tuesday, August 12, the Scientific & Statistical Committee will meet from 8:00–10:00 a.m. The Surfclam and Ocean Quahog Committee and the Bluefish Monitoring Committee will meet simultaneously from 10:00 a.m. until noon. The Atlantic Mackerel, Squid, and Butterfish Committee and the Bluefish Advisory Committee (together with ASMFC) will meet simultaneously from 1:00–4:00 p.m. On Wednesday, August 13, the Council will meet from 8:00 a.m. until noon. The Council will meet as a Coastal Migratory Committee of the Whole (together with the ASMFC Bluefish Board) from 1:00–4:00 p.m. On Thursday, August 14, the Council will meet from 8:00 a.m. until noon.

The purpose of these meetings is to discuss essential fish habitat, discuss the 1998 recommendations for squid, mackerel, and butterfish, discuss the 1998 quota recommendations for surfclams and ocean quahogs, recommend the 1998 management measures and discuss Amendment 1 to the Bluefish Fishery Management Plan, hear report of the 1998 Stock Assessment Workshop, and other fishery management matters.

The above agenda items may not be taken in the order in which they appear and are subject to change as necessary; other items may be added. This meeting may also be closed at any time to discuss employment or other internal administrative matters.

#### Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Joanna Davis at the Council (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: July 23, 1997.

**Bruce C. Morehead,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 97–19959 Filed 7–29–97; 8:45 am]

**BILLING CODE 3510–22–F**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[I.D. 072197G]**

### Pacific Fishery Management Council; Public Meeting

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

**ACTION:** Notice of public meeting.

**SUMMARY:** The Pacific Fishery Management Council's (Council) Committee on Alternative Groundfish Management will hold a public meeting.

**DATES:** The meeting will begin on Wednesday, August 20, 1997, at 9:00 a.m. and may go into the evening until business for the day is completed.

**ADDRESSES:** The meeting will be held in the Mt. St. Helens Room at the Shilo Inn - Portland Airport, 11707 NE Airport Way, Portland, OR.

*Council address*: Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

**FOR FURTHER INFORMATION CONTACT:** Larry Six, Executive Director; telephone: (503) 326–6352.

**SUPPLEMENTARY INFORMATION:** At the request of the Council, the Committee will discuss alternatives to the year-round fishery for potential implementation in 1998. Other alternative management strategies to be discussed include a full retention program, marine harvest regues, and others. The Committee will present their findings at the September 8–12 Council meeting.

#### Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Eric Greene at (503) 326–6352 at least 5 days prior to the meeting date.

Dated: July 23, 1997.

**Bruce C. Morehead,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 97–19960 Filed 7–29–97; 8:45 am]

**BILLING CODE 3510–22–F**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[I.D. 072297G]**

### South Atlantic Fishery Management Council; Public Meetings.

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

**ACTION:** Notice of public meetings.

**SUMMARY:** The South Atlantic Fishery Management Council (Council) will hold meetings of its Wetlands, Seagrass, Oyster/Shell and Water Issues Sub-Groups.

**DATES:** The meetings will be held August 11-13, 1997. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

**ADDRESSES:** The meetings will be held at the Town and Country Inn, 2008 Savannah Highway, Charleston, SC 29407; telephone: 803-571-1000.

*Council address*: South Atlantic Fishery Management Council, One Southpark Circle, Suite 306; Charleston, SC 29407-4699.

**FOR FURTHER INFORMATION CONTACT:** Susan Buchanan, Public Information Officer; telephone: (803) 571-4366; fax: (803) 769-4520; email: susan.buchanan@noaa.gov

**SUPPLEMENTARY INFORMATION:**

#### Meeting Dates

*August 11, 1997, 1:30 p.m. to 6:00 p.m.; August 12, 1997, 8:30 a.m. to 12:30 p.m.*

The Wetlands Sub-Group will meet to review wetland habitat description and distribution information in south Atlantic state and regional and geographical information systems, identify fishing and non-fishing threats to wetland habitats, and to develop recommendations for a draft Council habitat policy statement on wetland habitats.

*August 12, 1997, 1:30 p.m. to 6:00 p.m.*

The Seagrass Sub-Group will meet to review seagrass habitat description and distribution information in state and regional systems, identify fishing and non-fishing threats to seagrass habitat, and make recommended revisions to the Council habitat policy statement on seagrass.

*August 13, 1997, 8:30 a.m. to 11:30 a.m.*

The Oyster/Shell Sub-Group will meet to review oyster/shell habitat description and distribution information in south Atlantic state and Federal systems, identify fishing and non-fishing threats to oyster/shell habitats, and develop recommendations for a draft Council habitat policy statement on

oyster/shell habitats.

*August 13, 1997, 12:30 p.m. to 6:00 p.m.*

The Water Issues Sub-Group will meet to hold a round table discussion on water issues and impacts on essential fish habitat, including hydrologic modifications and water quality issues, and to develop recommendations for inclusion in a draft Council habitat policy statement on water issues.

#### Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) by August 4, 1997.

Dated: July 24, 1997.

**Bruce C. Morehead,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 97–19961 Filed 7–29–97; 8:45 am]

**BILLING CODE 3510–22–F**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[I.D. 072197A]**

### Endangered Species; Permits

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

**ACTION:** Receipt of an application for a scientific research permit (P654).

**SUMMARY:** Notice is hereby given that the Idaho Fishery Resource Office of the U.S. Fish and Wildlife Service at Ahsahka, ID (FWS) has applied in due form for a permit that would provide authorization for a take of a threatened species for the purpose of scientific research.

**DATES:** Written comments or requests for a public hearing on this application must be received on or before August 29, 1997.

**ADDRESSES:** The application and related documents are available for review in the following offices, by appointment:

Office of Protected Resources, F/PR3, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226 (301–713–1401); and

Protected Resources Division, F/NWO3, 525 NE Oregon Street, Suite

500, Portland, OR 97232–4169 (503–230–5400).

Written comments or requests for a public hearing should be submitted to the Chief, Protected Resources Division in Portland, OR.

**SUPPLEMENTARY INFORMATION:** FWS requests a permit under the authority of section 10 of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531–1543) and the NMFS regulations governing ESA-listed fish and wildlife permits (50 CFR parts 217–227).

FWS (P654) requests a 5-year permit for an annual take of adult, threatened, Snake River fall chinook salmon (*Oncorhynchus tshawytscha*) associated with research designed to monitor and evaluate adult returns of hatchery-origin fall chinook salmon released as juveniles above Lower Granite Dam on the Snake River in the Pacific Northwest. Although the focus of the research is on non-listed hatchery fish, FWS also propose to collect information on ESA-listed, natural-origin, fall chinook salmon. Currently, information on ESA-listed, natural-origin fish is needed to assess the impacts of fish management actions (e.g., hatchery supplementation), as well as other human activities (e.g., regulated river flows), on wild fish populations. The research has two components: 1) Radio-tagging returning adult salmon at Lower Granite Dam to document the movements and spawning distribution of known natural-origin fall chinook salmon above the dam, and 2) collecting data and scale/tissue samples from spawned-out adult fish in the Snake River and tributaries above Lower Granite Dam to augment information on spawning distribution collected from radio-tagged fish. For the radio-tagging component, ESA-listed adult fish are proposed to be captured, anesthetized, handled (measured, sampled for scales and tissues, tagged with radio transmitters), allowed to recover from the anesthetic, and released. For the spawned-out fish component, ESA-listed adult fish are proposed to be monitored for the development of redds during weekly aerial surveys, observed from shore or from a boat to determine if the fish are near natural death (spawned-out), captured by rod and reel, handled (measured, sampled for scales and tissues, checked for tags), and released. Tissue samples will subsequently be analyzed for genetic attributes and population determinants.

Those individuals requesting a hearing (see **ADDRESSES**) should set out the specific reasons why a hearing on this application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in this application summary are those of the applicant and do not necessarily reflect the views of NMFS.

Dated: July 23, 1997.

**Nancy Chu,**

*Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 97–19957 Filed 7–29–97; 8:45 am]

**BILLING CODE 3510–22–F**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[I.D. 072197B]**

### Endangered Species; Permits

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

**ACTION:** Issuance of modification 5 to incidental take permit 844 (P503I).

**SUMMARY:** Notice is hereby given that NMFS has issued a modification to a permit to the Idaho Department of Fish and Game at Boise, ID (IDFG) that authorizes an incidental take of Endangered Species Act-listed species associated with sport-fishing activities, subject to certain conditions set forth therein.

**ADDRESSES:** The application and related documents are available for review in the following offices, by appointment:

Office of Protected Resources, F/PR3, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226 (301-713-1401); and

Protected Resources Division, F/NWO3, 525 NE Oregon Street, Suite 500, Portland, OR 97232–4169 (503–230–5400).

**SUPPLEMENTARY INFORMATION:** The modification to a permit was issued under the authority of section 10 of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531-1543) and the NMFS regulations governing ESA-listed fish and wildlife permits (50 CFR parts 217–222).

Notice was published on May 5, 1997 (62 FR 24421) that an application had been filed by IDFG for a modification to incidental take permit 844 (P503I). Modification 5 to permit 844 was issued to IDFG on July 11, 1997. For modification 5, IDFG is authorized an increase in the incidental take of adult, threatened, natural-origin, Snake River spring/summer chinook salmon (*Oncorhynchus tshawytscha*) associated with a salmon sport fishery on the upper South Fork of the Salmon River. The fishery will target non-listed adult, adipose fin-clipped, artificially-propagated, summer chinook salmon. The primary source of take will be the incidental catch and release of ESA-listed adult fish with associated catch-and-release incidental mortalities. The specifics of the fishery, including season dates, duration, locations, and mitigative activities are tailored to provide the appropriate level of protection for ESA-listed fish in the watershed. The fishery will be terminated when quotas are reached or August 4, 1997, whichever occurs first. The incidental take of ESA-listed fish associated with the South Fork Salmon River fishery is valid in 1997 only. Permit 844 expires on April 30, 1998.

Notice was published on May 30, 1997 (62 FR 29330) that NMFS proposed to amend IDFG's incidental take permit 844 (P503I) consequential to the issuance of modification 8 to IDFG's scientific research/enhancement permit 795. NMFS issued modification 8 to permit 795 on May 21, 1997 (62 FR 29331, May 30, 1997). Modification 8 to permit 795 authorizes IDFG to release juvenile, endangered, artificially-propagated, Snake River sockeye salmon (*Oncorhynchus nerka*) from its captive propagation program into Alturas Lake in 1997. NMFS proposed to amend permit 844 to authorize IDFG an incidental take of juvenile, ESA-listed, sockeye salmon associated with the continuation of rainbow trout and kokanee sport fisheries at Alturas Lake in 1997 after the ESA-listed juvenile fish are reintroduced into the lake. NMFS has determined that the continuation of these fisheries at Alturas Lake in 1997 will not result in an incidental take of juvenile, ESA-listed, sockeye salmon because of the small size of the fish to be released into the lake (7 grams or approximately 90 mm). In addition, ESA-listed sockeye salmon smolts should migrate out of Alturas Lake prior to reaching a size that makes them susceptible to the fisheries.

Issuance of the modification to a permit, as required by the ESA, was based on a finding that such action: (1) Was requested/proposed in good faith, (2) will not operate to the disadvantage of the ESA-listed species that are the subject of the permit, and (3) are consistent with the purposes and policies set forth in section 2 of the ESA and the NMFS regulations governing ESA-listed species permits.

Dated: July 23, 1997.

**Nancy Chu,**

*Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 97–19958 Filed 7–29–97; 8:45 am]

**BILLING CODE 3510–22–F**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[I.D. 072397D]**

### Marine Mammals; Permit No. 789 (P135C)

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

**ACTION:** Issuance of amendment.

**SUMMARY:** Notice is hereby given that permit no. 789 submitted by Dr. James H.W. Hain, NMFS, NOAA, Northeast Fisheries Science Center, 166 Water Street, Woods Hole, MA, 02543–1026, has been amended to extend the expiration date through December 31, 1997.

**ADDRESSES:** The amended permit is available for review by 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);

Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298, (508/281–9150); and

Southeast Region, NMFS, 9721 Executive Center Drive, N., St. Petersburg, FL 33702–2432 (813/893–3141).

**SUPPLEMENTARY INFORMATION:** The subject amendment has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the provisions of § 216.39 of the regulations of the governing the taking and importing (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the provisions of § 222.25 of the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR part 222).

Issuance of this amended permit as required by the ESA was based on a finding that such permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which is the subject of this permit; and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: July 23, 1997.

**Ann D. Terbush,**

*Chief, Permits & Documentation Division, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 97–20009 Filed 7–29–97; 8:45 am]

**BILLING CODE 3510–22–F**

## DEPARTMENT OF DEFENSE

### Department of the Air Force

### Proposed Collection; Comment Request

**AGENCY:** Department of the Air Force.

**ACTION:** Notice.

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Department of the Air Force announces the proposed reinstatement of a public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

**DATES:** Consideration will be given to all comments received by September 29, 1997.

**ADDRESSES:** Written comments and recommendations on the proposed information collection should be sent to HQ AFROTC/RRUC, College Scholarship Section, 551 East Maxwell Blvd, ATTN: Mrs. Pamela J. Williams, Maxwell Air Force Base, AL 36112–6102.

**FOR FURTHER INFORMATION CONTACT:** To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call HQ AFROTC/RRUC, College Scholarship Section, at (334) 953–7783.

*Title, Associated Form, and OMB Number:* Air Force ROTC College Scholarship Application, AF Form 113, OMB Number 0701–0101.

*Needs and Uses:* The information collection requirement is used by the Air Force to identify the best-qualified applicants for the scholarship, providing for a ''whole person'' evaluation.

*Affect Public:* Individuals and household.

*Number of Respondents:* 11,000.

*Responses per Respondent:* 1.

*Average Burden per Response:* 42 minutes.

*Frequency:* On occasion.

**SUPPLEMENTARY INFORMATION:**

**Summary of Information Collection**

Respondents are high school students or graduates between the ages of 16 and 21 years. Respondents must complete all requirements listed in the application package and return before the final deadline of December 1. Factors considered in the application process include GPA, SAT or ACT test scores, etc. Due to the number of factors that have proven to influence successful completion of a college program, it is necessary to collect information in all areas listed on the application. Additionally, the national average attrition from college is about 40 percent. In order to obtain a reasonable return for the dollars expended on scholarships, we must apply as comprehensive an evaluation of each candidate as possible. Without this screening process, the consequences to this federal program would be thousands of dollars wasted on individuals who attrited from the program prior to incurring an obligation to serve in the military. In addition to the concern for the economy of the scholarship dollar, Congressional oversight of the program demands that the services be able to report on the numbers and kinds of individuals who apply for scholarships and provide leads for AFROTC units around the nation.

**Barbara A. Carmichael,**

*Alternate Air Force Federal Register Liaison Officer.*

[FR Doc. 97–20001 Filed 7–29–97; 8:45 am]

**BILLING CODE 3910–01–P**

## DEPARTMENT OF DEFENSE

### Department of the Army

### Final Environmental Impact Statement (FEIS) on the Disposal and Reuse of the Savanna Army Depot Activity, Savanna, Illinois

**AGENCY:** Department of the Army, DoD.

**ACTION:** Notice of availability.

**SUMMARY:** In accordance with Public Law 101–510 (as amended), the Defense Base Closure and Realignment Act of 1990, the Defense Base Closure and

Realignment Commission recommended the closure of Savanna Army Depot Activity (SVDA).

The FEIS evaluates the environmental impacts of the disposal and subsequent reuse of the 13,062 acres. Alternatives examined in the FEIS include encumbered disposal of the property, unencumbered disposal of the property, and no action. Encumbered disposal refers to transfer or conveyance of property having restrictions on subsequent use as a result of any Army-imposed or legal restraint. Under the no action alternative, the Army would not dispose of property but would maintain it in caretaker status for an indefinite period.

While disposal of SVDA is the Army's primary action, the FEIS also analyzes the potential environmental effects of reuse as a secondary action by means of evaluating intensity-based reuse scenarios. The Army's preferred alternative for disposal of SVDA property is encumbered disposal, with encumbrances pertaining to unexploded ordnance, wetlands, historical resources, threatened and endangered species, utilities dependencies, easements, and remedial activities.

The Draft EIS was made available for public review and comment. A notice of availability (NOA) of the Draft EIS was published in the **Federal Register** on February 7, 1997 (62 FR 5825). The Army conducted a public meeting on March 6, 1997, to receive public input on the Draft EIS. Display advertisements informing the public were taken out in three area newspapers.

**DATES:** The public review period for this FEIS ends August 29, 1997.

**COPIES:** The FEIS is available for review at the Savanna Public Library, Galena Public Library, and Hanover Public Library. A copy of the FEIS may be obtained by writing to Mr. Glen Coffee at the Corps of Engineers, Mobile District (ATTN: CESAM–ED–E), 109 St. Joseph Street, Mobile, Alabama 36628–0001 or by facsimile at (334) 694–2727.

Dated: July 24, 1997.

**Raymond J. Fatz,**

*Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health), OASA (I, L&E).*

[FR Doc. 97–20055 Filed 7–29–97; 8:45 am]

BILLING CODE 3710–08–M

## DEPARTMENT OF DEFENSE

## Department of the Army

## Corps of Engineers

## Draft Jennings Randolph Lake Master Plan 1997 Update And Integrated Environmental Impact Statement

**AGENCY:** U.S. Army Corps of Engineers, DOD.

**ACTION:** Notice of availability.

**SUMMARY:** Pursuant to the 1995 Energy and Water Development Appropriations Act (Pub. L. 103–316, 108 Stat. 1701, dated 26 August 1994), the U.S. Army Corps of Engineers, Baltimore District, has prepared the Draft Jennings Randolph Lake Master Plan 1997 Update and Integrated Environmental Impact Statement (EIA) to address potential future development at, and to update the NEPA documentation for the operation of, Jennings Randolph Lake, Garrett County, Maryland and Mineral County, West Virginia. The public review and comment period for the Draft Master Plan and integrated EIS will begin on July 31, 1997, and will end on September 16, 1997. Jennings Randolph Lake is located on the North Branch of the Potomac River, approximately 8 miles upstream of Bloomington, Maryland, and approximately 5 miles north of Elk Garden, West Virginia. The dam is a multi-purpose project authorized for flood protection, water quality, recreation, and water supply. The original Master Plan for Jennings Randolph Lake was completed in 1973. The current update reevaluates the assets, needs, and potential of the project. The 1997 Master Plan Update reflects changes that have occurred to the site, in the region, in recreation trends, and in Corps policy in the years since the original Master Plan was completed. The purpose of the update is to provide a guide for the use and development of natural and constructed resources on Corps fee-owned lands at Jennings Randolph Lake. The Master Plan is the basic document guiding Corps responsibilities pursuant to Federal laws to preserve, conserve, restore, maintain, manage, and develop the project lands, waters, and associated resources. The document also updates the existing environmental documentation for project operations.

**FOR FURTHER INFORMATION CONTACT:** Information or copies of the report may be obtained by calling Ms. Lacy Evans at (410) 962–6018. Requests for copies of the Draft Report and Integrated EIS may be mailed to District Engineer ATTN: CENAB–OP–TR (Evans), U.S. Army Corps of Engineers, Baltimore District, P.O. Box 1715, Baltimore, MD 21203–1715, or by sending an e-mail message to lacy.e.evans@ccmail.nab.usace.army.mil.

**SUPPLEMENTARY INFORMATION:** The Master Plan has been prepared in accordance with Engineering Regulation (ER) 1130–2–550, dated November 1996. This regulation prescribes ''an overall land and water management plan, resource objectives, and associated design and management concepts'' that provides the ''best possible combination of response to regional needs, resource capabilities and suitabilities, and expressed public interests and desires consistent with authorized project purpose.'' Additional, as specified in the regulation, the Master Plan contributes to ''providing qualities, characteristics, and potentials of the project;'' and exhibits ''consistency and compatibility and with national objectives and other state and regional goals and programs.''

The decision to implement the proposed future development at Jennings Randolph Lake is based on an evaluation of the probable impact of the proposed activities on the environment, as well as public interest. Factors being considered include regional economics, general environmental concerns, wetlands, cultural resources, flood hazards, fish and wildlife resources, flood plain management, land use, recreation, water supply, water quality, aesthetics, energy needs regional and local infrastructure, hazardous and toxic materials, public health and safety, food and fiber production and the general needs and welfare of the people.

Comments on the Draft Master Plan and Integrated EIS document from the public and from Federal, state, and local agencies and officials will be considered in the decision to implement the Master Plan at the project, and will be incorporated into the final Environmental Impact Statement. A public meeting will be held on Thursday, August 14, 1997, from 7:00 to 9:00 p.m., at the Mineral County Health Center, Harley O. Staggers Sr. Drive, Keyser, West Virginia. The public meeting will focus on discussing the Draft Master Plan and Integrated EIS.

This Notice of Availability is being sent to organizations and individuals known to have an interest in the Master Plan Update. Please bring this notice to the attention of any other individuals with an interest in this matter. Copies of the Draft Jennings Randolph Lake Master Plan 1997 Update and Integrated EIS are available for review at the following locations:

Keyser/Mineral County Public Library, 105 North Main Street, Keyser, West Virginia
Fort Ashby Public Branch Library, Fort Ashby, West Virginia
Piedmont Library, Childs Avenue, Piedmont, West Virginia
Allegheny Mountain Top Public Library, Mount Storm, West Virginia
Cumberland Public Library, 31 Washington Street, Cumberland, Maryland
Garrett County Public Library, 6 North 2nd Street, Oakland, Maryland
Westernport Public Library, 66 Main Street, Westernport, Maryland
Frostburg Library, 90 East Main Street, Frostburg, Maryland
La Vale Library, 815 National Highway, La Vale, Maryland

**Ronald A. Cucina,**

*Chief, Operations Division.*

[FR Doc. 97–20035 Filed 7–29–97; 8:45 am]

BILLING CODE 3710–41–M

## DELAWARE RIVER BASIN COMMISSION

### Notice of Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, August 6, 1997. The hearing will be part of the Commission's regular business meeting which is open to the public and scheduled to begin at 1:30 p.m. in the Harbor Room of the University of Delaware's Virden Center at 700 Pilottown Road, Lewes, Delaware.

An informal conference among the Commissioners and staff will be held at 9:30 a.m. at the same location and will include a U.S. Geological Survey presentation on a regional pilot for integrated environmental monitoring and related research in the mid-Atlantic region; a presentation on the Delaware Estuary Program's monitoring plan; a discussion of proposed amendments to the Commission's Administrative Manual—Rules of Practice and Procedure and a Flow Management Technical Advisory Committee status report.

In addition to the subjects listed below which are scheduled for public hearing at the business meeting, the Commission will also address the following: Minutes of the June 25, 1997 business meeting; announcements; General Counsel's report; report on Basin hydrologic conditions; consideration of Jefferson Township Sewer Authority Docket No. D–97–6 CP and public dialogue.

The subjects of the hearing will be as follows:

**Applications for Approval of the Following Projects Pursuant to Article 10.3, Article 11 and/or Section 3.8 of the Compact**

*1. Reed's Sod Farms D–81–44 Renewal 3*

An application for the renewal of a ground water withdrawal project, formerly approved under the name of Stewart L. Reed, Jr., to supply up to 20 million gallons (mg)/30 days of water to the applicant's supplemental irrigation system from Well No. 1. Commission approval on December 11, 1991 was limited to five years. The applicant requests that the total withdrawal from all wells remain limited to 20 mg/30 days. The project is located in Washington Township, Mercer County, New Jersey.

*2. Schuylkill County Municipal Authority D–90–49 CP (Revision 2)*

A project to increase the applicant's existing exportation of surface water from 0.6 million gallons per day (mgd) to 1.0 mgd. The project will provide 0.225 mgd to a site spanning portions of Foster, Butler and Cass Townships just east of Interstate Route 81 in Schuylkill County, Pennsylvania. The project includes a new Pennsylvania Department of Transportation safety/rest area and the proposed Schuylkill Highridge Business Park. The project service area is situated in the Delaware River Basin (DRB) near the ridge line and exportation will be via discharge of wastewater to the Schuylkill County Municipal Authority wastewater treatment plant located in Gordon, Schuylkill County, Pennsylvania in the Susquehanna River Basin (SRB). All of the exportation water sources are provided by the applicant's two existing water supply storage reservoirs, Kaufman Reservoir and Mount Laurel Reservoir (formerly known as Mud Run Reservoir). Kaufman Reservoir is located on Kaufman Run, a tributary of Mud Run, in New Castle Township; Mount Laurel Reservoir is located nearby on Mud Run, also in New Castle Township, all in the DRB in Schuylkill County. No increase in allocation from the two reservoirs is required to provide the increased exportation.

*3. Evesham Township Municipal Utilities Authority D–95–62 CP*

A project to upgrade and expand the applicant's 1.5 mgd Woodstream sewage treatment plant (STP) average monthly design capacity to 1.7 mgd. The STP will continue to serve a portion of Evesham Township by providing secondary biological treatment utilizing the contact stabilization activated-sludge process and tertiary treatment with rapid sand filtration. The project will include improvement and expansion of the existing facilities and the addition of ammonia nitrogen removal facilities. The STP is located just north of Greentree Road on the east bank of the South Branch Pennsauken Creek, to which the STP will continue to discharge, in Evesham Township, Burlington County, New Jersey.

*4. Richland Township Water Authority D–96–44 CP*

An application for approval of a ground water withdrawal project to supply water to the applicant's distribution system from existing Well Nos. 1 and 2, from acquired Well No. 3 (formerly Judd Associates, Inc. Well No. RC–1), from acquired Well Nos. 4 and 5 (formerly Walnut Bank Water Company Well Nos. WB–2 and WB–3), and to increase the existing total withdrawal limit of 20.13 mg/30 days to 29.3 mg/30 days. The project is located in Richland Township, Bucks County, in the Southeastern Pennsylvania Ground Water Protected Area.

*5. Borough of Washington D–97–4 CP*

A discharge project to upgrade and expand the applicant's existing 0.85 mgd STP to 1.5 mgd. The proposed STP will provide advanced secondary biological treatment with the sequencing batch reactor activated sludge treatment process. The STP will continue to serve the Borough and portions of Washington Township, Warren County, New Jersey and, after ultraviolet disinfection, discharge to Pohatcong Creek via a new outfall extension; the existing discharge to Shabbecong Creek, approximately 350 feet upstream of the new discharge, will be eliminated. The project STP is situated just south of Route 57 near the eastern boundary of the Borough of Washington on the south bank of Pohatcong Creek.

*6. Merchantville-Pennsauken Water Commission D–97–5 CP*

An application for approval of a ground water withdrawal project to supply up to 335 mg/30 days of water to the applicant's distribution system from 14 existing wells and new Well No. Browning Road 3A, and to reduce the existing withdrawal limit from all wells to 335 mg/30 days. The project is located in Merchantville Borough and Pennsauken Township, Camden County, New Jersey.

*7. City of Allentown D–97–14 CP*

A project to modify the applicant's Klines Island STP to improve the secondary settling and final settling processes, along with other operational and equipment modifications. The STP project is intended to more efficiently meet the effluent parameters in the current and future discharge permits. The STP will continue to be rated for a 40 mgd average monthly flow and discharge to the Lehigh River in the City of Allentown, Lehigh County, Pennsylvania. The STP will continue to serve the City of Allentown, the Boroughs of Coplay, Emmaus, Alburtis and Macungie, and the Townships of Whitehall, South Whitehall, Salisbury, Upper Macungie, Lower Macungie, Upper Milford, Hanover, Weisenberg and Lowhill, all in Lehigh County.

Documents relating to these items may be examined at the Commission's offices. Preliminary dockets are available in single copies upon request. Please contact Thomas L. Brand at (609) 883–9500 ext. 221 concerning docket-related questions. Persons wishing to testify at this hearing are requested to register with the Secretary at (609) 883–9500 ext. 203 prior to the hearing.

Dated: July 21, 1997.

**Susan M. Weisman,**

*Secretary.*

[FR Doc. 97–19968 Filed 7–29–97; 8:45 am]

BILLING CODE 6360–01–P

## DEPARTMENT OF EDUCATION

### Notice of Proposed Information Collection Requests

**AGENCY:** Department of Education.

**ACTION:** Proposed collection; comment request.

**SUMMARY:** The Director, Information Resources Management Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

**DATES:** Interested persons are invited to submit comments on or before September 29, 1997.

**ADDRESSES:** Written comments and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

**FOR FURTHER INFORMATION CONTACT:** Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

**SUPPLEMENTARY INFORMATION:** Section 3506 of the Paperwork Reduction Act of 1995 (44 U. S. C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director, Information Resources Management Group publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department, (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate, (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: July 24, 1997.

**Gloria Parker,**

*Director, Information Resources Management Group.*

### Office of Management

*Type of Review:* Reinstatement.

*Title:* Customer Satisfaction Surveys and Focus Groups

*Frequency:* On Occasion.

*Affected Public:* Individuals or households; Business or other for-profit; Not-for-profit institutions; State, local or Tribal government, SEAs or LEAs.

*Annual Reporting and Recordkeeping Hour Burden:*

Responses: 101,000.

Burden Hours: 8,000.

*Abstract:* Customer satisfaction surveys and focus group discussions will be conducted by the Principal Offices of the Department of Education. They will measure customer satisfaction and establish and improve customer service standards as required by Executive Order 12862.

[FR Doc. 97–19987 Filed 7–29–97; 8:45 am]

BILLING CODE 4000–01–P

## DEPARTMENT OF ENERGY

### DOE Response to Recommendation 97–2 of the Defense Nuclear Facilities Safety Board, Continuation of Criticality Safety at Defense Nuclear Facilities in the Department of Energy (DOE) Complex

**AGENCY:** Department of Energy.

**ACTION:** Notice.

**SUMMARY:** The Defense Nuclear Facilities Safety Board published Recommendation 97–2, concerning Continuation of Criticality Safety at Defense Nuclear Facilities in the Department of Energy (DOE) Complex, in the **Federal Register** on May 29, 1997 (62 CFR 29118). Section 315(b) of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2286d(b) requires the Department of Energy to transmit a response to the Defense Nuclear Facilities Safety Board by July 14, 1997. The Secretary's response follows.

**DATES:** Comments, data, views, or arguments concerning the Secretary's response are due on or before August 29, 1997.

**ADDRESSES:** Send comments, data, views, or arguments concerning the Secretary's response to: Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW, Suite 700, Washington, DC 20004.

**FOR FURTHER INFORMATION CONTACT:** Dr. Robin Staffin, Deputy Assistant Secretary for Research and Development, Office of Defense Programs, Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585.

Issued in Washington, DC, on July 14, 1997.

**Mark B. Whitaker, Jr.,**

*Departmental Representative to the Defense Nuclear Facilities Safety Board.*

**The Secretary of Energy**

*Washington, DC 20585*

July 14, 1997.

The Honorable John T. Conway,
*Chairman, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, N.W., Suite 700, Washington, DC 20004.*

Dear Mr. Chairman: This letter acknowledges receipt of Recommendation 97–2 issued on May 19, 1997, addressing the need for improved criticality safety practices and programs to alleviate potential adverse impacts on safety and productivity of Department of Energy operations. The Department accepts Recommendation 97–2 to assure the continuation of criticality safety at defense nuclear facilities.

To acquire a common understanding of issues raised in Recommendation 97–2, we surveyed criticality safety professionals at our major sites. The survey identified the following three general understandings which will be the foundation for the Implementation Plan.

- The Department has not efficiently integrated criticality safety as part of work planning and implementation uniformly across the complex.
- We are aware of emerging criticality safety issues as the Department transitions from nuclear weapons production to materials stabilization; facilities deactivation, decontamination and decommissioning; and packaging, transportation and dispositioning of fissile materials.
- The Department needs to develop new guidance and technical support resources to address criticality safety issues.

The Department recognized the need to integrate safety into its work. Initiatives are being implemented, as appropriate, to apply graded or tailored approaches to the work and any associated hazards. We are focussing on improved work performance and feedback as part of an overall Integrated Safety Management program.

The Department is aware of the challenges posed by the need to stabilize nuclear materials, deactivate contaminated facilities, and provide secure and safe storage of fissile materials. Therefore, our response to Recommendation 97–2 will be tailored to address criticality safety concerns where they exist. In conjunction with key line managers, the Department will form a group of criticality safety experts from the 2 Department of Energy and contractor communities to provide advice and assistance in development of a Recommendation 97–2 Implementation Plan. To ensure efficient operations of this criticality safety program and to build upon the successes of activities under way, we plan to integrate continuing actions under the 93–2 Implementation Plan into the 97–2 Implementation Plan, and propose closure of Recommendation 93–2.

Dr. Robin Staffin, Deputy Assistant Secretary for Research and Development, Office of Defense Programs; and Mr. David Huizenga, Acting Deputy Assistant Secretary for Nuclear Materials and Facilities Stabilization, Office of Environmental Management, are the responsible co-managers for preparing the Implementation Plan. Dr. Staffin will serve as the principal point of contact with the Board and will work with you and your staff to develop an acceptable Implementation Plan meeting our mutual expectations.

Sincerely,

Federico Peña

[FR Doc. 97–20020 Filed 7–29–97; 8:45 am]

BILLING CODE 6450–01–P

## DEPARTMENT OF ENERGY

### Environmental Management Site-Specific Advisory Board, Rocky Flats

**AGENCY:** Department of Energy.

**ACTION:** Notice of open meeting.

**SUMMARY:** Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Rocky Flats.

**DATES:** Thursday, August 7, 1997, 6:00 p.m.–9:30 p.m.

**ADDRESSES:** Westminster City Hall (Lower-level Multi-purpose Room),4800 West 92nd Avenue, Westminster, CO.

**FOR FURTHER INFORMATION CONTACT:** Ken Korkia, Board/Staff Coordinator, EM SSAB-Rocky Flats, 9035 North Wadsworth Parkway, Suite 2250, Westminster, CO 80021, phone: (303) 420–7855, fax: (303) 420–7579.

**SUPPLEMENTARY INFORMATION:**

*Purpose of the Board:* The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

*Purpose of the Meeting:* The Board will hear from an independent contractor it hired to review Rocky Flats environmental monitoring systems. During the spring of 1996, a Rocky Flats Community Needs Assessment (RFCNA) was conducted to identify the community's needs and concerns during the cleanup of Rocky Flats. One of the themes emerging from the study was that the public wanted to ensure they were protected from off-site radioactive releases. Having a reliable, continuous environmental monitoring program is a necessary component of that protection. As a follow-up to the RFCNA, the Board decided to contract with an outside, independent organization to review and assess the current environmental monitoring systems in place at the site. This February, the firm Parker-Hall, Inc. (PHI) of Boise, Idaho, was selected to perform the review. PHI will now present the results of its study, as well as recommendations for change.

In addition, the Board will discuss a draft recommendation prepared by its Plutonium and Special Nuclear Materials Committee. The recommendation addresses environmental, health, and safety vulnerabilities associated with highly enriched uranium; general health and safety issues; and specific items such as criticality safety, fire protection, and management oversight.

**Tentative Agenda**

1. Parker-Hall, Inc. (PHI) Review, Results and Recommendations
2. Plutonium and Special Nuclear Materials Committee draft recommendation

*Public Participation:* The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Ken Korkia at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments.

*Minutes:* The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available at the Public Reading Room located at the Board's office at 9035 North Wadsworth Parkway, Suite 2250, Westminster, CO 80021; telephone (303) 420–7855. Hours of operation for the Public Reading Room are 9:00 am and 4:00 pm on Monday through Friday. Minutes will also be made available by writing or calling Deb Thompson at the Board's office address or telephone number listed above.

Issued at Washington, DC, on July 25, 1997.

**Rachel Samuel,**

*Deputy Advisory Committee Management Officer.*

[FR Doc. 97–20023 Filed 7–29–97; 8:45 am]

BILLING CODE 6450–01–P

## DEPARTMENT OF ENERGY

### Environmental Management Site-Specific Advisory Board, Paducah

**AGENCY:** Department of Energy.

**ACTION:** Notice of open meeting.

**SUMMARY:** Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Paducah Gaseous Diffusion Plant.

**DATES:** Thursday, August 21, 1997, 6:00 p.m.–9:00 p.m.

**ADDRESSES:** Heath High School (cafeteria), 4330 Metropolis Lake Road, West Paducah, Kentucky.

**FOR FURTHER INFORMATION CONTACT:** Carlos Alvarado, Site-Specific Advisory Board Coordinator, Department of Energy Paducah Site Office, Post Office Box 1410, MS–103, Paducah, Kentucky 42001, (502) 441–6804.

**SUPPLEMENTARY INFORMATION:**

*Purpose of the Board:* The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

*Tentative Agenda:* The meeting will include an update on the Environmental Management and Enrichment Facilities Project report, a general overview of the Waste Area Grouping (WAG) 6 Work Plan, WAG 22 Remedial Investigation Report—Summary Overview of Solid Waste Management Units 7 and 30, a presentation on Budget Prioritization, an update on Vortec, a review of the Accelerated Cleanup Plan (formerly the 10-Year Plan), and reviews of the Community Relations Plan and the SSAB Draft Work Plan.

*Public Participation:* The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Carlos Alvarado at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments.

*Minutes:* The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available at the Department of Energy's Environmental Information and Reading Room at 175 Freedom Boulevard, Highway 60, Kevil, Kentucky between 8:00 a.m. and 5:00 p.m. on Monday through Friday, or by writing to Carlos Alvarado, Department of Energy Paducah Site Office, Post Office Box 1410, MS–103, Paducah, Kentucky 42001, or by calling him at (502) 441–6804.

Issued at Washington, DC, on July 25, 1997.

**Rachel Samuel,**

*Deputy Advisory Committee Management Officer.*

[FR Doc. 97–20024 Filed 7–29–97; 8:45 am]

BILLING CODE 6450–01–P

## DEPARTMENT OF ENERGY

### Bonneville Power Administration

### Notice of Availability of Record of Decision to Execute a Power Purchase Agreement for the Wyoming Wind Plant Project

**AGENCY:** Bonneville Power Administration (BPA), Department of Energy (DOE).

**ACTION:** Notice of availability of Record of Decision (ROD).

**SUMMARY:** BPA has decided to execute a Power Purchase Agreement (PPA) to acquire a 15.32 megawatt (MW) share of nominal project capacity from the Wyoming Wind Plant Project (Project). This PPA will allow BPA to: (1) Test the ability of wind energy to provide a reliable, economical, and environmentally acceptable energy resource; (2) assure consistency with BPA's statutory responsibilities; and (3) assure consistency with BPA's April 22, 1993, Resource Programs ROD. This notice announces the availability of the ROD to execute the PPA, relying on the Kenetech/PacifiCorp Windpower Project Environmental Impact Statement (Project EIS) (DOE/EIS–0255 August, 1995). Because the Bureau of Land Management (BLM) has jurisdiction over part of the land on which the Wyoming Wind Plant Project will be located, it was the lead agency on the EIS. BPA, as a cooperating agency with the BLM, adopts the Project EIS in this ROD.

**ADDRESSES:** Copies of the ROD and Project EIS may be obtained by calling BPA's toll-free document request line: 1–800–622–4520.

**FOR FURTHER INFORMATION, CONTACT:** Kathy Fisher—ECP, Environmental Project Lead, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon, 97208–3621, phone number (503) 230–4375, fax number (503) 230–5699.

Issued in Portland, Oregon, on July 21, 1997.

**Randall W. Hardy,**

*Administrator and Chief Executive Officer.*

[FR Doc. 97–20021 Filed 7–29–97; 8:45 am]

BILLING CODE 6450–01–P

## DEPARTMENT OF ENERGY

### Energy Efficiency and Renewable Energy

**AGENCY:** U.S. Department of Energy (DOE).

**ACTION:** Notice of open meeting.

**SUMMARY:** Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following Advisory Committee meeting: Metal Casting Industrial Advisory Board (MCIAB).

**DATES:** August 26, 1997 8:00 AM—5:00 pm; August 27, 1997 8:00 am—12:30 pm.

**ADDRESSES:** Holiday Inn-O'Hare International, 5440 North River Road, Rosemont, IL 60018.

**FOR FURTHER INFORMATION CONTACT:** Harvey C. Wong, U.S. Department of Energy, Office of Industrial Technologies, EE–20, 1000 Independence Avenue SW., Washington, DC 20585, 202–586–9235, E-mail: harvey.wong@hq.doe.gov.

**SUPPLEMENTARY INFORMATION:** *Purpose of the Committee:* The Metal Casting Industrial Advisory Board serves to provide guidance and oversight of research programs provided under the Metal Casting Competitiveness Research Program and to recommend to the Secretary of Energy new or revised program activities and Metal Casting Research Priorities.

**Tentative Agenda**

*Tuesday August 26, 1997*

8:00a Charge to Board Members/ Review Purpose of the Meeting—Raymond Donahue
8:30a Team and Roadmapping Update—Harvey C. Wong
9:15a Recent Project Successes—Principle Investigators
10:15a Break
10:30a Cast Metals Coalition (CMC) Process—Dennis Allen

11:00a Discussion of Recommended FY1998 Projects: Application Development Technologies

12:30p Lunch (on your own)

1:30p Discussion of Recommended FY1998 Projects: Manufacturing Technologies

3:00p Discussion of Recommended FY1998 Projects: Materials Technologies/Roadmap

4:30p Discussion of Recommended FY1998 Projects: Environmental Technologies

5:00p Open Discussion from Floor

6:00p Adjourn

*Wednesday August 27, 1997*

8:00a Welcome—Raymond Donahue

8:15a MCIAB Open Discussion

12:00n Final Remarks—Harvey Wong

12:30p Adjourn

A final agenda will be available at the meeting.

*Public Participation:* The meeting is open to the public. The Chairperson of the Board is empowered to conduct the meeting to facilitate the orderly conduct of business. Any member of the public who wishes to make oral statements pertaining to the agenda items should contact Harvey C. Wong at the address or telephone number listed in the **FOR FURTHER INFORMATION CONTACT** section. Requests must be received at least five (5) days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda. Written statements may be filed with the Committee either before or after the meeting.

*Transcript:* Available for public review and copying at the U.S. Department of Energy, Freedom of Information Reading Room, Forrestal Building, Room 1E–190, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–6020, between 9:00 AM and 4:00 PM, Monday through Friday, except Federal holidays.

Issued at Washington, DC, on July 24, 1997.

**Rachel M. Samuel,**

*Deputy Advisory Committee, Management Officer.*

[FR Doc. 97–20019 Filed 7–29–97; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. EC97–39–000]**

### Boston Edison Company and BEC Energy; Notice of Filing

July 24, 1997.

Take notice that on July 18, 1997, Boston Edison Company (BECo) and BEC Energy (Applicants) tendered for filing additional information in support of their application filed in the captioned proceeding on June 12, 1997, for an order authorizing the implementation of a proposed corporate reorganization to create a holding company structure, pursuant to which BECo would become the wholly-owned subsidiary of BEC Energy, which has been organized as a Massachusetts business trust.

The Applicants state that copies of their July 18, 1997, submission have been served on the Massachusetts Department of Public Utilities and all persons who have applied to intervene in Docket No. EC97–39–000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 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 August 5, 1997. 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. 97–19977 Filed 7–29–97; 8:45 am]

**BILLING CODE 6717–01–M**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP96–213–000, et al.]**

### Columbia Gas Transmission; Notice of Site Visit

July 24, 1997.

On July 30, 1997, the Office of Pipeline Regulation (OPR) will conduct a site visit, with representatives of Columbia Gas Transmission Corporation, of Line SM–123, part of the Market Expansion Project in Mingo and Wyoming Counties, West Virginia. On July 31, 1997, OPR will conduct a site visit of the Line V–50 Replacement portion of the Market Expansion Project in Mahoning County, Ohio.

All interested parties may attend. Those planning to attend must provide their own transportation.

For further information, please contact Paul McKee at (202) 208–1088.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 97–20025 Filed 7–29–97; 8:45 am]

**BILLING CODE 6717–01–M**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP97–424–000]**

### Koch Gateway Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

July 24, 1997.

Take notice that on July 22, 1997, Koch Gateway Pipeline Company (Koch) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets, to become effective August 22, 1997:

Ninth Revised Sheet No. 2705
Eighth Revised Sheet No. 2706
1st Rev Fifth Revised Sheet No. 2707

Koch states the above referenced tariff sheets are being filed to modify section 20.1(D) of the General Terms and Conditions to remove prior period adjustments language from its cash-in/cash-out procedures.

Koch also states that copies of the filing have been served upon each affected customer, state commissions, and other interested parties.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's rules and regulations. All such motions or protests must be filed as provided by Section 154.210 of the Commission's rules and regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a part must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public

inspection in the Public Reference Room.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 97–19973 Filed 7–29–97; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. CP97–653–000]**

## Koch Gateway Pipeline Company; Notice of Application

July 24, 1997.

Take notice that on July 18, 1997, Koch Gateway Pipeline Company (Koch), P.O. Box 1478, Houston, Texas 77521–1478, filed in Docket No. CP97–653–000 an application pursuant to Section 7(b) of the Natural Gas Act and Part 157 of the Commission's Regulations, for an order permitting and approving the abandonment in place and removal of 26.00 miles of 16-inch and 1.29 miles of 14-inch natural gas transmission pipeline in Caddo, Bossier, and Webster Parishes, Louisiana.

Koch states that this transmission pipeline is inactive and no longer needed to provide service to the north Louisiana market area. Koch further states that this abandonment is in the public interest and will have no effect on its existing customers, all as more fully set forth in the application on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 14, 1997 file with the Federal Energy Regulatory Commission (888 First Street, NE., 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 the 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 without 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 permission and approval for the proposed abandonment 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 Koch to appear or be represented at the hearing.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 97–19978 Filed 7–29–97; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. CP97–637–000]**

## National Fuel Gas Supply Corporation; Notice of Request Under Blanket Authorization

July 24, 1997.

Take notice that on July 14, 1997, National Fuel Gas Supply Corporation (National Fuel), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP97–637–000 a request pursuant to §§ 157.205, 157.211, and 157.216(b) of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211, and 157.216) for approval to abandon certain facilities and to construct and operate new facilities, under National Fuel's blanket certificate issued in Docket No. CP83–4–000, 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.

National Fuel proposes to abandon in place approximately two miles of a six-inch sales lateral line known as Line P, and to abandon by transfer to National Fuel Gas Distribution Corporation (Distribution) approximately 9.7 miles of Line P. National Fuel also requests authorization to abandon four sales taps located on Line P, at which gas is currently delivered to Distribution. National Fuel states that Distribution will still deliver all the natural gas it needs for the markets served by Line P, but these four sales taps will no longer be points of interconnection between National Fuel and Distribution.

National Fuel also proposes to construct at and operate its Station No. 2235, an existing sales taps at which national Fuel delivers natural gas to Distribution. Specifically, National proposes to replace a three-inch meter with a four-inch meter and associated piping. National Fuel asserts that these changes will result in a change in the design delivery capacity of the station from 900 Mcf per day to approximately 1,600 Mcf per day. National Fuel asserts that this upgrade is necessary to accommodate the continuation of natural gas deliveries to Distribution after the abandonment of Line P.

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. 97–19981 Filed 7–29–97; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. RP97–425–000]**

## Sabine Pipe Line Company; Notice of Proposed Changes in FERC Gas Tariff

July 24, 1997.

Take notice that on July 22, 1997, Sabine Pipe Line Company (Sabine) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheet proposed to be effective August 25, 1997:

First Revised Sheet No. 273

Sabine states that the revised tariff sheet reflects a change in the right-of-first-refusal contract term cap, in compliance with Order 636–C.

Sabine states that copies of this filing are being mailed to its customers, state

commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 97–19972 Filed 7–29–97; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. CP97–647–000]**

## Texas Eastern Transmission Corporation; Notice of Request Under Blanket Authorization

July 24, 1997.

Take notice that on July 17, 1997, Texas Eastern Transmission Corporation (Texas Eastern), 5400 Westheimer Court, Houston, Texas 77056–5310, filed in Docket No. CP97–647–000 a request pursuant to §§ 157.205 and 157.211 of the Commission's Regulations (18 CFR 157.205, 157.211) under the Natural Gas Act (NGA) for authorization to construct and operate delivery point facilities in Yazoo County, Mississippi, for Part 284 transportation services by Texas Eastern, under Texas Eastern's blanket certificate issued in Docket No. CP82–535–000, pursuant to Section 7 of the NGA, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Texas Eastern proposes to construct and operate an 8-inch tap valve and an 8-inch check valve to serve Mississippi Chemical Corporation (MCC), an industrial end-user. It is stated that MCC will also install a meter, interconnecting pipeline and electronic gas measurement equipment. It is further stated that Texas Eastern will be fully reimbursed for the $85,938 cost of installing the tap by MCC. It is asserted that Texas Eastern will use the facilities to deliver up to 80 Mmcf on a peak day. It is further asserted that the volume of gas delivered to MCC will come from existing capacity and will not affect Texas Eastern's peak day or annual requirements. It is explained that the proposal is not prohibited by Texas Eastern's existing tariff and that Texas Eastern has sufficient capacity to accomplish the deliveries without detriment or disadvantage to its other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 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 activity 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 within 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. 97–19979 Filed 7–29–97; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket Nos. RP97–71–000 and RP97–312–000]**

## Transcontinental Gas Pipe Line Corporation; Notice of Informal Settlement Conference

July 24, 1997.

Take notice that an informal settlement conference will be convened in this proceeding on Friday, August 8, 1997, at 10:00 a.m., at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC, 20426, for the purpose of exploring the possible settlement of the above-referenced dockets.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined in 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, please contact David R. Cain at (202) 208–0917, Donald A. Heydt at (202) 208–0740 or Paul B. Mohler at (202) 208–1240.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 97–19975 Filed 7–29–97; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. RP97–93–005]**

## Young Gas Storage Company, Ltd., Notice of Tariff Compliance Filing

July 24, 1997.

Take notice that on July 21, 1997, Young Gas Storage Company (Young), tendered for filing to become part of its FERC Gas Tariff, Original Volume No. 1, First Revised Sheet No. 48B, Original Sheet No. 48C, Second Revised Sheet No. 85 and Original Sheet No. 85A, to be effective August 1, 1997.

Young states that the tariff sheets are filed in compliance with Order No. 587–C, and the order issued July 1, 1997 in Docket No. RP97–93–004 as well as Section 154.203 of the Commission's regulations.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 97–19974 Filed 7–29–97; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. ER97–3585–000, et al.]**

## Southern California Edison Company, et al.; Electric Rate and Corporate Regulation Filings

July 24, 1997.

Take notice that the following filings have been made with the Commission:

### 1. Southern California Edison Company

[Docket No. ER97–3585–000]

Take notice that on July 2, 1997, Southern California Edison Company (Edison) tendered for filing a letter agreement dated June 26, 1996 (Agreement) with the City of Banning (Banning).

The Agreement sets forth the terms and conditions by which Edison will act as Banning's scheduling agent for flow-through transactions utilizing Banning's Palo Verde-Sylmar transmission path. Edison seeks waiver of the 60 day prior notice requirement and requests that the Commission assign an effective date of July 3, 1997, to the Agreement.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

*Comment date:* August 7, 1997, in accordance with Standard Paragraph E at the end of this notice.

### 2. Additional Signatories to PJM Interconnection, L.L.C. Operating Agreement

[Docket No. ER97–3588–000]

Take notice that on July 2, 1997, the PJM Interconnection, L.L.C. (PJM) filed, on behalf of the Members of the LLC, membership applications of Sonat Power Marketing, Inc., and Strategic Energy Ltd. PJM requests an effective date of July 2, 1997.

*Comment date:* August 7, 1997, in accordance with Standard Paragraph E at the end of this notice.

### 3. Florida Power & Light Company

[Docket No. ER97–3589–000]

Take notice that on July 2, 1997, Florida Power & Light Company (FPL) tendered for filing proposed service agreements with NP Energy Inc., for Short-Term Firm and Non-Firm transmission service under FPL's Open Access Transmission Tariff.

FPL requests that the proposed service agreements be permitted to become effective on August 1, 1997.

FPL states that this filing is in accordance with Part 35 of the Commission's Regulations.

*Comment date:* August 7, 1997, in accordance with Standard Paragraph E at the end of this notice.

### 4. Idaho Power Company

[Docket No. ER97–3590–000]

Take notice that on July 2, 1997, Idaho Power Company (IPC) tendered for filing with the Federal Energy Regulatory Commission a Service Agreement under Idaho Power Company FERC Electric Tariff, Second Revised, Volume No. 1 between Utah Municipal Power Agency and Idaho Power Company.

*Comment date:* August 7, 1997, in accordance with Standard Paragraph E at the end of this notice.

### 5. The Toledo Edison Company

[Docket No. ER97–3591–000]

Take notice that on July 2, 1997, The Toledo Edison Company (TE) filed Electric Power Service Agreements between TE and CPS Utilities, Powernet Corp., Industrial Energy Applications, Plum Street Energy Marketing, Inc., American Energy Solutions, Inc. and Entergy Power Marketing Corp.

*Comment date:* August 7, 1997, in accordance with Standard Paragraph E at the end of this notice.

### 6. The Cleveland Electric Illuminating Company

[Docket No. ER97–3594–000]

Take notice that on July 2, 1997, The Cleveland Electric Illuminating Company (CEI) filed Electric Power Service Agreements between CEI and CPS Utilities, Powernet Corp., Industrial Energy Applications, Plum Street Energy Marketing, Inc., American Energy Solutions, Inc. and Entergy Power Marketing Corp.

*Comment date:* August 7, 1997, in accordance with Standard Paragraph E at the end of this notice.

### 7. Arizona Public Service Company

[Docket No. ER97–3595–000]

Take notice that on July 2, 1997, Arizona Public Service Company (APS) tendered for filing Service Agreement to provide Firm Point-to-Point Transmission Service under APS' Open Access Transmission Tariff with Williams Energy Services Company (Williams).

A copy of this filing has been served on Williams and the Arizona Corporation Commission.

*Comment date:* August 7, 1997, in accordance with Standard Paragraph E at the end of this notice.

### 8. Florida Power Corporation

[Docket No. ER97–3596–000]

Take notice that on July 2, 1997, Florida Power Corporation (Florida Power) tendered for filing a service agreement providing for non-firm point-to-point service to Sonat Power Marketing, L.P. (Sonat) pursuant to its open access transmission tariff (the T–6 Tariff). Florida Power requests that the Commission waive its notice of filing requirements and allow the agreement to become effective on July 3, 1997.

*Comment date:* August 7, 1997, in accordance with Standard Paragraph E at the end of this notice.

### 9. The Cleveland Electric Illuminating Company

[Docket No. ER97–3597–000]

Take notice that on July 2, 1997, The Cleveland Electric Illuminating Company (CEI) filed an Electric Power Service Agreement between CEI and Virginia Electric & Power Company.

*Comment date:* August 7, 1997, in accordance with Standard Paragraph E at the end of this notice.

### 10. Consolidated Edison Company of New York, Inc.

[Docket No. ER97–3598–000]

Take notice that on July 2, 1997, Consolidated Edison Company of New York, Inc. (Con Edison) tendered for filing, pursuant to its FERC Electric Tariff Rate Schedule No. 2, a service agreement for Engage Energy US, L.P. to purchase electric capacity and energy pursuant to the negotiated rates, terms, and conditions.

Con Edison states that a copy of this filing has been served by mail upon Engage Energy US, L.P.

*Comment date:* August 7, 1997, in accordance with Standard Paragraph E at the end of this notice.

### 11. Fitchburg Gas and Electric Light Company

[Docket No. OA97–635–000]

Take notice that on July 11, 1997, Fitchburg Gas and Electric Light Company (Fitchburg) filed original and revised tariff sheets to its open access transmission tariff to comply with FERC Order No. 888–A. Fitchburg also filed revised tariff sheets to effectuate a rate reduction for transmission services provided under its open access transmission tariff to conform with a reduction to its Net Revenue Requirement resulting from a change in its NEPOOL pool-wide facilities (PTF) revenue requirement.

Fitchburg requests an effective date of July 11, 1997.

Fitchburg states that it has served copies of its filing on the Massachusetts Department of Public Utilities and all parties listed on the official service list in Fitchburg's original open access transmission tariff proceeding, Docket No. OA97–6–000. In addition, Fitchburg states that as of the date of its filing, it had no transmission customers under its open access transmission tariff.

*Comment date:* August 13, 1997, in accordance with Standard Paragraph E at the end of this notice.

**12. Maine Electric Power Company**

[Docket No. OA97–649–000]

Take notice that on July 14, 1997, Maine Electric Power Company (MEPCo) tendered for filing pursuant to Sections 205 and 206 of the Federal Power Act (16 U.S.C. 791, et seq.), Part 35 of the Federal Energy Regulatory Commission's Regulations (18 CFR Part 35), and FERC Order Nos. 888 and 888–A, a revised open-access transmission tariff. MEPCo requests that the Commission allow the revised tariff to become effective on May 13, 1997 to comport with Order No. 888–A.

*Comment date:* August 13, 1997, in accordance with Standard Paragraph E at the end of this notice.

**13. Electric Energy, Inc.**

[Docket No. OA97–650–000]

Take notice that on July 14, 1997, Electric Energy, Inc. tendered for filing changes to its Open-Access Transmission Tariff to reflect changes to the Commission Pro Forma tariffs in Order No. 888–A, Promoting Wholesale Competition Through Open-Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities, 78 FERC ¶ 61,220, 62 Fed Reg 12274 (March 14, 1997).

*Comment date:* August 13, 1997, in accordance with Standard Paragraph E at the end of this notice.

**14. Kentucky Utilities Company**

[Docket No. OA97–656–000]

Take notice that on July 14, 1997, Kentucky Utilities Company (KU) tendered for filing its Transmission Services (TS) Tariff in compliance with FERC Order No. 888–A.

*Comment date:* August 13, 1997, in accordance with Standard Paragraph E at the end of this notice.

**15. Entergy Services, Inc.**

[Docket No. OA97–657–000]

Take notice that on July 14, 1997, Entergy Services, Inc. (Entergy Services), on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc. (collectively, the Entergy Operating Companies), tendered for filing its Open Access Transmission Tariff (Tariff) in accordance with the Commission's requirements in Order No. 888–A.

The Tariff reflects the terms and conditions contained in the Order No. 888–A pro forma tariff, with certain exceptions contemplated by Order No. 888–A and originally provided for in Entergy Services' July 9, 1996 tariff filing, which was accepted by the Commission in, as well as the certain of the modifications ordered by the Commission in American Electric Power Service Corp., et al., 78 FERC ¶ 61,070 (1997).

Copies of the Tariff have been served on all current transmission service customers of Entergy Services, all parties in Docket Nos. ER95–112–000, ER96–586–000, and OA96–158–000, and applicable state commissions.

*Comment date:* August 13, 1997, in accordance with Standard Paragraph E at the end of this notice.

**16. Cinergy Services, Inc., The Cincinnati Gas & Electric Co. and PSI Energy, Inc.**

[Docket No. OA97–632–000]

Take notice that on July 11, 1997, Cinergy Services Inc. (Cinergy), on behalf of The Cincinnati Gas & Electric Company and PSI Energy, Inc., filed a revised open-access tariff required to conform Cinergy's open-access tariff with Order No. 888–A. In accordance with Order No. 888–A, Cinergy proposes an effective date of May 13, 1997, for the revised tariff.

*Comment date:* August 13, 1997, in accordance with Standard Paragraph E at the end of this notice.

**17. Interstate Power Company**

[Docket No. OA97–633–000]

Take notice that on July 11, 1997, in compliance with the Federal Energy Regulatory Commission's Order No. 888–A, Interstate Power Company (IPW) hereby submits its Pro Forma Open Access Transmission Tariff Compliance filing. IPW respectfully requests an effective date of July 12, 1997.

*Comment date:* August 13, 1997, 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. 97–20026 Filed 7–29–97; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Project No. 2114–032]**

## Public Utility District No. 2 of Grant County; Notice of Availability of Draft Environmental Assessment

July 24, 1997.

A draft environmental assessment (DEA) is available for public review. The DEA was prepared for the Public Utility District No. 2 of Grant County (licensee) application to replace the turbines at its Wanapum Development.

In summary, the DEA examines the environmental impacts of two alternatives for replacing the turbines at the Wanapum Development: (1) Licensee's proposed action: replacement of 10 Kaplan turbines; and (2) no-action. These alternatives are described in detail on pages one and two of the DEA.

The DEA recommends approval of the licensee's request to replace the Wanapum turbines as proposed. The DEA concludes that implementation of this alternative would not constitute a major federal action significantly affecting the quality of the human environment.

This DEA was written by staff in the Office of Hydropower Licensing (OHL). As such, the DEA is OHL staff's preliminary analysis of FWS's recommendation for turbine replacement at the Priest Rapids Project. No final conclusions have been made by the Commission regarding this matter.

Should you wish to provide comments on the DEA, they should be filed within 30 days from the date of this notice. Comments should be addressed to: Ms. Lois D. Cashell, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE.,

Washington, DC 20426. Please include the project number (2114–032) on any comments filed.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 97–19976 Filed 7–29–97; 8:45 am]

BILLING CODE 6717–01–M

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–5865–5]**

### Proposed Prospective Purchaser Agreement Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as Amended by the Superfund Amendments and Reauthorization Act

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice; request for public comment.

**SUMMARY:** Notice is hereby given that a proposed prospective purchaser agreement associated with the Bonne Terre Superfund Site, located in St. Francois County, Missouri, was executed by the Agency on May 30, 1997, and concurred upon by the United States Department of Justice on July 4, 1997. This agreement is subject to final approval after the comment period. The Prospective Purchaser Agreement would resolve certain potential EPA claims under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 (''CERCLA''), against Kenneth and Shirley David, the prospective purchasers (''the purchasers'').

The settlement would require the purchasers to perform cleanup actions at the property which include establishing and maintaining a protective cover over potentially contaminated soil on-site. The purchasers must record a deed restriction limiting the use of the property to industrial and commercial uses and must provide EPA access to the Site.

For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the proposed settlement.

**DATES:** Comments must be submitted on or before August 29, 1997.

**ADDRESSES:** Comments should reference the ''Bonne Terre Superfund Site Prospective Purchaser Agreement'' and should be forwarded to Jack Generaux, Remedial Project Manager, U.S. Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101. The Agency's response to any comments received will be available for public inspection at the U.S. Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101.

The proposed settlement is available for public inspection at the U.S. Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101. A copy of the proposed agreement may be obtained from Jack Generaux, Remedial Project Manager, U.S. Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101.

**FOR FURTHER INFORMATION CONTACT:** David Cozad, Senior Associate Regional Counsel, United States Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101, (913) 551–7587.

Dated: July 18, 1997.

**William Rice,**

*Acting Regional Administrator.*

[FR Doc. 97–20059 Filed 7–29–97; 8:45 am]

BILLING CODE 6560–50–P

## FEDERAL DEPOSIT INSURANCE CORPORATION

### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** Federal Deposit Insurance Corporation (FDIC).

**ACTION:** Notice and request for comment.

**SUMMARY:** The FDIC, 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 (44 U.S.C. chapter 35). Currently, the FDIC is soliciting comments concerning an information collection titled ''Acquisition Services Information Requirements.''

**DATES:** Comments must be submitted on or before September 29, 1997.

**ADDRESSES:** Interested parties are invited to submit written comments to Steven F. Hanft, FDIC Clearance Officer, (202) 898–3907, Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street N.W., Washington, D.C. 20429. All comments should refer to ''Acquisition Services Information Requirements.'' Comments may be hand-delivered to Room F–400, 1776 F Street, N.W., Washington, D.C. 20429, on business days between 8:30 a.m. and 5:00 p.m. [FAX number (202) 898–3838; Internet address: comments@fdic.gov].

A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Alexander Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503.

**FOR FURTHER INFORMATION CONTACT:** Steven F. Hanft, at the address identified above.

**SUPPLEMENTARY INFORMATION:** Proposal to renew the following currently approved collection of information:

*Title:* Acquisition Services Information Requirements.

*OMB Number:* 3064–0072.

*Frequency of Response:* Occasional.

*Affected Public:* Contractors and vendors who wish to do business with the FDIC.

*Estimated Number of Respondents:* 3,000.

*Estimated Time per Response:* 45 minutes.

*Estimated Total Annual Burden:* 1.050 hours.

*General Description of Collection:* The collection involves the submission of information on various forms by contractors and vendors who wish to do business with the FDIC. The information is used to evaluate bids and proposals from offerors, to award contracts, to make purchases of goods and services, and to monitor contracts that support FDIC's mission.

**Request for Comment**

Comments are invited on: (A) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the collection should be modified prior to submission to OMB for review and approval. Comments submitted in response to this notice also will be summarized or

included in the FDIC's requests to OMB for renewal of this collection. All comments will become a matter of public record.

Dated at Washington, D.C., this 25th day of July, 1997.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**

*Executive Secretary.*

[FR Doc. 97–20045 Filed 7–29–97; 8:45 am]

**BILLING CODE 6714–01–M**

## FEDERAL DEPOSIT INSURANCE CORPORATION

### Revised Policy Statement on Securities Lending

**AGENCY:** Federal Deposit Insurance Corporation (FDIC).

**ACTION:** Notice of revised policy statement.

**SUMMARY:** As part of the FDIC's systematic review of its regulations and written policies under section 303(a) of the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRI), the FDIC is adopting revisions recently made by the Federal Financial Institutions Examination Council (FFIEC) to its policy statement on securities lending (policy statement). The policy statement provides guidance to insured depository institutions about conducting securities lending in a safe and sound manner. The FDIC is adopting certain minor changes to the policy statement which the FFIEC has made to update outdated and duplicative cross-references to other supervisory documents, but is otherwise retaining the policy statement in its present form.

**EFFECTIVE DATE:** July 30, 1997.

**FOR FURTHER INFORMATION CONTACT:** William A. Stark, Assistant Director, (202/898–6972), Kenton Fox, Senior Capital Markets Specialist, (202/898–7119), Division of Supervision; Jamey Basham, Counsel, (202/898–7265), Legal Division, FDIC, 550 17th Street, N.W., Washington, D.C. 20429.

**SUPPLEMENTARY INFORMATION:** The FDIC is conducting a systematic review of its regulations and written policies. Section 303(a) of the CDRI (12 U.S.C. 4803(a)) requires the FDIC, the Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (FRB), and the Office of Thrift Supervision (OTS) (collectively, the federal banking agencies) to each streamline and modify its regulations and written policies in order to improve efficiency, reduce unnecessary costs, and eliminate unwarranted constraints on credit availability. Section 303(a) also requires each of the federal banking agencies to remove inconsistencies and outmoded and duplicative requirements from its regulations and written policies.

The FFIEC developed the Policy Statement to provide general supervisory guidance to insured depository institutions that lend their own securities or customers' securities to securities brokers, commercial banks, and others. The policy statement requires banks to establish written policies and procedures governing securities lending operations. Areas addressed in the policy statement include recordkeeping, administration, credit analysis, credit limits, collateral management, and the use of finders. The OCC, FRB, and FDIC adopted the policy statement, with the FDIC's adoption taking place on May 6, 1985. 2 FDIC, Law, Regulations, and Related Acts (FDIC) 5249.

On July 21, 1997, FFIEC published a notice making minor changes to the Policy Statement, in order to update certain outdated cross-references to other supervisory documents. 62 FR 38991. First, the extended discussion of how to report securities lending activities on the Consolidated Reports of Condition and Income (call report) has been replaced with a cross-reference to the call report instructions themselves, which have superseded the material in the Policy Statement. Second, footnote 3, which recited the types of collateral a broker/dealer was permitted to pledge under the FRB's Regulation T (12 CFR 220.16), has been removed because it no longer accurately reflected all types of collateral permitted under Regulation T. These two changes will also eliminate unnecessary duplication and reduce the possibility of error in the event of future changes to the call report instructions or Regulation T. Third, two citations to Prohibited Transaction Exemptions issued by the Department of Labor concerning securities lending programs for employee benefit plans covered by the Employee Retirement Income Security Act have been corrected.

Consistent with the goals of the CDRI review, the FDIC is adopting FFIEC's modifications to the Policy Statement, thereby eliminating certain outdated and duplicative material contained therein. The modified Policy Statement reads as follows.

### Federal Financial Institutions Examination Council Supervisory Policy

*Securities Lending*

#### Purpose

Financial institutions are lending securities with increasing frequency. In some instances a financial institution may lend its own investment or trading account securities. More and more often, however, financial institutions lend customers' securities held in custody, safekeeping, trust or pension accounts. Not all institutions that lend securities or plan to do so have relevant experience. Because the securities available for lending often greatly exceed the demand for them, inexperienced lenders may be tempted to ignore commonly recognized safeguards. Bankruptcies of broker-dealers have heightened regulatory sensitivity to the potential for problems in this area. Accordingly, we are providing the following discussion of guidelines and regulatory concerns.

#### Securities Lending Market

Securities brokers and commercial banks are the primary borrowers of securities. They borrow securities to cover securities fails (securities sold but not available for delivery), short sales, and option and arbitrage positions. Securities lending, which used to involve principally corporate equities and debt obligations, increasingly involves loans of large blocks of U.S. government and federal agency securities.

Securities lending is conducted through open-ended ''loan'' agreements, which may be terminated on short notice by the lender or borrower.[1] The objective of such lending is to receive a safe return in addition to the normal interest or dividends. Securities loans are generally collateralized by U.S. government or federal agency securities,

[1] Repurchase agreements, generally used by owners of securities as financing vehicles are, in certain respects, closely analogous to securities lending. Repurchase agreements however, are not the direct focus of these guidelines. A typical repurchase agreement has the following distinguishing characteristics:

—The sale and repurchase (loan) of U.S. government or federal agency securities.

—Cash is received by the seller (lender) and the party supplying the funds receives the collateral margin.

—The agreement is for a fixed period of time.

—A fee is negotiated and established for the transaction at the outset and no rebate is given to the borrower from interest earned on the investment of cash collateral.

—The confirmation received by the financial institution from a borrower broker/dealer classifies the transaction as a repurchase agreement.

cash, or letters of credit.[2] At the outset, each loan is collateralized at a predetermined margin. If the market value of the collateral falls below an acceptable level during the time a loan is outstanding, a margin call is made by the lender institution. If a loan becomes over-collateralized because of appreciation of collateral or market depreciation of a loaned security, the borrower usually has the opportunity to request the return of any excessive margin.

When a securities loan is terminated, the securities are returned to the lender and the collateral to the borrower. Fees received on securities loans are divided between the lender institution and the customer account that owns the securities. In situations involving cash collateral, part of interest earned on the temporary investment of cash is returned to the borrower and the remainder is divided between the lender institution and the customer account that owns the securities.

**Definitions of Capacity**

Securities lending may be done in various capacities and with differing associated liabilities. It is important that all parties involved understand in what capacity the lender institution is acting. For the purposes of these guidelines, the relevant capacities are:

*Principal:* A lender institution offering securities from its own account is acting as principal. A lender institution offering customers' securities on an undisclosed basis is also considered to be acting as principal.

*Agent:* A lender institution offering securities on behalf of a customer-owner is acting as an agent. For the lender institution to be considered a bona fide or ''fully disclosed'' agent, it must disclose the names of the borrowers to the customer-owners (or give notice that names are available upon request), and must disclose the names of the customer-owner to borrowers (or give notice that names are available upon request). In all cases the agent's compensation for handling the transaction should be disclosed to the customer-owner. Undisclosed agency transactions, i.e., ''blind brokerage'' transactions in which participants cannot determine the identity of the counterparty, are treated as if the lender institution were the principal. (See definition above.)

*Directed Agent:* A lender institution which lends securities at the direction of the customer-owner is acting as a directed agent. The customer directs the lender institution in all aspects of the transaction, including to whom the securities are loaned, the terms of the transaction (rebate rate and maturity/call provisions on the loan), acceptable collateral, investment of any cash collateral, and collateral delivery.

*Fiduciary:* A lender institution which exercises discretion in offering securities on behalf of and for the benefit of customer-owners is acting as a fiduciary. For purposes of these guidelines, the underlying relationship may be as agent, trustee, or custodian.

*Finder:* A finder brings together a borrower and a lender of securities for a fee. Finders do not take possession of the securities or collateral. Securities and collateral are delivered directly by the borrower and the lender without the involvement of the finder. The finder is simply a fully disclosed intermediary.

**Guidelines**

All financial institutions that participate in securities lending should establish written policies and procedures governing these activities. At a minimum, policies and procedures should cover each of the topics in these guidelines.

*Recordkeeping*

Before establishing a securities lending program, a financial institution must establish an adequate recordkeeping system. At a minimum, the system should produce daily reports showing which securities are available for lending, and which are currently lent, outstanding loans by borrower, outstanding loans by account, new loans, returns of loaned securities, and transactions by account. These records should be updated as often as necessary to ensure that the lender institution fully accounts for all outstanding loans, that adequate collateral is required and maintained, and that policies and concentration limits are being followed.

*Administrative Procedures*

All securities lent and all securities standing as collateral must be marked to market daily. Procedures must ensure that any necessary calls for additional margin are made on a timely basis.

In addition, written procedures should outline how to choose the customer account that will be the source of lent securities when they are held in more than one account. Possible methods include: loan volume analysis, automated queue, a lottery, or some combination of these methods. Securities loans should be fairly allocated among all accounts participating in a securities lending program.

Internal controls should include operating procedures designed to segregate duties and timely management reporting systems. Periodic internal audits should assess the accuracy of accounting records, the timeliness of management reports, and the lender institution's overall compliance with established policies and procedures.

*Credit Analysis and Approval of Borrowers*

In spite of strict standards of collateralization, securities lending activities involve risk of loss. Such risks may arise from malfeasance or failure of the borrowing firm or institution. Therefore, a duly established management or supervisory committee of the lender institution should formally approve, in advance, transactions with any borrower.

Credit and limit approvals should be based upon a credit analysis of the borrower. A review should be performed before establishing such a relationship and reviews should be conducted at regular intervals thereafter. Credit reviews should include an analysis of the borrower's financial statement, and should consider capitalization, management, earnings, business reputation, and any other factors that appear relevant. Analyses should be performed in an independent department of the lender institution, by persons who routinely perform credit analyses. Analyses performed solely by the person(s) managing the securities lending program are not sufficient.

*Credit and Concentration Limits*

After the initial credit analysis, management of the lender institution should establish an individual credit limit for the borrower. That limit should be based on the market value of the securities to be borrowed, and should take into account possible temporary (overnight) exposures resulting from a decline in collateral values or from occasional inadvertent delays in transferring collateral. Credit and concentration limits should take into account other extensions of credit by the lender institution to the same borrower or related interests. Such information, if provided to an institution's trust department conducting a securities lending program, would not be considered material inside information and therefore, not violate ''Chinese Wall'' policies designed to protect against the misuse of material inside information. Violation of securities laws

[2] Brokers and dealers registered with the Securities and Exchange Commission are generally subject to the restrictions of the Federal Reserve Board's Regulation T (12 CFR part 220) when they borrow or lend securities. Regulation T specifies acceptable borrowing purposes and any applicable collateral requirements for these transactions.

would arise only if material inside information were used in connection with the purchase or sale of securities.

Procedures should be established to ensure that credit and concentration limits are not exceeded without proper authorization from management.

When a lender institution is lending its own securities as principal, statutory lending limits may apply. For national banks and federal savings associations, the limitations in 12 U.S.C. 84 apply. For state-chartered institutions, state law and applicable federal law must be considered. Certain exceptions may exist for loans that are fully secured by obligations of the United States government and federal agencies.

*Collateral Management*

Securities borrowers pledge and maintain collateral at least 100 percent of the value of the securities borrowed.[3] The minimum amount of excess collateral, or ''margin'', acceptable to the lender institution should relate to price volatility of the loaned securities and the collateral (if other than cash).[4] Generally, the minimum initial collateral on securities loans is at least 102 percent of the market value of the lent securities plus, for debt securities, any accrued interest.

Collateral must be maintained at the agreed margin. A daily ''mark-to-market'' or valuation procedure must be in place to ensure that calls for additional collateral are made on a timely basis. The valuation procedures should take into account the value of accrued interest on debt securities.

Securities should not be lent unless collateral has been received or will be received simultaneously with the loan. As a minimum step toward perfecting the lender's interest, collateral should be delivered directly to the lender institution or an independent third party trustee.

*Cash as Collateral*

When cash is used as collateral, the lender institution is responsible for making it income productive. Lenders should establish written guidelines for selecting investments for cash collateral. Generally, a lender institution will invest cash collateral in repurchase agreements, master notes, a short-term investment fund, U.S. or Eurodollar certificates of deposits, commercial paper or some other type of money market instrument. If the lender institution is acting in any capacity other than as principal, the written agreement authorizing the lending relationship should specify how cash collateral is to be invested.

Investing cash collateral in liabilities of the lender institution or its holding company would be an improper conflict of interest unless that strategy was specifically authorized in writing by the owner of the lent securities. Written authorizations for participating accounts are further discussed later in these guidelines.

*Letters of Credit as Collateral*

Since May 1982, letters of credit have been permitted as collateral in certain securities lending transactions outlined in Federal Reserve Regulation T. If a lender institution plans to accept letters of credit as collateral, it should establish guidelines for their use. Those guidelines should require a credit analysis of the financial institution issuing the letter of credit before securities are lent against that collateral. Analyses must be periodically updated and reevaluated. The lender institution should also establish concentration limits for the institutions issuing letters of credit and procedures should ensure that they are not exceeded. In establishing concentration limits on letters of credit accepted as collateral, the lender institution's total outstanding credit exposures from the issuing institution should be considered.

*Written Agreements*

Securities should be lent only pursuant to a written agreement between the lender institution and the owner of the securities specifically authorizing the institution to offer the securities for loan. The agreement should outline the lender institution's authority to reinvest cash collateral (if any) and responsibilities with regard to custody and valuation of collateral. In addition, the agreement should detail the fee or compensation that will go to the owner of the securities in the form of a fee schedule or other specific provision. Other items which should be covered in the agreement have been discussed earlier in these guidelines.

A lender institution must also have written agreements with the parties who wish to borrow securities. These agreements should specify the duties and responsibilities of each party. A written agreement may detail: Acceptable types of collateral (including letters of credit); standards for collateral custody and control, collateral valuation and initial margin, accrued interest, marking to market, and margin calls; methods for transmitting coupon or dividend payments received if a security is on loan on a payment date; conditions which will trigger the termination of a loan (including events of default); and acceptable methods of delivery for loaned securities and collateral.

*Use of Finders*

Some lender institutions may use a finder to place securities, and some financial institutions may act as finders. A finder brings together a borrower and a lender for a fee. Finders should not take possession of securities or collateral. The delivery of securities loaned and collateral should be direct between the borrower and the lender. A finder should not be involved in the delivery process.

The finder should act only as a fully disclosed intermediary. The lender institution must always know the name and financial condition of the borrower of any securities it lends. If the lender institution does not have that information it and its customers are exposed to unnecessary risks.

Written policies should be in place concerning the use of finders in a securities lending program. These policies should cover the circumstances in which a finder will be used, which party pays the fee (borrower or lender), and which finders the lender institution will use.

*Employee Benefit Plans*

The Department of Labor has issued two class exemptions which deal with securities lending programs for employee benefit plans covered by the Employee Retirement Income Security Act (ERISA)—Prohibited Transaction Exemption 81–6 (46 FR 7527 (January 23, 1981), supplemented 52 FR 18754 (May 19, 1987)), and Prohibited Transaction Exemption 82–63 (47 FR 14804 (April 6, 1982) and correction published at 47 FR 16437 (April 16, 1982)). The exemptions authorize transactions which might otherwise constitute unintended ''prohibited transactions'' under ERISA. Any institution engaged in lending of securities for an employee benefit plan subject to ERISA should take all steps necessary to design and maintain its program to conform with these exemptions. Prohibited Transaction Exemption 81–6 permits the lending of securities owned by employee benefit

[3] Employee Benefit Plans subject to the Employee Retirement Income Security Act are specifically required to collateralize securities loans at a minimum of 100 percent of the market value of loaned securities (see section concerning Employee Benefit Plans).

[4] The level of margin should be dictated by level of risk being underwritten by the securities lender. Factors to be considered in determining whether to require margin above the recommended minimum include: the type of collateral, the maturity of collateral and lent securities, the term of the securities loan, and the costs which may be incurred when liquidating collateral and replacing loaned securities.

plans to persons who could be ''parties in interest'' with respect to such plans, provided certain conditions specified in the exemption are met. Under those conditions neither the borrower nor an affiliate of the borrower can have discretionary control over the investment of plan assets, or offer investment advice concerning the assets, and the loan must be made pursuant to a written agreement. The exemption also establishes a minimum acceptable level for collateral based on the market value of the loaned securities.

Prohibited Transaction Exemption 82–63 permits compensation of a fiduciary for services rendered in connection with loans of plan assets that are securities. The exemption details certain conditions which must be met.

*Indemnification*

Certain lender institutions offer participating accounts indemnification against losses in connection with securities lending programs. Such indemnifications may cover a variety of occurrences including all financial loss, losses from a borrower default, or losses from collateral default. Lender institutions that offer such indemnification should obtain a legal opinion from counsel concerning the legality of their specific form of indemnification under federal and/or state law.

A lender institution which offers an indemnity to its customers may, in light of other related factors, be assuming the benefits and, more importantly, the liabilities of a principal. Therefore, lender institutions offering indemnification should also obtain written opinions from their accountants concerning the proper financial statement disclosure of their actual or contingent liabilities.

*Regulatory Reporting*

Securities borrowing and lending transactions should be reported by commercial banks according to the Instructions for the Consolidated Reports of Condition and Income and by thrifts according to Thrift Financial Report instructions.

By order of the Board of Directors.

Dated at Washington, D.C. this 22nd day of July, 1997.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**

*Executive Secretary.*

[FR Doc. 97–19964 Filed 7–29–97; 8:45 am]

BILLING CODE 6714–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Agency for Toxic Substances and Disease Registry

**[ATSDR–121]**

## Notice of Availability of Administrative Reports of Health Effects Studies

**AGENCY:** Agency for Toxic Substances and Disease Registry (ATSDR), Department of Health and Human Services (HHS).

**ACTION:** Notice.

**SUMMARY:** This notice announces the availability of administrative reports of 20 ATSDR health effects studies and associated publications.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey A. Lybarger, M.D., MS, Director, Division of Health Studies, Agency for Toxic Substances and Disease Registry, 1600 Clifton Road, NE., Mailstop E–31, Atlanta, Georgia 30333, telephone (404) 639–6200.

**SUPPLEMENTARY INFORMATION:** Sections 104(i) (1), (7), (8), and (9) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended (42 U.S.C. 9604(i) (1), (7), (8), and (9), provide the Administrator of ATSDR with the authority to conduct pilot studies and epidemiologic and other health studies, and to initiate health surveillance programs to determine the relationship between human exposure to hazardous substances in the environment and adverse health outcomes.

On February 13, 1990, ATSDR published in the **Federal Register** (55 FR 5136) a final rule entitled, ''Health Assessments and Health Effects Studies of Hazardous Substances Releases and Facilities.'' The primary purpose of that rule, which created a new regulation at 42 CFR part 90, was to set forth general procedures that ATSDR will follow relating to certain agency activities, including the conduct of health effects studies. Section 90.11 of the regulation concerns the reporting of results of health assessments and health effects studies, and provides that reports of health effects studies conducted under section 104(i) of CERCLA be available to the general public upon request.

*Availability*: The reports of the health effects studies and associated publications in the following list are now available through the U.S. Department of Commerce, National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22151, telephone 1–800–553–6847 or 703–487–4650. There is a charge for these items as determined by NTIS.

| Health effects study | NTIS document Number |
|---|---|
| Southbend Subdivision Health Outcomes Study, Harris County, Texas, ATSDR/HS–95–57 | PB95–265518 |
| Biologic Indicators of Exposure to Lead, RSR Smelter Site, Dallas, Texas, ATSDR/HS–95–59 | PB95–265500 |
| Fort Hall Air Emissions Study, Fort Hall Indian Reservation, Fort Hall, Idaho, | PB96–109046 |
| A Population-Based Case-Control Study of Lung Cancer Mortality in Four Arizona Smelter Towns, ATSDR/HS–95–61 | PB96–109038 |
| McClellan Air Force Base Cross-Sectional Health Study, Sacramento, Sacramento County, California, ATSDR/HS–95–62 | PB96–138144 |
| Lead and Cadmium Exposure Study, Galena, Kansas, ATSDR/HS–95–63 | PB96–138151 |
| National Exposure Registry, Trichloroethylene (TCE) Subregistry, Followup 1 Technical Report, ATSDR/HS–96–64 | PB96–157573 |
| National Exposure Registry, Volatile Organic Compounds Registry, 1,1,1-Trichloroethane (TCA) Subregistry, Baseline and Followup 1 Technical Report, ATSDR/HS–96–65. | PB96–172101 |
| Evaluating Individuals Reporting Sensitivities to Multiple Chemicals, California Department of Health Services, ATSDR/HS–96–66. | PB96–187646 |
| The Occurrence of Neural Tube, Heart, and Oral Cleft Defects in Areas With National Priorities List Sites: A Case-Control Study, California Department of Health Services, California Birth Defects Monitoring Program, ATSDR/HS–96–67. | PB96–109632 |
| National Exposure Registry, Dioxin Subregistry, Baseline and Followups 1 and 2 Technical Report, ATSDR/HS–96–70 | PB96–196613 |
| The Rocky Mountain Arsenal Pilot Exposure Study, Part II: Analysis of Exposure to Diisopropylmethylphosphate, Aldrin, Dieldrin, Endrin, Isodrin, and Chlorophenylmethsulfone, Colorado Department of Public Health and Environment Disease Control and Environmental Epidemiology Division, Denver, Colorado, ATSDR/HS–96–68. | PB96–162151 |
| Reproductive, Neurobehavioral, and Other Disorders in Communities Surrounding the Rocky Mountain Arsenal, Colorado State University, Department of Environmental Health, Fort Collins, Colorado, ATSDR/HS–96–69. | PB96–178058 |

| Health effects study | NTIS document Number |
|---|---|
| Sympton and Disease Prevalence With Biomarkers Health Study, Cornhusker Army Ammunition Plant, Hall County, Nebraska, ATSDR/HS–96–72. | PB96–187760 |
| Disease and Sympton Prevalence Survey, Tucson International Airport Site, Tucson, Arizona, ATSDR/HS–96–71 | PB96–199484 |
| Evaluation of Developmental Disabilities in Relation to Environmental Exposures in Groton, Massachusetts, ATSDR/HS–97–75. | PB97–137715 |
| Adult Environmental Neurobehavioral Test Battery, ATSDR/HS–95–58 | PB96–109012 |
| Standardized Assessment of Birth Defects and Reproductive Disorders in Environmental Health Field Studies, ATSDR/HS–96–73. | PB96–199609 |
| Pediatric Environmental Neurobehavioral Test Battery, ATSDR/HS–96–74 | PB96–207352 |
| National Exposure Registry, Trichloroethylene (TCE) Subregistry, TCE Baseline, CD–ROM Series: TCE, Volume: Baseline, No. 1. | PB95–501987 |

In accordance with 42 CFR 90.11, copies of these final publications have been distributed, as appropriate, to the Environmental Protection Agency; the applicable State and local government agencies; the affected local communities; and parties potentially responsible for their release, if their identity is readily available to ATSDR.

Additional final reports will be announced semiannually in the **Federal Register** as they become available.

Dated: July 24, 1997.

**Georgi Jones,**

*Director, Office of Policy and External Affairs, Agency for Toxic Substances and Disease Registry.*

[FR Doc. 97–20013 Filed 7–29–97; 8:45 am]

**BILLING CODE 4163–70–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Agency for Toxic Substances and Disease Registry

**[ATSDR–124]**

### Announcement of Final Priority Data Needs for 12 Priority Hazardous Substances and Call for Voluntary Research Proposals

**AGENCY:** Agency for Toxic Substances and Disease Registry (ATSDR), U.S. Department of Health and Human Services (HHS).

**ACTION:** Announcement of final priority data needs and ongoing call for Voluntary Research Proposals.

**SUMMARY:** This notice announces the final priority data needs for 12 priority hazardous substances (see attached Table 1) as part of the continuing development and implementation of the ATSDR Substance-Specific Applied Research Program (SSARP). The notice also serves as a continuous call for voluntary research proposals. The SSARP is authorized by the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Superfund) or CERCLA, as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA) (42 U.S.C. 9604(i)). This research program was initiated on October 17, 1991. At that time, a list of priority data needs for 38 priority hazardous substances was announced in the **Federal Register** (56 FR 52178). The list was subsequently revised based on public comments and published in final form on November 16, 1992 (57 FR 54150).

Twelve substances constitute the second list of hazardous substances for which priority data needs are identified by ATSDR. In developing this list, ATSDR solicited input from the Environmental Protection Agency (EPA) and the National Institute of Environmental Health Sciences (NIEHS). The 12 substances, which are included in the ATSDR Priority List of Hazardous Substances established by ATSDR and EPA (59 FR 9486, February 28, 1994), are:

*Chlordane
*1,2-dibromo-3-chloropropane
*Di-n-butyl phthalate
*Disulfoton
*Endrin (includes endrin aldehyde)
*Endosulfan (alpha-, beta-, and endosulfan sulfate)
*Heptachlor (includes heptachlor epoxide)
*Hexachlorobutadiene
*Hexachlorocyclohexane (alpha-, beta-, delta-, and gamma-)
*Manganese
*Methoxychlor
*Toxaphene.

The priority data needs for these 12 substances were initially announced by ATSDR in the **Federal Register** on April 1, 1996 (61 FR 14430). The public was invited to comment on the priority data needs during a 90-day period. ATSDR received comments from industry groups concerning substance-specific priority data needs. The agency responded to these comments and has finalized the ''Priority Data Needs'' documents for these 12 hazardous substances. Both the agency's responses and the revised ''Priority Data Needs'' documents are available for public inspection at ATSDR (see **ADDRESSES** section).

These priority data needs will be addressed by the mechanisms described in the **Implementation of Substance-Specific Applied Research Program** section of this **Federal Register** notice.

This notice also serves as a continuous call for voluntary research proposals. Private-sector organizations may volunteer to conduct research to address specific priority data needs in this notice by indicating their interest through submission of a research proposal to ATSDR (see **ADDRESSES** section). A Tri-Agency Superfund Applied Research Committee (TASARC) comprised of scientists from ATSDR, the National Toxicology Program (NTP), and EPA will review all proposals. The ''Priority Data Needs'' documents are available by writing to ATSDR (see **ADDRESSES** section).

**DATES:** ATSDR considers the voluntary research effort to be of significant importance to the continuing development of the Substance-Specific Applied Research Program, and believes this effort should be an open and continuous one. Therefore, private-sector organizations are encouraged to volunteer to conduct research to address identified data needs, beginning with the publication of this notice and until that time when ATSDR announces that research has been initiated for a specific data need.

**ADDRESSES:** Private-sector organizations interested in volunteering to conduct research to address identified data needs should announce their intention by writing to Dr. William Cibulas, Research Implementation Branch, Division of Toxicology, Agency for Toxic Substances and Disease Registry, 1600 Clifton Road, NE., Mailstop E–29, Atlanta, Georgia 30333. Requests for the final ''Priority Data Needs'' documents and ATSDR's response to public comments should be addressed similarly.

These documents are available for public inspection at the Agency for Toxic Substances and Disease Registry, Building 4, Suite 2400, Executive Park Drive, Atlanta, Georgia (not a mailing address), from 8 a.m. until 4:30 p.m., Monday through Friday, except for legal holidays.

**FOR FURTHER INFORMATION CONTACT:**

Dr. William Cibulas, Chief, Research Implementation Branch, Division of Toxicology, Agency for Toxic Substances and Disease Registry, 1600 Clifton Road, NE., Mailstop E–29, Atlanta, Georgia 30333, telephone 404–639–6306.

**SUPPLEMENTARY INFORMATION:**

## Background

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Superfund) or CERCLA (42 U.S.C. 9604 (i)), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA) (42 U.S.C. 9604(i)), requires that ATSDR: (1) Develop jointly with EPA a list of hazardous substances found at National Priorities List (NPL) sites (in order of priority), (2) prepare toxicological profiles of these substances, and (3) assure the initiation of a research program to address identified priority data needs associated with the substances.

The Substance-Specified Applied Research Program (SSARP) was initiated on October 17, 1991. At that time, a list of priority data needs for 38 priority hazardous substances was announced in the **Federal Register** (56 FR 52178). The list was subsequently revised based on public comments and published in final form on November 16, 1992 (57 FR 54150).

Twelve substances constitute the second list of hazardous substances for which priority data needs are identified by ATSDR. The priority data needs for these 12 substances were initially announced by ATSDR in the **Federal Register** on April 1, 1996 (61 FR 14430). The exposure and toxicity priority data needs in this notice have been identified from information gaps via a ''Decision Guide'' that was published in the **Federal Register** on September 11, 1989 (54 FR 37618). The priority data needs represent essential information to improve the database to conduct public health assessments. Research to address these data needs will help determine the types or levels of exposure that may present significant risks of adverse health effects in people exposed to the subject substances.

The priority data needs identified in this notice reflect the opinion of ATSDR, in consultation with other Federal programs, of the research needed pursuant to ATSDR's authority under CERCLA. They do not represent the priority data needs for any other program.

Consistent with Section 104(i)(12) of CERCLA as amended (42 U.S.C. 9604(i)(12)), nothing in this research program shall be construed to delay or otherwise affect or impair the authority of the President, the Administrator of ATSDR, or the Administrator of EPA, to exercise any authority regarding any other provision of law, including the Toxic Substances Control Act of 1976 (TSCA) and the Federal Insecticide, Fungicide, and Rodenticide Act of 1972 (FIFRA), or the response and abatement authorities of CERCLA.

In developing this research program, ATSDR has worked with other Federal programs to determine common substance-specific data needs, as well as mechanisms to implement research that may include authorities under TSCA and FIFRA, private-sector voluntarism, or the direct use of CERCLA funds.

When deciding the type of research that should be done, ARSDR considers the recommendations of the Interagency Testing Committee (ITC) established under Section 4(e) of TSCA. Federally funded projects that collection information from 10 or more respondents and are funded by cooperative agreement are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. If the proposed project involves research on human subjects, the applicants must comply with Department of Health and Human Services' regulations (45 CFR Part 46) regarding the protection of human subjects. Assurance must be provided that the project will be subject to initial and continuing review by the appropriate institutional review committees. Overall, data generated from this research program will lend support to others involved in human health assessments involving these 12 substances (and related ones) by providing additional scientific information for the risk assessment process.

## Implementation of Substance-Specified Applied Research Program

In Section 104(i)(5)(D), CERCLA states that it is the sense of Congress that the costs for conducting this research program be borne by the manufacturers and processors of the hazardous substances under TSCA and by registrants under FIFRA, or by cost recovery from responsible parties under CERCLA. To execute this statutory intent, ATSDR developed a plan whereby parts of the SSARP are being conducted via regulatory mechanisms (TSCA/FIFRA), private-sector voluntarism, and the direct use of CERCLA funds.

CERCLA also requires that ATSDR consider recommendations of the ITC on the types of research to be done. ATSDR actively participates on this committee; however, none of the proposed 12 substances are now on the ITC priority testing list.

The mechanisms for implementing the SSARP are discussed below. The status of the SSARP in addressing priority data needs of the first set of 38 priority hazardous substances via these mechanisms was described in a **Federal Register** notice on April 1, 1996 (61 FR 14420).

### *A. TSCA/FIFRA*

In developing and implementing the SSARP, ATSDR and EPA established procedures to identify priority data needs of mutual interest to Federal programs. Generally, this begins before or during the finalization of the priority data needs. These data needs will be addressed through a program of toxicologic testing under TSCA or FIFRA. This part of the research will be conducted according to established TSCA/FIFRA procedures and guidelines. Generally, this testing will fulfill more than one Federal program's need.

Currently, in collaboration with EPA, the ATSDR test rule for seven organic chemicals (benzene, trichloroethylyene, tetrachloroethylene, cyanide, toluene, methylene chloride, and chloroethane) is being developed. In addition, the Metals Testing Task Force, consisting of scientists from ATSDR, EPA, and NIEHS, met last February and established a draft list of priority metals (including all of ATSDR's priority metals) for testing. A draft survey for soliciting testing needs of other government agencies was also developed. A second meeting of the Task Force to help set priorities for testing needs is scheduled for early fall.

### *B. Private-Sector Voluntarism*

As part of the SSARP, on February 7, 1992, ATSDR announced a set of proposed procedures for conducting voluntary research (56 FR 4758). Revisions based on public comments were published on November 16, 1992 (57 FR 54160). ATSDR strongly encourages private-sector organizations to propose research to address data needs at any time until ATSDR announces that research has already been initiated for a specific data need

(e.g., via EPA test rule development). Private-sector organizations may volunteer to conduct research to address specific priority data needs identified in this notice by indicating their interest through submission of a research proposal.

The research proposal should be a brief statement (1–2 pages) that identifies the priority data need(s) to be addressed and the methods to be used. The TASARC will review these proposals. Based on the review committee's recommendations, ATSDR will determine which specific voluntary research projects will be pursued (and how) with the volunteer organizations. ATSDR will only enter into those voluntary research projects that lead to high quality, peer-reviewed scientific work. Additional details regarding the process for voluntary research are in the **Federal Register** notices cited in this section.

Recently, the first research study conducted under ATSDR's voluntary research program was completed. The study, conducted by the Halogenated Solvents Industry Alliance, Inc. (HSIA), addressed three priority data needs for methylene chloride using physiologicially-based parhmacokinetic (PBPK) modeling. HSIA has also proposed to conduct an immunotoxicity assessment for methylene chloride via inhalation exposure, and to obtain the oral immunotoxicity data via PBPK modeling. HSIA and ATSDR are continuing to discuss voluntary research efforts for trichloroethylene and tetrachloroethylene.

Presently, ATSDR has three memorandums of understanding with private-sector organizations: HSIA, to conduct studies on methylene chloride; the Chemical Manufacturers Association, to conduct research on vinyl chloride; and the General Electric Company (GE), to conduct studies on polychlorinated biphenyl compounds. The final report of GE's study on an assessment of the chronic toxicity and oncogenicity of Aroclor–1016, Aroclor–1242, Aroclor–1254, and Aroclor–1260 administered in diet to rats was recently reviewed by ATSDR's peer reviewers. ATSDR will accept the report pending GE's satisfactory response to the review's comments.

*C. CERCLA*

Those priority data needs that are not addressed by TSCA/FIFRA or initial voluntarism will be considered for funding by ATSDR through its CERCLA budget. A large part of this research program is envisioned to be unique to CERCLA, for example, research on substances not regulated by other programs or research needs specific to public health assessments. Current examples of the direct use of CERCLA funds include interagency agreements with other Federal agencies and cooperative agreements and grants with academic institutions.

Mechanisms to address these priority data may include a second call for voluntarism. Again, scientific peer review of study protocols and results would occur for all research conducted under this auspice.

**Substance-Specific Priority Data Needs**

The final priority data needs are identified in Table 1. Unique identification numbers (25A through 36H) are assigned to the priority data needs for this list of 12 priority hazardous substances; the initial list of 38 substances has identification numbers 1A through 24C (59 FR 11434, March 10, 1994).

As previously stated, ATSDR believes that part of this research will be most appropriately conducted using CERCLA data and resources. Toward this end, ATSDR has identified particular data needs that may be implemented by ATSDR programs. These priority data needs fall into both the exposure and toxicity data needs categories.

A major exposure priority data need for all 12 substances will be to collect, evaluate, and interpret data from contaminated environmental media around hazardous waste sites. However, a substantial amount of this information has already been collected through individual State programs and EPA's CERCLA activities. ATSDR scientists will, therefore, evaluate the extant information from these programs to better characterize the need for additional site-specific information.

ATSDR's role as a public health agency addressing environmental health is, when appropriate, to collect human data to validate substance-specific exposure and toxicity findings. ATSDR will obtain this information by conducting exposure and health effects studies, and by establishing and using substance-specific subregistries of people enrolled in the agency's National Exposure Registry who are potentially exposed to these substances. When a subregistry or a human exposure study is identified as a priority data need, the responsible ATSDR program will determine its feasibility, which depends on identifying appropriate populations and funding. These priority data needs may be reclassified following considerations of feasibility. Any reclassification will be published in the **Federal Register**.

ATSDR acknowledges that the conduct of human studies to determine possible links between exposure to hazardous substances and human health effects may be accomplished other than by ATSDR's or under other ATSDR-sponsored projects. We encourage private-sector organizations and other governmental programs to use ATSDR's priority data needs to plan their research activities, including identifying appropriate populations and conducting studies to answer specific human health questions.

The results of the research conducted via this ATSDR Substance-Specific Applied Research Program will be used for public health assessment purposes and to reassess ATSDR's substance-specific priority data needs. ATSDR intends to reevaluate the priority data needs for hazardous substances every three years.

Dated: July 24, 1997.

**Georgi Jones,**

*Director, Office of Policy and External Affairs, Agency for Toxic Substances and Disease Registry.*

BILLING CODE 4163–70–U

# Table 1
# Substance-Specific Priority Data Needs (PDNs) for 12 Priority Hazardous Substances

| Substance | | PDN ID | Priority Data Need |
|---|---|---|---|
| Hexachlorobutadiene | Exposure | 25A | Evaluate existing data on concentrations of hexachlorobutadiene in contaminated environmental media at hazardous waste sites |
| | | 25B | Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers |
| | | 25C | Environmental fate studies that determine the extent to which hexachlorobutadiene volatilizes from soil, and studies that determine the reactions and rates which drive degradation in soil |
| | | 25D | Bioavailability studies in soil and plants |
| | | 25E | Potential candidate for subregistry of exposed persons |
| | Toxicity | 25F | Dose-response data in animals for acute-duration exposure via the oral route |
| Chlordane | Exposure | 26A | Evaluate existing data on concentrations of chlordane in contaminated environmental media at hazardous waste sites |
| | | 26B | Exposure levels in humans living near hazardous waste sites and other populations potentially exposed to chlordane |
| | | 26C | Bioavailability studies following ingestion of contaminated media |
| | | 26D | Potential candidate for subregistry of exposed persons |
| | Toxicity | 26E | Oral multigenerational studies to evaluate reproductive toxicity |

| | | | |
|---|---|---|---|
| Hexachlorocyclohexane α<br>Hexachlorocyclohexane β<br>Hexachlorocyclohexane δ<br>Hexachlorocyclohexane γ | Exposure | 27A | Evaluate existing data on concentrations of HCH in contaminated environmental media at hazardous waste sites |
| | | 27B | Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers |
| | | 27C | Potential candidate for subregistry of exposed persons |
| | Toxicity | 27D | Dose-response data for chronic-duration oral exposure |
| | | 27E | Mechanistic studies on the neurotoxicity, hepatotoxicity, reproductive toxicity, and immunotoxicity of hexachlorocyclohexane |
| Heptachlor<br>Heptachlor epoxide | Exposure | 28A | Evaluate existing data on concentrations of heptachlor/heptachlor epoxide in contaminated environmental media at hazardous waste sites |
| | | 28B | Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers |
| | | 28C | Bioavailability from contaminated air, water, and soil and bioaccumulation potential |
| | | 28D | Potential candidate for subregistry of exposed persons |
| | Toxicity | 28E | Dose-response animal data for acute- and intermediate-duration oral exposures, including immunopathology |
| | | 28F | Multigenerational reproductive toxicity studies via the oral route of exposure |
| | | 28G | Two-species developmental toxicity studies via the oral route of exposure |

| | | | |
|---|---|---|---|
| Di-n-butyl phthalate | Exposure | 29A | Evaluate existing data on the concentration of di-n-butyl phthalate in contaminated environmental media at hazardous waste sites |
| | | 29B | Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers |
| | | 29C | Environmental fate of di-n-butyl phthalate in environmental media |
| | | 29D | Bioavailability in contaminated environmental media near hazardous waste sites |
| | | 29E | Potential candidate for subregistry of exposed persons |
| | Toxicity | 29F | Dose-response data in animals for acute-duration exposure via the oral route |
| | | 29G | Dose-response data in animals for chronic-duration exposure via the oral route |
| | | 29H | Carcinogenicity studies via oral exposure |
| | | 29I | In vivo genotoxicity studies |
| | | 29J | Immunotoxicology studies via oral exposure |
| | | 29K | Neurotoxicity studies via oral exposure |
| Toxaphene | Exposure | 30A | Exposure levels in humans living in areas near hazardous waste sites with toxaphene and in those individuals with the potential to ingest it |
| | | 30B | Evaluate existing data on concentrations of toxaphene in contaminated environmental media, particularly at hazardous waste sites |
| | | 30C | Potential candidate for subregistry of exposed persons |
| | Toxicity | 30D | Identify the long-term health consequences of exposure to environmental toxaphene via oral exposure |
| | | 30E | Conduct additional chronic animal immunotoxicity studies via the oral route of exposure |
| | | 30F | Conduct additional chronic animal neurotoxicity studies via the oral route of exposure |

| | | | |
|---|---|---|---|
| Endosulfan<br>Endosulfan α<br>Endosulfan β<br>Endosulfan sulfate | Exposure | 31A | Evaluate existing data on concentrations of endosulfan in the environment, particularly at hazardous waste sites |
| | | 31B | Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers |
| | | 31C | Data on the bioavailability of endosulfan from soil |
| | | 31D | Potential candidate for subregistry of exposed persons |
| | Toxicity | 31E | Acute-duration oral exposure studies |
| | | 31F | Sensitive end point neurologic data on the effects of oral endosulfan exposure |
| Disulfoton | Exposure | 32A | Evaluate existing data on concentrations of disulfoton in contaminated environmental media at hazardous waste sites |
| | | 32B | Exposure levels of disulfoton in tissues/fluids for populations living near hazardous waste sites and other populations, such as exposed workers |
| | | 32C | Potential candidate for a subregistry of exposed persons |
| | Toxicity | 32D | Immunotoxicology testing battery following oral exposure |

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|---|---|---|---|
| Endrin<br>Endrin aldehyde | Exposure | 33A | Evaluate existing data on concentration of endrin and its degradation products in contaminated environmental media at hazardous waste sites |
| | | 33B | Exposure levels for endrin and its degradation products in humans living near hazardous waste sites |
| | | 33C | Accurately describe the environmental fate of endrin, including environmental breakdown products and rates, media half-lives, and chemical and physical properties of the breakdown products that help predict mobility and volatility |
| | | 33D | Potential candidate for subregistry of exposed persons |
| | Toxicity | 33E | Dose-response animal data for acute oral exposure to endrin |
| | | 33F | Multigenerational reproductive toxicity studies via oral exposure to endrin |
| | | 33G | Accurately describe the toxicokinetics of endrin and its degradation products and identify the animal species to be used as the most appropriate model for human exposure |
| Manganese | Exposure | 34A | Evaluate existing data on concentrations of manganese in contaminated environmental media at hazardous waste sites |
| | | 34B | Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers |
| | | 34C | Potential candidate for subregistry of exposed persons |
| | | 34D | Relative bioavailability of different manganese compounds and bioavailability of manganese from soil |
| | Toxicity | 34E | Dose-response data for acute- and intermediate-duration oral exposures (the subchronic study should include reproductive histopathology and an evaluation of immunologic parameters including manganese effects on plaque-forming cells (SRBC), surface markers (D4:D8 ratio), and delayed hypersensitivity reactions) |
| | | 34F | Toxicokinetic studies on animals to investigate uptake and absorption, relative uptake of differing manganese compounds, metabolism of manganese, and interaction of manganese with other substances following oral exposure |
| | | 34G | Epidemiological studies on the health effects of manganese (special emphasis end points include neurologic, reproductive, developmental, immunologic, and cancer) |

| | | | |
|---|---|---|---|
| Methoxychlor | Exposure | 35A | Evaluate existing data on concentrations of methoxychlor in contaminated media, particularly at hazardous waste sites |
| | | 35B | Exposure levels of methoxychlor and primary metabolites in humans living near hazardous waste sites and in those individuals with the potential to ingest it |
| | | 35C | Evaluate the fate, transport, and levels of the degradation products of methoxychlor in soil |
| | | 35D | Potential candidate for subregistry of exposed persons |
| | Toxicity | 35E | Evaluate neurologic effects after long-term, low-level oral exposure |
| 1,2-dibromo-3-chloropropane | Exposure | 36A | Evaluate existing data on concentrations of 1,2-dibromo-3-chloropropane in contaminated environmental media at hazardous waste sites |
| | | 36B | Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers |
| | | 36C | Potential candidate for subregistry of exposed persons |
| | Toxicity | 36D | Dose-response data in animals for acute-duration exposure via the oral route (including reproductive organ histopathology) |
| | | 36E | Dose-response data in animals for chronic-duration exposure via the oral route (including reproductive organ histopathology) |
| | | 36F | Two-species developmental toxicity study via oral exposure |
| | | 36G | Immunotoxicology testing battery via oral exposure |
| | | 36H | Neurotoxicology testing battery via oral exposure |

[FR Doc. 97–20012 Filed 7–29–97; 8:45 am]
BILLING CODE 4163–70–C

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### President's Committee on Mental Retardation; Notice of Meeting

*Agency Holding the Meeting:* President's Committee on Mental Retardation.

*Time and Date:* 8:30 a.m.–12 Noon, August 24, 1997.

*Place:* The Washington Court Hotel, 525 New Jersey Avenue, NW., Washington, DC 20001.

*Status:* Full Committee Meetings are open to the public. An interpreter for the deaf will be available upon advance request. All meeting sites are barrier free.

*To be Considered:* The Committee plans to discuss critical issues concerning Federal Policy, Federal Research and Demonstration, State Policy Collaboration, Minority and Cultural Diversity and Mission and Public Awareness.

The PCMR acts in an advisory capacity to the President and the Secretary of the U.S. Department of Health and Human Services on a broad range of topics relating to programs, services, and supports for persons with mental retardation. The Committee, by Executive Order, is responsible for evaluating the adequacy of current practices in programs and supports for persons with mental retardation, and for reviewing legislative proposals that impact the quality of life that is experienced by citizens with mental retardation and their families.

*Contact Person for More Information:* Gary H. Blumenthal, 352–G Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201–0001 (202) 619–0634.

Dated: July 17, 1997.

**Gary H. Blumenthal,**

*Executive Director, PCMR.*

[FR Doc. 97–19983 Filed 7–29–97; 8:45 am]

**BILLING CODE 4184–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. 96N–0502]**

### Determination of Regulatory Review Period for Purposes of Patent Extension; BAK™ Interbody Fusion System

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) has determined the regulatory review period for BAK™ Interbody Fusion System and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that medical device.

**ADDRESSES:** Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** Brian J. Malkin, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1382.

**SUPPLEMENTARY INFORMATION:** The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For medical devices, the testing phase begins with a clinical investigation of the device and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the device and continues until permission to market the device is granted. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a medical device will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(3)(B).

FDA recently approved for marketing the medical device BAK™ Interbody Fusion System. BAK™ Interbody Fusion System is indicated for use with autogenous bone graft in patients with degenerative disc disease (DDD) at one or two contiguous levels from L2–S1. These DDD patients may also have up to Grade I spondylolisthesis or retrolisthesis at the involved level(s). Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for BAK™ Interbody Fusion System (U.S. Patent No. 5,015,247) from Karlin Technology, Inc., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated March 12, 1997, FDA advised the Patent and Trademark Office that this medical device had undergone a regulatory review period and that the approval of BAK™ Interbody Fusion System represented the first commercial marketing of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for BAK™ Interbody Fusion System is 1,731 days. Of this time, 1,341 days occurred during the testing phase of the regulatory review period, while 390 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date a clinical investigation involving this device was begun*: December 27, 1991. The applicant claims that the investigational device exemption (IDE) required under section 520(g) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j(g)) for human tests to begin became effective April 30, 1992. However, FDA records indicate that the IDE for clinical studies of the BAK™ Interbody Fusion System was approved on December 27, 1991, which represents the IDE effective date.

2. *The date an application was initially submitted with respect to the device under section 515 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e)*: August 28, 1995. The applicant claims January 17, 1995, as the date the premarket approval application (PMA) for BAK™ Interbody Fusion System (PMA P950002) was initially submitted. FDA records confirm that an incomplete PMA P950002 was received on January 17, 1995. PMA P950002 was amended a number of times and was determined to be adequate for filing based on a submission received on August 28, 1995, which is considered the initially submitted date for the PMA.

3. *The date the application was approved*: September 20, 1996. FDA has verified the applicant's claim that PMA P950002 was approved on September 20, 1996.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension,

this applicant seeks 829 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before September 29, 1997, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before January 27, 1998, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 15, 1997.

**Allen B. Duncan,**

*Acting Associate Commissioner for Health Affairs.*

[FR Doc. 97–19984 Filed 7–29–97; 8:45 am]

**BILLING CODE 4160–01–F**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–4200–N–90]**

### Notice of Proposed Information Collection for Public Comment

**AGENCY:** Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

**DATES:** Comments due: September 29, 1997.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Oliver Walker, Housing, Department of Housing and Urban Development, 451—7th Street, SW, Room 9116, Washington, DC 20410.

**FOR FURTHER INFORMATION CONTACT:** John Coonts, Telephone number (202) 708–3046 (this is not a toll-free number) for copies of the proposed form and other available documents.

**SUPPLEMENTARY INFORMATION:** The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

*Title of Proposal:* Insurance for Home Equity Conversion Mortgages/ Residential Loan Application for Reverse Mortgages.

*OMB Control Number:* New Collection.

*Description of the need for the information and the proposed use:* Streamlined application for reverse mortgage customers, used to determine if borrowers qualify for HECM loans.

*Agency form numbers:* N/A.

*Members of affected public:* Individuals/households, business/non-profits, Federal Government.

An estimation of the total number of hours needed to prepare the information collection is 5,000, the number of respondents is 5,000, frequency of response is on occasion and the hours of response is 1 hour.

*Status of the proposed information collection:* New collection.

**Authority:** Sec. 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: July 23, 1997.

**Nicolas P. Retsinas,**

*Assistant Secretary for Housing—Federal Housing Commissioner.*

[FR Doc. 97–19991 Filed 7–29–97; 8:45 am]

**BILLING CODE 4210–27–M**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–4200–N–95]**

### Notice of Proposed Information Collection for Public Comments

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

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

**DATES:** Comments due: September 28, 1997.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Mildred M. Humman, Reports Liaison Officer, Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, SW., Room 4238, Washington, DC 20410–5000.

**FOR FURTHER INFORMATION CONTACT:** Mildred M. Hamman, (202) 708–3642, extension 4128, for copies of the proposed forms and other available documents. (This is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** The Department sill submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enchance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information

on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

This Notice also lists the following information:

*Title of Proposal:* Report on Occupancy for Public and Indian Housing.

*OMB Control Number:* 2577–0028.

*Discription of the need for the information and proposed use:* HUD needs occupancy information to monitor the rate and extent at which the Low-Income Public Housing Program is being used by Housing Agencies (HAs) to assist low-income families. The information collected on Form HUD–51234 provides HUD officials, Field Offices and Headquarters occupancy information to Monitor units vacant, demolished, boarded-up, under repair/modernization/rehabilitation, or converted to a non-dwelling status. The information is used to prepare input to reports on Presidential and Congressional needs.

*Agency Form Number:* Form HUD–51234.

*Members of affected public:* State, Local or Tribal Government.

*Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:* 3,300 respondents annual, one hour average per response, 3,300 total reporting burden hours.

*Status of the proposed information collection:* Extension.

**Authority:** Sec. 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: July 23, 1997.

**Kevin Emanuel Marchman,**

*Acting Assistant Secretary for Public and Indian Housing.*

BILLING CODE 4210–33–M

[FR Doc. 97–19992 Filed 7–29–97; 8:45 am]
BILLING CODE 4210–33–C

# Report on Occupancy for Public and Indian Housing

**U.S. Department of Housing and Urban Development**
Office of Public and Indian Housing

OMB Approval No. 2577-0028 (exp. 9/30/97)



| Read the instructions in Handbook 7465.3 completely before starting this form. Enter information on a separate line for **each** address and site code for each project. If you need assistance, contact your local HUD Office. | 1. Name of PHA / IHA : | 2. Report Date (mm/dd/yy) : |
|---|---|---|

| 3. Project Name | 4. Project Number | 5. Total Project Units | 6. Total Employee Units | 7. Total Non-Dwelling Units | 8. Total Units Available for Occupancy | 9. Total Vacant Units | 10. Total Units Occupied by Low Income Tenants | 11. Total Units Occupied by Elderly Low Income Tenants |
|---|---|---|---|---|---|---|---|---|
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| 12. PHA / IHA Verification : | Signature of PHA Official : | Title of Official : | |
|---|---|---|---|
| The information on this form has been verified and is accurate to the best of my knowledge. | X | Phone Number : ( ) | Date Prepared : |

The 1/92 edition may also be used: all other previous editions are obsolete. This is page ( ) of ( ) pages ref. Handbook 7465.3 form **HUD-51234** (5/92)

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–4200–N–94]**

### Notice of Proposed Information Collection for Public Comment

**AGENCY:** Office of the Assistant Secretary for Housing, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

**DATES:** Comments due: September 29, 1997.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Oliver Walker, Housing, Department of Housing & Urban Development, 451—7th Street, SW, Room 9116, Washington, DC 20410.

**FOR FURTHER INFORMATION CONTACT:** Michael Diggs, telephone number (202) 708–3944 (this is not a toll-free number) for copies of the proposed forms and other available documents.

**SUPPLEMENTARY INFORMATION:** The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

*Title of Proposal:* Management Improvement and Operating Plan, Requisition for Advance of Flexible Subsidy Funds, Quarterly Performance Report

*OMB Control Number:* 2502–0395.

*Description of the need for the information and proposed use:*

These forms facilitate the analyses necessary to determine eligible projects' problems, dollar needs, assure best use of funds and track completion of tasks and flow of funds.

*Agency form numbers:* HUD 9823A, 9824A, 9835, 9835A, 9835B.

*Members of affected public:* Non-Profit Institutions, business or other for profit, State or local governments, small businesses or organizations.

An estimation of the total numbers of hours needed to prepare the information collection is 11,010, the number of respondents is 510, frequency of response is 1–12 depending upon the form, and the hours of response is 1–20 again depending upon the form.

*Status of the proposed information collection:* Extension without change.

**Authority:** Sec. 236 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: July 3, 1997.

**Stephanie A. Smith,**

*General Deputy Assistant Secretary for Housing-Federal Housing Commissioner.*

[FR Doc. 97–19993 Filed 7–29–97; 8:45 am]

**BILLING CODE 4210–27–M**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–4200–N–93]**

### Notice of Proposed Information Collection for Public Comment

**AGENCY:** Office of the Assistant Secretary for Housing, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

**DATES:** Comments due: September 29, 1997.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Oliver Walker, Housing, Department of Housing & Urban Development, 451—7th Street, SW, Room 9116, Washington, DC 20410.

**FOR FURTHER INFORMATION CONTACT:** Roger Kramer, telephone number (202) 708–0624 (this is not a toll-free number) for copies of the proposed forms and other available documents.

**SUPPLEMENTARY INFORMATION:** The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

*Title of Proposal:* Contractor's Requisition Project Mortgages.

*OMB Control Number:* 2502–0028.

*Description of the need for the information and proposed use:* This information is used by the contractor to obtain program benefits, consisting of distribution of insured mortgage proceeds when construction costs are involved. The information regarding completed work items is used by the Field Office to ensure that payments from mortgage proceeds are made for work actually completed in a satisfactory manner.

*Agency form numbers:* HUD–92448.

*Members of affected public:* Contractor.

An estimation of the total numbers of hours needed to prepare the information collection is 60,000, the number of respondents is 1,000, frequency of response is on occasion as successive work items are completed at a construction site. Status of the proposed information collection: Reinstatement without change.

**Authority:** Sec. 236 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: July 23, 1997.

**Nicolas P. Retsinas,**

*Assistant Secretary for Housing-Federal Housing Commissioner.*

[FR Doc. 97–19994 Filed 7–29–97; 8:45 am]

**BILLING CODE 4210–21–M**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–4200–N–92]**

## Notice of Proposed Information Collection for Public Comments

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

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

**DATES:** Comments due: September 29, 1997.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Mildred M. Hamman, Reports Liaison Officer, Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, SW., Room 4238, Washington, DC 20410–5000.

**FOR FURTHER INFORMATION CONTACT:** Mildred M. Hamman, (202) 708–3642, extension 4128, for copies of the proposed forms and other available documents. (This is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

This Notice also lists the following information:

*Title of Proposal:* Analysis of Proposed Main Construction Contract.

*OMB Control Number:* 2577–0037.

*Description of the need for the information and proposed use:* Under the Annual Contributions Contract (ACC), Housing Agencies (HAs) must prepare and submit main construction contracts and other contracts for projects being developed or proposed to be developed under the Low-Income Housing Program. HUD will use the information to approve construction bids and budgets prior to awarding HA construction contracts. HUD/HA can prepare a revised Development Cost Budget by comparing the approved pre-bid budget amounts for various elements, the actual bid amounts and any proposed changes, and the actual final adjusted bid amount. This information is collected under the authority of Section 6(c) of the U.S. Housing Act of 1937.

*Agency Form Number:* Form HUD–52396.

*Members of the affected public:* State, Local or Tribal Government.

*Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:* 96 projects (responses), 1.15 analyses per projects (frequency of response), 2 hours per analyses, 220 total reporting burden hours and 28 total recordkeeping hours.

*Status of the proposed information collection:* Reinstatement, without change.

**Authority:** Sec. 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: July 23, 1997.

**Kevin Emanuel Marchman,**

*Acting Assistant Secretary for Public and Indian Housing.*

**BILLING CODE 4210–33–M**

# Analysis of Proposed Main Construction Contract

**U.S. Department of Housing and Urban Development**
Office of Public and Indian Housing

OMB Approval No. 2577-0037 (exp. 3/31/97)

Public reporting burden for this collection of information is estimated to average 2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number. This information is collected under the authority of Section 6(c) of the U.S. Housing Act of I937. Under the ACC, Housing Agencies (HAs) must prepare and submit main construction contracts and other contracts for projects being developed, or proposed to be developed under the Low-Income Housing Program HUD will use the information to approve construction bids and budgets prior to awarding PHA's construction contracts. The approved pre-bid budget amounts for various elements, the actual bid amounts and any proposed changes, and the actual final adjusted bid amount by comparing these elements, HUD/PHA can prepare a revised Development Cost Budget. Responses to the collection of information are required to obtain a benefit The information requested does not lend itself to confidentiality.

| Name of Public Housing Agency | Project No. | |
|---|---|---|
| Location of Project | No. of Units | No. of Rooms |

| | Account Classification 1 | Pre-Bid Estimate 2 | Bid Amount 3 | Proposed Changes in Bid Amount 4 | Bid Amount Plus or Minus Changes (3 + 4) 5 |
|---|---|---|---|---|---|
| | **Site Improvement** (1450) Demolition | | | | |
| | Grading | | | | |
| | Sanitary Sewers | | | | |
| | Storm Sewers | | | | |
| | Water Distribution | | | | |
| | Gas Distribution System | | | | |
| | Electric Distribution System | | | | |
| | All. for Abnormal Sub-Soil Conditions | | | | |
| | Excess Dwell. & Nondwell. Foundations | | | | |
| | Paved Areas | | | | |
| | Fin. Grading, Lawns & Planting | | | | |
| | | | | | |
| | | | | | |
| | Miscellaneous | | | | |
| 61 | **Total Site Improvement** | | | | |
| | **Dwelling Structures** (1460) General | | | | |
| | Plumbing | | | | |
| | Heating (except space heaters) | | | | |
| | Electrical (including meters) | | | | |
| | Elevators | | | | |
| | **Total Dwelling Structures** | | | | |
| | **Dwelling Equipment** (1465) Ranges | | | | |
| | Refrigerators | | | | |
| | Space Heaters | | | | |
| | Shades | | | | |
| | Screens | | | | |
| | Work Tables | | | | |
| | Other | | | | |
| | **Total Dwelling Equipment** | | | | |
| | **Nondwelling Structures** (1470) Admin. Bldgs. or Spaces | | | | |
| | Maintenance Bldgs. or Spaces | | | | |
| | Community Bldgs. or Spaces | | | | |
| | **Total Nondwelling Structures** | | | | |
| | **Nondwelling Equipment (1475)** | | | | |
| | **Total** | | | | |

Previous editions are obsolete. ref. Handbooks 7475.1 & 7417.1 form **HUD-52396** (1/93)

[FR Doc. 97–19995 Filed 7–29–97; 8:45 am]
BILLING CODE 4210–33–M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–4200–N–91]**

### Notice of Proposed Information Collection for Public Comment

**AGENCY:** Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

**DATES:** Comments due: September 29, 1997.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Oliver Walker, Housing, Department of Housing & Urban Development, 451–7th Street, SW, Room 9116, Washington, DC 20410.

**FOR FURTHER INFORMATION CONTACT:** John Coonts, Director, Office of Insured Family Housing, Telephone number (202) 708–3046 (this is not a toll-free number) for copies of the proposed form and other available documents.

**SUPPLEMENTARY INFORMATION:** The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

*Title of Proposal:* Insurance of Adjusted Rate Mortgages

*OMB Control Number:* 2502–0322

*Description of the need for the information and the proposed use:* Public Law 98–181 requires lenders to furnish to the borrower a disclosure statement indicating that the interest rate may change. This disclosure also must identify the index used, indicate the frequency of the adjustments and provide any potential payment schedule showing increases over the first five years. An annual disclosure of interest rate adjustment is also required.

Members of affected public: Business or other for-profit and individuals or households.

An estimation of the total numbers of hours needed to prepare the information collection is 1400, the number of respondents is 20,000, frequency of response is annually or on occasion, and the hours of responses is 0.07 per response. Status of the proposed information collection: Reinstatement, without change, of a previously approved collection for which approval has expired.

**Authority:** Sec. 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: July 3, 1997.

**Stephanie A. Smith,**

*General Deputy Assistant Secretary for Housing—Federal Housing Commissioner.*

[FR Doc. 97–19996 Filed 2–29–97; 8:45 am]
BILLING CODE 4210–27–M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–4200–N–89]**

### Submission for OMB Review: Comment Request

**AGENCY:** Office of Administration, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

**DATES:** Comments due date: August 29, 1997.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by the name and/or OMB approval number and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

**SUPPLEMENTARY INFORMATION:** The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

**Authority:** Sec. 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: July 16, 1997.

**David S. Cristy,**

*Acting Director, Information Resources, Management Policy and Management Division.*

### Notice of Submission of Proposed Information Collection to OMB

*Title of Proposal:* Survey of New Mobile Home Placements.

*Office:* Policy Development and Research.

*OMB Approval Number:* 2528–0029.

*Description of the Need for the Information and its Proposed Use:* This survey is used to collect data on the placement of new mobile homes. The Census Bureau collects the data from mobile home dealers. HUD uses the statistics to monitor trends in low-cost

housing to formulate policy, draft legislation, and evaluate programs.

*Form Number:* C–MH–9A and C–MH–9B.

*Respondents:* Business or other for-profit.

*Frequency of Submission:* Monthly.

*Reporting Burden:*

| | Number of respondents | × | Frequency of response | × | Hours per response | = | Burden hours |
|---|---|---|---|---|---|---|---|
| Survey | 12,960 | | 12 | | .50 | | 6,480 |

*Total Estimated Burden Hours:* 6,480.

*Status:* Extension, without changes.

*Contact:* Ronald J. Sepanik, (202) 708–1060 x334; Linda P. Hayle, Census, (301) 457–1321; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

[FR Doc. 97–19997 Filed 7–29–97; 8:45 am]

BILLING CODE 4210–01–M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–4200–N–88]**

### Submission for OMB Review; Comment Request

**AGENCY:** Office of Administration, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

**DATES:** Comments due date: August 29, 1997.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

**SUPPLEMENTARY INFORMATION:** The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

**Authority:** Sec. 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 355, as amended.

Dated: July 16, 1997.

**David S. Cristy,**

*Acting Director, Information Resources, Management Policy and Management Division.*

### Notice of Submission of Proposed Information Collection to OMB

*Title of Proposal:* Public Housing Designated Occupancy by Disabled and Elderly Families.

*Office:* Public and Indian Housing.

*OMB Approval Number:* 2577–0192.

*Decsription of the Need for the Information and its Proposed Use:* This information collection is required by the Housing and Community Development Act of 1992. Public Housing Agencies (PHAs) will submit an application which is composed of an Allocation Plan and a Supportive Service Plan to designate a project for occupancy by elderly and disabled families. HUD will use the information in the Plans to evaluate a PHA's request for designated housing.

*Form Number:* None.

*Respondents:* State, Local, or Tribal Government.

*Frequency of Submission:*

*Reporting burden:*

| | Number of respondents | x | Frequency of response | x | Hours per response | = | Burden hours |
|---|---|---|---|---|---|---|---|
| Designated Projects | 176 | | 1 | | 21 | | 3,358 |

*Total Estimated Burden Hours:* 3,358.

*Status:* Reinstatement, with changes.

*Contact:* Joyce Anne Bassett, HUD, (202) 708–0744; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

[FR Doc. 97–19998 Filed 7–29–97; 8:45 am]

BILLING CODE 4210–01–M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–4200–N–87]**

### Submission for OMB Review: Comment Request

**AGENCY:** Office of Administration, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

**DATES:** Comments due date: August 29, 1997.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments must be

received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

**SUPPLEMENTARY INFORMATION:** The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the Office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

**Authority:** Sec. 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: July 16, 1997.

**David S. Cristy,**

*Acting Director, Information Resources, Management Policy and Management Division.*

### Notice of Submission of Proposed Information Collection to OMB

*Title of Proposal:* Community Development Block Grant Entitlement Program.

*Office:* Community Planning and Development.

*OMB Approval Number:* 2506–0077.

*Description of the Need for the Information and its Proposed Use:* The information is needed for the submission of the Final Statement and Grantee Performance Report. The report is required by Section 104(b) of the Housing and Community Development Act and is necessary for HUD to perform periodic reviews of the grantees' performance. The information is also used to prepare the Annual Report to Congress on the Community Development Block Grant program.

*Form Number:* None.

*Respondents:* State, Local, or Tribal Government.

*Frequency of Submission:* Quarterly, annually, and recordkeeping.

*Reporting Burden:*

| | Number of respondents | × | Frequency of response | × | Hours per response | = | Burden hours |
|---|---|---|---|---|---|---|---|
| Quarterly Reports | 925 | | 4 | | 71 | | 262,700 |
| Annual Report | 925 | | 1 | | 21 | | 19,425 |
| Recordkeeping | 925 | | 1 | | 125 | | 115,625 |

*Total Estimated Burden Hours:* 397,750.

*Status:* Revision.

*Contact:* Deirdre Maquire-Zinni, HUD, (202) 708–1577; Joseph F. Lackey, Jr., 0MB, (202) 395–7316.

[FR Doc. 97–20000 Filed 7–29–97; 8:45 am]

**BILLING CODE 4210–01–M**

## DEPARTMENT OF THE INTERIOR

## Office of the Secretary

### Notice of the Availability of the Department of the Interior's Index of Frequently Requested Documents Under the Freedom of Information Act

**AGENCY:** Office of the Secretary.

**ACTION:** Notice.

**SUMMARY:** The Department of the Interior (DOI) gives notice of the availability of its index of frequently requested documents under the Freedom of Information Act (FOIA). This index meets the requirements of the Electronic FOIA Amendments of 1996 and is intended for the use of the public to locate, review, and/or obtain copies of the documents listed without going through the FOIA process.

**EFFECTIVE DATE:** March 31, 1997.

**FOR FURTHER INFORMATION CONTACT:** Alexandra Mallus, Departmental FOIA Officer, DOI, MS–5312 MIB, 1849 C Street NW, Washington DC, 20240–0001; telephone: 202–208–5342, FAX: 202–501–2360, Internet: alexandra__mallus@ios.doi.gov.

**SUPPLEMENTARY INFORMATION:** In accordance with 5 U.S.C. 552(a)(2), as amended, DOI has made available for public inspection and copying all documents which are frequently requested under the FOIA and an index of these documents. The Office of Information Resources Management, DOI, is responsible for maintaining the index of frequently requested documents and will review and update information on the index periodically. The index of frequently requested documents for the DOI follows.

Dated: July 24, 1997.

**Donald R. Lasher,**

*Chief Information Officer.*

JULY 1997—THE DEPARTMENT OF THE INTERIOR'S INDEX OF FREQUENTLY REQUESTED DOCUMENTS UNDER THE FREEDOM OF INFORMATION ACT (FOIA)

[* Indicates document is available in electronic format]

| Subject/title of documents | To obtain a copy or review document(s) contact |
|---|---|
| **Contracts and Procurements** | |
| List of IMPAC Credit Cardholders *<br>Office of the Secretary<br>Office of the Solicitor<br>Office of Inspector General<br>Office of Hearings and Appeals<br>Advisory Council on Historic Preservation | Department of the Interior Library, MS–1151, 1849 C Street, NW., Washington, DC 20240–0001; telephone: 202–208–5815, FAX: 202–210–1434. |
| Bureau of Land Management | Bureau of Land Management, Directives and Records Group, Information Access Center (electronic version); mailing address—Room 750 LS, 1849 C St., NW., Washington, DC 20240; telephone: 202–452–5193, FAX: 202–452–0395; viewing location—Room 750, 1620 L Street, NW., Washington, DC 20036. (NOTE: Each BLM installation will be responsible for maintaining its own paper version.). |
| U.S. Geological Survey | U.S. Geological Survey, FOIA Officer, MS–807, Room 2C407, National Center, Reston, Virginia 20192; telephone: 703–648–7311, FAX: 703–648–7198. |
| Bureau of Indian Affairs | Bureau of Indian Affairs, FOIA Officer, P.O. Box 68, Room 5021, Albuquerque, New Mexico 87103; telephone: 505–248–6090, FAX: 505–248–6103. |
| National Park Service | National Park Service, FOIA Officer, 1849 C Street, NW., Washington, DC 20240–0001; telephone: 202–208–6328, FAX: 202–501–1340. |
| Office of Surface Mining Reclamation and Enforcement | Office of Surface Mining Reclamation and Enforcement, FOIA Officer, MS–262, 1951 Constitution Avenue, NW., Washington, DC 20240–0001; telephone: 202–208–2961, FAX: 202–501–0549. |
| Office of Aircraft Services | Office of Aircraft Services; FOIA Officer, P.O. Box 15428, Boise, Idaho 83715–5428; telephone: 208–387–5807, FAX: 208–387–5830. |
| Minerals Management Service | Minerals Management Service, Procurement Analyst, Atrium Bldg., Herndon, Virginia 20170–4817; telephone: 703–787–1372, FAX: 703–787–1009. |
| U.S. Fish and Wildlife Service | U.S. Fish and Wildlife Service, Division of Contracting and General Services, MS–212, Arlington Square Bldg., 4401 North Fairfax Dr., Arlington, Virginia 22203; telephone: 703–358–1901, FAX: 703–358–2264. |
| Bureau of Reclamation | Bureau of Reclamation, FOIA Officer, Denver Federal Center, Building 67, 6th and Kipling, Denver, Colorado 80225–0007; telephone: 303–236–0305 extension 463, FAX–303–236–6763. |
| **Directories and Organizational Charts** | |
| Department of the Interior | Department of the Interior Library, MS–1151, 1849 C Street, NW., Washington, DC 20240–0001; telephone: 202–208–5815, FAX: 202–219–1434. |
| Bureau of Land Management | Bureau of Land Management, Directives and Records Group, Information Access Center; mailing address—Room 750 LS, 1849 C St., NW., Washington, DC 20240; telephone: 202–452–5193; FAX: 202–452–0395; viewing location—Room 750, 1620 L Street, NW., Washington, DC 20036. (NOTE: Each BLM installation will be responsible for providing their own directories and organizational charts.) |
| U.S. Geological Survey | U.S. Geological Survey, FOIA Officer, MS–807, Room 2C407, National Center, Reston, Virginia 20192; telephone: 703–648–7311, FAX: 703–648–7198. |
| Bureau of Indian Affairs | Bureau of Indian Affairs, FOIA Officer, P.O. Box 68, Room 5021, Albuquerque, New Mexico 87103; telephone: 505–248–6090, FAX: 505–248–6103. |
| National Park Service | National Park Service, FOIA Officer, 1849 C Street, NW., Washington, DC 20240–0001; telephone: 202–208–6328, FAX: 202–501–1340. |
| Office of Surface Mining Reclamation and Enforcement | Office of Surface Mining Reclamation and Enforcement, FOIA Officer, MS–262, 1951 Constitution Avenue, NW., Washington, DC 20240–0001; telephone: 202–208–2961, FAX: 202–501–0549. |
| Office of Aircraft Services | Office of Aircraft Services, FOIA Officer, P.O. Box 15428, Boise, Idaho 83715–5428; telephone: 208–387–5807, FAX: 208–387–5830. |
| Minerals Management Service | Minerals Management Service, FOIA Officer, Atrium Bldg., Herndon, Virginia 20170–4817; telephone: 703–787–1242, FAX: 703–787–1207. |
| U.S. Fish and Wildlife Service | U.S. Fish and Wildlife Service, FOIA Officer, MS–224, ARLSQ, Washington, DC 20240; telephone: 703–358–1943, FAX: 703–358–2269. |

JULY 1997—THE DEPARTMENT OF THE INTERIOR'S INDEX OF FREQUENTLY REQUESTED DOCUMENTS UNDER THE FREEDOM OF INFORMATION ACT (FOIA)—Continued

[* Indicates document is available in electronic format]

| Subject/title of documents | To obtain a copy or review document(s) contact |
|---|---|
| Bureau of Reclamation | Bureau of Reclamation, FOIA Officer, Denver Federal Center, Building 67, 6th and Kipling, Denver, Colorado 80225–0007; telephone: 303–236–0305 extension 463, FAX: 303–236–6763. |
| **FOIA** | |
| Annual Report | Department of the Interior Library, MS–1151, 1849 C Street, NW., Washington, DC 20240–0001; telephone: 202–208–5815, FAX: 202–219–1434. |
| Officers | Department of the Interior Library, MS–1151, 1849 C Street, NW., Washington, DC 20240–0001; telephone: 202–208–5815, FAX: 202–219–1434. |
| Regulations | Department of the Interior Library, MS–1151, 1849 C Street, NW., Washington, DC 20240–0001; telephone: 202–208–5815, FAX: 202–219–1434. |
| **Privacy Act:** Department of the Interior Privacy Act Systems of Records, December 31, 1992. | Department of the Interior Library, MS–1151, 1849 C Street, NW., Washington, DC 20240–0001; telephone: 202–208–5815, FAX: 202–219–1434. |
| **Programs/Projects** | |
| Animas-La Plata Project:<br>1. Environmental Compliance Papers<br>2. Final Environmental Impact Statement<br>3. Planning Documents | Bureau of Reclamation, Upper Colorado Regional Office, 125 South State Street, Library, Room 7101, Salt Lake City, Utah 84138–1102; telephone: 801–524–3767, FAX: 801–524–5499. |
| California Oil Undervaluation Package | Minerals Management Service, FOIA Officer, Bldg. 85, Denver, Colorado 80225–0165; telephone: 303–231–3013 FAX: 303–231–3781. |
| Gayheart Landslide Reclamation Project—Report of Investigation 96VI–213. | Office of Inspector General, FOIA Officer, 1849 C Street, NW., Washington, DC 20240; telephone: 202–208–4356, FAX: 202–208–4998. |
| Nevada Land Exchange Activities, BLM Audit Report 96–I–1025* | Office of Inspector General, FOIA Officer, Washington, DC 20240; telephone: 202–208–4356, FAX: 202–208–4998. |
| Reclamation Reform Act (RRA):<br>1. Fact Sheets 1–16 and Index<br>2. General Information About the RRA Forms<br>3. Regulations—43 CFR Parts 426 and 427<br>4. Status of Irrigation Districts With Respect to Reclamation Law | Bureau of Reclamation; Library, Room 167, Denver Federal Center, Building 67, 6th and Kipling, Denver, Colorado 80225–0007; telephone: 303–236–0305 extension 463, FAX: 303–236–8015. |
| **Other** | |
| Native American: | |
| Ancestry/Genealogy Information (Necessary for tribal recognition) | Bureau of Indian Affairs, Public Affairs Office, 1849 C Street, NW., MS–4542 MIB, Washington, DC 20240–0001; telephone: 202–208–4150, FAX: 202–501–1516. |
| Enrollment Information/Requirements (Tribal) | Bureau of Indian Affairs, Public Affairs Office, 1849 C Street, NW., MS–4542 MIB, Washington, DC 20240–0001; telephone: 202–208–4542, FAX: 202–501–1516. |
| Tribal Leaders Directory* | Bureau of Indian Affairs, FOIA Officer, P.O. Box 68, Room 5021, Albuquerque, New Mexico 87103; telephone: 505–248–6090, FAX: 505–248–6103. |

[FR Doc. 97–20015 Filed 7–29–97; 8:45 am]

BILLING CODE 4310–94–M

## DEPARTMENT OF THE INTERIOR

## Bureau of Land Management

**[(NV–020–1220–00) (Case File NV–020–97–10)]**

## Nevada; Temporary Closing of Certain Public Lands in the Winnemucca District for the Management of the Fall 1997 Land Speed Record Attempt Runs

**AGENCY:** Bureau of Land Management (Interior).

**ACTION:** Temporary closure of certain Public Lands in Pershing County during high speed runs.

**SUPPLEMENTARY INFORMATION:** Certain lands in the Winnemucca District, Pershing County, Nevada, would be temporarily closed to public access and movement up to six hours before and 30 minutes after high speed runs in excess of 300 mph are made on the playa of the Black Rock Desert. These runs would be made in an attempt to break the current land speed record. Since any movement during such high speed attempts have a

tendency to attract the attention of the driver; for safety considerations and pre-run activities, all access and movement needs to be halted prior to and during these high speed runs. The driver's attention needs to be focused on the course and the vehicle.

These runs would be conducted during September, October and November, 1997. The exact time of the closures would depend entirely on when the runs are made. Weather or mechanical conditions may prevent them from running every day of their permit.

The Winnemucca Assistant District Manager, Nonrenewable Resources, is the authorized officer for this event, permit number NV–020–97–10. These temporary closures and restrictions are made pursuant to 43 CFR 8364. Only public lands encompassing the playa of the Black Rock Desert within the legal descriptions below are affected by this order.

T. 33 N., R. 24 E.; T. 33½ N., R. 24 E.; T. 34 N., R. 24 E.; T. 33 N., R. 25 E.; T. 34 N., R. 25 E.; T. 35 N., R. 25 E.; T. 35½ N., T. 25 E.; T. 34 N., R. 26 E.; T. 35 N., R. 26 E.; T. 35½ N., R. 26 E.

The lands involved are located in the Mount Diablo Meridian and are located northeast and east of Gerlach, Pershing County, Nevada. A map showing the route of the course is available from the following BLM office: Winnemucca Field Office, 5100 East Winnemucca Blvd., Winnemucca, Nevada, 89445, (702) 623–1500.

Any person who fails to comply with this closure order issued under 43 CFR Part 8364 may be subject to the penalties provided for in 43 CFR 8360.0–7.

**FOR FURTHER INFORMATION CONTACT:** Michael Bilbo, 5100 East Winnemucca Blvd., Winnemucca, Nevada, 89445 (702) 623–1500.

Dated: July 22, 1997.

**Ron Wenker,**

*District Manager, Winnemucca.*

[FR Doc. 97–20006 Filed 7–29–97; 8:45 am]

BILLING CODE 4310–HC–P

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[ID–957–1910–00–4733]**

### Idaho: Filing of Plats of Survey; Idaho

The plat of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9:00 a.m. July 18, 1997.

The plat representing the dependent resurvey of portions of the subdivisional lines, and the 1874 meanders of the left bank of the Snake River, the subdivision of sections 15, 22, and 28, the 1996–1997 meanders of the left bank of the Snake River, and the survey of a partition line in section 28, T. 8 S., R. 30E., Boise Meridian, Idaho, Group 888, was accepted, July 18, 1997.

This survey was executed to meet certain administrative needs of the Bureau of Land Management. All inquiries concerning the survey of the above described land must be sent to the Chief, Cadastral Survey, Idaho State Office, Bureau of Land Management, 1387 South Vinnell Way, Boise, Idaho, 83709–1657.

Dated: July 18, 1997.

**Duane E. Olsen,**

*Chief Cadastral Surveyor for Idaho.*

[FR Doc. 97–19970 Filed 7–29–97; 8:45 am]

BILLING CODE 4310–GG–M

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[ID–990–2100–00–PCTP]**

### Idaho: Filing of Plats of Survey; Idaho

The plat of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9:00 a.m. July 18, 1997.

The plat representing the dependent resurvey of portions of the subdivisional lines and certain mineral surveys, T. 47 N., R. 2 E., Boise Meridian, Idaho, Group 977, was accepted, July 18, 1997.

This survey was executed to meet certain administrative needs of the Bureau of Land Management. All inquiries concerning the survey of the above described land must be sent to the Chief, Cadastral Survey, Idaho State Office, Bureau of Land Management, 1387 South Vinnell Way, Boise, Idaho, 83709–1657.

Dated: July 18, 1997.

**Duane E. Olsen,**

*Chief Cadastral Surveyor for Idaho.*

[FR Doc. 97–19971 Filed 7–29–97; 8:45 am]

BILLING CODE 4310–GG–M

## AGENCY FOR INTERNATIONAL DEVELOPMENT

### Bureau for Global Programs, Field Support and Research, Office of Environment and Urban Programs Certificate of the Director

I, Viviann Gary, Director, Office of Environment and Urban Programs, Bureau for Global Programs, Field Support and Research, U.S. Agency for International Development, an agency of the United States of America, do hereby certify that during fiscal year 1997, for the purposes of the Housing Guaranty Standard Terms and Conditions (22 CFR Part 204 (1996) (''Standard Term''), the authorized representatives of USAID are:

Viviann Gary
Ronald Carlson
David Painter
Michael Enders

Any promissory note having the guaranty legend signed, either by manual of facsimile signature, by one of such persons shall constitute an ''Eligible Note'' (as defined in the Standard Terms) entitled to the benefit of the Standard Terms.

In witness whereof, I have hereunto set my hand this 11th day of July 1997.

**Viviann Gary,**

*Director, Office of Environment and Urban Programs, Bureau for Global Programs, Field Support and Research, U.S. Agency for International Development.*

[FR Doc. 97–19969 Filed 7–29–97; 8:45 am]

BILLING CODE 6116–01–M

## DEPARTMENT OF JUSTICE

### Immigration and Naturalization Service

### Agency Information Collection Activities: Proposed Collection; Comment Request

**ACTION:** Request OMB emergency approval; Petition for Amerasians, widow or special immigrant.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the follwing information collection request (ICR) utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with the section 1320.13(a)(2)(iii) of the Paperwork Reduction Act of 1995. The INS has determined that it cannot reasonably comply with the normal clearance procedures under this Part because normal clearance procedures are reasonably likely to prevent or disrupt the collection of information. This information collection is needed prior to the expiration of established time periods. OMB approval has been requested by July 31, 1997. If granted, the emergency approval is only valid for 90 days. ALL comments and/or questions pertaining to this pending request for emergency approval MUST be directed to OMB, Office of

Information and Regulatory Affairs, Attention: Ms. Debra Bond, 202–395–7316, Department of Justice Desk Officer, Washington, DC 20503. Comments regarding the emergency submission of this information collection may also be telefaxed to Ms. Bond at 202–395–6974.

During the first 60 days of this same period, a regular review of this information collection is also being undertaken. During the regular review period, the INS requests written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Comments are encouraged and will be accepted until September 29, 1997. During the 60-day regular review all comments and suggestions, or questions regarding additional information, to include obtaining a copy of the proposed information collection instrument with instructions, should be directed to Mr. Richard A. Sloan, 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Your comments should address one or more of the following four points.

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) 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 submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* Petition for Amerasians, Widow or Special Immigrant.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–360. Adjudications Division, Immigration and Nationalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. This form is used to determine eligibility or to classify an alien as an Amerasian, widow or widower, battered or abused spouse or child and special immigrant, including religious worker, juvenile court dependent and armed forces member.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 8,397 respondents at two (2) hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 16,794 annual burden hours.

If additional information is required during the first 60 days of this same regular review period contact Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Dated: July 24, 1997.

**Robert B. Briggs,**

*Department Clearance Officer, United States Department of Justice.*

[FR Doc. 97–20002 Filed 7–29–97; 8:45 am]

**BILLING CODE 4410–18–M**

## DEPARTMENT OF JUSTICE

### Immigration and Naturalization Service

### Agency Information Collection Activities: Proposed Collection; Comment Request

**ACTION:** Request OMB emergency approval; Request for certification of military or naval service.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request (ICR) utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with the section 1320.13(a)(2)(iii) of the Paperwork Reduction Act of 1995. The INS has determined that it cannot reasonably comply with the normal clearance procedures under this Part because normal clearance procedures are reasonably likely to prevent or disrupt the collection of information. This information collection is needed prior to the expiration of established time periods. OMB approval has been requested by July 31, 1997. If granted, the emergency approval is only valid for 90 days. All comments and/or questions pertaining to this pending request for emergency approval must be directed to OMB, Office of Information and Regulatory Affairs, Attention: Ms. Debra Bond, 202–395–7316, Department of Justice Desk Officer, Washington, DC 20503. Comments regarding the emergency submission of this information collection may also be telefaxed to Ms. Bond at 202–395–6974.

During the first 60 days of this same period, a regular review of this information collection is also being undertaken. During the regular review period, the INS requests written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Comments are encouraged and will be accepted until September 29, 1997. During the 60-day regular review all comments and suggestions, or questions regarding additional information, to include obtaining a copy of the proposed information collection instrument with instructions, should be directed to Mr. Richard A. Sloan, 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Your comments should address one or more of the following four points.

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) 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 submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* Request for Certification of Military or Naval Service.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form N–426. Adjudications

Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. This form is used by the INS to request a verification of the military or naval service claim by an applicant filing for naturalization on the basis of honorable service in the United States Armed Forces.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 45,000 respondents at 10 minutes (.166) hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 7,470 annual burden hours.

If additional information is required during the first 60 days of this same regular review period contact Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: July 24, 1997.

**Robert B. Briggs,**

*Department Clearance Officer, United States Department of Justice.*

[FR Doc. 97–20003 Filed 7–29–97; 8:45 am]

**BILLING CODE 4410–18–M**

## DEPARTMENT OF JUSTICE

### Immigration and Naturalization Service

### Agency Information Collection Activities: Proposed Collection; Comment Request

**ACTION:** Request OMB emergency approval; Application for travel document.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request (ICR) utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with the section 1320.13(a)(2)(iii) of the Paperwork Reduction Act of 1995. The INS has determined that it cannot reasonably comply with the normal clearance procedures under this part because normal clearance procedures are reasonably likely to prevent or disrupt the collection of information. This information collection is needed prior to the expiration of established time periods. OMB approval has been requested by July 31, 1997. If granted, the emergency approval is only valid for 90 days. All comments and/or questions pertaining to this pending request for emergency approval must be directed to OMB, Office of Information and Regulatory Affairs, Attention: Ms. Debra Bond, 202–395–7316, Department of Justice Desk Officer, Washington, DC 20503. Comments regarding the emergency submission of this information collection may also be telefaxed to Ms. Bond at 202–395–6974.

During the first 60 days of this same period, a regular review of this information collection is also being undertaken. During the regular review period, the INS requests written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Comments are encouraged and will be accepted until September 29, 1997. During the 60-day regular review all comments and suggestions, or questions regarding additional information, to include obtaining a copy of the proposed information collection instrument with instructions, should be directed to Mr. Richard A. Sloan, 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street NW., Washington, DC 20536. Your comments should address one or more of the following four points.

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency's, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) 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 submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extensionof a currently approved information collection.

(2) *Title of the Form/Collection:* Application for Travel Document.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–131. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. This form is used by permanent or conditional residents, refugees or asylees and aliens abroad seeking to apply for a travel document to lawfully reenter the United States or be paroled for humanitarian purposes into the United States.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 335,000 respondents at 55 minutes (.90) hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 301,500 annual burden hours.

If additional information is required during the first 60 days of this same regular review period contact Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street NW., Washington, DC 20530.

Dated: July 24, 1997.

**Robert B. Briggs,**

*Department Clearance Officer, United States Department of Justice.*

[FR Doc. 97–20004 Filed 7–29–97; 8:45 am]

**BILLING CODE 4410–18–M**

## 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 July 3, 1997, through July 18, 1997. The last biweekly notice was published on July 16, 1997.

**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 August 29, 1997, 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. 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.

**Arizona Public Service Company, et al., Docket Nos. STN 50-528, STN 50-529, and STN 50-530, Palo Verde Nuclear Generating Station, Units Nos. 1, 2, and 3, Maricopa County, Arizona**

*Date of amendments request:* May 23, 1997

*Description of amendments request:* The proposed amendment would revise Technical Specification 3/4.4.4 to allow the installation of ABB/CE welded sleeves, in accordance with ABB/CE Topical Report CEN-630-P, ''Repair of 3/4 Inch Outer Diameter Steam Generator Tubes Using Leak Tight Sleeves,'' Revision 1, in the Palo Verde Units 1, 2 and 3 steam generators.

*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 amendment to permit the use of steam generator tube sleeves as an alternative to tube plugging is a safe and effective repair procedure that does not result in removing a tube from service. Mechanical strength, corrosion resistance, installation methods, and inservice inspection techniques of sleeves have been shown to meet NRC acceptance criteria.

Analytical verifications were performed using design and operating transient parameters selected to envelope loads imposed during normal operating and accident conditions. Fatigue and stress analysis of sleeved tube assemblies were completed in accordance with the requirements of Section III of the ASME Code. The results of qualification testing, analysis and plant operating experience at other facilities demonstrates that the sleeving process is an acceptable means of maintaining steam generator tube integrity. The sleeve configuration has been designed and analyzed in accordance with the structural margins specified in Regulatory Guide 1.121 (RG 1.121). Furthermore, the installed sleeve will be monitored through periodic inspections on a sample basis with eddy current techniques. A sleeve-specific plugging margin, per the recommendations of Regulatory Guide 1.121, has been specified with appropriate allowances for NDE uncertainty and defect growth rate. Therefore, since the sleeve provides the same protection against a tube rupture as the original tube, the use of sleeves does not involve a significant increase in the probability of an accident previously evaluated.

Recently, industry experience with forced shutdown events associated with tube failures at sleeve junctions was assessed by APS and ABB-CE. The root cause of these events has been attributed to the lack of proper post-installation stress relief and/or the imposition of high stresses due to tube growth restrictions at locked tube supports. The material and design of the PVNGS steam generator supports minimizes the potential for locked supports. The tube supports are of eggcrate design and are constructed of ferric stainless steel. The large flow area in the eggcrate design provides better irrigation and reduces the potential for steam blanketing, therefore, the tube-to-tube support crevices are less likely to be blocked by crud, boiler water deposits and corrosion products. Since the support material is type 409 ferric stainless steel, it is not susceptible to magnetite corrosion which has resulted in denting and lockup at plants with carbon steel supports. These conclusions have been substantiated via tube pull activities conducted in PVNGS Unit 2. Although ABB/CE does not require post-weld heat treatment in all applications, APS will require that a post-weld stress relief be conducted for sleeve installations. Therefore, with proper sleeve installation the proposed change will not involve a significant increase in the probability of an accident previously evaluated.

The consequences of accidents previously analyzed are not increased as a result of sleeving activities. The hypothetical failure of the sleeve would be bounded by the current steam generator tube rupture analysis contained in the PVNGS UFSAR. Due to the slight reduction in diameter caused by the sleeve wall thickness, it is expected that the primary release rates would be less than assumed for the steam generator tube rupture analysis, and, therefore, would result in lower primary fluid mass release to the secondary system. Additionally, further conservatism is introduced if the break were postulated to occur at a location on the tube higher than the location where a sleeve is installed. The overall effect would be reduced steam generator tube rupture release rates. The minimal reduction in flow area associated with a tube sleeve has no significant affect on steam generator performance with respect to heat transfer or system flow resistance and pressure drop. The installation of sleeves rather than plugging also maintains a greater heat transfer surface in the steam generator. In any case, the impacts are bounded by evaluations which demonstrate the acceptability of tube plugging, which totally removes the tube from service.

Therefore, in comparison to plugging, tube sleeving is considered a significant improvement with respect to steam generator performance. Therefore, based on the above, the proposed amendment does not significantly increase 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.

A sleeved steam generator tube performs the same function in the same passive manner as an unsleeved steam generator tube. Tube sleeves are designed and qualified to the stress and pressure limits of Section III of the ASME Code and Regulatory Guide 1.121.

The installation of the sleeve, including weld and welder qualification and nondestructive examination (NDE), meets or exceeds the requirements of ASME Section XI. Three types of NDE are conducted. Ultrasonic Testing (UT) is performed to verify the adequacy of the tube to sleeve weld assuring proper fusion. Eddy Current testing (ECT) is performed following each installation to establish baseline data for each sleeve in order to monitor future degradation of the primary to secondary pressure boundary. Visual inspections will be performed to verify or ascertain the mechanical and structural condition of a weld. Critical conditions which are checked include weld width and completeness, and the absence of visibly noticeable indications such as cracks, pits, and burn through.

ABB Combustion Engineering, Inc., Report CEN-630-P, Revision 01, ''Repair of 3/4'' O.D. Steam Generator Tubes Using Leak Tight Sleeves'' dated November, 1996, demonstrates that the repair of degraded steam generator tubes using tube sleeves will result in tube bundle integrity consistent with the original design basis. Extensive analyses and testing have been performed on the sleeve and sleeve to tube joints to demonstrate that the design criteria are met. The proposed amendments have no significant effect on the configuration of the plant, and the change does not affect the way in which the plant is operated. Therefore, reactor operation with sleeves installed in the steam generator tubes 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.

Evaluation of the sleeved tubes indicates no detrimental effects on the sleeve-tube assembly resulting from reactor coolant system flow, coolant chemistries, or thermal and pressure conditions. Structural analyses have been performed for sleeves which span the tube at the top of the tube sheet and which span the flow distribution plate or eggcrate support. Mechanical testing has been performed to support the analyses. Corrosion testing of typical sleeve-tube assemblies has been completed and reveals no evidence of sleeve or tube corrosion considered detrimental under anticipated service conditions.

Steam generator tube integrity is maintained under the same limits for sleeved tubes as for unsleeved tubes, ie., Section III of the ASME Code and Regulatory Guide 1.121. The portions of the installed sleeve assembly which represents the reactor coolant pressure boundary can be monitored for the initiation and progression of sleeve/tube wall degradation, thus satisfying the requirements of Regulatory Guide 1.83. The degradation limit at which a sleeve/tube boundary is considered inoperable has been analyzed in accordance with Regulatory Guide 1.121 and is specified in the proposed amendment. Eddy current detectability of flaws has been verified by ABB Combustion Engineering. Additionally, the Technical Specifications continue to require monitoring and restriction of primary- to- secondary system leakage through the steam generators. The minimal reduction in RCS flow due to sleeving results in an insignificant impact on RCS operation during normal or accident conditions and is bounded by tube plugging evaluations.

Based upon the testing and analyses performed, the installation of tube sleeves will not result in a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on that review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendments request involve no significant hazards consideration.

*Local Public Document Room location:* Phoenix Public Library, 1221 N. Central Avenue, Phoenix, Arizona 85004

*Attorney for licensee:* Nancy C. Loftin, Esq., Corporate Secretary and Counsel, Arizona Public Service Company, P.O. Box 53999, Mail Station 9068, Phoenix, Arizona 85072-3999

*NRC Project Director:* William H. Bateman

**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:* 3April 30, 1997

*Description of amendments request:* The proposed amendments would revise Surveillance Requirements (SRs) 4.7.2.b.2 and 4.7.2.c in the Technical Specifications for the Brunswick Steam Electric Plant, Units 1 and 2. These SRs require periodic testing of the control room emergency ventilation system charcoal filters. The proposed amendments would revise the temperature and relative humidity conditions under which the testing is performed. The revised conditions were selected to approximate operating or accident conditions. Testing at the revised conditions is more conservative than testing at the currently required conditions. Additionally, the proposed amendments would relax the acceptance criterion for filtration efficiency from 95% to a value corresponding to a filtration efficiency of 90%. The 90% value is the filtration efficiency assumed in the current bounding calculations for control room dose under accident conditions.

*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 do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendments revise Surveillance Requirements 4.7.2.b.2 and 4.7.2.c to require testing of the control room emergency ventilation system (CREVS) charcoal in accordance with ASTM D3803-1989, ''Standard Test Method for Nuclear-Grade Activated Carbon.'' Currently, Surveillance Requirements 4.7.2.b.2 and 4.7.2.c to [sic] require testing in accordance with the criteria of Regulatory Position C.6.a of Regulatory Guide 1.52, Revision 1, 1976. The purpose of the CREVS is to mitigate an accident. It is not associated with any initiating events and, therefore, cannot affect the probability of any accident.

ASTM D3803-1989 is an industry accepted standard for charcoal filter testing. The conditions employed by this standard were selected to approximate operating or accident conditions of a nuclear reactor which would severely reduce the performance of activated carbons. The ASTM D3803-1989 testing is more stringent than that required by the criteria of Regulatory Position C.6.a of Regulatory Guide 1.52, Revision 1, 1976. Specifically, the testing temperature of ASTM D3803-1989 is 30.0 [plus or minus] 0.2°C versus 80°C for the Regulatory Guide 1.52 testing. Also, ASTM D3803-1989 requires a relative humidity of 93 to 96% versus [greater than or equal to] 70% for the Regulatory Guide 1.52 testing. Both these parameters result in the ASTM D3803-1989 test being a more conservative test [than] that required by the criteria of Regulatory Position C.6.a of Regulatory Guide 1.52, Revision 1, 1976.

The proposed changes to Surveillance Requirements 4.7.2.b.2 and 4.7.2.c require that charcoal samples tested in accordance with the methodology of ASTM D3803-1989 meet the acceptance criteria of < 5.0% penetration of methyl iodide. This corresponds to a 90% filtration efficiency which is the filtration efficiency assumed in the current bounding calculations of control room doses. As such, the proposed acceptance criteria of < 5.0% penetration of methyl iodide ensures that General Design Criterion 19 dose limits for control room operators are not exceeded.

Therefore, the proposed amendments do not involve an increase in the consequences of an accident.

2. The proposed amendments would not create the possibility of a new or different kind of accident from any accident previously evaluated.

As stated above, the proposed amendments revise the required testing methodology for the CREVS charcoal. The CREVS is not associated with any initiating events. The system design is not affected by the proposed change. Therefore, the proposed amendments cannot create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed license amendments do not involve a significant reduction in a margin of safety.

The proposed amendments upgrade the CREVS charcoal testing requirements from the criteria of Regulatory Position C.6.a of Regulatory Guide 1.52, Revision 1, 1976 to ASTM D3803-1989. The conditions employed by ASTM D3803-1989 were selected to approximate operating or accident conditions of a nuclear reactor which would severely reduce the performance of activated carbons. The ASTM D3803-1989 testing is more stringent than that required by the criteria of Regulatory Position C.6.a of Regulatory Guide 1.52, Revision 1, 1976. The testing temperature of ASTM D3803-1989 [is] lower than that of Regulatory Guide 1.52 and the relative humidity required by ASTM D3803-1989 is higher than that required by Regulatory Guide 1.52. This makes the ASTM D3803-1989 test being [sic] a more conservative test [than] that required by the criteria of Regulatory Position C.6.a of Regulatory Guide 1.52, Revision 1, 1976. Additionally, the proposed acceptance criteria of < 5.0% penetration of methyl iodide ensures that General Design Criterion 19 dose limits for control room operators are not exceeded. As such, the proposed license amendments do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* University of 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:* Gordon E. Edison, 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:* May 23, 1997

*Description of amendments request:* The proposed amendments to Technical Specification 3/4.4.5 for the Brunswick Steam Electric Plant, Units 1 and 2, reduce the short-term limit for Dose Equivalent I-131 activity in the reactor coolant from 4.0 microcuries/gram to 3.0 microcuries/gram. With coolant specific activity greater than 0.2 microcuries/gram Dose Equivalent I-131 but less than or equal to the short-term limit, operation of the affected unit may continue for up to 48 hours provided that operation under these conditions does not exceed 10 percent of the unit's total yearly operating time. With coolant specific activity greater than 0.2 microcuries/gram I-131 Dose Equivalent for more than 48 hours during one continuous time interval or greater than the short-term limit, the affected unit must be placed in Hot Shutdown within 12 hours. The purpose of the reduction of the short-term limit is to ensure control room operator dose following a Main Steam Line Break event is within the guidelines contained in 10 CFR Part 100 and the limits contained in Criterion 19 of Appendix A to 10 CFR Part 50.

*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 do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendments conservatively revise Action Statements a.1 and a.2 of Technical Specification 3/4.4.5 by reducing the maximum allowed reactor coolant specific activity from 4.0 to 3.0 [microcuries]/gram dose equivalent I-131. The purpose of the maximum allowable iodine specific activity is to ensure that the thyroid dose from a main steam line break (MSLB )is within the 10 CFR 100 dose guidelines and the General Design Criteria 19 dose limits for control room operators. The maximum allowable iodine specific activity is not associated with any initiating event and, therefore, cannot affect the probability of any accident. The proposed amendments result in a more conservative action limit and, therefore, do not increase the consequences of any accident.

2. The proposed amendments would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed amendments conservatively reduce the maximum allowable reactor coolant iodine specific activity. The activity limit is not associated with any initiating event and the system design is not affected. Therefore, the proposed amendments cannot create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed license amendments do not involve a significant reduction in a margin of safety.

The proposed amendments revise Action Statements a.1 and a.2 of Technical Specification 3/4.4.5 by reducing the maximum allowed reactor coolant specific activity from 4.0 to 3.0 [microcuries]/gram dose equivalent I-131. As stated above, the purpose of the maximum allowable iodine specific activity is to ensure that the thyroid dose from a MSLB is within the 10 CFR 100 dose guidelines and the General Design Criteria 19 dose limits for control room operators. The reduction in the activity limit is a conservative change and, therefore, the proposed license amendments do not involve a 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 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:* Gordon E. Edison, Acting

**Carolina Power & Light Company, et al., Docket No. 50-400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina**

*Date of amendment request:* June 12, 1997

*Description of amendment request:* The amendment would make changes to the operations organization description.

*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 change does not involve a significant hazards consideration for the following reasons:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment deals with changing position titles and clarification of the Harris Nuclear Plant (HNP) Operations management organization and responsibilities. The changes are considered to be admnistrative in nature and do not involve any modifications to any plant equipment or [affect] plant operation.

Therefore, there would be no increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed amendment deals with changing position titles and clarification of the HNP Operations management organization and

responsibilities. The changes are considered to be administrative in nature and do not involve any modifications to any plant equipment or [affect] plant operation.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed amendment does not involve a significant reduction in the margin of safety.

The proposed amendment does not reduce the margin of safety as defined in the Safety Analysis Report or the bases contained in the Technical Specifications. The requirement to have a licensed SRO [Senior Reactor Operator] management position responsible for plant operations is maintained within the proposed amendment.

Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605

*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:* Gordon E. Edison, Acting

**Commonwealth Edison Company, Docket Nos. 50-373 and 50-374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois**

*Date of amendment request:* May 27, 1997

*Description of amendment request:* The proposed amendments would revise Technical Specification Section 6, ''Administrative Controls,'' to incorporate revised organizational titles and would modify License Condition 2.C.(30)(a) to reflect that the Shift Technical Advisor function may be filled by someone other than a designated Senior Reactor Operator (SRO). In addition, the proposed amendments would change the submittal frequency of the Radiological Effluent Release Report from semiannually to annually. The proposed amendments will also make several administrative and editorial 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:

A. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes do not affect any accident initiators or precursors and do not change or alter the design assumptions for systems or components used to mitigate the consequences of an accident. The proposed changes do not affect the design or operation of any system, structure, or component in the plant. There are no changes to parameters governing plant operation, and, no new or different type of equipment will be installed.

The proposed changes provide clarification, consistency with station procedures, programs, the Code of Federal Regulations (10CFR), other Technical Specifications, and Improved Technical Specifications. These changes do not impact any accident previously evaluated in the UFSAR [Updated Final Safety Analysis Report]. There is no relaxation of applicable administrative controls. Those administrative requirements which have no effect on safe operation of the plant are eliminated.

B. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes do not affect the design or operation of any plant system, structure, or component. There are no changes to parameters governing plant operation, and, no new or different type of equipment will be installed. The organizational and administrative changes proposed have no effect on the design or operation of any system, structure, or component in the plant. There are no changes to parameters governing plant operation; no new or different type of equipment will be installed.

C. The proposed changes do not involve a significant reduction in a margin of safety.

The proposed changes do not affect the margin of safety for any Technical Specification. The initial conditions and methodologies used in the accident analyses remain unchanged; therefore, accident analyses results are not impacted. Plant safety parameters or setpoints are not affected. All responsibilities described in the Technical Specifications for administrative controls will continue to be performed by individuals possessing the requisite qualifications. Clarifications, relocations, and nomenclature changes neither result in a reduction of personnel responsibilities, nor do they cause a relaxation of programmatic controls. There are no resulting effects on plant safety parameters or setpoints.

Guidance has been provided in ''Final Procedures and Standards on No Significant Hazards Considerations,'' Final Rule, 51 FR 7744, for the application of standards to license change requests for determination of the existence of significant hazards considerations. This document provides examples of amendments which are and are not considered likely to involve significant hazards considerations. These proposed amendments most closely fit the example of a purely administrative change to the Technical Specifications to achieve consistency throughout the Technical Specifications, correction of an error, or a change in nomenclature.

The proposed amendment does not involve a significant relaxation of the criteria used to establish safety limits, a significant relaxation of the bases for the limiting safety system settings, or a significant relaxation of the bases for the limiting conditions for operations. The proposed change does not reduce the margin of safety as defined in the basis for any Technical Specification.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

*Local Public Document Room location:* 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:* July 1, 1997

*Description of amendment request:* The proposed amendments would change the definition of Channel Calibration in section 1.4 of the Technical Specifications to require an inplace qualitative assessment of thermocouple and resistance temperature detectors which cannot be calibrated. The proposed amendments will also correct typographical and miscellaneous errors in TS Table 3.3.2-1, Table 3.3.6-1, and Bases section 3/4.3.1.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1) Involve a significant increase in the probability or consequences of an accident previously evaluated because:

a. The change in the definition of a Channel Calibration is to make the wording more clear and to require an inplace qualitative assessment in place of the calibration of thermocouple and resistance temperature detector (RTD) sensors. The thermocouple and RTD sensors are not adjustable and are not subject to drift due to their design. The inplace qualitative assessments will assure proper functioning of the sensors, due to the nature of these sensors and the associated failure modes, and thus will verify that the sensors will be able to fulfill their intended function(s). Therefore the change to the definition will not change the probability or consequences of an accident previously evaluated.

b. Manual initiation of isolation actuation instrumentation trip systems for inboard and outboard valves is required to be operable per TS Table 3.3.2-1, Trip Functions B.1 and B.2, respectively. Trip Function B.2, outboard valves, lists valve group 7, TIP system isolation valves. Valve group 7 consists of an automatic inboard isolation valve for each TIP guide tube penetrating the primary containment (correctly listed under B.1), and a manual outboard isolation valve on each guide tube, that is an explosive squib valve. Each explosive squib valve is manually actuated with a keylock switch from the main control room per design. Each is a positive control backup upon failure of an inboard valve in the open position. The squib valves are not actuated from isolation actuation channel logic. This configuration meets the current design and licensing basis. Therefore, deletion of valve group 7 from TS Table 3.3.2-1 will not change the probability or consequences of an accident previously evaluated.

c. The proposed change to TS Table 3.3.6-1, Control Rod Withdrawal Block Instrumentation, deletes Note (e) from Trip Function 4.a, IRM detector-not-full-in rod block. This rod withdrawal block functions during Operational Condition 2, Startup, and 5, Refuel, to assure that IRMs are operable during control rod withdrawal in these plant Operational Conditions. The rod block is not bypassed when the IRMs are on range 1. Thus Note (e) does not apply to this trip function and is being deleted. Therefore, the correction of this error will not change the probability or consequences of an accident previously evaluated.

d. The change to TS Bases 3/4.3.1 to correct a typographical error referencing TS Table 3.3.1-2, Note ι, instead of Note ιι is an administrative change and thus will not change the probability or consequences of an accident.

2) Create the possibility of a new or different kind of accident from any accident previously evaluated because:

The changes to the definition of Channel Calibration and correction of the other miscellaneous errors in the TS and TS Bases will not create the possibility of a new or different kind of accident, because the changes will not affect the design or operation of any structure, system, or component in the plant.

3) Involve a significant reduction in the margin of safety because:

a. The definition of Channel Calibration is being changed to be like the definition in NUREG 1434, Standard Technical Specifications General Electric Plants, BWR/6, Revision 1. The primary changes involve requiring only an inplace qualitative assessment of thermocouple and RTD sensors. These sensors are not adjustable and not susceptible to setpoint drift. Thus the appropriate check of the sensors is a qualitative assessment only. The inplace qualitative assessment assures operability of the sensors. Therefore there is no reduction in the margin of safety.

b. The remaining miscellaneous changes are corrections due to errors in the TS. The corrections will make the associated TS consistent with the design and licensing basis of LaSalle or correct typographical errors. Therefore, there is no 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 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

**Entergy Operations Inc., Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana**

*Date of amendment request:* July 17, 1996, as supplemented by letters dated June 3, and July 7, 1997.

*Description of amendment request:* The proposed change request modifies Waterford Steam Electric Station, Unit 3, Technical Specifications (TSs) 3/4.7.1.3, ''CONDENSATE STORAGE POOL,'' by increasing the minimum Condensate Storage Pool (CSP) level from 82 percent to 91 percent in Modes 1, 2, and 3. The July 7, 1997, supplement proposes to expand the applicability of TS 3.7.1.3 to include Mode 4 operational requirements and maintains the 91 percent minimum CSP level previously requested for Modes 1, 2, and 3. The staff previously issued No Significant Hazard Considerations notice on March 26, 1997 (62 FR 14461).

*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. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?Response: No.

Increasing the minimum required Condensate Storage Pool (CSP) level to 91 percent will insure that the minimum required 170,000 gallons of water is available to supply the Emergency Feedwater System and that 3,500 gallons of water is available for use by the Component Cooling Water Makeup System in Modes 1, 2, and 3. Maintaining a minimum required CSP level of 11 percent will insure that 3,500 gallons of water is available for use by the Component Cooling Water Makeup System in Mode 4. Maintaining the minimum required water volume will not increase the probability of any accident previously evaluated. Additionally, it will not affect the consequences of any accident. Maintaining a minimum required CSP level will ensure that the system remains within the bounds of the accident analysis. Therefore, the proposed change will not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different type of accident from any accident previously evaluated?

Response: No.

Increasing the minimum water volume of the CSP from 82 percent to 91 percent in Modes 1, 2, and 3 does not create a possibility for a new or different kind of accident. Maintaining a minimum water volume of the CSP at 11 percent in Mode 4 does not create a possibility for a new or different kind of accident. The CSP will be operated in the same manner as previously evaluated. Therefore, the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

Response: No.

Operation in accordance with this proposed change will ensure that the minimum contained water volume of the CSP will remain adequate under all conditions. This will improve the present margin of safety. Therefore, the proposed change will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room 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:* James W. Clifford, Acting Director

**Florida Power and Light Company, et al., Docket Nos. 50-335 and 50-389, St. Lucie Plant, Unit Nos. 1 and 2, St. Lucie County, Florida**

*Date of amendment request:* May 29, 1997

*Description of amendment request:* The proposed amendments will improve consistency throughout the Technical Specifications and their related Bases by removing outdated material, incorporating minor changes in text, making editorial corrections, and resolving other inconsistencies identified by the licensee's plant operations staff.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendments consist of administrative changes to the Technical Specifications (TS) for St. Lucie Units 1 and 2. The amendments will implement minor changes in text to rectify reference, typographic, spelling, and/or consistency-in-format errors; update the TS Bases; and/or otherwise improve consistency within the TS for each unit. The proposed amendments do not involve changes to the configuration or method of operation of plantequipment that is used to mitigate the consequences of an accident, nor do the changes otherwise affect the initial conditions or conservatisms assumed in any of the plant accident analyses. Therefore, operation of the facility in accordance with the proposed amendments would not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed administrative revisions will not change the physical plant or the modes of plant operation defined in the Facility License for each unit. The changes do not involve the addition or modification of equipment nor do they alter the design or operation of plant systems. Therefore, operation of the facility in accordance with the proposed amendments would not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) Operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety.

The proposed amendments are administrative in nature and do not change the basis for any technical specification that is related to the establishment of, or the preservation of, a nuclear safety margin. Therefore, operation of the facility in accordance with the proposed amendments would not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 34954-9003

*Attorney for licensee:* M.S. Ross, Attorney, Florida Power & Light, P.O. Box 14000, Juno Beach, Florida 33408-0420

*NRC Project Director:* Frederick J. Hebdon

**GPU Nuclear Corporation, Docket No. 50-320, Three Mile Island Nuclear Station, Unit No. 2 (TMI-2), Dauphin County, Pennsylvania**

*Date of amendment request:* December 2, 1996

*Description of amendment request:* The proposed amendment would relocate the audit frequency requirements from the plant Technical Specifications to the Quality Assurance Plan. In addition, the maximum interval between certain types of audits will be extended. This change would make the TMI-2 technical specifications consistent with the Technical Specifications for Three Mile Island, Unit 1.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

10 CFR 50.92 provides the criteria which the Commission uses to perform a No Significant Hazards Consideration. 10 CFR 50.92 states that an amendment to a facility license involves No Significant Hazards 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.

The proposed change to the technical specifications is administrative and does not involve any physical changes to the facility. No changes are made to operating limits or parameters, nor to any surveillance activities. Based on this, GPU Nuclear has concluded that the proposed change does not:

1. Involve a significant increase in the probability of occurrence of the consequences of an accident previously evaluated.

The proposed amendment is administrative and does not affect the function of any system or component. Therefore this change does not increase the probability of occurrence 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.

The proposed change is administrative and no new failure modes or potential accident scenarios are created.

3. Involve a change in the margin of safety.

This change is administrative in nature and does not affect any safety settings, equipment, or operational parameters.

Based on the above analysis it is concluded that the proposed changes involve no significant safety hazards considerations as defined by 10 CFR 50.92.

The NRC staff has reviewed the analysis of the licensee and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Government Publications Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105

*Attorney for licensee:* Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW, Washington, D.C. 20037 NRC Project Acting Director: Marvin M. Mendonca

**Houston Lighting & Power Company, City Public Service Board of San Antonio, Central Power and Light Company, City of Austin, Texas, Docket Nos. 50-498 and 50-499, South Texas Project, Units 1 and 2, Matagorda County, Texas**

*Date of amendment request:* July 16, 1997

*Description of amendment request:* The proposed amendment would revise Technical Specification Table 2.2-1 and 3/4.2.5 to allow the reactor coolant system total flow to be determined using cold leg elbow tap differential pressure measurements.

*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:

Pursuant to 10[]CFR[]50.92 each application for amendment to an operating license must be reviewed to determine if the proposed change involves a Significant Hazards Consideration. The amendment, as defined below, describing the Technical Specification change associated with the change has been reviewed and determined to not involve Significant Hazards Considerations. The basis for this determination follows.

Proposed Change: The current Technical Specification Table 2.2-1 (page 2-4) ''Reactor Trip System Instrumentation Trip Setpoints,'' provides the Trip Setpoint and Allowable Value for the RCS [reactor coolant system] Flow-Low trip. The Allowable Value will be changed to reflect the increased uncertainty associated with the correlation of the elbow taps to a previous baseline calorimetric. In addition, Technical Specification 3.2.5 (page 3/4.2-11), ''Power Distribution Limits, DNB Parameters'', will be changed to allow the RCS total flow to be measured by the elbow tap [delta]p method. These changes will include the modification of surveillance requirement 4.2.5.3, which currently requires performance of a precision heat balance every 18 months, to allow use of the elbow tap [delta]p method for RCS flow measurement. Appropriate Technical Specification Bases sections will also be revised to reflect use of the elbow tap [delta]p method for flow measurement and to provide clarification. The revised Technical Specifications are in Appendix C.

Background: The 18-month total RCS flow surveillance is typically satisfied by a secondary power calorimetric-based RCS flow measurement. In recent cycles, South Texas Project has experienced apparent decreases in flow rates which have been attributed to variations in hot leg streaming effects. These effects directly impact the hot leg temperatures used in the precision calorimetric, resulting in the calculation of low RCS flow rates. The apparent flow reduction has become more pronounced in fuel cycles which have implemented aggressive low leakage loading patterns. Evidence that the flow reduction was apparent, but not actual, was provided by elbow tap measurements. The results of this evaluation, including a detailed description of the hot leg streaming phenomenon, are documented in Westinghouse report SAE/FSE-TGX/THX-0152, ''RCS Flow Verification Using Elbow Taps.''

South Texas Project intends to begin using an alternate method of measuring RCS flow using the elbow tap [delta]p measurements. For this alternate method, the RCS elbow tap measurements are correlated to precision

calorimetric measurements performed during earlier cycles which decreased the effects of hot leg streaming.

The purpose of this evaluation is to assess the impact of using the elbow tap [delta]p measurements as an alternate method for performing the 18-month RCS flow surveillance on the licensing basis and demonstrate that it will not adversely affect the subsequent safe operation of the plant. This evaluation supports the conclusion that implementation of the elbow tap [delta]p measurement as an alternate method of determining RCS total flow rate does not represent a significant hazards consideration as defined in 10[]CFR[]50.92.

Evaluation: Use of the elbow tap [delta]p method to determine RCS total flow requires that the [delta]p measurements for the present cycle be correlated to the precision calorimetric flow measurement which was performed during the baseline cycle(s). A calculation has been performed to determine the uncertainty in the RCS total flow using this method. This calculation includes the uncertainty associated with the RCS flow baseline calorimetric measurement, as well as uncertainties associated with [delta]p transmitters and indication via QDPS [qualified display processing system] or the plant process computer. The uncertainty calculation performed for this method of flow measurement is consistent with the methodology recommended by the Nuclear Regulatory Commission (NUREG/CR-3659, PNL-4973, 2/85). The only significant difference is the assumption of correlation to a previously performed RCS flow calorimetric. However, this has been accounted for by the addition of instrument uncertainties previously considered to be zeroed out by the assumption of normalization to a calorimetric performed each cycle. Based on these calculations, the uncertainty on the RCS flow measurement using the elbow tap method is 2.6% flow which results in a minimum RCS total flow of 391,500 gpm and must be measured via indication with QDPS or the plant process computer at approximately 100% power.

The specific calculations performed were for Precision RCS Flow Calorimetrics for the specified baseline cycles, Indicated RCS Flow (either QDPS or the plant process computer), and the Reactor Coolant Flow - Low reactor trip. The calculations for Indicated RCS Flow and Reactor Coolant Flow - Low reactor trip reflect correlation of the elbow taps to baseline precision RCS Flow Calorimetrics. As discussed above, additional instrument uncertainties were included for this correlation.

The uncertainty associated with the RCS Flow - Low trip increased slightly. It was determined that due to the availability of margin in the uncertainty calculation, no change was necessary to either the Trip Setpoint (91.8% flow) or to the current Safety Analysis Limit (87% flow) to accommodate this increase. The Allowable Value is to be modified to allow for the increased instrument uncertainties associated with the [delta]p to flow correlation.

Since the flow uncertainty did not increase over the currently analyzed value, no additional evaluations of the reactor core safety limits must be performed. In addition, it was determined that the current Minimum Measured Flow (MMF) assumed in the safety analyses (389,200 gpm) bounds the required MMF calculated for the elbow tap method (391,500 gpm).

Based on these evaluations, the proposed change would not invalidate the conclusions presented in the UFSAR [Updated Final Safety Analysis Report].

1. Does the proposed modification involve a significant increase in the probability or consequences of an accident previously evaluated?

Sufficient margin exists to account for all reasonable instrument uncertainties; therefore, no changes to installed equipment or hardware in the plant are required, thus the probability of an accident occurring remains unchanged.

The initial conditions for all accident scenarios modeled are the same and the conditions at the time of trip, as modeled in the various safety analyses, are the same. Therefore, the consequences of an accident will be the same as those previously analyzed.

2. Does the proposed modification create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change revises the method for RCS flow measurement, and therefore does not introduce any new accident indicators or failure mechanisms.

No new accident scenarios have been identified. Operation of the plant will be consistent with that previously modeled, i.e., the time of reactor trip in the various safety analyses is the same, thus plant response will be the same and will not introduce any different accident scenarios that have not been evaluated.

3. Does the proposed modification involve a significant reduction in a margin of safety[?]

There are no changes to the Safety Analysis assumptions. Therefore, the margin of safety will remain the same.

The proposed change does not impact the results from any accidents analyzed in the safety analysis.

Conclusion: Based on the preceding information, it has been determined that this proposed change to allow an alternate RCS total flow measurement based on elbow tap [delta]p measurements does not involve a Significant Hazards Consideration as defined by 10 CFR 50.92(c).

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the request for amendments involves no significant hazards consideration.

*Local Public Document Room location:* Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton, TX 77488

*Attorney for licensee:* Jack R. Newman, Esq., Morgan, Lewis & Bockius, 1800 M Street, N.W., Washington, DC 20036-5869

*NRC Project Director:* James W. Clifford, Acting

**Niagara Mohawk Power Corporation, Docket No. 50-410, Nine Mile Point Nuclear Station, Unit 1, Oswego County, New York**

*Date of amendment request:* July 2, 1997

*Description of amendment request:* The proposed amendment would change Technical Specification (TS) 3/4.2.3 regarding reactor coolant chemistry in accordance with a report by Electrical Power Research Institute, Inc. (EPRI) TR-103515-R1, ''BWR Water Chemistry Guidelines, 1996 Revision,'' also known as Boiling Water Reactor Vessel and Internals Project (BWRVIP)-29. Specifically, the amendment would define new conductivity limits in TS 3.2.3a (when reactor coolant is 200 degrees F or more and reactor thermal power is no more that 10%), and in TS 3.2.3b (when reactor thermal power exceeds 10%). The new conductivity limits would be 1 micro-mho/cm, which is less than the existing limits of 2 micro-mho/cm and 5 micro-mho/cm. The chloride ion limit in TS 3.2.3a, 0.1 ppm, would remain at this value but would be designated as 100 ppb. The chloride ion limit in TS 3.2.3b would be changed from 0.2 ppm to 20 ppb. Sulfate ion limits would be added to TS 3.2.3a and TS 3.2.3b at 100 ppb and 20 ppb, respectively. In TS 3.2.3c, the maximum conductivity limit would be changed from 10 micro-mho/cm to 5 micro mho/cm when reactor coolant temperature is 200 degrees F or more; the maximum chloride ion concentration limit would be changed from 0.5 ppm to 100 ppb (when reactor thermal power exceeds 10%) and 200 ppb (when reactor coolant temperature is 200 degrees F or more and reactor thermal power is no more than 10%); and the maximum sulfate ion concentration of 100 ppb (when reactor thermal power exceeds 10%) and 200 ppb (when reactor coolant temperature is 200 degrees F or more and reactor thermal power is no more than 10%) would be added. The requirement to place the reactor in the cold shutdown condition as currently specified in TS 3.2.3d (when TSs 3.2.2a, b, and c are not met) and TS 3.2.3e (when the continuous conductivity monitor is inoperable for more than 7 days) would be changed to require that the reactor coolant temperature be reduced to below 200 degrees F. TS 4.2.3 would be revised to add that the samples taken and analyzed for conductivity and chloride ion content are also to be analyzed for sulfate ion content. TS Bases 3/4.2.3 would also be changed to

reflect that the purpose of TS 3/4.2.3 is to limit crack growth rates to values consistent with Unit 1 core shroud analyses in accordance with an NRC letter dated May 8, 1997.

*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 operation of Nine Mile Point Unit 1, in accordance with the proposed amendment, will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The changes to the conductivity and chloride ion action levels and the addition of sulfate ion levels as an action level in reactor water chemistry are being made to make the TS and its Bases consistent with the values used in the core shroud vertical weld cracking evaluations. These new values reflect the BWR water chemistry guidelines, 1996 revision (EPRI TR-103515-R1, BWRVIP-29) and are equal to or more restrictive than the present TS values. No physical modification of the plant is involved and no changes to the methods in which plant systems are operated are required. None of the precursors of previously evaluated accidents are affected and therefore, the probability of an accident previously evaluated is not increased. These changes to the coolant chemistry TS are more restrictive limits and no new failure modes are introduced. Therefore, these changes will not involve a significant increase in the consequences of an accident previously evaluated.

2. The operation of Nine Mile Point Unit 1, in accordance with the proposed amendment, will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The changes to the conductivity and chloride ion action levels and the addition of sulfate ion levels as an action level in reactor water chemistry are being made to make the TS and its Bases consistent with the values use in the core shroud vertical weld cracking evaluations. The new values reflect the BWR water chemistry guidelines, 1996 revision (EPRI TR-103515-R1, BWRVIP-29) and are equal to or more restrictive than the present TS values. No physical modification of the plant is involved and no changes to the methods in which plant systems are operated are required. The change does not introduce any new failure modes or conditions that may create a new or different accident. Therefore, this change does not create the possibility of a new or different kind of accident [from any accident] previously evaluated.

3. The operation of Nine Mile Point Unit 1, in accordance with the proposed amendment, will not involve a significant reduction in a margin of safety.

The changes to the conductivity and chloride ion action levels and the addition of sulfate ion levels as an action level in reactor water chemistry are being made to make the TS and its Bases consistent with the values used in the core shroud vertical weld cracking evaluations. These new values reflect the BWR water chemistry guidelines, 1996 revision (EPRI TR-103515-R1, BWRVIP-29) and are equal to or more restrictive than the present TS values. No physical modification of the plant is involved and no changes to the methods in which plant systems are operated are required. This change does not adversely affect any physical barrier to the release of radiation to plant personnel or the public. Therefore, the change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126

*Attorney for licensee:* Mark J. Wetterhahn, Esquire, Winston & Strawn, 1400 L Street, NW., Washington, DC 20005-3502

*NRC Project Director:* Alex Dromerick, Acting

**Northeast Nuclear Energy Company (NNECO), et al., Docket No. 50-423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut**

*Date of amendment request:* June 19, 1997

*Description of amendment request:* Technical Specification Table 2.2-1 Notes 1 and 3 define the values for the constants used in the Overtemperature Delta-T and Overpower Delta-T reactor trip system instrumentation setpoint calculators. The proposed amendment would make changes to the notes as well as the associated Bases section.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

NNECO has reviewed the proposed revision in accordance with 10CFR50.92 and has concluded that the revision does not involve a significant hazards consideration (SHC). The basis for this conclusion is that the three criteria of 10CFR50.92(c) are not satisfied. The proposed revision does not involve an SHC because the revision would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes to Technical Specification Table 2.2-1 Notes 1 and 3 for the addition of the inequalities ensure that the constants used for [Overtemperature Delta-T] and [Overpower Delta-T] will be set conservatively with respect to the assumptions in the accident analysis. The effect on the turbine

runback function has been evaluated with respect to the Loss of External Electrical Load And/Or Turbine Trip analysis and it has been determined that this change does not increase the probability of this transient. The change was also reviewed to determine if it produced an increase in the probability of an unnecessary or spurious reactor trip and it was determined that it did not. This change does not increase the probability of any previously evaluated accident.

The consequences of previously evaluated accidents, including Uncontrolled Rod Cluster Assembly Bank Withdrawal At Power, Rod Cluster Control Assembly Misalignment, Uncontrolled Boron Dilution, Loss of External Electrical Load And/Or Turbine Trip, Excessive Heat Removal Due To Feedwater System Malfunctions, Excessive Load Increase Incident, Accidental Depressurization Of The Reactor Coolant System, Accidental Depressurization Of The Main Steam System, Loss of Reactor Coolant From Small Ruptured Pipes Or From Cracks In Large Pipes Which Actuate ECCS [emergency core cooling system], or Major Secondary System Pipe Ruptures have not changed.

The administrative changes have no impact on the design or operation of Millstone Unit 3.

Therefore, the proposed revision does not involve a significant increase in the probability or consequence of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes to Technical Specification Table 2.2-1 Notes 1 and 3 do not alter the design, construction, operation, maintenance or method of testing of equipment. The proposed changes alter the Technical Specification description of [an] [Overtemperature Delta-T] and [Overpower Delta-T] setpoint functions and requires only slight changes to the actual setpoints in the field. The [Overtemperature Delta-T] and [Overpower Delta-T] functions serve to mitigate the effects of accidents by opening the Reactor Trip breakers or reduce power by ''running back'' turbine electrical load. The change does not create any new interfaces to plant control or protection systems and therefore, no new mechanism for accident initiation has been introduced. The proposed change does not introduce the possibility of an accident of a different type than previously evaluated.

Therefore, the proposed revision does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

The proposed changes to Technical Specification Table 2.2-1 Notes 1 and 3 do not affect the integrity of any physical fission protective boundaries, increase the delays in actuation of safety systems beyond that assumed in the safety analysis or reduce the

margin of safety of any system. These changes ensure that actuation of Overtemperature [Delta-T] and Overpower [Delta-T] reactor trips will occur conservatively with respect to the assumptions of the accident analysis.

Therefore, the proposed revision does not involve a significant reduction in a margin of safety.

In conclusion, based on the information provided, it is determined that the proposed revision does not involve an SHC.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut

*Attorney for licensee:* Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, CT 06141-0270

*NRC Deputy Director:* Phillip F. McKee

**Northeast Nuclear Energy Company (NNECO), et al., Docket No. 50-423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut**

*Date of amendment request:* June 19, 1997

*Description of amendment request:* Technical Specification 3/4.7.1.3 requires sufficient water to be available for the auxiliary feedwater (AFW) system to maintain the reactor coolant system at hot standby for 10 hours before cooling down to hot shutdown in the next 6 hours. The proposed amendment would increase the required volume of water when the condensate storage tank is used, make editorial changes, and expand the description in the appropriate Bases section.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

NNECO has reviewed the proposed revision in accordance with 10CFR50.92 and has concluded that the revision does not involve a significant hazards consideration (SHC). The basis for this conclusion is that the three criteria of 10CFR50.92(c) are not satisfied. The proposed revision does not involve an SHC because the revision would not:

1. Involve a significant increase in the probability or consequence of an accident previously evaluated.

The proposed change to Technical Specification Surveillance 4.7.1.3.2 will account for the unusable Condensate Storage Tank (CST) inventory by increasing the required combined CST and Demineralized Water Storage Tank (DWST) inventory to 384,000 gallons. The increased required water volume is consistent with the design of the CST and will provide assurance that sufficient water is available to maintain the reactor coolant system at Hot Standby for 10 hours before cooling down to Hot Shutdown in the next 6 hours.

The proposed changes to reword Technical Specification 3/4.7.1.3, expand the description in Bases Section B3/4.7.1.3 and modify the description in Bases Section B3/4.7.1.2 are to update and clarify the requirements.

Therefore, the proposed revision does not involve a significant increase in the probability or consequence of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes to Technical Specification 3/4.7.1.3 do not change the use of DWST or CST during normal or accident evaluations.

The proposed changes to reword Technical Specification 3/4.7.1.3, Bases Section B3/4.7.1.3 and Bases Section B3/4.7.1.2 are to update and clarify the requirements.

Therefore, the proposed revision does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

The proposed changes to Technical Specification Surveillance 4.7.1.3.2 will increase the required inventory for the combined CST and DWST to account for an additional 50,000 gallons of unusable inventory due to the CST discharge line location, other physical characteristics, and measurement uncertainty. The proposed change to the surveillance requirement will increase the required volume of the combined CST and DWST inventory to 384,000 gallons. The proposed change ensures that sufficient water is available to maintain the Reactor Coolant System at Hot Standby conditions for 10 hours with steam discharge to the atmosphere, concurrent with a total loss-of-offsite power, and with an additional 6-hour cool down period to reduce reactor coolant temperature to 350 [degrees] F.

The proposed changes to Technical Specification 3/4.7.1.3 and Bases Section 3/4.7.1.3 are to clarify the requirements. The proposed changes to the Bases Section 3/4.7.1.2 update and expands the description of the design bases accidents for which AFW System is credited for accident mitigation. This additional information is consistent with the current AFW System design bases.

Therefore, the proposed revision does not involve a significant reduction in a margin of safety.

In conclusion, based on the information provided, it is determined that the proposed revision does not involve an SHC.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut

*Attorney for licensee:* Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, CT 06141-0270

*NRC Deputy Director: Phillip* F. McKee

**Northeast Nuclear Energy Company (NNECO), et al., Docket No. 50-423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut**

*Date of amendment request:* June 30, 1997

*Description of amendment request:* Technical Specification Surveillance Requirements 4.7.1.5.1 and 4.7.1.5.2 require the periodic testing of the main steam isolation valves (MSIVs) to demonstrate operability. The proposed amendment would (1) clarify when the MSIVs are partial stroked or full closure tested, (2) add a note to the Mode 4 applicability of Technical Specification 3.7.1.5 to require that the MSIVs be closed and deactivated at less than 320 degrees F, (3) make editorial changes, and (4) make changes to the associated Bases sections.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

NNECO has reviewed the proposed revision in accordance with 10CFR50.92 and has concluded that the revision does not involve a significant hazards consideration (SHC). The basis for this conclusion is that the three criteria of 10CFR50.92(c) are not satisfied. The proposed revision does not involve [an] SHC because the revision would not:

1. Involve a significant increase in the probability or consequence of an accident previously evaluated.

The proposed changes to Technical Specifications Surveillances 4.7.1.5.1 and 4.7.1.5.2 are to clarify the testing of the MSIVs by rewording and separating the requirements into three surveillances.

Currently, Technical Specifications Surveillance 4.7.1.5.1 requires ''verifying full closure within 10 seconds ... in MODES 1, 2, and 3 when tested pursuant to Specification 4.0.5.'' The current surveillance requirement to full stroke test the MSIVs is not performed during power operation as the Millstone Unit 3 Inservice Pump and Valve Test Program pursuant to Specification 4.0.5, has received relief from the quarterly full stroke surveillance testing requirement. The basis for the relief is that full stroking the MSIVs to the closed position during power operation would result in an unbalanced steam flow condition producing an abnormal power distribution in the reactor core, possibly causing a reactor trip. The MSIVs are equipped with provisions for inservice testing by partial stroking. The partial stroking is accomplished by opening a solenoid valve to admit steam pressure into the lower piston chamber. After a time delay the solenoid valve for the upper piston chamber opens. After 10 percent travel the position indicating device vents both piston chambers and the valve fully opens to the back seat due to pressure acting on the valve plug. The accepted alternate testing method is to partially stroke test the MSIVs during power operation and full stroke test the valves during shutdowns.

The proposed changes to Technical Specifications Surveillance 4.7.1.5.2 will identify a Mode 3 requirement to perform a 10 second full closure test of the MSIVs in Mode 3 or 4. Surveillance 4.7.1.5.3 will identify a Mode 4 requirement to perform a 120 second full closure test of the MSIVs in Mode 4 when the RCS [reactor coolant system] temperature is greater than or equal to 320 degrees F. The 320 degrees F restriction on testing the valves is consistent with recommendations from the valve manufacturer. Additionally, a footnote is added to the LCO [limiting condition for operation] and the surveillance to identify that the MSIVs are required to be closed and deactivated when the RCS temperature is less than 320 degrees F.

The proposed changes are consistent with equipment design and the surveillance testing of the MSIVs provides the necessary assurance that the valves will function consistent with accident analyses.

The other proposed changes to reword the Applicability and Action statements of Technical Specification 3.7.1.5 and Bases Section B3/4.7.1.5 are considered administrative changes.

Therefore, the proposed revision does not involve a significant increase in the probability or consequence of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes to the surveillance testing of the MSIVs does not change the operation of the valves as assumed for accident analyses. The MSIVs are currently equipped with provisions for partial stroking.

Therefore, the proposed revision does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

The proposed changes to Technical Specifications Surveillances 4.7.1.5.1 and 4.7.1.5.2 are to clarify the testing of the MSIVs by rewording and separating the requirements into three surveillances. Surveillance 4.7.1.5.1 will identify a Mode 1 and 2 requirement to partial stroke test the MSIVs in Mode 1 and 2 unless a successful 10 second full stroke test was performed during the surveillance period. Surveillance 4.7.1.5.2 will identify a Mode 3 requirement to perform a 10 second full closure test of the MSIVs in Mode 3 or 4. Surveillance 4.7.1.5.3 will identify a Mode 4 requirement to perform a 120 second full closure test of the MSIVs in Mode 4 when the RCS temperature is greater than or equal to 320 degrees F. The 320 degrees F restriction on testing the valves is consistent with recommendations from the valve manufacturer. Additionally, a footnote is added to the LCO and the surveillance to identify that the MSIVs are required to be closed and deactivated when the RCS temperature is less than 320 degrees F. The footnote will eliminate the potential to declare the MSIVs operable in the upper range of Mode 4 and then allow the MSIVs to remain open during a cooldown into the lower range of Mode 4 where they may not be able to meet their required stroke time. The full closure test times are consistent with the current MSIV surveillances and the partial stroke testing is consistent with the Millstone Unit 3 Inservice Pump and Valve Test Program.

The other proposed changes to reword the Applicability and Action statements of Technical Specification 3.7.1.5 and Bases Section B3/4.7.1.5 are considered administrative changes.

Therefore, the proposed revision does not involve a significant reduction in a margin of safety.

In conclusion, based on the information provided, it is determined that the proposed revision does not involve an SHC.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut

*Attorney for licensee:* Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, CT 06141-0270

NRC Deputy Director: Phillip F. McKee

**Northeast Nuclear Energy Company (NNECO), et al., Docket No. 50-423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut**

*Date of amendment request:* June 30, 1997

*Description of amendment request:* Technical Specifications 4.6.1.1, 3/4.6.1.2, and 3/4.6.1.3 require the testing of the containment to verify leakage limits at a specified test pressure. The proposed amendment would (1) modify the list of valves that can be opened in Modes 1 through 4, (2) add a footnote on procedure controls, (3) remove a footnote on Type A testing, and (4) make editorial changes to the Technical Specifications and associated Bases sections.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

NNECO has reviewed the proposed revision in accordance with 10CFR50.92 and has concluded that the revision does not involve a significant hazards consideration (SHC). The basis for this conclusion is that the three criteria of 10CFR50.92(c) are not satisfied. The proposed revision does not involve [an] SHC because the revision would not:

1. Involve a significant increase in the probability or consequence of an accident previously evaluated.

The proposed changes to Technical Specification Surveillance 4.6.1.1.a include the adding ''or procedure control***'' and adding footnote ''***''. The changes are requested since the Residual Heat Removal System (RHR) valves, 3RHS*MV8701A/B and 3RHS*MV8702A/B, are opened during cooldown and heatup in Mode 4. Allowing these containment isolation valves to be opened is consistent with Technical Specification 3.4.1.3, Reactor Coolant System - Hot Shutdown, which allows the RHR system to be used in Mode 4. The proposed changes to open the RHR system containment isolation valves, under procedure control in Mode 4, do not change the way the RHR system is operated or change the operator's response to an accident in Mode 4.

The proposed changes to Technical Specification Surveillance 4.6.1.1.a Footnote **, include the modification of the valves listed in the footnote. Valves 3FPW-V661, 3FPW-V666, 3SAS-V875, 3SAS-V50, 3CCP-V886, 3CCP-V887 and 3CVS-V13 are being deleted and are local manual containment isolation valves. Deleting these valves from the list of valves that are allowed to be opened under administrative control does not modify plant response to or mitigation strategy for any accident. The valves being added, 3MSS*V885, 3MSS*V886, and 3MSS*V887, are in the steam lines to the steam-driven auxiliary feedwater pump. These valves are opened to warm the steam lines prior to testing the steam-driven auxiliary feedwater pump. These valves were recently reclassified as containment isolation valves, which resulted in the need to add them to the list of valves allowed to be opened under administrative control. The administrative controls include the appropriate considerations that when

required, containment integrity will be established consistent with the assumptions in the design basis analyses.

The proposed change to Technical Specification Surveillance 4.6.1.2.a will delete footnote ''*'' which referred to an exemption granted by the NRC to permit the Type A test to be delayed until RFO6 [refueling outage 6]. However, the current extended shutdown has significantly delayed RFO6 and NNECO intends to perform the Type A test during this midcycle shutdown. The deletion of the footnote does not alter the operation of any system or the containment or containment airlocks, as assumed for accident analyses.

Additionally, Technical Specifications 4.6.1.1, 3/4.6.1.2 and 3/4.6.1.3 and Bases Sections 3/4.6.1.1, 3/4.6.1.2 and 3/4.6.1.3 are reworded to provide clarity and consistency. These proposed changes do not alter the operation of any system or the containment or containment airlocks during accident analyses. Therefore, the proposed revision does not involve a significant increase in the probability or consequence of an accident previously evaluated.

1. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes to Technical Specifications 4.6.1.1, 3/4.6.1.2 and 3/4.6.1.3 and Bases Sections 3/4.6.1.1, 3/4.6.1.2 and 3/4.6.1.3 do not alter the operation of any system or the containment or containment airlocks, during normal operation or as assumed in accident analyses.

Therefore, the proposed revision does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

The proposed changes to Technical Specifications 4.6.1.1, 3/4.6.1.2 and 3/4.6.1.3 and Bases Sections 3/4.6.1.1, 3/4.6.1.2 and 3/4.6.1.3 do not alter the design, maintenance or function of any system or the containment or the containment airlocks. Additionally, the proposed changes do not alter the testing of any system or the containment or containment airlocks, or alter any assumption used in the accident analyses.

Therefore, the proposed revision does not involve a significant reduction in a margin of safety.

In conclusion, based on the information provided, it is determined that the proposed revision does not involve an SHC.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut

*Attorney for licensee:* Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, CT 06141-0270

*NRC Deputy Director:* Phillip F. McKee

**Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California**

*Date of amendment requests:* May 14, 1997

*Description of amendment requests:* The proposed amendments would revise the combined Technical Specifications (TS) for the Diablo Canyon Power Plant, Unit Nos. 1 and 2 by revising Technical Specification (TS) 6.9.1.8.b.5 to replace reference WCAP-10266-P-A with WCAP-12945-P for best estimate loss-of coolant accident (LOCA) analysis. The amendment would also revise TS Bases 3/4.2.2 and 3/4.2.3 to change the emergency core cooling system (ECCS) acceptance criteria limit to state that there is a high level of probability that the ECCS acceptance criteria limits are not exceeded. This is consistent with the best estimate LOCA methodology.

*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 to use of the Best Estimate Loss of Coolant Accident (LOCA) analysis methodology does not involve physical alteration of any plant equipment or change in operating practice at Diablo Canyon Power Plant (DCPP). Therefore, there will be no increase in the probability of a LOCA. The consequences of a LOCA are not being increased.

The plant conditions assumed in the analysis are bounded by the design conditions for all equipment in the plant. That is, it is shown that the emergency core cooling system is designed so that its calculated cooling performance conforms to the criteria contained in 10 CFR 50.46, paragraph b, and it meets the five criteria listed in Section D. of this evaluation. No other accident is potentially affected by this change.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change would not result in any physical alteration to any plant system, and there would not be a change in the method by which any safety related system performs its function. The parameters assumed in the analysis are within the design limits of existing plant equipment.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

It has been shown that the analytic technique used in the analysis realistically describes the expected behavior of the DCPP Units 1 and 2 reactor system during a postulated LOCA. Uncertainties have been accounted for as required by 10 CFR 50.46. A sufficient number of LOCAs with different break sizes, different locations, and other variations in properties have been analyzed to provide assurance that the most severe postulated LOCAs were calculated. It has been shown by the analysis that there is a high level of probability that all criteria contained in 10 CFR 50.46, paragraph b, are met.

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 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

*Local Public Document Room location:* California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407

*Attorney for licensee:* Christopher J. Warner, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120

*NRC Project Director:* William H. Bateman

**Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California**

*Date of amendment requests:* May 15, 1997

*Description of amendment requests:* The proposed amendments would revise the combined Technical Specifications (TS) for the Diablo Canyon Power Plant (DCPP), Unit Nos. 1 and 2 to revise the surveillance frequencies from at least once every 18 months to at least once per refueling interval (nominally 24 months) including (1) reactor coolant system total flow rate, (2) instrumentation for radiation monitoring, (3) instrumentation and controls for remote shutdown, (4) instrumentation for

accident monitoring, and (5) several miscellaneous TS.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed TS surveillance interval increases do not alter the intent or method by which the inspections, tests, or verifications are conducted, do not alter the way any structure, system, or component functions, and do not change the manner in which the plant is operated. The surveillance, maintenance, and operating histories indicate that the equipment will continue to perform satisfactorily with longer surveillance intervals. Few surveillance and maintenance problems were identified. No problems have recurred, or are expected to recur, following identification of root causes and implementation of corrective actions.

There was one time-related degradation mechanism identified that could significantly degrade the performance of the evaluated equipment during normal plant operation. Accumulation of corrosion products and debris in the containment fan cooler unit (CFCU) monitoring system drain lines could affect the use of the CFCU drains as a backup to the containment gaseous monitor for RCS leak detection. Primarily because CFCU drain line cleaning has been instituted to reduce deposit buildup, and also because the CFCU monitoring systems are used as backup and they are redundant by a factor of five, it was evaluated that this time-related mechanism will not significantly degrade the leak detection performance of the CFCUs.

All other potential time-related degradation mechanisms have insignificant effects in the period of interest (24 months plus 25 percent allowance, or a maximum of 30 months). Instrument drift and uncertainty analyses show that, while slight increases in instrument drift can occur over a longer period, such increases are minimal and remain within specified instrument accuracy and calibration allowable values. In cases (pressurizer water level and RVLIS) where greater than expected instrument drift has been found, design and procedural changes have been implemented to improve the calibration process and instrument performance. Based on the past performance of the equipment, the probability or consequences of accidents previously evaluated would not be significantly affected by the proposed surveillance interval increases.

The changes to commitments related to Bulletin 90-01 are supported by the conclusions above, and otherwise do not alter the intent or method by which the associated functions are tested, do not alter the way any structure, system, or component functions, and do not change the manner in which the plant is operated.

The administrative changes to the Bases sections and to remove a duplicate line do not alter the frequency, intent, or method by which the associated functions are tested, do not alter the way any structure, system, or component functions, and do not change the manner in which the plant is operated.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The surveillance and maintenance histories indicate that the equipment will continue to effectively perform its design function over the longer operating cycles. Additionally, the increased surveillance intervals do not result in any physical modifications, affect safety function performance or the manner in which the plant is operated, or alter the intent or method by which surveillance tests are performed. No problems have reoccurred following identification of root causes and implementation of corrective actions. Almost all identified potential time-related degradations, including instrument drift, have insignificant effects in the period of interest.

The deposit buildup in the CFCU drain lines is time-related. This was evaluated to not to be significant to the leak detection function because the CFCUs have a redundancy factor of five (any one of the five CFCUs can be used for the leak detection function) and because the CFCU drain lines will be cleaned each refueling outage. The proposed surveillance interval increases would not affect the type or possibility of accidents.

The changes to commitments related to Bulletin 90-01 are supported by the conclusions above, and otherwise do not result in any physical modifications, affect safety function performance or the manner in which the plant is operated, or alter the intent or method by which surveillance tests are performed.

The administrative change to the Bases sections and to remove a duplicate line do not result in any physical modifications, affect safety function performance, or alter the frequency, intent, or method by which surveillance tests are performed.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

Evaluation of historical surveillance and maintenance data indicates that there have been few problems experienced with the evaluated equipment. There are no indications that potential problems would be cycle-length dependent, with the exception of the CFCU leak detection function, or that potential degradation would be significant for the period of interest and, therefore, increasing the surveillance interval will have negligible impact on safety. The accumulation of corrosion products and debris in the CFCU drain lines is cycle-length dependent, but has been evaluated to have insignificant effect on its leak detection function. There is no safety analysis impact since these changes will have no effect on any safety limit, protection system setpoint, or limiting condition for operation, and there are no hardware changes that would impact existing safety analysis acceptance criteria. Safety margins are not significantly impacted by surveillance intervals or by the slight increases in instrument drift that may occur during the extended interval.

The changes to commitments related to Bulletin 90-01 are supported by the conclusions above, and otherwise will have no effect on any safety limit, protection system setpoint, or limiting condition for operation, and there are no hardware changes that would impact existing safety analysis acceptance criteria.

The administrative change to the Bases sections and to remove a duplicate line will have no effect on any safety limit, protection system setpoint, or limiting condition for operation, and there are no hardware changes that would impact existing safety analysis acceptance criteria.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

*Local Public Document Room location:* California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407

*Attorney for licensee:* Christopher J. Warner, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120

*NRC Project Director:* William H. Bateman

**Pacific Gas and Electric Company, Docket No. 50-133, Humboldt Bay Power Plant, Unit 3, Humboldt County, California**

*Date of amendment request:* December 9, 1996, as supplemented on June 12, 1997.

*Description of amendment request:* The proposed amendment would revise the Humboldt Bay Power Plant (HBPP), Unit 3 Technical Specifications (TSs) to incorporate the requirements of 10 CFR Part 50, Appendix I, into the Radiological Effluent Technical Specifications (RETS) and to relocate the controls and limitations on RETS and radiological monitoring from the technical specifications to the Offsite Dose Calculation Manual (ODCM) and the Process Control Program (PCP). Additional minor administrative changes are proposed to make the TSs on High Radiation Areas consistent with

the revised requirements in the new 10 CFR Part 20.

*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?

Operation of the facility in accordance with the proposed amendment would not involve any increase in the probability or consequences of an accident previously evaluated. This change places new requirements in the Administrative Controls section of the Technical Specifications to establish programs for the control of radiological effluents and the conduct of radiological environmental monitoring in the ODCM. The new Administrative Control requirements for radiological effluents to be placed in the ODCM incorporate 10 CFR 50, Appendix I, limitations on dose to individual members of the public that are much more restrictive than the current Technical Specification limitations. The proposed changes do not involve modifications to existing plant equipment, the addition of new equipment, or operation of the plant in a different manner than previously evaluated.

Therefore, the proposed changes do not involve a significant increase in the probability of 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?

Operation on the facility in accordance with the proposed amendment will not create any new or different kind of accident from any accident previously evaluated. As stated above, new programmatic controls on radiological effluents and radiological environmental monitoring are established in the Administrative Controls section of the Technical Specifications. Additionally, this change is administrative in nature; procedural details for radiological effluents and radiological environmental monitoring are being relocated to the ODCM and PCP consistent with the guidance provided [by the NRC] in Generic Letter 89-01. The proposed changes do not involve alterations to plant operating philosophy or methods, or in changes to installed plant systems, structures, or components.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the change involve a significant reduction in a margin of safety?

Operation of the facility in accordance with the proposed amendment would not involve any reduction in the margin of safety. These changes do not involve a significant reduction in the margin of safety. These changes do not involve a significant reduction in the margin of safety. The changes will provide control over radiological effluent releases, solid waste management, and radiological environmental monitoring activities. Also, these changes will increase the margin of safety for members of the public by imposing additional controls to ensure that dose to members of the public resulting from radioactive effluent releases will be maintained ALARA.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the analysis of the licensee and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Humboldt County Library, 636 F Street, Eureka, California 95501

*Attorney for licensee:* Christopher J. Warner, Esquire, Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120

*NRC Project Director:* Seymour H. Weiss

**Southern Nuclear Operating Company, Inc., Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50-321, Edwin I. Hatch Nuclear Plant, Unit 1, Appling County, Georgia**

*Date of amendment request:* May 9, 1997

*Description of amendment request:* The proposed amendment would revise the Safety Limit Minimum Critical Power Ratio (SLMCPR) in Technical Specification (TS) 2.1.1.2 to reflect results of a cycle-specific calculation performed for Unit 1 Operating Cycle 18 (expected to commence November 1997).

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. The proposed technical specification changes do not involve a significant increase in the probability of an accident previously evaluated.

The derivation of the revised SLMCPR for Plant Hatch Unit 1 Cycle 18 for incorporation into the TS, and its use to determine cycle-specific thermal limits, have been performed using NRC approved methods. Additionally, interim implementing procedures that incorporate cycle-specific parameters have been used which result in a more restrictive value for SLMCPR. These calculations do not change the method of operating the plantand have no effect on the probability of an accident initiating event or transient.

The basis of the MCPR Safety Limit is to ensure no mechanistic fuel damage is calculated to occur if the limit is not violated. The new SLMCPR preserves the existing margin to transition boiling and the probability of fuel damage is not increased. Therefore, the proposed changes do not involve an increase in the probability or consequences of an accident previously evaluated.

2. The proposed TS change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes result only from a revised method of analysis for the Unit 1 Cycle 18 core reload. These changes do not involve any new method for operating the facility and do not involve any facility modifications. No new initiating events or transients result from these changes. Therefore, the proposed TS changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed TS changes do not involve a significant reduction in a margin of safety.

The margin of safety as defined in the TS bases will remain the same. The new SLMCPR is calculated using NRC approved methods which are in accordance with the current fuel design and licensing criteria. Additionally, interim implementing procedures, which incorporate cycle-specific parameters, have been used. The SLMCPR remains high enough to ensure that greater than 99.9% of all fuel rods in the core are expected to avoid transition boiling if the limit is not violated, thereby preserving the fuel cladding integrity.

Therefore, the proposed TS changes do not involve a 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:* Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513

*Attorney for licensee:* Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037

*NRC Project Director:* Herbert N. Berkow

**Southern Nuclear Operating Company, Inc., Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-321 and 50-366, Edwin I. Hatch Nuclear Plant, Units 1 and 2, Appling County, Georgia**

*Date of amendment request:* May 9, 1997

*Description of amendment request:* The proposed amendments would revise the operability requirements for the Rod Block Monitor system of Technical Specification (TS) Table 3.3.2.1-1. The amendments would also

delete the requirements of TS Section 5.6.5 to report Rod Block Monitor operability requirements in the cycle-specific Core Operating Limits Report.

*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:

**Southern Nuclear Operating Company has evaluated the proposed changes to the Plant Hatch Units 1 and 2 Technical Specifications in accordance with the criteria specified in 10 CFR 50.92 and has determined that they do not involve a significant hazards consideration because:**

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated since they are more restrictive than the existing requirements for operation of the plant. These changes provide assurance that the Rod Block Monitor system will remain operable when necessary to prevent or mitigate the consequences of an anticipated operational occurrence that could threaten the integrity of the fuel cladding integrity. Since changes in RBM [Rod Block Monitor] operability requirements do not involve any physical or functional modifications in any plant system, structure or component, there will be no increase in the probability or consequences of any accident previously evaluated.

2. The proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated because they do not involve any changes in the plant configuration or in the operation of any system, structure or component.

3. The proposed changes do not reduce a margin of safety in the plant because they impose more restrictive operability requirements on the Rod Block Monitor system than those imposed by the existing specifications. The changes are more restrictive in that they delete the conditions under which the RBM is allowed to be bypassed at core thermal power equal to or greater than 29% of rated power. These more restrictive requirements ensure the RBM will not only prevent fuel rods from under going transition boiling, they also prevent fuel rods from exceeding 1% plastic strain (thereby avoiding fuel cladding damage) during an RWE [rod withdrawal error] event.

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:* Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513

*Attorney for licensee:* Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037

*NRC Project Director:* Herbert N. Berkow

**Tennessee Valley Authority, Docket Nos. 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 2 and 3, Limestone County, Alabama**

*Date of amendment request:* June 19, 1997 (TS 391T)

*Description of amendment request:* The proposed amendment extends the allowed outage time for emergency diesel generators from 7 to 14 days on a one-time basis. This extension should permit completion of extensive recommended maintenance within a single outage interval.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the ssue of no significant hazards consideration, which is presented below:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The EDGs [emergency diesel generators] are designed as backup AC [alternating current] power sources in the event of loss of off-site power. The proposed AOT [allowed outage time] does not change the conditions, operating configurations, or minimum amount of operating equipment assumed in the safety analysis for accident mitigation. No changes are proposed in the manner in which the EDGs provide plant protection or which create new modes of plant operation. Also, the TS [technical specification] change will improve the overall EDG availability by allowing the consolidation of planned maintenance outages and, hence, reducing the time period that each EDG will be in an outage. Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change does not introduce any new modes of plant operation or make physical changes to plant systems. Therefore, the proposed one-time extension of the allowable AOT for EDGs does not create the possibility of a new or different accident.

3. The proposed amendment does not involve a significant reduction in a margin of safety.

BFN's [Browns Ferry Nuclear Plant's] emergency AC system is designed with sufficient redundancy such that an EDG may be removed from service for maintenance or testing. The remaining EDGs are capable of carrying sufficient electrical loads to satisfy the UFSAR [updated final safety analysis report] requirements for accident mitigation or unit safe shutdown.

Since the 12-year EDG PM [preventive maintenance] work activity and vendor recommended PMs are required tasks which must be performed, the proposed TS would reduce EDG unavailability since multiple outages with resultant longer EDG outage times would not be necessary to accomplish the planned maintenance activities.

The proposed change does not impact the redundancy or availability requirements of off-site power supplies or change the ability of the plant to cope with station blackout events. The TS change improves overall EDG availability. For these reasons, the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Athens Public Library, South Street, Athens, Alabama 35611

*Attorney for licensee:* General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET l0H, Knoxville, Tennessee 37902

*NRC Project Director:* Frederick J. Hebdon

**Toledo Edison Company, Centerior Service Company, and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit 1, Ottawa County, Ohio**

*Date of amendment request:* June 24, 1997

*Description of amendment request:* The proposed amendment would change Technical Specification (TS) Section 3/4.3.2.1, ''Safety Features Actuation System Instrumentation,'' TS Section 3/4.6.1.7, ''Containment Ventilation System,'' TS Section 3/4.6.3.1, ''Containment Isolation Valves,'' and TS Section 3/4.9.4, ''Refueling Operations - Containment Penetrations,'' and the associated TS Bases. Valve position requirements would be added, and certain containment radiation monitor requirements, valve isolation verification requirements, and containment radiation monitor optional uses would be deleted.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Toledo Edison has reviewed the proposed changes and determined that a significant hazards consideration does not exist because operation ofthe Davis-Besse Nuclear Power

Station (DBNPS), Unit No. 1, in accordance with this change would:

1a Not involve a significant increase in the probability of an accident previously evaluated because no accident initiators, conditions, or assumptions are affected by the proposed changes.

The proposed changes to the Technical Specifications and their Bases ensure that during Modes 1 through 4 the Containment (CTMT) purge and exhaust isolation valves are closed with control power removed. Having these valves closed will not increase the probability of an accident because these valves are not accident initiators. They are used to mitigate the consequences of an accident. The proposed changes require these valves to be maintained in a closed position as required by design basis accident analysis.

The removal of the Safety Features Actuation System (SFAS) Radiation Monitors (RE's) and their associated SFAS Level 1 actuations does not affect any accident initiator, condition, or assumption.

During Modes 1 and 2 and partially in Mode 3, for design basis accidents which require CTMT isolation, the high/high-high CTMT pressure or low/low-low Reactor Coolant System (RCS) signals provide CTMT isolation and isolation and actuation of those components presently actuated by an SFAS Level 1 High Radiation signal. During Mode 3, when the RCS pressure is below 1800 psig, the low RCS pressure trip may be manually bypassed, and when the RCS pressure is below 600 psig, the low-low pressure trip may be manually bypassed. During the short period of time that these bypasses are activated in Mode 3, CTMT isolation is only automatically initiated by the CTMT high/high-high pressure trips. Manual SFAS actuation is also available, including Modes 1 through 4. Removing the SFAS RE's does not affect the operation of the SFAS Levels 2-4 actuation since these are based only on containment pressure and RCS pressure. Therefore, the assumption of CTMT isolation following design basis accidents is maintained.

The SFAS is not required in Mode 5. During Mode 6, the SFAS RE's and their associated SFAS Level 1 actuation are not credited during a fuel handling accident inside CTMT. The analysis for a fuel handling accident inside CTMT assumes that there is no isolation of CTMT. The probability of a fuel handling accident is not affected by these changes.

1b. Not involve a significant increase in the consequences of an accident previously evaluated because the proposed changes do not change the source term, CTMT isolation, or allowable releases.

The proposed changes to the Technical Specifications and their Bases ensure that during Modes 1 through 4, the CTMT purge and exhaust isolation valves are closed with control power removed.

Having these valves closed and their control power removed ensures that the valves are in and will remain in, the proper position for CTMT isolation during and following design basis accidents. Also, during Modes 1 and 2 and partially in Mode 3, SFAS actuation on high/high-high CTMT pressure or low/low-low RCS pressure provides for diverse CTMT isolation. As noted above, during Mode 3, when the RCS pressure is below 1800 psig, the low RCS pressure trip may be manually bypassed, and when the RCS pressure is below 600 psig, the low-low pressure trip may be manually bypassed. During the short period of time that these bypasses are activated in Mode 3, CTMT isolation is only automatically initiated by the CTMT high/high-high pressure trips. In addition, manual SFAS actuation is also available, including during Modes 1 through 4. Therefore, removal of the SFAS RE's and their actuation signal does not prevent CTMT isolation.

The SFAS RE's and automatic isolation of the CTMT purge and exhaust isolation valves during a fuel handling accident is not required because the CTMT purge and exhaust isolation system, including the associated noble gas monitor, with operator action, can provide the necessary actions to mitigate a fuel handling accident inside CTMT, assuming the purge and exhaust valves are open. Therefore, removing the SFAS RE's and their actuation signal will not increase the consequences of an accident because CTMT closure is ensured. Further, it is noted that CTMT isolation is not assumed in the accident analysis for the fuel handling accident.

The Containment Radiation-High trip feature is not credited for any DBNPS Updated Safety Analysis Report (USAR) accident analysis, therefore the proposed removal of this feature will not impact radiological consequences of such accidents.

2. Not create the possibility of a new or different kind of accident from any accident previously evaluated because no new accident initiators or assumptions are introduced by the proposed changes.

As stated above, the CTMT purge and exhaust isolation valves, the SFAS RE's, and SFAS actuation are not accident initiators. Maintaining the CTMT purge and exhaust isolation valves closed and control power removed ensures that the design basis assumption of CTMT isolation is maintained. Also, since SFAS Levels 2-4 actuation, as applicable, on high/high-high CTMT pressure or low/low-low RCS pressure or by manual actuation provides the required diversity of sensing parameters and isolation of CTMT, the SFAS RE's and their associated automatic isolation of the CTMT purge and exhaust isolation valves is not required during Modes 1 through 4. Therefore, no new or different kind of accident will be introduced.

3. Not involve a significant reduction in a margin of safety because the proposed changes maintain a redundant and diverse CTMT isolation capability following design basis accidents. Under TS 3/4.3.2, diversity in achieving CTMT isolation by means of a high/high-high CTMT pressure or low/low-low RCS pressure SFAS actuation will be maintained during Modes 1 through 3 (except during brief periods of bypass in Mode 3), and the redundancy of the SFAS sensor instrumentation channels and actuation channels themselves will be maintained. During Modes 1 through 4 the manual actuation capability of SFAS will be maintained. During Modes 1 through 4, control room indication of normal and accident range radiation monitoring will be maintained in accordance with TS 3/4.3.3.1 and 3/4.4.6.1.

Under TS 3/4.6.1.7, requiring the CTMT purge and exhaust isolation valves to be closed with control power removed, and requiring an open CTMT purge and exhaust isolation valve to be closed with control power removed within 24 hours is more restrictive than the current Technical Specifications or ''The Improved Standard Technical Specifications for Babcock and Wilcox Plants,'' NUREG-1430, Revision 1. Under TS 3/4.9.4, the existing requirements already allow for the SFAS-initiated closure of the CTMT purge and exhaust isolation valves to be unavailable and the CTMT purge and exhaust system noble gas monitor used as an alternative means of achieving CTMT isolation. Further, it is noted that CTMT isolation is not credited in the accident analysis for the fuel handling accident. Therefore, these proposed changes do 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 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 Toledo, William Carlson Library, Government Documents Collection, 2801 West Bancroft Avenue, Toledo, OH 43606

*Attorney for licensee:* Jay E. Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037

*NRC Project Director:* Gail H. Marcus

**Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri**

**Date of application request: April 24, 1997, as supplemented by letters dated June 6, 1997, and June 27, 1997.**

*Description of amendment request:* The amendment would revise Section 6.0 of the Technical Specifications to change the title ''Senior Vice President, Nuclear'' to ''Vice President and Chief Nuclear Officer.''

*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.

This proposed change does not involve any hardware or design changes, plant procedures, or administrative changes, other than a revision of title designation in documentation. Within the Union Electric

organizational structure, the departments reporting to the former Senior Vice-President, Nuclear now report to the Vice President and Chief Nuclear Officer. The position of Vice-President and Chief Nuclear Officer now reports to the President & Chief Executive Officer of Union Electric, which is the same management level of reporting as the previous title, Senior Vice-President, Nuclear. This change has no impact on the probability or consequences of accidents previously evaluated in the Final Safety Report (FSAR).

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

This proposed change does not involve any hardware or design changes, plant procedures, or administrative changes, other than a revision of title designation in documentation. Within the Union Electric organizational structure, the departments reporting to the former Senior Vice-President, Nuclear now report to the Vice President and Chief Nuclear Officer. The position of Vice-President and Chief Nuclear Officer now reports to the President & Chief Executive Officer of Union Electric, which is the same management level of reporting as the previous title, Senior Vice-President, Nuclear. No new or different kind of accident is introduced by this purely administrative change to revise documentation to reflect current organizational titles.

3. The proposed change does not involve a significant reduction in a margin of safety.

The safety margins of the Technical Specifications are based on the actual plant design and are unaffected by this purely administrative change. This change merely updates the Technical Specifications to reflect the current organizational title for senior management of the Callaway Plant, and within the organizational structure of Union Electric. This change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment 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

**Virginia Electric and Power Company, Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia**

*Date of amendment request:* May 14, 1997

*Description of amendment request:* The proposed change will provide clarification to the testing and inspection requirements that each of the turbine control valves be cycled and movement verified through at least one complete cycle from the running position and revise the current wording in Surveillance Requirement 4.7.1.7.2.a for both units to clarify the testing and inspection methodology of the turbine control valves. Additionally, Technical Specification Bases Section 3/4.7.1.7 will be revised to clarify the testing requirements for the turbine governor control valves.

*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:

Specifically, operation of the North Anna Power Station in accordance with the proposed Technical Specifications changes will not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

No new or unique accident precursors are introduced by these changes in surveillance requirements. The clarification for the turbine control valve testing and inspections do not change

the design, operation, or failure modes of the valves and other components in the turbine overspeed protection system.

The verification of the operability of the turbine control valves will continue to provide adequate assurance that the turbine overspeed protection system will operate as designed, if needed. Therefore, these changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previous[ly] evaluated.

Since the implementation of the proposed change to the surveillance requirements is to clarify the wording only, operation of the facilities with these proposed Technical Specifications does not create the possibility for any new or different kind of accident which has not already been evaluated in the Updated Final Safety Analysis Report (UFSAR).

The proposed wording changes to the Technical Specifications will not result in any physical alteration to any plant system, nor would there be a change in the method by which any safety-related system performs its function. The design and operation of the turbine overspeed protection and turbine control systems are not being changed. The proposed change merely represents a clarification to more specifically state current test requirements and test practice.

These changes do not change the design, operation, or failure modes of the valves and other components of the turbine overspeed protection system. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

The proposed changes would not reduce the margin of safety as defined in the basis for any Technical Specifications. The design and operation of the turbine overspeed protection and turbine control systems are not being changed and the operability of the turbine control valves are being demonstrated in the same manner. In addition, the results of the accident analyses which are documented in the UFSAR continue to bound operation under the proposed changes, so that there is no safety margin reduction. Therefore, the proposed change does not involve a reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* The Alderman Library, Special Collections Department, University of Virginia, Charlottesville, Virginia 22903-2498

*Attorney for licensee:* Michael W. Maupin, Esq., Hunton and Williams, Riverfront Plaza, East Tower, 951 E. Byrd Street, Richmond, Virginia 23219

*NRC Project Director:* Gordon E. Edison, Acting

**Wolf Creek Nuclear Operating Corporation, Docket No. 50-482, Wolf Creek Generating Station, Coffey County, Kansas**

*Date of amendment request:* July 3, 1997

*Description of amendment request:* This license amendment request revises Technical Specification Section 5.3.1, Fuel Assemblies, to allow the use of an alternate zirconium based fuel cladding material, ZIRLO. Wolf Creek Nuclear Operating Corporation (WCNOC) is planning to insert Westinghouse fuel assemblies containing ZIRLO fuel rod cladding during the ninth refueling outage, which is currently scheduled to begin in October 1997. This request proposes to incorporate additional information, associated with the requested change, into Technical Specification 6.9.1.9, ''CORE OPERATING LIMITS REPORT (COLR).'' This revised submittal supersedes the staff's proposed no significant hazards consideration determination evaluation for the requested changes that were published on April 23, 1997 (62 FR 19839).

*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 methodologies used in the accident analysis 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 cladding does not adversely affect fuel performance or impact nuclear design methodology. Therefore accident analyses 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 basis.

VANTAGE 5H with IFMs fuel assemblies with ZIRLO clad fuel rods meet the same fuel assembly and fuel rod design bases as other VANTAGE 5H with IFMs fuel assemblies. In addition, the 10 CFR 50.46 criteria are applied to the ZIRLO clad rods. The use of these fuel assemblies will not result in a change to the reload design and safety analysis limits. The clad material is similar in chemical composition and has similar physical and mechanical properties as Zircaloy-4. Thus, the cladding integrity is maintained and the structural integrity of the fuel assembly is not affected. ZIRLO cladding 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 clad fuel rods. Since the dose predictions in the safety analyses are not sensitive to fuel rod cladding material, the radiological consequences of accidents previously evaluated in the safety analysis remain valid.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident or malfunction of equipment important to safety previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

VANTAGE 5H with IFMs fuel assemblies with ZIRLO clad fuel rods satisfy the same design bases as those used for other VANTAGE 5H with IFMs fuel assemblies. All design and performance criteria continue to be met and no new failure mechanisms have been identified. Since the original design criteria are met, the ZIRLO clad fuel rods will not be an initiator for any new

accident or malfunction of equipment important to safety. The ZIRLO cladding 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 and components are not affected, the proposed changes do not create the possibility of a new or different kind of accident or malfunction of equipment important to safety from any accident or malfunction of equipment important to safety previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

Use of ZIRLO cladding material does not change the VANTAGE 5H with IFMs reload design and safety limits. The use of these fuel assemblies will take into consideration the normal core operating conditions allowed in the Technical Specifications. For each cycle 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.

The use of Zircaloy-4, ZIRLO or stainless steel filler rods in fuel assemblies will not involve a significant reduction in the margin of safety because analyses using NRC approved methodologies 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.

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:* July 3, 1997

*Description of amendment request:* This license amendment request revises Definition 1.9, ''CORE ALTERATION.'' This change will more clearly define the types of components that constitute a core alteration when moved.

*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 probability of occurrence of a previously evaluated accident is not increased because this change to the definition of core alteration does not introduce any new potential accident initiating conditions. The proposed change will not affect any previously evaluated accident scenario. This proposed change will not affect any currently approved refueling-related operating activities. The consequences of an accident previously evaluated is not increased because the ability of containment to restrict the release of any fission product radioactivity to the environment will not be degraded by this change.

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 affect any previously evaluated accident scenarios, nor does it create any new accident scenarios. The proposed change does not alter any of the currently-approved refueling operation activities, nor does it create any new refueling operating activities.

Therefore, this proposed change will not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

WCGS Technical Specification 3/4.9.1, Boron Concentration, specifies that $K_{eff}$ will be maintained equal to or less than 0.95 during Operating Mode 6 with fuel in the vessel and the vessel head removed. The proposed change in the definition of core alteration will allow ''non-core'' components, such as cameras, lights, fuel inspection tools, etc., to be moved or manipulated in the vessel, with fuel in the vessel and the vessel head removed, without constituting a core alteration. This is acceptable because these types of components will have no effect on core reactivity, and will not affect reactor coolant system boron concentrations. Therefore, operations using these types of components will not adversely affect $K_{eff}$ or the shutdown margin. Reactor subcriticality status is continuously monitored in the control room during Operating Mode 6, as specified in WCGS Technical Specification 3/4.9.2, Instrumentation.

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:* July 3, 1997

*Description of amendment request:* This license amendment request revises Surveillance Requirements 4.3.1.2 and 4.3.2.2 of Technical Specification (TS) 3/4.3.1, ''Reactor Trip System Instrumentation'' and TS 3/4.3.2, ''Engineered Safety Features Actuation System Instrumentation'' and associated Bases to indicate that the total response time will be determined based on the results of WCAP-13632-P-A Revision 2, ''Elimination of Pressure Sensor Response Time Testing Requirements.''

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The same RTS [Reactor Trip System] and ESFAS [Engineered Safety Features Actuation System] instrumentation is being used. The time response allocations/modeling assumptions in the Updated Safety Analysis Report Chapter 15 analyses are still the same, only the method of verifying time response is changed. The proposed change will not modify any system interface and could not increase the likelihood of an accident since these events are independent of this change. The proposed activity will not change, degrade or prevent actions or alter any assumptions previously made in evaluating the radiological consequences of an accident described in the USAR. The proposed change will not affect the probability of any event initiators, nor will the proposed change affect the ability of any safety-related equipment to perform its intended function. There will be no degradation in the performance of, nor an increase in the number of challenges imposed on safety-related equipment assumed to function during an accident situation. Therefore, the proposed 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.

There are no hardware changes, nor are there any changes in the method by which any safety-related plant system performs its safety function. The change will not alter the normal method of plant operation. No transmitter performance requirements will be affected. This change does not alter the performance of the pressure and differential pressure transmitters used in the plant protection systems. All sensors will still have response times verified by test before placing the sensors in operational service, and after any maintenance that could affect response time. Changing the method of periodically verifying instrument response for certain sensors (assuring equipment operability) from time response testing to calibration and channel checks will not create any new accident initiators or scenarios. Periodic surveillance of these instruments will detect significant degradation in the sensor response characteristic. No new transient precursors, failure mechanisms, or limiting single failures are introduced as a result of this change. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed change does not affect the acceptance criteria for any analyzed event. This change does not affect the total system response time assumed in the safety analysis. The periodic system response time verification method for selected pressure and differential pressure sensors is modified to allow use of actual test data or engineering data. The method of verification still provides assurance that the total system response is within

that defined in the safety analysis, since calibration tests will detect any degradation which might significantly affect sensor response time. There will be no effect on the manner in which safety limits or limiting safety system settings are determined, nor will there be any effect on those plant systems necessary to assure the accomplishment of protection functions. There will be no impact on any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 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.

**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:* January 27, 1997, as supplemented May 16, 1997.

*Brief description of amendment:* The amendment revised the Technical Specifications to permit control rod misalignment of plus or minus 18 steps when the core power is less than or equal to 85% of rated thermal power (RTP) and plus or minus 12 steps above 85% RTP.

*Date of publication of individual notice in* **Federal Register:** June 19, 1997 (62 FR 33445)

*Expiration date of individual notice:* July 21, 1997

*Local Public Document Room location:* White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601

## 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.

**Commonwealth Edison Company, Docket Nos. STN 50-454 and STN 50-455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois Docket Nos. STN 50-456 and STN 50-457, Braidwood Station, Unit Nos. 1 and 2, Will County, Illinois**

**Date of application for amendments:** January 20, 1997

*Brief description of amendments:* The amendments revise Technical Specification (TS) 3.6.3, ''Containment Isolation Valves,'' to reflect modifications associated with steam generator replacement for Unit 1 of each station. TS Table 3.6-1, ''Containment Isolation Valves,'' will be modified to reflect the deletion of feedwater bypass valves and reassignment of certain isolation valves to different containment penetrations. TS pages for Unit 2 of each station are affected because Units 1 and 2 share common TS pages.

*Date of issuance:* : July 10, 1997Effective date: Immediately, to be implemented within 30 days.

*Amendment Nos.:* 91, 90, 84, and 83

*Facility Operating License Nos.* NPF-37, NPF-66, NPF-72 and NPF-77: The amendments revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** March 12, 1997 (62 FR 11489). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 10, 1997. No significant hazards consideration comments received: No.

*Local Public Document Room location:* For Byron, the Byron Public Library District, 109 N. Franklin, P.O. Box 434, Byron, Illinois 61010; for Braidwood, the Wilmington Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481

**Commonwealth Edison Company, Docket No. 50-010, Dresden Nuclear Generating Station, Unit 1, Grundy County, Illinois**

*Date of application for amendment:* October 23, 1996, as supplemented November 25, 1996, and June 5, 1997.

*Brief description of amendment:* The amendment replaces the Appendix A Technical Specifications of License DPR-2 in their entirety. The amendment revises the Dresden 1 Technical Specifications (TS) to the same format as the Dresden Nuclear Power Station, Units 2 and 3 (Dresden 2/3) Technical Specification Upgrade Program (TSUP).

*Date of issuance:* July 8, 1997

*Effective date:* July 8, 1997

*Amendment No.:* 39

*Facility Operating License No.* DPR-2: The amendment revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** January 29, 1997 (62 FR 4343). The November 25, 1996, and June 5, 1997, submittals provided additional clarifying information that did not change the initial proposed no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 8, 1997. No significant hazards consideration comments received: No.

*Local Public Document Room location:* Morris Area Public Library District, 604 Liberty Street, Morris, Illinois 60450

**Commonwealth Edison Company, Docket Nos. 50-373 and 50-374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois**

*Date of application for amendments:* January 20, 1997

*Brief description of amendments:* The amendments revise the Technical Specifications for various instruments which have alarm or indication functions. The amendments relocate surveillance requirements for selected instrumentation from Technical Specifications to licensee controlled documents or replace selected surveillance requirements with those more appropriate to the associated LCOs. In addition, the amendments add an action statement related to the automatic depressurization system accumulator backup compressed gas system and delete action statements related to suppression chamber water level instrumentation.

*Date of issuance:* July 16, 1997

*Effective date:* Immediately, to be implemented within 60 days.

*Amendment Nos.:* 118 and 103

*Facility Operating License Nos.* NPF-11 and NPF-18: The amendments revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** February 26, 1997 (62 FR 8795) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 16, 1997. No significant hazards consideration comments received: No.

*Local Public Document Room location:* Jacobs Memorial Library, Illinois Valley Community College, Oglesby, Illinois 61348

**Houston Lighting & Power Company, City Public Service Board of San Antonio, Central Power and Light Company, City of Austin, Texas, Docket Nos. 50-498 and 50-499, South Texas Project, Units 1 and 2, Matagorda County, Texas**

*Date of amendment request:* August 15, 1996, as supplemented by letters dated October 31, 1996, and May 29, 1997.

*Brief description of amendments:* The amendments removed a requirement for performance of a surveillance incorporating a high toxic gas test signal.

*Date of issuance:* July 17, 1997

*Effective date:* July 17, 1997, to be implemented within 30 days.

*Amendment Nos.:* Unit 1 - Amendment No. 88; Unit 2 - Amendment No. 75

*Facility Operating License Nos.* NPF-76 and NPF-80: The amendments revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** September 25, 1996 (61 FR 50344) The additional information contained in the supplemental letters dated October 31, 1996, and May 29, 1997, were clarifying in nature and thus, within the scope of the initial notice and did not affect the staff's proposed no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 17, 1997. No significant hazards consideration comments received: No.

*Local Public Document Room location:* Wharton County Junior

College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton, TX 77488

**Northeast Nuclear Energy Company, et al., Docket No. 50-423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut**

*Date of application for amendment:* April 14, 1997

*Brief description of amendment:* Technical Specification 3.4.9.3 requires, in part, that two residual heat removal suction relief valves be operable to protect the reactor coolant system from overpressurization when any reactor coolant system cold leg is less than 350 degrees. The amendment revises the setpoint of the residual heat removal suction relief valves.

*Date of issuance:* July 10, 1997

*Effective date:* As of the date of issuance, to be implemented within 60 days.

*Amendment No.:* 143

*Facility Operating License No.* NPF-49: Amendment revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** June 4, 1997 (62 FR 30634) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 10, 1997. 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, Connecticut 06360, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut 06385

**Pennsylvania Power and Light Company, Docket Nos. 50-387 and 50-388 Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania**

*Date of application for amendments:* June 10, 1996, as supplemented July 25, 1996

*Brief description of amendments:* These amendments change the differential temperature Technical Specifications allowable values and trip setpoints for the reactor water cleanup system penetration room steam leak detection function.

*Date of issuance:* June 26, 1997

*Effective date:* Both units, as of date of issuance, to be implemented within 30 days.

*Amendment Nos.:* 166 and 140

*Facility Operating License Nos.* NPF-14 and NPF-22: The amendments revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** December 4, 1996 (61 FR 64389) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 26, 1997. No significant hazards consideration comments received: No.

*Local Public Document Room location:* Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, PA 18701

**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:* December 23, 1996, as supplemented February 26, 1997, May 12, 1997, June 16, 1997, and July 2, 1997 and July 11, 1997.

*Brief description of amendment:* The amendment changes the Technical Specifications to allow the use of VANTAGE+ fuel for cycle 10.

*Date of issuance:* July 15, 1997

*Effective date:* As of the date of issuance to be implemented within 60 days.

*Amendment No.:* 175

*Facility Operating License No.* DPR-64: Amendment revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** February 12, 1997 (62 FR 6578). The February 26, 1997, May 12, 1997, and June 16, 1997, July 2, 1997 and July 11, 1997, letters provided information that did not change the initial no proposed significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 15, 1997. 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 No. 50-354, Hope Creek Generating Station, Salem County, New Jersey**

*Date of application for amendment:* March 31, 1997

*Brief description of amendment:* This amendment changes Hope Creek Technical Specification Section 3.6.5.3.2, ''Filtration, Recirculation and Ventilation System (FRVS),'' to provide an appropriate Limiting Condition for Operation and ACTION Statement that reflects the design basis for the FRVS.

*Date of issuance:* July 9, 1997

*Effective date:* July 9, 1997, to be implemented within 60 days

*Amendment No.:* 99

*Facility Operating License No.* NPF-57: This amendment revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** May 21, 1997 (62 FR 27798) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 9, 1997. No significant hazards consideration comments received: No.

*Local Public Document Room location:* Pennsville Public Library, 190 S. Broadway, Pennsville, NJ 08070

**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:* June 18, 1996, as supplemented August 19, 1996, April 28, 1997, and June 11, 1997

*Brief description of amendments:* The amendments change Technical Specification (TS) 5.2.2, ''Design Pressure and Temperature,'' by adding design parameters for Main Steam Line Break (MSLB). The MSLB analysis results in a higher containment air temperature than the value that was in TS 5.2.2 prior to the issuance of these amendments.

*Date of issuance:* July 17, 1997

*Effective date:* July 17, 1997

*Amendment Nos.:* 198 and 181

*Facility Operating License Nos.* DPR-70 and DPR-75: The amendments revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** July 17, 1996 (61 FR 37302) The supplemental letters did not change the original no significant hazards consideration determination nor the Federal Register notice. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 17, 1997. No significant hazards consideration comments received: No

*Local Public Document Room location:* Salem Free Public Library, 112 West Broadway, Salem, NJ 08079

**Tennessee Valley Authority, Docket Nos. 50-259, 50-260, and 50-296, Browns Ferry Nuclear Plant, Units 1, 2, and 3, Limestone County, Alabama**

*Date of application for amendments:* August 30, 1996 (TS 380)

*Brief description of amendment:* The amendments remove License Condition 2.C.(3) regarding thermal water quality limits.

*Date of issuance:* July 8, 1997

*Effective Date:* Effective as of the date of issuance.

*Amendment Nos.:* 232, 248 and 208

*Facility Operating License Nos.* DPR-33, DPR-52 and DPR-68: Amendments revise the license.

*Date of initial notice in* **Federal Register:** September 25, 1996 (61 FR

50347) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 8, 1997. No significant hazards consideration comments received: No.

*Local Public Document Room location:* Athens Public library, South Street, Athens, Alabama 35611

**Tenessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee**

*Date of application for amendments:* August 22, 1996 (TS 96-08)

*Brief description of amendments:* The amendments change the Technical Specifications (TS) by eliminating the emergency diesel generator accelerated testing and special reporting requirements TS 4.8.1.1.2.a in accordance with NRC Generic Letter 94-01.

*Date of issuance:* : July 14, 1997

*Effective date:* July 14, 1997

*Amendment Nos.:* 226 and 217

*Facility Operating License Nos.* DPR-77 and DPR-79: Amendments revise the TS.

*Date of initial notice in* **Federal Register:** October 9, 1996 (61 FR 52969) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 14, 1996. No significant hazards consideration comments received: No

*Local Public Document Room location:* Chattanooga-Hamilton County Library, 1101 Broad Street, Chattanooga, Tennessee 37402

**Virginia Electric and Power Company, et al., Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia**

*Date of application for amendments:* December 17, 1996

*Brief description of amendments:* The proposed changes will allow one of the two service water loops to be isolated from the component cooling water heat exchangers (CCHXs) during power operation in order to refurbish sections of the isolated service water headers. The proposed temporary changes will be valid for two periods of up to 35 days each for implementation of the service water upgrades associated with the repair of the sections of the 24-inch service water supply and return piping to/from the CCHXs.

*Date of issuance:* July 17, 1997

*Effective date:* July 17, 1997

*Amendment Nos.:* 205 and 186

*Facility Operating License Nos.* NPF-4 and NPF-7:. These amendments revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** February 12, 1997 (62 FR 6580) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 17, 1997. No significant hazards consideration comments received: No.

*Local Public Document Room location:* The Alderman Library, Special Collections Department, University of Virginia, Charlottesville, Virginia 22903-2498Virginia Electric and Power Company, et al., Docket Nos. 50-280 and 50-281, Surry Power Station, Units 1 and 2, Surry County, Virginia

*Date of application for amendments:* November 26, 1997

*Brief description of amendments:* These amendments revise the Technical Specifications (TSs) to eliminate the records retention requirements from Section 6.5 of the TSs. The relocation of those requirements to the Operational Quality Assurance program, contained in the Final Safety Analysis Report, has been completed.

*Date of issuance:* July 15, 1997

*Effective date:* July 15, 1997

*Amendment Nos.:* 211 and 211

*Facility Operating License Nos.* DPR-32 and DPR-37: Amendments change the Technical Specifications.

*Date of initial notice in* **Federal Register:** March 26, 1997 (62 FR 14472) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 15, 1997. No significant hazards consideration comments received: No.

*Local Public Document Room location:* Swem Library, College of William and Mary, Williamsburg, Virginia 23185

**Virginia Electric and Power Company, et al., Docket Nos. 50-280 and 50-281, Surry Power Station, Units 1 and 2, Surry County, Virginia**

*Date of application for amendments:* February 3, 1997, and March 18, 1997

*Brief description of amendments:* These amendments revise the Technical Specifications to eliminate the inconsistency between the current approved Inservice Inspection Program and ASME Code (1989 Edition) and the Surry Technical Specifications (TS) as required by 10 CFR 50.55a(g)95)(ii).

*Date of issuance:* July 15, 1997

*Effective date:* July 15, 1997

*Amendment Nos.:* 212 and 212

*Facility Operating License Nos.* DPR-32 and DPR-37: Amendments change the Technical Specifications.

*Date of initial notice in* **Federal Register:** April 9, 1997 (62 FR 17242) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 15, 1997. 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:* May 20, 1997, as supplemented by letters dated June 6, 1997, and July 3, 1997. Additional information was also received by letters dated June 12, June 20, and June 25, 1997.

*Brief description of amendment:* The amendment modifies the Technical Specifications (TS) for the minimum critical power ratio (MCPR) safety limit in TS 2.1.1.2 for ATRIUM 9X9 fuel. This change is effective for Cycle 13 operation only.

*Date of issuance:* July 3, 1997

*Effective date:* July 3, 1997, to be implemented within 30 days from the date of issuance.

*Amendment No.:* 151

*Facility Operating License No.* NPF-21: The amendment revised the Technical Specifications and operating license.

*Date of initial notice in* **Federal Register:** May 29, 1997 (62 FR 29160). The June 12, June 20, June 25, and July 3, 1997, submittals provided clarifying information which did not affect the initial no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 3, 1997. No significant hazards consideration comments received: No.

*Local Public Document Room location:* Richland Public Library, 955 Northgate Street, Richland, Washington 99352

**Wisconsin Electric Power Company, Docket Nos. 50-266 and 50-301, Point Beach Nuclear Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin**

*Date of application for amendments:* September 30, 1996 (TSCR-192), as supplemented on November 26 and December 12, 1996, February 13, March 5, April 2, April 16, May 9, June 3, June 13 (two letters), and June 25, 1997

*Brief description of amendments:* These amendments revise Technical Specification (TS) 15.3.3, ''Emergency Core Cooling System, Auxiliary Cooling Systems, Air Recirculation Fan Coolers, and Containment Spray,'' to incorporate allowed outage times similar to those contained in NUREG-1431, Revision 1, ''Westinghouse Owner's Group Improved Standard Technical

Specifications,'' and modify the operability requirements for the service water and component cooling water systems. TS 15.3.7, ''Auxiliary Electrical Systems,'' was revised to reflect the changes to the service water system operability requirements. These changes ensure that TS requirements are the ''lowest functional capability or performance levels of equipment required for safe operation of the facility,'' as defined in 10 CFR 50.36(c)(2), ''Limiting Conditions for Operation.'' Additionally, the amendments change TS 15.3.12, ''Control Room Emergency Filtration,'' to revise charcoal filtration efficiencies and to include a specific testing standard, and TS 15.5.2, ''Containment,'' to revise the design heat removal capability of the containment fan coolers.

*Date of issuance:* July 9, 1997

*Effective date:* July 9, 1997, with full implementation prior to restart of Unit 2 and Unit 1 and no later 45 days from the date of issuance. Implementation includes incorporating changes to TS requirements for the service water system, component cooling water systems, and control room ventilating system as detailed in an application dated September 30, 1996, as supplemented on November 26 and December 12, 1996, February 13, March 5, April 2, April 16, May 9, June 3, June 13 (two), and June 25, 1997, and evaluated in the staff's safety evaluation dated July 9, 1997. These amendments are authorized contingent on compliance to commitments provided by the licensee, to meet the dose limits associated with Title 10, Code of Federal Regulations, Part 50, Appendix A, General Design Criterion (GDC) 19 by: (1) submitting a license amendment application including supporting analyses and evaluations by February 27, 1998, that contains the proposed methods for compliance with GDC 19 dose limits under accident conditions based on system design and without reliance on the use of potassium iodide and/or self contained breathing apparatus, and (2) implementing the proposed changes within 2 years of the date that NRC approval for the proposed license amendment is granted. Additionally, these amendments are authorized contingent on compliance to commitments provided by the licensee, to operate Point Beach Nuclear Plant in accordance with its service water system analyses and approved procedures. Specifically, each unit will utilize only one component cooling water (CCW) heat exchanger until such time that analyses are completed and the service water system reconfigured as necessary to allow operation of one or both units with two heat exchangers in service. If two CCW heat exchangers are required in one or both units for maintaining acceptable CCW temperature prior to completion of necessary analyses to allow operation in the required configuration, the service water system will be considered in an unanalyzed condition, declared inoperable and action taken as specified by TS 15.3.0.B except for short periods of time as necessary to effect procedurally controlled changes in system lineups and unit operating conditions.

*Amendment Nos.:* 174 and 178

*Facility Operating License Nos.* DPR-24 and DPR-27: Amendments revised the Licenses and Technical Specifications. Public comments requested as to proposed no significant hazards considerations (NSHC): Yes (61 FR 58905 dated November 19, 1996; 62 FR 17244 dated April 9, 1997; and 62 FR 31636 dated June 10, 1997). No comments have been received. The June 10, 1997, notice also provided for an opportunity to request a hearing by July 10, 1997, but indicated that if the Commission makes a final NSHC determination, any such hearing would take place after issuance of the amendments. The June 13 and June 25, 1997, submittals provided clarifying information within the scope of the application and did not affect the staff's previous no significant hazards considerations determinations. The Commission's related evaluation of the amendments, finding of exigent circumstances, and final determination of no significant hazards considerations are contained in a Safety Evaluation dated July 9, 1997.

*Attorney for licensee:* Gerald Charnoff, Esq., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW., Washington, DC 20037

*Local Public Document Room location:* The Lester Public Library 1001 Adams Street, Two Rivers, WI 54241

**Wolf Creek Nuclear Operating Corporation, Docket No. 50-482, Wolf Creek Generating Station, Coffey County, Kansas**

*Date of amendment request:* April 23, 1997

*Brief description of amendment:* This amendment allows the service air and breathing air containment penetrations to remain open under administrative control during periods of core alterations or movement of irradiated fuel inside containment.

*Date of issuance:* July 11, 1997

*Effective date:* July 11, 1997, to be implemented within 30 days from the date of issuance.

*Amendment No.:* 107

*Facility Operating License No.* NPF-42: The amendment revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** June 4, 1997 (62 FR 30648) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 11, 1997. No significant hazards consideration comments received: No.

*Local Public Document Room locations:* Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621

**Notice Of Issuance Of Amendments To Facility Operating Licenses And Final Determination Of No Significant Hazards Consideration And Opportunity For A Hearing (Exigent Public Announcement Or Emergency Circumstances)**

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing.

For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of

telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards consideration determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendment. By August 29, 1997, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses. Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-001, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-001, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained

absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

**Entergy Operations Inc., Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana**

*Date of amendment request:* July 10, 1997

*Brief description of amendment:* The amendment changes the Appendix A Technical Specifications by deleting the requirements of Surveillance Requirements (SR) 4.8.1.1.2.h.2 for the diesel fuel oil system. This change will result in testing of the diesel fuel oil system in accordance with ASME Code Section XI requirements.

*Date of issuance:* July 11, 1997

*Effective date:* July 11, 1997, with full implementation within 30 days.

*Amendment No:* 132

*Facility Operating License No.* NPF-38: Amendment revises the Technical Specifications. Public comments requested as to proposed no significant hazards consideration: No. The Commission's related evaluation of the amendment, finding of emergency circumstances, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated July 11, 1997.

*Attorney for licensee:* N.S. Reynolds, Esquire, Winston & Strawn, 1400 L Street N.W., Washington, D.C. 20005-3502

*Local Public Document Room location:* University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, LA 70122

*NRC Acting Project Director:* James Clifford, Acting

Dated at Rockville, Maryland, this 23rd day of July 1997.

For The Nuclear Regulatory Commission

**Jack W. Roe,**

*Director, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation*

[Doc. 97–19910 Filed 7–29–97; 8:45 am]

**BILLING CODE 7590–01–F**

## POSTAL RATE COMMISSION

**[Docket No. A97–25, Order No. 1187]**

### In the Matter of: Webster Crossing, New York 14584, (Eleanor Wong, et al., Petitioners); Notice and Order Accepting Appeal and Establishing Procedural Schedule UNDER 39 U.S.C. § 404(b)(5)

Issued July 24, 1997.

*Docket Number:* A97–25.

*Name of Affected Post Office:* Webster Crossing, New York 14584.

*Name(s) of Petitioner(s):* Eleanor Wong, *et al.*

*Type of Determination:* Closing.

*Date of Filing of Appeal Papers:* July 18, 1997.

*Categories of Issues Apparently Raised:*

1. Effect on the community [39 U.S.C. 404(b)(2)(A)].

2. Effect on postal services [39 U.S.C. 404(b)(2)(C)].

After the Postal Service files the administrative record and the Commission reviews it, the Commission may find that there are more legal issues than those set forth above. Or, the Commission may find that the Postal Service's determination disposes of one or more of those issues.

The Postal Reorganization Act requires that the Commission issue its decision within 120 days from the date this appeal was filed (39 U.S.C. 404(b)(5)). In the interest of expedition, in light of the 120-day decision schedule, the Commission may request the Postal Service to submit memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request and the Postal Service shall serve a copy of its memoranda on the petitioners. The Postal Service may incorporate by reference in its briefs or motions, any arguments presented in memoranda it previously filed in this docket. If necessary, the Commission also may ask petitioners or the Postal Service for more information. The Commission orders:

(a) The Postal Service shall file the record in this appeal by August 1, 1997.

(b) The Secretary of the Postal Rate Commission shall publish this Notice and Order and Procedural Schedule in the **Federal Register**.

By the Commission.

**Cyril J. Pittack,**

*Acting Secretary.*

**Appendix**

July 18, 1997—Filing of Appeal letter.

July 24, 1997—Commission Notice and Order of Filing of Appeal.

August 12, 1997—Last day of filing of petitions to intervene [see 39 CFR 3001.111(b)].

August 22, 1997—Petitioners' Participant Statement or Initial Brief [see 39 CFR 3001.115 (a) and (b)].

September 11, 1997—Postal Service's Answering Brief [see 39 CFR 3001.115(c)].

September 26, 1997—Petitioners' Reply Brief should Petitioner choose to file one [see 39 CFR 3001.115(d)].

October 3, 1997—Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings [see 39 CFR 3001.116].

November 15, 1997—Expiration of the Commission's 120-day decisional schedule [see 39 U.S.C. 404(b)(5)].

[FR Doc. 97–20014 Filed 7–29–97; 8:45 am]

**BILLING CODE 7710–FW–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Rel. No. IC–22762; File No. 812–10676]**

### Oppenheimer & Co., L.P., et al.

July 24, 1997.

**AGENCY:** Securities and Exchange Commission (''SEC'').

**ACTION:** Notice of application for exemption under the Investment Company Act of 1940 (''Act'').

*Applicants:* Oppenheimer & Co., L.P. (''Opco''), Oppenheimer Group, Inc. (''Opgroup''), Oppenheimer Financial Corp. (''Opfin'') (collectively, the ''Oppenheimer Applicants''), The Emerging Markets Income Fund Inc. (''Emerging Market''), The Emerging Markets Income Fund II Inc. (''Emerging Market II''), The Emerging Markets Floating Rate Fund Inc. (''Emerging floating Rate''), Global Partners Income Fund Inc. (''Global Partners''), Municipal Partners Fund Inc. (''Municipal Partners''), Municipal Partners Fund II Inc. (''Municipal Partners II''), The Enterprise Group of Funds, Inc. (''Enterprise Fund''), Enterprise Accumulation Trust (''Enterprise Trust''), WNL Series Trust (''WNL''), Endeavor Series Trust (''Endeavor''), Penn Series Funds, Inc. (''Penn Fund''), The Preferred Group of Mutual Funds (''Preferred''), Select Advisors Portfolios (''Select Portfolios''), Select Advisors Variable Insurance Trust (''Select Trust''), Select Advisors Trust A (''Select A''), and Select Advisors Trust C (''Select C'') (collectively, the ''Companies'').

*Relevant Act Sections:* Order requested under section 6(c) for an exemption from section 15(f)(1)(A).

*Summary of Application:* Applicants request an exemption from section 15(f)(1)(A) in connection with the proposed change in control of Oppenheimer Capital (''Opcapital''), Opcap Advisors (''Opcap''), and Advantage Advisers, Inc. (''Advantage,'' collectively with Opcapital and Opcap, the ''Advisers''), each of which acts as investment adviser or subadviser to one or more of the Companies. Without the requested exemption, the Companies would have to reconstitute their boards of directors (''Boards'') to meet the 75

percent non-interested director requirement of section 15(f)(1)(A) in order to permit the Oppenheimer Applicants to rely upon the safe harbor provisions of section 15(f).

**FILING DATE:** The application was filed on May 20, 1997, and amended on July 18, 1997.

*Hearing or Notification of Hearing:* An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on August 18, 1997 and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants: Oppenheimer Applicants, Oppenheimer Tower, World Financial Center, 200 Liberty Street, New York, New York 10281; Emerging Market, Emerging Market II, Emerging Floating Rate, Global Partners, Municipal Partners, and Municipal Partners II, 7 World Trade Center, New York, New York 10048; Enterprise Fund and Enterprise Trust, Atlanta Financial Center, 3343 Peachtree Road, Suite 450, Atlanta, Georgia 30326; WNL, 5555 San Felipe, Suite 900, Houston, Texas 77056; Endeavor, 2101 East Coast Highway, Suite 300, Corona del Mar, California 92625; Penn Fund, 600 Dresher Road, Horsham, Pennsylvania 19044; Preferred, 100 N.E. Adams Street, Peoria, Illinois 61629; Select Portfolios, Select Trust, Select A, and Select C, c/o The Touchstone Family of Funds, 311 Pike Street, Cincinnati, Ohio 45202.

**FOR FURTHER INFORMATION CONTACT:** Courtney S. Thorton, Senior Counsel, at (202) 942–0583, or Mary Kay Frech, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

### Applicants' Representations

1. Opcap, an investment adviser registered under the Investment Advisers Act of 1940 (''Advisers Act''), is a general partnership in which Opcapital, another general partnership registered as an investment adviser, holds a 90% interest. Opfin holds a 32.52% general partnership interest in Opcapital, and Oppenheimer Capital, L.P., a publicly traded Delaware master limited partnership, holds the remaining 67.48% general partnership interest in Opcapital. Opfin, which also holds a 1% general partnership interest in Oppenheimer Capital, L.P., is a wholly-owned subsidiary of Opgroup, the common stock of which is owned 71% by Opco and 29% by holders unaffiliated with Opco.

2. Advantage is a Delaware corporation registered as an investment adviser under the Advisers Act. Advantage is a wholly-owned subsidiary of Oppenheimer & Co., Inc. (an indirect wholly-owned subsidiary of Opgroup), which is an investment bank and broker-dealer registered under the Securities Exchange Act of 1934 (''Exchange Act'').

3. Each Company is registered under the Act as a management investment company. Each of the Advisers serves as investment adviser or subadviser to one or more of the Companies,[1]

4. On February 13, 1997, Opgroup, Opfin, PIMCO Advisors L.P. (''PIMCO''), and Thomson Advisory Group Inc. (''TAG''), an affiliated person of PIMCO, entered into an agreement and plan of merger pursuant to which Opgroup is to merge with and into TAG (the ''Transaction''). Following consummation of the Transaction, Advantage will be a wholly-owned subsidiary of TAG, and PIMCO will indirectly hold the 32.53% general partnership interest in Opcapital and the 1% general partnership interest in Oppenheimer Capital, L.P., each currently held by Opfin.[2]

5. Consummation of the Transaction will result in a change of control of each of the Advisers within the meaning of section 2(a)(9) of the Act and, consequently, will result in an assignment of the current advisory or subadvisory contract between each of the Advisers and each respective Company (or its investment adviser, in the case of subadvisory contracts) within the meaning of section 2(a)(4) of the Act. As required by section 15(a)(4) of the Act, each such contract will automatically terminate in accordance with the terms thereof.

6. Board and shareholder approval is being sought for new advisory and subadvisory contracts to take effect upon consummation of the Transaction, such new contracts in each case to be substantially identical to the existing contracts (including the fees payable thereunder). Approval of the new contracts already has been obtained from the Board of each Company. In connection with this approval, a presentation was made and information was furnished to each Board regarding PIMCO and TAG, each Board considered the terms of the new contract and information regarding the quality of the services to be provided by the Adviser thereunder, and each Board determined that the new contract was in the best interests of the Company's shareholders. Each Company has begun to prepare proxy materials for distribution to its shareholders in connection with soliciting their approval of the Company's new advisory contract, and it is anticipated that such proposals will have been obtained by the end of the summer.[3]

### Applicants' Legal Analysis

1. Section 15(f) of the Act is a safe harbor that permits an investment adviser to a registered investment company (or an affiliated person of the investment adviser) to realize a profit upon the sale of its business if certain conditions are met. One of these conditions is set forth in section 15(f)(1)(A). This condition provides that, for a period of three years after such a sale, at least 75 percent of the board of an investment company may not be ''interested persons'' with respect to either the predecessor or successor adviser of the investment company. Section 2(a)(19)(B)(v) defines an interested person of an investment adviser to include any broker or dealer

[1] Advantage serves as ''investment manager'' of Emerging Market II, Emerging Floating Rate, Global Partners, Municipal Partners, and Municipal Partners II. As investment manager, Advantage supervises each fund's investment program, including advising and consulting with each fund's adviser regarding each such fund's overall investment strategy and the adviser's decisions concerning portfolio transactions, and provides access to economic information and research to each fund. Applicants state that, when acting as investment manager, Advantage is acting as an investment adviser within the meaning of section 2(a)(20) of the Act under a contract subject to section 15 of the Act.

[2] Prior to consummation of the Transaction, tax considerations may require the transfer of the portion of Advantage's business relating to acting as investment adviser or investment manager of the Companies to a new, wholly-owned subsidiary of Opco. In the event of such a transfer, the new subsidiary (instead of Advantage) will be transferred to TAG in the Transaction. In such event, all references herein to Advantage would be deemed references to the new Opco subsidiary.

[3] In the case of Preferred, an information statement is being distributed to shareholders rather than proxy materials, as a majority of the shares of Preferred are held by three shareholders, whose approval of the proposed new contract will be obtained without a formal proxy solicitation.

registered under the Exchange Act or any affiliated person of such broker or dealer. Rule 2a19–1 provide an exemption from the definition of interested persons for directors who are registered as brokers or dealers or who are affiliated persons of registered brokers or dealers, provided certain conditions are met.[4]

2. Upon consummation of the Transaction, the Board of each Company will consist of a majority of directors who are not interested persons of any Adviser within the meaning of section 2(a)(19)(B). However, such Board also will consist of at least two directors who may be considered interested persons of one of the Advisers (''Interested Directors''), for a total of fifteen Interested Directors in the seven fund complexes involved.[5] Thirteen of the fifteen Interested Directors will be interested persons of one of the Advisers within the meaning of section 2(a)(19)(B)(v) by virtue of their relationship to a registered broker-dealer. The exception provided by rule 2a19–1 will not be available with respect to these Interested Directors because the broker-dealers with which they are affiliated act as distributors for the Companies in question or engage in transactions with other members of each Company's complex. In addition, one of the remaining Interested Directors is treated as an interested person in keeping with section 2(a)(19)(B)(vi), although the Company has not received a Commission order.[6] The remaining Interested Director is expected to be an officer or employee of PIMCO (one of the parties to the Transaction) or an affiliated person of PIMCO, who will be nominated as a replacement for the Opgroup insider currently on the Boards of certain Companies. As such, this director may be an interested person of one of the Advisers. With the exception of this director, upon consummation of the Transaction, none of the members of the Companies' Boards will be affiliated persons within the meaning of section 2(a)(3) of the Act of any party to the Transaction.

3. Applicants seek an extension from section 15(f)(1)(A) in connection with the proposed change in control of the Advisers. Without the requested exemption, the Companies would have to reconstitute their Boards to meet the 75 percent non-interested director requirement of section 15(f)(1)(A) in order to permit the Oppenheimer Applicants to rely upon the safe harbor provisions of section 15(f).

4. Section 6(c) of the Act permits the SEC to exempt any person or transaction from any provision of the Act, or any rule or regulation thereunder, if the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

5. Applicants believe that the requested exemption is necessary or appropriate in the public interest. Applicants state that compliance with section 15(f)(1)(A) would require the Companies to reconstitute their Boards. In applicants' view, this reconstitution would serve no public interest and, in fact, would be contrary to the interests of the Companies' shareholders.[7] Applicants submit that the addition of directors to achieve the 75% disinterested director ratio required by section 15(f)(1)(A) would make the Boards unduly large and unwieldy, make decisional and operational matters cumbersome, unnecessarily increase the expenses of the Transaction, and would cause the Companies to incur additional expenses in connection with the selection and election of the additional directors. In addition, applicants submit that shrinking the Boards by eliminating previously existing Interested Director positions would deny the Companies the valued services and insights these insiders bring to their respective Boards.

6. Applicants also submit that the requested exemption is consistent with the purposes fairly intended by the policies and provisions of the Act. Applicants assert that the legislative history of section 15(f) indicates that Congress intended the SEC to deal flexibly with situations where the imposition of the 75 percent requirement might pose an unnecessary obstacle or burden on a fund. Applicants also state that section 15(f)(1)(A) was designed primarily to address the types of biases and conflicts of interest that might exist where the board of an investment company is influenced by a substantial number of interested directors to approve a transaction because of such directors' economic interest in the adviser. Because such circumstances do not exist in the present case, applicants believe that the SEC should be willing to exercise flexibility.

7. Applicants assert that the expected composition of each Company's Board following consummation of the Transaction would provide sufficient comfort of compliance with section 15(f)(1)(A) but for the presence of directors who might be viewed as Interested Directors by virtue of being affiliated persons of broker-dealers. Although such directors might be viewed as interested persons of the Advisers, these directors and the broker-dealers with which they are affiliated are not affiliated persons of any party to the Transaction. In addition, applicants argue that a director's affiliation with a Company's distributor should not preclude the requested exemption despite the unavailability of the rule 2a19-1 exemption because a Company's distributor is retained directly by the Company. As a result, retention of a distribution depends upon approval from the Company's Board and not upon the identity of transactions involving the Company's Adviser. Further, applicants submit that each distributor's compensation is based on asset levels and/or the receipt of sales loads, and each distributor therefore has a direct economic interest in the financial success of the Company that retains it, an interest that is consistent with the interests of the Company's shareholders.

8. Applicants believe that the requested exemption is consistent with the protection of investors. Applicants submit that each of the Companies and its Board is subject to, and operates in compliance with, all other provisions of the Act intended to protect the interests of shareholders, and the Advisers are subject to, and operate in compliance with, the provisions of the Advisers Act.

[4] The rule provides that the exemption is available only if: (a) The broker or dealer does not execute any portfolio transactions for, or engage in principle transactions with, the fund complex, (b) the fund's board determines that the fund will not be adversely affected if the broker or dealer does not effect such portfolio or principal transactions or distribute shares of the fund, and (c) no more than a minority of the fund directors are registered brokers or dealers or affiliated persons thereof.

[5] Applicants do not believe that the 75% disinterested board requirement set forth in section 15(f)(1)(A) of the Act applies to investment company directors who are interested persons of an investment adviser to a registered investment company within the meaning of section 2(a)(19)(B) of the Act unless that investment adviser is involved in the relevant change of control. Accordingly, applicants assert that a director who is an interested person of an investment adviser to a Company counts against the 75% disinterested board requirement only if that director also is an interested person of one of the Advisers, either before or following consummation of the Transaction.

[6] Section 2(a)(19)(B)(vi) includes within the definition of interested person any individual whom the Commission by order has determined to be an interested person because a material business or professional relationship with the investment adviser or principal underwriter of an investment company, or with any principal executive officer or controlling person of such entity.

[7] Applicants also point out that, in circumstances where one of the Advisers serves one or more portfolios in a subadvisory capacity, it is highly unlikely that the adviser of the Company would be willing either to expand such Company's Board or eliminate Interested Director positions currently occupied by the adviser's own insider(s) to assist Opgroup in complying with section 15(f) of the Act.

Moreover, applicants will comply with section 15(f)(1)(B) of the Act for at least two years following consummation of the Transaction, and applicants agree that all Interested Directors will continue to be treated as interested persons of the Companies and the Advisers for all purposes other than section 15(f)(1)(A) for so long as such directors are ''interested persons'' as defined in section 2 (a) (19) of the Act and are not exempted from such definition by any applicable rules or orders of the SEC. Applicants are not seeking any assurances from the SEC regarding the future status of any such director. Accordingly, applicants argue that no unfair burdens will be placed on the Companies as a result of the Transaction. In addition, because the Transaction will result in the automatic termination of the existing advisory or subadvisory agreement between one of the Advisers and each Company, the Board and shareholders of each Company will have the opportunity to consider and approve the new contract with each Adviser. Such arrangements will continue only if it is determined that they continue to be in the best interests of such Company's shareholders.

**Applicants' Condition**

Applicants agree that any order of the SEC granting the requested relief will be subject to the following condition:

If, within three years of the completion of the Transaction, it becomes necessary to replace any director, that director will be replaced by a director who is not an ''interested person'' of any Adviser within the meaning of section 2(a)(19)(B) of the Act, unless at least 75% of the directors at that time are not interested persons of any Adviser, provided that this condition will not preclude replacements with or additions of directors who are interested persons of an Adviser solely by reason of being affiliated persons of broker or dealers who are affiliated persons of another investment adviser to a Company, provided that such brokers or dealers are not affiliated persons of any Adviser.

For the SEC, by the Division of Investment Management, under delegated authority.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 97–20049 Filed 7–29–97; 8:45 am]

BILLING CODE 8010–01–M

## SECURITIES AND EXCHANGE COMMISSION

### Agency Meetings; Sunshine Act Meeting

**Federal Register** Citation of Previous Announcement: (62 FR 40127, July 25, 1997)

**STATUS:** Closed Meeting.

**PLACE:** 450 Fifth Street, N.W., Washington, D.C.

**DATE PREVIOUSLY ANNOUNCED:** July 25, 1997.

**CHANGE IN THE MEETING:** Additional Items.

The following items will be added to the closed meeting scheduled for Tuesday, July 29, 1997, following the 10:00 a.m. open meeting:

Institution of administrative proceedings of an enforcement nature.
Institution of injunctive actions.

The following item will be added to the closed meeting scheduled for Thursday, July 31, 1997, following the 10:00 a.m. open meeting: Opinion.

Commissioner Hunt, as duty officer, determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary (202) 942–7070.

Dated: July 28, 1997.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 97–20168 Filed 7–28–97; 12:24 pm]

BILLING CODE 8010–01–M

## SECURITIES AND EXCHANGE COMMISSION

**[Release 34–38869; File No. 600–24]**

### Self-Regulatory Organizations; Delta Clearing Corp.; Notice of Filing and Order Approving a Request for Extension of Temporary Registration as a Clearing Agency

July 24, 1997.

Notice is hereby given that on June 25, 1997, Delta Clearing Corp. (''DCC'') filed with the Securities and Exchange Commission (''Commission'') an application pursuant to Section 19(a) of the Securities Exchange Act of 1934 (''Act'')[1] to extend DCC's temporary registration as a clearing agency.[2] The Commission is publishing this notice and order to solicit comments from interested persons and to extend DCC's temporary registration as a clearing agency through July 31, 1998.

On January 12, 1990, pursuant to Sections 17A and 19(a) of the Act[3] and Rule 17Ab2–1(c) thereunder,[4] the Commission granted DCC's application for registration as a clearing agency on a temporary basis for a period of thirty-six months.[5] Since that time, the Commission has extended DCC's temporary registration through July 31, 1997.[6] DCC now requests that the Commission grant an extension of its original order granting DCC temporary registration as a clearing agency, subject to the same terms and conditions, for a period of twelve months or for such longer period as the Commission deems appropriate.

One of the primary reasons for DCC's registration as a clearing agency was to enable it to provide for the safe and efficient clearance and settlement of transactions involving the over-the-counter trading of options of U.S. Treasury securities. Since that time, the Commission has approved DCC's request to begin clearance and settlement of repurchase agreement transactions involving U.S. Treasury securities as the underlying instrument.[7] Currently, repurchase agreement transactions constitute the majority of the transactions cleared by DCC.

As a part of its temporary registration, DCC was granted a temporary exemption from the requirements of Section 17A(b)(3)(C),[8] which requires that the rules of a clearing agency assure the fair representation of its shareholders or members and participants in the selection of its directors and administration of its affairs. While Commission staff and DCC staff have conducted discussions on DCC's proposed method of complying with Section 17A(b)(3)(C), the Commission believes that the issue of DCC's compliance with the fair representation requirements should be completely resolved before DCC

[1] 15 U.S.C. 78s(a).

[2] Letter from Stephen K. Lynner, Delta Clearing Corp. (June 12, 1997).

[3] 15 U.S.C. 78q–1 and 78s(a).

[4] 17 CFR 240.17Ab2–1(c).

[5] Securities Exchange Act Release No. 27611 (January 12, 1990), 55 FR 1890. Prior to a 1996 name change, DCC was named Delta Government Options Corp.

[6] Securities Exchange Act Release Nos. 31856 (February 11, 1993), 58 FR 9005 (extension until January 12, 1995); 35198 (January 6, 1995), 60 FR 3286 (extension until January 31, 1997); and 38224 (January 31, 1997), 62 FR 5869 (extension until July 31, 1997).

[7] Securities Exchange Act Release No. 36367 (October 13, 1995), 60 FR 54095.

[8] 15 U.S.C. 78q–1(b)(3)(C).

receives permanent registration as a clearing agency under Section 17A(b) of the Act.[9]

In light of DCC's past performance, the Commission believes that DCC complies with the statutory prerequisites for registration as a clearing agency contained in Section 17A(b)(3) of the Act except for the fair representation requirement discussed above.[10] Therefore, the Commission believes that DCC should continue to be registered on a temporary basis. Comments received during DCC's temporary registration will be considered in determining whether DCC should receive permanent registration as a clearing agency.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing application. 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 application and all written comments will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549. All submissions should refer to the File No. 600–24 and should be submitted by August 29, 1997.

*It is therefore ordered*, pursuant to Section 19(a) of the Act, that DCC's registration as a clearing agency (File No. 600–24) be and hereby is temporarily approved through July 31, 1998.

For the Commission by the Division of Market Regulation pursuant to delegated authority.[11]

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 97–20054 Filed 7–29–97; 8:45 am]

**BILLING CODE 8010–01–M**

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–38868; File No. SR–DCC–97–06]**

## Self-Regulatory Organizations; Delta Clearing Corp.; Notice of Filing of a Proposed Rule Change Relating to the Clearance and Settlement of Mortgage-Backed Securities Repurchase Agreements

July 23, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on April 7, 1997, the Delta Clearing Corp. (''DCC'') filed with the Securities and Exchange Commission (''Commission'') and on May 12, May 29, June 18, and July 9, 1997, amended the proposed rule change (File No. SR–DCC–97–06) 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

DCC is proposing amendments to its Procedures for the Clearing of Securities and Financial Instrument Transactions (''Procedures'') that will establish procedures for the clearance and settlement of repurchase agreements and reverse repurchase agreements (''repos'') in which the underlying collateral is book-entry mortgage-backed securities issued by the Federal National Mortgage Association (''FNMA'') or the Federal Home Loan Mortgage Corporation (''FHLMC'').

### 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 proposes to revise its Procedures to permit it to clear and settle repo transactions on mortgage-backed securities.[3] Under the proposal, DCC will limit its clearing activity to repos on mortgage-backed securities which are issued or guaranteed directly by FNMA or FHLMC, secured by an underlying pool of mortgages, held in book-entry form, and transferable through the Federal Reserve System.

According to DCC, the market for repo transactions in mortgage-backed securities is estimated to be approximately 25% to 40% of the size of the market for repo transactions in U.S. Treasury securities. DCC states that this estimate suggests that the outstanding notional size of the market is between $250 billion to $400 billion with daily turnover at 10% of the notional size. DCC believes that the market in FNMA and FHLMC instruments that may be cleared and settled through DCC under its proposed Procedures is approximately 60% to 70% of the marketplace for repo transactions in mortgage-backed securities.

The netting benefits which may accrue to participants effecting transactions through DCC's clearing system for mortgage-backed securities are twofold. First, participants will be able to net for balance sheet reporting purposes repo transactions in mortgage-backed securities pursuant to the provisions of FASB Interpretation No. 41 (''FIN 41''). Such netting could have a positive and material effect on the participants' balance sheet. Second, also pursuant to the provisions of FIN 41, participants may be able to net repo transactions in Treasury securities cleared through DCC with repo transactions in mortgage-backed securities cleared through DCC. Thus, the opportunities for a positive impact on a participant's balance sheet is significantly enhanced. DCC does not believe that any changes are required to the structuring of its clearing system in order for the netting benefits described above to accrue to participants.[4]

DCC states that although most of the primary dealer community is equipped to effect repo transactions in mortgage-backed securities, there is a core group of approximately twenty to twenty-five primary dealers for whom mortgage-backed repo trading is considered to be a core activity. Of the twenty to twenty-five active participants in the marketplace, approximately ten to fifteen consistently act as market makers in mortgage-backed repo instruments.

According to DCC, the trading practices and protocols associated with

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[9] 15 U.S.C. 78q–1(b).

[10] 15. U.S.C. 78q–1(b)(3).

[11] 17 CFR 200.30–3(a)(16).

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by DCC.

[3] Currently, DCC has separate procedures for repo transactions and option transactions. DCC has filed a proposed rule change to combine the two sets of procedures into a single set of procedures [File No. SR–DCC–97–04]. While the combined procedures have not yet been approved by the Commission, this proposed rule change amends the procedures as combined.

[4] Paragraph 3 of FIN 41 sets forth the conditions for the availability of offset for repo transactions. While paragraph 3 requires that the counterparties and settlement date be the same for all transactions which are to be netted, there is no requirement that the securities be of the same type. Therefore, to the extent that offset was available for Treasury repo transactions, it should be available for transactions with mortgage-backed securities.

effecting repo transactions in mortgage-backed securities are similar in nature to those employed in connection with effecting repo transactions in Treasury securities.[5] For example, the repos in mortgage-backed securities that DCC proposes to clear will be limited to those where the collateral consists of securities which are eligible for transfer through the FedWire. Therefore, participants to a transaction or authorized brokers[6] will be required to report trades within the same time periods as for repo transactions in Treasury securities to permit DCC to process the trade before the closing of the Fed Wire.

DCC anticipates that the report structure currently employed for repo transactions in Treasury Securities is generally applicable and appropriate for mortgage-backed securities repo transactions. DCC believes only modest changes to the report structures are necessary to accommodate, for example, monthly principal and interest payment associated with mortgage-backed securities repo transactions. Other than these report and certain processing system enhancements, DCC believes its existing operating environment is generally able to accommodate the introduction of clearing services for mortgage-backed securities.[7]

1. The Clearing Process

As with repo transactions in Treasury securities, mortgage-backed securities repo transactions involve two settlement dates. The first settlement date (''on-date'') is the date on which one participant (''selling participant'') delivers mortgage-backed securities to the other party (''purchasing participant'') in exchange for the delivery of cash (''delivery money'') by the purchasing participant to the selling participant. The second settlement date (''off-date'') is the date on which the purchasing participant returns to the selling participant the mortgage-backed securities delivered on the on-date in exchange for the return by the selling participant of the delivery money together with interest based upon a rate agreed to by the participants (''repo rate''). DCC generally clears both the on-date and off-date portion of a repo transaction. However, there may be certain repo transactions where DCC clears only the off-date portion of the transaction.[8]

a. *Execution and Reporting of Trades.* As with repo transactions in Treasury securities, mortgage-backed securities repo transactions to be cleared by DCC may be entered into and reported to DCC in one of two ways: (i) They may be entered into directly between the two participants to a transaction and reported to DCC by the participants or (ii) they may be entered into between two participants through the facilities of an authorized broker and reported to DCC by the authorized broker.[9]

The trade reports for each mortgage-backed securities repo transaction will need to set forth the identity of the parties to the transaction, including which party is the selling participant and which party is the purchasing participant; the CUSIP number or numbers for the mortgage-backed securities being delivered in connection with the repo transaction; the par amount of the securities being delivered; the delivery money being delivered by the purchasing participant; the trade date and time; the on-date and off-date for the transaction; and any details relating to any rights of substitution, including the number of rights of substitution to be permitted and any restrictions on rights of substitution.

As with repo transactions in Treasury securities, the terms of the mortgage-backed securities repo transactions will be agreed to by the participants prior to the submission of trade reports to DCC. As indicated in the previous paragraph, these terms will include the CUSIP number or numbers and par amount or amounts of the collateral required to be delivered by the selling participant on the on-date. There is an existing practice among mortgage-backed security traders in which the parties to a transaction may agree to a trade amount subject to the right of the delivering party, based upon their inventory, to adjust the amount of the trade by over-delivering or under-delivering mortgage-backed security collateral within a specified percentage of the amount initially agreed to by the parties. DCC will require that such adjustments, commonly known as ''variances,'' be made prior to the submission of trade reports to DCC and reflected in the trade reports submitted to DCC. Therefore, such variances should not affect DCC's operations.

Mortgage-backed securities repo transactions with an on-date later than the trade date will need to be reported to DCC prior to 6:00 p.m. on the trade date. Mortgage-backed securities repo transactions with an on-date on the trade date will need to be reported to DCC: (i) Within one-half hour after the transaction occurs, if the transaction occurs prior to 1:30 p.m.; (ii) within five minutes after the transaction occurs, if the transaction occurs between 1:30 p.m. and 2:15 p.m.; and (iii) as soon as possible but in no event later than five minutes after the transaction, if the transaction occurs after 2:15 p.m.

With respect to mortgage-backed securities repo transactions entered into directly between two participants, each participant will forward a trade report to DCC. If DCC does not receive a trade report from one of the participants to the transaction, DCC will contact that participant within one half-hour of receipt of the trade report to confirm the terms of the trade reported by the other participant. When DCC receives trade reports from both participants, it will match the two trade reports. In order for a transaction to be accepted for clearance, the details of the trade reports for the transaction must agree. If the details of the trade reports do not match, DCC will contact the parties regarding the transaction. Matching of mortgage-backed securities repo transactions will be done continuously throughout the day and at the close of each trading day at 2:30 p.m. All trade reports received through an authorized broker will be confirmed by DCC either orally or via facsimile with the participants to the transaction.

b. *Acceptance of Trades.* DCC will be deemed to have accepted a transaction for clearance when DCC has matched and verified all the information on the trade reports. However, DCC may reject any transaction if it causes a participant to exceed its exposure limit[10] or if the participant has been suspended from DCC's clearing system. If a transaction is accepted by DCC, DCC will interpose itself as the counterparty to both sides of the transaction. Therefore, for any mortgage-backed securities repo transactions, DCC will assume the position of the purchasing participant with respect to the selling participant and assume the position of the selling participant with respect to the

[5] Areas where market practices for repos in mortgage-backed securities differ from market practices for repos in Treasury securities include rights of substitution (Section 5 below) and principal payments (Section 7 below).

[6] Authorized brokers are interdealer brokers that have been specially authorized by DCC to offer their services to DCC participants.

[7] For a description of DCC's current system for the clearance and settlement of repo transactions in Treasury securities, refer to Securities Exchange Act Release No. 36367 (October 13, 1995), 60 FR 54095.

[8] These transactions are referred to in the procedures as novated repos. Securities Exchange Act Release No. 38736 (June 11, 1997), 62 FR 33145 [File No. SR–DCC–97–03] (notice of filing of proposed rule change).

[9] Article 30 of DCC's Procedures sets forth the requirements regarding the reporting and acceptance of trades.

[10] A participant's exposure limit is the limit prescribed for each participant by DCC based on the incremental margin due to DCC by the participant.

purchasing participant. Prior to 8:00 a.m. each business day, participants will receive a written activity report indicting such participant's transactions which were accepted by DCC the previous business day and indicating all transactions due to settle that day.

c. *Clearing and Failures to Deliver or Receive.* The details of each transaction accepted by DCC will be sent to DCC's clearing bank. Each participant will need to maintain a bank account in one or more correspondent banks for margin and trade settlements. Because the mortgage-backed securities which DCC proposes to clear must be maintained in book-entry accounts at Federal Reserve Banks and will be delivered through the FedWire, the selected correspondent bank must be a depository institution with access to the FedWire.

DCC has established delivery cut-off times. For example, the selling participant on the on-date of a mortgage-backed securities repo transactions and the purchasing participant on the off-date of a mortgage-backed securities repo transaction must deliver mortgage-backed securities to the clearing bank against payment no later than one minute prior to the close of the FedWire system for delivery of securities on the settlement date. The clearing bank will redeliver such securities to the purchasing participant on the on-date or the selling participant on the off-date. If the delivering participant fails to deliver mortgage-backed securities on the settlement date by one minute prior to the close of the FedWire system, DCC has the option to buy-in the securities with the cost of buy-in being charged to the defaulting delivering participant. If DCC effects a buy-in, DCC will give the defaulting delivering participant written notice of the buy-in which will describe the security, quantity, and price.

If the receiving participant does not accept all of the mortgage-backed securities on the settlement date by one half-hour after the close of the FedWire system, DCC may sell-out the securities with the cost of sell-out being charged to the defaulting receiving participant. After the sell-out, DCC will give the participant written notice of the sell-out which will describe the security, quantity, and the selling price.

d. *Netting of Deliveries.* As a general rule, repo transactions in mortgage-backed securities will be cleared on a delivery versus payment basis. Therefore, the delivery of mortgage-backed securities will be required on settlement date. However, if a participant has a repo and reverse repo agreement with the same underlying collateral and the same on-date or off-date, as applicable, the participant's payment and delivery obligations with respect to such agreements will be netted. This means that if a participant is required to deliver $3 million par amount of a specified security on the off-date of a reverse repo and to receive on that same date $2 million par amount of the same security on the off-date of a repo, these obligations will be netted to a net delivery obligation of $1 million par amount. Payment obligations for such transactions including repo interest will also be netted.

e. *Margin.* DCC will adapt its existing margining methodology for Treasury security repos to incorporate exposures from mortgage-backed securities repo transactions. Under DCC's current margin system,[11] every participant is obligated to maintain a margin account for the benefit of DCC at DCC's clearing bank. Margin will be calculated every business day using a generally available source of mortgage-backed security prices. With respect to term repos, margin will be based on a mark-to-market amount and an amount based on an estimated shortfall from the liquidation of positions on the next day. For overnight repos, margin will be based on an intraday mark-to-market amount.[12]

2. Definition of Mortgage-Backed Security

Pursuant to DCC's Procedures, a mortgage-backed security is defined as a book-entry security directly issued by FNMA or FHLMC whose underlying value is represented by a pool of mortgages accumulated by FNMA or FHLMC through its mortgage origination program. Certain securities are excluded from the definition of mortgage-backed securities: (i) Securities which are issued in registered or bearer form and therefore cannot be transferred through FedWire, (ii) securities which are not issued or guaranteed directly by FNMA or FHLMC, (iii) securities for which the underlying assets are mortgage-backed securities rather than a pool of mortgages, and (iv) notional, interest only, principal only, accrual, and partial accrual securities and floaters and inverse floaters.[13]

A mortgage-backed security may be either a fixed rate mortgage-backed security or an adjustable rate mortgage-backed security. A fixed rate mortgage-backed security is defined as a mortgage-backed security whose coupon rate is a fixed rate of interest. An adjustable rate mortgage-backed security (''ARMS'') is defined as a mortgage-backed security whose coupon rate is a variable rate of interest consisting of an index and a spread to such index. Sample indices include: (i) The CD rate, which is the weekly average of secondary market interest rates on six month negotiable certificates of deposit as published by the Federal Reserve Board in its Statistical Release H.15(519), Selected Interest Rates; (ii) the LIBOR rate, which is a rate which banks charge other banks for U.S. dollar deposits outside the United States for a specified period; (iii) the 11th District cost of funds index, which is the index made available monthly by the Federal Home Loan Bank Board of the cost of funds to members of the Federal Home Loan Bank 11th District; and (iv) the Treasury index, which is the weekly average yield of the benchmark Treasury securities as published by the Federal Reserve Bank. A sample ARMS could bear interest at LIBOR plus 50 basis points with LIBOR adjusting periodically as specified by the terms of the security.

ARMS differ from floaters and inverse floaters because of the underlying mortgages. The mortgage pools underlying ARMS consist of adjustable rate mortgages, and the indices and spreads on the ARMS parallel the indices and spreads on the underlying mortgages. In contrast, the mortgage pools underlying floaters and inverse floaters generally consist of fixed rate mortgages. Floaters and inverse floaters are generally issued in pairs or in a manner such that interest based upon an index which is paid on one security in a pool would be deducted from interest paid on another security in the pool. For example, if a floater of a specified principal amount bears interest at 4% plus LIBOR and LIBOR at issuance was 3.5%, the related inverse floater of the same principal amount would bear interest at 11% minus LIBOR.

[11] Section 2201 of DCC's Procedures.

[12] In a bilateral repo transaction entered into outside of DCC's clearing system, the selling participant may be required to deliver additional collateral if the value of the underlying collateral decreases, and the purchasing participant may be required to return excess collateral if the value of the underlying collateral increases. Alternatively, a cash payment can be made by the selling participant to decrease the loan amount of the repo transaction, or a cash payment can be made by the purchasing participant to increase the loan amount of the repo agreement. However, these arrangements do not apply in connection with DCC's multilateral clearing and margin collection system where increases and decreases in the value of underlying collateral result in the delivery of additional margin by a participant or the return of margin to a participant based upon changes in the value of the participant's aggregate positions in the system.

[13] For the definitions of these terms, refer to Schedule A.

3. Mortgage-Backed Securities as Underlying Collateral; Delivery and Payment Default

The definition of underlying collateral in the Procedures will be revised to provide that with respect to repos underlying collateral includes either a Treasury security or a mortgage-backed security. With respect to options transactions, underlying collateral does not include mortgage-backed securities. Therefore, DCC would not have authority under the proposed rule change to clear options transactions in mortgage-backed securities.

The terms ''delivery default'' and ''payment default'' will be revised to provide that the failure to deliver mortgage-backed securities or make payment against delivery of mortgage-backed securities constitutes a participant default. Similarly, the terms ''nets par amount'' and ''delivery money'' relating to the delivery of securities and the payment for securities delivered in repo transactions will be revised to incorporate mortgage-backed securities in addition to Treasury securities.

4. Exposure Limits and MPSE for Mortgage-Backed Securities

The definition of maximum potential system exposure (''MPSE'') will be revised to provide that with respect to positions in repo transactions, the MPSE for the DCC's clearance and settlement system shall include net exposure in mortgage-backed securities adjusted to reflect a hypothetical adverse movement in the aggregate of six standard deviations in market prices of mortgage-backed securities.[14] For Treasury securities, the standard deviation is based upon the volatility during the 100 day period ending February 19, 1980, or any subsequent period of 100 days in which volatility was higher than the 100 day period ending February 19, 1980. For mortgage-backed securities, DCC proposes that the standard deviation be based upon the volatility represented by the greatest of the following three amounts: (i) the standard deviation of equivalent Treasury securities for the period of 100 consecutive trading days ending on February 19, 1980, (ii) the standard deviation of equivalent Treasury securities for any subsequent period of 100 consecutive trading days, and (iii) the standard deviation of mortgage-backed securities during any period of 100 consecutive trading days subsequent to January 1, 1990. DCC believes that because of the limited price history for mortgage-backed securities, the most conservative approach is to measure volatility for mortgage-backed securities based upon the volatility for Treasury securities for the period described in clause (i) above, which was a period of unusually high volatility. DCC believes that there has been generally a high correlation in historical volatility between Treasury securities and mortgage-backed securities (generally above 95%). DCC believes that volatility measures for mortgage-backed securities have become more reliable recently and, therefore, that the applicable volatility measure should be the greatest of the three standard deviation measures set forth above.

For purposes of clauses (i) and (ii) above, DCC proposes to look to Treasury securities which are generally accepted equivalents to the applicable mortgage-backed securities. For example, DCC proposes to treat repo transaction in mortgage-backed securities where the underlying collateral are FNMA and FHLMC securities with original stated maturities of thirty years as equivalent to ten year Treasury securities. When the underlying collateral are FNMA and FHLMC securities with original stated maturities of fifteen years, DCC will treat these repo transactions as equivalent to five year Treasury securities. Finally, DCC will treat repo transaction in ARMS as equivalent to one year Treasury securities.[15]

5. Substitution of Mortgage-Backed Securities as Underlying Collateral

The right of a selling participant to substitute underlying collateral is subject to various conditions and restrictions. One restriction relates to the type of security which may be delivered in substitution of another type of security. This restriction is different for repo transactions in Treasury securities and mortgage-backed securities repo transactions. For repo transactions in Treasury securities, the following requirements will apply: (i) A Treasury note or a Treasury bond may be substituted for another Treasury note or Treasury bond; (ii) a Treasury bill may be substituted for a Treasury bill; and (iii) a Treasury note or Treasury bond may not be substituted for a Treasury bill and a Treasury bill may not be substituted for a Treasury note or Treasury bond. For mortgage-backed securities repo transactions, the following requirements will apply: a fixed rate mortgage-backed security may be substituted for a fixed or floating rate mortgage-backed security, but a floating rate mortgage-backed security may only be substituted for a floating rate mortgage-backed security.

In addition to the foregoing requirement, substitution is subject to any restrictions on substitution which have been agreed to by the parties at the time of the trade, including restrictions on the number of rights of substitution. The right of substitution is also subject to the agreement of DCC and the purchasing participant that the fair market value of the collateral which the selling participant proposes to provide in place of the existing underlying collateral for a transaction is at least equal to the fair market value of the existing underlying collateral for such transaction. In order to obtain the consent of the purchasing participant, DCC must notify the purchasing participant of all details of the proposed substitution prior to 12:15 p.m. New York time on the day of the proposed substitution.

6. Variable Terms; Identification of Transaction

Section 3002 of the Procedures provides that the acceptance of a repo transaction for clearance is subject to the condition that the trade reports of the participants to the trade agree as to various terms including the CUSIP number or numbers for the underlying collateral and the ''variable terms'' of the transaction. The mortgage-backed securities to be cleared by DCC will all have CUSIP numbers indicating the series and class of mortgage-backed security being traded. Such CUSIP numbers will enable DCC to identify each mortgage-backed security being traded. Because a transaction may involve the delivery of more than one mortgage-backed security, the definition of variable terms will be amended to allow for multiple CUSIP numbers.

The definition of variable terms in the current Procedures provides that the variable terms of a Treasury Note or Treasury Bond includes its coupon rate. Because mortgage-backed securities may bear interest at adjustable rates, the definition of variable terms will be revised consistent with the discussion in Section 2 above to provide that the variable terms for a repo on mortgage-backed securities includes the maturity date, the CUSIP number or numbers of the mortgage-backed security, and for each item of underlying collateral (a)

[14] The MPSE is designed to establish the amount of liability that DCC is exposed to from the positions of all of its participants. Pursuant to DCC's rules, MPSE cannot exceed one third of the amount of DCC's credit enhancement facility. For a complete discussion of MPSE, refer to Securities Exchange Act Release No. 38646 (May 15, 1997), 62 FR 28085 (order granting approval of proposed rule change relating to definitions of trading limits and MPSE).

[15] Letter from Stephen K. Lynner, President, DCC (July 16, 1997).

whether the underlying collateral is a fixed rate mortgage-backed security or an ARMS and (b) whether the underlying collateral is a FNMA mortgage-backed security or a FHLMC mortgage-backed security. DCC will be able to derive the coupon of a fixed rate mortgage-backed security or in the case of ARMS the index upon which such rate is based and the spread to such index from the CUSIP number provided by the parties to the transaction.

7. Netting of Coupon and Principal Payments for Repo Transactions

One difference between Treasury securities and mortgage-backed securities is that Treasury securities pay interest but not principal prior to the maturity date while mortgage-backed securities pay both interest and principal prior to the maturity date. Principal payments on mortgage-backed securities may be made on a monthly or other periodic basis prior to maturity.

Under the proposed rule change, Section 2207 of DCC's Procedures will require the purchasing participant to forward coupon interest with respect to Treasury securities or mortgage-backed securities to DCC absent an agreement of the parties to the contrary, and upon receipt, DCC will forward the coupon interest to the selling participant. In the event that repo interest on a repo transaction is due from the selling participant on the same day that coupon interest with respect to the same transaction is required to be paid by the purchasing participant, such payments will be netted. If repo interest has accrued but is not yet due with respect to a transaction, payments of coupon interest which are received by the purchasing participant will not be netted against repo interest; instead, the coupon interest will be forwarded to DCC and then to the selling participant.

As indicated above, mortgage-backed securities involve principal payments as well as payments of coupon interest. DCC's proposed Procedures provide that principal payments, like coupon payments, will be forwarded by the purchasing participant upon receipt to DCC and then forward by DCC to the selling participant. In the event that a principal payment on a mortgage-backed security is received by the purchasing participant on the same date on which a payment of repo interest is due from the selling participant with respect to a repo transaction on such mortgage-backed security, the principal payment and the repo interest payments will be netted.

DCC believes that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act[16] and the rules and regulations thereunder in that it will promote the prompt and accurate clearance and settlement of securities transactions, to safeguard funds and securities in DCC's possession and control, and to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions.

*(B) Self-Regulatory Organization's Statement on Burden on Competition*

DCC does not believe that the proposed rule change imposes any burden on competition.

*(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members Participants, or Others*

DCC has not solicited and does not intend to solicit comments on this proposed rule change. DCC has not received any unsolicited written comments from participants or other interested parties.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding of (ii) as to which DCC consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of DCC. All submissions should refer to the file number SR–DCC–97–06 and should be submitted by August 20, 1997.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[17]

**Jonathan G. Katz,**

*Secretary.*

**Schedule A to Delta Clearing Corp.; Procedures for the Clearing of Securities and Financial Instrument Transactions**

*Excluded Classes of Mortgage Securities*

Notional—A class having no principal balance and bearing interest on the related notional principal balance.

Interest Only—A class that receives some or all of the interest payments made on the underlying mortgage or other assets of a series trust and little or no principal. Interest only classes have either a nominal or a notional principal balance.

Principal Only—A class that does not bear interest and is entitled to receive only payments of principal.

Accrual—A class that accretes the amount of accrued interest otherwise distributable on such class, which amount will be added as principal to the principal balance of such class on each applicable distribution date. Such accretion may continue until some specified event has occurred or until such accrual class is retired.

Partial Accrual—A class that accretes a portion of the amount of accrued interest thereon, which amount will be added to the principal balance of such class on each applicable distribution date, with the remainder of such accrued interest to be distributed currently as interest on such class. Such accretion may continue until a specified event has occurred or until such partial accrual class is retired.

Floater—A class other than an adjustable rate mortgage security with an interest rate that resets periodically based upon a designated index and that varies directly with changes in such index.

Inverse Floater—A class other than an adjustable rate mortgage security with an interest rate that resets periodically based upon a designated index and that varies inversely with changes in such index.

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[16] 15 U.S.C. 78q–1(b)(3)(F).

[17] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–38871; File No. SR–GSCC–97–03]**

## Self-Regulatory Organizations; Government Securities Clearing Corporation; Notice of Filing of a Proposed Rule Change Relating to Eligibility of Forward-Starting Repos for Netting and Guaranteed Settlement Prior to Their Scheduled Start Date

July 24, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on May 8, 1997, the Government Securities Clearing Corporation (''GSCC'') filed with the Securities and Exchange Commission (''Commission'') and on June 13, 1997, amended the proposed rule change (File No. SR–GSCC–97–03) as described in Items I, II, and III below, which items have been prepared primarily by GSCC. 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 make transactions in forward-starting repurchase agreements (''repos'') eligible for netting and guaranteed settlement before they reach their scheduled start date.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, GSCC 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. GSCC 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*

Presently, forward-starting repos are not eligible for netting and guaranteed settlement until they reach their scheduled settlement date.[3] GSCC proposes amendments to several of its rules to make these transactions eligible for these services before they reach their scheduled start date.

1. Background

Since November 1995, GSCC has provided netting services for repo transactions. Each business day, all eligible repo transactions are netted with regular cash activity and Treasury auction purchases in the same CUSIP to establish a single net position in the security for each netting member participating in the repo netting process. For netting purposes, the settlements associated with repo close legs and reverse start legs are treated as long positions. The settlements associated with repo start legs and reverse close legs are treated as short positions. The difference between a participant's total short activity and its total long activity within a CUSIP is the participant's net position in the CUSIP.

After GSCC nets repo transactions, it interposes itself between the submitting participants for transaction settlement purposes as it does for cash transactions. In doing so, GSCC assumes contra party responsibility and guarantees settlement of all repos that enter its netting system. GSCC's guarantee for netted repose includes guaranteeing the return of repo collateral to repo participants, the return of principal (*i.e.*, repo start amount) to reverse participants, and the payment of repo interest to the full term of the repo to reverse participants.

Because forward-starting repos currently are not eligible for netting or guaranteed settlement until they reach their scheduled start date, they are not subject to clearing fund or forward margin requirements until that time. This results in two problems. One is a general management concern for GSCC arising from the possibility that a netting member that has entered into a forward-starting repo will become insolvent on the morning of the scheduled start date for the repo, after GSCC has netted, novated, and guaranteed the settlement of the repo but before the member has satisfied its funds-only settlement obligation (*i.e.*, clearing fund or forward margin requirements) with GSCC for that day. If this occurs, GSCC may have an uncovered interest rate exposure that has built up over a period of time and consequently is of a significant size.[4] The other concern is that members that enter into forward-starting repos do not have the benefit of GSCC's netting and guaranteed settlement services for those transactions until the start of the transaction.

2. Comparison of Forward-Starting Repos

The principal impediment to making forward-starting repos eligible for netting and guaranteed settlement immediately after their execution is an inability to compare certain types of forward-starting repos. Forward-starting repos may be said to be of two types: (1) ''Specific collateral'' for which the underlying CUSIP is known from the date of execution of the repo and (2) ''general collateral'' for which the specific security and par amount that will be transferred from the repo participant to the reverse participant on the start date are not known at the time of execution. Because the underlying CUSIP is not known, general collateral repo transactions cannot be compared under GSCC's current matching requirements for data submissions.

To rectify this problem, GSCC will allow repo participants submitting to GSCC data on general collateral repo transactions to use one of the seventeen generic CUSIP numbers established by the CUSIP service bureau for identifying collateral. These CUSIP numbers identify the type of Government security (*e.g.*, bill, bond, or note) and indicate the remaining length to maturity for the issue. In addition, the par amount of the underlying collateral will not be required to match. This will allow GSCC to make general collateral forward-starting repos eligible for netting upon their submission to GSCC.

In conjunction with this, GSCC will impose upon the parties to a general collateral forward-starting repo the obligation to inform GSCC when the specific CUSIPs and associated par values that will be used for settlement purposes are determined. The notification must be made to GSCC no later than by the close of business on the business day prior to the date on which the repo is scheduled to start.

The notification must be made in the same manner as that in which members inform GSCC of their intention to substitute collateral.[5] First, they must submit an ''intent to substitute'' notification providing specific collateral details to GSCC using an on-line function (*i.e.*, a screen input facility)

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by GSCC.

[3] Forward-starting repo transactions are repo transactions which have start legs settling one or more business days in the future.

[4] If a member defaults after GSCC has guaranteed the trade, GSCC will be responsible to the counterparty for the difference between the contract repo rate and the current repo rate.

[5] See Section 4 for a description of substitution of collateral.

provided by GSCC. GSCC will then modify existing trade data in its system by canceling the ''old'' generic CUSIP data and by creating replacement data based on the specific CUSIP.

If one of the members that has submitted the data on the repo is a broker, GSCC will accept the ''intent to substitute'' notification solely from the broker without the need for a matching notification from the dealer counterparty. If neither of the members that submitted the data on the repo are brokers, GSCC will accept the ''intent to substitute'' notification from the member in the short or delivering position without the need for a matching notification from the dealer counterparty; however, GSCC will attempt to verify manually with the other member the accuracy of the details of the notification.

3. Forward Margin and Clearing Fund Requirements

A second impediment to making forward-starting repos eligible for netting was an internal system constraint that has been resolved. GSCC now has developed the system's capability to calculate and collect clearing fund and forward margin on forward-starting repos from the time of their submission to GSCC.

Until a forward-starting repo actually starts, the forward margin and clearing fund requirements apply to it will differ from those applied at all other repos. With regard to forward margin, because a forward-starting repo that has not yet started presents only interest rate exposure and not exposure to movements in the value of the underlying collateral, only an interest rate mark-to-market will be applied.[6] This interest rate mark component will be calculated by multiplying the principal value of the repo first by a factor equal to the absolute difference between the system and contract repo rates and then by a fraction where the numerator is the number of calendar days from the scheduled start date of the repo until the scheduled close date for the repo and the denominator is 360. The interest rate mark will differ from the financing mark applied to repos that have already started in that, because the exposure presented to GSCC is a pure rate risk exposure, it can be a debit to either the short side or the long side.[7]

With regard to clearing fund, again because there is no exposure to movements in the value of the underlying collateral for a forward-starting repo that has not yet started, only the funds adjustment component of clearing fund would be affected until the scheduled start date.[8] Therefore, the clearing fund requirement for a forward-starting repo during its forward-starting period will be computed by taking the average of the twenty largest funds-only settlement amounts occurring in the most recent seventy-five business days. Only the interest rate mark, described above, would be included in these funds-only settlement amounts for any forward-starting repos entered into by the member.

4. Right to Substitute Collateral

Currently, repo participants are able to submit details of their rights of substitution to GSCC. This proposal will amend GSCC's rules to clarify that a right of substitution continues after GSCC novates the trade. The proposal also will add Section 4 to Rule 18 to clarify the method of substituting collateral. Should a repo participant want to implement a substitution, either it or its broker must submit an ''intent to substitute'' notification to GSCC using GSCC's on line collateral substitution function. The ''intent to substitute'' notification must contain information regarding the ''old'' collateral so that GSCC may begin preparing for the substitution. Additional details regarding the replacement collateral may be provided in the same notification or in a subsequent notification when known.

Upon receiving the ''intent to substitute'' notification, GSCC will prepare to process the substitution by identifying the repo and collateral being replaced. The proposal will clarify that as it currently does today with other substitute GSCC will not review the appropriateness of the substitute collateral. Once all required details have been submitted, GSCC will modify its database to reflect the substitution. For money fill substitutions, the par amount and/or CUSIP may change, and for par fill substitutions, the principal, CUSIP, and/or end money may change.

All movements associated with the substitution will be made through GSCC, and substitutions will be reported to participants as ''cancel and correct'' transactions. The reverse dealer will deliver the ''old'' collateral to GSCC, and GSCC will redeliver that collateral to the repo dealer. These deliveries will be done versus the ''old'' collateral principal amount.

Conversely, the repo dealer will deliver the replacement collateral to GSCC, and GSCC will redeliver that collateral to the reverse dealer. For par fill substitutions, these deliveries will be done versus the replacement or ''new'' collateral principal amount. For money fill substitutions, the principal amount will not change so both deliveries will be done at the same amount.

Regardless of the type of substitution, GSCC will maintain accrued interest information throughout the life of the repo across multiple collateral substitutions as required. GSCC also will reverse any previous mark-to-market and clearing fund monies calculated for the collateral being replaced. These amounts will be

[6] As a part of the morning funds-only settlement process, GSCC collects and passes through a daily basis a mark-to-market amount (''forward margin'') equivalent to its ongoing exposure on each forward net settlement position. This payment requirement reflects the daily mark-to-market obligation associated with a member's ongoing forward net settlement position in each security with a distinct CUSIP from the time of comparison and novation of the trades that underlie such position. Thus, for repos, the market value is subtracted from the repo's contract value (*i.e.*, the amount of money that was exchanged for the collateral), and a debit or credit collateral mark is established depending upon the result of the calculation and whether or not the participant is on the reverse or repo side of the transaction.

The forward margin calculation for repos differs from that for cash market trades in that there is additional financing mark component. The financing mark component reflects the fact that, if GSCC replaced the reverse side or the repo by buying securities and putting them out on repo, a financing cost would be incurred. The financing mark is debited to the reverse side and credited to the repo side.

[7] For repos for which the underlying collateral has already been exchanged, each day GSCC guarantees to the reverse repo party the interest payment on the principal amount. However, until the repos begins, GSCC only guarantees the difference between the agreed upon repo rate and the rate the party could receive in the open market.

[8] There are three components to the regular clearing fund deposit requirement, with the sum of the three being a members overall requirement:

(A) Funds Adjustment (FAD) Component: This is based on each member's average funds-only settlement amount. The relevant variable in this calculation is the size of the settlement amount; it does not matter whether the funds are to be collected from the member or paid to the member.

(B) Receive/Deliver Settlement Component: This component is based on the size and nature of net settlement positions. The margin collected on net settlement positions is determined by applying margin factors that are designed to estimate security price movements. The factors are expressed as percentages and are determined by historical daily price volatility. Multiplying security settlement values by their corresponding margin factors is a proxy for the estimated amount of loss to which GSCC is potentially exposed from price changes.

(C) Repo Volatility Component: This component reflects the interest rate exposure incurred by GSCC in guaranteeing the payment to the funds lender in a repo transaction of the full amount of interest due on the transaction. The repo volatility amount, which corresponds to the volatility of repo rates, is used to provide GSCC with protection from the portion of that fluctuation in value that represents interest exposure. A repo volatility factor essentially represents an estimate of the amount that repo market rates might change during the liquidation period for the repo transaction.

recalculated using the security information for the replacement collateral.

5. Substitution of Maturing Collateral

Finally, GSCC is making eligible for its netting system repos with underlying collateral that matures on or prior to the scheduled close date by eliminating from the list of requirements for netting-eligibility the requirement that the maturity date of the underlying securities be on or later than the scheduled settlement date of the close leg. The proposal will add Section 6 to Rule 18 to require that if a repo participant has transferred securities as underlying collateral that mature prior to the settlement date of the close leg, that participant must substitute equivalent securities with a later maturity date prior to the business day before the maturity date.

The proposed rule change is consistent with the requirements of Section 17A of the Act[9] and the rules and regulations thereunder because it will authorize GSCC to make forward-starting repos eligible for netting in a prudent fashion once they are compared by GSCC. This will allow members to enjoy the benefit of guaranteed settlement of their forward-starting repos as soon as possible.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

GSCC does not believe that the proposed rule change would impose a burden on competition.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

Written comments relating to the proposed rule change have not yet been solicited or received. Members will be notified of the rule change filing and comments will be solicited by an important notice. GSCC will notify the Commission of any written comments received by GSCC.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which GSCC consents, the Commission will:

(a) By order approve such proposed rule change; or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of GSCC. All submissions should refer to the file number SR–GSCC–97–03 and should be submitted by August 20, 1997.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[10]

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 97–20052 Filed 7–29–97; 8:45 am]

BILLING CODE 8610–01–M

[9] 15 U.S.C. 78q–1.

[10] 17 CFR 200.30–3(a) (12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–38872; File No. SR–NASD–97–26]**

## Self-Regulatory Organizations; Notice of Amendment to Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to an Expansion of the Pilot for the NASD's Rule Permitting Market Makers to Display Their Actual Quotation Size

July 24, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act''), 15 U.S.C. 78s(b)91), notice is hereby given that on July 17, 1997, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') an amendment[1] to the proposed rule change described below. The proposal would allow market makers to quote their actual size by reducing the minimum quotation size requirement for market makers in certain securities listed on The Nasdaq Stock Market (''Nasdaq'') to one normal unit of trading (''Actual Size Rule''). The Actual Size Rule presently applies to a group of 50 Nasdaq securities on a pilot basis.[2] The NASD has proposed to extend this pilot program to March 27, 1998, and to add an additional 100 stocks to the pilot program. The Commission has already received comments from many individual investors and other market participants on the ongoing pilot. The Commission is publishing this notice to solicit comments on the amended proposed rule change from interested persons.

## I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD proposes to amend NASD Rule (a)(1)(C) to allow market makers to quote their actual size by reducing the minimum quotation size requirement for market makers in certain securities listed on Nasdaq to one normal unit of trading. The text of the proposed rule change is as follows. (Additions are italicized; deletions are bracketed.)

* * * * *

*NASD Rule 4613 Character of Quotations*

(a) Two-Sided Quotations

(1) No change.

(A)–(B) No change.

[1] See Letter from Robert E. Aber, Vice President and General Counsel, The Nasdaq Stock Market, Inc., to Katherine England, Assistant Director, Office of Market Supervision, Division of Market Regulation, Commission, dated July 17, 1997. The amendment would extend the 50 stock pilot from December 31, 1997, to March 27, 1998, and expand it to 150 stocks. This amendment corrects a technical deficiency in an earlier amendment to expand and extend the 50 stock pilot in a similar fashion that was not published for notice and comment. See Letter from Robert E. Aber, Vice President and General Counsel, The Nasdaq Stock Market, Inc., to Katherine England, Assistant Director, Office of Market Supervision, Division of Market Regulation, Commission, dated July 10, 1997.

[2] The initial approval of the 50 stock pilot program was announced in Securities Exchange Act Release No. 38156 (January 10, 1997), 62 FR 2415 (January 16, 1997). The approval of the extension was announced in Securities Exchange Act Release No. 38152 (April 15, 1997), 62 FR 19373 (April 21, 1997). On July 18, 1997, the Commission approved a proposed rule change that extended—but did not expand—the 50 stock pilot from July 18, 1997, to December 31, 1997. Securities Exchange Act Release No. 38851 (July 18, 1997), 62 FR 39565 (July 23, 1997) (File No. SR–NASD–97–49).

(C) As part of a pilot program implemented by The Nasdaq Stock Market, during the period January 20, 1997 through at least [December 31, 1997] *March 27, 1998,* a registered market maker in a security listed on The Nasdaq Stock Market that became subject to mandatory compliance with SEC Rule 11Ac1–4 on [January 20, 1997] *or prior to February 24, 1997,* must display a quotation size for at least one normal unit of trading (or a larger multiple thereof) when it is not displaying a limit order in compliance with SEC Rule 11Ac1–4, provided, however, that a registered market maker may augment its displayed quotation size to display limit orders priced at the market maker's quotation.

* * * * *

## II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its initial filing with the Commission,[3] the NASD 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.

On June 3, 1997, the NASD filed with the Commission a report containing its economic analysis of the operation of the Actual Size Rule for the group of 50 stocks in the pilot, as requested by the Commission.[4] The study examines the effects of the removal of the 1,000-Share Quote Size Rule on market quality. Several commenters have provided their own economic analysis in rebuttal.

The NASD's study compares the market quality of pilot stocks with the market quality of peer stocks in the next tranche of stocks that became subject to the Order Handling Rules, but remained subject to the 1,000-Share Quote Size Rule. The study: (1) Summarizes the relevant academic literature; (2) empirically assesses market quality for both groups pre- and post-rule change by examining spread, volatility, depth, and liquidity; and (3) examines the use of automatic execution systems for the pilot stocks, Nasdaq's Small Order Execution System (''SOES''), and some private systems to assess whether investors continue to have reasonable access to market maker capital. Copies of the report, economic studies, and comment letters are available in the Commission's Public Reference room in File No. SR–NASD–97–26.

The NASD asserts that the evidence analyzed in the study reveals that the pilot stocks and non-pilot stocks have experienced virtually the same improvements in market quality since implementation of the SEC's Order Handling Rules. Specifically, the NASD says that if found no statistically significant basis to conclude that the market quality of the pilot stocks has been affected as a result of removal of the 1,000-Share Quote Size Rule. In addition, the NASD found that investors in the pilot stocks continue to have substantial and reasonable access to market maker capital through both SOES and market makers' proprietary automatic execution systems.

The Commission approved the Actual Size Rule on a pilot basis so that the effects of the rule could be assessed. When doing so, the Commission stated that it believed that a reduction in the quotation size requirement could reduce the risks that market makers must take, produce accurate and informative quotations, and encourage market makers to maintain competitive prices even in the changing market conditions resulting from the Order Execution Rules.

At the Commission's request, an extension until March 27, 1998, has been made to provide the Commission with additional time to evaluate the economic studies and review the comments on the NASD's study.

For the reasons noted above, the NASD believes the proposed rule change is consistent with Sections 11A(a)(1)(C), 15A(b)(6), 15A(b)(9), and 15A(b)(11) of the Exchange Act. Section 11A(a)(1)(C) provides that it is in the public interest to, among other things, assure the economically efficient execution of securities transactions and the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities. Section 15A(b)(6) requires that the rules of a national securities association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and in general to protect investors and the public interest. Section 15A(b)(9) requires that rules of an Association not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act. Section 15A(b)(11) requires the NASD to, among other things, formulate rules designed to produce fair and informative quotations.

*A. Self-Regulatory Organization's Statement on Burden on Competition*

The NASD believes that the proposed rule change will not result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act.

*B. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Comments were neither solicited nor received.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the NASD consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

## 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 Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to file number SR–NASD–97–26 and should be submitted by August 20, 1997.

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[3] *See* Securities Exchange Act Release No. 38513 (April 15, 1997), 62 FR 19369 (April 21, 1997).

[4] A copy of the executive summary of the report is available at Nasdaq's World Wide Web site at ''http://www.nasdaq.com''. Members of the public may also download a file containing the entire report at this site.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority. (17 CFR 200.30–3(a)(12)).

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 97–20047 Filed 7–29–97; 8:45 am]

**BILLING CODE 8010–01–M**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–38865; File No. SR–NYSE–97–19]**

## Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the New York Stock Exchange, Inc., Relating to the Pilot for Entry of Limit-at-the-Close Orders

July 23, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 16, 1997, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to grant accelerated approval to the proposed rule change.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would extend for one year a pilot to permit limit-at-the-close (''LOC'') orders to be entered in any stock at any time during the trading day up to 3:40 p.m. on expiration days, and 3:50 p.m. on non-expiration days. The current pilot is scheduled to expire July 31, 1997.

### II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

A LOC order is one that is entered for execution at the closing price, provided that the closing price is at or within the limit specified. Originally, LOC orders could be entered only to offset published imbalances of market-on-close (''MOC'') orders.[3] LOC orders had to be entered by 3:55 p.m. on both expiration and non-expiration days, and could not be cancelled, except for legitimate errors.[4]

The Exchange recently implemented an amended policy regarding LOC orders to permit their entry at any time during the trading day up to 3:40 p.m. on expiration days,[5] and 3:50 p.m. on non-expiration days.[6] Thereafter, as with MOC orders, LOC orders could not be cancelled (except for legitimate errors), and could be entered only to offset published imbalances. These new procedures are part of the current pilot for LOC orders which expires at the end of July 1997.[7]

The Exchange is proposing to extend the LOC pilot for an additional year, until July 31, 1998, in order to study the effects of the new order entry procedures. The Exchange will make a recommendation at that time as to continuation of the pilot or a request for permanent status of LOC orders.

2. Statutory Basis

The basis under the Act for the proposed rule change is the requirement under Section 6(b)(5)[8] that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest. The proposed rule change perfects the mechanism of a free and open market by providing investors with the ability to use LOC orders as a vehicle for managing risk at the close.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange represents that the proposed rule change will impose no burden on competition.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

No written comments were solicited or received with respect to the proposed rule change.

### III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–NYSE–97–19 and should be submitted by August 20, 1997.

### IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6[9] and the rules and regulations thereunder. Specifically, the Commission finds that the proposed rule change is consistent with the Section 6(b)(5)[10] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to remove

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] A MOC order is a market order to be executed in its entirety at the closing price on the Exchange. See NYSE Rule 13. The NYSE pilot program for entry of MOC orders was permanently approved in 1996. See Securities Exchange Act Release No. 37894 (Oct. 30, 1996), 61 FR 56987 (Nov. 5, 1996).

[4] See Securities Exchange Act Release No. 33706 (Mar. 3, 1994), 59 FR 11093 (Mar. 9, 1994) (order approving the original LOC pilot program).

[5] The term ''expiration days'' refers to both (1) the trading day, usually the third Friday of the month, when some stock index options, stock index futures and options on stock index futures expire or settle concurrently (''Expiration Fridays'') and (2) the trading day on which end of calendar quarter index options expire (''QIX Expiration Days'').

[6] See Securities Exchange Act Release No. 37969 (Nov. 20, 1996), 61 FR 60735 (Nov. 29, 1996).

[7] See Securities Exchange Act Release No. 37507 (July 31, 1996), 61 FR 40871 (Aug. 6, 1996).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78f.

[10] 15 U.S.C. 78f(b)(5).

impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.[11]

This pilot program is part of an effort by the Exchange to institute safeguards to minimize excess market volatility that may arise from the liquidation of stock positions related to trading strategies involving index derivative products. For instance, since 1986, the NYSE has utilized auxiliary closing procedures on expiration days. These procedures allow NYSE specialists to obtain an indication of the buying and selling interest in MOC orders at expiration and, if there is a substantial imbalance on one side of the market, to provide the investing public with timely and reliable notice thereof and with an opportunity to make appropriate investment decisions in response.

The NYSE auxiliary closing procedures have worked relatively well and may have resulted in more orderly markets on expiration days. Nevertheless, both the Commission and the NYSE remain concerned about the potential for excess market volatility, particularly at the close on expiration days. Although, to date, the NYSE has been able to attract sufficient contra-side interest to effectuate an orderly closing, adverse market conditions could converge on an expiration day to create a situation in which member firms and their customers would be unwilling to acquire significant positions.

The Commission continues to believe preliminarily that LOC orders should provide the NYSE with an additional means of attracting contra-side interest to help alleviate MOC order imbalances both on expiration and non-expiration days. As a practical matter, the Commission believes that LOC orders will appeal to certain market participants who otherwise might be reluctant to commit capital at the close. Specifically, unlike a MOC order, which results in significant exposure to adverse price movements, a LOC order will allow each investor to determine the maximum/minimum price at which he or she is willing to buy/sell. To the extent that such risk management benefits encourage NYSE member firms and their customers to enter orders to offset MOC order imbalances of 50,000 shares or more, thereby adding liquidity to the market, the Commission agrees with the NYSE that LOC orders could become a useful investment vehicle for curbing excess price volatility at the close.

The Commission also finds that the NYSE has established appropriate procedures for the balancing of LOC orders and that the NYSE's existing surveillance should be adequate to monitor compliance with those procedures. Because LOC orders will be required to yield priority to conventional limit orders at the same price, the Commission is satisfied that public customer orders on the specialist's book will not be disadvantaged by this proposal. In the Commission's opinion, the prohibition on cancelling LOC orders is consistent with the Exchange's auxiliary closing procedures and, like those procedures, should allow specialists to make a timely and reliable assessment of order flow and its potential impact on the closing price.

The Commission notes that the LOC order pilot program has been ongoing since 1994 and the NYSE has submitted detailed reports describing its experience with the pilot program. The Exchange represents that LOC orders have not been widely used and that the Exchange requires an additional year to educate members about LOC orders and to observe the use of LOC orders on the Exchange.[12] The Commission expects the Exchange to seek permanent approval of the procedures or to determine to discontinue the program, after the Exchange analyzes the data for the report due on May 31, 1998. If the Exchange decides to seek permanent approval of the pilot procedures, any such request should also be submitted to the Commission by May 31, 1998, as a proposed rule change pursuant to Section 19(b) of the Act.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register** because there are no changes being made to the current provisions, which originally were subject to the full notice and comment procedures. In addition, accelerated approval would enable the Exchange to continue the program on an uninterrupted basis.

*It is therefore ordered,* pursuant to Section 19(b)(2) of the Act,[13] that the proposed rule change (SR–NYSE–97–19) is approved, and accordingly, that the LOC pilot program is extended until July 31, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 97–20050 Filed 7–29–97; 8:45 am]

BILLING CODE 8010–01–M

[11] In approving this rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[12] Telephone conversation between Agnes Gautier, Vice President, Market Surveillance, NYSE and David Sieradzki, Attorney, Division of Market Regulation, SEC (July 16, 1997).

[13] 15 U.S.C. 78s(b)(2).

[14] 17 C.F.R. 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–38864; File No. SR–Phlx–97–32]**

## Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Respecting the Public Order Exposure System for PACE Orders

July 23, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), notice is hereby given that on June 30, 1997, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange, pursuant to Rule 19b–4 under the Act,[1] proposes to amend Supplementary Material .05 of Rule 229, to reflect a 30 second order exposure time period, or ''widow,'' in lieu of 15 seconds, and to title Supplementary Material .05 as the ''Public Order Exposure System'' or ''POES,'' as it is known at the Exchange. The operation of the Philadelphia Stock Exchange Automatic Communications and Execution (''PACE'') System is governed by Phlx Rule 229 (''PACE Rule''). PACE is the Exchange's automatic order routing and execution system for securities on the equity trading floor. Currently, Supplementary Material .05 to the PACE Rule provides that market orders are stopped for 15 seconds to provide an opportunity for price improvement, except where the market

[1] 17 CFR 240.19b–4.

for the security is quoted at ⅛ point or less.[2]

## II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

Generally, the PACE Rule governs the operation of the PACE system and defines its objectives and parameters. PACE accepts orders for automatic or manual execution in accordance with the provisions of the PACE Rule. The PACE Rule establishes execution parameters for orders depending in type (market or limit) and size.

With respect to market orders, currently, Supplementary Material .05 to the PACE Rule provides that round-lot market orders up to 500 shares and partial round-lot (''PRL'') market orders up to 599 shares, which combine a round-lot with an odd-lot order, are stopped at the PACE [3] at the time of their entry into PACE (''stop price'') for 15 seconds to provide the Phlx specialist with the opportunity to effect price improvement when the spread between PACE Quote exceeds an ⅛ of a point. Market orders greater than 599 shares that a specialist voluntary agrees to automatically execute also are entitled to participation in POES.[4]

POES ensures that stopped orders are automatically executed at the stop price after the time expires. Thus, although these orders are executable immediately upon their entry into PACE at the PACE Quote, POES allows an opportunity for price improvement, but guarantees that the order receive at least the stop price. The purpose of stopping an order is to permit the specialist to seek a better price for the order, by probing the market further or facilitating the order in the specialist's proprietary account at a better price.

POES was adopted in early 1995;[5] thereafter, following Floor Procedure Committee (''FPC'') approval in December 1995, the POES order exposure time period, or ''window,'' was increased from 15 to 30 seconds.[6] At this time, the Exchange proposes to codify the 30 second time period into Supplementary Material .05, which currently reflects the prior 15 second window. The Exchange believes that extending the POES window to 30 seconds enables the specialist to better gauge the market and thus, improves the likelihood of price improvement. The Exchange has learned, in its two years of experience with POES, that additional time is needed for a meaningful opportunity for price improvement to be afforded to such orders. The 30 second window enables the specialist to better locate between-the-market interest and probe other market centers.[7]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act in general,[8] and in particular, with Section 6(b)(5), in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, as well as to protect investors and the public interest by codifying the extension of the POES order exposure window to 30 seconds. The Exchange believes that a 30 second POES window is appropriate, as automatically executed orders continue to receive the important benefits of speedy execution and reporting, while also receiving a more meaningful opportunity for price improvement.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Phlx does not believe that the proposed rule change will impose any inappropriate burden on competition.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were either solicited or received.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW.,

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[2] The Exchange recently has proposed additional amendments to both Supplementary Material .05 and other portions of Rule 229. See Securities Exchange Act Release No. 38544 (July April 24, 1997), 62 FR 24525 (May 5, 1997) (File No. SR–Phlx–97–11) (notice of proposed rule change).

[3] The PACE Quote consists of the best bid/offer among the American, Boston, Cincinnati, Chicago, New York, Pacific and Philadelphia Stock Exchanges as well as the Intermarket Trading System/Computer Assisted Execution System (''ITS/CAES'') See PACE Rule.

[4] See Supplementary Material .05 to the PACE Rule (''subject to these prodcedures'').

[5] Securities Exchange Act Release No. 35283 (January 26, 1995), 60 FR 6333 (February 1, 1995) (File No. SR–Phlx–94–58).

[6] By Exchange oversight, this change was not filed with the SEC as a proposed rule change pursuant to Section 19(b) of the Act, 15 U.S.C. 78s(b), and Rule 19b–4 thereunder prior to its implementation. Upon its discovery in the course of drafting changes to the PACE Rule, the change was promptly filed with the Commission. See Securities Exchange Act Release No. 37479 (July 25, 1996), 61 FR 40276 (August 1, 1996) (File No. SR–Phlx–96–25). It is now being re-filed as a separate proposed rule change due to the withdrawal of File No. SR–Phlx–96–25. To date, the Exchange has not distributed marketing material reflecting an order exposure window of 30 seconds.

[7] The Exchange previously had stated the reasoning behind the expansion of the POES window, in an amendment letter respecting File No. SR–Phlx–96–25. See Letter from Gerald D. O'Connell, Senior Vice President, Phlx, to Jennifer Choi, Attorney, SEC, dated July 19, 1996. Specifically, the Exchange stated that the FPC recognized that 15 seconds was often too short of a time period for the specialist to act. Specialists indicated that by the time they noticed an order was stopped, it had been automatically executed. The Exchange's decision to expand the POES window to 30 seconds is rooted in the logical principle that more time means more opportunity for price improvement.

[8] 15 U.S.C. 78f.

Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–Phlx–97–32 and should be submitted by August 20, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 97–20051 Filed 7–29–97; 8:45 am]

**BILLING CODE 8010–01–M**

## SOCIAL SECURITY ADMINISTRATION

### Statement of Organization, Functions and Delegations of Authority

This statement amends part T of the Statement of the Organization, Functions and Delegations of Authority which covers the Social Security Administration (SSA). Chapter TA covers the Deputy Commissioner for Programs and Policy. Notice is given that Subchapter TAS, the Office of Program Support (OPS) is being reissued in its entirety to reflect the establishment of subordinate components within the office. The reprinted chapter reads as follows:

**Chapter TAS**

*Office of the Associate Commissioner, Program Support*

TAS.00 Mission
TAS.10 Organization
TAS.20 Functions

Section TAS.00 The Office of the Associate Commissioner, Program Support—(Mission)

The Office of Program Support (OPS) serves as a focal point within OPP for program-related activities which cross component lines and activities which support Agency-level or Deputy Commissioner-level initiatives. OPS oversees the Agency's Regulatory Program including development of SSA's Regulatory Plan and the Agency's portion of the Unified Agenda of Federal Regulations. Provides leadership in overseeing the Agency's system of programmatic instructions and notices to the public by developing and maintaining standards governing the translation of strategic policy decisions into operational policies, procedures and notices. Directs the development and evaluation of Agency policies which utilize technologies in providing service to the public. Develops and interprets SSA policy governing requests for disclosure of information from Agency records under the provisions of the Privacy Act and the Freedom of Information Act. Oversees the implementation of the provisions of the Computer Matching and Privacy Protection Act of 1988 by directing matching activities, including establishment of matching policies and operating guidelines, evaluation of matches and development of evaluation guidelines. Develops, implements and maintains automated information and communications systems for OPP components. Oversees OPP's strategic planning activities and management of the OPP ITS budget. Directs the OPP programs supporting reengineering/redesign initiatives and change management activities.

Section TAS.10 The Office of Program Support—(Organization)

The Office of Program Support, under the leadership of the Associate Commissioner for Program Support includes:

A. The Associate Commissioner for Program Support (TAS).

B. The Deputy Associate Commissioner for Program Support (TAS).

C. The Immediate Office of the Associate Commissioner for Program Support (TAS).

1. The Electronic Services Staff (TAS–1).

D. The Office of Policy Technology Management (TASA).

1. Center for Policy Management (TASA1).

2. Center for Technology Management (TASA2).

E. The Office of Process and Innovation Management (TASB).

1. Center for Process Management (TASB1).

2. Center for Innovation Management (TASB2).

F. The Office of Disclosure Policy (TASC).

1.–2. Disclosure Team 1 and 2 (TASC 1 & 2).

3. Computer Matching Program and Policy Team (TASC3).

**Section TAS.20 The Office of Program Support—(Functions)**

A. The Associate Commissioner for Program Support (TAS) is directly responsible to the Deputy Commissioner, Programs and Policy for carrying out OPS' mission and providing managerial direction to OPS.

B. The Deputy Associate Commissioner for Program Support (TAS) assists the Associate Commissioner in carrying out his/her responsibilities and performs other duties as the Associate Commissioner may prescribe.

C. The Immediate Office of the Associate Commissioner for Program Support (TAS) provides the Associate Commissioner with staff assistance on the full range of his/her responsibilities.

1. The Electronic Services Staff (TAS–1).

a. Provides leadership to the development and implementation of the Agency's policies governing electronic service delivery, including SSA's on-line (Internet) services.

b. Directs initiatives to identify policies that can be changed and emerging technologies that can be used to improve SSA's service to the public.

c. Directs the analysis and evaluation of electronic service delivery issues as they relate to the Agency's core business processes.

d. Fosters partnerships with public and private entities to solve global electronic service delivery issues and develop a global electronic service delivery infrastructure supportive of SSA's service delivery goals.

e. Represents SSA on boards and committees charged with exploring the use of technology in providing service to the public.

D. The Office of Policy Technology Management (TASA).

1. Center for Policy Management (TASA1).

a. Directs the management of all activities supporting production and delivery of SSA's program operational instructions system.

b. Oversees the production and nationwide distribution of the electronic and paper instructions to users throughout the Agency.

c. Directs technical research into improved methods of delivering complex policy knowledge.

d. Directs the ongoing coordination of publication, distribution, indexing and warehousing of paper program instructional material.

e. Oversees SSA's Policy Repository which supports Agency policy development and the delivery of regulations, notices and instructions.

f. Oversees maintenance of SSA's technical documents including the Compilation of the Social Security Act.

2. Center for Technology Management (TASA2).

a. Directs OPP's systems support program.

b. Develops, recommends, negotiates, implements, integrates and then supports broad automated systems strategies for OPP components which take into account current and emerging technologies, Agency systems policies and standards and their impact on the OPP environment.

c. Directs the preparation and management of OPP's ITS budget,

including development of procurement plans, cost data and analysis and justification of systems needs. Represents OPP in negotiations with the Office of Systems on systems requirements, priority designations, delivery schedules and equipment arrival dates.

E. The Office of Process and Innovation Management (TASB).

1. Center for Process Management (TASB1).

a. Oversees the Agency's policy process including establishing and maintaining Agency standards for the development of regulations, rulings, notices and program instructions. Assists authoring components in developing policy documents.

b. Directs the Agency's ongoing program to solicit external stakeholder input to the policy process.

c. The Director, OPIM, oversees the SSA Regulations Officer function— the focal point for contacts with the Office of Management and Budget, the Office of the **Federal Register** and other federal agencies.

2. Center for Innovation Management (TASB2).

a. Directs the ongoing evaluation and improvement of the Agency's policy process.

b. Directs OPP's change management initiatives aimed at achieving more efficient and effective policy-related work processes and assists the organization and individual employees in the transition to new work environments.

F. The Office of Disclosure Policy (TASC).

1. & 2. Disclosure Team 1 & 2 (TASC1) and (TASC2).

a. Develops and interprets SSA policy governing the collection, use, maintenance and disclosure of personally identifiable information under the Privacy Act and requests for information made under the provisions of the Freedom of Information Act (FOIA).

b. Develops national standards relating to the release and exchange of personal data in SSA data bases to federal, state and local agencies.

c. Manages SSA's interaction with other agencies in negotiating data releases and exchanges. Negotiates with various federal, state and local government entities regarding electronic data sharing, direct terminal access to SSA computer records and use of the social security number.

d. Assures Agency-wide sensitivity to the importance of privacy considerations in all situations involving disclosure of SSA data about individuals. Ensures necessary privacy protections are built into new systems and processes developed to deliver more efficient service to Agency customers.

e. Reviews Agency projects and initiatives to ensure compliance with the Privacy Act and related laws and regulations.

f. Examines public service issues related to handling various information requests from the public.

g. Develops decisions on Privacy Act appeals for the Commissioner.

h. Directs FOIA activities in SSA, develops SSA's FOIA policies and procedures and prepares the Annual Report to Congress on these activities.

i. Reviews requests and determines whether records are required to be disclosed to members of the public.

j. Develops decisions on FOIA appeals for the Commissioner and Deputy Commissioner.

k. Serves as Agency focal point for all data sharing activities with outside organizations.

3. Computer Matching Program and Policy Team (TASC3).

a. Establishes policy, provides guidance, and manages the implementation of the provisions of the Computer Matching and Privacy Protection Act of 1988.

b. Coordinates SSA's interaction with other agencies in negotiating data releases and exchanges. Negotiates with government entities at all levels regarding electronic data sharing and direct terminal access to computer records.

c. Formulates, reviews and oversees the management and implementation of electronic computer matches between SSA and other federal, state, local and/or private sector entities.

d. Negotiates the content and implementation of matching agreement with other agencies including their compliance with the terms and conditions of SSA matching program guidelines and policies.

e. Coordinates the development and preparation of match proposals with other federal, state and local and/or private sector entities.

f. Ensures that systems security measures and enforcement procedures are described in matching agreements that adequately protect against unauthorized access, duplication and/or redisclosure of information.

g. Ensures compliance with timeframes necessary for approval by SSA and other entities of all computer matching programs.

h. Oversees development of cost benefit analyses to ensure the viability and productivity of computer matches.

i. Prepares reports, correspondence, decision packages, notifications to Congress, OMB, **Federal Register** notices and other documents related to matching activities.

Dated: July 7, 1997.

**Paul D. Barnes,**

*Deputy Commissioner for Human Resources.*

[FR Doc. 97–20044 Filed 7–29–97; 8:45 am]

BILLING CODE 4190–29–P

## UNITED STATES INFORMATION AGENCY

### Culturally Significant Objects Imported for Exhibition

#### Determinations

Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 F.R. 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 F.R. 27393, July 2, 1985), I hereby determine that the objects on the list specified below, to be included in the exhibit, ''Picasso: The Engraver, Selections from the Musee Picasso, Paris'' (See list),[1] imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lenders. I also determine that the exhibition or display of the listed exhibit objects at The Metropolitan Museum of Art from on or about September 15, 1997, through December 21, 1997, is in the national interest. Public notice of these determinations is ordered to be published in the **Federal Register**.

Dated: July 24, 1997.

**Les Jin,**

*General Counsel.*

[FR Doc. 97–20060 Filed 7–29–97; 8:45 am]

BILLING CODE 8230–01–M

[1] A copy of this list may be obtained by contacting Mr. Paul Manning, Assistant General Counsel, at 202/619–5997, and the address is Room 700, U.S. Information Agency, 301 4th Street, S.W., Washington, D.C. 20547–0001.

Federal Register

Wednesday
July 30, 1997

# Part II

# Department of Transportation

## Federal Aviation Administration

**14 CFR Parts 61 and 141**

**Pilot, Flight Instructor, Ground Instructor, and Pilot School Certification Rules; Correction; Final Rule**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Parts 61 and 141**

**[Docket No. 25910; Amendment Nos. 61–103 and 141–9]**

**RIN 2120–AE71**

## Pilot, Flight Instructor, Ground Instructor, and Pilot School Certification Rules; Correction

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule; correction.

**SUMMARY:** This amendment makes corrections to the final rule published on April 4, 1997 (62 FR 16220). That rule amended the certification, training, and experience requirements for pilots, flight instructors, and ground instructors, and the certification requirements for pilot schools approved by the FAA. The corrections incorporate provisions inadvertently omitted in the final rule, clarify certain provisions, and provide for the consistent use of terminology.

**EFFECTIVE DATE:** This rule is effective August 4, 1997.

**FOR FURTHER INFORMATION CONTACT:** John Lynch, Certification Branch, AFS–840, General Aviation and Commercial Division, Flight Standards Service, FAA, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3844.

**SUPPLEMENTARY INFORMATION:**

### Background

On April 4, 1997, the FAA published a final rule titled ''Pilot, Flight Instructor, Ground Instructor, and Pilot School Certification Rules; Final Rule'' (62 FR 16220). Editorial and formatting corrections clarify the rules and make certain terminology consistent within parts 61 and 141. This document also incorporates certain provisions that were inadvertently omitted in the final rule. Those corrections that require explanation are discussed below.

### Discussion of Corrections

*Part 61*

*Terminology*. References to ''approved flight simulators'' and ''approved flight training devices'' have been changed to ''flight simulators'' and ''flight training devices,'' respectively. As defined in §61.1(b)(5) and (b)(7), a flight simulator and a flight training device used to meet certain aeronautical experience requirements in part 61 must be evaluated, qualified, and approved by the Administrator. Therefore, use of the word ''approved'' is not necessary when referring to flight simulators and flight training devices in part 61. This change is consistent with the terminology used in part 142 of Title 14, Code of Federal Regulations (14 CFR). References to ''instructor'' have been changed to ''authorized instructor'' because only authorized instructors as defined in §61.1(b)(2) may provide training. References to ''required pilot,'' ''required pilot crewmember,'' and ''required flight crewmember'' have been changed to ''required pilot flight crewmember'' to provide for consistency throughout part 61. In addition, references to ''currency requirements'' have been changed to ''recent flight experience requirements'' to accurately describe these requirements.

*Section 61.1 Applicability and definitions*. Paragraph (b)(3), which defines cross-country time, has been reorganized. In addition, the FAA expanded the definition to clarify what flight time may be logged as cross-country time for the purposes of meeting certain aeronautical experience requirements for the certificates and ratings issued under part 61. The FAA also added provisions for the logging of cross-country time for the purposes of exercising recreational pilot privileges under §61.101(c).

The FAA notes that after August 4, 1997, cross-country time for pilots seeking an airline transport pilot (ATP) certificate (except with a rotorcraft rating) must involve a flight that is at least a straight-line distance of more than 50 nautical miles from the original point of departure. If the pilot is seeking an ATP certificate with a rotorcraft rating, the cross-country flight must include a landing that is at least a straight-line distance of more than 25 nautical miles from the original point of departure. Because pilots seeking an ATP certificate did not previously have to meet these distance requirements, any cross-country time logged before August 4, 1997, may be used to meet the ATP aeronautical experience requirements. However, after that date, cross-country time logged for the purposes of meeting the aeronautical experience requirements for an ATP certificate must comply with the distance requirements.

*Section 61.2 Certification of foreign pilots, flight instructors, and ground instructors*. The FAA has corrected the first sentence of paragraph (a) by adding the phrase ''other than under §61.75.'' This language, which was included in §61.2 before the adoption of the final rule, is necessary to except from the provisions of §61.2 the holders of private pilot certificates issued on the basis of a foreign pilot license under §61.75.

*Section 61.3 Requirement for certificates, ratings, and authorizations.* Paragraph (c)(1) has been reorganized to parallel the format of paragraph (a). In addition, it may have appeared from the language adopted in the final rule that all individuals listed in paragraph (d)(3) are permitted to provide the training and endorsements described in paragraphs (d)(2)(i) through (iv) without holding a flight instructor certificate. The FAA corrected paragraph (d)(3) to clarify that the holder of a ground instructor certificate may only provide the training and endorsements in paragraphs (d)(2)(i) and (d)(2)(iii), and new paragraph (d)(2)(ii)(C), and a flight instructor authorized under §61.41 is only permitted to provide the endorsement in paragraph (d)(2)(iii). Similarly, the FAA expanded the provisions of paragraph (i) to clarify what ground training and endorsements may be provided by individuals who do not hold a ground instructor certificate.

The FAA notes that the preamble to the final rule states that under paragraph (d) the phrase ''other documentation acceptable to the Administrator'' would permit a flight instructor to use a copy of a graduation certificate from a CFI refresher course and a copy of the completed application for renewal to meet the requirements of that paragraph. However, the FAA has determined that the latter document is not necessary. Therefore, a copy of a graduation certificate from a CFI refresher course, without the application for renewal, is acceptable documentation for the purpose of meeting the requirements of paragraph (d).

*Section 61.11 Expired pilot certificates and reissuance.* Paragraph (g) addresses the expiration of pilot certificates issued on the basis of a foreign license and, therefore, is more appropriately included in paragraph (c), which also addresses this issue. In making this correction, the FAA incorporated the language that was contained in §61.11 before the adoption of the final rule because that language more clearly explains the circumstances under which an expiration date will not be included on a pilot certificate that is issued on the basis of a foreign pilot license. The FAA also corrected paragraph (c) by adding at the end of the first sentence the phrase ''unless otherwise specified on the U.S. certificate'' to address previously issued special purpose pilot certificates that contain an expiration date.

*Section 61.13 Issuance of airman certificates, ratings, and authorizations.* This section has been reformatted to allow for the addition of paragraph headings. In addition, new paragraph (a)(2)(i) contains a reference to appendix A to part 187. That appendix references Advisory Circular No. 187–1, which contains a schedule of charges for the services of FAA aviation safety inspectors outside the United States.

*Section 61.31 Type rating requirements, additional training, and authorization requirements.* Paragraph (e) addresses exceptions to §61.31 and, therefore, has been redesignated as paragraph (k). Consequently, paragraphs (e) through (j) have been redesignated. The FAA added paragraph (k)(2)(v), which provides that the rating limitations of §61.31 do not apply to the holder of a recreational pilot certificate when operating under the provisions of §61.101(h). This exception for recreational pilots was included in §61.31 before the adoption of the final rule. In addition, new paragraph (g) is corrected by including an endorsement requirement for ground training received on the operation of pressurized aircraft at high altitudes. This requirement was included in §61.31(f) before the adoption of the final rule and was inadvertently omitted. New paragraphs (g) and (i) also have been reformatted to more clearly set forth the additional training requirements for operating pressurized aircraft capable of operating at high altitudes and for operating tailwheel airplanes.

*Section 61.45 Practical tests: Required aircraft and equipment.* The FAA added the phrase ''unless otherwise authorized by the Administrator'' at the beginning of paragraph (b). This language is necessary because some aircraft are not approved for all of the maneuvers required to be performed during a practical test. For example, an Airbus 300 is not approved for steep turns; however, the Administrator has determined that an applicant can receive a rating in an Airbus 300 without performing that maneuver. A similar provision was included in §61.13(c) before the adoption of the final rule but was inadvertently omitted when the provisions of that paragraph were incorporated into §61.45(b).

*Section 61.51 Pilot logbooks.* The FAA corrected paragraph (b)(1)(ii) to include ''lesson time'' as information to be recorded in logbook entries. This provision is necessary because simulator time and flight time are not synonymous. Training time acquired in a simulator must be logged as ''lesson time'' unless otherwise specified in part 61. For example, §61.109(i) permits certain training time acquired in a flight simulator or flight training device to be credited toward the flight training time requirements of that section.

The FAA notes that §61.51 no longer contains a provision for the logging of ''other pilot time.'' Few or no comments were received to the proposed deletion of this provision in Notice of Proposed Rulemaking (Notice) No. 95–11 (60 FR 41160, August 11, 1995). Therefore, after August 4, 1997, only solo, pilot-in-command, second-in-command, or training time may be logged in accordance with §61.51 for the purpose of meeting the aeronautical experience requirements of part 61. For example, after the effective date of the rule, a pilot who is the sole manipulator of the controls of an aircraft but who is not rated in the aircraft or receiving training will no longer be able to log ''other pilot time'' for the purpose of meeting the aeronautical training or experience requirements of part 61.

In paragraph (d) the FAA clarified that a student pilot logging solo flight time in an airship requiring more than one pilot fight crewmember is ''performing the functions of'' pilot in command rather than ''acting as'' pilot in command. A similar correction has been made in paragraph (e). This language is consistent with the language used in other sections of part 61 to describe the activities of an individual who is receiving solo flight training in an airship.

Paragraph (e)(4) has been corrected to clarify when a student pilot may log pilot-in-command flight time. In addition, paragraph (e)(4)(iii) no longer contains the phrase ''is logging pilot-in-command flight time to obtain the pilot-in-command flight experience requirements for a pilot certificate or aircraft rating.'' Because paragraph (e) permits a student pilot who is undergoing training for a pilot certificate or rating to log pilot-in-command flight time, this language is not necessary. The FAA notes that pilot-in-command flight time logged under paragraph (e) may be used to meet the pilot-in-command aeronautical experience requirements for additional certificates and ratings.

Paragraph (i)(3) has been reformatted and a provision has been added to provide that a recreational pilot also must carry his or her logbook when conducting operations under § 61.101(h). This correction is consistent with the requirement in § 61.101(i).

*Section 61.55 Second-in-command qualifications.* The FAA has deleted the reference to flight training devices in paragraph (b)(2). Amendment No. 61–100, ''Aircraft Flight Simulator Use in Pilot Training, Testing, and Checking at Training Centers'' (61 FR 34508, July 2, 1996), did not provide for the use of flight training devices to meet the recent flight experience requirements for pilots serving as second-in-command of an aircraft type certificated for more than one required pilot flight crewmember or in operations requiring a second in command. The reference to flight training devices was inadvertently included in the final rule. The FAA notes the use of flight simulators is permitted to meet the requirements of paragraph (b)(2).

In paragraph (b)(2)(i) the requirement for full-stop landings was inadvertently omitted from the recent flight experience requirements. This requirement was included in § 61.55(b)(2)(i) before the adoption of the final rule and the FAA did not propose deleting it in Notice No. 95–10. Therefore, the requirement for full-stop landings has been reinstated in the final rule.

*Section 61.57 Recent flight experience: Pilot in command.* As adopted in the final rule, the recent flight experience requirements of paragraph (a)(1) could be interpreted as precluding a pilot who does not meet those requirements from acting as second in command of an aircraft requiring more than one pilot flight crewmember. However, this was not the FAA's intention; therefore, the language in this paragraph has been corrected to provide that a person not meeting the requirements of § 61.57(a)(1) may not act as ''a pilot in command of an aircraft carrying passengers or of an aircraft certificated for more than one pilot flight crewmember.''

The FAA reorganized paragraph (b) to parallel the format of paragraph (a). In addition, the FAA added paragraph (b)(1) to require that a pilot must be the sole manipulator of the flight controls to meet the night takeoff and landing experience requirements. Paragraph (b)(2) has been added to require that the takeoff and landings are performed in the appropriate category, class, and type, if applicable, of aircraft. These requirements were included in § 61.57 before the adoption of the final rule and were proposed in Notice No. 95–10. The FAA did not intend to omit these requirements from the final rule.

The FAA notes that accomplishment of the night takeoff and landing requirements in paragraph (b) may be used to satisfy the requirements of paragraph (a). However, the accomplishment of the day takeoff and landings required in paragraph (a) may

not be used to satisfy the requirements of paragraph (b).

*Section 61.58 Pilot-in-command proficiency check: Operation of aircraft requiring more than one pilot flight crewmember.* The FAA inadvertently omitted from paragraph (b) the exception for persons maintaining continuing qualification under an Advanced Qualification Program approved under Special Federal Aviation Regulation 58. In addition, the FAA added language to clarify that the pilot-in-command proficiency checks and tests specified in paragraphs (d)(1) through (d)(3) must be completed in an aircraft type certificated for more than one required pilot flight crewmember. Because § 61.58 only applies to pilot-in-command proficiency checks for operating aircraft type certificated for more than one required pilot flight crewmember, this correction was necessary to ensure that the checks or tests were performed in an aircraft appropriate to the operations the pilot will be authorized to conduct. Paragraph (e) has been expanded to include a provision for the use of an otherwise qualified and approved flight simulator that is not qualified and approved for a specific maneuver required during the pilot-in-command proficiency check. This provision was adopted in Amendment No. 61–100 but inadvertently omitted in the final rule.

*Section 61.63 Additional aircraft ratings (other than on an airline transport pilot certificate).* The FAA reinstated a provision in paragraph (c)(4) to provide that a person who holds a lighter-than-air category rating with a balloon class rating and seeks an airship class rating must meet the training time requirements prescribed for an airship class rating. This requirement was included in § 61.63 before the adoption of the final rule and was inadvertently omitted.

As adopted in the final rule, an applicant for an additional type rating would be required to perform the practical test under ''instrument flight rules.'' It was not the FAA's intention to require an applicant to file an instrument flight rules (IFR) flight plan. Section 61.63 did not contain such a requirement before the adoption of the final rule. The FAA has corrected paragraph (d)(5) to require that the practical test for an additional type rating must be performed in actual or simulated instrument conditions.

Former paragraph (i) has been deleted because it duplicated the provisions of paragraph (h). Paragraphs (j) through (l) have been redesignated as paragraphs (i) through (k). In addition, the section heading has been revised to more accurately reflect the content of the section.

*Section 61.65 Instrument rating requirements.* The FAA corrected paragraph (a)(1) to provide that a person applying for an instrument rating must only hold a private pilot certificate with an airplane, helicopter, or powered-lift rating as appropriate to the instrument rating sought. The previous language was more general and may have caused confusion because only airplane, helicopter, and powered-lift instrument ratings are issued on pilot certificates. For the same reason, equivalent changes have been made to paragraphs (a)(5) and (a)(8)(i).

The FAA also corrected paragraph (a)(8)(ii) to clarify that if a flight training device is used for the practical test, the instrument approach procedures are limited to one precision and one nonprecision approach. The words ''instrument approach'' were inadvertently omitted in the final rule. It was not the FAA's intent to limit all procedures accomplished in a flight training device to one precision and one nonprecision approach.

*Section 61.69 Glider towing: Experience and training requirements.* To meet the recent experience requirement for towing gliders, a pilot is required to meet the requirements of paragraph (a)(6)(i) or paragraph (a)(6)(ii). Paragraph (a)(6)(i) requires a pilot to perform three actual glider tows while accompanied by a qualified pilot. Paragraph (a)(6)(ii) requires a pilot to make at least three flights as pilot in command of a glider towed by an aircraft. In paragraph (a)(6)(i), the FAA inadvertently omitted the provision allowing pilots to meet the recent experience requirement by performing at least three simulated glider tows while accompanied by a qualified pilot. This provision was included in § 61.69 before adoption of the final rule and is necessary because not all glider clubs have two-place glider tow airplanes. In addition, a pilot who does not have a glider rating would not be able to meet the alternative recent experience requirement under paragraph (a)(6)(ii).

*Section 61.73 Military pilots or former military pilots: Special rules.* As adopted in the final rule, the language in paragraph (c)(2) inadvertently required an applicant to present documentation that he or she was on active military status during the 12 months preceding application for a pilot certificate or rating based on the applicant's military training. However, paragraph (c) specifically addresses the requirements for military pilots who were not on active military status during that time period. Paragraph (c)(2) has been corrected by incorporating language contained in § 61.73 before the adoption of the final rule.

*Section 61.77 Special purpose pilot authorization: Operation of U.S.-registered civil aircraft leased by a person who is not a U.S. citizen.* The FAA corrected paragraph (b) to clarify that an applicant must present to a Flight Standards District Office all documentation required to establish his or her eligibility for a special purpose pilot authorization.

Paragraph (d), which describes the circumstances under which a special purpose pilot authorization is valid, has been corrected to include several provisions that were contained in § 61.77 before adoption of the final rule and that were inadvertently omitted in the rulemaking process. Under new paragraph (d)(2) the holder of a special purpose pilot authorization must have the medical documentation required by paragraph (b) in his or her physical possession or immediately accessible in the aircraft while exercising the privileges of the authorization. In addition, new paragraphs (d)(3) and (d)(4) provide that a special purpose pilot authorization remains valid only while the holder of the authorization is employed by the person who provides the certification required by paragraph (b) and while the holder operates the aircraft described in that certification.

Paragraph (i) has been established to address the renewal requirements previously included in paragraph (d), ''General limitations.'' In addition, the FAA has added paragraph (j) to address the surrender of a special purpose pilot authorization. This provision was contained in § 61.77 before the adoption of the final rule.

*Section 61.87 Solo requirements for student pilots.* The FAA determined that it is necessary to add the phrase ''if applicable'' at the conclusion of paragraphs (i) (4), (10), and (11).

The maneuvers described in paragraphs (i) (4) and (10) are required only if a student pilot is receiving training in a powered glider. The maneuver described in paragraph (i)(11) is required only if training is received in a nonpowered glider. In addition, paragraph (m)(3) has been deleted because it duplicated the endorsement requirement contained in paragraph (m)(4).

*Section 61.93 Solo cross-country flight requirements.* This section addresses the solo cross-country flight requirements for student pilots. Therefore, the FAA has removed paragraph (c)(2)(ii) because that paragraph addressed cross-country endorsement requirements for

certificated pilots receiving training for an additional aircraft category and class rating. The endorsement requirements for pilots seeking additional aircraft ratings are contained in § 61.63.

*Section 61.96 Applicability and eligibility requirements: General.* The FAA has corrected paragraph (b)(6) to provide that an applicant for a recreational pilot certificate must meet the aeronautical experience requirements of § 61.99 before applying for the practical test. This requirement is consistent with the eligibility requirements for other certificates issued under part 61.

*Section 61.109 Aeronautical experience.* The introductory paragraph of this section, as adopted in the final rule, sets forth the total aeronautical experience requirements for persons seeking a private pilot certificate with an airplane, rotorcraft, or powered-lift category rating. However, this section also addresses the requirements for obtaining a private pilot certificate with a glider, airship, or balloon rating. Consequently, the FAA added introductory language to each of the paragraphs describing the total aeronautical requirements for the particular ratings. The FAA has not included any additional requirements for obtaining these ratings.

The FAA notes that the instrument training required by paragraphs (a)(3), (b)(3), and (e)(3) need not be provided by an authorized instructor who holds an instrument rating on his or her flight instructor's certificate. Instrument training for a private pilot certificate only requires training on basic instrument maneuvers such as straight and level flight, constant airspeed climbs and descents, turns to a heading, and recovery from unusual flight attitudes; therefore, the FAA does not require that such training be provided by an instructor who holds a flight instructor certificate with an instrument rating. The rule language of paragraphs (a)(3), (b)(3), and (e)(3) has been corrected to reflect this policy.

*Section 61.110 Night flying exceptions.* The FAA corrected paragraph (b)(2) to provide that a private pilot certificate issued with the limitation ''Night flying prohibited'' will become invalid for use if the pilot does not comply with the night flight training requirements within 12 calendar months after issuance of the certificate. It may have appeared from the language adopted in the final rule that the FAA would pursue an enforcement action to suspend the pilot certificate if the night flight training requirements were not met within the 12-month period. This is not the case; however, the pilot certificate will be invalid for use after that period until the pilot meets the night flight training requirements.

*Section 61.129 Aeronautical experience.* The FAA removed the references to the hours that may be credited for training received in a flight simulator or flight training device from paragraphs (a), (b), (c), and (e), which describe the total aeronautical experience requirements for obtaining a commercial pilot certificate with an airplane, helicopter, or powered-lift rating. It is no longer necessary to include this language because paragraph (i), which addresses the crediting of training received in a flight simulator or flight training device, was included in this section with the adoption of Amendment No. 61–100. In addition, the FAA corrected paragraphs (a)(2)(ii), (b)(2)(ii), and (e)(2)(ii) to provide that only 10 of the 50 hours of required cross-country flight for an airplane or powered-lift rating must be accomplished in the category of aircraft for which the applicant is seeking a rating.

Paragraphs (a)(3)(ii) and (b)(3)(ii) require that a person seeking a commercial pilot certificate with a single-engine or multiengine rating receive training in a complex aircraft. As adopted in the final rule, § 61.129 did not address those requirements as they apply to seaplanes. Therefore, the FAA added language to paragraphs (a)(3)(ii) and (b)(3)(ii) to provide that an applicant for a commercial pilot certificate with a seaplane rating must obtain 10 hours of training in a seaplane that has flaps and a controllable pitch propeller.

The requirement for cross-country training in night visual flight rules (VFR) conditions for applicants seeking a commercial pilot certificate with a powered-lift rating was inadvertently omitted from paragraph (e)(3)(iii). This requirement was proposed in Notice No. 95–10 and is consistent with the cross-country flight training requirements for persons seeking a commercial pilot certificate with an airplane, rotorcraft, or airship rating.

As adopted in the final rule, paragraph (i)(3) provided for a reduction in the total aeronautical experience requirements if an applicant for a commercial pilot certificate with an airplane, helicopter, or powered-lift rating satisfactorily completes an approved commercial pilot course conducted by a training center certificated under part 142. However, the hours specified in paragraph (i)(3)(ii) did not result in a reduction in the total aeronautical experience requirements for applicants seeking a commercial pilot certificate with a helicopter rating. Therefore, the FAA removed the reference to the helicopter rating in paragraph (i)(3).

*Section 61.131 Exceptions to the night flying requirements.* The FAA corrected paragraph (b)(2) to provide that a commercial pilot certificate issued with the limitation ''Night flying prohibited'' will become invalid for use if the pilot does not comply with the night flight training requirements within 12 calendar months after issuance of the certificate. This correction is consistent with the change to § 61.110(b)(2).

*Section 61.133 Commercial pilot privileges and limitations.* A provision permitting a commercial pilot with a lighter-than-air category rating to provide training and endorsements for a flight review, operating privilege, or recency of experience requirements was inadvertently omitted from paragraphs (a)(2)(i) and (a)(2)(ii). The FAA added paragraphs (a)(2)(i)(E) and (a)(2)(ii)(D) to provide for these privileges.

*Section 61.153 Eligibility requirements: General.* The FAA inadvertently included the phrase ''if the person holds a pilot license'' in the eligibility requirements for pilots applying for an ATP certificate, and who hold a foreign ATP license or a foreign commercial pilot license and an instrument rating. This language was a superfluous addition and has been deleted. In addition, the requirement that the applicant hold the foreign pilot license and instrument rating without limitations was inadvertently omitted from the final rule. This language was included in § 61.155 before the adoption of the final rule and has been reinstated.

*Section 61.157 Flight proficiency.* As adopted in the final rule, an applicant for a type rating would be required to perform the practical test under ''instrument flight rules.'' It was not the FAA's intention to require an applicant to file an IFR flight plan; therefore, the FAA has corrected paragraph (b)(3) to require that the practical test for an additional type rating be performed in actual or simulated instrument conditions.

In Amendment No. 61–101, ''Aircraft Flight Simulator Use in Pilot Training, Testing, and Checking at Training Centers; Editorial and Other Changes'' (62 FR 13788, March 21, 1997), the FAA revised § 61.157, in part, to provide that a check conducted under 14 CFR § 121.441 and used to satisfy the requirements of § 61.157 must be a pilot-in-command proficiency check. This requirement was inadvertently omitted from § 61.157 when the final rule was adopted. This requirement has been incorporated into paragraph (f)(1).

*Section 61.165 Additional aircraft category and class ratings.* The FAA corrected paragraphs (b) and (c) by removing the references to class ratings. This correction is necessary because a knowledge test is not required when a person who holds an ATP certificate seeks an additional class rating within the same aircraft category. The FAA has added paragraph (e) to address this situation.

*Section 61.183 Eligibility requirements.* The FAA has clarified the eligibility requirement contained in paragraph (c)(2) for persons seeking a flight instructor certificate. Under new paragraph (c)(2), an applicant is required to hold either a commercial pilot certificate with an instrument rating or an ATP certificate with instrument privileges on that applicant's pilot certificate that is appropriate to the flight instructor rating sought. The word ''privileges'' refers to the instrument privileges held by airline transport pilots.

The reference in paragraph (e) to § 61.185(a) has been corrected to read § 61.185(a)(1). This correction was necessary because not all applicants for a flight instructor certificate or rating are required to pass a knowledge test on the fundamentals of instruction as specified in § 61.185(a)(1). However, the FAA notes that all applicants are required to pass a knowledge test on the appropriate aeronautical knowledge areas in § 61.185(a) (2) and (3).

*Section 61.185 Aeronautical knowledge.* For the same reasons stated in the preamble to the corrections of § 61.183, the reference to § 61.185(a) in paragraph (b) has been corrected to read § 61.185(a)(1).

*Section 61.193 Flight instructor privileges.* The FAA has removed from the introductory paragraph to this section the phrase ''and that person's pilot certificate and rating.'' It may have appeared from this language that a flight instructor could instruct based only on that instructor's pilot certificate and ratings; however, a flight instructor is authorized to instruct only within the limitations on that person's flight instructor's certificate. The FAA notes that under § 61.195, a flight instructor may not conduct flight training in any aircraft for which the flight instructor does not hold a valid pilot certificate and flight instructor certificate, with the appropriate ratings. In addition, a flight instructor who provides flight training for the issuance of an instrument rating or type rating not limited to conducting operations under VFR must hold an instrument rating on his or her pilot certificate and flight instructor certificate that is appropriate to the category and class of aircraft in which instrument training is provided.

*Section 61.217 Recent experience requirements.* It was not the FAA's intention to require a ground instructor to meet the recent experience requirements by demonstrating proficiency to an FAA inspector or a designated pilot examiner. Therefore, paragraph (b) has been corrected to provide that the holder of a ground instructor certificate may not perform the duties of a ground instructor unless within the preceding 12 months that person has received an endorsement from an authorized ground or flight instructor who certifies that the person has demonstrated proficiency in the subject areas prescribed in §61.213(a)(3) and (a)(4).

*Part 141*

*Terminology.* References to ''instructor'' have been changed to ''authorized instructor'' because only authorized instructors as defined in §61.1(b)(2) may provide training.

*Section 141.31 Applicability.* Paragraphs (b)(1) and (b)(2) have been clarified by specifying that a pilot school or provisional pilot school must, at the time of application, have ownership of, or a written lease agreement for, a facility or airport for at least the 6 calendar months beyond the date that the application for initial certification and renewal was made.

*Section 141.35 Chief instructor qualifications.* Paragraph (a)(1) has been corrected by specifying that a chief instructor must hold an instrument rating only if such a rating is applicable to the course of training for the particular category and class of aircraft in which he or she will instruct. The language in the amendment inadvertently resulted in a requirement that a chief pilot for a commercial pilot-helicopter course must hold an instrument rating. In addition, paragraph (a)(6) has been corrected to include airships among the class of aircraft for which a chief instructor is required to have only 40 percent of the hours specified in paragraphs (b) and (d) of the section; those paragraphs include requirements for instrument instruction. The requirement in paragraph (a)(6) has been changed because the FAA proposed an instrument rating for airships in Notice No. 95–11, but inadvertently neglected to omit that proposal in the final rule. Paragraphs (a)(6) and (7) also have been combined to remove a reference to paragraph (c) that addresses instrument ratings, which no longer apply to airships.

*Section 141.36 Assistant chief instructor qualifications.* Paragraph (a) has been corrected by specifying that an assistant chief instructor must hold an instrument rating only if such a rating is applicable to the course of training for the particular category and class of aircraft in which he or she will instruct. This change was necessary for the same reasons that the requirements of §141.35(a) were changed for chief instructors.

*Section 141.53 Approval procedures for a training course: General.* Paragraph (c)(1) has been clarified by specifying that the retention of a course's approval until 1 year after August 4, 1997, when that training course is submitted for approval before August 4, 1997, is permitted, but not mandated, by the rule, which was never the FAA's intent.

*Section 141.63 Examining authority qualification requirements.* Paragraph (a)(5) has been corrected by replacing the word ''after'' with the word ''before'' because the paragraph lists the requirements that a school must meet before it can apply for examining authority.

*Section 141.75 Aircraft requirements.* This section has been changed by deleting paragraphs (b) and (c) because they contained provisions in §141.39(b), to the extent that, at the time of application, the Administrator may permit a flight school's aircraft to hold airworthiness certificates that are other than standard or primary, if the Administrator determines that such types of aircraft may be used. This would include such specialized roles as agricultural, external-load, test-pilot, and special operations.

*Section 141.77 Limitations.* This section has been clarified by specifying the requirement for the manner in which a school may give credit for another school's certification. Specifically, this credit relates to the kind and amount of training the previous school provided to a student who has since transferred.

*Section 141.93 Enrollment.* Paragraph (a)(3)(v) has been clarified by changing the term ''write-offs'' to ''approval for return-to-service determinations,'' even though the former term was used before adoption of the final rule. The FAA is making this change because the term was never adequately explained, and it is not part of common aviation terminology.

*Appendix B to Part 141—Private Pilot Certification Course.* Section No. 4, paragraphs (c)(2), (3), and (4) have been corrected to permit the additional use of training time in flight simulators and flight training devices in approved courses. This change reflects the changes set forth in the final rule, which incorporated a new definition for ''flight

simulators'' and introduced a new definition for ''flight training devices,'' with other training equipment falling under the definition of ''training aids and equipment.'' As a result of these changes, the number of hours that could be credited for flight training devices based on the older definition of ''ground trainers'' no longer corresponded to the total number of hours that could be credited for training specified in part 141 before the amendment. Because this reduction was unintentional, the FAA is adjusting the amount of training permitted in flight training devices to avoid any reduction in the amount of training time that may be credited. To preserve the ratio of training time that may be credited in a part 141 course between flight training devices and flight simulators, the amount of training time that may be credited in a flight simulator also has been adjusted.

*Appendix C to Part 141—Instrument Rating Course.* Section No. 4, paragraph (b)(3) has been modified for the same reasons as appendix B, section No. 4, paragraphs (c)(2), (3), and (4).

*Appendix D to Part 141—Commercial Pilot Certification Course.* Section No. 3, paragraph (a) has been changed to reduce the hours of training required for the commercial pilot certification course for an airplane or powered-lift category rating, because candidates for the course are already required to hold an instrument rating before enrolling in the course. At the same time, a new section No. (a)(2) was created with increased hour requirements to provide for a lighter-than-air category with an airship class rating. This increase was inadvertently omitted from the final rule, and is a result of the FAA's decision to withdraw the proposed instrument rating for the airship class. As a result, a commercial pilot certification course would require increased hours for airship class candidates. This would provide a comparable level of training and experience among pilots regardless of the rating obtained. Section No. 4, paragraph (a) has been changed for the same reasons. Paragraphs (c)(2), (3), and (4) have been modified for the same reasons as appendix B, section No. 4, paragraphs (c)(2), (3), and (4).

*Appendix F to Part 141—Flight Instructor Certification Course.* Section 4, paragraph (c)(6)(vii) has been clarified to include tows as well as launches, and to specify go-arounds ''if applicable'' because only certain gliders are motorized.

*Appendix I to Part 141—Additional Aircraft Category or Class Rating Course.* Section No. 3 has been corrected to clarify that an approved course for an additional aircraft category rating or additional class rating must include only the ground training time requirements and ground training on the aeronautical knowledge areas that are specific to that aircraft category and class rating and pilot certificate level for which the course applies as provided in appendixes A, B, D, or E of this part. It was not the FAA's intent to require that the course for an additional rating include the total ground training time requirements for the pilot certificate. Section No. 4, paragraph (a) has been corrected for reasons similar to those discussed in the preamble of the corrections to Section No. 3. In addition, paragraphs (b)(2), (3), and (4) have been modified for the same reasons as appendix B, section No. 4, paragraphs (c)(2), (3), and (4).

**List of Subjects**

*14 CFR Part 61*

Aircraft, Airmen, Aviation safety, Reporting and recordkeeping requirements.

*14 CFR Part 141*

Airmen, Aviation safety, Educational facilities, Reporting and recordkeeping requirements, Schools.

**Correction of Publication**

Accordingly, in **Federal Register** Doc. No. 97–7450, published on April 4, 1997, make the following corrections:

## PART 61—CERTIFICATION: PILOTS, FLIGHT INSTRUCTORS, AND GROUND INSTRUCTORS

1. On page 16298, in the second column, in the table of contents for subpart A of part 61, the entry for § 61.4 is corrected to read ''Qualification and approval of flight simulators and flight training devices.''.

2. On page 16298, in the third column, in the table of contents for subpart A of part 61, the entry for § 61.58 is corrected to read ''Pilot-in-command proficiency check: Operation of aircraft requiring more than one pilot flight crewmember.''.

3. On page 16298, in the third column, in the table of contents for subpart B of part 61, the entry for § 61.63 is corrected to read ''Additional aircraft ratings (other than on an airline transport pilot certificate).''.

4. On page 16299, in the second column, in the table of contents for subpart I of part 61, the entry for § 61.217 is corrected to read ''Recent experience requirements.''.

**§ 61.1 [Corrected]**

5. § 61.1 is corrected as follows:

a. On page 16300, in the third column, in paragraph (b)(1), in line 3, before the word ''flight'', remove the word ''approved'', and, after the word ''or'', remove the word ''approved''.

b. On page 16300, in the third column, paragraph (b)(3) should read as follows:

* * * * *

(b) * * *

(3) *Cross-country time* means—

(i) Except as provided in paragraphs (b)(3) (ii), (iii), (iv), and (v) of this section, time acquired during a flight—

(A) Conducted by a person who holds a pilot certificate;

(B) Conducted in an aircraft;

(C) That includes a landing at a point other than the point of departure; and

(D) That involves the use of dead reckoning, pilotage, electronic navigation aids, radio aids, or other navigation systems to navigate to the landing point.

(ii) For the purpose of meeting the aeronautical experience requirements (except for a rotorcraft category rating), for a private pilot certificate, a commercial pilot certificate, or an instrument rating, or for the purpose of exercising recreational pilot privileges (except in a rotorcraft) under § 61.101(c), time acquired during a flight—

(A) Conducted in an appropriate aircraft;

(B) That includes a point of landing that was at least a straight-line distance of more than 50 nautical miles from the original point of departure; and

(C) That involves the use of dead reckoning, pilotage, electronic navigation aids, radio aids, or other navigation systems to navigate to the landing point.

(iii) For the purpose of meeting the aeronautical experience requirements for any pilot certificate with a rotorcraft category rating or an instrument-helicopter rating, or for the purpose of exercising recreational pilot privileges, in a rotorcraft, under § 61.101(c), time acquired during a flight—

(A) Conducted in an appropriate aircraft;

(B) That includes a point of landing that was at least a straight-line distance of more than 25 nautical miles from the original point of departure; and

(C) That involves the use of dead reckoning, pilotage, electronic navigation aids, radio aids, or other navigation systems to navigate to the landing point.

(iv) For the purpose of meeting the aeronautical experience requirements for an airline transport pilot certificate (except with a rotorcraft category rating), time acquired during a flight—

(A) Conducted in an appropriate aircraft;

(B) That is at least a straight-line distance of more than 50 nautical miles from the original point of departure; and

(C) That involves the use of dead reckoning, pilotage, electronic navigation aids, radio aids, or other navigation systems.

(v) For a military pilot who qualifies for a commercial pilot certificate (except with a rotorcraft category rating) under § 61.73 of this part, time acquired during a flight—

(A) Conducted in an appropriate aircraft;

(B) That is at least a straight-line distance of more than 50 nautical miles from the original point of departure; and

(C) That involves the use of dead reckoning, pilotage, electronic navigation aids, radio aids, or other navigation systems.

c. On page 16301, in the second column, in paragraph (b)(12)(i), after the word ''pilot'', add the words ''flight crewmember''.

d. On page 16301, in the second column, in paragraph (b)(12)(ii), in line 3, before the word ''flight'', remove the word ''approved'' and, after the word ''or'', remove the word ''approved''.

e. On page 16301, in the second column, in paragraph (b)(12)(iii), in line 2, remove the word ''approved'' and, in line 3, remove the word ''approved''.

f. On page 16301, in the second column, in paragraph (b)(13), in line 6, remove the words ''an approved'' and add, in their place, the word ''a'', and, in line 7, remove the words ''an approved'' and add, in their place, the word ''a''.

g. On page 16301, in the second column, in paragraph (b)(15)(iii), in line 1, remove the words ''an approved'' and add, in their place, the word ''a'', and, in line 2, remove the word ''approved''.

**§ 61.2 [Corrected]**

6. § 61.2 is corrected as follows:

a. On page 16301, in the second column, in paragraph (a), in line 3, after the word ''certificate'', add the words ''issued under this part (other than under § 61.75)''.

b. On page 16301, in the second column, in paragraph (b)(1), in line 3, after the word ''pilot'', add the word ''flight''.

c. On page 16301, in the third column, in paragraph (c)(1), in line 2, remove the word ''of''.

**§ 61.3 [Corrected]**

7. § 61.3 is corrected as follows:

a. On page 16301, in the third column, in paragraph (a), in line 3, after the word ''pilot'', add the words ''flight crewmember''.

b. On page 16301, in the third column, in paragraph (b) introductory text, in line 5, after the word ''pilot'', add the words ''flight crewmember''.

c. On page 16301, in the third column, paragraph (c)(1) should read as follows:

* * * * *

(c) * * *

(1) Except as provided for in paragraph (c)(2) of this section, a person may not act as pilot in command or in any other capacity as a required pilot flight crewmember of an aircraft, under a certificate issued to that person under this part, unless that person has a current and appropriate medical certificate that has been issued under part 67 of this chapter, or other documentation acceptable to the Administrator, which is in that person's physical possession or readily accessible in the aircraft.

* * * * *

d. On page 16302, in the first column, in paragraph (c)(2)(iv), in line 6, after the word ''required'', add the words ''pilot flight''.

e. On page 16302, in the first column, paragraph (d) should read as follows:

* * * * *

(d) *Flight instructor certificate.* (1) A person who holds a flight instructor certificate issued under this part must have that certificate, or other documentation acceptable to the Administrator, in that person's physical possession or readily accessible in the aircraft when exercising the privileges of that flight instructor certificate.

(2) Except as provided in paragraph (d)(3) of this section, no person other than the holder of a flight instructor certificate issued under this part with the appropriate rating on that certificate may—

(i) Give training required to qualify a person for solo flight and solo cross-country flight;

(ii) Endorse an applicant for a—

(A) Pilot certificate or rating issued under this part;

(B) Flight instructor certificate or rating issued under this part; or

(C) Ground instructor certificate or rating issued under this part;

(iii) Endorse a pilot logbook to show training given; or

(iv) Endorse a student pilot certificate and logbook for solo operating privileges.

(3) A flight instructor certificate issued under this part is not necessary—

(i) Under paragraph (d)(2) of this section, if the training is given by the holder of a commercial pilot certificate with a lighter-than-air rating, provided the training is given in accordance with the privileges of the certificate in a lighter-than-air aircraft;

(ii) Under paragraph (d)(2) of this section, if the training is given by the holder of an airline transport pilot certificate with a rating appropriate to the aircraft in which the training is given, provided the training is given in accordance with the privileges of the certificate and conducted in accordance with an approved air carrier training program approved under part 121 or part 135 of this chapter;

(iii) Under paragraph (d)(2) of this section, if the training is given by a person who is qualified in accordance with subpart C of part 142 of this chapter, provided the training is conducted in accordance with an approved part 142 training program;

(iv) Under paragraphs (d)(2)(i), (d)(2)(ii)(C), and (d)(2)(iii) of this section, if the training is given by the holder of a ground instructor certificate in accordance with the privileges of the certificate; or

(v) Under paragraph (d)(2)(iii) of this section, if the training is given by an authorized flight instructor under § 61.41 of this part.

f. On page 16302, in the third column, paragraph (i) should read as follows:

* * * * *

(i) *Ground instructor certificate.* (1) Each person who holds a ground instructor certificate issued under this part or part 143 must have that certificate in that person's physical possession or immediately accessible when exercising the privileges of that certificate.

(2) Except as provided in paragraph (i)(3) of this section, no person other than the holder of a ground instructor certificate, issued under this part or part 143, with the appropriate rating on that certificate may—

(i) Give ground training required to qualify a person for solo flight and solo cross-country flight;

(ii) Endorse an applicant for a knowledge test required for a pilot, flight instructor, or ground instructor certificate or rating issued under this part; or

(iii) Endorse a pilot logbook to show ground training given.

(3) A ground instructor certificate issued under this part is not necessary—

(i) Under paragraph (i)(2) of this section, if the training is given by the holder of a flight instructor certificate issued under this part in accordance with the privileges of that certificate;

(ii) Under paragraph (i)(2) of this section, if the training is given by the holder of a commercial pilot certificate with a lighter-than-air rating, provided

the training is given in accordance with the privileges of the certificate in a lighter-than-air aircraft;

(iii) Under paragraph (i)(2) of this section, if the training is given by the holder of an airline transport pilot certificate with a rating appropriate to the aircraft in which the training is given, provided the training is given in accordance with the privileges of the certificate and conducted in accordance with an approved air carrier training program approved under part 121 or part 135 of this chapter;

(iv) Under paragraph (i)(2) of this section, if the training is given by a person who is qualified in accordance with subpart C of part 142 of this chapter, provided the training is conducted in accordance with an approved part 142 training program; or

(v) Under paragraph (i)(2)(iii) of this section, if the training is given by an authorized flight instructor under § 61.41 of this part.

**§ 61.4 [Corrected]**

8. § 61.4 is corrected as follows:

a. On page 16303, in the second column, the heading for § 61.4 should read as follows: ''*Qualification and approval of flight simulators and flight training devices*.''

b. On page 16303, in the second column, in paragraph (a) introductory text, in line 8, before the word ''approved'', add the words ''qualified and''.

c. On page 16303, in the second column, in paragraph (c), in line 2, remove the word ''training''.

**§ 61.11 [Corrected]**

9. § 61.11 is corrected as follows:

a. On page 16304, in the first column, in paragraph (a)(2), in line 2, after the word ''required'', add the words ''pilot flight''.

b. On page 16304, in the first column, in paragraph (b) introductory text, in line 2, remove the word ''may'' and add, in its place, the word ''will''.

c. On page 16304, in the first column, in paragraph (c), in line 4, after the word ''expires'', add the words ''unless otherwise specified on the U.S. pilot certificate. A certificate without an expiration date is issued to the holder of the expired certificate only if that person meets the requirements of § 61.75 for the issuance of a pilot certificate based on a foreign pilot license''.

d. On page 16304, in the first column, remove paragraph (g).

10. On page 16304, in the first column, § 61.13 is corrected to read as follows:

**§ 61.13 Issuance of airman certificates, ratings, and authorizations.**

(a) *Application*. (1) An applicant for an airman certificate, rating, or authorization under this part must make that application on a form and in a manner acceptable to the Administrator.

(2) An applicant who is neither a citizen of the United States nor a resident alien of the United States—

(i) Must show evidence that the appropriate fee prescribed in appendix A to part 187 of this chapter has been paid when that person applies for a—

(A) Student pilot certificate that is issued outside the United States; or

(B) Knowledge test or practical test for an airman certificate or rating issued under this part, if the test is administered outside the United States.

(ii) May be refused issuance of any U.S. airman certificate, rating, or authorization by the Administrator.

(3) Except as provided in paragraph (a)(2)(ii) of this section, an applicant who satisfactorily accomplishes the training and certification requirements for the certificate, rating, or authorization sought is entitled to receive that airman certificate, rating, or authorization.

(b) *Limitations*. (1) An applicant who cannot comply with certain areas of operation required on the practical test because of physical limitations may be issued an airman certificate, rating, or authorization with the appropriate limitation placed on the applicant's airman certificate provided the—

(i) Applicant is able to meet all other certification requirements for the airman certificate, rating, or authorization sought; (ii) Physical limitation has been recorded with the FAA on the applicant's medical records; and

(iii) Administrator determines that the applicant's inability to perform the particular area of operation will not adversely affect safety.

(2) A limitation placed on a person's airman certificate may be removed, provided that person demonstrates for an examiner satisfactory proficiency in the area of operation appropriate to the airman certificate, rating, or authorization sought.

(c) *Additional requirements for Category II and Category III pilot authorizations*. (1) A Category II or Category III pilot authorization is issued by a letter of authorization as part of an applicant's instrument rating or airline transport pilot certificate.

(2) Upon original issue, the authorization contains the following limitations:

(i) For Category II operations, the limitation is 1,600 feet RVR and a 150-foot decision height; and

(ii) For Category III operations, each initial limitation is specified in the authorization document.

(3) The limitations on a Category II or Category III pilot authorization may be removed as follows:

(i) In the case of Category II limitations, a limitation is removed when the holder shows that, since the beginning of the sixth preceding month, the holder has made three Category II ILS approaches with a 150-foot decision height to a landing under actual or simulated instrument conditions.

(ii) In the case of Category III limitations, a limitation is removed as specified in the authorization.

(4) To meet the experience requirements of paragraph (c)(3) of this section, and for the practical test required by this part for a Category II or a Category III pilot authorization, a flight simulator or flight training device may be used if it is approved by the Administrator for such use.

(d) *Application during suspension or revocation*. (1) Unless otherwise authorized by the Administrator, a person whose pilot, flight instructor, or ground instructor certificate has been suspended may not apply for any certificate, rating, or authorization during the period of suspension.

(2) Unless otherwise authorized by the Administrator, a person whose pilot, flight instructor, or ground instructor certificate has been revoked may not apply for any certificate, rating, or authorization for 1 year after the date of revocation.

**§ 61.23 [Corrected]**

11. §61.23 is corrected as follows:

a. On page 16306, in the first column, in paragraph (a)(3)(iv), in line 6, after the word ''required'', add the words ''pilot flight''.

b. On page 16306, in the first column, in paragraph (b)(5), in line 4, after the word ''required'', add the words ''pilot flight''.

c. On page 16306, in the first column, in paragraph (b)(7), in line 4, remove the word ''an'' and add, in its place, the word ''a'', and, in line 5, before the word ''flight'', remove the word ''approved'' and, after the word ''or'', remove the word ''approved''.

d. On page 16306, in the first column, in paragraph (b)(8), in line 3, remove the words ''an approved'' and add, in their place, the word ''a'', and, in line 4, remove the word ''approved''.

e. On page 16306, in the second column, in paragraph (c)(1)(iii), in line 6, after the word ''required'', add the words ''pilot flight''.

f. On page 16306, in the second column, in paragraph (c)(2)(ii), in line 6,

after the word ''required'', add the words ''pilot flight''.

g. On page 16306, in the second column, in paragraph (c)(3) introductory text, in line 6, after the word ''required'', add the words ''pilot flight''.

**§ 61.29 [Corrected]**

12. § 61.29 is corrected as follows:

a. On page 16306, in the third column, in paragraph (a), in line 3, remove the word ''shall'' and add, in its place, the word ''must'', and, in line 7, remove the word ''shall'' and add, in its place, the word ''must''.

b. On page 16306, in the third column, in paragraph (b), in line 3, remove the word ''shall'' and add, in its place, the word ''must'', and, in line 7, remove the word ''shall'' and add, in its place, the word ''must''.

c. On page 16306, in the third column, in paragraph (c), in line 3, remove the word ''shall'' and add, in its place, the word ''must'', and, in line 7, remove the word ''shall'' and add, in its place, the word ''must''.

d. On page 16306, in the third column, in paragraph (e) introductory text, in line 4, after the acronym ''FAA'', add the words ''Aeromedical Certification Branch or the Airman Certification Branch, as appropriate,''.

13. On page 16307, in the first column, §61.31 is corrected to read as follows:

**§ 61.31 Type rating requirements, additional training, and authorization requirements.**

(a) *Type ratings required.* A person who acts as a pilot in command of any of the following aircraft must hold a type rating for that aircraft:

(1) Large aircraft (except lighter-than-air).

(2) Turbojet-powered airplanes.

(3) Other aircraft specified by the Administrator through aircraft type certificate procedures.

(b) *Authorization in lieu of a type rating.* A person may be authorized to operate without a type rating for up to 60 days an aircraft requiring a type rating, provided—

(1) The Administrator has authorized the flight or series of flights;

(2) The Administrator has determined that an equivalent level of safety can be achieved through the operating limitations on the authorization;

(3) The person shows that compliance with paragraph (a) of this section is impracticable for the flight or series of flights; and

(4) The flight—

(i) Involves only a ferry flight, training flight, test flight, or practical test for a pilot certificate or rating;

(ii) Is within the United States;

(iii) Does not involve operations for compensation or hire unless the compensation or hire involves payment for the use of the aircraft for training or taking a practical test; and

(iv) Involves only the carriage of flight crewmembers considered essential for the flight.

(5) If the flight or series of flights cannot be accomplished within the time limit of the authorization, the Administrator may authorize an additional period of up to 60 days to accomplish the flight or series of flights.

(c) *Aircraft category, class, and type ratings: Limitations on the carriage of persons, or operating for compensation or hire.* Unless a person holds a category, class, and type rating (if a class and type rating is required) that applies to the aircraft, that person may not act as pilot in command of an aircraft that is carrying another person, or is operated for compensation or hire. That person also may not act as pilot in command of that aircraft for compensation or hire.

(d) *Aircraft category, class, and type ratings: Limitations on operating an aircraft as the pilot in command.* To serve as the pilot in command of an aircraft, a person must—

(1) Hold the appropriate category, class, and type rating (if a class rating and type rating are required) for the aircraft to be flown;

(2) Be receiving training for the purpose of obtaining an additional pilot certificate and rating that are appropriate to that aircraft, and be under the supervision of an authorized instructor; or

(3) Have received training required by this part that is appropriate to the aircraft category, class, and type rating (if a class or type rating is required) for the aircraft to be flown, and have received the required endorsements from an instructor who is authorized to provide the required endorsements for solo flight in that aircraft.

(e) *Additional training required for operating complex airplanes.* (1) Except as provided in paragraph (e)(2) of this section, no person may act as pilot in command of a complex airplane (an airplane that has a retractable landing gear, flaps, and a controllable pitch propeller; or, in the case of a seaplane, flaps and a controllable pitch propeller), unless the person has—

(i) Received and logged ground and flight training from an authorized instructor in a complex airplane, or in a flight simulator or flight training device that is representative of a complex airplane, and has been found proficient in the operation and systems of the airplane; and

(ii) Received a one-time endorsement in the pilot's logbook from an authorized instructor who certifies the person is proficient to operate a complex airplane.

(2) The training and endorsement required by paragraph (e)(1) of this section is not required if the person has logged flight time as pilot in command of a complex airplane, or in a flight simulator or flight training device that is representative of a complex airplane prior to August 4, 1997.

(f) *Additional training required for operating high-performance airplanes.* (1) Except as provided in paragraph (f)(2) of this section, no person may act as pilot in command of a high-performance airplane (an airplane with an engine of more than 200 horsepower), unless the person has—

(i) Received and logged ground and flight training from an authorized instructor in a high-performance airplane, or in a flight simulator or flight training device that is representative of a high-performance airplane, and has been found proficient in the operation and systems of the airplane; and

(ii) Received a one-time endorsement in the pilot's logbook from an authorized instructor who certifies the person is proficient to operate a high-performance airplane.

(2) The training and endorsement required by paragraph (f)(1) of this section is not required if the person has logged flight time as pilot in command of a high-performance airplane, or in a flight simulator or flight training device that is representative of a high-performance airplane prior to August 4, 1997.

(g) *Additional training required for operating pressurized aircraft capable of operating at high altitudes.* (1) Except as provided in paragraph (g)(3) of this section, no person may act as pilot in command of a pressurized aircraft (an aircraft that has a service ceiling or maximum operating altitude, whichever is lower, above 25,000 feet MSL), unless that person has received and logged ground training from an authorized instructor and obtained an endorsement in the person's logbook or training record from an authorized instructor who certifies the person has satisfactorily accomplished the ground training. The ground training must include at least the following subjects:

(i) High-altitude aerodynamics and meteorology;

(ii) Respiration;

(iii) Effects, symptoms, and causes of hypoxia and any other high-altitude sickness;

(iv) Duration of consciousness without supplemental oxygen;

(v) Effects of prolonged usage of supplemental oxygen;

(vi) Causes and effects of gas expansion and gas bubble formation;

(vii) Preventive measures for eliminating gas expansion, gas bubble formation, and high-altitude sickness;

(viii) Physical phenomena and incidents of decompression; and

(ix) Any other physiological aspects of high-altitude flight.

(2) Except as provided in paragraph (g)(3) of this section, no person may act as pilot in command of a pressurized aircraft unless that person has received and logged training from an authorized instructor in a pressurized aircraft, or in a flight simulator or flight training device that is representative of a pressurized aircraft, and obtained an endorsement in the person's logbook or training record from an authorized instructor who found the person proficient in the operation of a pressurized aircraft. The flight training must include at least the following subjects:

(i) Normal cruise flight operations while operating above 25,000 feet MSL;

(ii) Proper emergency procedures for simulated rapid decompression without actually depressurizing the aircraft; and

(iii) Emergency descent procedures.

(3) The training and endorsement required by paragraphs (g)(1) and (g)(2) of this section are not required if that person can document satisfactory accomplishment of any of the following in a pressurized aircraft, or in a flight simulator or flight training device that is representative of a pressurized aircraft:

(i) Serving as pilot in command before April 15, 1991;

(ii) Completing a pilot proficiency check for a pilot certificate or rating before April 15, 1991;

(iii) Completing an official pilot-in-command check conducted by the military services of the United States; or

(iv) Completing a pilot-in-command proficiency check under part 121, 125, or 135 of this chapter conducted by the Administrator or by an approved pilot check airman.

(h) *Additional training required by the aircraft's type certificate.* No person may serve as pilot in command of an aircraft that the Administrator has determined requires aircraft type-specific training unless that person has—

(1) Received and logged type-specific training in the aircraft, or in a flight simulator or flight training device that is representative of that type of aircraft; and

(2) Received a logbook endorsement from an authorized instructor who has found the person proficient in the operation of the aircraft and its systems.

(i) *Additional training required for operating tailwheel airplanes.* (1) Except as provided in paragraph (i)(2) of this section, no person may act as pilot in command of a tailwheel airplane unless that person has received and logged flight training from an authorized instructor in a tailwheel airplane and received an endorsement in the person's logbook from an authorized instructor who found the person proficient in the operation of a tailwheel airplane. The flight training must include at least the following the maneuvers and procedures:

(i) Normal and crosswind takeoffs and landings;

(ii) Wheel landings (unless the manufacturer has recommended against such landings); and

(iii) Go-around procedures.

(2) The training and endorsement required by paragraph (i)(1) of this section is not required if the person logged pilot-in-command time in a tailwheel airplane before April 15, 1991.

(j) *Additional training required for operating a glider.* (1) No person may act as pilot in command of a glider—

(i) Using ground-tow procedures, unless that person has satisfactorily accomplished ground and flight training on ground-tow procedures and operations, and has received an endorsement from an authorized instructor who certifies in that pilot's logbook that the pilot has been found proficient in ground-tow procedures and operations;

(ii) Using aerotow procedures, unless that person has satisfactorily accomplished ground and flight training on aerotow procedures and operations, and has received an endorsement from an authorized instructor who certifies in that pilot's logbook that the pilot has been found proficient in aerotow procedures and operations; or

(iii) Using self-launch procedures, unless that person has satisfactorily accomplished ground and flight training on self-launch procedures and operations, and has received an endorsement from an authorized instructor who certifies in that pilot's logbook that the pilot has been found proficient in self-launch procedures and operations.

(2) The holder of a glider rating issued prior to August 4, 1997, is considered to be in compliance with the training and logbook endorsement requirements of this paragraph for the specific operating privilege for which the holder is already qualified.

(k) *Exceptions.* (1) This section does not require a category and class rating for aircraft not type certificated as airplanes, rotorcraft, or lighter-than-air aircraft, or a class rating for gliders or powered-lifts.

(2) The rating limitations of this section do not apply to—

(i) An applicant when taking a practical test given by an examiner;

(ii) The holder of a student pilot certificate; —(iii) The holder of a pilot certificate when operating an aircraft under the authority of an experimental or provisional aircraft type certificate;

(iv) The holder of a pilot certificate with a lighter-than-air category rating when operating a balloon; or

(v) The holder of a recreational pilot certificate operating under the provisions of §61.101(h).

**§ 61.39 [Corrected]**

14. On page 16309, in the first column, correct §61.39(a)(6) introductory text, in lines 1 through 2, by removing the words ''Except as provided in paragraph (c) of this section,'' and, in line 2, by capitalizing the word ''have.''

**§ 61.45 [Corrected]**

15. § 61.45 is corrected as follows:

a. On page 16309, in the third column, in paragraph (a) introductory text, in line 4, remove the word ''an'' and add, in its place, the word ''a''; in line 5, remove the word ''approved'', and remove the word ''an'' and add, in its place, the word ''a''; and in line 6, remove the word ''approved''.

a.-1. On page 16310, in the first column, in paragraph (a) introductory text, in line 1, remove the word ''approved''.

b. On page 16310, in the first column, in paragraph (b) introductory text, in line 2, remove the word ''An'' and add, in its place, the words ''Unless otherwise authorized by the Administrator, an''.

**§ 61.47 [Corrected]**

16. On page 16310, in the second column, correct §61.47(c), in line 6, by removing the word ''on'' and adding, in its place, the word ''for''.

**§ 61.51 [Corrected]**

17. § 61.51 is corrected as follows:

a. On page 16310, in the third column, in paragraph (b)(1)(ii), after the word ''time'', add the words ''or lesson time''.

b. On page 16310, in the third column, in paragraph (b)(1)(iii), in line 3, before the word ''flight'', remove the words ''an approved'', and add, in their place, the word ''a'', and, after the word

''or'', remove the word ''an''; and, in line 4, remove the word ''approved''.

c. On page 16310, in the third column, in paragraph (b)(1)(iv), in line 2, before the word ''flight'', remove the word ''approved'', and, after the word ''or'', remove the word ''approved''.

d. On page 16310, in the third column, in paragraph (b)(2)(v), in line 1, remove the words ''an approved'', and add, in their place, the word ''a'', and, in line 2, remove the word ''approved''.

e. On page 16310, in the third column, in paragraph (b)(3)(iii), in line 2, remove the words ''an approved'' and add, in their place, the word ''a'', and, in line 3, remove the words ''an approved'' and add, in their place, the word ''a''.

f. On page 16310, in the third column, in paragraph (d), in line 2, remove the words ''acting as'' and add, in their place, the words ''performing the functions of'', and, in line 4, before the word ''flight'', add the word ''pilot''.

g. On page 16311, in the first column, in paragraph (e)(1), in line 2, after the word ''person'', remove the word ''is''.

h. On page 16311, in the first column, in paragraph (e)(1)(i), in line 1, before the word ''sole'', remove the word ''The'' and add, in its place, the words ''Is the''.

i. On page 16311, in the first column, in paragraph (e)(1)(ii), in line 2, remove the word ''when'' and add, in its place, the word ''is''.

j. On page 16311, in the first column, in paragraph (e)(4) introductory text, in line 2, after the word ''time'', add the word ''only''.

k. On page 16311, in the first column, in paragraph (e)(4)(i), after the word ''aircraft'', add the words ''or is performing the functions of pilot in command of an airship requiring more than one pilot flight crewmember''.

l. On page 16311, in the first column, in paragraph (e)(4)(iii), in line 2, after the word ''rating'', remove the comma, and, in lines 2 through 8, remove the words ''is acting as pilot in command of an airship requiring more than one flight crewmember, or is logging pilot-in-command flight time to obtain the pilot-in-command flight experience requirements for a pilot certificate or aircraft rating''.

m. On page 16311, in the first column, in paragraph (f) introductory text, in line 3, after the word ''command'', remove the word ''flight''.

n. On page 16311, in the first column, in paragraph (g)(1), in line 2, after the word ''instrument'', remove the word ''flight''.

o. On page 16311, in the first column, in paragraph (g)(2), in line 2, after the word ''instrument'', remove the word ''flight''.

p. On page 16311, in the first column, in paragraph (g)(3) introductory text, in line 2, after the word ''instrument'', remove the word ''flight''.

q. On page 16311, in the second column, in paragraph (g)(4), in line 1, remove the words ''An approved'' and add, in their place, the word ''A''; in line 2, remove the word ''approved''; and, in line 3, remove the word ''flight''.

r. On page 16311, in the second column, in paragraph (h)(1), in line 4, remove the word ''approved'', and, in line 5, remove the word ''approved''.

s. On page 16311, in the second column, in paragraph (h)(2)(ii), in line 3, before the word ''instructor'', add the word ''authorized''.

t. On page 16311, in the second column, in paragraph (i)(2) introductory text, in line 4, before the word ''instructor'', add the word ''authorized''.

u. On page 16311, in the second column, paragraph (i)(3) should read as follows:

* * * * *

(3) A recreational pilot must carry his or her logbook with the required authorized instructor endorsements on all solo flights—

(i) That exceed 50 nautical miles from the airport at which training was received;

(ii) Within airspace that requires communication with air traffic control;

(iii) Conducted between sunset and sunrise; or

(iv) In an aircraft for which the pilot does not hold an appropriate category or class rating.

**§ 61.55 [Corrected]**

18. § 61.55 is corrected as follows:

a. On page 16311, in the third column, in paragraph (b)(2) introductory text, in line 3, remove the word ''an'' and add, in its place, the word ''a''; in line 4, before the word ''flight'', remove the word ''approved'' and, after the word ''simulator'', remove the words ''or approved''; and, in line 5, remove the words ''flight training device''.

b. On page 16311, in the third column, in paragraph (b)(2)(i), in line 1, after the word ''landings'', add the words ''to a full stop''.

c. On page 16312, in the first column, in paragraph (g) introductory text, in line 4, remove the words ''an approved'' and add, in their place, the word ''a''; in line 5, remove the dash; in lines 6 through 7, remove paragraph (g)(1); and in line 8, remove the paragraph designation ''(2)'', and remove the word ''Used'' and add, in its place, the word ''used''.

**§ 61.56 [Corrected]**

19. § 61.56 is corrected as follows:

a. On page 16312, in the second column, in paragraph (c)(1), in lines 3 through 6, remove the words ''appropriately rated instructor certificated under this part or other person designated by the Administrator'' and add, in their place, the words ''authorized instructor''.

b. On page 16312, in the second column, in paragraph (c)(2), in line 1, remove the words ''by the person'' and add, in their place, the words ''from an authorized instructor''.

c. On page 16312, in the second column, in paragraph (g), in line 6, remove the word ''person'' and add, in its place, the words ''authorized instructor''.

d. On page 16312, in the third column, remove paragraph (h)(1).

e. On page 16312, in the third column, redesignate paragraph (h)(2) as paragraph (h)(1) and in new paragraph (h)(1), in line 1, remove the word ''approved'', and, in line 2, remove the word ''approved''.

f. On page 16312, in the third column, redesignate paragraph (h)(3) as paragraph (h)(2).

g. On page 16312, in the third column, redesignate paragraph (h)(4) as paragraph (h)(3) and in new paragraph (h)(3), in line 1, remove the word ''approved'', and, in line 2, remove the word ''approved''.

**§ 61.57 [Corrected]**

20. § 61.57 is corrected as follows:

a. On page 16312, in the third column, in paragraph (a)(1) introductory text, in lines 5 through 6, remove the words ''as a required pilot on board an aircraft that requires'' and add, in their place, the words ''of an aircraft certificated for''.

b. On page 16312, in the third column, in paragraph (a)(3) introductory text, in line 3, remove the words ''an approved'' and add, in their place, the word ''a'', and, in line 4, remove the words ''an approved''.

c. On page 16313, in the first column, in paragraph (b)(1), in line 12, after the word ''sunrise'', remove the period and add, in its place, a comma, the word ''and'', and a dash.

d. On page 16313, in the first column, add paragraphs (b)(1)(i) and (b)(1)(ii) to read as follows:

* * * * *

(b) * * *

(1) * * *

(i) That person acted as sole manipulator of the flight controls; and

(ii) The required takeoffs and landings were performed in an aircraft of the

same category, class, and type (if a type rating is required).

* * * * *

e. On page 16313, in the first column, in paragraph (c) introductory text, in line 1, remove the word ''Recent'' from the paragraph heading and capitalize the word ''instrument''.

f. On page 16313, in the first column, in paragraph (c)(1) introductory text, in line 6, remove the words ''appropriate to'' and add, in their place, the word ''in''; in line 8, remove the words ''an approved'' and add, in their place, the word ''a''; and, in line 9, remove the word ''approved''.

g. On page 16313, in the first column, in paragraph (d) introductory text, in line 4, remove the word ''recent''; in line 6, after the word ''time'', add a comma; and, in line 8, after the word ''time'', add a comma.

h. On page 16313, in the second column, in paragraph (d)(1)(ii), in line 1, remove the words ''In an approved'' and add, in their place, the words ''For other than a glider, in a''; in line 2, remove the word ''approved''; and, in line 4, remove the words ''(other than a glider)''.

i. On page 16313, in the second column, in paragraph (d)(2)(iv), in line 1, remove the words ''instrument flight'' and add, in their place, the word ''authorized'', and, in lines 2 through 3, remove the words ''who holds the appropriate instrument instructor rating''.

21. On page 16313, in the second column, §61.58 is corrected to read as follows:

**§ 61.58 Pilot-in-command proficiency check: Operation of aircraft requiring more than one pilot flight crewmember.**

(a) Except as otherwise provided in this section, to serve as pilot in command of an aircraft that is type certificated for more than one required pilot flight crewmember, a person must—

(1) Within the preceding 12 calendar months, complete a pilot-in-command proficiency check in an aircraft that is type certificated for more than one required pilot flight crewmember; and

(2) Within the preceding 24 calendar months, complete a pilot-in-command proficiency check in the particular type of aircraft in which that person will serve as pilot in command.

(b) This section does not apply to persons conducting operations under part 121, 125, 133, 135, or 137 of this chapter, or persons maintaining continuing qualification under an Advanced Qualification Program approved under SFAR 58.

(c) The pilot-in-command proficiency check given in accordance with the provisions of part 121, 125, or 135 of this chapter may be used to satisfy the requirements of this section.

(d) The pilot-in-command proficiency check required by paragraph (a) of this section may be accomplished by satisfactory completion of one of the following:

(1) A pilot-in-command proficiency check conducted by a person authorized by the Administrator, consisting of the maneuvers and procedures required for a type rating, in an aircraft type certificated for more than one required pilot flight crewmember;

(2) The practical test required for a type rating, in an aircraft type certificated for more than one required pilot flight crewmember;

(3) The initial or periodic practical test required for the issuance of a pilot examiner or check airman designation, in an aircraft type certificated for more than one required pilot flight crewmember; or

(4) A military flight check required for a pilot in command with instrument privileges, in an aircraft that the military requires to be operated by more than one pilot flight crewmember.

(e) A check or test described in paragraphs (d)(1) through (d)(4) of this section may be accomplished in a flight simulator under part 142 of this chapter, subject to the following:

(1) Except as provided for in paragraphs (e)(2) and (e)(3) of this section, if an otherwise qualified and approved flight simulator used for a pilot-in-command proficiency check is not qualified and approved for a specific required maneuver—

(i) The training center must annotate, in the applicant's training record, the maneuver or maneuvers omitted; and

(ii) Prior to acting as pilot in command, the pilot must demonstrate proficiency in each omitted maneuver in an aircraft or flight simulator qualified and approved for each omitted maneuver.

(2) If the flight simulator used pursuant to paragraph (e) of this section is not qualified and approved for circling approaches—

(i) The applicant's record must include the statement, ''Proficiency in circling approaches not demonstrated''; and

(ii) The applicant may not perform circling approaches as pilot in command when weather conditions are less than the basic VFR conditions described in § 91.155 of this chapter, until proficiency in circling approaches has been successfully demonstrated in a flight simulator qualified and approved for circling approaches or in an aircraft to a person authorized by the Administrator to conduct the check required by this section.

(3) If the flight simulator used pursuant to paragraph (e) of this section is not qualified and approved for landings, the applicant must—

(i) Hold a type rating in the airplane represented by the simulator; and

(ii) Have completed within the preceding 90 days at least three takeoffs and three landings (one to a full stop) as the sole manipulator of the flight controls in the type airplane for which the pilot-in-command proficiency check is sought.

(f) For the purpose of meeting the pilot-in-command proficiency check requirements of paragraph (a) of this section, a person may act as pilot in command of a flight under day VFR conditions or day IFR conditions if no person or property is carried, other than as necessary to demonstrate compliance with this part.

(g) If a pilot takes the pilot-in-command proficiency check required by this section in the calendar month before or the calendar month after the month in which it is due, the pilot is considered to have taken it in the month in which it was due for the purpose of computing when the next pilot-in-command proficiency check is due.

**§ 61.63 [Corrected]**

22. § 61.63 is corrected as follows:

a. On page 16314, in the first column, the heading for §61.63 should read as follows: ''*Additional aircraft ratings (other than on an airline transport pilot certificate).*''

b. On page 16314, in the first column, in paragraph (a), in line 6, after the word ''section'', remove the comma.

c. On page 16314, in the second column, in paragraph (c)(4), in line 5, after the word ''sought'', remove the semicolon and add the words ''unless the person holds a lighter-than-air category rating with a balloon class rating and is seeking an airship class rating''.

d. On page 16314, in the third column, in paragraph (d)(5), in line 2, remove the words ''under instrument flight rules'' and add, in their place, the words ''in actual or simulated instrument conditions''.

e. On page 16314, in the third column, in paragraph (e) introductory text, in line 1, remove the words ''an approved'' and add, in their place, the word ''a'', and, in line 2, remove the words ''an approved''.

f. On page 16314, in the third column, in paragraph (e)(2), in line 4, remove the words ''an approved'' and add, in their

place, the word ''a'', and, in line 5, remove the words ''an approved''.

g. On page 16315, in the first column, in paragraph (e)(3), in line 1, remove the words ''an approved'', and add, in their place, the word ''a'', and, in line 2, remove the words ''an approved''.

h. On page 16315, in the first column, in paragraph (e)(4)(i), in line 1, after the word ''be'', add the words ''qualified and''.

i. On page 16315, in the first column, in paragraph (e)(5)(i), in line 1, after the word ''is'', add the words ''qualified and''.

j. On page 16315, in the second column, in paragraph (e)(10), in line 2, remove the reference ''paragraph (e)(9)'' and add, in its place, the reference ''paragraph (e)(9)(ii)''.

k. On page 16315, in the third column, in paragraph (f) introductory text, in line 1, remove the words ''an approved'' and add, in their place, the word ''a'', and, in line 2, remove the words ''an approved''.

l. On page 16315, in the third column, in paragraph (f)(2), in line 4, remove the words ''an approved'' and add, in their place, the word ''a'', and, in line 5, remove the words ''an approved''.

m. On page 16315, in the third column, in paragraph (f)(3), in line 1, remove the words ''an approved'' and add, in their place, the word ''a'', and, in line 2, remove the words ''an approved''.

n. On page 16315, in the third column, in paragraph (f)(4)(i), in line 1, after the word ''be'', add the words ''qualified and''.

o. On page 16316, in the first column, in paragraph (f)(5)(i), in line 1, after the word ''is'', add ''qualified and''.

p. On page 16316, in the second column, in paragraph (g) introductory text, in line 1, remove the words ''an approved'' and add, in their place, the word ''a'', and, in line 2, remove the words ''an approved''.

q. On page 16316, in the second column, in paragraph (g)(2), in line 2, add the letter ''s'' at the end of the word ''paragraph''; in line 4, remove the words ''an approved'' and add, in their place, the word ''a''; and, in line 5, remove the words ''an approved''.

r. On page 16316, in the second column, in paragraph (g)(3), in line 1, remove the words ''an approved'' and add, in their place, the word ''a'', and, in line 2, remove the words ''an approved''.

s. On page 16316, in the second column, in paragraph (g)(4)(i), in line 1, after the word ''be'', add the words ''qualified and''.

t. On page 16316, in the third column, in paragraph (g)(5)(i), in line 1, after the word ''is'', add the words ''qualified and''.

u. On page 16317, in the first column, in paragraph (h) introductory text, in line 1, before the word ''An'', add the following paragraph heading: ''*Aircraft not capable of instrument maneuvers and procedures.*''

v. On page 16317, in the first column, remove paragraph (i).

w. On page 16317, in the first column, redesignate paragraph (j) as paragraph (i), and, before the word ''An'', add the following paragraph heading for new paragraph (i): ''*Multiengine, single-pilot station airplane.*''

x. On page 16317, in the first column, redesignate paragraph (k) as paragraph (j), and, before the word ''An'', add the following paragraph heading for new paragraph (j): ''*Single-engine, single-pilot station airplane.*''

y. On page 16317, in the first column, redesignate paragraph (l) as paragraph (k), and, before the word ''Unless'', add the following paragraph heading for new paragraph (k): ''*Waivers.*''

**§ 61.65 [Corrected]**

23. § 61.65 is corrected as follows:

a. On page 16317, in the second column, in paragraph (a)(1), in lines 2 through 3, remove the words ''aircraft category and class rating that applies'' and add, in their place, the words ''airplane, helicopter, or powered-lift rating appropriate''.

b. On page 16317, in the second column, in paragraph (a)(5), in line 4, remove the word ''approved''; in line 5, remove the word ''approved'' and add, in its place, the word ''flight''; and, in line 6, remove the words ''that class of aircraft for'' and add, in their place, the words ''an airplane, helicopter, or powered-lift appropriate to''.

c. On page 16317, in the second column, in paragraph (a)(8)(i), in lines 1 through 2, remove the words ''The aircraft category, class, and type, if applicable,'' and add, in their place, the words ''An airplane, helicopter, or powered-lift''.

d. On page 16317, in the second column, in paragraph (a)(8)(ii), in line 5, remove the word ''approved'', and, in line 6, before the word ''procedures'', add the words ''instrument approach''.

e. On page 16317, in the third column, in paragraph (c) introductory text, in line 5, remove the words ''an approved'' and add, in their place, the word ''a'', and, in line 6, remove the word ''approved''.

f. On page 16318, in the first column, in paragraph (e) introductory text, in line 1, remove the word ''approved''; in line 2, remove the word ''approved''; in line 4, remove the words ''an approved'' and add, in their place, the word ''a''; and, in line 5, remove the words ''an approved''.

g. On page 16318, in the first column, in paragraph (e)(1), in line 2, remove the word ''approved'', and, in line 3, remove the word ''approved''.

h. On page 16318, in the first column, in paragraph (e)(2), in line 2, remove the word ''approved'', and, in line 3, remove the word ''approved''.

**§ 61.67 [Corrected]**

24. § 61.67 is corrected as follows:

a. On page 16318, in the second column, in paragraph (b)(2)(i), in line 2, remove the word ''an'' and add, in its place, the word ''a''; in line 3, remove the word ''approved'' and the word ''an''; and in line 4, remove the word ''approved''.

b. On page 16318, in the second column, in paragraph (c)(3)(ii), in line 2, remove the word ''minimum''.

c. On page 16318, in the third column, in paragraph (c)(3)(iv), in line 3, remove the word ''an'' and add, in its place, the word ''a''; in line 4, remove the word ''approved'' and the word ''an''; and, in line 5, remove the word ''approved''.

d. On page 16318, in the third column, in paragraph (c)(3)(v) introductory text, in line 5, remove the words ''an approved'' and add, in their place, the word ''a''.

e. On page 16318, in the third column, in paragraph (d)(2)(i) introductory text, in line 5, remove the word ''an'' and add, in its place, the word ''a'', and, in line 6, remove the word ''approved''.

f. On page 16319, in the first column, in paragraph (d)(2)(v), in line 1, remove the words ''an approved'' and add, in their place, the word ''a'', and, in line 2, remove the word ''approved''.

**§ 61.68 [Corrected]**

25. § 61.68 is corrected as follows:

a. On page 16319, in the second column, in paragraph (b)(2)(i), in line 2, remove the word ''an'' and add, in its place, the word ''a''; in line 3, remove the word ''approved'' and the word ''an''; and, in line 4, remove the word ''approved''.

b. On page 16319, in the second column, in paragraph (c)(3)(iv), in line 4, remove the words ''an approved'' and add, in their place, the word ''a'', and, in line 5, remove the word ''approved''.

c. On page 16319, in the second column, in paragraph (c)(3)(v) introductory text, in line 5, remove the words ''an approved'' and add, in their place, the word ''a''.

d. On page 16320, in the first column, in paragraph (d)(2)(i) introductory text,

in line 5, remove the word ''an'' and add, in its place, the word ''a'', and, in line 6, remove the word ''approved''.

e. On page 16320, in the first column, in paragraph (d)(2)(v), in line 1, remove the words ''an approved'' and add, in their place, the word ''a'', and, in line 2, remove the word ''approved''.

**§ 61.69 [Corrected]**

26. § 61.69 is corrected as follows:

a. On page 16320, in the second column, in paragraph (a)(3) introductory text, in lines 2 through 3, after the word ''instructor'', remove the words ''with a glider rating''.

b. On page 16320, in the second column, in paragraph (a)(4), in line 7, after the word ''of'', add the words ''paragraphs (c) and (d) of''.

c. On page 16320, in the second column, in paragraph (a)(6)(i), in line 1, after the word ''actual'', add the words ''or simulated''.

**§ 61.71 [Corrected]**

27. § 61.71 is corrected as follows:

a. On page 16320, in the third column, in paragraph (b)(1), in lines 2 through 3, remove the words ''pilot in command'' and add, in their place, the word ''pilot-in-command'', and, in line 5, remove the words ''pilot in command'' and add, in their place, the word ''pilot-in-command''.

b. On page 16320, in the third column, in paragraph (b)(2), in lines 5 through 6, remove the words ''pilot in command'' and add, in their place, the word ''pilot-in-command''.

**§ 61.73 [Corrected]**

28. On page 16321, in the first column, correct § 61.73(c)(2), in lines 2 through 3, by adding a comma after the word ''was'', and removing the words ''or is, within the 12 calendar months'' and adding, in their place, the words ''before the beginning of the 12th calendar month'', and, in line 5, remove the reference to ''paragraph (b)(3)'' and add, in its place, the reference ''paragraph (b)(3)(i) or paragraph (b)(3)(ii)''.

29. On page 16322, in the second column, §61.77 is corrected to read as follows:

**§ 61.77 Special purpose pilot authorization: Operation of U.S.-registered civil aircraft leased by a person who is not a U.S. citizen.**

(a) *General.* The holder of a foreign pilot license issued by a contracting State to the Convention on International Civil Aviation who meets the requirements of this section may be issued a special purpose pilot authorization by the Administrator for the purpose of performing pilot duties.

(1) On a civil aircraft of U.S. registry that is leased to a person who is not a citizen of the United States, and

(2) For carrying persons or property for compensation or hire on that aircraft.

(b) *Eligibility.* To be eligible for the issuance or renewal of a special purpose pilot authorization, an applicant must present the following to an FAA Flight Standards District Office:

(1) A current foreign pilot license that has been issued by the aeronautical authority of a contracting State to the Convention on International Civil Aviation from which the person holds citizenship or resident status and that contains the appropriate aircraft category, class, instrument rating, and type rating, if appropriate, for the aircraft to be flown;

(2) A current certification by the lessee of the aircraft—

(i) Stating that the applicant is employed by the lessee;

(ii) Specifying the aircraft type on which the applicant will perform pilot duties; and

(iii) Stating that the applicant has received ground and flight instruction that qualifies the applicant to perform the duties to be assigned on the aircraft.

(3) Documentation showing when the applicant will reach the age of 60 years (an official copy of the applicant's birth certificate or other official documentation);

(4) Documentation that the applicant meets the medical standards for the issuance of the foreign pilot license from the aeronautical authority of the contracting State to the Convention on International Civil Aviation where the applicant holds citizenship or resident status;

(5) Documentation that the applicant meets the recent flight experience requirements of this part (a logbook or flight record); and

(6) A statement that the applicant does not already hold a special purpose pilot authorization; however, if the applicant already holds a special purpose pilot authorization, then that special purpose pilot authorization must be surrendered to either the FAA Flight Standards District Office that issued it, or the FAA Flight Standards District Office processing the application for the authorization, prior to being issued another special purpose pilot authorization.

(c) *Privileges.* A person issued a special purpose pilot authorization under this section—

(1) May exercise the privileges prescribed on the special purpose pilot authorization; and

(2) Must comply with the limitations specified in this section and any additional limitations specified on the special purpose pilot authorization.

(d) *General limitations.* A special purpose pilot authorization is valid only—

(1) For flights between foreign countries or for flights in foreign air commerce within the time period allotted on the authorization;

(2) If the foreign pilot license required by paragraph (b)(1) of this section, the medical documentation required by paragraph (b)(4) of this section, and the special purpose pilot authorization issued under this section are in the holder's physical possession or immediately accessible in the aircraft;

(3) While the holder is employed by the person to whom the aircraft described in the certification required by paragraph (b)(2) of this section is leased;

(4) While the holder is performing pilot duties on the U.S.-registered aircraft described in the certification required by paragraph (b)(2) of this section; and

(5) If the holder has only one special purpose pilot authorization as provided in paragraph (b)(6) of this section.

(e) *Age limitation.* Except as provided in paragraph (g) of this section, no person who holds a special purpose pilot authorization issued under this part, and no person who holds a special purpose pilot certificate issued under this part before August 4, 1997, shall serve as a pilot on a civil airplane of U.S. registry if the person has reached his or her 60th birthday, in the following operations:

(1) Scheduled international air services carrying passengers in turbojet-powered airplanes;

(2) Scheduled international air services carrying passengers in airplanes having a passenger-seat configuration of more than nine passenger seats, excluding each crewmember seat;

(3) Nonscheduled international air transportation for compensation or hire in airplanes having a passenger-seat configuration of more than 30 passenger seats, excluding each crewmember seat; or

(4) Scheduled international air services, or nonscheduled international air transportation for compensation or hire, in airplanes having a payload capacity of more than 7,500 pounds.

(f) *Definitions.* (1) *International air service,* as used in paragraph (e) of this section, means scheduled air service performed in airplanes for the public transport of passengers, mail, or cargo, in which the service passes through the air space over the territory of more than one country.

(2) *International air transportation,* as used in paragraph (e) of this section, means air transportation performed in airplanes for the public transport of passengers, mail, or cargo, in which service passes through the air space over the territory of more than one country.

(g) *Delayed pilot age limitations for certain operations.* Until December 20, 1999, a person may serve as a pilot in the operations specified in paragraph (e) of this section after that person has reached his or her 60th birthday, if, on March 20, 1997, that person was employed as a pilot in any of the following operations:

(1) Scheduled international air services carrying passengers in nontransport category turbopropeller-powered airplanes type certificated after December 31, 1964, that have a passenger-seat configuration of 10 to 19 seats;

(2) Scheduled international air services carrying passengers in transport category turbopropeller-powered airplanes that have a passenger-seat configuration of 20 to 30 seats; or

(3) Scheduled international air services carrying passengers in turbojet-powered airplanes having a passenger-seat configuration of 1 to 30 seats.

(h) *Expiration date.* Each special purpose pilot authorization issued under this section expires—

(1) 60 calendar months from the month it was issued, unless sooner suspended or revoked;

(2) When the lease agreement for the aircraft expires or the lessee terminates the employment of the person who holds the special purpose pilot authorization;

(3) Whenever the person's foreign pilot license has been suspended, revoked, or is no longer valid; or

(4) When the person no longer meets the medical standards for the issuance of the foreign pilot license.

(i) *Renewal.* A person exercising the privileges of a special purpose pilot authorization may apply for a 60-calendar-month extension of that authorization, provided the person—

(1) Continues to meet the requirements of this section; and

(2) Surrenders the expired special purpose pilot authorization upon receipt of the new authorization.

(j) *Surrender.* The holder of a special purpose pilot authorization must surrender the authorization to the Administrator within 7 days after the date the authorization terminates.

**§ 61.87 [Corrected]**

30. § 61.87 is corrected as follows:

a. On page 16323, in the second column, in paragraph (a), in line 9, remove the words ''acts as'' and add, in their place, the words ''performs the functions of'', and, in line 11, before the word ''flight'', add the word ''pilot''.

b. On page 16324, in the third column, in paragraph (i)(4), in line 2, after the word ''directions'', add a comma and the words ''if applicable''.

c. On page 16324, in the third column, in paragraph (i)(10), after the word ''maneuvers'', add a comma and the words ''if applicable''.

d. On page 16324, in the third column, in paragraph (i)(11), in line 3, after the word ''procedures'', add a comma and the word ''if applicable''.

e. On page 16325, in the second column, in paragraph (m)(2), in line 3, after the semicolon, add the word ''and''.

f. On page 16325, in the second column, remove paragraph (m)(3) and redesignate paragraph (m)(4) as paragraph (m)(3).

**§ 61.93 [Corrected]**

31. § 61.93 is corrected as follows:

a. On page 16325, in the third column, in paragraph (a)(2)(iv), in line 2, before the word ''instructor's'', add the word ''authorized''.

b. On page 16326, in the first column, in paragraphs (b)(1)(ii), in line 1, before the word ''instructor'', add the word ''authorized''.

c. On page 16326, in the first column, in paragraph (b)(1)(iv), in line 1, before the word ''instructor'', add the word ''authorized''.

d. On page 16326, in the first column, in paragraph (b)(2)(ii), in line 1, before the word ''instructor'', add the word ''authorized''.

e. On page 16326, in the second column, remove paragraph (c)(2)(ii).

f. On page 16326, in the second column, redesignate paragraph (c)(2)(iii) as paragraph (c)(2)(ii), and in new paragraph (c)(2)(ii)(C), in line 2, before the word ''instructor'', add the word ''authorized''.

**§ 61.95 [Corrected]**

32. On page 16328, in the first column, correct § 61.95(a)(2), in line 2, by adding the word ''authorized'' before the word ''instructor''.

**§ 61.96 [Corrected]**

33. On page 16328, in the second column, correct § 61.96(b)(6), in line 4, by adding the words ''before applying for the practical test'' after the word ''sought''.

**§ 61.97 [Corrected]**

34. On page 16328, in the third column, correct § 61.97(b)(3), in line 3, by removing the acronym ''ACs'' and adding, in its place, the words ''advisory circulars''.

**§ 61.98 [Corrected]**

35. On page 16328, in the third column, correct § 61.98(a), in line 2, by removing the word ''have'', and, in line 3, by removing the words ''received and logged'', and adding, in their place, the words ''receive and log''.

**§ 61.105 [Corrected]**

36. On page 16330, in the second column, correct § 61.105(b)(3), in line 3, by removing the acronym ''ACs'' and adding, in its place, the words ''advisory circulars''.

**§ 61.109 [Corrected]**

37. On page 16331, in the second column, § 61.109 is corrected to read as follows:

**§ 61.109 Aeronautical experience.**

(a) *For an airplane single-engine rating.* Except as provided in paragraph (i) of this section, a person who applies for a private pilot certificate with an airplane category and single-engine class rating must log at least 40 hours of flight time that includes at least 20 hours of flight training from an authorized instructor and 10 hours of solo flight training in the areas of operation listed in § 61.107(b)(1) of this part, and the training must include at least—

(1) 3 hours of cross-country flight training in a single-engine airplane;

(2) Except as provided in § 61.110 of this part, 3 hours of night flight training in a single-engine airplane that includes—

(i) One cross-country flight of over 100 nautical miles total distance; and

(ii) 10 takeoffs and 10 landings to a full stop (with each landing involving a flight in the traffic pattern) at an airport.

(3) 3 hours of flight training in a single-engine airplane on the control and maneuvering of an airplane solely by reference to instruments, including straight and level flight, constant airspeed climbs and descents, turns to a heading, recovery from unusual flight attitudes, radio communications, and the use of navigation systems/facilities and radar services appropriate to instrument flight;

(4) 3 hours of flight training in preparation for the practical test in a single-engine airplane, which must have been performed within 60 days preceding the date of the test; and

(5) 10 hours of solo flight time in a single-engine airplane, consisting of at least—

(i) 5 hours of solo cross-country time;

(ii) One solo cross-country flight of at least 150 nautical miles total distance,

with full-stop landings at a minimum of three points, and one segment of the flight consisting of a straight-line distance of at least 50 nautical miles between the takeoff and landing locations; and

(iii) Three takeoffs and three landings to a full stop (with each landing involving a flight in the traffic pattern) at an airport with an operating control tower.

(b) *For an airplane multiengine rating.* Except as provided in paragraph (i) of this section, a person who applies for a private pilot certificate with an airplane category and multiengine class rating must log at least 40 hours of flight time that includes at least 20 hours of flight training from an authorized instructor and 10 hours of solo flight training in the areas of operation listed in § 61.107(b)(2) of this part, and the training must include at least—

(1) 3 hours of cross-country flight training in a multiengine airplane;

(2) Except as provided in § 61.110 of this part, 3 hours of night flight training in a multiengine airplane that includes—

(i) One cross-country flight of over 100 nautical miles total distance; and

(ii) 10 takeoffs and 10 landings to a full stop (with each landing involving a flight in the traffic pattern) at an airport.

(3) 3 hours of flight training in a multiengine airplane on the control and maneuvering of an airplane solely by reference to instruments, including straight and level flight, constant airspeed climbs and descents, turns to a heading, recovery from unusual flight attitudes, radio communications, and the use of navigation systems/facilities and radar services appropriate to instrument flight;

(4) 3 hours of flight training in preparation for the practical test in a multiengine airplane, which must have been performed within the 60-day period preceding the date of the test; and

(5) 10 hours of solo flight time in an airplane consisting of at least—

(i) 5 hours of solo cross-country time;

(ii) One solo cross-country flight of at least 150 nautical miles total distance, with full-stop landings at a minimum of three points, and one segment of the flight consisting of a straight-line distance of at least 50 nautical miles between the takeoff and landing locations; and

(iii) Three takeoffs and three landings to a full stop (with each landing involving a flight in the traffic pattern) at an airport with an operating control tower.

(c) *For a helicopter rating.* Except as provided in paragraph (i) of this section, a person who applies for a private pilot certificate with rotorcraft category and helicopter class rating must log at least 40 hours of flight time that includes at least 20 hours of flight training from an authorized instructor and 10 hours of solo flight training in the areas of operation listed in § 61.107(b)(3) of this part, and the training must include at least—

(1) 3 hours of cross-country flight training in a helicopter;

(2) Except as provided in § 61.110 of this part, 3 hours of night flight training in a helicopter that includes—

(i) One cross-country flight of over 50 nautical miles total distance; and

(ii) 10 takeoffs and 10 landings to a full stop (with each landing involving a flight in the traffic pattern) at an airport.

(3) 3 hours of flight training in preparation for the practical test in a helicopter, which must have been performed within 60 days preceding the date of the test; and

(4) 10 hours of solo flight time in a helicopter, consisting of at least—

(i) 3 hours cross-country time;

(ii) One solo cross-country flight of at least 75 nautical miles total distance, with landings at a minimum of three points, and one segment of the flight being a straight-line distance of at least 25 nautical miles between the takeoff and landing locations; and

(iii) Three takeoffs and three landings to a full stop (with each landing involving a flight in the traffic pattern) at an airport with an operating control tower.

(d) *For a gyroplane rating.* Except as provided in paragraph (i) of this section, a person who applies for a private pilot certificate with rotorcraft category and gyroplane class rating must log at least 40 hours of flight time that includes at least 20 hours of flight training from an authorized instructor and 10 hours of solo flight training in the areas of operation listed in § 61.107(b)(4) of this part, and the training must include at least—

(1) 3 hours of cross-country flight training in a gyroplane;

(2) Except as provided in § 61.110 of this part, 3 hours of night flight training in a gyroplane that includes—

(i) One cross-country flight of over 50 nautical miles total distance; and

(ii) 10 takeoffs and 10 landings to a full stop (with each landing involving a flight in the traffic pattern) at an airport.

(3) 3 hours of flight training in preparation for the practical test in a gyroplane, which must have been performed within the 60-day period preceding the date of the test; and

(4) 10 hours of solo flight time in a gyroplane, consisting of at least—

(i) 3 hours of cross-country time;

(ii) One solo cross-country flight of over 75 nautical miles total distance, with landings at a minimum of three points, and one segment of the flight being a straight-line distance of at least 25 nautical miles between the takeoff and landing locations; and

(iii) Three takeoffs and three landings to a full stop (with each landing involving a flight in the traffic pattern) at an airport with an operating control tower.

(e) *For a powered-lift rating.* Except as provided in paragraph (i) of this section, a person who applies for a private pilot certificate with a powered-lift category rating must log at least 40 hours of flight time that includes at least 20 hours of flight training from an authorized instructor and 10 hours of solo flight training in the areas of operation listed in § 61.107(b)(5) of this part, and the training must include at least—

(1) 3 hours of cross-country flight training in a powered-lift;

(2) Except as provided in § 61.110 of this part, 3 hours of night flight training in a powered-lift that includes—

(i) One cross-country flight of over 100 nautical miles total distance; and

(ii) 10 takeoffs and 10 landings to a full stop (with each landing involving a flight in the traffic pattern) at an airport.

(3) 3 hours of flight training in a powered-lift on the control and maneuvering of a powered-lift solely by reference to instruments, including straight and level flight, constant airspeed climbs and descents, turns to a heading, recovery from unusual flight attitudes, radio communications, and the use of navigation systems/facilities and radar services appropriate to instrument flight;

(4) 3 hours of flight training in preparation for the practical test in a powered-lift, which must have been performed within the 60-day period preceding the date of the test; and

(5) 10 hours of solo flight time in an airplane or powered-lift consisting of at least—

(i) 5 hours cross-country time;

(ii) One cross-country flight of at least 150 nautical miles total distance, with landings at a minimum of three points, and one segment of the flight being a straight-line distance of at least 50 nautical miles between the takeoff and landing locations; and

(iii) Three takeoffs and three landings to a full stop (with each landing involving a flight in the traffic pattern) at an airport with an operating control tower.

(f) *For a glider category rating.* (1) If the applicant for a private pilot certificate with a glider category rating

has not logged at least 40 hours of flight time as a pilot in a heavier-than-air aircraft, the applicant must log at least 10 hours of flight training in a glider including 20 training flights performed on the areas of operation listed in §61.107(b)(6) of this part that include:

(i) 2 hours of solo flight in gliders in the areas of operation listed in §61.107(b)(6) of this part , with not less than 10 launches and landings being performed; and

(ii) Three training flights in a glider in preparation for the practical test within the 60-day period preceding the practical test.

(2) If the applicant has logged at least 40 hours of flight time in heavier-than-air aircraft, the applicant must log at least 3 hours of flight training in a glider including 10 training flights performed on the areas of operation listed in §61.107(b)(6) of this part that include:

(i) 10 solo flights in gliders in the areas of operation listed in §61.107(b)(6) of this part; and

(ii) Three training flights in preparation for the practical test within the 60-day waiting period preceding the test.

(g) *For an airship rating.* A person who applies for a private pilot certificate with a lighter-than-air category and airship class rating must log at least:

(1) 25 hours of flight training in airships on the areas of operation listed in §61.107(b)(7) of this part, which consists of at least:

(i) 3 hours of cross-country flight training in an airship;

(ii) Except as provided in §61.110 of this part, 3 hours of night flight training in an airship that includes:

(A) A cross-country flight of over 25 nautical miles total distance; and

(B) Five takeoffs and five landings to a full stop (with each landing involving a flight in the traffic pattern) at an airport.

(2) 3 hours of instrument training;

(3) 3 hours of flight training in an airship in preparation for the practical test within the 60 days preceding the date of the test; and

(4) 5 hours of solo flight in an airship and with an authorized instructor.

(h) *For a balloon rating.* A person who applies for a private pilot certificate with a lighter-than-air category and balloon class rating must log at least 10 hours of flight training that includes at least six training flights in the areas of operation listed in §61.107(b)(8) of this part, that includes—

(1) *Gas balloon.* If the training is being performed in a gas balloon, at least two flights of 2 hours each that consists of—

(i) At least one training flight within 60 days prior to application for the rating on the areas of operation for a gas balloon;

(ii) At least one flight performing the functions of pilot in command in a gas balloon; and

(iii) At least one flight involving a controlled ascent to 3,000 feet above the launch site.

(2) *Balloon with an airborne heater.* If the training is being performed in a balloon with an airborne heater, at least—

(i) Two flights of 1 hour each within 60 days prior to application for the rating on the areas of operation appropriate to a balloon with an airborne heater;

(ii) One solo flight in a balloon with an airborne heater; and

(iii) At least one flight involving a controlled ascent to 2,000 feet above the launch site.

(i) *Permitted credit for use of a flight simulator or flight training device.* (1) Except as provided in paragraphs (i)(2) of this section, a maximum of 2.5 hours of training in a flight simulator or flight training device representing the category, class, and type, if applicable, of aircraft appropriate to the rating sought, may be credited toward the flight training time required by this section, if received from an authorized instructor.

(2) A maximum of 5 hours of training in a flight simulator or flight training device representing the category, class, and type, if applicable, of aircraft appropriate to the rating sought, may be credited toward the flight training time required by this section if the training is accomplished in a course conducted by a training center certificated under part 142 of this chapter.

(3) Except when fewer hours are approved by the Administrator, an applicant for a private pilot certificate with an airplane, rotorcraft, or powered-lift rating, who has satisfactorily completed an approved private pilot course conducted by a training center certificated under part 142 of this chapter, need only have a total of 35 hours of aeronautical experience to meet the requirements of this section.

**§ 61.110 [Corrected]**

38. § 61.110 is corrected as follows:

a. On page 16332, in the third column, in paragraph (b)(1), in line 3, transpose the comma and the quotation mark.

b. On page 16332, in the third column, in paragraph (b)(2) introductory text, in line 6, remove the words ''be suspended'' and add, in their place, the words ''become invalid for use''.

**§ 61.111 [Corrected]**

39. On page 16333, in the first column, correct § 61.111(c), in line 15 through 16, by removing the words ''paragraph (a) or''.

**§ 61.117 [Corrected]**

40. On page 16333, in the third column, correct § 61.117, in line 8, by removing the comma after the word ''passengers''.

**§ 61.129 [Corrected]**

41. § 61.129 is corrected as follows:

a. On page 16335, in the first column, in paragraph (a) introductory text, in lines 7 through 12, remove the words ''(of which 50 hours may have been accomplished in an approved flight simulator or approved flight training device that is representative of a single-engine airplane)''.

b. On page 16335, in the first column, in paragraph (a)(2) introductory text, in line 1, remove the words ''pilot in command'' and add, in their place, the word ''pilot-in-command''.

c. On page 16335, in the first column, in paragraph (a)(2)(ii), in line 1, after the word ''flight'', add the words ''of which at least 10 hours must be''.

d. On page 16335, in the first column, in paragraph (a)(3)(ii), in line 4, after the word ''turbine-powered'', add a comma and the words ''or for an applicant seeking a single-engine seaplane rating, 10 hours of training in a seaplane that has flaps and a controllable pitch propeller''.

e. On page 16335, in the second column, in paragraph (b) introductory text, in line 2, remove the word ''A'' and add, in its place, the words ''Except as provided in paragraph (i) of this section, a'', and, in lines 6 through 10, remove the words ''(of which 50 hours may have been accomplished in an approved flight simulator or approved flight training device that is representative of a multiengine airplane)''.

f. On page 16335, in the second column, in paragraph (b)(2) introductory text, in line 1, remove the words ''pilot in command'' and add, in their place, the word ''pilot-in-command''.

g. On page 16335, in the second column, in paragraph (b)(2)(ii), in line 1, after the word ''flight'', add the words ''of which at least 10 hours must be''.

h. On page 16335, in the second column, in paragraph (b)(3)(ii), in line 5, after the word ''turbine-powered'', add a comma and the words ''or for an applicant seeking a multiengine seaplane rating, 10 hours of training in a multiengine seaplane that has flaps and a controllable pitch propeller''.

i. On page 16335, in the third column, in paragraph (c) introductory text, in

line 1, remove the word ''A'' and add, in its place, the words ''Except as provided in paragraph (i) of this section, a'', and, in lines 5 through 10, remove the words ''(of which 25 hours may have been accomplished in an approved flight simulator or approved flight training device that is representative of a helicopter)''.

j. On page 16335, in the third column, in paragraph (c)(2), in line 1, remove the words ''pilot in command'' and add, in their place, the word ''pilot-in-command''.

k. On page 16335, in the third column, in paragraph (d) introductory text, in line 7, remove the words ''an approved'' and add, in their place, the word ''a'', and, in line 8, remove the word ''approved''.

l. On page 16335, in the third column, in paragraph (d)(2) introductory text, in line 1, remove the words ''pilot in command'' and add, in their place, the word ''pilot-in-command''.

m. On page 16336, in the first column, in paragraph (e) introductory text, in line 1, after the period, remove the word ''A'' and add, in its place, the words ''Except as provided in paragraph (i) of this section, a'', and, in lines 5 through 9, remove the words ''(of which 50 hours may have been accomplished in an approved flight simulator or approved flight training device that is representative of a powered-lift)''.

n. On page 16336, in the first column, in paragraph (e)(2) introductory text, in line 1, remove the words ''pilot in command'' and add, in their place, the work ''pilot-in-command''.

o. On page 16336, in the first column, in paragraph (e)(2)(ii), in line 1, after the word ''flight'', add the words ''of which 10 hours must be''.

p. On page 16336, in the first column, in paragraph (e)(3)(iii), in line 2, before the comma, add the words ''in night VFR conditions''.

q. On page 16336, in the second column, in paragraph (f)(1) introductory text, in line 3, remove the semicolon.

r. On page 16337, in the first column, in paragraph (i) introductory text, in line 1, remove the word ''an'' and add, in its place, the word ''a'', and, in line 2, before the word ''flight'', remove the word ''approved'' and, after the word ''or'', remove the word ''approved''.

s. On page 16337, in the first column, in paragraph (i)(1) introductory text, in line 2, remove the reference ''paragraph (i)(3)'' and add, in its place, the reference ''paragraph (i)(2)''.

t. On page 16337, in the first column, in paragraph (i)(1)(i), in line 6, after the word ''in'', remove the word ''an'' and add, in its place, the word ''a''; in line 7, remove the word ''approved'' and the word ''an''; and, in line 8, remove the word ''approved''.

u. On page 16337, in the first column, in paragraph (i)(1)(ii), in line 6, after the word ''in'', remove the word ''an'' and add, in its place, the word ''a''; in line 7, remove the word ''approved'' and the word ''an''; and, in line 8, remove the word ''approved''.

v. On page 16337, in the first column, in paragraph (i)(2) introductory text, in lines 1 through 2, remove the words ''Except as provided in paragraph (i)(3) of this section,'' and capitalize the word ''an''.

w. On page 16337, in the first column, in paragraph (i)(2)(i), in line 7, remove the words ''an approved'' and add, in their place, the word ''a'', and, in line 8, remove the words ''an approved''.

x. On page 16337, in the first column, in paragraph (i)(2)(ii), in line 6, after the word ''in'', remove the word ''an'' and add, in its place, the word ''a''; in line 7, remove the word ''approved'' and the word ''an''; and in line 8, remove the word ''approved''.

y. On page 16337, in the second column, in paragraph (i)(3) introductory text, in line 4, remove the commas and the word ''helicopter''; in line 9, remove the word ''the''; in line 10, remove the word ''following'' and add, in its place, the words ''190 hours of''; in line 11, remove the words ''aeronautical experience''; and, in line 12, remove the colon and add, in its place, a period.

z. On page 16337, in the second column, remove paragraphs (i)(3)(i) and (ii).

**§ 61.131 [Corrected]**

42. On page 16337, in the second column, correct § 61.131(b)(2) introductory text, in line 6, by removing the words ''be suspended'' and adding, in their place, the words ''become invalid for use''.

**§ 61.133 [Corrected]**

43. § 61.133 is corrected as follows:

a. On page 16337, in the third column, in paragraph (a)(2)(i)(B), in line 1, remove the word ''on'' and add, in its place, the word ''for'', and, in line 2, remove the word ''for'' and add, in its place, the word ''with'', and, after the word ''airship'', add the word ''rating''.

b. On page 16337, in the third column, in paragraph (a)(2)(i)(C), in line 3, remove the word ''and''.

c. On page 16337, in the third column, in paragraph (a)(2)(i)(D), in line 4, remove the period and add, in its place, a semicolon and the word ''and''.

d. On page 16337, in the third column, add paragraph (a)(2)(i)(E) to read as follows:

(a) * * *

(2) * * *

(i) * * *

(E) Give flight and ground training and endorsements that are required for a flight review, an operating privilege, or recency-of-experience requirements of this part.

* * * * *

e. On page 16337, in the third column, in paragraph (a)(2)(ii)(B), in line 1, remove the word ''on'' and add, in its place, the word ''for''; and, in line 2, remove the word ''for'' and add, in its place, the word ''with''; after the word ''balloon'', add the word ''rating''; and after the semicolon, remove the word ''and''.

f. On page 16337, in the third column, in paragraph (a)(2)(ii)(C), in line 3, remove the period and add, in its place, a semicolon and the word ''and''.

g. On page 16337, in the third column, add paragraph (a)(2)(ii)(D) to read as follows:

(a) * * *

(2) * * *

(ii) * * *

(D) Give ground and flight training and endorsements that are required for a flight review, an operating privilege, or recency-of-experience requirements of this part.

* * * * *

**§ 61.153 [Corrected]**

44. On page 16338, in the first column, correct §61.153(d)(3), in line 3, by adding a comma after the word ''rating'' and removing the word ''if'', and, in lines 4 through 6, by removing the words ''the person holds a pilot license'' and adding, in their place, the words ''without limitations,''.

**§ 61.157 [Corrected]**

45. § 61.157 is corrected as follows:

a. On page 16338, in the third column, in paragraph (b)(3), in line 2, remove the words ''under instrument flight rules'' and add, in their place, the words ''in actual or simulated instrument conditions''.

b. On page 16338, in the third column, in paragraph (c), in line 1, before the word ''A'', add the paragraph heading ''*Exceptions.*'', and, in line 13, remove the words ''pilot in command'' and add, in their place, the word ''pilot-in-command''.

c. On page 16339, in the first column, in paragraph (d), in line 1, before the word ''Any'', add the paragraph heading ''Upgrading type ratings.''

d. On page 16339, in the second column, in paragraph (f)(1), in line 2, before the words ''proficiency check'', add the word ''pilot-in-command''.

e. On page 16339, in the second column, in paragraph (g) introductory

text, in line 1, remove the words ''an approved'' and add, in their place, the word ''a''; in line 2, remove the word ''approved''; in line 3, after the word ''If'', remove the word ''an'' and add, in its place, the word ''a''; in line 4, before the word ''flight'', remove the word ''approved'', and, after the word ''or'', remove the word ''approved''; in line 10, remove the word ''approved''; and, in line 11, remove the word ''approved''.

f. On page 16339, in the second column, in paragraph (g)(1), in line 1, remove the word ''approved'', and, in line 2, remove the word ''approved''.

g. On page 16339, in the second column, in paragraph (g)(2), in line 1, remove the word ''approved'', and, in line 2, remove the word ''approved''.

h. On page 16339, in the second column, in paragraph (g)(3)(i), in line 2, before the word ''approved'', add the words ''qualified and''.

i. On page 16339, in the third column, in paragraph (g)(4)(i), in line 1, before the word ''approved'', add the words ''qualified and''.

j. On page 16340, in the first column, in paragraph (h) introductory text, in line 1, remove the words ''an approved'' and add, in their place, the word ''a''; in line 2, remove the words ''an approved''; in line 3, remove the word ''an'' and add, in its place, the word ''a''; in line 4, before the word ''flight'', remove the word ''approved'', and, after the word ''or'', remove the word ''approved''; in line 10, remove the word ''approved''; and, in line 11, remove the word ''approved''.

k. On page 16340, in the second column, in paragraph (h)(1), in line 1, remove the word ''approved'', and, in line 2, remove the word ''approved''.

l. On page 16340, in the second column, in paragraph (h)(2), in line 1, remove the word ''approved'', and, in line 2, remove the word ''approved''.

m. On page 16340, in the second column, in paragraph (h)(3)(i), in line 2, before the word ''approved'', add the words ''qualified and''.

n. On page 16340, in the second column, in paragraph (h)(4)(i), in line 1, before the word ''approved'', add the words ''qualified and''.

o. On page 16341, in the first column, in paragraph (i) introductory text, in line 1, remove the words ''an approved'' and add, in their place, the word ''a''; in line 2, remove the word ''approved''; in line 3, remove the words ''an approved'' and add, in their place, the word ''a''; in line 4, remove the word ''approved''; in line 10, remove the word ''approved''; and, in line 11, remove the word ''approved''.

p. On page 16341, in the first column, in paragraph (i)(1), in line 1, remove the word ''approved'', and, in line 2, remove the word ''approved''.

q. On page 16341, in the first column, in paragraph (i)(2), in line 1, remove the word ''approved'', and, in line 2, remove the word ''approved''.

r. On page 16341, in the first column, in paragraph (i)(3)(i), in line 2, before the word ''approved'', add the words ''qualified and''.

s. On page 16341, in the second column, in paragraph (i)(4)(i), in line 1, before the word ''approved'', add the words ''qualified and''.

**§ 61.159 [Corrected]**

46. § 61.159 is corrected as follows:

a. On page 16341, in the third column, in paragraph (a)(3)(i), in line 5, remove the words ''an approved'' and add, in their place, the word ''a'', and, in line 6, remove the word ''approved''.

b. On page 16341, in the third column, in paragraph (a)(3)(ii), in line 2, remove the words ''an approved'' and add, in their place, the word ''a'', and, in line 3, remove the word ''approved''.

c. On page 16342, in the first column, in paragraph (a)(3)(iii), in line 1, remove the words ''an approved'' and add, in their place, the word ''a'', and, in line 2, remove the word ''approved''.

d. On page 16342, in the first column, in paragraph (a)(5), in line 4, remove the words ''an approved'' and add, in their place, the word ''a'', and, in line 5, remove the word ''approved''.

e. On page 16342, in the first column, in paragraph (c)(1) introductory text, in line 1, remove the words ''second in command'' and add, in their place, the word ''Second-in-command''.

f. On page 16342, in the first column, in paragraph (c)(1)(i), in line 2, after the word ''pilot'', add the words ''flight crewmember''.

g. On page 16342, in the first column, in paragraph (c)(1)(iii), in line 3, after the word ''pilot'', add the words ''flight crewmember''.

h. On page 16342, in the second column, in paragraph (d)(1), in line 1, remove the words ''second in command'' and add, in their place, the word ''second-in-command''.

i. On page 16342, in the second column, in paragraph (d)(2), in line 4, remove the words ''second in command'' and add, in their place, the word ''second-in-command''.

**§ 61.161 [Corrected]**

47. § 61.161 is corrected as follows:

a. On page 16342, in the second column, in paragraph (b) introductory text, in line 1, remove the words ''an approved'' and add, in their place, the word ''a'', and, in line 2, remove the word ''approved''.

b. On page 16342, in the third column, in paragraph (b)(1), in line 3, remove the words ''an approved'' and add, in their place, the word ''a'', and, in line 4, remove the word ''approved''.

c. On page 16342, in the third column, in paragraph (b)(2), in line 5, remove the words ''an approved'' and add, in their place, the word ''a'', and, in line 6, remove the word ''approved''.

d. On page 16342, in the third column, in paragraph (b)(3), in line 2, remove the words ''an approved'' and add, in their place, the word ''a'', and, in line 3, remove the word ''approved''.

**§ 61.163 [Corrected]**

48. § 61.163 is corrected as follows:

a. On page 16342, in the third column, in paragraph (a)(4)(i), in line 5, remove the words ''an approved'' and add, in their place, the word ''a'', and, in line 6, remove the word ''approved''.

b. On page 16342, in the third column, in paragraph (a)(4)(ii), in line 2, remove the words ''an approved'' and add, in their place, the word ''a'', and, in line 3, remove the word ''approved''.

c. On page 16342, in the third column, in paragraph (a)(4)(iii), in line 3, remove the words ''an approved'' and add, in their place, the word ''a'', and, in line 4, remove the word ''approved''.

d. On page 16343, in the first column, in paragraph (b), in line 4, remove the words ''an approved'' and add, in their place, the word ''a'', and, in line 5, remove the word ''approved''.

**§ 61.165 [Corrected]**

49. § 61.165 is corrected as follows:

a. On page 16343, in the first column, in paragraph (b) introductory text, in line 7, remove the words ''or class''.

b. On page 16343, in the first column, in paragraph (c) introductory text, in line 7, remove the words ''or class''.

c. On page 16343, in the second column, after paragraph (d)(5), add paragraph (e) to read as follows:

* * * * *

(e) *Additional class rating within the same aircraft category.* A person applying for an airline transport certificate with an additional class rating who holds an airline transport certificate in the same aircraft category must—

(1) Meet the eligibility requirements of § 61.153, except paragraph (f) of that section;

(2) Comply with the requirements in § 61.157(b) of this part, if applicable;

(3) Meet the applicable aeronautical experience requirements of subpart G of this part; and

(4) Pass a practical test on the areas of operation of §61.157(e) appropriate to the aircraft rating sought.

**§ 61.167 [Corrected]**

50. § 61.167 is corrected as follows:

a. On page 16343, in the second column, in paragraph (b)(2), in line 1, remove the word ''approved'', and, in line 2, remove the word ''approved''.

b. On page 16343, in the second column, in paragraph (c) introductory text, in line 3, remove the word ''approved'', and, in line 4, remove the word ''approved''.

**§ 61.161–69.171 [Corrected]**

51. On page 16343, in the third column, ''§ 61.161–§ 69.171 [Reserved]'' is corrected to read ''§ 61.169–§ 61.171 [Reserved]''.

**§ 61.183 [Corrected]**

52. § 61.183 is corrected as follows:

a. On page 16343, in the third column, in paragraph (c)(2) introductory text, in lines 1 through 2, remove the comma and words ''if the person holds a commercial'' and add, in their place, the words ''or privileges on that person's'', and, in line 3, remove the word ''is'' and add, in its place, the word ''are''.

b. On page 16343, in the third column, in paragraph (e) introductory text, remove the reference ''§ 61.185(a)'' and add, in its place, the reference ''§ 61.185(a)(1)''.

c. On page 16344, in the first column, in paragraph (h)(2), in line 1, remove the word ''Approved'', capitalize the word ''flight'', and, in line 2, remove the word ''approved''.

**§ 61.185 [Corrected]**

53. On page 16344, in the second column, correct § 61.185(b) introductory text, in line 2, by removing the reference ''paragraph (a)'' and adding, in its place, the reference ''paragraph (a)(1)''.

**§ 61.187 [Corrected]**

54. On page 16345, in the first column, correct § 61.187(c)(2), in line 1, by removing the words ''an approved'' and adding, in their place, the word ''a'', and, in line 2, by removing the word ''approved''.

**§ 61.191 [Corrected]**

55. On page 16345, in the second column, correct § 61.191(b), in line 5, by removing the reference ''§ 61.185(a)'' and adding, in its place, the reference ''§ 61.185(a)(1)''.

**§ 61.193 [Corrected]**

56. On page 16345, in the second column, correct § 61.193 introductory text, in line 4, by removing the comma and the word ''and''; in line 5, by removing the words ''that person's pilot certificate and''; and, in line 6, by removing the word ''ratings'' and the comma.

**§ 61.195 [Corrected]**

57. On page 16346, in the second column, correct § 61.195(j), in line 1, before the word ''A'', by adding the paragraph heading *''Additional qualifications required to give training in Category II or Category III operations.''*

**§ 61.197 [Corrected]**

58. On page 16346, in the third column, correct § 61.197(c), in line 3, by removing the words ''an approved'' and adding, in their place, the word ''a'', and, in line 4, by removing the word ''approved''.

**§ 61.217 [Corrected]**

59. § 61.217 is corrected as follows:

a. On page 16347, in the second column, the heading for § 61.217 should read as follows: *''Recent experience requirements.''*

b. On page 16347, in the second column, paragraph (b) should read as follows:

* * * * *

(b) The person has received an endorsement from an authorized ground or flight instructor certifying that the person has demonstrated satisfactory proficiency in the subject areas prescribed in § 61.213 (a)(3) and (a)(4), as applicable.

## PART 141—PILOT SCHOOLS

**§ 141.5 [Corrected]**

60. On page 16348, in the first column, correct § 141.5(d), in line 11, by removing the word ''of'' and adding, in its place, the word ''to''.

**§ 141.31 [Corrected]**

61. § 141.31 is corrected as follows:

a. On page 16349, in the third column, in paragraph (b)(1), in lines 2 through 3, after the word ''months'', remove the words ''at the time of'' and add, in their place, the words ''after the date the'', and, in line 5, after the word ''certificate'', add the words ''is made''.

b. On page 16349, in the third column, in paragraph (b)(2), in line 3, after the word ''months'', remove the words ''at the time of'' and add, in their place, the words ''after the date the'', and, in line 5, after the word ''certificate'', add the words ''is made''.

**§ 141.33 [Corrected]**

62. § 141.33 is corrected as follows:

a. On page 16349, in the third column, in paragraph (a)(2), in line 3, remove the word ''shall'' and add, in its place, the word ''must''.

b. On page 16349, in the third column, in paragraph (b), in line 3, remove the word ''shall'' and add, in its place, the word ''must''.

**§ 141.35 [Corrected]**

63. § 141.35 is corrected as follows:

a. On page 16350, in the first column, in paragraph (a)(1), in line 8, after the word ''category'', remove the comma and add, in its place, the word ''and'', and, after the word ''class'', remove the comma and the words ''and instrument''; and, in line 10, after the word ''course'', add the words ''and an instrument rating, if an instrument rating is required for enrollment in the course of training''.

b. On page 16350, in the first column, in paragraph (a)(2), in line 1, remove the words ''pilot in command'' and add, in their place, the word ''pilot-in-command''. On page 16350, in the first column, in paragraph (a)(5), in line 5, after the semicolon add the word ''and''.

c. On page 16350, in the first column, in paragraph (a)(6), in line 2, after the word ''gliders'', add a comma; before the word ''balloons'', remove the word ''or''; and, before the word ''is'', add the words ''or airships''; and, in line 5, after the word ''section'', remove the semicolon and the word ''and'' and add, in their place, a period.

d. On page 16350, in the first column, remove paragraph (a)(7).

**§ 141.36 [Corrected]**

64. § 141.36 is corrected as follows:

a. On page 16350, in the second column, in paragraph (a)(1), in line 4, after the word ''training'', add the word ''solely'', and, in line 8, after the word ''ratings'', add the words ''if an instrument rating is required by the course of training''.

b. On page 16350, in the third column, in paragraph (a)(2), in line 1, remove the words ''pilot in command'' and add, in their place, the word ''pilot-in-command''.

c. On page 16350, in the third column, in paragraph (a)(5), in line 7, remove the paragraph designation ''(c)'' and add, in its place, the paragraph designation ''(d)''.

**§ 141.37 [Corrected]**

65. On page 16351, in the first column, correct § 141.37(a)(2)(iii), in line 1, by removing the words ''pilot in command'' and adding, in their place, the word ''pilot-in-command''.

**§ 141.38 [Corrected]**

66. § 141.38 is corrected as follows:

a. On page 16351, in the second column, in paragraph (b)(2), in line 1,

after the word ''temperatures'', add the words ''in the operating area'', and, in line 3, after the word ''year'', remove the words ''in the operating area''.

b. On page 16351, in the second column, in paragraph (e), in line 4, after the semicolon, remove the word ''and''.

**§ 141.39 [Corrected]**

67. On page 16351, in the third column, correct § 141.39 introductory text, in lines 3 through 4, by removing the words ''and each pilot school or provisional pilot school,''.

**§ 141.41 [Corrected]**

68. On page 16351, in the third column, correct § 141.41(a)(4), in line 2, by removing the words ''45 degree'' and adding, in their place, the word ''45-degree'', and, in line 3, by removing the words ''30 degree'' and adding, in their place, the word ''30-degree''.

**§ 141.53 [Corrected]**

69. On page 16352, in the second column, correct § 141.53(c)(1), in line 3, by removing the word ''shall'' and adding, in its place, the word ''may''.

**§ 141.63 [Corrected]**

70. § 141.63 is corrected as follows:

a. On page 16353, in the second column, in paragraph (a)(5) introductory text, in line 1, remove the word ''after'' and add, in its place, the word ''before''.

b. On page 16353, in the second column, in paragraph (b)(3), in line 2, after the word ''which'', add the word ''continued''.

c. On page 16353, in the second column, in paragraph (b)(4), in line 1, after the word ''which'', add the word ''continued''.

**§ 141.67 [Corrected]**

71. On page 16353, in the third column, correct § 141.67(d)(2), in line 1, by removing the word ''a'' before the words ''FAA Flight Standards District Office'' and adding, in its place, the word ''an''.

72. § 141.75 is corrected to read as follows:

**§ 141.75 Aircraft requirements.**

The following items must be carried on each aircraft used for flight training and solo flights:

(a) A pretakeoff and prelanding checklist; and

(b) The operator's handbook for the aircraft, if one is furnished by the manufacturer, or copies of the handbook if furnished to each student using the aircraft.

**§ 141.77 [Corrected]**

73. On page 16354, in the third column, correct § 141.77(c)(4), in line 2, by adding the words ''of this section'' after the words ''paragraph (c)(2)''; in line 3, by adding the word ''only'' after the words ''be given''; and, in line 4, by adding the words ''in writing, or other form acceptable to the Administrator as to'' after the words ''has certified''.

**§ 141.79 [Corrected]**

74. § 141.79 is corrected as follows:

a. On page 16354, in the third column, in paragraph (d)(1) introductory text, in line 3, remove the word ''accomplish'' and add, in its place, the word ''must''.

b. On page 16354, in the third column, in paragraph (d)(1)(i), in line 1, remove the word ''A'' and add, in its place, the words ''Accomplish a''.

c. On page 16354, in the third column, in paragraph (d)(1)(ii), in line 1, remove the word ''An'' and add, in its place, the words ''Accomplish an''.

d. On page 16354, in the third column, in paragraph (d)(2), in line 3, after the word ''with'', add the words ''the requirements of'', and, in line 5, after the word ''aircraft'', add the words ''in which''.

**§ 141.81 [Corrected]**

75. § 141.81 is corrected as follows:

a. On page 16354, in the third column, in paragraph (a), in line 3, after the word ''course'', remove the comma, and, in line 6, after the word ''rating'', add a comma.

b. On page 16355, in the first column, in paragraph (c), in line 3, remove the words ''in regard to'' and add, in their place, the word ''on''.

**§ 141.83 [Corrected]**

76. On page 16355, in the first column, correct § 141.83(e), in line 1, by removing the words ''If the'' and adding, in their place, the words ''When a''; in line 2, by adding the word ''is'' after the word ''test''; and, in line 4, by adding a comma after the word ''section'' and removing the words ''is given'' before the words ''to a student''.

**§ 141.85 [Corrected]**

77. § 141.85 is corrected as follows:

a. On page 16355, in the first column, in paragraph (a)(1), in line 3, remove the word ''reports'' and add, in its place, the word ''report''.

b. On page 16355, in the second column, in paragraph (a)(2), in line 8, after the word ''course'', add a comma.

**§ 141.91 [Corrected]**

78. On page 16355, in the third column, correct § 141.91(a), in line 4, by removing the words ''the satellite pilot school'' and adding, in their place, the words ''that base''.

**§ 141.93 [Corrected]**

79. § 141.93 is corrected as follows:

a. On page 16355, in the third column, in paragraph (a) introductory text, in line 3, remove the word ''shall'' and add, in its place, the word ''must''.

b. On page 16356, in the first column, in paragraph (a)(3) introductory text, in line 3, after the word ''of'', add the word ''the''.

c. On page 16356, in the first column, in paragraph (a)(3)(v), in lines 1 through 2, remove the word ''write-offs'' and add, in its place, the words ''approval for return-to-service determinations''.

**§ 141.95 [Corrected]**

80. On page 16356, in the first column, correct § 141.95(a), in line 3, by removing the word ''shall'' and adding, in its place, the word ''must''.

**§ 141.101 [Corrected]**

81. On page 16356, in the second column, correct § 141.101(e), in lines 4 and 5, by removing the words ''to the student upon request'' and adding, in their place, the words ''upon request by the student''.

**Appendix A to Part 141 [Corrected]**

82. Appendix A to part 141 is corrected as follows:

a. On page 16356, in the second column, in the title of appendix A, in line 1, remove the letters ''tp'' and add, in their place, the word ''to''.

b. On page 16356, in the third column, in section No. 4, in paragraph (a), in line 5, after the words ''flight training'', add the words ''as provided in section No. 5 of this appendix''.

c. On page 16357, in the first column, in section No. 6, in paragraph (b), in lines 2 through 3, remove the words ''being endorsed'' and add, in their place, the words ''receiving an endorsement''.

**Appendix B to Part 141—[Corrected]**

83. Appendix B to part 141 is corrected as follows:

a. On page 16357, in the first column, in the title of appendix B, in line 1, after the words ''Appendix B'', add the words ''to Part 141''.

b. On page 16358, in the first column, in section No. 4, in paragraph (c)(1), in line 6, after the words ''by an'', add the word ''authorized''.

c. On page 16358, in the first column, in section No. 4, in paragraph (c)(2), in line 3, remove the number ''15'' and add, in its place, the number ''20''.

d. On page 16358, in the first column, in section No. 4, in paragraph (c)(3), in line 3, remove the number ''7.5'' and add, in its place, the number ''15''.

e. On page 16358, in the second column, in section No. 4, in paragraph (c)(4), in line 5, remove the number ''15'' and add, in its place, the number ''20''.

f. On page 16358, in the second column, in section No. 4, in paragraph (d)(3), in line 1, remove the words ''For a rotorcraft helicopter course'' and add, in their place, the words *''For a rotorcraft helicopter course''*.

g. On page 16358, in the second column, in section No. 4, in paragraph (d)(4), in line 1, remove the words ''For a rotorcraft gyroplane course'' and add, in their place, the words *''For a rotorcraft gyroplane course''*.

h. On page 16358, in the third column, in section No. 5, in paragraph (b), in line 6, remove the word ''shall'' and add, in its place, the word ''must''.

i. On page 16359, in the second column, in section No. 6, in paragraph (b), in lines 2 through 3, remove the words ''being endorsed'' and add, in their place, the words ''receiving an endorsement''.

### Appendix C to Part 141—[Corrected]

84. Appendix C to part 141 is corrected as follows:

a. On page 16359, in the third column, in section No. 4, in paragraph (b)(1), in line 6, after the words ''by an'', add the word ''authorized''.

b. On page 16359, in the third column, in section No. 4, in paragraph (b)(3), in line 3, remove the number ''25'' and add, in its place, the number ''40''.

### Appendix D to Part 141—[Corrected]

85. Appendix D to part 141 is corrected as follows:

a. On page 16360, in the first column, in section No. 3, paragraph (a) should read as follows:

* * * * *

3. * * * (a) Each approved course must include at least the following ground training on the aeronautical knowledge areas listed in paragraph (b) of this section, appropriate to the aircraft category and class rating for which the course applies:

(1) 35 hours of training if the course is for an airplane category rating or a powered-lift category rating.

(2) 65 hours of training if the course is for a lighter-than-air category with an airship class rating.

(3) 30 hours of training if the course is for a rotorcraft category rating.

(4) 20 hours of training if the course is for a glider category rating.

(5) 20 hours of training if the course is for lighter-than-air category with a balloon class rating.

* * * * *

b. On page 16360, in the second column, in section No. 4, paragraph (a) should read as follows:

* * * * *

4. * * *

(a) Each approved course must include at least the following flight training, as provided in this section and section No. 5 of this appendix, on the approved areas of operation listed in paragraph (d) of this section that are appropriate to the aircraft category and class rating for which the course applies:

(1) 120 hours of training if the course is for an airplane or powered-lift rating.

(2) 155 hours of training if the course is for an airship rating.

(3) 115 hours of training if the course is for a rotorcraft rating.

(4) 6 hours of training if the course is for a glider rating.

(5) 10 hours of training and 8 training flights if the course is for a balloon rating.

* * * * *

c. On page 16361, in the second column, in section No. 4, in paragraph (c)(1), in line 6, before the word ''instructor'', add the word ''authorized''.

d. On page 16361, in the second column, in section No. 4, in paragraph (c)(2), in line 3, remove the number ''20'' and add, in its place, the number ''30''.

e. On page 16361, in the second column, in section No. 4, in paragraph (c)(3), in line 3, remove the number ''10'' and add, in its place, the number ''20''.

f. On page 16361, in the second column, in section No. 4, in paragraph (c)(4), in line 4, remove the number ''20'' and add, in its place, the number ''30''.

g. On page 16362, in the first column, in section No. 5, in paragraph (b), in line 6, remove the word ''shall'' and add, in its place, the word ''must''.

h. On page 16362, in the second column, in section No. 6, in paragraph (b), in lines 2 through 3, remove the words ''being endorsed'' and add, in their place, the words ''receiving an endorsement''.

### Appendix E to Part 141—[Corrected]

86. Appendix E to part 141 is corrected as follows:

a. On page 16362, in the second column, in section No. 1, in line 2, remove the word ''a'' and add, in its place, the word ''an''.

b. On page 16362, in the third column, in section No. 3, in paragraph (b)(4), in line 3, after the word ''abbreviations,'' add the word ''and''.

c. On page 16362, in the third column, in section No. 4, in paragraph (a), in line 8, after the word ''training'', remove the semicolon and the word ''and'' and add, in their place, a period.

d. On page 16362, in the third column, in section No. 4, in paragraph (b)(1), in line 6, after the word ''an'', add the word ''authorized''.

e. On page 16363, in the first column, in section No. 4, in paragraph (b)(4), in line 11, remove the word ''the'' and add, in its place, the word ''this''.

f. On page 16363, in the first column, in section No. 5, in paragraph (b), in lines 2 through 3, remove the words ''being endorsed'' and add, in their place, the words ''receiving an endorsement''.

### Appendix F to Part 141—[Corrected]

87. Appendix F to part 141 is corrected as follows:

a. On page 16363, in the first column, in the title of appendix F, in line 1, remove the letters ''Floght'' and add, in their place, the word ''Flight''.

b. On page 16363, in the second column, in section No. 4, in paragraph (a)(2), in line 1, remove the word ''and'', and add, it its place, a comma and the words ''which must include''.

c. On page 16363, in the second column, in section No. 4, in paragraph (b)(1), in line 6, after the words ''by an'', add the word ''authorized''.

d. On page 16364, in the first column, in section No. 4, in paragraph (c)(6)(vii), remove the words ''Launches, landings, and go-arounds'' and add, in their place, the words ''Tows or launches, landings, and go-arounds, if applicable''.

### Appendix G to Part 141—[Corrected]

88. Appendix G to part 141 is corrected as follows:

a. On page 16364, in the first column, in the title of appendix G, in line 4, remove the letters ''ae'' and add, in their place, the word ''as''.

b. On page 16364, in the first column, in section No. 2, in paragraph (b), in line 4, after the word ''airplane'', add a en-dash.

c. On page 16364, in the second column, in section No. 3, in paragraph (b)(1)(i), remove the word ''Learning'' and add, in its place, the words ''The learning''.

### Appendix I to Part 141—[Corrected]

89. Appendix I to part 141 is corrected as follows:

a. On page 16365, in the first column, section No. 3 should read as follows:

* * * * *

3. *Aeronautical knowledge training.* Each approved course for an additional aircraft category rating or additional aircraft class rating must include the

ground training time requirements and ground training on the aeronautical knowledge areas that are specific to that aircraft category and class rating and pilot certificate level for which the course applies as required in appendix A, B, D, or E of this part, as appropriate.

* * * * *

b. On page 16365, in the first column, in section No. 4, paragraph (a) should read as follows:

* * * * *

4. * * * Each approved course for an additional aircraft category rating or additional aircraft class rating must include the flight training time requirements and flight training on the areas of operation that are specific to that aircraft category and class rating and pilot certificate level for which the course applies as required in appendix A, B, D, or E of this part, as appropriate.''

c. On page 16365, in the first column, in section No. 4, in paragraph (b)(1), in line 6, after the words ''by an'', add the word ''authorized''.

d. On page 16365, in the first column, in section No. 4, in paragraph (b)(2), in line 3, remove the number ''10'' and add, in its place, the number ''30''.

e. On page 16365, in the first column, in section No. 4, in paragraph (b)(3), in line 3, remove the number ''5'' and add, in its place, the number ''20''.

f. On page 16365, in the first column, in section No. 4, in paragraph (b)(4), in line 5, remove the number ''10'' and add, in its place, the number ''30''.

g. On page 16365, in the second column, in section No. 5, in paragraph (b), in lines 2 through 3, remove the words ''being endorsed'' and add, in their place, the words ''receiving an endorsement''.

## Appendix J to Part 141—[Corrected]

90. Appendix J to part 141 is corrected as follows:

a. On page 16365, in the third column, in section No. 3, in paragraph (b)(6), in line 1, remove the word ''of'' and add, in its place, the word ''for'', and, in line 3, remove the word ''relate'' and add, in its place, the word ''relates''.

b. On page 16365, in the third column, in section No. 4, in paragraph (b)(1), in line 6, after the words ''by an'', add the word ''authorized''.

c. On page 16366, in the first column, in section No. 5, in paragraph (b), in lines 2 through 3, remove the words ''being endorsed'' and add, in their place, the words ''receiving an endorsement''.

## Appendix K to Part 141—[Corrected]

91. Appendix K to part 141 is corrected as follows:

a. On page 16366, in the second column, in section No. 4, in paragraph (a), in line 8, after the words ''by an'', add the word ''authorized''.

b. On page 16366, in the second column, in section No. 6, in paragraph (a)(2), in line 1, after the word ''piloting'', add the word ''and''.

c. On page 16366, in the second column, in section No. 7, in paragraph (a)(2), in line 1, after the word ''piloting'', add the word ''and''.

d. On page 16366, in the third column, in section No. 8, in paragraph (a)(2), in line 1, after the word ''piloting'', add the word ''and''.

Issued in Washington, D.C., on July 11, 1997.

**Barry L. Valentine,**

*Acting Administrator.*

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**Patent and Trademark Office**
Patent cases:
Practice rules; trademark trial and appeal board proceedings; comments due by 8-4-97; published 6-5-97

**DEFENSE DEPARTMENT**
Acquisition regulations:
Contingent fees-foreign military sales; comments due by 8-4-97; published 6-5-97
Contract financing payments distribution; comments due by 8-4-97; published 6-5-97
Control of munitions and strategic list items and demilitarization of excess property under Government contracts; comments due by 8-4-97; published 6-5-97
Federal Acquisition Regulation (FAR):
Affirmative action reform in Federal procurement; comments due by 8-8-97; published 7-15-97

**ENERGY DEPARTMENT**
Acquisition regulations:
Certification of cost submissions and assessment of penalties on unallowable costs, etc.; comments due by 8-4-97; published 6-4-97
Personnel assurance program:
DOE and DOE contractor employees assigned nuclear explosive duties at DOE facilities; procedures and standards; comments due by 8-4-97; published 6-4-97

**ENVIRONMENTAL PROTECTION AGENCY**
Air pollution control; new motor vehicles and engines:
Light-duty vehicle and trucks—
On-board diagnostics requirements; comments due by 8-8-97; published 7-16-97
Motorcycles (1997 and later model years); 3-wheeled vehicles weighing up to 1749 pounds included in regulatory definition; comments due by 8-4-97; published 6-3-97
Air programs:
Stratospheric ozone protection—
Sale of halon blends, intentional release of halon, technician training, and disposal of halon and halon-containing equipment; comments due by 8-6-97; published 7-7-97
Air quality implementation plans; approval and promulgation; various States:
California; comments due by 8-6-97; published 7-7-97
Drinking water:
National primary drinking water regulations—
Chemical monitoring reform and permanent monitoring relief; comments due by 8-4-97; published 7-3-97
Water pollution control:
Great Lakes System; water quality guidance—
Mercury permitting strategy; comments due by 8-5-97; published 6-6-97

**FEDERAL COMMUNICATIONS COMMISSION**
Radio broadcasting:
Broadcast licensees; main studio and public inspection file requirements; comments due by 8-8-97; published 6-12-97

**FEDERAL MEDIATION AND CONCILIATION SERVICE**
Arbitration services:
Expedited arbitration; comments due by 8-4-97; published 6-30-97

**GENERAL SERVICES ADMINISTRATION**
Federal Acquisition Regulation (FAR):
Affirmative action reform in Federal procurement; comments due by 8-8-97; published 7-15-97

**INTERIOR DEPARTMENT**
**Fish and Wildlife Service**
Endangered and threatened species:

## LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/nara/fedreg/fedreg.html.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–2470). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/su_docs/. Some laws may not yet be available.

**S.J. Res. 29/P.L. 105–29**

To direct the Secretary of the Interior to design and construct a permanent addition to the Franklin Delano Roosevelt Memorial in Washington, D.C., and for other purposes. (July 24, 1997; 111 Stat. 246)

**H.R. 1901/P.L. 105–30**

To clarify that the protections of the Federal Tort Claims Act apply to the members and personnel of the National Gambling Impact Study Commission. (July 25, 1997; 111 Stat. 248)

**H.R. 2018/P.L. 105–31**

To waive temporarily the Medicaid enrollment composition rule for the Better Health Plan of Amherst, New York. (July 25, 1997; 111 Stat. 249)

**Last List July 22, 1997**